

JUDGMENT AND ITS LIMITS:
EICHMANN, MODERNITY, AND THE DEVELOPMENT OF HANNAH ARENDT'S
THEORY OF POLITICAL JUDGMENT

A Dissertation

by

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Submitted to the Office of Graduate and Professional Studies of
Texas A&M University
in partial fulfillment of the requirements for the degree of

DOCTOR OF PHILOSOPHY

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May 2018

Major Subject: Philosophy

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ABSTRACT

Scholars are divided in their interpretation of Hannah Arendt's writings on political judgment. Arendt appeared to change her mind on crucial aspects of political judgment, despite appealing to the same source – Kant's aesthetic theory. Because Arendt did not live to complete them, it is not clear whether these writings present a unified, coherent, philosophical theory. Most commentators have argued that the differences in these writings suggests that she actually offered two distinct models of judgment – the so-called 'actor model' and 'spectator model' – or that the differences in these writings are superficial and that Arendt intended to offer one unified account.

I take a different approach in interpreting these writings. I trace the road that led Arendt to change her mind on important characteristics of the account of political judgment that she attempted to excavate from Kant's writings. In the first two chapters, I discuss Arendt's published writings on judgment in close detail. In the third chapter, I turn to a resource that has not figured prominently in scholarly commentary, her notebooks. These notebooks have not been translated into English. Using her untranslated notebooks, I offer plausible reasons for the noted divergence between many key elements of her published writings on judgment.

Ultimately, I argue that Arendt's controversial analysis of Adolf Eichmann's trial prompted her to change her mind on important parts of her account of political judgment. In the fourth chapter, I turn to her correspondence with her critics and demonstrate that she took herself to have exercised political judgment in her analysis of the Eichmann trial. In the fifth and sixth chapters, I argue that Arendt discovered a new model of judgment, that of the spectator, in her

experience at Eichmann's trial. Using literary resources, I offer a unique reading of Arendt's analysis of Adolf Eichmann's trial that demonstrates that Arendt's own experiences were the source of the shift that marks her writings on political judgment.

ACKNOWLEDGEMENTS

I would like to thank my committee chair, Prof. Daniel Conway, and my committee members, Prof. Claire Katz, Dr. Kristi Sweet, and Prof. Cary Nederman, for their guidance and support throughout the course of this research.

Thanks as well, to my parents David and Marcia who have been nothing but supportive during my long road through graduate school.

NOMENCLATURE

BPF	<i>Between Past and Future</i>
D	<i>Denktagebuch</i>
EJ	<i>Eichmann in Jerusalem</i>
HC	<i>The Human Condition</i>
J	<i>The Jewish Writings</i>
LKPP	<i>Lectures on Kant's Political Philosophy</i>
LM	<i>The Life of the Mind</i>
OT	<i>The Origins of Totalitarianism</i>
P	<i>The Promise of Politics</i>
R	<i>Responsibility and Judgment</i>
U	<i>Essays in Understanding</i>
V	<i>On Violence</i>

CONTRIBUTORS AND FUNDING SOURCES

This work was supported by a dissertation committee consisting of Professor Daniel Conway (advisor), Prof. Clair Katz and Dr. Kristi Sweet of the Department of Philosophy and Professor Cary Nederman of the Department of Political Science.

Graduate study was supported by Texas A&M University and the Summertime for Advancement in Research (S.T.A.R.) award in summer 2017.

TABLE OF CONTENTS

	Page
ABSTRACT	ii
ACKNOWLEDGEMENTS	iv
NOMENCLATURE	v
CONTRIBUTORS AND FUNDING SOURCES	vi
TABLE OF CONTENTS	vii
CHAPTER I INTRODUCTION AND LITERATURE REVIEW.....	1
CHAPTER II 1960S: “THE CRISIS IN CULTURE” AND “TRUTH AND POLITICS”	10
Introduction.....	10
Section One: “The Crisis in Culture”	13
Culture, Art, and Society.....	14
Judgment, Politics, and Culture.....	24
Section Two: “Truth and Politics”	36
Rational Truth and Factual Truth	39
Political Thinking	44
Concluding Remarks	55
CHAPTER III THE 1970S: <i>THE LIFE OF THE MIND AND LECTURE’S ON KANT’S POLITICAL PHILOSOPHY</i>	59
Introduction.....	59
Section One: Objective and Subjective Sense	61
Section Two: The Imagination.....	68
The Operation of Imagination	72
The Operation of Reflection.....	80
Common Sense	84
Enlarged Mentality.....	90
Section Three: Spectatorship and Judgment	95
Concluding Remarks.....	101
CHAPTER IV D XXII AND HANNAH ARENDT’S THEORY OF JUDGMENT	102

Introduction.....	102
Section One: Beyond Truth and Goodness.....	104
Arendt, Kant and the Autonomy of Judgment	108
The Self and the Search for Truth and the Pursuit of Goodness	113
Section Two: Reading Kant Against Himself	125
Enlarged Mentality in D XXII.....	127
<i>erweiterte Denkungsart</i> in Kant’s Critical Philosophy.....	133
Correcting Kant	141
Section Three: From Actor to Spectator.....	149
Precedent and Political Discourse	150
Beyond Ordinary Political Discourse	156
Concluding Remarks	157
 CHAPTER V BEYOND THE JUDGMENT OF THE ACTOR.....	 159
Introduction.....	159
Section One: “Thinking and Moral Considerations” and Reflective Judgment	164
“Thinking and Moral Considerations” as a Kantian Deduction.....	166
On the Moral Relevance of Thinking	173
Argument 1	179
Argument 2	187
Section Two: The Scholem-Arendt Exchange.....	198
Concluding Remarks	210
 CHAPTER VI FRANZ KAFKA’S <i>THE TRIAL</i> AND MERE APPEARANCE	 214
Introduction.....	214
Section One: “Before the Law”	217
“Before the Law” and Self-Knowledge	217
The Self-Deception of the Man from the Country	222
“The Law” as Mere Appearance	227
Section Two: Josef K. and “Before the Law”.....	232
Interpretation I.....	235
Interpretation II.....	236
Interpretation III	238
Section Three: “Before the Law” and <i>The Trial</i>	243
The Agency of Josef K.....	245
The Irrelevance of Innocence and Guilt before ‘the court’	247
 CHAPTER VII CONCLUSIONS: EJ AND ARENDT’S DISCOVERY OF THE JUDGMENT OF THE SPECTATOR.....	 253
Introduction.....	253
Section One: <i>The Trial</i> and the Spectator.....	254

Section Two: “Before Adolf Eichmann”: A Kafkaian Analysis of EJ	263
Eichmann and Appearance.....	265
Eichmann and Precedent.....	276
Section Three: EJ and Arendt’s Discovery of the Judgment of the Spectator	287
REFERENCES	299

CHAPTER I

INTRODUCTION AND LITERATURE REVIEW

In the years since her untimely death on 4 December 1975, interest in Hannah Arendt's moral and political theory has grown at a rapid pace. Numerous books and articles have appeared, most of them united in the conviction that Arendt's work is – for better or worse – one of the most important elements of twentieth century social and political thought. Many of her central works, such as *OT* and *HC* have been recognized as both original and seminal contributions in twentieth century political theory. Her controversial analysis of Adolf Eichmann and his trial continues to stir debate in scholarly circles and was instrumental in defining the way in which scholarly examination of the Holocaust developed in the decades after the Second World War.

However, for all this, Hannah Arendt “remains an elusive figure,”¹ to borrow Dana Villa's phrase. One important reason for her elusiveness is that she was simply not a systematic thinker. She consistently disavowed the label ‘philosopher,’ preferring to think of herself as a political thinker or a political theorist and the goal of her thinking was never to produce a unified system of thought. Richard Bernstein has characterized Arendt's writings as leaving the reader “with a whole series of perplexities, riddles, and contradictions.”² She disavowed the philosophical nature of her thinking in an interview with Günter Gaus that has been published

¹ Dana Villa, “Introduction: The Development of Hannah Arendt's Political Thought,” in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000): 1. Henceforth, “The Development of Hannah Arendt's Political Thought”

² Richard Bernstein, “Judging: The Actor and the Spectator,” in *The Realm of Humanitas: Responses to the Writings of Hannah Arendt*, 1990: 251.

subsequently as “What Remains? The Language Remains: A Conversation with Günter Gaus.”³ In that interview, Arendt spoke of a “vital tension between philosophy and politics,”⁴ further specifying that one of the goals of her thinking was, “to look at politics, so to speak, with eyes unclouded by philosophy.”⁵ Political thinking, according to Arendt, was by definition at odds with philosophy.

Arendt believed that politics and philosophy were at odds with each other because she held that they corresponded to different facets of human experience, which, she believed, was made up of two fundamentally different attunements: the *vita activa*⁶ and the *vita contemplativa*.⁷ In her conversation with Günter Gaus, she made the basic distinction between philosophy and politics by remarking that philosophy dealt with “man as a thinking being” and politics dealt with “man as an acting being.”⁸ One important consequence of Arendt’s insistence on a strict distinction between thought and action is that it suggests that she viewed philosophy and its search for universality and generality as inadequate perspectives from which to view the realm of human affairs. Arendt also believed that political philosophy was not able to understand politics on its own terms and that, in order to come to understand the significance of politics one had to do so by way of a standard internal to politics. Much of Arendt’s most famous writings were composed out of the desire to understand politics in terms of its own dignity and importance, apart from philosophical standards.

³ U, 1-23

⁴ U, 2

⁵ U, 2

⁶ See HC, 7-16

⁷ See HC, 7-16; LM 6-16

⁸ U, 2

However, there is another consequence to Arendt's insistence that she was not a philosopher (political or otherwise) that I want to emphasize in introducing the following chapters. Readers of Arendt must be careful not to assume that Arendt intended her writings to present a unified account or theory, the likes of which readers with philosophical training are all too familiar and have perhaps come to expect. Dana Villa has warned of this aspect of Arendt's writings. He writes

[Arendt's writings] are not constructed upon a single argument, diligently unfolded, or upon a linear narrative. Rather, they are grounded upon a series of striking conceptual distinctions [...] which Arendt elaborates and weaves into complex thematic strands. The interconnections between the strands are sometimes left to the reader.⁹

The fact that Arendt's writings should not be understood as contributing to a larger system of thought that she sought to construct is important, particularly in light of the topic about which I have composed this project.

In the following chapters, my main concern will be a relatively small portion of Arendt's writings in which Arendt discussed political judgment. In these texts, she used a unique reading of Kant's third *Critique* in order to develop an account of political judgment. Arendt's views about political judgment are in many ways more challenging than almost any other aspect of her thought for the simple reason that she did not live to articulate them with any measure of finality. The third volume of LM – to be titled “Judging” – was left unfinished at her death, leaving commentators with the overwhelming task of reconstructing what Arendt might have said or would have said from various essays she wrote and LKPP, the lecture notes that provided the basis for what Arendt would have turned into the final volume of LM. My own positions in

⁹ Villa, “The Development of Arendt's Political Thought,” 1

reference to Arendt's account (or rather, accounts) of political judgment shall become clear in the subsequent chapters of this project. My goal in these brief introductory remarks is to offer a schematic overview of what has been said about Arendt's writings on judgment and what about the state of current scholarship merits my saying more them. In doing so, I shall not reference every scholarly work that has been published on this topic. Rather, I shall indicate the most dominant interpretive trends by way of their most important proponents. In the following chapters, I shall reference most of the extant scholarly literature along the way.

Arendt's writings on judgment come to us by way of three main sources. In BPF, she first deployed her novel reading of Kant's aesthetics to outline a model of political judgment that she felt did justice to everyday political speech and action. Both "The Crisis in Culture" and "Truth and Politics" present the first published articulations of Arendt's growing preoccupation with the *Critique of Judgment*. In 1970 Arendt offered a course at the New School for Social Research whose purported topic was Kant's notion of judgment. In 1982, the notes that Arendt used to deliver these lectures were published as LKPP. However, the material in LKPP has tended to raise more questions than it has answered for two important reasons. First, LKPP is fragmentary and Arendt obviously did not compose the LKPP material with a mind to publishing it. Rather, LKPP was to be the foundations for what Arendt would have published as the third (and final) volume of LM. Thus, the direction in which Arendt intended to develop these notes has remained unclear. Second, and perhaps more importantly, based on the resources found in LKPP there are good reasons for thinking that Arendt changed her mind significantly on the topic of political judgment. Many important aspects of LKPP seem to contradict the material she had offered earlier in BPF. For this reason, some prominent commentators have suggested that Arendt

actually offered not one but two accounts of political judgment.¹⁰ Others, foremost among them Dana Villa, have argued that Arendt's two so-called accounts of political judgment are compatible with one another and do not indicate that she changed her mind.¹¹ Speaking broadly, most scholarly literature has adopted one of these two interpretive approaches. While there are many articles dedicated to the interpretation of these writings, book-length treatments of Arendt's thinking relegate her thinking on judgment to a small, albeit interesting segment of her larger thought, while some hardly mention it at all.¹² To date, there is no book-length investigation dedicated to the meaning and significance of Arendt's writings on judgment.

Thus, one of my purposes in conducting the following study of Arendt's writings on judgment is to offer the first sustained, in depth examination of these texts. However, just because such a study does not exist is not a sufficient argument for its being undertaken. The extant primary sources must obviously merit such a re-investigation. I have undertaken the following study out of the conviction that there is much that has yet to be said about Arendt's writings on judgment and that my study and (re)reading of these texts is merited by two important additions that I offer in the following chapters.

¹⁰ See Maurizio Passerin D'Entrèves, *The Political Philosophy of Hannah Arendt* (London: Routledge Press, 1994): 101-138. Henceforth, *The Political Philosophy of Hannah Arendt*.

¹¹ Dana Villa, "Thinking and Judging," in *Politics, Philosophy Terror: Essays on the Thought of Hannah Arendt* (Princeton: Princeton University Press, 1999): 87-106.

¹² Besides the studies of Dana Villa and Maurizio Passerin D'Entrèves that I referenced above, other book-length studies of Arendt's writings that include segments dedicated to Arendt's writings on judgment are those of John McGowan, *Hannah Arendt: An Introduction* (Minneapolis: University of Minneapolis Press, 1998): 120-137; Michael G. Gottsegen, *The Political Thought of Hannah Arendt* (Albany: SUNY Press, 1994): 171-195; and Margaret Canovan, *The Political Thought of Hannah Arendt* (London: J.M. Dent & Sons, Ltd., 1974): 111-113, 116; and Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt* (New York: Rowman & Littlefield, 2003): 173-199; Richard J. Bernstein, *Radical Evil: A Philosophical Interrogation* (Cambridge: Polity Press, 2002): 205-220; and George Kateb, *Hannah Arendt: Politics, Philosophy, Evil* (Totowa: Rowman & Allanheld, 1984).

First, the overwhelming focus on interpreting Arendt's writings on judgment has been to determine whether or not they form a coherent, systematic theory. At the beginning of these introductory remarks, I have indicated that reading any of Arendt's works with only such a goal in mind risks misreading her by imputing intentions to her that she explicitly disavowed. If it is the case that Arendt did not take herself to be offering a system (philosophical or otherwise) in the works that she completed and published, then it is even more misguided to read her unfinished works as gesturing towards such a system. Thus, in this project I shall not engage the question as to whether or not Arendt offered or intended to offer a unified, coherent account of political judgment. Rather, I shall examine Arendt's writings with special attention to the ways that they developed and the reasons why they changed in the way that they did. While I am sympathetic to the claims of Maurizio Passerin D'Entrèves (and others) that Arendt did change her mind on judgment, I am most interested in what caused her to change her mind and to develop her 'theory' of judgment in the way that she did. The first two chapters of this project are dedicated to a close examination of BPF and LKPP, respectively.

Second, the current scholarship on Arendt's writings on judgment is focused almost solely on BPF and LKPP. However, in late 1957 Arendt kept notes on her reading of the *Critique of Judgment* in which she first became convinced that it contained a hidden political philosophy. These notes are recorded in D XXII. The *Denktagebuch* is slowly coming to the fore as a helpful tool in assessing Arendt's writings, thanks in no small part to a handful of scholarly articles as well as the first book-length study of it, *Artifacts of Thinking*.¹³ The following study of Arendt's developing thought on judgment is the first examination of Arendt's appropriation of Kant's

¹³ *Artifacts of Thinking: Reading Hannah Arendt's Denktagebuch*, ed. Roger Berkowitz and Ian Storey (New York: Fordham University Press, 2017)

aesthetics that is grounded in a close, systematic investigation of D XXII. The third chapter of this project offers a detailed investigation of Arendt's notes and demonstrates that they are of great importance to understanding the material contained in BPF and LKPP.

Finally, I am not indifferent to the question of how Arendt intended her writings on judgment to fit within the critical orientation to modernity and its politics that she developed in works such as OT, HC, and LM. Indeed, in what follows I not only trace the developmental trajectory of Hannah Arendt's changing views on political judgment, but I shall situate her changing views of political judgment within her *oeuvre*. It is my contention in the following chapters that Arendt's shift from an actor-model of political judgment to a spectator-model of judgment was caused by her experiences at Adolf Eichmann's trial in the early 1960's, recounted by Arendt in EJ. In the fourth chapter of this project, I discuss the dramatic shift(s) in Arendt's thinking on judgment in terms of her attempts to defend herself in the aftermath of EJ's publication. To this end, I offer a detailed examination of her essay "Thinking and Moral Considerations" as well as her famous epistolary exchange with Gershom Scholem. In discussing these two texts, I argue that Arendt considered her controversial concept of the 'banality of evil' to be a *product* of political judgment. I demonstrate that Arendt understood "Thinking and Moral Considerations" to be a Kantian-style deduction of a reflective judgment. Thus, in my view, any examination of Arendt's post-EJ work on judgment just as LKPP needs to be grounded in a thorough understanding of EJ.

The final two chapters of this project are dedicated to exploring the implications of the banality of evil as the product of reflective judgment. One of the main contentions of this dissertation is that Arendt's shift in emphasis from actor to spectator was not motivated primarily by anything in Kant's *Critique of Judgment*. Instead, it is my view that most of the important

aspects of LKPP were attempts by Arendt to work through important insights that she arrived at in analyzing, criticizing, and thinking through Adolf Eichmann's trial. I argue that Arendt discovered the judgment of the spectator in her own experience as just such a judging spectator at Eichmann's trial. Subsequently, she turned to the theoretical elaboration of this new 'spectator model' of judgment in post-EJ works such as LM and the unfinished material contained in LKPP.

If I am correct that the dramatic changes in Arendt's account of political judgment have their origin in her experiences at Eichmann's trial and in the aftermath of her analysis of it, then it seems necessary to examine EJ as having much more to say about political judgment than has been previously thought. In the fifth and sixth chapters, I turn to an examination of Arendt's controversial analysis of Eichmann's trial as providing important clues about the situation in which Arendt discovered the so-called judgment of the spectator. In order to accomplish this, I develop an original interpretation of Franz Kafka's *The Trial* (ch. 5), demonstrating that a notion of spectatorship very similar to Arendt's appears to be at play in central elements of Kafka's novel, such as the parable "Before the Law."

In the sixth and final chapter to this dissertation, I apply my reading of *The Trial* to EJ, arguing that the relationship between Kafka's 'man from the country' and 'the Law' is recapitulated in Arendt's analysis and criticism of Eichmann's trial in EJ. The trial of Eichmann, in my view, is 'before' Adolf Eichmann in the same way as the man from the country is before the Law in Kafka's parable. To close, I demonstrate that most – if not all – of the important aspects of Arendt's post-EJ writings on judgment are developments of insights that she arrived at not through a re-examination of Kant's third *Critique*, but through first-hand experience at Eichmann's trial of the failure of political institutions (and political actors) to judge the

unprecedented. Thus, the development of her thinking on political judgment, particularly in its later emphasis on the figure of the spectator, has underappreciated critical dimensions.

CHAPTER II

THE 1960S: “THE CRISIS IN CULTURE” AND “TRUTH AND POLITICS”

Introduction

In this chapter, I discuss “The Crisis in Culture” and “Truth and Politics,” both of which appeared in BPF. These two essays are important in that they are the only works published during her lifetime in which Arendt used Kant’s third *Critique* to discuss political judgment. In the following pages, my hope is to reconstruct important (and unappreciated) elements of these essays. In so doing, I shall be arguing that taken together, “The Crisis in Culture” and “Truth and Politics” make two important claims concerning politics and political judgment that are crucial to understanding Arendt’s use of Kant’s *Critique of Judgment*. One of these claims is positive and the other is negative.

Before outlining the content of this chapter in further detail, I wish to clarify an important aspect of the claims I shall be making in this chapter. The fact that Arendt prepared “The Crisis in Culture” and “Truth and Politics” for publication distinguishes these essays from her other writings on judgment, such as LKPP. Readers may be sure that Arendt’s views on judgment as they appear in these essays represent her considered opinions. However, unlike works that were not intended for publication such as LKPP, Arendt did not compose “The Crisis in Culture” and “Truth and Politics” in order to develop a theoretical account of political judgment. Instead, she deployed her political reading of Kant’s third *Critique* in the service of analyzing larger issues. Her discussions of political judgment in these essays is quite brief, in both cases taking up only a page or two. Because political judgment was an ancillary theme in “The Crisis in Culture” and “Truth and Politics,” Arendt did not thematize significantly the two claims that I shall be

emphasizing in this chapter. Thus, my purposes in what follows are twofold. My primary goal is to draw out and emphasize the main components of Arendt's exposition of political judgment in BPF. In order to do this, however, I shall also offer a detailed discussion of the larger contexts in which this exposition appeared.

In my view, two important (yet underdeveloped) claims characterize Arendt's discussion of political judgment in BPF. The first is negative; in BPF Arendt argued that traditional yardsticks by which philosophy has measured politics (truth and goodness) were inadequate to the task. By 'inadequate,' I mean that Arendt did not subscribe to the nearly ubiquitous assumption in political philosophy that politics was a subspecies of the search for truth or the pursuit of goodness. To be sure, Arendt believed that epistemological and moral resources were obviously of value in assessing political speech and action. However, she did not believe that political speech and action should be reduced to its truth-content or moral value. I shall discuss this position in detail in the following pages.

Thus, Arendt's attempts to formulate a theory of political judgment by way of Kant's third *Critique* constituted an attempt to understand politics by way of an *internal standard*. In doing so, Arendt went beyond the negative claim that truth and goodness were inadequate standards by which to assess politics. She believed that aesthetic standards *were* appropriate tools with which to assess political speech and action and this belief motivated her use of the *Critique of Judgment*. This merely raises the following question: how is it that Arendt's development of an aesthetic model of political judgment was not the application of another external standard to politics? In my view, *any* discussion of Arendt's appropriation of Kant's third *Critique* must answer this question. To anticipate, Arendt's notorious answer to this question was that Kant's *Critique of Judgment* was actually a political work. This brings us to the positive claim that I

believe underwrites Arendt's brief discussions of political judgment in BPF. This is that there is something about human speech and action that goes beyond truth-content and moral value and there is something about political speech and action that is, in a sense, *aesthetic*. Thus, for Arendt, the application of aesthetic standards to politics did not constitute the application of an external standard at all. In discussing this aspect of "The Crisis in Culture" and "Truth and Politics," I will clarify and develop Arendt's claim that there is something about human speech and action that goes beyond truth content and moral value. Because Arendt's discussion of Kant in "The Crisis in Culture" and "Truth and Politics" is brief, the structure I have chosen for this chapter is artificial in the sense that my discussion of Arendt's claims will not necessarily follow the structure or order of Arendt's exposition in these essays.

Finally, I wish to note that Arendt's claims about truth in "Truth and Politics" are somewhat controversial. As we shall see, Arendt's notion of truth is remarkably narrow – perhaps unreasonably so. Some commentators have argued that there are serious flaws in Arendt's argumentation because of her narrow definition of truth. Ronald Beiner, for instance, has pointed out that, "What is most odd about Arendt's analysis is that the kind of truth most relevant to political life gets completely left out of her account of truth. The consequence is a defective phenomenology of political judgment."¹⁴ In this project, I focus on close textual exposition of Arendt's argumentative strategy. For the most part, I will avoid evaluating whether or not Arendt's notion of truth, for example, is adequate. Because I believe that there are under-appreciated aspects to Arendt's engagement with judgment, I will favor close textual exposition over critical analysis.

¹⁴ Ronald Beiner, "Rereading 'Truth and Politics,'" *Philosophy & Social Criticism*, 34(1-2), 2008, 130. Henceforth, "Rereading 'Truth and Politics'"

Section One: “The Crisis in Culture”

“The Crisis in Culture” was a development of previous work. In June 1959, Arendt (and eleven other scholars) participated in an interdisciplinary two-day conference entitled “Problems of Mass Culture and Mass Media.” All twelve participants subsequently revised the work they presented at the conference for a special issue of *Daedalus*, “Mass Culture and Mass Media,” published in the Spring of 1960.¹⁵ Arendt’s contribution to this issue of *Daedalus* was entitled “Society and Culture.”¹⁶ “Society and Culture” was in large part a response to another participant: the prominent sociologist Edward Shils, whose contribution, “Mass Society and Its Culture”¹⁷ appeared in the same issue of *Daedalus*. “Society and Culture” is the genesis of what Arendt would later publish as “The Crisis in Culture” in the first edition of BPF.

These details are significant for two reasons. First, because “The Crisis in Culture” is the earliest publication in which Arendt began to turn to Kant’s third *Critique* in order to talk about political judgment, any insight into its development is obviously valuable. Second “Society and Culture” allows us to date, precisely, Arendt’s discussion of Kant that appeared in “The Crisis in Culture.” “Society and Culture” contains no references to Kant or to his theory of judgment. Apart from an early remark that links mass society (specifically the activity of mass consumption) with an inability to judge cultural or artistic objects, Arendt did not thematize the faculty of judgment at all in “Society and Culture.” We may reasonably infer that Arendt composed the portions of “The Crisis in Culture” that drew on the *Critique of Judgment* between 1960, the year in which

¹⁵ Gerald Holton, “Preface,” *Daedalus*, 89(2), Spring 1960, 271-272

¹⁶ Hannah Arendt, “Society and Culture,” *Daedalus* 89(2), Spring 1960, 278-287

¹⁷ Edward Shils, “Mass Society and Its Culture,” *Daedalus* 89(2), Spring 1960, 288-314

“Society and Culture” appeared in *Daedalus*, and 1961, when the first edition of BPF appeared. Arendt appended her analysis of Kant to a revised version of “Society and Culture,” and published the essay as “The Crisis in Culture: Its Social and Political Significance.”

(a) Culture, Art, and Society

“The Crisis in Culture” has two sections. I shall discuss both sections of the essay in this chapter. It is important not only to understand Arendt’s discussion of Kant’s aesthetics, but also the context in which that discussion appears. Scholarly commentary concerned with Arendt’s writings on judgment generally overlooks the portions of “The Crisis in Culture” in which Arendt does not directly discuss Kant. Yet, even sections in which Arendt was not directly concerned with Kant offer important clues to the nature of her appropriation of Kant. In this section, I discuss Arendt’s larger concerns. In the next, I shall turn to her treatment of Kant in “The Crisis in Culture.” The opening section of “The Crisis in Culture” offers an analysis of mass society, mass culture and their relationship to cultural artifacts, particularly works of art. Arendt’s concerns were twofold. First, she wished to clarify the nature and purpose of cultural artifacts, particularly works of art. Second, she used her analysis of art to identify and criticize the two primary uses of art in the modern world: social climbing and entertainment.

In “The Crisis in Culture,” Arendt insisted on a difference between society and *mass* society. In somewhat Marxian fashion, Arendt presented her distinction between society and mass society in terms of the bourgeoisie, proletariat, the consequences of their political liberation, and the rise of capitalism. Arendt understood ‘society’ as a phenomenon associated with the liberation of the bourgeoisie and ‘mass society’ as a phenomenon associated with that the proletariat. Society, Arendt argued, was a direct result of the emergence of the bourgeoisie as

a distinct class. Arendt believed that, “Society began to monopolize “culture” for its own purposes, such as social position and status.”¹⁸ The burgeoning class of owners of the means of production wanted to gain admittance into aristocratic circles and high culture and, to this end, used cultural artifacts – the fine arts – in order to achieve this goal. For Arendt, society’s use of ‘culture’ was purely utilitarian and in the service of social climbing and works of art and cultural artifacts were only valuable to the bourgeoisie insofar as they could afford some sort of social advancement.

Society’s utilitarian orientation towards the arts, according to Arendt, was different from that of mass society. In the first section of “The Crisis in Culture,” Arendt claimed that mass society was a result of the emancipation of the proletariat. Mass culture was born when capitalism had advanced to such a stage that the working classes enjoyed leisure time. But unlike the bourgeoisie, who demanded to be treated on equal terms with the nobility and framed high culture as the means to achieve social advancement, the proletariat demanded entertainment from culture. According to Arendt, both bourgeoisie and proletariat instrumentalized culture insofar as culture became a means to an end, social advancement or entertainment. However, in “The Crisis in Culture” Arendt was more concerned with the equation of culture with entertainment value. Indeed, her main purpose in “The Crisis in Culture” was to reveal the dangerous consequences of the increasing tendency to think of culture in terms of entertainment value. To anticipate, Arendt believed that a community that valued culture only insofar as it yielded entertainment could not be trusted to carry out politics. Thus, her belief that culture and politics were closely related phenomena undergirded Arendt’s warning about mass society in “The Crisis in Culture.” Just a

¹⁸ BPF, 198

few years earlier, Arendt issued a similar warning about the emancipation of the working class in HC, writing that, “the emancipation of labor and the concomitant emancipation of the laboring classes from oppression and exploitation certainly meant progress in the direction of non-violence. It is much less certain that it was also progress in the direction of freedom.”¹⁹ Her analysis of mass society and mass culture in “The Crisis in Culture” is a development on her analysis of “A Consumer’s Society” in HC.²⁰ As I discuss “The Crisis in Culture,” I shall discuss why Arendt believed that the ‘emancipation of the working classes’ was not necessarily equivalent to the spread of political freedom.

In order to appreciate Arendt’s belief that a more regulated capitalism did not necessarily entail political progress, we must understand her worry about culture being framed in terms of its entertainment value. According to Arendt, the most important consequence of reducing culture to its entertainment value was that it shifted our attunement towards cultural artifacts. Specifically, Arendt believed that mass society did not distinguish between cultural artifacts and other objects of consumption. “Mass society,” she wrote, “wants not culture but entertainment, and the wares offered by the entertainment industry are indeed consumed by society just like any other consumer goods.”²¹ In his work on Arendt, George Kateb has emphasized what he calls the “existential supremacy of political action.”²² His analysis of Arendt’s thought stresses Arendt’s belief that life was most human in its capacity to act politically because political action offered the earthly immortality that separated human life from the natural world. Kateb writes that

¹⁹ HC, 129

²⁰ HC, 126-135

²¹ BPF, 202

²² George Kateb, *Hannah Arendt: Politics, Conscience, Evil* (Totowa: Rowman & Allanheld, 1984), 4. Henceforth, *Hannah Arendt: Politics, Conscience, Evil*

The laboring mass fails to arrest nature's course [...] By his dependency on nature and his reduction of artificial goods to the uses of nature, he is submerged in nature. Where nature is ascendant, there is no freedom or worldliness.²³

I do not think that Arendt believed the *only* possibility of human immortality was through political speech and action. As we shall see in this essay, Arendt also believed that culture had access to a similar sort of immortality. Nonetheless, Kateb's work highlights Arendt's most important concern in "The Crisis in Culture." Arendt believed that what separated human life from animal life was that human beings created a world in which to be at home on the planet earth. The human world, or human artifice, needed to be characterized by a degree *permanence* and *durability* in order to make human life possible.

In Arendt's view, the human artifice included, but was not limited to, cultural artifacts that framed the way in which a community or civilization viewed the world. Hence, a shift in how cultural artifacts were framed was also a shift in the way that the human artifice (or, world) was framed. In HC, Arendt wrote that, "while usage is bound to use up [the objects that make up the human artifice], this end is not their destiny in the same way as destruction is the inherent end of all things for consumption. What usage wears out is durability."²⁴ The world and the objects that make up the world may wear out, but they are not intended to be destroyed in the same way as food is intended to be destroyed through eating. Rather, Arendt believed that cultural artifacts needed to be *preserved* so that they would not be destroyed through use. A society of consumers, she believed, was not capable of caring for the world through politics because politics required the ability to understand the world in terms other than consumption.

²³ Kateb, *Hannah Arendt: Politics, Conscience, Evil*, 4

²⁴ HC, 137

To be sure, Arendt understood that entertainment was among the basic requirements of human life. Humans needed entertainment, according to Arendt, in much the same way as they need food, sleep, and company. Because she recognized entertainment as a necessity of human life, Arendt argued that objects offering entertainment value are consumed in an analogous way as food and drink. She wrote

Mass culture comes into being when mass society seizes upon cultural objects, and its danger is that the life process society (which like all biological processes insatiably draws everything available into the cycle of its metabolism) will literally consume the cultural objects, eat them up, and destroy them. Of course, I am not referring to mass distribution. When books or pictures in reproduction are thrown on the market cheaply and attain huge sales, this does not affect the nature of the objects in question. But their nature is affected when these objects themselves are changed – rewritten, condensed, digested, reduced to kitsch in reproduction, or in preparation for the movies. This does not mean that culture spreads to the masses, but that culture is being destroyed in order to yield entertainment.²⁵

The objects of entertainment demanded by mass culture may be more physically durable in the sense that a reel of film or a book is more durable than a meal, but Arendt's point was that both books and food only exist to be consumed if books are reduced to the entertainment they yield. Such objects are not made to last – they are made to be used up. For example, the process about which Arendt was worried in “The Crisis in Culture” was that whereby a Shakespeare play would be adapted not to present the original play but to reduce it to its most entertaining elements. Such an adaptation, Arendt pointed out, was good only insofar as it entertained and its

²⁵ BPF, 204

value did not transcend the entertainment that it yielded. If and when it ceased to entertain, another adaptation would be produced in its place.

Having introduced Arendt's analysis of mass culture and entertainment, I now turn to Arendt's analysis of cultural artifacts and the so-called "crisis in culture." As we shall see, Arendt's concerns in "The Crisis in Culture" were motivated by her belief that consumption was overtaking culture. We have seen that Arendt believed cultural artifacts differed from entertainment products in that cultural artifacts transcended instrumental value. In Arendt's view, the proper purpose of cultural artifacts was not to be used at all, but to establish and maintain the proper arena of human life in which other things could be used and enjoyed. Defining cultural objects in the sharpest possible contrast from use-objects, Arendt wrote that

This earthly home becomes a world in the proper sense of the word only when the totality of fabricated things is so organized that it can resist the consuming life process of the people dwelling in it, and thus outlast them. Only where such survival is assured do we speak of culture, and only where we are confronted with things which exist independently of all utilitarian and functional references, and whose quality remains the same, do we speak of works of art.²⁶

The most important purpose of culture, according to Arendt, was to establish what she called the human artifice, the space in which human life took place. The human artifice, in turn, supported and made possible the 'life process of the people dwelling in it' by resisting it, providing the proper context in which human life plays out on earth.

The excerpt from "The Crisis in Culture" that I just cited also offers us a clear view of Arendt's understanding of works of art, cultural artifacts, and the difference between the two. Both works of art and cultural artifacts, Arendt claimed, are characterized by *non-functionality*.

²⁶ BPF, 206

She wrote that “an object is cultural to the extent that it can endure; its durability is the very opposite of functionality, which is the quality that makes it disappear again from the phenomenal world by being used and used up.”²⁷ However, culture is a broad term and Arendt’s understanding of it canvassed everything from human institutions to fabricated objects to works of art. Most cultural artifacts were fabricated objects meant to sustain a certain amount of use, and therefore required maintenance and preservation. For Arendt, the defining feature of works of art, it seems, was the complete absence of ‘all utilitarian and functional references.’ Thus, what distinguished works of art from other cultural objects was that works of art had no determinate use. All cultural artifacts were characterized by durability (or, non-functionality) that allowed them to establish a human world on the planet earth, works of art are cultural artifacts that are characterized by “potential immortality.”²⁸ Arendt understood the ‘potential immortality’ of works of art in terms of an additional degree of separation from the non-functionality of cultural artifacts. Whereas all cultural objects are, to some degree, resistant to being ‘used up,’ works of art “are deliberately removed from the processes of consumption and usage and isolated against the sphere of human life necessities.”²⁹

Arendt was not engaging in a wholesale condemnation of mass culture in “The Crisis in Culture.” She had no interest in bemoaning the fact that people enjoyed and indeed, required, entertainment in order to lead meaningful lives. Her concern was *the proliferation of consumption to such a degree that it overtook all other aspects of human social life*. She recognized that consumable objects intended to yield entertainment value could only appear in

²⁷ BPF, 204

²⁸ BPF, 205

²⁹ BPF, 206

the context of a stable human world that made their production possible. But a stable human world, in turn, was made possible by the existence of cultural artifacts (including works of art). Thus, for Arendt the possibility of adequately satisfying the real human need for entertainment required the existence of culture and cultural artifacts. The existence of culture and cultural artifacts, in turn, required the ability of human beings to care for and preserve objects that were not intended to be used-up or consumed.

At the heart of Arendt's analysis of mass culture and art was a concern that as human life became characterized more and more by consumption, human beings would become primarily consumers. The proliferation of consumption and mass-manufactured consumable goods could cause a shift in the comportment of human beings to the world around them. As consumable goods proliferated, human beings could become primarily consumers, increasingly unable to view the world (or the cultural artifacts that helped to constitute it) in terms other than consumption. As consumers, they would be unable to properly care for the human world that made their consumption possible. Arendt wrote that "the point is that a consumers' society cannot possibly know how to take care of a world and the things which belong exclusively to the space of worldly appearances, because its central attitude toward all objects, the attitude of consumption, spells ruin to everything it touches."³⁰ Arendt recognized that the increase in and expansion of consumer goods heralded a dangerous trend of neglecting the state of the human world.

Before discussing the rest of the essay, I wish to emphasize two important aspects of the first section of "The Crisis in Culture." These are: (i) the importance Arendt placed on the ability

³⁰ BPF, 208

of human beings to care for cultural artifacts, and (ii) the degree to which (i) required a proper orientation towards works of art, and cultural objects more broadly. Both (i) and (ii) are very important in terms of what they can tell us as to the nature of Arendt's engagement with Kant's aesthetics in BPF.

In this section, I have explained why "The Crisis in Culture" was not motivated by Arendt's desire to decry mass culture *per se*. She believed that the proliferation of mass culture indicated a shift in the way in which Western society perceived the human artifice – namely, as something to be consumed. Arendt worried that approaching the human artifice in the same way as a consumable good would necessarily devalue the human artifice. Such a devaluation, in turn, bespoke an inability to care for and preserve the human artifice. Thus, at issue in "The Crisis in Culture" were the co-existence of two things: the real human need for entertainment and the responsibility to care for the cultural artifacts that created the context in which entertainment is both possible and meaningful. In this essay, Arendt took herself to be diagnosing an imbalance in which the need for entertainment was overtaking responsibility for the world.

Now that we have seen that cultural artifacts and the assumptions we make about them were very important to Arendt, we may turn to the more directly political aspects of "The Crisis in Culture." Arendt understood the 'crisis in culture' to be a fundamentally political phenomenon. Given the resources that I have introduced thus far in this chapter, the political nature of the crisis in culture should be clear. Politics, for Arendt, was identical to the process by which the human world is preserved and maintained for those persons who would come to inhabit it after us. Insofar as works of art were an important aspect of the human artifice, it is not

surprising that she viewed art and politics as deeply intertwined, writing that, “the common element connecting art and politics is that they are both phenomena of the public world.”³¹

Thus, in Arendt’s view there was a close relationship between a proper orientation towards cultural artifacts and a proper orientation towards political speech and action. Like cultural artifacts, Arendt also believed that political speech and action could not and should not be reduced to its instrumental or functional value. Culture and politics were but two sides of the same coin and undergirding *both* was the ability of human beings to evaluate certain objects and/or phenomena in terms that transcended functionality and utility. For Arendt, human cultural and political life, in other words, were made possible by the fact that certain things (whether they be cultural artifacts or, as we shall see, the substance of politics) were not viewed primarily in terms of what they were *good for*.

Second, Arendt’s emphasis on the importance of a *non-instrumental* orientation to cultural objects meant that she needed to give an account of the nature this orientation. In what way, in other words, ought we to approach cultural objects if not in terms of what they could be used for? In an important passage, she outlined the proper way works of art ought to be approached

For these reasons any discussion of culture must somehow take as its starting point the phenomenon of art. While the thingness of all things by which we surround ourselves lies in their having a shape through which they appear, only works of art are made for the sole purpose of appearance. The proper criterion by which to judge appearances is beauty.³²

³¹ BPF, 215

³² BPF, 207

Clearly, not all cultural artifacts demand to be appreciated only by the criterion of beauty because not all cultural artifacts are works of art. However, the ability to appreciate beauty in works of art entailed that we cultivate the ability to evaluate certain objects *only* in terms of the way they appear. In this sense, Arendt did think the appreciation of works of art develops our *ability* to appreciate cultural artifacts in a non-instrumental, non-consumptive way. Our appreciation of art, then, hones our ability to view things other than art in non-functional, non-utilitarian ways. For Arendt, art appreciation was not merely about refinement; it also trained us for political life insofar as she believed that political life, like the realm of culture, ought not to be governed primarily by utility and instrumental reason.

Before I move on to the second section of “The Crisis in Culture,” I wish to emphasize that it would be difficult to understate the importance of the category of *appearance* to Arendt’s thought. I have stressed the fact that Arendt saw a deep connection between politics and culture. She articulated this in two ways. First, culture and politics have the same function – the care of the human artifice in which human life appears. The human world is an expression of culture, and culture, in turn, is created and sustained by cultural artifacts. Politics, on the other hand, is deliberation and action about the way in which this human world is to be preserved. Second, in order to care properly for the human world, a non-instrumental attunement must be cultivated towards *both* culture and politics, which is where art becomes important. Art can only, Arendt thought, be appreciated by way of non-instrumental standards. More specifically, the non-instrumental standard demanded by art is one that is keyed only to the way in which works of art *appear*.

(b) Judgment, Politics, and Culture

In the second section of “The Crisis in Culture,” Arendt turned to a discussion of the close relationship between art and politics. Her use of Kant’s *Critique of Judgment* appears in the context of specifying the close relationship she perceived between art and politics. However, before I turn Arendt’s use of Kant’s aesthetics in “The Crisis in Culture,” I want to emphasize the brevity of her exposition of Kant’s aesthetics. In introducing my remarks in this chapter, I pointed out that in “Truth and Politics” and “The Crisis in Culture” Arendt was not developing a fully worked out account of the faculty of judgment. Instead, she took herself to be applying her political reading of Kant’s third *Critique* in order to point out that what Kant had called ‘aesthetic judgment’ is applicable to a field wider than the proper appreciation of art. Thus, Kant and his aesthetic theory is an ancillary theme in these essays. As a result, Arendt did not, in my opinion, adequately thematize two important dimensions of her reading of Kant that she deployed in “The Crisis in Culture” and “Truth and Politics.” In what follows, my primary purpose is to discuss these two dimensions as thoroughly as possible.

In the first section of “The Crisis in Culture,” Arendt posited a close connection between culture and politics. In the second section of the essay, Arendt developed the connection between politics and culture further, specifying that the precise point of connection between the two was works of art. According to Arendt, the point at which culture and politics are most alike is art. To be sure, Arendt did not think there was any necessary or significant connection between the subject matter of particular works of art and the subject matter of political speech and action. Arendt believed that political speech and action ought to be judged in a similar fashion as art must be judged: namely, *primarily as appearance*. In Arendt’s view, political experience – the experience of being confronted with political words and deeds – was similar to aesthetic

experience in that both works of art and political speech and action required judgment primarily according to their manner of appearance. In this section, my primary purpose is to clarify why Arendt held this rather surprising position.

In my opinion, the importance of the concept of appearance to Arendt's appropriation of Kant is not adequately thematized in scholarly commentary. Most commentators emphasize Arendt's claims about truth in "Truth and Politics" and the importance of judgment to Arendt's post-*EJ* thinking.³³ While aspects such as representative thinking, common sense, and the imagination are obviously important pieces of the puzzle, these concepts in themselves do not explain why Arendt believed in the close relationship between art and politics. Exceptions to this trend in the literature are Elena Tavani and Michael C. Gottsegen. Tavani writes

the world as a 'stage of appearance' consists of a plurality of viewpoints that, in becoming a 'public space' also becomes a place for displaying and revealing the 'who' (the actor) who makes himself visible individually with acts and words in real stories, and a theatre of public resonance for the events by means of the 'who' (the spectator) who witnesses and judges from all sorts of different perspectives.³⁴

Gottsegen briefly acknowledges the importance of appearance to political judgment in *The Political Thought of Hannah Arendt*, writing that "Both [art and political speech/action] are

³³ See Maurizio Passerin D'Entrèves, "Arendt's Theory of Judgment," in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000); Maurizio Passerin D'Entrèves, "'To Think Representatively': Arendt on Judgment and the Imagination," *Philosophical Papers* 35(3), 2006: 367-385; in a similar fashion, the concept of appearance does not figure prominently in George Kateb's otherwise incisive reconstruction of Arendt's political thought – see *Hannah Arendt: Politics, Conscience, Evil*, 38. Kateb recognizes that judgment is "perfectly at home in the world of political action a speech," but does not explain that the reason for judgment's being-at-home in the world is a result of the fact that political judgment is suited to judging an object or event primarily by the manner of its appearance.

³⁴ Elena Tavani, "Hannah Arendt – Aesthetics and Politics of Appearance," *Proceedings of the European Society for Aesthetics*, vol. 5 (2013), 467. Henceforth, "Hannah Arendt – Aesthetics and Politics of Appearance"

phenomena of the realm of appearance.”³⁵ Tavani and Gottsegen are no doubt correct to draw attention to the fact that Arendt believed that political words and deeds were public according to the degree in which they *appeared* in a public space. However, we have also seen that Arendt believed that the concept of appearance was central to politics in that experiencing and evaluating political speech and action was akin to experiencing and evaluating a work of art. Arendt’s belief that political speech and action was public and, hence, something that appeared does not explain why she believed that political speech and action needed to be evaluated primarily according to its manner of appearance. Clearly, we must examine Arendt’s notion of political speech more closely in order to perceive the close relationship that she posited between political speech and appearance.

Arendt’s belief that the concept of appearance was of central importance to judging political speech and action canvassed two related, but separate claims. These two claims are equivalent to the positive and negative claim that I introduced at the beginning of this chapter. In examining “The Crisis in Culture” I intend to discuss the positive claim, that an aesthetic model of judgment – a model of judgment attuned primarily to *appearance* – is most appropriate to the nature of political speech and actions. The negative claim is that other models of judgment were inadequate. By ‘other models,’ I mean the school of political philosophy that approaches political speech and action in terms of its truth-content or moral value. I shall discuss Arendt’s argument that these models are inadequate in the context of “Truth and Politics.”

Because Kant’s third *Critique* was an ancillary theme in both “The Crisis in Culture” and “Truth and Politics,” Arendt did not thematize either of these positions to the degree that she no

³⁵ Michael C. Gottsegen, *The Political Thought of Hannah Arendt* (Albany: SUNY Press, 1994), 159. Henceforth, *The Political Thought of Hannah Arendt*

doubt would have were her purpose to develop a systematic interpretation of the political dimensions she perceived in Kant's *Critique of Judgment*. In this chapter, my goal is to thematize both of these claims and connect them to Arendt's larger political theory. That is, in what follows I shall be interested in clarifying important aspects of her discussion of judgment in BPF as well as elucidating why her use of Kant fits well with other major works, such as HC. The first thing that I shall do in this section is outline Arendt's reasons for positing a relationship between the political and the aesthetic such that aesthetic standards of evaluation could and should be brought to bear on politics. To be sure, there still remains the additional claim that all non-aesthetic standards of evaluation are inappropriate. This concern is far more developed (though still, I think, inadequately) in "Truth and Politics." For now, I shall only focus on the positive claim: that an aesthetic model of judgment is most appropriate to political speech and action.

In "The Crisis in Culture," Arendt offered only brief hints as to why she thought the appearance of political words and deeds is distinctly conducive to an aesthetic model of judgment. In order to best understand the close connection she posited between the aesthetic and the political, we must examine her account of human speech and action. In "The Crisis in Culture," she wrote

it is precisely the realm of speaking and acting, that is, the political domain in terms of activities, in which this personal quality comes to the fore in public, in which the "who one is" becomes manifest rather than the qualities and individual talents he may possess.³⁶

³⁶ BPF, 220

In this passage, Arendt claims is that political speech and action is disclosive of the ‘who one is,’ and that this ‘who one is’ transcends determinate characteristics such as talent etc. Arendt was trying to describe the fact that political speech and action reveal something unique about the individual who speaks and acts. This ‘who,’ as she called it, transcends societal notion of identity. Political disclosure, if I may use the term, is such that it reveals a human being in their *particularity*. Seyla Benhabib has glossed Arendt’s meaning aptly in the following terms: “To be human is to appear in the world to others, to be present to them, to be perceived by them, to be in communication with them. For humans, being and appearance are one; there is no human essence behind of beyond the appearances.”³⁷ Because Arendt rejected the possibility of a static human essence or human nature, the concept of appearance is of particular importance to her thinking.

Arendt’s emphasis on the disclosiveness of political speech and action is far more developed in HC. In the chapter entitled “Action,” Arendt made it clear that speech and action reveal the uniqueness of each human being. Arendt understood human “uniqueness” as distinct from the fact that human beings are different both from each other human and each other thing. Whereas everything that exists is different in either kind or degree from everything else that exists (Arendt calls this fact “Otherness”), human beings are the only creatures that articulate their ‘Otherness’ into words and deeds, becoming not simply distinct, but *unique*. In other words, human beings are the only creatures capable of making their innate otherness their own through appearing before others in speech and action.

Continuing, Arendt wrote

³⁷ Seyla Benhabib, *The Reluctant Modernism of Hannah Arendt* (New York: Rowman & Littlefield, 2003), 110. Henceforth, *The Reluctant Modernism of Hannah Arendt*

In acting and speaking, men show who they are, reveal actively their unique personal identities that thus make their appearance in the human world, while their physical identities appear without any activity of their own in the shape of the body and the sound of the voice. The disclosure of “who” in contradistinction to “what” somebody is – his qualities, gifts, talents, and shortcomings, which he may display or hide – is implicit in everything somebody says and does.³⁸

George Kateb explains this aspect of Arendt’s thought in the following terms: “Arendt emphasizes the *revelatory* quality of political action. In political action alone is a person revealed [...] Political action is the great definer and concentrator of the self, the great stimulus to the formation of a self out of its own welter.”³⁹ While Kateb’s emphasis on the revelatory quality of political speech and action is helpful, the passages I quote above do not lend themselves to what he calls the “existential achievement of political action.” Kateb’s claim that a person is revealed *only* in political speech and action is, I think, too strong. While Kateb is no doubt right to point out that Arendt presented political action as something that disclosed the ‘who’ and not the ‘what’ of individuals, she did not believe that political speech and action was any *more* revelatory than other forms of speech and action. She most certainly did not think that “political action alone is equal to the task of challenging Silenian wisdom [...]”⁴⁰ Because of its connection with freedom, political action was perhaps the most important of the activities that, according to Kateb, “make life worth living,”⁴¹ but this does not imply that Arendt viewed non-political life as not worth living. Kateb’s ‘existential achievement of political action’ would more

³⁸ HC, 179

³⁹ Kateb, *Hannah Arendt: Politics, Conscience, Evil*, 8

⁴⁰ Kateb, *Hannah Arendt: Politics, Conscience, Evil*, 2

⁴¹ Kateb, *Hannah Arendt: Politics, Conscience, Evil*, 2

aply be called ‘existential achievement of action’; Arendt clearly did not believe that politics was the only activity that allowed human beings to achieve a potential immortality.

For Arendt, it was not *only* in political speech and action that speakers and human beings revealed their uniqueness.⁴² However, Arendt did think that political speech and action thematized the uniqueness of human beings the most. For instance, in HC she wrote

the revelatory quality of speech and action comes to the fore where people are *with* others and neither for nor against them [...] Because of its inherent tendency to disclose the agent together with the act, action needs for its full appearance the shining brightness we once called glory, and which is possible only in the public realm.⁴³

In this passage, it is clear that political speech and action are not the only modes of speech and action that are revelatory. What makes political speech and action privileged in this regard appears to be that it is the most public form of speech and action. In Arendt’s view, the additional publicity that accompanied political words and deeds drew more attention to the revelatory quality that political speech and action possessed as speech and action *per se*. Political content did not, in other words, mean that speech and action was more revelatory than non-political speech and action.

At this point, we may return to BPF, though not immediately to “The Crisis in Culture.” In order to see more clearly how politics emphasized the disclosive nature of human speech and action, I turn to “What is Freedom?” In “What is Freedom?”, Arendt argued that the fact that

⁴² For a detailed analysis of Arendt’s notion of the revelatory quality of human speech and action, see Benhabib, *The Reluctant Modernism of Hannah Arendt*, 125-130. Benhabib convincingly argues that Arendt’s thinking implies two distinct notions of action: one essentialist and one constructivist. Benhabib argues that these two notions of action, in turn, correspond to two notions of the public sphere.

⁴³ HC, 180

political institutions depend wholly on *action* in order to survive meant that politics as an activity depended more on speech and action than almost any other human activity. Contrasting politics with forms of art that involved fabrication, Arendt wrote

In the sense of the creative arts, which bring forth something tangible and reify human thought to such an extent that the produced thing possesses an existence of its own, politics is exactly the opposite of an art – which incidentally does not mean it is a science. Political institutions, no matter how well or how badly designed, depend for continued existence upon acting men; their conservation is achieved by the same means that brought them into being. Independent existence marks the work of art as a product of making; utter dependence upon further acts to keep it in existence marks the state as a product of action.⁴⁴

We have already seen that Arendt posited a close relationship between politics and art. However, as this passage demonstrates, Arendt believed that politics was profoundly unlike the arts that terminated in the fashioning of an object. Political speech and action was the most revelatory not because of its political content, but because the context in which it appeared – political institutions – was totally dependent on speech and action to remain in existence.

The reliance of political institutions of human speech and action led Arendt to specify that the closest point of relation between politics and art were the *performing arts*. Andrew Norris has explained this facet of Arendt's thought in the following way, "[...] both action and dance require plurality in the form of an audience [...] there is a very real sense in which a dance performance is not a performance at all unless an audience is in attendance [...]"⁴⁵ In Arendt's words, actors "need an audience to show their virtuosity, just as acting men need the presence of

⁴⁴ BPF, 152

⁴⁵ Andrew Norris, "Arendt, Kant, and the Politics of Common Sense, *Polity* 29(2), 1996, 174. Henceforth, "Arendt, Kant, and the Politics of Common Sense"

others before whom they appear.”⁴⁶ Because of politics’ unique dependence on public human action and speech, Arendt thought the most appropriate model on which to understand political activity was the performing arts.

We now have the resources to appreciate more deeply two important points that undergird Arendt’s central claims in “The Crisis in Culture.” The first of these is Arendt’s claim that art and politics were closely related. We have seen that Arendt posited the close relationship between the arts and politics because of the importance of *appearance* to both activities. According to Arendt, the closest point of intersection between the aesthetic and the political was the performing arts. This was because Arendt believed that the performing arts and politics were the two human activities whose survival was most directly dependent upon human speech and action appearing before others. Second, because of politics’ dependence upon human speech and action, we can better appreciate the first important characteristic of Arendt’s account of judgment in BPF: that aesthetic standards of evaluation are an appropriate means by which to determine the meaning and significance of political speech and action.

Thus far, I have emphasized a couple of elements of “The Crisis in Culture” that I think are important to keep in mind before examining Arendt’s brief discussion of Kant’s *Critique of Judgment*. We have seen that Arendt believed that an aesthetic mode of evaluation was one that was grounded in the appearance of the thing being evaluated. Works of art, Arendt believed, ought to be evaluated primarily on the manner of their appearance. Arendt also believed that, to a large extent, politics was no different. I have emphasized Arendt’s arguments for why an

⁴⁶ BPF, 152

aesthetic mode of evaluation was appropriate to the substance of politics – human speech and action. Political experience, Arendt argued, is to a large degree the experience of the unique.

At this point, we are in excellent position to turn to Arendt’s use of Kant’s third *Critique* in “The Crisis in Culture.” I have demonstrated that Arendt’s use of Kant in “The Crisis in Culture,” was because she thought *aesthetic judgment* was the most appropriate model of judgment by which to approach political speech and action. Her appropriation and deployment of resources drawn from the *Critique of Judgment* was an attempt to outline *how* one specific model of aesthetic judgment (Kant’s) was particularly applicable to human speech and action. In the next two chapters, I shall go into greater depth in explaining what, exactly, Arendt believed she had found in Kant’s aesthetic theory. For now, I believe it will be sufficient to note the importance of the concept of appearance to Kant’s *Critique of Judgment*. For Arendt, one of the most important things that Kant’s aesthetic theory thematized was the ability of “aesthetic judgments of taste,” as Kant called them, to judge purely on the basis of the way in which an object appeared. In the third *Critique*, Kant held that the concept of beauty was tailored to the particular object judged to be beautiful. No two beautiful objects, according to Kant, were ever beautiful in the same way. According to Kant, for every judgment of beauty, the concept “beauty” was, in fact, generated anew *just for* the particular object at hand. I believe that Arendt’s engagement with Kant’s aesthetics in “The Crisis in Culture” was to a large degree determined by Kant’s arguments that the concept of beauty was generated reflectively, rather than applied determinately.

Here, of course, the applicability of the concept of beauty ends. For many reasons, the concept of beauty is not an ideal category by which to understand political discourse and action. In arguing for an aesthetic model of political judgment, Arendt was not claiming that specific

aesthetic categories (such as beauty, for instance) were applicable to political speech and action. Instead, Arendt was arguing that the *structure* and *form* of what Kant called “aesthetic judgments of taste” were well suited to evaluating political speech and action. In essence, Arendt was arguing that the scope of Kant’s aesthetic theory went far beyond the domain of strictly aesthetic experience. According to Arendt, the applicability of Kant’s model of aesthetic judgment extended to other realms of experience, provided that these realms were akin to aesthetic experience. I have already emphasized that Arendt understood aesthetic experience to be primarily characterized by the experience of an object (an art work) that demanded judgment primarily according to the way in which it appeared. I have also thematized the fact that Arendt understood political experience to present us with ‘things’ – the speech and action of others – that demanded ‘aesthetic’ evaluation.

In closing, I wish to emphasize two important aspects of Arendt’s theory of judgment as it appeared in “The Crisis in Culture.” Together, these two dimensions constitute the positive claim that I mentioned in my introductory remarks. This positive claim is that an aesthetic model of judgment is most appropriate to political speech and action. The first aspect of “The Crisis in Culture” that I discussed was Arendt’s argument that political words and deeds disclose something unique about the individuals who perform them. The second important aspect of Arendt’s invocation of Kant in “The Crisis in Culture” is her claim that aesthetic and political experience are closely related. Because of the importance of *appearance* to political action and speech, an evaluative criterion that is able to focus only on appearance is required in order to appreciate their meaning and significance. Arendt located precisely such an evaluative criterion in the model of aesthetic judgment that Kant offered in his *Critique of Judgment*.

Section Two: “Truth and Politics”

Like “The Crisis in Culture,” Arendt did not compose “Truth and Politics” for BPF (the essay appeared in the 1968 second edition). Arendt prepared the essay under the influence of the Eichmann controversy in 1965, and presented different iterations of it at various American universities.⁴⁷ The essay was initially published as “Truth and Politics” in *The New Yorker* in 1967.⁴⁸ Later in this project, I shall return to this essay and its connection with the controversy that surrounded EJ. In this chapter, however, I shall use “Truth and Politics” to discuss the second of the two claims that, in my view, make up her so-called “actor model”⁴⁹ of judgment. This second claim is, as I have mentioned, negative.

In introducing this chapter, I mentioned that Arendt’s discussion of political judgment in the 1960s sought to accomplish two things. First, Arendt argued that an aesthetic model of judgment was the most appropriate foundation on which to construct a model of political judgment. Arendt’s argument to this effect was based in her claim about the primacy of appearance to politics. However, Arendt’s claims went somewhat farther than just the claim that

⁴⁷ Elisabeth Young-Breuhl, *Hannah Arendt: For Love of the World* (Yale University Press: 1982), 397-398. Henceforth, *Hannah Arendt: For Love of the World*

⁴⁸ Hannah Arendt, “Truth and Politics,” *The New Yorker* 25 February 1967, 49-88

⁴⁹ I should note that not all commentators on Arendt’s work on political judgment subscribe to the claim that her work on judgment appears in two mutually exclusive models (that of the actor and that of the spectator). However, this interpretation is the most common and, I think, the most textually warranted. In this dissertation I shall adopt the language of the ‘actor model’ and the ‘spectator model’ of judgment. There are, of course, exceptions to this trend. In “Hannah Arendt – Aesthetics and Politics of Appearance,” Elena Tavani suggests that one of the “central ideas” of Arendt’s thought is, “the world as spectacle, which regards the public sphere as existing only inasmuch as its reality can be witnessed and its value judged by a “plurality” of individuals who exchange the role of actor and spectator with each other (the spectator being the person who must see the action for it to become real).” See also, Majid Yar, “From Actor to Spectator: Hannah Arendt’s ‘Two Theories’ of Political Judgment,” *Philosophy & Social Criticism* 26(2), 2000: 1-27

one could judge the substance of politics – human speech and action – aesthetically. She also wished to argue that one *ought* to do so. In order to successfully argue that *only* aesthetic judgment was capable of comprehending political speech and action on its own terms, Arendt needed to do more than simply demonstrate the appropriateness of aesthetic judgment to political words and deeds. She also needed to demonstrate the *inappropriateness* of other, more traditional evaluative criteria. In the previous section of this chapter, I used “The Crisis in Culture” to present the first part of her argument. Now, I turn to “Truth and Politics” in order to discuss Arendt’s argument that one of the traditional yardsticks that Occidental philosophy has used to evaluate politics – the concept of truth – is inappropriate.⁵⁰

In arguing that political speech and action should not be reduced to its truth-content, Arendt was partially allying herself with a larger strain of Western political thought, best represented by thinkers such as Machiavelli, Nietzsche, and Marx (among others) – all of whom insisted (albeit in very different ways) that the end of political life had little (if anything) to do with the search for truth. Like Machiavelli, Nietzsche, and Marx, Arendt believed that it was a mistake to think that politics was about the search for truth. In what follows, we shall see that Arendt believed that certain truths were indispensable to politics; however, in Arendt’s view political speech did not primarily seek truth (or falsehood). In discussing ‘the liar’ in “Truth and Politics,” Arendt made a larger distinction between how speech that is made in the service of action differs from speech

⁵⁰ I wish to note that Arendt’s belief that political words and actions ought to be understood according to an aesthetic model actually implied that she needed to give an account of how other evaluative criteria were inappropriate. In “Truth and Politics,” Arendt was only concerned with demonstrating that political action and speech should not be reduced to its truth-content. However, Western political philosophy also uses goodness as a standard according to which politics may be evaluated. To be sure, Arendt was wary of reducing political words and deeds to their moral-value, but her arguments to this effect do not appear in “Truth and Politics.” I shall treat these arguments in great detail in the third chapter of this dissertation.

made in the service of knowledge: “[The liar] is an actor by nature; he says what is not so because he wants things to be different from the way they are – that is, he wants to change the world.”⁵¹

Political speech and action is in the service of change.

Arendt was suspicious of the traditional philosophical claim that political speech and action ought to be evaluated primarily by way of its truth-content. However, Arendt’s wariness of truth and the end of political life does not mean that she believed that truth and politics were unrelated or that certain truths were not indispensable to political life. Indeed, there is one important difference between Arendt’s position that differentiates her from other thinkers who share her reluctance to align truth and politics. Throughout all of her writings on political judgment, Arendt insisted that political speech and action were simultaneously not about transmitting “truth” *and* was not equivalent to rhetorical manipulation. Thinkers such as Nietzsche and Machiavelli were not concerned to save political discourse from simply being rhetorical manipulation towards some desirable state of affairs. In composing “The Crisis in Culture” and “Truth and Politics,” Arendt was concerned with developing an account of an *extra-epistemological* source of validity. Insofar as she could locate this extra-epistemological validity within the framework of aesthetic judgment, Arendt could claim that politics should not be understood in terms of its truth-value *and* that political discourse was characterized by a measure of objectivity that saved it from being mere sophistry. In the remainder of this chapter, I shall focus on her arguments to this effect.

As with my discussion of “The Crisis in Culture,” I present my analysis of “Truth and Politics” in two sections – the first discussing the larger concerns of the essay as a whole and the second discussing Arendt’s brief invocation of Kant’s *Critique of Judgment*.

⁵¹ BPF, 246

(a) Rational Truth and Factual Truth

In “Truth and Politics,” Arendt’s commentary on political judgment appears within a larger attempt to distinguish two different modes of thinking: political and thinking insofar as it pursued truth. Arendt’s concerns in the essay are fairly straightforward. She wanted to know to what degree (if any) truth and politics were related. Arendt argued for a fundamental distinction between thinking insofar as it pursued truth (rational or factual) and thinking insofar as it sought to *persuade* others. This latter mode of thought Arendt named “political.” To anticipate, Arendt believed that political thinking was structurally distinct from epistemological thinking. Arendt’s invocation of Kant in “Truth and Politics” was intended to underscore the structural differences that she saw between the two modes of thinking. In this section, I will limit myself to an exposition of Arendt’s somewhat controversial views on truth.⁵²

In “Truth and Politics,” Arendt made an important distinction between two different types of truths: rational and factual. “The opposite of a rationally true statement,” she wrote, “is either error or ignorance, as in the sciences, or illusion and opinion, as in philosophy.”⁵³ Although Arendt’s discussion of rational truth is primarily about philosophically rational truths, it is significant that she included scientific truths in her definition of rational truth. By the term ‘rational truth,’ Arendt was describing truths that came about as a result of processes of rational speculation and logical deduction. By scientific truths she meant inferential truths arrived at through the scientific method

⁵² For a thoughtful and critical analysis of this essay, see Beiner, ‘Rereading “Truth and Politics.”’ My purposes in this chapter are exegetical, and not critical. Thus, I shall not be evaluating Arendt’s arguments in terms of their viability. However, Beiner’s analysis of “Truth and Politics” is instructive in suggesting shortcomings to Arendt’s view of truth.

⁵³ BPF, 228

or by statistical analysis. In either case, the lowest common denominator of both is that they cannot be experienced directly. These sorts of truths are not ‘brute facts’ about the world and are not accessible to the casual observer; they are the result of the application of a *method* to that which does not appear.

Instead, the defining characteristic of what Arendt called rational truths is that they are the end result of a *process*. Whether this process is Aristotelian logic, linear regression, Hegel’s dialectic, or set theory, rational truths owe their ‘self-evident’ status not to direct confrontation with the human sensory apparatus but to their being the result of a process that forces them to appear. Thus, even truths that have not been falsified and hence may be called scientific truths are nonetheless rational truths insofar as they are generated by a process. To put it another way, rational truths required methodological mediation.

Arendt believed that the original confrontation between truth and politics was articulated in Classical Greece in terms of rational truth. She wrote that “to the citizens ever-changing opinions about human affairs, which themselves were in a constant state of flux, the philosopher opposed the truth about those things which in their very nature were everlasting and from which, therefore, principles could be derived to stabilize human affairs.”⁵⁴ The conflict between rational truth and politics was most eloquently expressed by Plato’s denunciations of the Sophists. Plato did not criticize the Sophists because he thought they were liars, but because they recognized that opinion – and not philosophical truth – held sway in political life. Accordingly, the sophists taught how to be persuasive in communicating one’s opinion in a public forum.

⁵⁴ BPF, 228

However, rational truths were simply not very convincing. Sufficient understanding of a rational truth requires a deep understanding of the method by which the truth was generated. Arendt recognized that rational truths were simply not suitable for the public forum in which political speech and action usually occurs. In her view, the only chance rational truths had at being persuasive to groups of people was to be transformed in such a way that argumentation was no longer necessary. She wrote

This transformation of a theoretical or speculative statement into exemplary truth – a transformation of which only moral philosophy is capable – is a borderline experience for the philosopher: by setting an example and “persuading” the multitude in the only way open to him, he has begun to act.⁵⁵

Arendt’s example of the transformation of a rational truth into something that is relevant politically was Socrates’ statement from the *Gorgias* that “*being one*, it is better to be at odds with the whole world than to be at odds with and contradicted by himself.”⁵⁶ Arendt notes that this argument “is compelling indeed for the philosopher, whose thinking is characterized by Plato as a silent dialogue with himself.”⁵⁷ Problems only arose when the philosopher took the argument to the *agora*, where it had to compete with many other arguments and opinions.

However, it cannot be denied that Socrates’ teaching that “it is better to suffer wrong than to do wrong” has had a massive influence on Occidental ethics. In Arendt’s view, its philosophical success is not due to its plausibility when spoken to non-philosophers, but rather the fact that Socrates was willing to die for it. “Obviously,” Arendt noted, “[its success] has been due to a rather unusual kind of persuasion; Socrates decided to stake his life on this truth – to set an example, not

⁵⁵ BPF, 244

⁵⁶ BPF, 240; see also *Gorgias* 482c

⁵⁷ BPF, 240

when he appeared before the Athenian tribunal but when he refused to escape the death sentence.”⁵⁸ Continuing, she notes that

This teaching by example is, indeed, the only form of “persuasion” that philosophical truth is capable of without perversion or distortion; by the same token, philosophical truths can become “practical” and inspire action without violating the rules of the political realm only when it manages to become manifest in the guise of an example. This is the only chance for an ethical principle to be verified as well as validated. Thus, to verify, for instance, the notion of courage we may recall the example of Achilles, and to verify the notion of goodness we are inclined to think of Jesus of Nazareth or St. Francis [...].⁵⁹

Yet, it is unlikely, Arendt notes, that philosophical truths will ever be relevant again, regardless of the willingness of contemporary philosophers to stake their lives or even livelihood on their teachings. This is a result of the fact that philosophy is no longer taken seriously as an activity by the contemporary world. Of course, one could imagine a number of scientists staking their lives on a scientific truth (such as climate change, for instance) with better results.

Having examined Arendt’s account of rational truths, we can now examine factual truths, which Arendt considered indispensable to political life. Whereas the tellers of rational truths are experts in a particular process or methodology, tellers of factual truths are historians or journalists. Arendt’s favorite example of the factual truth teller was Herodotus who, in her words, was the first “to say what is.”⁶⁰ Factual truths are observable to the five human senses and do not require special training in order to recognize.

⁵⁸ BPF, 243

⁵⁹ BPF, 243

⁶⁰ BPF, 225

Unlike rational truths, Arendt believed that factual truths were characterized by contingency. “Facts [and factual truths],” Arendt wrote, “have no conclusive reason whatever for being what they are; they could have always been otherwise, and this annoying contingency is literally unlimited.”⁶¹ Also unlike rational truths, which Arendt insisted have little to no political significance, she recognized that factual truths were political by nature. Factual truth is political, Arendt thought, because “facts and [political] opinions, though they must be kept apart, are not antagonistic to each other; they belong to the same realm [...] In other words, factual truth informs political thought just as rational truth informs philosophical speculation.”⁶² Factual truths are worldly insofar as common to the world. Hence, factual truths are part and parcel of the common world that politics preserves and protects. Political action and policy, Arendt insisted, must be based in some meaningful sense upon respect for factual reality as such. However, the common (or, political) nature of factual truths did not mean that Arendt thought that the tellers of factual truths ought to become or try to be political actors. She noted that,

And, just as the philosopher wins a Pyrrhic victory when his truth becomes a dominant opinion among opinion-holders, the teller of factual truth, when he enters the political realm and identifies himself with some partial interest and power formation, compromises on the only quality that could have made his truth appear plausible, namely, his personal truthfulness, guaranteed by impartiality, integrity, independence. There is hardly a political figure more likely to arouse justified suspicion than the professional truth-teller who has discovered some happy coincidence between truth and interest.⁶³

⁶¹ BPF, 238

⁶² BPF, 234

⁶³ BPF, 246

Arendt thought that the human capacity for action was rooted in both a desire and ability to go beyond what is – to change the way things are, for better or worse. “Truth-tellers” are not suited for political action because regardless of the type of truth that they tell – rational or factual – their activity of telling the truth tends towards accepting a given rather than changing it.

This does not, of course, mean that Arendt thought that all politicians are liars or that political change necessarily entailed a distortion of factual reality – far from it. However, she did think that there was an important distinction to be made between the substance of a statement of truth and a political argument. There was an important difference between the objectivity of a factual statement (whether rational or factual) and the objectivity of a political argument. For this reason, she made it clear in her discussion of Kant’s *Critique of Judgment* that she was talking about *political thinking*, as opposed to the search for and dissemination of truth(s).

(b) Political Thinking

For the purposes of this dissertation, the most important dimension of “Truth and Politics” that I will emphasize is Arendt’s distinction between what she calls “political thought” and, for lack of a better term, “epistemological thought.” In “Truth and Politics,” Arendt argued that truth was antagonistic to political discourse in one important way: the way in which it claims validity. In this section, my main goal is to accomplish two things. First, I want to clarify why Arendt was wary of reducing politics to the proverbial search for truth – in so doing, I shall hopefully also elucidate why Arendt believed that political speech and action required an *extra-epistemological* source of validity. Second, I will demonstrate that Arendt believed resources from Kant’s *Critique of Judgment* offered a way in which political words and deeds could be valid in an extra-epistemological sense, thereby avoiding the risk of relativizing politics.

At bottom, Arendt wished to make two claims about political speech and action in “Truth and Politics.” On the one hand, she wished to demonstrate that politics was not a purely relative affair; on the other hand, she also wanted to maintain that the validity of political speech and action was not guaranteed by its truth-content. Politics, according to Arendt, was not mere sophistry; but neither was the goal of political speech to produce propositions that were truth functionally true. In Arendt’s view, the truth lay somewhere between these two extremes. Some commentators have found this aspect of “Truth and Politics” unsatisfying. Ronald Beiner argues that Arendt’s position in “Truth and Politics” actually presupposes a more robust notion of truth than she is willing to admit in the essay. He writes that “one fails to capture the authentic meaning of political judgment unless one understands sincerely intended judgment as aimed at *true* judgment – not just true in the sense of faithful to the facts, but morally and politically true: the expression of the best discernment that one can exercise.”⁶⁴ In this section, I shall endeavor to make Arendt’s position as clear as possible and to take seriously her belief that what Beiner calls “true judgment” must be understood as valid in the same way as reflective judgments of taste were valid in Kant’s third *Critique*.

One of the curious aspects of Arendt’s discussion of political judgment in “The Crisis in Culture” and “Truth and Politics” is that they are relatively underdeveloped, taking up only a couple of pages in each essay. More precise details about Arendt’s reasons for reading Kant the way that she did may be gleaned from D XXII. I shall discuss D XXII in detail in the third chapter of this dissertation, and I will place particular emphasis on the way that D XXII can deepen our understanding of both “The Crisis in Culture” and “Truth and Politics.” For the present time, I

⁶⁴ Beiner, “Rereading ‘Truth and Politics,’” 130

shall focus on the distinction between epistemological thinking and political thinking in “Truth and Politics.” In so doing I shall hopefully respond to Beiner’s criticism that Arendt’s argument actually requires a more robust account of truth than she was willing to provide. While Beiner’s concerns are certainly well-founded, I shall offer textual evidence that his analysis overlooks that will explain *why* Arendt avoided the claim that the validity of political judgment entailed a sort of truth.

In “Truth and Politics,” Arendt’s claim about politics and validity were underpinned by her dialogical understanding of political action and speech. In HC, she adopted the classical Greek distinction between force (or violence) and persuasion, the latter being the political way of living with others. “In Greek self-understanding,” she wrote, “to force people by violence, to command rather than persuade, were prepolitical ways to deal with people characteristic of life outside the *polis* [...]”⁶⁵ Her definition of politics as consisting primarily of persuasive speech was what undergirded her reluctance to understand political discourse as valid only insofar as the propositions that made it up were true. We have already seen that Arendt did not think that politics and truth were unrelated. In Arendt’s view, valid political opinion (or judgment) needed to be based on commonly accepted factual truths. However, Arendt also believed that the point of politics was to change the world, and not to discover the truth. She recognized that there are many different ways to change the world, for better or for worse, and that the better ways of changing the world were undergirded by the acceptance of factual truths that were constitutive of the world. In the words of Remi Peeters, “[Arendt believed that] factual truth and opinion, in spite of their opposition (compelling versus persuasive character) *belong to the same domain*, namely the

⁶⁵ HC, 27

phenomenal world we share with others [...]”⁶⁶ Yet, just because political speech and action needed to be guided by factual reality did not mean that the ‘point’ of politics was to produce true propositions. The ‘point’ of politics was to decide what to do on the basis of factual reality and, as a result, Arendt believed that reducing political speech to its truth-content was to misunderstand politics at a fundamental level.

Although Arendt was suspicious of the assumption that the substance of politics ought to be evaluated primarily on the basis of its truth-content, she did not believe that politics could not be characterized by objectivity. In striking contrast to the tradition of political thinking represented by Callicles, Machiavelli, and Nietzsche, Arendt’s attempt to develop an account of political judgment was made out of a concern to secure a uniquely *political* validity for political discourse. With these factors in mind, I argue that in “Truth and Politics” Arendt maintained that political discourse must be oriented by factual reality while nevertheless not being characterized by the sort of epistemological finality found in factual truth(s). She had several reasons for this position.

First, Arendt thought that if there could ever be a “final say” in political discourse, then political discourse could be “finished” once and for all. Given her primarily dialogical understanding of the political process, it is highly unlikely that she thought that political discourse could (or should) ever come to an end. Arendt based her political theory on the Greek political experience because it was, in Dana Villa’s words, “a politics of talk and opinion, one which gave a central place to

⁶⁶ Remi Peeters, “Truth, Meaning and the Common World: The Significance and Meaning of Common Sense in Hannah Arendt’s Thought – Part One,” in *Ethical Perspectives – Katholieke Universiteit Leuven*, 16(3) 2009: 349. Henceforth, “Truth, Meaning and the Common World: Part One”

human plurality and the equality of citizens (for the Greeks, the adult male heads of households).⁶⁷ In my analysis of “The Crisis in Culture,” I emphasized the fact that Arendt believed that political speech and action was different from instrumental speech and action. Insofar as the search for truth terminates in the discovery of what is true, Arendt believed that relegating politics to a subspecies of the search for truth was to instrumentalize it.

Second, and much more important to my purposes, is Arendt’s claim that truth – whether rational or factual – is coercive and therefore, at best, pre-political. Epistemological objectivity, Arendt argued, precluded the proliferation of discourse and, as such, could not be political in any direct sense of the word for the simple reason that it did not foster dialogue. In “Truth and Politics,” she wrote

All truths – not only the various kinds of rational truth but also factual truth – are opposed to opinion in their *mode of asserting validity*. Truth carries within itself an element of coercion, and the frequently tyrannical tendencies so deplorably obvious among professional truth-tellers may be caused less by a failing in character than by the strain of habitually living under a kind of compulsion.⁶⁸

If one accepted Socrates’ argument that “it is better to be wronged than to do wrong,” then its conclusion was beyond question or dispute. In fact, to disagree was to act irrationally. Likewise, one cannot deny a factual truth whatsoever without engaging in the act of lying. In the words of Maurizio Passerin D’Entrèves, “Set against the the plurality of opinions, truth has a despotic character: it compels universal assent, leaves the mind little freedom of movement, eliminates the diversity of views and reduces the richness of human discourse. In this respect, truth is anti-

⁶⁷ Dana Villa, “The Development of Arendt’s Political Thought, in *The Cambridge Companion to Hannah Arendt* (Cambridge: Cambridge University Press, 2000), 9. Henceforth, “The Development of Arendt’s Political Thought”

⁶⁸ BPF, 235

political, since by eliminating debate and diversity it eliminates the very principles of political life.”⁶⁹ Arendt believed that politics was about opinion and judgment, and that truth was about something else entirely. While good opinion and sound judgment was always rooted in and guided by the facts, Arendt believed it was a mistake to mistake political speech as being something more than opinion.

Hence, Arendt’s account of political thinking (and judgment) emphasized opinion, rather than truth. “Opinion,” she wrote, “and not truth, belongs among the indispensable prerequisites of all power.”⁷⁰ In Arendt’s view, politics was not primarily concerned with discovering truth because politics was primarily concerned with the world and how to change it. This, of course, did not mean that politics had nothing to do with truth. Maurizio Passerin D’Entrèves has warned against a simplistic reading of Arendt on truth, writing that, “we must be careful not to impute to Arendt the view that truth has no legitimate role to play in politics or in the sphere of human affairs.”⁷¹ I have emphasized Arendt’s belief that factual truths were the cornerstones of all legitimate political speech and action. Because human action was by definition concerned with changing the world, it must also by definition be grounded in a correct understanding of the facts that were part and parcel of the common world.

However, Arendt’s understanding of truth did have serious – and, I argue, underappreciated – consequences for her analysis of political discourse and how political discourse ought to be evaluated and assessed. Most commentators have focused on how Arendt’s remarks on truth and

⁶⁹ Maurizio Passerin D’Entrèves, *The Political Philosophy of Hannah Arendt* (New York: Routledge Press, 1994), 124. Henceforth, *The Political Philosophy of Hannah Arendt*

⁷⁰ BPF, 229

⁷¹ Passerin D’Entrèves, *The Political Philosophy of Hannah Arendt*, 128

opinion do not imply that Arendt divorced truth from political discourse entirely.⁷² While this is no doubt an important piece of the puzzle, it is not the whole story. Arendt's position that political validity is primarily *non-epistemic* and *non-moral* is just as important for understanding the why she turned to Kant's *Critique of Judgment* in order to locate a distinctly political (she would argue) mode of validity. Failure to appreciate the fact that in turning to aesthetic judgment Arendt was attempting to outline an *alternative mode of validity* has led some commentators to argue that political judgment is actually rooted in the very sources of validity that Arendt was trying to avoid. Ronald Beiner, for instance, has argued that "one fails to capture the authentic meaning of political judgment unless one understands sincerely intended judgment (leaving aside cynically intended political speech acts) as aimed at *true* judgment – not just true in the sense of faithful to the facts, but morally and politically true: the expression of the best discernment that one can exercise."⁷³ To be sure, in this passage Beiner is using the words 'true' and 'moral' in a much broader sense than did Arendt, but his reliance on these categories does not help get us any closer to Arendt's purpose in turning to aesthetic validity.

In the remainder of this chapter, I shall discuss what, exactly, Arendt thought *replaced* epistemological validity. However, my present discussion will be somewhat limited by two factors. First, Arendt only briefly hints at what I understand to be her most important reason for rejecting epistemic validity in "The Crisis in Culture." Second, Arendt wished to reject not only epistemic validity but also moral validity. These points are most fully developed in D XXII. Here, I shall briefly discuss these points here. In the third chapter, I shall return to Arendt's rejection of moral validity in my analysis of D XXII.

⁷² See also Michael Gottsegen's *The Political Thought of Hannah Arendt*, 161-165

⁷³ Beiner, "Rereading 'Truth and Politics,'" 130

Thus far, I have emphasized Arendt's desire to locate a non-epistemic source of validity that could characterize political words and deeds. Furthermore, the source of objectivity she wanted was one that did not transcend the public arena of debate. Arendt had no interest, in other words, in applying an *external standard* to politics. She believed that political speech and action were characterized by their own mode of validity. In my view, we must understand Arendt's arguments that politics are characterized by an aesthetic mode of validity as implying that she believed aesthetic and political judgment were interchangeable. At the bottom of her argument that political discourse was characterized by aesthetic validity was the claim that the process of opinion formation that Kant described in the *Critique of Judgment* was identical to the process in which political opinions were formed. This process, according to Arendt, was distinct from the thought process that sought to produce truth claims. She wrote

the modes of thought and communication that deal with truth, if seen from the political perspective, are necessarily domineering; they don't take into account other people's opinions, and taking these into account is the hallmark of all strictly political thinking.⁷⁴

Political thinking, Arendt insisted, was guided by the presence of other opinions and viewpoints and its purpose was not to compel others into agreement but to persuade them. I shall discuss the structure of political thought in more detail in the third chapter of this project. For now, it is sufficient to distinguish political thinking from epistemological thinking.

In Arendt's view, the result of proper political thinking is not a factually true statement, although she believed that factually true statements needed to be its starting point. For Arendt, was not and could not be understood as the primary goal of political life. Whereas opinion implied a

⁷⁴ BPF, 237

particular viewpoint situated somewhere within the world, truth implied the proverbial “view from nowhere.” We have already seen that Arendt viewed epistemological validity as detrimental if it was understood as the end-result of political discourse. The danger of truth was simply that it denied the value of any particular perspective and laid claim to a mode of validity that transcended the plurality of opinions that characterized political life. Accordingly, Arendt’s discussion of the *Critique of Judgment* in “Truth and Politics” was motivated by her belief that *aesthetic validity* (“subjective universality,” to use Kant’s words) was a mode of validity that was rooted in the plurality of human opinions that characterized social and political life.

In “Truth and Politics, Arendt described political thinking in the following terms. “Political thought is representative,” she wrote, “I form an opinion by considering an issue from different viewpoints, by making present to my mind the standpoints of others who are absent; that is, I represent them.”⁷⁵ The goal of political thinking, according to Arendt, was not to generate a truth-functionally true proposition, but to produce a persuasive opinion. The difference between the two is crucial to understanding Arendt’s engagement with Kant. As I have emphasized, Arendt understood that the thought process that results in political discourse is distinct from the thought process that searches for truth. Thus, to evaluate political discourse in terms of its factual and/or rational truth-content would be to commit a category mistake and, in so doing, to misunderstand what political discourse is.

In Arendt’s view, the “validity” of opinion was measured by the degree to which it achieves what Kant called “disinterestness.” Of course, one might observe that truth-claims are surely without interest as well. What is more disinterested than a factual truth? In “Truth and

⁷⁵ BPF, 237

Politics,” Arendt was careful to emphasize the difference between the disinterest of a truth-claim and the disinterest of a valid opinion. According to Arendt, truth necessitates assent in the absence of the perspective. Opinion, however, is necessarily perspectival and a well-formed opinion achieves a measure of *perspectival* objectivity. She wrote

In matters of opinion, but not in matters of truth, our thinking is truly discursive, running, as it were, from place to place, from one part of the world to another, through all kinds of conflicting views, until it final ascends from these particulars to some impartial generality.⁷⁶

In Arendt’s view, properly formed opinions are not just ‘valid’ in the sense that they are persuasive. Many opinions that are not well-formed are very persuasive. The persuasive element in opinion that Arendt wished to emphasize did not come from rhetorical flourish or dishonesty. Instead, the ‘validity’ of well-formed opinions (political or otherwise) came from the fact that these opinions had been conditioned by the perspectives of those to whom they were supposed to persuade. The hallmark of political thinking, for Arendt, was that it took place *between* individuals and did not rely upon the production of a truth-claim in order to be persuasive. The “impartial generality” that she described in the passage above allowed for the creation and building up of relationships between individuals and groups and prevents political discourse from being (merely) a clash of interests.

In order to more deeply appreciate Arendt’s commitment to the structural distinction between political and epistemological judgment, I want to return briefly to “The Crisis in Culture,” where we find a short but crucial discussion of this distinction. Curiously, this passage has been

⁷⁶ BPF, 238

neglected by most commentators. Despite its brevity, it allows us to glimpse one of the most important – and underappreciated – aspects of Arendt’s turn to Kant. Arendt wrote

In order to see the faculty of judgment in its proper perspective and to understand that it implies a political rather than a merely theoretical activity, we must recall what is usually considered to be Kant’s political philosophy [which] is based upon the necessity for rational thought to agree with itself [...] The principle of agreement with oneself is very old; it was actually discovered by Socrates, whose central tenet, as formulated by Plato, is contained in the sentence: “Since I am one, it is better for me to disagree with the whole world than to be in disagreement with myself.” From this sentence both Occidental ethics, with its stress upon being in agreement with one’s own conscience, and Occidental logic, with its emphasis upon the axiom of contradiction, took their starting point.⁷⁷

Many of the themes hinted at in this passage are more developed in D XXII. This is not surprised, given that her concern in BPF was not to produce a fully worked out account of political judgment. For this reason, I shall return to many of the themes hinted at in this passage in the third chapter. For now, I wish to remark on a couple of important things that this passage can tell us about political judgment as it appears in BPF.

First, Arendt states explicitly that the political thinking is not a “theoretical activity.” Maurizio Passerin D’Entrèves has pointed out that in order to properly understand Arendt’s use of Kant, one must keep in mind, “her acceptance of the Kantian distinction between the *cognitive* judgments of the intellect or understanding and the *non-cognitive* judgments of taste.”⁷⁸ Keeping D’Entrèves’ point in mind, we see that above passage, Arendt was making a strict distinction between theoretical (or cognitive) thinking and political thinking. Thus, according to Arendt

⁷⁷ BPF, 216

⁷⁸ Passerin D’Entrèves, *The Political Philosophy of Hannah Arendt*, 136

political judgment and epistemic judgment *proceed from different roots*. Cognitive (epistemological) judgments and political judgments are structurally distinct and, in Arendt's view, to collapse one into the other would be to misunderstand both.

Second, this passage from "The Crisis in Culture" anticipates a theme which shall be one of my main areas of concern in discussing the importance of D XXII. That is, Arendt believed that epistemic and moral concepts were apolitical because they were rooted in the self. Because of their rootedness in the self, Arendt understood the validity of moral and epistemological judgments to be a function of self-consistency. As we shall see in the third chapter, Arendt believed that the validity that characterized opinion and political judgment required resources that were not contained in the self. Hence, her insistence in "Truth and Politics" on a *fundamental difference* between thinking insofar as it pursued truth and thinking insofar as it sought to persuade (non-sophistically, of course).

Concluding Remarks

In this chapter, I have emphasized two essays from BPF: "The Crisis in Culture" and "Truth and Politics." Together, these two essays represent Arendt's early engagement with the topic of political judgment. In these texts, Arendt discussed political judgment primarily from the perspective of political actors. Following Richard Bernstein, many commentators have read "The Crisis in Culture" and "Truth and Politics" as representing an "actor model" of political judgment.⁷⁹ This interpretation, however, is not ubiquitous. While I am sympathetic to the claim

⁷⁹ Richard Bernstein, "Judging – the Actor and the Spectator," in *The Realm of Humanitas: Responses to the Writings of Hannah Arendt*, ed. Reuben Garner (New York: Peter Lang Publishing, Inc., 1990), 235-254. Henceforth, "Judging – The Actor and the Spectator"

that Arendt's writings on judgment display significant differences that are expressible in terms of an 'actor' and a 'spectator' model, my claims in this chapter do not presuppose such a reading. I shall discuss the reasons for (and against) concluding that Arendt changed her mind on the topic of political judgment in the chapters to come. Ultimately, I shall argue that she did and offer some plausible reasons for her doing so. In this chapter, however, my primary goal is to draw out and thematize what I take to be the most important elements of *any* textually warranted interpretation of "The Crisis in Culture" and "Truth and Politics." These two elements are: (i) the intimate relationship that Arendt posited between art and politics that led her to adopt an aesthetic model of judgment as an evaluative standard that she believed was internal to politics, and (ii) the inappropriateness of truth as a primary evaluative standard for political speech and action.

In discussing "The Crisis in Culture," I emphasized what I take to be its central feature, at least as far as Arendt's discussion of judgment is concerned: her argument that political action and speech ought to be evaluated *aesthetically*. The close relationship she posited between art and politics did not, of course, mean that Arendt advocated the use of any specific aesthetic concepts as particularly appropriate to the evaluation of political phenomena. Rather, Arendt believed that political speech and action ought to be evaluated primarily according to the way that it appeared. Her emphasis on appearance – rather than a reality underlying that appearance – led her to argue that human speech and action are akin to works of art in that an adequate appreciation of either requires that one evaluate the appearance *qua* appearance. In taking this position, Arendt argued that the experience of human speech and action (political and otherwise) is close to aesthetic experience. This, in turn, put her in diametric opposition to the vast majority of Western political philosophy, which, since Plato, has tended to evaluate political speech and action by reducing them to their truth-value and/or its moral content. At the same time, however, Arendt did not wish to

reduce political discourse to mere rhetorical flourish, which meant that she needed to locate a non-moral/non-epistemological source objectivity within political action and speech.

Arendt's emphasis on art and politics led her to posit that political speech and action was 'valid' in the same way as were opinions about works of art. Her discussion of validity was far more developed in "Truth and Politics." Still drawing from Kant's *Critique of Judgment*, Arendt argued that political thought is structurally distinct from epistemological thought. In doing so, she built on the position she articulated earlier in "The Crisis in Culture," in which politics ought not to be understood as a subspecies of the search for truth. Her commitment to the distinction between the search for truth and politics led her to distinguish "political thinking" from epistemological thinking.

In "Truth and Politics," Arendt used Kant's third *Critique* in order to describe a perspectival form of validity that characterized well-formed opinions. She believed that political speech and action was primarily opinion about how to change the world. Because it was opinion, Arendt believed that politics was not primarily about truth. Arendt associated truth with the negation of perspective. A truth whether rational or factual was true no matter the perspective from which it was viewed. This "view from nowhere," she thought, was not political insofar as politics is essentially about building relationships between differing viewpoints and perspectives. Because of Kant's emphasis on judgments of taste being conditioned by the presence of other perspectives in the *Critique of Judgment*, Arendt argued that one could find an essentially perspectival form of validity in Kant's aesthetics. Like epistemological validity, aesthetic validity is disinterested and unbiased. However, unlike epistemological validity, aesthetic validity achieves disinterest without sacrificing the value of perspective and viewpoint. This aesthetic disinterest was achieved, Arendt

thought, by allowing the presence of other perspectives and viewpoints to condition opinion formation.

In closing I would like to point out another, more specific, characteristic of her analysis of political judgment that Arendt did not thematize. This is the fact that Arendt's discussion of political judgment in BPF canvasses two important points without clearly distinguishing them: how political actors ought to *evaluate* political discourse that they experience and the practices that political actors ought to engage in when forming political opinions and positions. Fortunately for us, these two important aspects of Arendt's discussion of judgment from BPF more or less break down according to each essay. I do not believe that this was intentional on Arendt's part. It is certainly not the case that Arendt *only* talks about evaluation of political speech and action in "The Crisis in Culture" and *only* talks about political opinion formation in "Truth and Politics." However, I do believe that the nature of Arendt's diverse concerns in the two essays led her to develop various aspects of her political reading of Kant's third *Critique* in ways that she saw fit.

CHAPTER III

THE 1970S: *THE LIFE OF THE MIND* AND *LECTURES ON KANT'S POLITICAL PHILOSOPHY*

Introduction

In this chapter, I will analyze judgment as it appeared in Arendt's later writings. By 'later writings,' I mean LM and LKPP. Political judgment appeared in other writings as an ancillary theme – such as, for instance, the posthumously published "Introduction into Politics," that Arendt composed in the late 1950s, but never completed.⁸⁰ I shall discuss other texts in which judgment appeared – such as P and EJ – in the following chapters. In this chapter, I am concerned exclusively with those texts in which Arendt took herself to be offering an account of political judgment. Beginning in the late 1960s, Arendt returned to the question of political judgment. This time, however, judgment was no longer an ancillary theme. In the following chapters, I shall discuss Arendt's reasons for returning to the issue of political judgment with renewed focus. As in the previous chapter, my present goal is to exposit clearly the texts in which Arendt returned explicitly to the theme of political judgment, again using Kant's *Critique of Judgment*.

In LM and LKPP, Arendt strove to develop a complete account of political judgment. Unfortunately, she died before she could finish the project. All that remains of this attempt is a lecture course given at the New School for Social Research that Arendt intended as a propaedeutic to her composition of the third volume of LM, entitled "Judging." In LKPP, Arendt

⁸⁰ P, 99-108

offered a more detailed account of how reflective judgment took place than she did in BPF. However, as many commentators have pointed out, it is not clear how (if at all) works such as LM and LKPP were supposed to compliment her earlier discussion of judgment in BPF. Maurizio Passerin D'Entrèves⁸¹, Ronald Beiner⁸², and Richard Bernstein⁸³ argue that LM and LKPP present a distinct 'model' of judgment that is incompatible with her earlier 'actor' model of judgment. They point out that in LM and LKPP, Arendt appeared to prefer the figure of what she called the 'spectator' to that of the 'actor' when it came to political judgment. Many have read these texts as presenting political judgment as the prerogative of uninvolved spectators. This view, however, is not ubiquitous. Dana Villa, for instance, has suggested that the gulf between the two 'models' of judgment is not insurmountable.⁸⁴

In my view, Arendt's exposition of the faculty judgment in LM and LKPP is importantly different from the way she presented it in BPF. My goal in this chapter is twofold. It seems to me that reconstructions of Arendt's 'spectator model' of judgment in LM and LKPP are not as precise as they could be. In this chapter, I shall attempt a more thorough reconstruction of Arendt's later account of judgment and, in so doing, my aim will be to give plausible reasons why we really should understand her thinking on judgment to have undergone a decisive shift between BPF and LKPP.

In this chapter, I shall focus on three elements of LM and LKPP, each of which what I take to be integral pieces of Arendt's account of judgment as she presented it in these works. I

⁸¹ D'Entrèves, *The Political Philosophy of Hannah Arendt*, 102-104

⁸² Ronald Beiner, "Interpretive Essay," in *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago: The University of Chicago Press, 1982), 92.

⁸³ Bernstein, "Judging: The Actor and the Spectator," 235-251

⁸⁴ Dana Villa, *Politics, Philosophy, Terror: Essays on the Thought of Hannah Arendt* (Princeton: Princeton University Press, 1999), 87-106. Henceforth, "Thinking and Judging"

will emphasize (i) her distinction between objective and subjective senses, then, (ii) the dual role of the imagination, and finally (iii), judgment as being the purview of the spectator. When we compare LKPP and LM to the material offered in BPF, all of three of the components listed above are more or less new additions to the way in which Arendt discussed judgment. The only exception to this is (ii). In “Truth and Politics,” Arendt dedicated a few lines to the imagination in its relation to the faculty of judgment. In this chapter, however, it will become clear that by the time she composed what would become LKPP, the role of the imagination had developed far beyond the small role she assigned to it in “Truth and Politics.”

Section One: Objective and Subjective Sense

In my opinion, the most significant feature of judgment in LKPP and LM is the enormous role played by the imagination. For this reason, the bulk of my analysis in this chapter will be dedicated to a close textual exposition of the imagination in these texts. In order to appreciate the role of the imagination, we should pay attention to Arendt’s claim in LKPP that the ground of reflective judgments was subjective, rather than objective. Before turning to relevant passages in detail, I should note that Arendt did not make such a claim in BPF. In fact, there is no textual evidence that suggests Arendt considered the *ground* of reflective judgments at all in her earlier account of political judgment. Thus, we must assume that her interest in discussing the ground of reflective judgments in LKPP indicates a shift in her thinking.

Here, I shall argue that Arendt did indeed change her mind. Her claim that reflective judgments had a subjective ground signaled that she was interested in remaining closer to Kant’s theory of judgment than she had in BPF. However, we shall also see that Arendt adopted a

Kantian position – that reflective judgments were grounded subjectively – by way of an un-Kantian distinction between objective and subjective sense.

A judgment that was grounded objectively is a judgment that makes a claim about an object in the world. In contrast to such judgments, in LKPP Arendt claimed that reflective judgments were grounded in inner states. In other words, reflective judgments did not make claims about objects in the world, but about feelings. In order to see what is at stake in Arendt's later distinction between objective and subjective grounds of judgment, we should recall the importance of appearance to her analysis of reflective judgment in BPF. In the previous chapter, I discussed appearance as one of the most important elements of Arendt's account of political judgment in BPF. In "The Crisis in Culture" and "Truth and Politics," Arendt outlined a distinctly political form of validity that could characterize political speech and action. Although she did not say as much directly, in BPF Arendt most likely did not believe that reflective judgments were grounded in inner states or feelings. Rather, her emphasis on the importance of appearance to reflective judgments suggests the opposite: that she believed reflective judgments were based in objective features of the way in which political speech and action *appeared*.

The fact that Arendt appears to have changed her mind about the ground of reflective judgment has escaped many commentators.⁸⁵ Michael Gottsegen, for instance, passes over significant differences between the two periods of her thinking (such as that between a subjectively grounded reflective judgment and an objectively grounded one), writing that, "section two of "The Crisis in Culture" and section three of "Truth and Politics" together read as if they were a précis of that part of the Kant lectures which pertains to the judgment of the

⁸⁵ In fact, Arendt's distinction between "objective sense" and "subjective sense" has remained curiously absent from scholarly commentary on LKPP.

spectator.”⁸⁶ Even commentators who rightly emphasize the many differences between the material in BPF and do not dwell on Arendt’s shift from objectively grounded reflective judgments to subjectively grounded ones.⁸⁷ While there are obviously important similarities between the two periods in which Arendt talked about political judgment, in this chapter I shall emphasize the differences between them. An excellent place to begin emphasizing these differences is with Arendt’s claim that reflective judgments are grounded in subjective inner states. In order to do this, I turn to her distinction between objective and subjective senses.

In his *Critique of Judgment*, Kant claimed that reflective judgment was subjective in that it was about an inner state (viz., a sort of pleasure), rather than about objects. In other words, reflective judgment was different from theoretical judgment in that cognition cognized something about the phenomenal presentation of an *object*; reflective judgments, Kant insisted, *did not* communicate any quality about the object other than the inner state that it elicited in the judging person. In the words of Bernard Flynn,

[In Kant] the aesthetic judgment, the judgment of taste, is concerned with pleasure or displeasure. The manifold of sense can be referred to an object, whereas pleasure cannot be referred to any object. Pleasure is the pleasure of a subject; the ground of pleasure or displeasure, the being of its being, is the subject.⁸⁸

In Kant’s critical philosophy, reflective judgments were based on the feeling of pleasure that accompanied the experience of beauty. Kant famously characterized pleasure as resulting from a

⁸⁶ Gottsegen, *The Political Thought of Hannah Arendt*, 173

⁸⁷ See Maurizio Passerin D’Entrèves, “Arendt’s Theory of Judgment,” in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000), 245-260.

⁸⁸ Bernard Flynn, “Arendt’s Appropriation of Kant’s Theory of Judgment,” *Journal of the British Society for Phenomenology* 19(2), 1988: 130. Henceforth, “Arendt’s Appropriation of Kant’s Theory of Judgment”

relationship between our cognitive faculties that he called “free play” (*frei Spiel*)⁸⁹. Free play was the result of a situation in which the imagination presented the understanding with a representation for which the understanding had no determinate concept. The mental state that accompanied the free play between human presentational powers was the ground of aesthetic judgments of taste. For Kant, the subjective ground of aesthetic judgments of taste meant that the *validity* of these judgments was unique in that what was at stake was the validity of a feeling, and not anything ‘out in the world,’ so to speak. Kant characterized the validity of aesthetic judgments of taste as “universal subjective validity”⁹⁰ (*allgemeine subjektiv Gültigkeit*) because the validity of these judgments did not consist in the degree to which their truth was borne out by the reality of any object, but the degree to which the *feeling* being communicated could justifiably be expected of others.

Fortunately, this point does not require a more in-depth investigation of Kant’s aesthetics. I shall return to this element of Kant’s *Critique of Judgment* in the following chapter. For now, we have the resources for a proper appreciation of the material Arendt offered in LKPP and LM. In LKPP, Arendt indicated that she was following Kant in that she, too, defined reflective judgments as having a subjective ground. Like Kant, Arendt insisted that what was at stake in reflective judgment was not any determinate characteristic of an object; at stake was the *feeling* elicited in us by an object. As we shall see in this chapter, Arendt also measured the validity of reflective (political) judgment by the degree to which the individual forming the judgment could justifiably expect others to agree with the inner state that was the ground of their judgment.

⁸⁹ 5:217

⁹⁰ 5:218

In my view, Arendt's emphasis on the subjective ground of reflective judgment in LKPP suggests a shift in her thinking. In BPF she insisted that reflective judgment needed to be grounded in the way in which human speech and action appear. While it is of course possible for certain characteristics of the appearance of speech and action to elicit inner states and for judgments to be built on these inner states, there is no indication that this was Arendt's position in BPF. While she stated that Kant's account of reflective judgment revolved around the question of pleasure, she also stated that the purpose of such judgments was to judge, "the world in its appearance and its worldliness [...],"⁹¹ and not to produce disinterested inner states. For this reason, it is safe, I think, to conclude that by the time she composed LKPP she had changed her mind about the ground of reflective judgments. Perhaps wishing to remain closer to Kant's thinking, she decided to build an account of reflective judgment wherein what it meant to reflectively judge was to judge on the basis of an inner state.

Curiously, Arendt did not rely on Kantian resources to back up her distinction between objective and subjective judgments. Instead, she used her own distinction between two sorts of senses, one objective and the other subjective. In LKPP, she wrote

Sight, hearing, and touch deal directly and, as it were, objectively with objects; through these senses objects are identifiable and can be shared with others – can be expressed in words, talked about, etc. Smell and taste give inner sensations that are entirely private and incommunicable; what I taste and what I smell cannot be expressed in words at all. They seem to be private senses by definition. Moreover, the three objective senses have this in common: they are capable of *representation*, of making present something that is absent. I can, for example,

⁹¹ BPF, 219

recall a building, a melody, the touch of velvet. This faculty – which in Kant is called imagination – is possessed by neither taste nor smell.⁹²

In his writings, Kant never used the terms “objective sense” and “subjective sense.” The closest thing resembling Arendt’s distinction between objective and subjective senses in Kant’s writings is between common sense (*sensus communis*) and “logical private sense” (*sensus privatus*).⁹³ In his *Anthropology from a Pragmatic Point of View*, Kant argued that human communication and mutual understanding presupposed an ability to, “restrain our understanding by the *understanding of others*, instead of *isolating* ourselves with our own understanding and judging *publicly* with our private representations.”⁹⁴ Likewise, in the essay “What Does it Mean to Orient Oneself in Thinking?,” Kant remarked that human judgment is made possible by the presence of others. “How much and how correctly would we *think*,” Kant wrote, “if we did not think as it were in community with others to whom we *communicate* our thoughts, and who communicate theirs to us!”⁹⁵ Although Arendt’s distinction seems similar because of its connection to *communication*, there are important differences. Arendt understood the distinction between objective and subjective senses to be about the sorts of judgments that these senses produced. Arendt maintained that judgments made by way of subjective sense resulted in subjective claims, and any judgment made by way of an objective sense resulted in a communicable (potentially objective) claim.

The standard by which Arendt distinguished objective and subjective senses was the possibility of rational argument. “No argument,” she wrote, “can persuade me to like oysters if I

⁹² LKPP, 64

⁹³ 7:219

⁹⁴ 7:219

⁹⁵ 8:144

do not like them.”⁹⁶ My like or dislike of oysters, in other words, says much more about me than it does about oysters themselves because the judgment is grounded in an inner state produced by oysters. In fact, a judgment made by a subjective sense says *nothing whatsoever* objective about any object. If we take the judgment: “Oysters are distasteful,” Arendt’s point is that this judgment is actually about the subjective feeling that oysters cause in the judging individual whenever confronted with them. The judgment, in other words, has a *subjective ground*.

According to Arendt, objective senses were grounded in objective characteristics of things in the world. Hence, Arendt’s claim that objective senses, “deal directly and, as it were, objectively with objects; through these senses objects are identifiable and can be shared with others.”⁹⁷ We must be careful to note that there is no textual evidence that Arendt associates objectivity with epistemic truth and certainty in her discussion of the objective senses. It is not, in other words, the case that Arendt thought that judgments made by objective sense necessarily produced judgments that are true. This *might* be the case, but it is easy to come up with cases in which it is not the case. Rather, the main characteristic of the objective senses that distinguishes them from the subjective senses is that the former makes claims about objects whereas the latter express feelings.

We are now in good position to deepen our appreciation of Arendt’s theory of judgment in LKPP. She believed that human beings make judgments on the basis of feelings or on the basis of things in the world. In the former case, the resulting judgment is subjective; in the latter, the resulting judgment is objective. As we shall see, Arendt believed that reflective judgment had both subjective *and* objective elements. Following Kant, Arendt believed that reflective validity

⁹⁶ LKPP, 67

⁹⁷ LKPP, 64

was a sort of validity that characterized certain inner states and did not rely upon being ‘true’ in the sense of corresponding to some object out in the world. Arendt’s later account of reflective judgment was an account of how a judgment with a subjective ground could be characterized by a sort of objectivity. In other words, the main question that Arendt wished to answer was: how can a judgment that is based on a *feeling* (viz., a subjective state) be something with which other individuals may be expected to agree? The ability to form a judgment with a subjective ground that may nonetheless justifiably expect the assent of others was, however, essentially a function of the imagination. In order to appreciate the specific way in which Arendt understood the validity of reflective judgment, we must examine enormous role that the imagination played in forming them.

Section Two: The Imagination

Given the fragmentary nature of LKPP and the presence of only passing remarks concerning the imagination in LM, a complete understanding of the imagination is a matter of speculation. However, we may still appreciate key features about it from a close examination of what Arendt did say about the imagination in her later works. In the next chapter I shall supplement my textual exposition of LM and LKPP in two ways that will serve to deepen our understanding of Arendt: (i) I shall compare Arendt and Kant on the topic of reflective validity and, (ii) I shall offer a careful charting of the development of Arendt’s thinking on the imagination spanning from the D to LKPP and LM. For now, I limit myself to a close reading of what Arendt did say about the imagination in LM and LKPP.

The imagination played an enormous role in Arendt’s later writings on judgment and although her account of the imagination in LM and LKPP is unfinished, it is far more developed

than in BPF. The imagination and its role in judgment has figured prominently in commentary on LKPP, and for good reason. Here, I shall not discuss every aspect of it.⁹⁸ Instead, I shall be focusing on the role that the imagination played in Arendt's account of reflective validity. In my view, the imagination actually played two distinct, but related, roles in LKPP and LM. In this section, I shall emphasize both of these roles and discuss their relation to one another. Arendt called the first role of the imagination the "operation of the imagination,"⁹⁹ and she called its second role the "operation of reflection."¹⁰⁰

Before delving into the relevant passages in detail, I should note that the *dual* role of the imagination has been somewhat overlooked by commentators, many of whom tend to collapse them into one larger role.¹⁰¹ In this section, I shall proceed more slowly and attempt to distinguish between the two 'operations' in order to offer a more detailed account of judgment formation in LKPP. First, however, a few words concerning the imagination in LM in general. Arendt did not think of the imagination as simply related to the faculty of judgment; she held that the imagination was fundamentally related to the entire range of human mental life: thinking, willing, and judging. She wrote

Every mental act rests on the mind's faculty of having present to itself what is absent to the senses. Re-presentation, making present what is actually absent, is the mind's unique gift, and since our whole terminology is based on metaphors

⁹⁸ One prominent dimension of the imagination that I pass over in this project is that of exemplary validity. For Arendt's brief exposition of exemplary validity see *LKPP*, 79-85. See also, Alessandro Ferrara, "Judgment, Identity, and Authenticity: A Reconstruction of Hannah Arendt's Interpretation of Kant," *Philosophy & Social Criticism* 24(3), 1998: 113-136.

⁹⁹ *LKPP*, 68

¹⁰⁰ *LKPP*, 68

¹⁰¹ An exception to this trend is Maurizio Passerin D'Entrèves in *The Political Philosophy of Hannah Arendt*, 117

drawn from vision's experience, this gift is called *imagination*, defined by Kant as "the faculty of intuition even without the presence of the object."¹⁰²

For Arendt, the imagination underwrote the entire life of the mind: thinking willing, and judging. However, the centrality of the imagination to human mental life did not mean that its function was always the same; rather, its function was slightly different depending upon the mental faculty being exercised. Imagination as it related to willing was different from imagination as it related to thinking, and both were different from imagination's relation to judging. All three functions of the imagination, however, were different exercises of the same basic ability: that of making the absent present.¹⁰³ Before delving further, I will briefly recapitulate the imagination as Arendt understood it in relation to the faculties of thinking and willing.

Thinking as an activity was the topic of her essay "Thinking and Moral Considerations." In the fourth chapter of this dissertation, I shall discuss the importance of "Thinking and Moral Considerations" to Arendt's account of judgment. For now, I want to emphasize Arendt's belief that the imagination was crucial to all dimensions of human mental life. "Imagination," Arendt wrote in LM, "transforms a visible object into an invisible image, fit to be stored in the mind, [and] is the condition *sine qua non* for providing the mind with suitable thought objects."¹⁰⁴ For Arendt, thinking required a withdrawal from the world of appearances. The imagination made possible thinking after the thinker's withdrawal from the presence of the object of thought.

¹⁰² LM, 75

¹⁰³ There is some debate as to whether or not Arendt's disregard for what Kant called *productive imagination* is a limitation to her theory of judgment. This question is beyond the scope of the present investigation, see Linda M.G. Zerilli, "We Feel Our Freedom: Imagination and Judgment in the Thought of Hannah Arendt," *Political Theory* 33(2), 2005: 158-188. Henceforth, "We Feel Our Freedom"

¹⁰⁴ LM, 77

Arendt also believed the imagination was also of fundamental importance to willing. While willing was obviously closely related to desire, Arendt insisted that the two were not identical. According to her, the faculty of willing was the faculty by which human beings project themselves into the future. Arendt believed that project and desire were different. Thus, what separated human and animal desire was that human beings transformed their desire into an existential project. According to Arendt, the imagination made possible this transformation of immediate desire into existential project. She wrote

in order to will, the mind must withdraw from the immediacy of desire, which, without reflecting and without reflexivity, stretches out its hand to get hold of the desired object.¹⁰⁵

The work of the imagination enabled the human being to transform desire in an *intention* that the will could then pursue.

Imagination played an equally important role in Arendt's account of judgment in LM and LKPP. Imagination's importance to reflective judgment is one of the most important reasons for thinking that Arendt changed her mind about significant aspects of her account of political judgment. In LM, Arendt hinted at this role in the following way. She wrote

judgment be it aesthetic or legal or moral, presupposes a definitely "unnatural" and deliberate withdrawal from involvement and the partiality of immediate interests as they are given by my position in the world and the part I play in it.¹⁰⁶

The well-noted shift in Arendt's thinking on judgment from actors to spectators coincided with her integration of the imagination into her account of judgment. To anticipate, we shall see that in LM and LKPP Arendt began to tie the validity of political judgment to an exercise of the

¹⁰⁵ LM, 76

¹⁰⁶ LM, 76

imagination, which in turn demanded withdrawal from the activity or event being judged. Thus, by extension, the validity of reflective judgment (measured by the degree to which it could attain a degree of universality despite its subjective ground) was tied to the particular conditions under which the imagination operated.

(a) The Operation of the Imagination

We are now in good position to examine the dual role that the imagination played in reflective formation in LKPP. We already know that Arendt's framework for developing an account of reflective judgment was Kantian in at least one sense in which "The Crisis in Culture" and "Truth and Politics" were not. In LKPP, she held that a reflective judgment was a non-relative judgment that made a claim about a subjective condition (viz., an inner state). A reflective judgment was a judgment that, despite being wholly subjective in the sense that it did not make a claim about an object outside of the judging self, could nonetheless claim a certain sort of validity. In this section and next, I shall demonstrate that Arendt understood the success of reflective judgment as tied intimately to the imagination. The first of these roles is somewhat more straightforward than the second and was tied to its *re*-representative function that underwrites human mental life in general.

Fortunately, with what I am referring to as the first role of the imagination in reflective judgment, we are able to consult LM as well as LKPP. Given that Arendt saw fit to publish the first volume of the LM project during her lifetime, we may assume that she was fully committed to the theoretical positions she articulated therein. This fact is of great help if we are able to check material Arendt offered in LKPP against material she published as part of the LM project

during her lifetime. As it turns out, there is a surprising amount of material about the imagination in its relation to the faculty of judgment in the first volume of LM.

Beginning with the “Thinking” volume of LM, Arendt began to associate judgment with withdrawal from the object or activity being judged. One reason that Arendt began to emphasize withdrawal as an important component of judgment was because her newly developed account of the imagination demanded it. Arendt’s account of the imagination corresponded to what Kant had called the re-productive imagination and served to “re-present in thought that which is now absent to the senses.”¹⁰⁷ Maurizio Passerin D’Entrèves notes that the imagination, “represent[s] objects that are no longer present and thus establish the distance necessary for an impartial judgment.”¹⁰⁸ Although Arendt believed that reflective validity was not possible without the distance provided by the operation of the imagination, we shall see that she did not believe that either of the two functions of the imagination were in themselves *sufficient* conditions for reflective validity.

In LM, Arendt affirmed the imagination as a vital component of her account of human mental life. She wrote

Since mental activities, non-appearing by definition, occur in a world of appearances and in a being that partakes of these appearances through its receptive sense organs as well as through its own ability and urge to appear to others, they [mental activities] cannot come into being except through a deliberate *withdrawal* from appearances. It is withdrawal not so much from the world – only thought, because of its tendency to generalize, i.e., its special concern for the

¹⁰⁷ John McGowan, *Hannah Arendt: An Introduction* (Minneapolis: The University of Minnesota Press, 1998), 185. Henceforth, *Hannah Arendt: An Introduction*

¹⁰⁸ Passerin D’Entrèves, *The Political Philosophy of Hannah Arendt*, 117

general as opposed to the particular, tends to withdraw from the world together – as from the world’s being *present* to the senses.¹⁰⁹

Human mental life in general, then, presupposed a certain degree of separation from practical engagement with the world precisely because Arendt understood all significant human mental life as relying upon the work of the representative work of the imagination. In other words, Arendt understood human mental life as requiring a certain amount of *distance* from its objects. In her view, the imagination established this distance insofar as it was capable of making that which is absent to the senses, present to the mind whether for contemplation, projection, or judgment.

In the first volume of LM, Arendt distinguished between thinking, willing, and judging.

She wrote

By contrast, neither willing nor judging, though dependent on thought’s preliminary reflection upon their objects, is ever caught up in these reflections; their objects are particulars with an established home in the appearing world, from which the willing or judging mind removes itself only temporarily and with the intention of a later return.¹¹⁰

The faculty of thinking was concerned with the universal, while the faculties of judging and willing were concerned with *particulars*, albeit in different ways. While I shall not delve into willing in any great detail in this project, it is helpful to understand the different ways that judging and willing relate to particulars. In Arendt’s view, willing was concerned with the particular insofar as the particular was concerned with *me*. As we shall see, Arendt believed that judgment was concerned with the particular insofar as the particular related to *everybody* – that is, insofar as the particular could become communicable.

¹⁰⁹ LM, 75

¹¹⁰ LM, 92

Arendt's position that judgment is not concerned with the universal, but with the particular begs the question of what she meant by 'the particular.' As we examine LKPP, we shall see that Arendt still believed that the subject of political judgment was human speech and action. For now, I wish emphasize that the most general difference between willing and judging is not so much their proper object(s), but the orientation in which we engage with them. Judging and willing, in Arendt's view, corresponded to different attunements. Willing corresponded to the attunement of the actor, meant here in the broad sense of one who engages with the world in order to realize her projects, and not merely the political actor. In LM, however, Arendt began to emphasize the perspective of a figure that she called 'the spectator' for the first time in relationship to the faculty of judgment. Maurizio Passerin D'Entrèves writes that, "[In LKPP] judgment is located in the sphere of the *vita contemplativa*, it is the faculty of non-participating spectators, primarily poets and historians, who seek to understand the meaning of the past and to reconcile us to what has happened."¹¹¹

In the chapter entitled "Invisibility and Withdrawal," Arendt offered a key clarification that is helpful in distinguishing the particulars that concern willing from the particulars that concern the faculty of judgment.

Thus, in order to will, the mind must draw from the immediacy of desire, which, without reflecting and without reflexivity, stretches out its hand to get hold of the desired object; for the will is not concerned with objects but with projects, for instance, with the future availability of an object that it may or may not desire in the present. The will transforms the desire into an intention. And judgment, finally, be it aesthetic legal or moral, presupposes a definitely "unnatural" and

¹¹¹ Passerin D'Entrèves, *The Political Philosophy of Hannah Arendt*, 103

deliberate withdrawal from involvement and the partiality of immediate interests as they are given by my position in the world and the part I play in it.¹¹²

In this passage, it is clear that Arendt understood the main difference between willing and judging in terms of *partiality*. Willing was by definition partial - the will transformed immediate desire into an intention by which the willing agent projected herself into a future. Judgment, however, strove for *impartiality* by way of achieving a sort of critical distance. Yet, judgment in its reflective capacity was able to achieve impartiality without abandoning particularity for generality or universality.

The best point of departure for appreciating what Arendt called the ‘operation of the imagination’ is to recall the objective/subjective sense distinction that I introduced in the previous section. Arendt’s claim that reflective judgments were subjectively grounded *and* non-relative did not mean that reflective judgment proceeded from the “subjective senses.” Reflective judgments were like subjective judgments in that they made claims about inner states, and not objects in the world. But unlike purely subjective judgments, however, reflective judgments were non-relative. Thus, one of the most important questions that motivated Arendt’s account of reflective judgment was how an evaluation of an inner state could be more than an emotivist statement *and* in such a way that one could rationally expect other individuals to agree.

Arendt built her account of reflective judgment around the human ability to recognize the difference between inner states that were totally idiosyncratic, and those with which one could justifiably expect the agreement of others. The imagination was the key to our ability to discriminate between idiosyncratic and potentially non-idiosyncratic inner states. The ‘operation of the imagination’ allowed the judgment of objects or events normally encountered by the so-

¹¹² LM, 76

called objective senses to be judged *as if* they were encountered by the so-called subjective senses. In LKPP she wrote

[The imagination] transforms the objects of the objective senses into “sensed” objects, as though they were objects as though they were objects of an inner sense. This happens by reflecting not on an object but on its representation.¹¹³

Thus, in Arendt’s view reflective judgment was unique in that it proceeded from the objective senses in such a way that it produced a non-idiosyncratic judgment that was grounded in an inner state produced in the judging subject by the object or event that was judged.

To be sure, the operation of the imagination did not constitute the *successful* and *justified* claim to objectivity that characterized reflective judgment – reflective validity required two other conditions that I shall discuss in the next two sections of this chapter. We must note Arendt’s insistence that reflective judgment was *always* judgment on a representation of an object or event, rather than evaluation or judgment in the immediate presence of that object or event. In LKPP she wrote

Imagination, that is, the faculty of having present what is absent, transforms an object into something I do not have to be directly confronted with but that I have in some sense internalized, so that now I can be affected by it as though it were given to me by a nonobjective sense [...] That is: It is not important whether or not it pleases me in perception; what pleases merely in perception is gratifying but not beautiful. It pleases in representation, for now the imagination has prepared it so that I can reflect on it.¹¹⁴

In this passage, Arendt stated that reflective judgment did not proceed from the so-called subjective senses, but only *as if* it did. The operation of the imagination made it possible to judge

¹¹³ LKPP, 64

¹¹⁴ LKPP, 67

an object purely according to the impression it left on *inner* sense. The representative work of the imagination made it possible to evaluate an object or event by a standard that corresponded to inner sense, rather than the objective qualities of that object or event. Such a standard would appear to be subjective, rather than objective. However, Arendt believed that properly formed reflective judgments were characterized by a form of validity that I shall call ‘reflective validity.’ Thus, a properly formed reflective judgment was a judgment whose ground was a non-subjective inner state. Following Kant, Arendt named the standard of reflective validity “communicability,” or alternatively, “publicity.”

Arendt’s emphasis on pleasure and beauty in the passage I quoted above is also worth noting. Pleasure and beauty appear because she was glossing Kant in the excerpt above. Arendt was certainly not interested in limiting reflective judgments to *only* the experience of beauty and purposiveness in the natural world. Indeed, in the next chapter we will see that Arendt believed purposiveness to be the least important element of Kant’s theory of judgment. Arendt was interested in reading Kant’s third *Critique* as offering a blueprint for subjectively grounded that were not idiosyncratic. Kant, she thought, mistakenly believed that reflective judgments was limited to aesthetic judgments of taste and teleological judgments. In all of her writings on judgment, Arendt argued that the applicability of Kant’s aesthetics went far beyond the realm of art or science, the two realms with which Kant was primarily concerned in the *Critique of Judgment*.

Just a couple of pages later in LKPP, Arendt offered a more precise elaboration of the operation of the imagination. She wrote

At the time you are doing scientific research you may be vaguely aware that you are happy doing it, but only later, in reflecting on [scientific research], when you are no longer busy doing [scientific research], will you be able to have this

additional “pleasure”: of *approving* it. In this additional pleasure it is no longer the object that pleases but *that* we judge it to be pleasing [...] The very act of approbation pleases, the very act of disapprobation displeases¹¹⁵

In this passage, Arendt insisted that the reflective evaluation of something (i.e., scientific research) was not the same thing as compiling a list of its pros and cons. Such a judgment would be “objective,” insofar as it would adduce actual characteristics and/or consequences of scientific research as evidence. Instead, Arendt offered an example in which an activity (scientific research) was judged purely according to the subjective state (approbation or disapprobation) that it elicited. This subjective state, furthermore, was *not equivalent* to a feeling that one gets while carrying out the research – it is “additional,” in Arendt’s words, meaning that it is accessible only through the work of the imagination, which distances the scientist from her work.

Arendt’s example of scientific research is somewhat inconsistent with one important aspect of judgment in LM and LKPP. This is that the example of scientific research was one in which an individual who carries out a certain activity (in this case, scientific research) evaluates it reflectively while not actively engaged in that activity. Her example is consistent with the first role of the imagination as she described it – that an object or event may only be evaluated reflectively by way of its representation in imagination. However, as we shall see, in LM and LKPP, Arendt seemed to incorporate another aspect to her theory of judgment: that actors *as such* could not adequately judge any undertaking in which they were involved. To continue with Arendt’s example of scientific activity, a scientist could not ever come to a disinterested evaluation of the pleasure that she took in her research. In order to come to a proper appreciation

¹¹⁵ LKPP, 69

of this aspect of Arendt's writings on judgment, however, we must examine the second role of the imagination that secured validity for reflective judgment.

(b) The Operation of Reflection

Thus far, in this chapter I have discussed two important characteristics of Arendt's later account of reflective judgment. First, I have emphasized Arendt's claim in LKPP that reflective judgments had a subjective ground. In making this claim, I believe that Arendt subtly changed her account of reflective judgment from the way she had developed it previously in "The Crisis in Culture" and "Truth and Politics." While Arendt's elaboration of a model of reflective judgment whose definitive feature was a judgment that possessed non-idiosyncratic subjective ground was arguably closer to Kant's work, her own theoretical exposition was not Kantian in any orthodox sense. We saw that Arendt's distinction between the "objective" and "subjective" senses was not Kantian, and, as we shall see in the next chapter, the heterodox nature of Arendt's appropriation of Kant characterized almost every aspect of her work in LM and LKPP.

Second, I discussed the first role that the imagination played in LKPP and LM. Reflective judgment was *always* the judgment of a representation of an object or event and not a judgment of the object or event itself. The imagination was the key to judging an *object* or *event* as if it affected "inner sense." The first role of the imagination allowed objects and events to be considered as if they affected what Arendt called the subjective senses. The operation of the imagination was a necessary, but not a sufficient condition for reflective validity. Obviously, Arendt needed to provide a model of ideal judgment formation for reflective judgment. In the rest of this chapter, I shall discuss reflective validity in LKPP and to a lesser extent, LM. In this section, I turn to the nature and extent of the persuasive power of (properly formed) reflective

judgments. In doing so, I will be emphasizing the *second* crucial role that the imagination played. It is no great secret that Arendt relied heavily on the terminology and the spirit of Kant's *Critique of Judgment* in formulating her account of reflective validity. In the following chapter, I shall discuss the two thinkers together in some depth and point out some serious issues with the way in which Arendt used Kant's work. For now, however, I will examine reflective validity as Arendt presented it in LKPP.

In LKPP, one important question that confronted Arendt was how, precisely, an inner state could justifiably claim agreement from others. In other words, after having claimed that what defined reflective judgments was the fact that they were grounded in non-idiosyncratic inner states, she needed to explain how an inner state could be non-idiosyncratic. Ordinarily, we understand the validity of moral and epistemological judgments to be a measure of the degree to which the judgment corresponds to some objective fact to which it appeals. However, in defining reflective judgments as being grounded subjectively, Arendt cut herself off from such an account of validity. Arendt had to offer a plausible account of how a feeling was transformed from an idiosyncratic inner state into something with which others may be expected to agree. The ideal vantage point from which to survey Arendt's account of the validity of reflective judgments is her agreement with Kant that reflective validity was a function of the degree to which subjective content was purged from the judgment. Both Arendt's and Kant's account of reflective validity hinged upon the ability of the judging individual to purge an inner state of "private conditions" that would render the judgment idiosyncratic. Reflective validity, in other words, was the result of *removing* idiosyncratic content.

On first glance, Arendt's account of this purging process seems Kantian because Arendt expressed it in terminology that she took directly from the *Critique of Judgment*. In the next

chapter, I shall argue that there is actually very little about Arendt's account that is actually Kantian. For now, I limit myself to a close textual exposition of Arendt's view of the validity of reflective judgment. To this end, I will discuss the three conditions that Arendt took to be crucial to reflective validity: (i) the exercise of common sense, (ii) thinking out of what Arendt called an "enlarged mentality," and (iii) disengagement from the activity or event prompting reflection. In discussing these three components of reflective validity, I shall depart from many commentators on this aspect of Arendt's work, who tend to rely on the resources from BPF to supplement their exposition of LKPP.¹¹⁶ While it is obviously desirable to take a holistic approach to understanding any thinker's body of work on a certain topic, I believe that there are many important differences between BPF and LKPP that are obscured if one tries to read the two as if Arendt intended them to express the same account of political judgment. Because I do not believe that Arendt intended LKPP to express the same account of judgment she had expressed in "The Crisis in Culture" and "Truth and Politics," I shall only use the resources that are available in LM and LKPP. In this chapter, I shall attempt to discuss the validity of reflective judgments only in the terms Arendt specified in LKPP. As a result, we shall see that the account of validity in LKPP is different from that found in BPF in significant ways.

Arendt characterized the successful formation of reflective judgment as intimately related to what she called the "operation of reflection." In her view, reflective validity was the result of the second role of the imagination. She used the term 'operation of reflection' to designate the process by which an inner state either was recognized as, or was modified to become, a non-

¹¹⁶ See for instance D'Entrèves, "Arendt's Theory of Judgment," 254-258 and *The Political Philosophy of Hannah Arendt*, 125-130; Gottsegen, *The Political Thought of Hannah Arendt*, 161-165; Benhabib, *The Reluctant Modernism of Hannah Arendt*, 185-193

idiosyncratic inner state. In LKPP, Arendt claimed that the operation of reflection was actually the second (and final) step in the process of forming a reflective judgment. She wrote

There are two mental operations in judgment. There is the operation of the imagination, in which one judges objects that are no longer present, that are removed from immediate sense perception and therefore no longer affect one directly, and yet, though the object is removed from one's outward senses, it now becomes an object for one's inner senses. When one represents something to oneself that is absent, one closes, as it were, those sense by which objects in their objectivity are given to one. The sense of taste is a sense in which one, as it were, senses oneself; it is an inner sense. Hence: the *Critique of Judgment* grows out of the Critique of Taste. This operation of the imagination prepares the object for "the operation of reflection." And this second operation – the operation of reflection – is the actual activity of judging something.¹¹⁷

In this passage, Arendt stated that the two steps involved in reflective judgment are both 'operations': the operation of the imagination and the operation of reflection. In the previous section, I discussed the first of these operations, through which an object was considered according to the way it affected inner sense. The operation of the imagination was purely preparatory and was a necessary (but not a sufficient) condition of reflective validity. The operation of reflection, on the other hand, was truly constitutive of reflective validity insofar as it presupposed the operation of the imagination and it secured validity for reflective judgment. I believe we may characterize these two operations in the following way. Arendt construed the operation of the imagination as equivalent to the production of an inner state and the operation of reflection is equivalent to the evaluation of that inner state in terms of its disinterest.

¹¹⁷ LKPP, 68

Arendt understood the operation of reflection as a process of selection and modification and its function was to determine whether the inner state that grounded a judgment was idiosyncratic or communicable (viz., disinterested). The operation of reflection accomplished its task in two ways: recognition or modification; it had the ability to modify an inner state by removing private prejudice or bias from it and the ability to modify an inner state presupposed the ability to recognize when an inner state was characterized by sufficient “disinterest” so as to warrant the expectation of others’ agreement. In this section, I will argue that in LKPP, the operation of reflection actually canvassed two discrete activities. She called the first of these activities “enlarged mentality,” and the second “common sense.” I dedicate subsections to the discussion of both.

Arendt understood a valid reflective judgment to be a judgment that was valid in an extra-epistemological and extra-moral sense.¹¹⁸ In LKPP, Arendt claimed that reflective validity was the ability for a perspective from within the common world to apply widely between different perspectives without losing its status as a *particular* perspective. I shall begin with a discussion of common sense. According to Arendt, the criteria of *reflective* validity (as opposed to moral or epistemological validity) was, “communicability, and the standard of deciding about it is common sense.”¹¹⁹

¹¹⁸ I have not yet discussed Arendt’s reasons for believing that moral validity was not suitable for reflective judgment. I shall do so in the following chapter because I believe her reasons for this position are most developed in D XXII.

¹¹⁹ LKPP, 69

Common Sense

For Arendt, common sense was an essentially political faculty that served to fit us into existence as worldly beings, that is, into social and political life with others with whom we have to live.¹²⁰ Her account of common sense that we find in LKPP is essentially unchanged from her account of common sense in “The Crisis in Culture” and “Truth and Politics.” In LKPP, she wrote that common sense was, “like an extra mental capacity that fits us into a community.”¹²¹ Common sense served the human need to adjust social and political arrangements to the common world that made human life possible on the earth. She noted that,

The *sensus communis* is the specifically human sense because communication, i.e., speech, depends on it. To make our needs known, to *express* fear, joy, etc., we would not need speech. Gestures would be enough, and sounds would be a good enough substitute for gestures if one needed to bridge long distances.

Communication is not expression.¹²²

Keeping in mind that Arendt viewed reflection as process by which an inner state became capable of appealing widely between different individuals and perspectives, it makes sense that she thought of common sense as an essentially political ability. In Arendt’s view, common sense underwrote our existence as members of a community, and not as moral doers or knowers.

Arendt recognized that it was as members of some community that we would be expected to

¹²⁰ For a detailed account of common sense in Arendt’s writings, see Remi Peeter’s excellent two-part series of articles, “Ethical Perspectives: Truth, Meaning and the Common World: The Significance and Meaning of ‘Common Sense’ in Hannah Arendt’s Thought – Part One, in *Ethical Perspectives – Katholieke Universiteit Leuven*, 16(3), 2009: 337-359, and “Ethical Perspectives: Truth, Meaning and the Common World: The Significance and Meaning of ‘Common Sense’ in Hannah Arendt’s Thought – Part Two, in *Ethical Perspectives – Katholieke Universiteit Leuven*, 16(4), 2009: 411-434.

¹²¹ LKPP, 70

¹²² LKPP, 70

evaluate the state of our community and that our evaluations would need to be persuasive in order to make collective action possible between individuals and groups.

In an important passage, Arendt described the role that common sense played in the operation of reflection in the following terms.

The question that now arises is this: What are the standards of the operation of reflection? The operation of the imagination has made the absent immediately present to one's inner sense, and this inner sense is discriminatory by definition: it says it-pleases or it-displeases. It is called taste because, like taste, it *chooses*. But this choice is itself subject to still another choice: one can approve or disapprove of the very fact of *pleasing*: this too is subject to "approbation or disapprobation [...] The very act of approbation pleases, the very act of disapprobation displeases. Hence the question: how does one choose between approbation and disapprobation? [...] it is the criterion of communicability or publicness."¹²³

Arendt also understood common sense as the ability to recognize whether or not an inner state that was the ground of a judgment was idiosyncratic, or whether it was disinterested. This meant that the exercise of common sense entailed the ability to consider an inner state from a perspective that was not self-centered. Common sense implied our ability to survey our own feelings and to decide whether or not a feeling could be expected in others in the same position as ourselves. For instance, Arendt believed that reflectively judging an object or event meant that I needed to be able to decide whether or not the subjective ground of my judgment could be expected in another person when confronted with the same object or event. If so, then my judgment was characterized by a measure of disinterest and was communicable. If not, then my judgment was idiosyncratic and unlikely to persuade others. At this point, the precise nature of the perspective from which we survey our inner states in order to determine their disinterest is

¹²³ LKPP, 69

not clear. For now, I believe it is sufficient to state that common sense considered the origin and nature of inner state(s) from the perspective of the ability of these inner states to form and build relationships between different individuals.

In another important passage, Arendt confirmed the fundamentally political nature of common sense. She wrote

This *sensus communis* is what judgment appeals to in everyone, and it is this possible appeal that gives judgments their special validity. The it-pleases-or-displeases-me, which as a feeling seems so utterly private and noncommunicative, is actually rooted in this community sense and is therefore open to communication once it has been transformed by reflection, which takes all others and their feelings into account. The validity of these judgments never has the validity of cognitive or scientific propositions, which are not judgments, properly speaking [...] Similarly, one can never compel anyone to agree with one's judgments – “This is beautiful” or “This is wrong” (Kant does not believe that moral judgments are the product of reflection and imagination, hence they are not judgments strictly speaking); one can only “woo” or “court” the agreement of everyone else. And in this persuasive activity one actually appeals to the “community sense.”¹²⁴

Several important characteristics of Arendt's idea of judgment from LKPP appear in this passage. First, Arendt stated that the validity of reflective judgment was distinct from the validity of epistemological judgments and moral judgments. That is, the persuasiveness of political judgment is not a result of its truth-content or moral value (although this of course does not mean that reflective judgments cannot have truth-content or moral value). As Linda Zerilli puts it

Arendt disputes not the idea of argument as such but rather the assumption that agreement in procedures for making arguments ought to produce agreement in

¹²⁴ LKPP, 72

conclusion, hence agreement in the political realm can be reached in the manner of giving proofs.¹²⁵

Arendt also admired Kant's insistence that the validity of aesthetic judgments was not rooted in moral imperatives. I shall discuss this facet of Arendt's preoccupation with Kant in depth in the following chapter. For now, suffice it to say that Arendt agreed with Kant that reflective judgment did not produce a moral obligation to act. Or, to put it in Kantian language, reflective judgment could never produce a maxim for action.

Second, in the passage above Arendt claimed that reflective validity entailed an appeal to a ubiquitous human faculty or ability. Arendt used the terms "common sense" and "community sense" interchangeably. As I've shown, for Arendt common sense (or, community sense) entailed two related capacities. First, common sense entailed receptivity to the state of what is truly common (public) to any given human community. For Arendt, what was common was what related human beings together in such a way that made human life possible: the common world. Second, Arendt also thought that common sense entailed the ability to assess inner states in order to test them for communicability. It is important to note that Arendt understood these two functions as essentially related.

She associated reflective validity with the second function of common sense. Reflective validity entailed the production and/or recognition of an inner state that was "disinterested" and it was common sense in its second function measured disinterestedness. In other words, the production/recognition of a disinterested inner state required a measuring stick that transcended the self. In the first chapter of this project, I emphasized Arendt's belief that politics was primarily about changing the world. Because politics was about *praxis* and not theory, Arendt

¹²⁵ Zerilli, "We Feel Our Freedom," 160

recognized that political judgment strove to be persuasive in its evaluation of the state of the common world. The question that confronted her was: how could a perspective that emanated from a particular place in the world come to be characterized by an extra-moral, extra-epistemological, *political* validity? Arendt's answer was that political validity was achieved by a judgment's being freed from particular determinations such as prejudice to as great a degree as possible. When Arendt wrote that, "this persuasive activity [...] appeals to the "community sense," she did not mean that reflective judgment appealed to a transcendental human faculty, but that it appealed to other individuals in their capacity as members of some community.

Third, Arendt thought that appeals to common sense proceeded by way of the imagination. For Arendt, common sense could not proceed without the activity of the imagination. In the excerpt from LKPP I included above, Arendt expressed the importance of the imagination to reflective judgment formation negatively, by emphasizing its distinctness from moral judgment. She wrote that, "Kant does not believe that moral judgments are the product of reflection and imagination, hence they are not judgments strictly speaking." In the following chapter, I shall emphasize that Kant did not think that the validity of reflective judgment entailed *any* activity of the imagination at all. For now, however, I wish to emphasize that Arendt maintained (albeit negatively) that reflective judgment required assistance from the imagination. That is, according to Arendt judgment required two things: reflection and imagination. I have demonstrated that Arendt viewed the imagination's role in judgment as twofold. Earlier in this chapter, I discussed the first role of the imagination. Now, I turn to the second. The second role of the imagination was crucial in the appeal to community sense that Arendt saw as implicit in all reflective judgment. She called this second role of the imagination "enlarged mentality."

Enlarged Mentality

We have seen that common sense is a complicated topic in LKPP because it entailed at least two related things in her thinking. (i), a ‘sense’ (of sorts) through which the common world discloses itself to us, and (ii) the ability to produce/recognize an inner state that is disinterested. Above, I pointed out that (ii) is the way in which Arendt characterized the validity of reflective judgment. In LKPP, Arendt insisted that the production and recognition of an inner state characterized by disinterest required the imagination. By extension, then, common sense described an activity of the imagination as it related to the purging of prejudice from an inner state. Arendt did not clearly articulate the precise relationship between common sense and the imagination in LKPP. As a result, it is unclear whether she understood common sense as another way of describing one particular function of the imagination or if she thought that common sense was a separate faculty that utilized the imagination. Both interpretations find textual support in LKPP and LM. Fortunately, I may remain agnostic in reference to this question. For the purposes of my argument, however, it is far more important I offer a close textual analysis of the second function that the imagination played in LKPP.

In LKPP, Arendt stated that the enlarged mentality was actually a function of common sense. “An “enlarged mentality,” she wrote, “is the condition *sine qua non* of right judgment; one’s community sense makes it possible to enlarge one’s mentality.”¹²⁶ This passage shows that Arendt believed that enlarged mentality secured the validity of reflective judgments and that enlarged mentality could not take place without common (or community) sense. Whereas all the

¹²⁶ LKPP, 73

other elements of reflective judgment I have discussed were necessary conditions for reflective validity, enlarged mentality was its sufficient condition. Arendt wrote

The “enlargement of the mind” plays a crucial role in the *Critique of Judgment*. It is accomplished by “comparing our judgment with the possible rather than the actual judgments of others, and by putting ourselves in the place of any other man.” The faculty that makes this possible is called imagination [...] To think with an enlarged mentality means to train one’s imagination to go visiting.¹²⁷

Arendt understood the enlarged mentality as a particular way of using one’s imagination. Given Arendt’s re-presentative understanding of the imagination, this meant that her account of enlarged mentality would hinge upon the representation of something that was absent and in such a way that was capable of purging an inner state of bias, prejudice, and interest.

At this point, it is helpful to consider Arendt’s basic orientation towards Kant’s writings in LKPP. Early in her lecture notes, she insisted that what was actually at stake in Kant’s writings on judgment was what she called “critical thinking.” “The word [critique],” Arendt wrote, “may have been suggested to [Kant], as he himself pointed out, by the “age of criticism,” i.e., the Age of Enlightenment [...] Enlightenment means, in this context, liberation from prejudices, from authorities, a purifying event.”¹²⁸ Furthermore, Arendt insisted, “political freedom is defined quite unequivocally and consistently throughout [Kant’s] work as “*to make public use of one’s reason at every point.*”¹²⁹ Finally, Arendt pointed out that, “the political implications of critical thinking [...] implies communicability [and] communicability obviously implies a community of men who can be addressed and who are listening and can be listened

¹²⁷ LKPP, 43

¹²⁸ LKPP, 31

¹²⁹ LKPP, 39

to.”¹³⁰ All of these passages appear in the first part of LKPP, before Arendt has begun to address material from the *Critique of Judgment* directly. These passages were part of a preliminary orientation that Arendt offered in order to get her students to think in the right way in order to appreciate the political dimensions of Kant’s third critique that Arendt emphasized throughout the rest of the course.

Clearly, Arendt understood Kant’s notion of “critique” as containing a political dimension. Insofar as the political aspects of critical thinking implied the transcending (or perhaps minimizing) of prejudice on the one hand and external authority on the other, Kant obviously needed to give an account of how this type of thinking was possible. Thus, Arendt read Kant’s third *Critique* as containing, among other things, a method or recipe for critical thinking defined as a thinking that was determined neither by interior limitations (prejudice) nor by exterior limitations (authority, command). The fact that Kant had limited this type of thinking to realms of aesthetics and scientific inquiry did not matter to Arendt. As I shall demonstrate in detail in the following chapter, Arendt believed she understood Kant better than Kant understood himself.

“Enlarged mentality” first appeared in the context of Arendt’s transition from her discussion of critical thinking and its political implications to her more famous argument that the *Critique of Judgment* contained Kant’s real political philosophy in disguise. Arendt wrote

The trick of critical thinking does not consist in an enormously enlarged empathy through which one can know what actually goes on in the mind of all others [...] To accept what goes on in the minds of whose “standpoint” (actually, the place where they stand, the conditions they are subject to, which always differ from one individual to the next, from one class or group as compared to another) is not my

¹³⁰ LKPP, 40

own would mean no more than passively to accept their thought, that is, to exchange their prejudices for the prejudices proper to my own station [...] The greater the reach – the larger the realm in which the enlightened individual is able to move from standpoint to standpoint – the more “general” will be his thinking. This generality, however, is not the generality of the concept – for example, the concept “house,” under which one can then subsume various kinds of individual buildings. It is, on the contrary, closely connected with particulars, with the particular conditions of the standpoints one has to go through in order to arrive at one’s own “general standpoint.”¹³¹

This passage is the most detailed exposition of enlarged mentality that Arendt offered in LKPP and it appeared before Arendt had begun to address the third *Critique* directly. It appears in the “Seventh Session,” a little over half way through the seminar; but Arendt did not transition to textual exposition of the *Critique of Judgment* until the final sessions. I believe this passage is very important, so I shall emphasize this excerpt and use her other references to enlarged mentality in LKPP to support my commentary on this passage.

Earlier, I stated that when Arendt tied enlarged mentality to the imagination, she tied herself to an account of enlarged mentality that would be re-presentative. Arendt understood enlarged mentality as the process by which the imagination represents the standpoints or perspectives of others. In the passage I excerpted above, Arendt clarified her understanding of “standpoint” or “perspective.” Enlarged mentality was not merely the representation of *what* another individual thought (viz., her opinion or judgment), although enlarged mentality could certainly entail reflection on other opinions and judgments. Beyond being the representation of other perspectives, enlarged mentality was also reflection on the material conditions that conditioned the production of these other perspectives. Hence, Arendt’s emphasis on “actually,

¹³¹ LKPP, 43

the place where they stand, the conditions they are subject to, which always differ from one individual to the next, from one class or group as compared to another.” Enlarged mentality was the representation of all of these things in such a way that did not entail passive acceptance of them. Thus, enlarged mentality entailed reflection on at least two things: *what* other community members thought as well as *why* they thought what they did.

However, mere comprehension of other perspectives and the material conditions that underwrote their production is not equivalent to the purging of “private conditions” (prejudice, bias) with which Arendt associated reflective validity. In other words, we have yet to see what it was about the enlarged mentality that Arendt believed secured reflective validity to judgments. Later in LKPP, Arendt offered a brief clarification of the way in which she understood enlarged mentality to be constitutive of reflective validity. “Communicability,” she wrote, “obviously depends on the enlarged mentality; one can communicate only if one is able to think from the other person’s standpoint; otherwise one will never meet him, never speak in such a way that he understands.”¹³² In this passage, Arendt revealed that she did not view the goal of reflection as the complete transcending of prejudice or bias.¹³³ Rather, the goal was *communicability*, or persuasiveness. Arendt did not think that reflective validity entailed the proverbial view from nowhere. However, she did think that reflection on the perspectives of others and their material conditions would allow for an evaluation of the common world (rooted in an inner state) to be able to appeal widely across different groups and individuals.

¹³² LKPP, 74

¹³³ The finite scope of reflective validity is a topic to which I shall return in the following chapter.

This brings me to the second aspect of enlarged mentality upon I wish to comment from the lengthy passage above. At the end of that excerpt, Arendt distinguished between conceptual generality and the “generality” that characterized reflective judgments. We must note that by “the generality of the concept,” Arendt meant the validity of cognitive and moral judgments, in which many particulars are subsumed under categories that possess a universal validity. Elsewhere in LKPP, Arendt pointed out that, “*impartiality* is obtained by taking the viewpoints of others into account: impartiality is not the result of some higher standpoint that would then actually settle the dispute by being altogether above the melee.”¹³⁴ Even though Arendt used the word “generality” to characterize valid reflective judgments, her use of this word is misleading if understood in contrast to particularity. Put simply, reflective validity entailed the generation of a particular perspective that was grounded in an inner state characterized by a sort of persuasiveness that was not a result of mere rhetoric.

Section Three: Spectatorship and Judgment

Thus far in this chapter I have attempted to give a plausible reconstruction of one important element of LKPP and, to a lesser extent, LM: ideal judgment formation. I emphasized reflective validity in LKPP and LM and how Arendt believed that reflective validity was obtained. In doing so, I discussed the imagination, common sense, and enlarged mentality. Furthermore, because I am convinced that there are significant differences between the account of judgment Arendt offered in LKPP and BPF, I did not consult “The Crisis in Culture” and “Truth and Politics.” I believe that I have gestured towards a few significant differences between

¹³⁴ LKPP, 42

the way that Arendt talked about judgment formation in BPF and LKPP. Above all, I have emphasized the fact that Arendt's integration of the imagination into her account of the faculty of judgment makes judgment in LKPP look very different from judgment in BPF. However, we have not yet examined the most important distinction between judgment as it appeared in LKPP and LM and judgment as it appeared in BPF. In LM and LKPP, Arendt appeared to suggest that reflective judgment was the prerogative of uninvolved spectators, rather than political actors.

The most obvious way to observe this difference is by attending to the position from which Arendt believed reflective judgment was made. In my view, Arendt's shift from actors to spectators is closely related to the development in her thinking on the imagination. In BPF, the only role that the imagination played was that of the vehicle of representative thinking. Nowhere in "The Crisis in Culture" or "Truth and Politics" did Arendt describe what she called the 'operation of imagination' in LKPP. Thus, Arendt appears to have given the imagination an additional role in LKPP. In doing so, Arendt seemed to exclude political actors from being able to practice political judgment. This fact follows from a consideration of the fact that Arendt thought that what was judged was always a *representation* of political words and deeds. If judgment required the object of judgment to be absent, then it is unclear how individuals engaged in political speech and action may practice judgment in the public arena.

More significant is Arendt's explicit shift from the actor model of judgment to the spectator model of judgment. Richard Bernstein has pointed out that the "temporal modality" of judgment shifts in LKPP. Implicitly, he argues, the actor model of judgment found in BPF describes an activity that can take place in the public sphere, in the presence of the action and speech of others. For Bernstein, the temporality of the actor model of judgments means that it is future oriented. He writes that, "When men come together to discuss, exchange opinions and

judge, they are oriented toward ‘the decision what manner of action is to be taken in the sphere of public life.’”¹³⁵ Bernstein’s gloss on political judgment as it appears in BPF fits well with Arendt’s stated position that political speech and action cannot be reduced to its truth-content because politics is primarily about changing the world, and not discovering truth. If the primary goal of politics is to change the world, then Bernstein is certainly correct that politics is future-oriented. In discussing LKPP and LM, Bernstein argues for a shift in which Arendt, “emphasizes the way in which judging is primarily concerned with the past.”¹³⁶ Judgment in LKPP and LM begins to become centered not on assessing ordinary, everyday political speech and action, but with assessing events of world-historical import.

Any treatment of Arendt’s later writings on judgment must include an examination of Arendt’s emphasis on spectatorship. In LM and LKPP, there is significant textual evidence that Arendt had come to think that only the “spectator” could adequately form a judgment about the meaning and significance of political events. Furthermore, Arendt’s examples of the judgment of the spectator were mostly examples that dealt with the judgment of events of world-historical significance, and not ordinary political speech and action. I shall return to her preoccupation with world history, as this will require us to examine resources outside of LM and LKPP. For now, I only wish to introduce and discuss her insistence that judgment is the purview of the spectator, and not the actor.

The first place Arendt’s preference for the spectator becomes apparent is early in the first volume of LM, in the context of discussing a fragment attributed to Pythagoras, Arendt wrote

¹³⁵ Bernstein, “Judging: The Actor and the Spectator,” 247

¹³⁶ Bernstein, “Judging: The Actor and the Spectator,” 247

Hence, withdrawal from direct involvement to a standpoint outside the game (the festival of life) is not only a condition for judging, for being the final arbiter in the ongoing competition, but also the condition for understanding the meaning of the play [...] The withdrawal of the judge is obviously very different from the withdrawal of the philosopher. It does not leave the world of appearances but retires from active involvement in it to a privileged position in order to contemplate the whole.¹³⁷

Here, we find Arendt reflecting on two figures: the philosopher and the judge. According to Arendt, both the philosopher and the judge shared one important characteristic: they take no part in worldly affairs. The philosopher is uninvolved out of preference for timeless, eternal truth and opposed to the ever-changing nature of worldly events. Thus, the philosopher is uninvolved because she does not care about worldly events at all. This is not the case, however, with the judge. The non-involvement of the judge was predicated upon a deep concern for worldly affairs. Out of a desire to arrive at an unbiased assessment of the events of the world, the judge does not become involved but, unlike the philosopher, retains interest. The judge – the individual who arrives at a valid assessment of the meaning and significance of political words and deeds – is not a political actor at all.

In the third *Critique*, Kant famously subordinated genius to taste and his aesthetics display a marked preference for the *spectator* who judges beautiful objects rather than the genius who creates them. However, Arendt's emphasis on the spectator in her use of Kant's *Critique of Judgment* went beyond exegesis. Based on any careful examination of LKPP, it is clear that Arendt intended to build the figure of the spectator into the account of judgment she was to offer in the third volume of the project. In fact, there is strong textual evidence that Arendt considered

¹³⁷ LM, 94

non-involvement with worldly affairs to be a necessary condition of the validity of her new model of political judgment. “The spectator’s verdict,” she wrote, “while impartial and freed from the interests of gain or fame, is not independent of the views of others – on the contrary, according to Kant, an “enlarged mentality” has to take them into account.”¹³⁸ This is an important passage, and not only because it indicates that Arendt had come to see Kant as offering a model of judgment suited to the spectator. This passage also indicates that Arendt did not think that either non-involvement or enlarged mentality were sufficient in themselves for proper judgment formation. Instead, *Arendt intended to build both conditions into her theory of judgment.*¹³⁹

I believe we may summarize the necessary conditions for reflective validity in the following way. The first condition is non-involvement. Simply put, this condition states that individuals engaged in carrying out an activity or action are limited in the degree to which they may evaluate the meaning or significance of what they do by the very fact that they are involved in doing it. Action, in other words, is by its very nature *interested* in its own activity and by

¹³⁸ LM, 94

¹³⁹ Not all commentators believe, as I do, that there is a distinction between the viewpoint of the spectator and the viewpoint made possible by an enlarged mentality. There is sufficient textual evidence, I believe, that by the time she composed LKPP Arendt had come to view non-involvement as an additional requirement of reflective judgment. And even non-involvement itself was not sufficient – the model of judgment formation taken from Kant’s third *Critique* still applied. Nonetheless, some prominent commentators read Arendt as arguing that operating out of an enlarged mentality generates the position of the spectator. See, for instance, Zerilli, “We Feel Our Freedom: Imagination and Judgment in the Thought of Hannah Arendt,” 177. Zerilli claims that, “Being and thinking in my own identity where actually I am not is the position achieved when, understanding another person (as in a discourse ethics), I yield my private to the general interest, but when I look at the world from multiple standpoints (not identity positions) to which I am always something of an outsider and also something of an outsider to myself as an acting being. This is the position of the spectator that Arendt describes in her Kant lectures.” Elena Tavani offers a similar argument in Tavani, “Hannah Arendt – Aesthetics and the Politics of Appearance,” 466

virtue of this fact, the actor (by definition) cannot offer a *disinterested* assessment of what she does. By extension, disinterested evaluation and judgment is the sole purview of an individual who remains uninvolved in the activity or event judged. However, this fact does not mean that the disinterested judge is unconcerned or indifferent towards that which she judges. The judge remains interested, if by interested we understand her non-involvement to be a sacrifice of sorts, required in order to gain access to the meaning and significance of worldly events. Considering reflective judgment in its political variety, Arendt appears to have changed her mind radically. Political actors, by definition it seems, are barred from valid political judgment not because they are unable to engage in representative thinking, but because their own involvement in the affairs of the world renders them biased.

However, Arendt clearly did not believe that non-involvement was a sufficient condition for reflective validity. In other words, just because one was not involved in a given activity did not necessarily entail that one's reflective evaluation of that activity be valid. If she had believed it did, then there would have been little reason for her to insist on using Kant's *Critique of Judgment* as a model of judgment formation tailored to the figure of the spectator. Spectators, Arendt insisted, "although disengaged from the particularity characteristic of the actor, are not solitary."¹⁴⁰ Later, in LKPP, Arendt wrote that spectators "exist only in the plural. The spectator is not involved in the act, but he is always involved with other spectators."¹⁴¹ Thus, the spectator still had to justify her reflective evaluation before a community of fellow spectators, and not those who are engaged in carrying out the event in question. Obviously, Arendt thought that the

¹⁴⁰ LM, 94

¹⁴¹ LKPP, 63

process of justification before the community of spectators was articulated in Kant's *Critique of Judgment*, at least as she intended to reconstruct it in LKPP and beyond.

Concluding Remarks

In this chapter I have laid out what I take to be the basics of any adequate appreciation for Arendt's later engagement with Kant's *Critique of Judgment*. Obviously, the most glaring question that my analysis raises is the following: how are we to read Arendt's early emphasis on the *actor* and her subsequent abandonment of it in favor of the *spectator*? When she composed LM and LKPP, Arendt no longer believed that political actor can be the judges of their own activities. Reflective judgment, Arendt appeared to think, implied an outside perspective. Can we, in other words, speak of *one* coherent account of reflective judgment in Arendt's work? To be sure, in LKPP she does say that "this critic and spectator sits in every actor and spectator; without this critical, judging faculty the doer or maker would be so isolated from the spectator that he would not even be perceived."¹⁴² Yet, in this passage, Arendt is merely claiming that every human being is capable of judgment, providing he or she meets the criteria she (and Kant) had articulated. All action, in other words, presupposes that somebody will be watching and evaluating. This fact certainly does not mean that all actors are adept (or even capable) of evaluating their own actions in an unbiased and disinterested fashion. There are, I argue, plausible answers to these questions. But they require that we go beyond Arendt's published writings and examine the material offered in D XXII.

¹⁴² LKPP, 63

CHAPTER IV

D XXII AND HANNAH ARENDT'S THEORY OF JUDGMENT¹⁴³

Introduction

In this chapter, I will focus on D XXII.¹⁴⁴ Dated August 1957, the notebook contains the notes that Arendt took on Kant's third *Critique* in which she first developed her reading of it as containing a 'hidden political philosophy.' Scholarship on D is still in its beginning stages.¹⁴⁵ As of yet, the only published work to deal with Arendt's notebooks as a whole is *Artifacts of Thinking: Reading Arendt's Denktagebuch*,¹⁴⁶ which its authors intend as an answer to, "this question of how to read, interpret, and employ the immense wealth of the *Denktagebuch* [...]"¹⁴⁷ While *Artifacts of Thinking*, addresses the question of judgment in the D at a general level¹⁴⁸, it does not address the question of what Arendt's notebooks can tell us about how and why Arendt read Kant in the way that she did. I am only aware of one article that discusses D XXII. In his

¹⁴³ Portions of the second and third sections of this chapter will appear in the forthcoming volume of *Arendt Studies* (Fall 2018)

¹⁴⁴ Hannah Arendt, *Denktagebuch*, ed. Usula Ludz (München: Piper Verlag, 2003): 569-591. All references to the *Denktagebuch* are my own translations and will be referenced via notebook and fragment number.

¹⁴⁵ See Rodrigo Chacón, "Arendt's 'Denktagebuch,'" *History of European Ideas* 39(4), 2013: 561-582; Sigrid Weigel, "Poetics as a Presupposition of Philosophy: Hannah Arendt's 'Denktagebuch,'" *A Quarterly Journal of Critical Thought* 146, 2009: 97-110; Ralph P. Hummel, "Arendt, Kant and the Beauty of Politics: A Phenomenological View," *Political Phenomenology: Essays in Memory of Peter Jung*, 93-120

¹⁴⁶ *Artifacts of Thinking: Reading Hannah Arendt's Denktagebuch*, ed. Roger Berkowitz and Ian Storey (New York: Fordham University Press, 2017). Henceforth, *Artifacts of Thinking*

¹⁴⁷ *Artifacts of Thinking*, 4

¹⁴⁸ Thomas Wild, "'By Relating It': On Modes of Writing and Judgment in the *Denktagebuch*," in *Artifacts of Thinking: Reading Hannah Arendt's Denktagebuch*, ed. Roger Berkowitz and Ian Storey (New York: Fordham University Press, 2017): 51-73

article, “The Origin and Character of Hannah Arendt’s Theory of Judgment,”¹⁴⁹ David Marshall argues that many of the criticisms of Arendt’s account of judgment are misguided as a result of not taking into account the material offered in D XXII. He offers an incisive and informative account of the Hegelian and Aristotelian roots of Arendt’s account of the faculty of judgment. However, Marshall’s analysis is geared towards judgment as a whole in D, rather than the Kantian provenance that Arendt’s account of judgment came to take beginning in the late 1950’s with D XXII. The broad scope of Marshall’s analysis of judgment in D has the unfortunate result of limiting the detail with which he treats the particular phases of Arendt’s thinking. As a result, his analysis of D XXII is less detailed than one would hope.¹⁵⁰

One of my primary goals in this chapter is to offer a detailed account of D XXII. What follows is, I believe, the first detailed investigation of what this notebook has to offer our understanding of how and why Arendt read Kant’s *Critique of Judgment* in the way she did. Such an analysis is important for a couple of reasons. My interests in this dissertation are limited to Arendt’s reading of Kant’s third *Critique* and how it developed from 1957-1975, as well as what its development can tell us about Arendt’s own critical standpoint towards modernity and its politics. In order to accomplish these aims, I will offer as complete an analysis as possible of D XXII because I believe that it contains many valuable resources that are not found or not developed in her other writings on judgment. Second, in my opinion D XXII is very helpful in reconstructing a developmental trajectory from the ‘actor model’ of judgment to the ‘spectator model’ that Arendt emphasized at the end of her life. While I will treat the nature of this

¹⁴⁹ David Marshall, “The Origin and Character of Hannah Arendt’s Theory of Judgment,” *Political Theory* 38(3), 2010: 367-393

¹⁵⁰ Marshall, “The Origin and Character of Hannah Arendt’s Theory of Judgment,” 380-383

trajectory in the following chapter, I will set its stage in this chapter by emphasizing the wealth of material offered by Arendt's notes on Kant's third *Critique*.

In what follows, I will present my analysis of D XXII in the following sections. First, I discuss Arendt's attempt to differentiate political judgment from moral judgment and epistemological judgment. In so doing, I will emphasize the autonomy of judgment in Kant's critical philosophy as well as Arendt's own commitment to the fact that moral and epistemological judgment were both rooted in an experience of the self that made these forms of judgment incompatible with human plurality (and by extension, politics). In the second section, I return to the topic of enlarged mentality in depth. Using the resources of D XXII, I argue that commentators have missed the fact that Arendt was not getting Kant wrong, but that in developing an account of political judgment out of the *Critique of Judgment* she was reading him against himself. In the third section, I shall argue that Arendt's shift from actors to spectators is best understood in terms of the possibility of precedents for political discourse.

Section One: Beyond Truth and Goodness

In her published writings, Arendt did not articulate many of the most important reasons for her preoccupation with Kant's aesthetics. No doubt, one reason why commentators have wondered *why* Arendt turned to Kant's third *Critique* is the fact that she did not live to complete her account of judgment. One of these reasons should come as no surprise to careful readers of Arendt. Namely, Arendt was invested deeply in arguing that political speech and action should not be reduced to its truth-content in order to assess it. In the first chapter of this dissertation, I emphasized this dimension of her discussion of judgment in BPF. We saw that Arendt's wariness about reducing politics to its truth-content did not imply that she believed that truth and politics were not related; but she did think the value of politics did not stand or fall with its truth-

value (or lack thereof). Arendt's attempt to distance politics from truth was a central theme of the first chapter of this dissertation, and I do not intend to recapitulate the argument I presented in any detail in this chapter. However, recalling Arendt's suspicion of truth as a sufficient standard for political judgment is an excellent starting point for appreciating the fragmentary material presented in D XXII. One thing that D XXII reveals is that Arendt was not only wary of truth when it came to traditional standards for understanding politics. The other traditional standard that Arendt rejected was that of moral goodness. In the first chapter of this project, I gestured towards this position and noted that it was insufficiently developed in BPF. In my view, Arendt's rejection of moral goodness is far more developed in D XXII. As we shall see, Arendt regarded moral goodness in much the same way as she regarded truth when it came to the question of political judgment. She believed that reducing politics to its moral value necessitated mistaking the purpose and nature of politics on a fundamental level. Here, I turn to an in-depth explanation of why Arendt believed there was a tension between politics and moral-goodness. As we shall see, Arendt believed that moral goodness (and truth) were insufficient because political judgment was structurally distinct from epistemological and moral judgment.

In the first chapter, I described Arendt's search for an extra-epistemological validity to characterize political judgment as an attempt to fashion a middle road, of sorts, between two major trends in Western political philosophy. Unlike Plato and the majority of political thinkers in the Western tradition, Arendt did not believe that the value of politics lay in the degree to which it was true. However, she also did not wish to affirm political speech and action as lacking any objective measure of value. According to Arendt, a distinctly non-moral, non-epistemological validity characterized political speech and action. Following Kant, Arendt called this validity "aesthetic." Earlier, I emphasized the fact that Arendt turned to Kant's *Critique of*

Judgment out of the conviction that, like politics, aesthetic judgment was keyed to the way in which an object *appeared*. In this chapter, we shall see that Arendt came to believe that what Kant called ‘aesthetic judgments of taste’ were structurally similar to what she wanted to describe as political judgment.

That Arendt followed Kant’s specific notion of aesthetic validity suggests that her interest in the third *Critique* was not just motivated by her conviction that politics was characterized by an extra-moral, extra-epistemological form of validity. There was something more specific to the *Critique of Judgment* that attracted Arendt. One important reason for her turn to Kant’s theory of reflective judgment was motivated by the place Kant assigned to the faculty of judgment in his critical system. Arendt was attracted to Kant’s aesthetics because Kant insisted that the faculty of judgment was not just a function of theoretical or practical reason, although many times the faculty of judgment did serve at the behest of reason. In other words, Kant’s account of the faculty of judgment was also an account of its autonomy vis-à-vis the search for truth and the pursuit of goodness. Kant’s arguments that aesthetic judgments of taste were neither cognitive nor moral judgments found resonance in Arendt’s insistence that politics should not be judged primarily according to its truth-content or moral value. Given Arendt’s wariness about subsuming politics under the search for truth or the pursuit of goodness, Kant’s third *Critique* was a natural fit for her attempt to construct an account of political judgment in that Kant did not believe that the faculty of judgment was merely a function of the understanding or of practical reason.

This reason for Arendt’s turn to Kant has escaped many commentators, who tend to emphasize various *parts* of Kant’s aesthetic theory such as representative thinking and enlarged mentality. To be sure, I do not wish to suggest that representative thinking and enlarged

mentality are unimportant reasons for Arendt's interest in using the *Critique of Judgment* in order to discuss political judgment. However, as we shall see in this chapter, Arendt's preoccupation with all of these aspects of Kant's theory of reflective judgment can be best explained by attending to her insistence that politics be liberated from the search for truth and the pursuit of goodness. For example, in his book *The Political Philosophy of Hannah Arendt* and his contribution to *The Cambridge Companion to Hannah Arendt*, Maurizio Passerin D'Entrèves argues that Arendt's turn to Kant's third *Critique* was a result of Kant's

having dislodged the prejudice that judgments of taste lie altogether outside the political realm, since they supposedly concern only aesthetic matters. She believes, in fact, that by linking taste to that wider manner of thinking which Kant called an "enlarged mentality" the way was opened to a reevaluation of judgment as a specifically political ability.¹⁵¹

D'Entrèves, like many commentators, locates Arendt's interest in Kant's aesthetics in Kant's belief that aesthetic judgments are not mere emotivist statements because we tend to think others ought to agree with us about the objects we find beautiful.

While it is no doubt true that Arendt believed that the third *Critique* made possible precisely such a reevaluation of judgment, D'Entrèves' approach misses the mark in two important ways. First, this approach passes over the fact that Arendt, like Kant, believed that there were different forms of judgment that were structured in different ways. In this chapter, we shall see that Arendt believed that political judgment was structurally distinct from moral and cognitive judgment. Second, Arendt turned to Kant not just because she found various components of his theory of

¹⁵¹ D'Entrèves, *The Political Philosophy of Hannah Arendt*, 112; D'Entrèves, "Arendt's Theory of Judgment," 250

judgment such as “enlarged mentality,” attractive but because in the third *Critique* Kant held that judgment was autonomous.

In my view, coming to understand Arendt’s writings on Kant and political judgment requires a thorough understanding of the following two positions that I discuss in what follows. I will (a) discuss what the autonomy of judgment meant for Kant and what it meant for Arendt. In doing so, I shall emphasize some crucial differences between the two thinkers. Although Arendt was attracted to Kant’s commitment to a fully autonomous faculty of judgment, she interpreted this autonomy in ways that went beyond Kant’s critical philosophy. Then, I will explain (b) Arendt’s argument that political judgment was distinct from theoretical and practical judgment on a structural level. Here, I shall emphasize Arendt’s belief that theoretical and practical reason were rooted in the self and that political judgment was, by definition, rooted in human plurality. Again, in explaining Arendt’s arguments I will draw attention to non-Kantian elements in her appropriation of Kant. We shall see that her claim that theoretical and practical cognition shared the same root (*viz.*, the self) was manifestly non-Kantian.

(a) Arendt, Kant, and the Autonomy of Judgment

In both of his introductions to the *Critique of Judgment*, Kant insisted that the faculty of judgment was distinct from Reason and the understanding. Each transcendental faculty of cognition, Kant claimed, possessed its own *a priori* principle. In the second introduction to the third *Critique*, Kant wrote,

For all of the soul's powers or capacities can be reduced to three that cannot be derived further from a common basis: the *cognitive power*, the *feeling of pleasure and displeasure*, and the *power of desire*.¹⁵²

In Kant's view, each faculty of cognition had its own distinct ground that was not reducible to that of any other faculty. To the ground of each faculty corresponded a distinct transcendental principle. In other words, Kant understood the faculty of judgment as fully autonomous and this autonomy meant that the faculty of judgment had its own *a priori* principle distinct from those of reason and the understanding. To be sure, judgment did not function autonomously all of the time. Moral and cognitive judgments were made at the behest of other faculties of cognition. In determining judgment, the faculty of judgment applied a given category to an appearance, or intuition at the behest of either the cognitive or the moral faculty. However, in its reflective capacity, judgment operated only according to its own principle. Kant composed the *Critique of Judgment* in order to give an account of the faculty of judgment in its autonomy and the autonomy of judgment meant judgment in its reflective capacity.

In my view, it is no coincidence that Arendt was attracted to Kant's account of an autonomous faculty of judgment. In the previous two chapters of this project, I have emphasized Arendt's firm conviction that politics not be reduced to the search for truth or the pursuit of goodness. Keeping Arendt's suspicion of truth and goodness as standards capable of comprehending political speech and action in mind, it is not difficult to see that Arendt believed that politics required an *autonomous* model of judgment. Political words and action needed to be understood on their own terms and, for Arendt, understanding them on their own terms meant

¹⁵² 5:177

that political judgment needed to be political at a structural level. As I examine D XXII, I shall explain clearly what Arendt understood the ‘structure’ of a political model of judgment to entail.

Of course, Arendt’s attraction to the autonomous faculty of judgment Kant offered in the third *Critique* did not mean that she would remain faithful to the vision of judgment to which he committed himself therein. There is little more striking in Arendt’s writings on judgment than their heterodox Kantianism. However, the fact that Arendt incorporated non-Kantian elements and claims into her account of political judgment does not necessarily mean that she misunderstood Kant or that she was uninterested in his stated project in the third *Critique*. Later in this chapter I shall demonstrate that Arendt actually believed that Kant failed to live up his most important insights in the *Critique of Judgment*. Arendt’s use of the third *Critique* ought to be understood as a correction of him.

In discussing Arendt and her attraction to Kant’s commitment to judgment as an autonomous faculty, it is important to discuss another important reason for her attraction to the third *Critique*. Karl Jaspers’ work *Die Grossen Philosophen*¹⁵³ influenced Arendt’s understanding of reflective judgment. Arendt was the editor of the English translation of Jaspers’ work, which Harcourt, Brace & World published in the early sixties. In her correspondence with Jaspers, Arendt attributed her renewed fascination with the third *Critique* to her mentor’s discussion of that text in *The Great Philosophers*. In a letter to Jaspers dated 29 August 1957, Arendt wrote that, “[...] I’m reading the *Kritik der Urteilskraft* with increasing fascination. There, and not in the *Kritik der Praktischen Vernunft*, is where Kant’s real political philosophy is hidden.”¹⁵⁴ She also adds

¹⁵³ Jaspers, Karl. *Die Großen Philosophen*, volume I, Munich: Piper. Translated as, *The Great Philosophers*, volume I, trans. R. Manheim, New York: Harcourt, Brace & World, 1962.

Henceforth, *The Great Philosophers*

¹⁵⁴ *Hannah Arendt Karl Jaspers Correspondence*, 318

that, “I’ve always loved this book most of Kant’s critiques, but it has never spoken to me as powerfully as it does now that I have read your Kant chapter.”¹⁵⁵ These remarks demand an answer to the following question – what was it about Jaspers’ discussion of Kant’s aesthetics that encouraged Arendt to revisit the *Critique of Judgment* with renewed interest?

The true extent of Jaspers’ influence on Arendt’s reading of Kant’s third *Critique* is a matter of speculation. However, a close reading of his discussion of that text in *The Great Philosophers* offers some helpful hints. Jaspers’ analysis of reflective judgment placed a strong emphasis on particularity.¹⁵⁶ In *The Great Philosophers*, Jaspers insisted that the issue at stake in reflective judgment was “always holding to the particular, never slipping into the abyss of the insensible and unintelligible [...]”¹⁵⁷ According to Jaspers’ gloss of Kant’s aesthetic theory, determinative judgment capacity stripped away the particularity of a given object by subsuming under a universal category. Reflective judgment, however, was different. Reflective judgment did not strip away the particularity of an appearance. Instead, according to Jaspers, reflective judgment united an object with a universal while retaining its particularity.

Jaspers’ emphasis on particularity and reflective judgment would have resonated strongly with Arendt’s suspicion of the tendency of philosophers to pollute political philosophy with notions of philosophical universality. I have already emphasized her belief that political speech and action was not reducible to moral and/or epistemological truth(s). Prior to reading Jaspers’

¹⁵⁵ *Hannah Arendt Karl Jaspers Correspondence*, 318

¹⁵⁶ While Jaspers’ influence on Arendt’s reading of the *Critique of Judgment* is underappreciated, it is not entirely absent from scholarly literature. For an insightful discussion of Jaspers’ *The Great Philosophers* in the context of Arendt’s reading of Hegelian and Aristotelian notions of judgment, see Marshall, “The Origin and Character of Hannah Arendt’s Theory of Judgment,” 369, 380

¹⁵⁷ Jaspers, *The Great Philosophers*, 289

work, in HC, she had already argued that human speech and action inevitably carried a degree of particularity and spontaneity that transcended traditional yardsticks such as truth and goodness. In the first chapter, I discussed Arendt's main reason for thinking this about human speech and action -- her conviction that they revealed something singular and unique. Political words and action could not be successfully reduced to truth functional content or moral value and retain their full meaning and significance because political was primarily about changing the world, and not about revealing the truth. Therefore, Arendt believed that political speech and action disclosed *particulars* that ought not to be stripped of their particularity. Doing so, she worried, was to misunderstand them on a fundamental level. For these reasons, Jaspers' emphasis on particularity and reflective judgment would have likely resonated strongly with positions that Arendt was already outlining in works such as HC.

Thus, an important reason for Arendt's turn to Kant's *Critique of Judgment* was done under Jaspers' influence. Jaspers' exegesis likely acted as a sort of road map for Arendt. She recognized and appreciated Jaspers' emphasis on particularity against philosophical universality. More specifically, Arendt was drawn to first part of the *Critique of Judgment* – the “Critique of Aesthetic Judgment” – because she recognized that Kant's commitment to particularity was at its strongest in his aesthetic theory. There is a good deal of evidence of support this claim in D XXII. The very first fragment references Jaspers' reading of Kant explicitly and begins with, “Judgment: Kant: the impossibility of subsuming the particular.”¹⁵⁸ In the same fragment Arendt wrote that, “in determining judgment I start from the experience of the “I think” and thus from self-given (*a priori*) principles, in reflective judgment from the experience of the world in its

¹⁵⁸ D, XXII [19]; „Urteilen: Kant: die Unmöglichkeit, das Individuelle zu subsumieren.”

particularity.”¹⁵⁹ As I will show in the following section of this chapter, the emphasis on particularity that Arendt and Jaspers emphasized was not the most accurate reading of Kant. In the *Critique of Judgment*, Kant did eschew cognitive/moral universality, but this did not imply a wholesale embracing of particularity *per se*. For now, however, I merely wish to underscore the importance of particularity to Jaspers’ and Arendt’s reading of Kant’s third *Critique*.

Of course, Arendt’s appreciation for Kant’s commitment to particularity is not the only reason why she turned to it in order to develop an account of political judgment. As we shall see in the next section of this chapter, Arendt recognized that Kant’s *Critique of Judgment* did not actually make a firm commitment to particularity. Much of her subsequent writings on judgment, in my view, were her attempts to use the resources that she found in the third *Critique* in order to assemble an account political judgment that emphasized particularity in the way she believed Kant’s text ought to have done. I have begun my discussion of D XXII – and of *why* Arendt read Kant in the way she did – with a discussion of two things: the autonomy of judgment and the valorization of particularity that Jaspers and Arendt desired because I believe that these two reasons are among the most general reasons for Arendt’s turn to Kant. As I move through D XXII, I shall discuss other such reasons.

(b) The Self and the Search for Truth and the Pursuit of Goodness

Thus far, I have emphasized two under-appreciated reasons for Arendt’s preoccupation with Kant’s third *Critique*: Kant’s refusal to make the faculty of judgment a mere function of the

¹⁵⁹ D, XXII [19]; „In der bestimmenden Urteilskraft gehe ich von der Erfahrung des „Ich denke“ und der also im Selbst gegebenen (apriorischen) Prinzipien, in der reflektierenden Urteilskraft von der Erfahrung der Welt in ihrer Besonderheit aus.“

search for truth or the pursuit of goodness, and Karl Jaspers' reading of the third *Critique* as outlining a form of judgment capable of assessing an appearance in its particularity, without subsuming it under universal categories. Although Arendt was drawn to the *Critique of Judgment* because of Kant's commitment to the autonomy of judgment, Arendt did not merely adopt Kant's position. As most commentators have stressed, Arendt's use of Kant is highly unorthodox in ways that Kant would have never accepted. Arendt's understanding of what the autonomy of the faculty of judgment entailed was no exception. In this section, I shall discuss Arendt's understanding of truth, morality, and their relationship to the faculty of judgment. In this section, we shall see that Arendt's view of what the autonomy of judgment entailed was radically different than Kant's stated views in the third *Critique*.

While Arendt was attracted to Kant's aesthetics because of Kant's insistence that the faculty of judgment could operate independently of the demands of truth and goodness, the similarities between the two thinkers end here. An integral part of Kant's system was the fact that the faculty of judgment (in its reflective capacity) offered a kind of speculative bridge between two distinct realms: cognitive truth and moral goodness. The experience of beauty and the experience of natural purposiveness offered a bridging, of sorts, between nature and freedom. Kant wrote

Now between the cognitive power and the power of desire lies the feeling of pleasure, just as judgment lies between understanding and reason. Hence we must suppose that, at least provisionally, that judgment also contains an a priori principle of its own, and also suppose that since the power of desire is necessarily connected with pleasure or displeasure [...] judgment will bring about a transition from the pure cognitive power, i.e., from the domain of the concepts of nature, to the domain of the concept of freedom [...]¹⁶⁰

¹⁶⁰ 5:179

In his view, judgment offered a tentative unity between nature and freedom; however, this unity was never *known* and could never resuscitate the metaphysics that Kant had put to an end with the *Critique of Pure Reason*. Instead of being known, the unity between nature and freedom was *felt* in experiences such as beauty. Kant was as committed to the autonomy of judgment as he was to the fact that the understanding and reason corresponded to distinct realms of human life. Earlier, I emphasized Kant's claim that the three faculties of cognition: reason, understanding, and the faculty of judgment could not be reduced to one another precisely because they all had different roots (viz., each possessed its own *a priori* principle).

In D XXII, Arendt completely abandoned two important facets of Kant's thought. First, she believed that Kant's emphasis on purposiveness was misguided, a relic from the period at which Kant wrote. According to Arendt, purposiveness – the *a priori* principle that Kant assigned to the faculty of judgment – had little, if anything, to do with the central insights contained in the *Critique of Judgment*. She wrote

How closely related art and politics are because both of them have to do with the world can also be seen in that Kant pushed the importance of judgment first of all into the area of the aesthetic. He took exception to the “capriciousness” and “subjectivity” of the judgment of taste because it injured his political sense. He assumes that taste “expects the same satisfaction from others,” that it “ascribes agreement to everyone.” Naturally, this all has nothing to do with teleology, as Kant thought.¹⁶¹

¹⁶¹ D XXII [19]; „Wie nahe verwandt Kunst und Politik [sind], weil sie beide es mit der Welt zu tun haben, kann man auch daran sehen, dass Kant die Bedeutung der Urteilskraft im Bereich des Ästhetischen zuerst aufstieß. Er nahm an der „Willkür“ und „Subjektivität“ der Geschmacksurteile Anstoss, weil sie seinen politischen Sinn verletzten. Er geht davon aus, dass der Geschmack „anderen eben dasselbe Wohlgefallen zumutet“ (50), dass sie „jedermann Einstimmung ansinnen“ (54). (Cf. *Kritik der Urteilskraft*, 28) Das alles hat natürlich nichts mit Teleologie zu tun, wie Kant meinte.“

In this fragment, Arendt presents us a Kant who was guided by a powerful “political sense” (*politischen Sinn*) and but was incapable of recognizing the fact that most, if not all, of his central insights in the *Critique of Judgment* were *political*, rather than teleological or even aesthetic.¹⁶² Arendt’s Kant was a first-rate political thinker, paradoxically incapable of recognizing the political nature of his most political work.

In other words, Arendt believed that Kant was attuned to the worldly character of human life but was not able to articulate his insights in such a way that did justice to their depth. She wrote

The fact that Kant’s actual political philosophy emerges out of the argument about the phenomenon of beauty indicates the degree to which world-experience outweighed life-experience for him. He loved the world substantially more than life, which was rather annoying to him. This is precisely the reason why he was so seldom understood.¹⁶³

In my view, Arendt was not far off in her assessment. Kant would have expressed this fact in different terms but would have agreed. In the third *Critique*, Kant did claim that the experience

¹⁶² Arendt’s remarks on purposiveness and teleology in D XXII underscore the importance of D XXII to understanding her basic orientation to Kant’s third *Critique*. The fact that in her published writings (“The Crisis in Culture,” “Truth and Politics,” and LKPP) downplay purposiveness and teleology has puzzled some commentators, who rightly recognize that Arendt appeared to be disregarding one of the most important facets of Kant’s view of judgment. Robert Dostal, for instance, writes that, “Throughout her lectures Arendt studiously avoids the theme of purposiveness, which is the single dominant and unifying theme of the *Critique of Judgment*.” Examining D XXII neatly explains why, precisely, Arendt chose to disregard seemingly important aspects of the third *Critique*. See Robert J. Dostal, “Judging Human Action: Arendt’s Appropriation of Kant,” in *Judgment, Imagination, and Politics*, ed. Ronald Beiner and Jennifer Nedelsky (New York: Rowman & Littlefield, 2001), 150. Henceforth, “Judging Human Action”

¹⁶³ D XXII [25]; „Die Tatsache, dass Kants eigentliche politische Philosophie aus der Erörterung des Phänomens der Schönheit hervorgeht, zeigt, wie sehr bei ihm Welterfahrung die Lebenserfahrung überwog. Er liebte auch die Welt erheblich mehr als das Leben, das ihm doch eher lästig war. Dies gerade der Grund, warum er so selten verstanden wurde.“

of beauty was a social phenomenon and would not be possible outside the context of human communal life. Kant wrote

someone abandoned on some desolate island would not, just for himself, adorn either his hut or himself; nor would he look for flowers, let alone grow them, to adorn himself with them. Only in society does it occur to him to be, not merely a human being, but one who is refined in his own way [...]¹⁶⁴

In other words, Kant believed that we appreciate beauty not as *knowers* (searchers after truth) or *doers* (moral legislators), but as members of some community of individuals to whom we communicate our judgments. While Kant did believe that the experience of beauty was related to the search for truth and the pursuit of goodness in that it *suggested* a world created for creatures such as us, he did not believe that the reflective judgment was a function of moral or theoretical judgment. Arendt recognized this facet of his thinking but believed that Kant missed the fact that he was describing a fundamentally political form of judgment.

Regardless of the plausibility of Kant's assumptions about beauty being only a social phenomenon, he thought that an appreciation of beauty required the presence of other human beings (and hence, a community) in a way that the search for truth and the pursuit of goodness did not. Where there is a distinctly human world within which distinctly human life is possible, there must also be politics, the activity wherein care for the human world reigns supreme. At bottom, Arendt thought that Kant was unable to translate his appreciation for the worldly (and hence, political) character of human communal life into concrete political insights. Instead, Kant cashed them out in merely social terms. However, as we have seen, Arendt not only agreed with

¹⁶⁴ 5:297

Kant that the faculty of judgment required the presence of others (and hence, implied human social and political life), but she also thought that art and politics were interrelated phenomena.

All of which raises the following question: why, according to Arendt, was Kant unable to recognize the essentially political nature of his aesthetic theory? In her view, the answer was because for all Kant's strengths, he had no actual political experience to inform the political insights that he mistakenly put in social terms. In a telling fragment, Arendt wrote

It will always remain memorable that Kant exemplifies the tremendous phenomenon of the power of judgment in taste. However much this speaks to his worldliness, it remains characteristic of political cluelessness.¹⁶⁵

When she returned to Kant and the question of judgment in the early 1970s, she had tempered the tone of her judgment somewhat, and seemed to think that it was the benevolent dictatorial political conditions under which Kant lived wrote that rendered him incapable of recognizing the political nature of his aesthetics. In LKPP, she wrote

If you ask yourself where and who this public is that would give publicity to the intended act to begin with, it is quite obvious that in Kant's case it cannot be a public of actors or participators in government. The public he is thinking of is, of course, the reading public, and it is the weight of their opinion he is appealing to, not the weight of their votes. In the Prussia of the last decades of the eighteenth century – that is, a country under the rule of an absolute monarch, advised by a rather enlightened bureaucracy of civil servants, who, like the monarch were completely separated from “the subjects” – there could be no truly public realm other than this reading and writing public.¹⁶⁶

¹⁶⁵ D, XXII [27]; „Es wird immer denkwürdig bleiben, dass Kant das ungeheure Phänomen der Urteilskraft gerade am Geschmack exemplifiziert. Wie sehr dies auch für seinen Weltsinn spricht, so bleibt es doch auch charakteristisch für die politische Ahnungslosigkeit.“

¹⁶⁶ LKPP, 60

Kant was not able to fully appreciate the inherently political nature of his exposition of aesthetic judgments of taste, in Arendt's view, because he did not have the experience of living in a community in which he could participate politically. The community in which he lived was entirely social, with politics left to the Emperor and his army of civil servants. Thus, according to Arendt, to read Kant's *real* political philosophy (that is, his aesthetics) is akin to reading a philosophical text for an esoteric teaching of which even the teacher was unaware.

At any rate, in 'clarifying' the political insights that she saw as embedded in Kant's aesthetic theory, Arendt made a number of claims that Kant would have never recognized as having anything to do with his critical philosophy. Despite seeing herself as remaining faithful to a fully autonomous, *worldly* (and hence according to her, political) faculty of judgment that she saw Kant as being the first to announce, Arendt embedded her account of the faculty of judgment in a non-Kantian understanding of truth and goodness. Arendt's admiration for Kant's commitment to the autonomy of the faculty of judgment did not mean that she had any interest in adopting almost any aspect of Kant's system. Unlike Kant, who insisted that the faculty of concepts (the understanding) and the faculty of reason had distinct *a priori* principles, Arendt claimed that truth and goodness shared the same root.¹⁶⁷

¹⁶⁷ The fact that Arendt was just as wary of goodness as she was of truth when it came to political judgment is almost entirely absent from commentary on Arendt's theory of judgment. One reason for this is no doubt the fact that her wariness of goodness comes out most clearly in the *Denktagebuch*, which has not yet figured prominently in scholarly interpretation of Arendt's work on political judgment. However, the fact that political judgment is structurally distinct from moral or cognitive judgment is crucial to any understanding of Arendt's use of Kant. Benhabib, for instance, reads "enlarged mentality" as implying, "an attitude of moral reflection and probing [...]" (191) However, given Arendt's own understanding of moral experience as well as her reading of Kant as she presented it both in the *Denktagebuch* and her published works, this cannot be the case. While Benhabib is no doubt correct to read Arendt as using Kant's Third Critique to outline, "a procedure for ascertaining intersubjective agreement in the public realm,"

Half of Arendt's claim about truth and morality should not surprise us; as I pointed out in chapter one, her essay "Truth and Politics" was about, among other things, why truth was not suitable as a primary evaluative rubric for political speech and action. Unfortunately, she did not live to develop her account of why moral goodness was insufficient. However, her claim was that truth and goodness were insufficient for the same reason: namely, that they shared the same root. That Arendt believed truth and goodness shared the same root means that we may plausibly reconstruct her views on the insufficiency of goodness from two sources. First, an adequate understanding of her arguments for the insufficiency of truth, and second, remarks she made in D XXII concerning moral goodness and political judgment. In D XXII, Arendt made it clear that her account of the autonomy of the faculty judgment was to be rooted in the fact that she thought that cognitive truth and moral goodness shared the same ground: the non-contradictory self. Arendt only announced this claim once in her published works but did not dwell on it in any detail. In "The Crisis in Culture," she noted that "Occidental ethics" and "Occidental logic" both have their root in a saying of Socrates from Plato's *Gorgias*.¹⁶⁸

The best place at which to begin is Arendt's gloss of a famous passage from the third *Critique* wherein Kant offers the three maxims of "common human understanding" (*der gemeine Menschenverstand*).¹⁶⁹ In Kant's mind, each maxim corresponded to one of the faculties of rational cognition. Maxim one ("to think for oneself") corresponded to the faculty of concepts, the understanding. Maxim two ("to think from the standpoint of everyone else") corresponded to the faculty of judgment. The third maxim ("to think always consistently") corresponded to the

it cannot be the case that this procedure is a moral one. (189) In fact, neither Kant nor Arendt understood enlarged mentality as entailing anything resembling 'moral reflection.'

¹⁶⁸ BPF, 217

¹⁶⁹ 5:293-296

faculty of reason. I shall discuss the second maxim in great deal in the following section of this chapter. For now, I want to point out that Arendt based her claim about truth and morality sharing a common ground (the self) on her reading of these three Kantian maxims. According to her maxims one and three – the maxims corresponding human thought as it was oriented towards the search for truth and the pursuit of goodness – implied that both theoretical and practical cognition was self-enclosed.

“Self-enclosed” is not term Arendt’s term, it is mine. But I believe it captures nicely Arendt’s (technically inaccurate) interpretation of Kant’s three maxims Specifically, she meant that (for the most part) the Western philosophical tradition was committed to a philosophical anthropology such that the search for truth and the pursuit of goodness (logic and ethics) did not require extra-rational resources. The rational faculty of the soul, in other words, was sufficient for both the accumulation of knowledge and the attainment of good life. In D XXII, but not in any of her published writings, this claim appears multiple times. “In determining judgment,” she wrote, “I start from the experience of the “I think” and thus from self-given (*a priori*) principles [...]”¹⁷⁰ Arendt understood that in Kant’s system both practical and cognitive judgment was always judgment in its determining function. Likewise, in the same fragment, Arendt explicitly stated that moral judgment is not a suitable model of a theory of political judgment because it is solipsistic. Speaking again in Kantian terms, she wrote that, “because “legislating reason” proceeds from the non-contradictory self, it excludes others. That is its flaw.”¹⁷¹ This passage concerns only judgment in its practical capacity and is the perfect complement to “Truth and

¹⁷⁰ D, XXII [19]; see footnote 147

¹⁷¹ D, XXII [19]; „Denn die „gesetzgebende Vernunft“ geht nur von dem sich nicht widersprechenden Selbst aus, lässt also die Anderen aus. Das ist ihr Fehler.“

Politics” because it demonstrates Arendt’s clear rejection of truth *and* goodness as sufficient evaluative criteria for political action and speech. Furthermore, Arendt rejects moral goodness for the same reason she rejects truth: it is self-centered in that it does not require others. Arendt’s reason for this position is straightforward and stems from her commitment to politics being based on human plurality. Neither the search for truth nor the pursuit of goodness, Arendt believed, required the presence of others in the same way as did politics.¹⁷²

In making this claim, Arendt departed from the vast majority of Western moral theory. Traditionally speaking, the realm of philosophical theory that is thought to be other-directed is ethics and moral philosophy. However, in places such as “Thinking and Moral Considerations,”¹⁷³ Arendt made it clear that she believed that ethics was equivalent to one of two things. First, it could be the following of culturally arbitrary norms and *mores*, in which case it was little other than habit. Second, when the norms and *mores* that represented common sense morality broke down (as was the case in the Germany during the Third Reich), morality could manifest itself in the refusal to conform with immoral norms and *mores*. According to Arendt, such refusal did not come *primarily* out of a concern for the other, but out of a concern for the self. When morality was not equivalent to habit, in other words, it was a sort of self-care. To be sure, the self-centeredness of morality did not mean that it could not take on political significance or that moral life did not affect others. However much a refusal to conform with immoral rules affected others, Arendt believed that such action was not taken primarily on behalf of those others, but on behalf of the refusing self, which was afraid of living with itself after

¹⁷² There is no doubt that Arendt’s understanding of moral life is quite narrow and, moreover, untenable for a great majority of figures in the Western tradition. However, it is not my purpose to criticize or defend her claim in the present study.

having conformed. Arendt thought that such refusals were very politically significant – but only accidentally so insofar as they were grounded in a primary care for the self, and not the world or other individuals. In the following chapter of this project, I shall discuss Arendt’s view of morality – particularly “Thinking and Moral Considerations.” For now it is sufficient for my purposes in this chapter to note Arendt’s belief that both the search for truth and the pursuit of goodness were rooted in the self.

At bottom, Arendt’s claim was that both moral goodness and truth were inadequate standards with which to approach politics because these concepts were based in a philosophical anthropology that only considered the human being in its singularity. That is, philosophy considered of human beings in the way(s) in which they were identical with one another. Politics, on the other hand, had to do with human beings as unique beings capable of speech and spontaneous action and who *required each other* in order to decide how to change the world. Politics had to do with humans insofar as they were distinct from one another and needed one another in a non-instrumental capacity – Arendt called this the fact of human plurality.

In this section, I have emphasized two general reasons why Arendt turned to Kant’s *Critique of Judgment* in order to develop a model of political judgment. First, Arendt was attracted to what she perceived to be the valorization of particularity in Kant’s *Critique of Judgment*. Second, Kant’s commitment to the autonomy of the faculty of judgment also resonated with Arendt’s suspicion of epistemological and moral categories when it came to the evaluation of politics. Given the resources that I have offered in the first three chapters of this project, it is not difficult to see why Arendt would have viewed Kant’s third *Critique* as a work that contained political insights. After all, in the *Critique of Judgment* Kant argued that judgment was capable of evaluating an object according to the manner of its appearance in such a way that

its particularity was not subsumed under a general concept of the understanding. Furthermore, in describing aesthetic judgments of taste, Kant also argued that the faculty of judgment was autonomous. That is, in its reflective capacity the faculty of judgment did not merely act at the behest of the search for truth or the pursuit of goodness (the understanding and reason, respectively). I have also discussed Arendt's criticism of moral goodness as an appropriate category by which to approach political speech and action. As far as I am aware, Arendt's critical orientation towards moral goodness is most fully developed in D XXII. Viewed in this way, the resources contained in D XXII – particularly the fragments I have included in this section – serve as an ideal supplement to “Truth and Politics.” Taken together, D XXII and “Truth and Politics” demonstrate Arendt's commitment to developing a theoretical account of the extra-moral, extra-epistemological mode of validity that characterized political speech and action.

Arendt's critique of moral goodness as an appropriate evaluative standard for political speech and action actually has two dimensions – one positive and the other negative. Thus far, I have only discussed the negative dimension of this critique – Arendt's argument that moral life was self-centered. The self-centeredness of moral life made it diametrically opposed to political life, which Arendt considered to be other-centered. The self-centeredness of moral experience meant that moral experience did not correspond to our experience as members of some community, but as individuals who are bound to an obligation to the self. I shall discuss the precise nature of this obligation to the self in the next chapter.

Because Arendt believed that moral experience was not a suitable model upon which to base any accurate evaluation of politics, she also believed that political experience and political judgment were totally distinct from moral experience and moral judgment. Taking one as a model for understanding the other was tantamount, in Arendt's thinking, to fundamentally

misunderstanding both. For Arendt, the diametric opposition between moral and political life meant that the validity that characterized political judgment was structurally distinct from the validity that characterized moral (and epistemological) judgment. Political validity, Arendt believe, was not based in an experience of the self, but in our relationship with the others with whom we try to change the world. However, we do not yet have the resources to understand what Arendt meant by political experience with any measure of precision. In the next section of this chapter, I turn to Arendt's notion of political experience. More precisely, this means that I shall be focusing my attention on the question of what, exactly, Arendt located in Kant's *Critique of Judgment* that led her to believe that there was something inherently political about aesthetic judgments of taste.

Section Two: Reading Kant against Himself

In the previous section of this chapter, I discussed two general reasons for Arendt's preoccupation with Kant's *Critique of Judgment*. Arendt's initial turn to Kant was not motivated by the critical orientation toward modernity that Arendt had articulated in texts such as OT and HC. Nor could it have been motivated by her analysis of Adolf Eichmann's trial contained in EJ – Arendt's notes in D XXII are from nearly 4 years prior to Eichmann's trial. To be sure, Arendt came to associate the question of judgment with all of these things; however, these questions and issues themselves did not motivate Arendt to turn to Kant's aesthetics as a model of her account of political judgment.

Instead, what was at stake initially in Arendt's use of the third *Critique* was her commitment to the dignity of the politics. For her, the dignity of the political meant that she did not think that political experience was a subspecies of moral or cognitive experience. In my

introduction to the first chapter of this project, I pointed out that Arendt composed works such as “The Crisis in Culture” and “Truth and Politics” because she believed that if we were to understand the significance of political speech and action, we needed to do so by way of an internal standard. In her view, truth and goodness could not possibly be properly political because they were about the self, and not about the world. As I demonstrated in the previous section, Arendt understood truth *and* goodness to be activities that were self-centered in the sense that they were not based in human plurality, but in human singularity.

Arendt was also suspicious that philosophical methodology was capable of understanding or engaging in politics. Throughout her life, she insisted that she not be called a philosopher for the very fact that she was interested in talking about politics in what she took to be political, and not philosophical, terms. Arendt did not believe that politics ought to be made to conform with philosophical notions of universality or generality. Her suspicion of philosophy is an important factor in understanding her engagement with Kant’s third *Critique* and was most likely why she found Karl Jaspers’ exposition of Kant’s third *Critique* so compelling. Arendt’s unique take on the faculty of judgment was the result of a wholesale attempt to avoid philosophical universality and to develop a theory of judgment in which the particular was judged *per se* without abandoning objectivity.

In this section, I shall offer a close reading of D XXII in terms of what it can tell us about how Arendt initially read Kant’s aesthetics as offering a model of political judgment. In so doing, I shall concern myself almost exclusively with Kant’s concept of the “*erweiterte Denkungsart*.”¹⁷⁴ In what follows, my goals are threefold: (a) to remark – or rather expand – on

¹⁷⁴ In this section, I shall be arguing that there are significant differences between how Arendt understood “enlarged mentality” and how Kant understood the *erweiterte Denkungsart*. Because

the account of enlarged mentality that I offered in the second chapter of this project, (b) to introduce Kant's concept of the *erweiterte Denkungsart* and discuss its place in the third *Critique*, and (c) to clearly distinguish between (a) and (b). In so distinguishing, I will argue that Arendt understood there to be a specific (non-moral) duty required by political judgment. While she believed that Kant understood this duty, she also thought that the *Critique of Judgment* evinced a failure to live up to it. The larger claim I shall be defending is that in offering a reading that was so heterodox (from a position of Kantian orthodoxy), she saw herself as reading Kant against himself and in so doing offering an emended theory of judgment that lived up to the standards that Kant implicitly recognized, but failed to meet.

(a) Enlarged Mentality in D XXII

In this section, I intend to expand on the brief discussion of “enlarged mentality” that I offered in the previous chapter as part of my gloss of LKPP and LM. I shall expand on this discussion by turning to the resources of D XXII. I have waited until now in order to discuss this topic in depth because it appeared in all of Arendt's accounts of reflective judgment, including the D. It is optimal to include all relevant primary source material in my detailed discussion of the topic. Indeed, as I shall show, Arendt's concept of enlarged mentality was by no means a simple appropriation of Kant's ideas. Arendt had her own agenda and I believe that drawing attention to her agenda will allow us to learn a great deal about her orientation towards the question of the faculty of judgment.

the particular way in which Arendt translated *erweiterte Denkungsart* as “enlarged mentality” already presupposes the very differences I shall be emphasizing in this section, I shall leave the term untranslated when referring to Kant's philosophy. When discussing Arendt's thought, I shall use her own term “enlarged mentality.”

“Enlarged mentality” was Arendt’s translation of Kant’s *erweiterte Denkungsart*. I shall treat *erweiterte Denkungsart* as it appeared in Kant’s *oeuvre* in the following section. For now, I am only interested in the factors that went into Arendt’s appropriation of this term. Arendt’s translation of *erweiterte Denkungsart* as “enlarged mentality” is significant in the sense that it differs sharply with all major scholarly translations of Kant’s text. Arendt translated the German verb *erweitern* literally to entail quantitative magnification. *Erweitern* could also have been rendered as to increase, amplify, or extend without, I think, departing from the way in which Arendt wanted to understand the term. What all of these terms have in common is that they indicate the addition of one thing to another, making it larger. I shall discuss why scholarly translations of Kant’s *Critique of Judgment* do not emphasize quantitative magnification in translating *erweiterte Denkungsart* in the following section. For now, however, I wish to discuss why Arendt chose to translate the term in the way she did.

In the second chapter of this project, I pointed out that by the time she composed LKPP, Arendt understood “enlarged mentality” as bound up with the second of two functions that she assigned to the imagination. Specifically, Arendt believed that enlarged mentality entailed the incorporation (by means of representation) of other perspectives and it was the representative work of the imagination that accomplished this incorporation. According to Arendt, this incorporation of outside perspective(s) conditioned the content of judgment in such a way that the judgment became less idiosyncratic. For Arendt, idiosyncrasy was inversely correlated with reflective validity. The less idiosyncratic the reflective judgment, the more justified was the expectation of others’ agreement. Reflective validity was established by incorporating reflection on other perspectives (and the material conditions of these other perspectives). Reflective validity, according to Arendt, allowed a judgment or evaluation to appeal broadly to other groups

and individuals while still being non-relative. Political judgment, in other words, was not primarily sophistry or rhetorical manipulation. Something non-relative was being articulated in properly formed political judgment. We have seen that Arendt insisted that this non-relative something be theoretically articulated as extra-moral and extra-epistemological.

For Arendt, opinions and judgments reflected the particular standpoint from which they were formed. Recall that Arendt understood the *Critique of Judgment* as eschewing philosophical universality in favor of the possibility of a non-idiosyncratic particularity. I shall show in the following section that Kant did not argue for such a position in the third *Critique*; however, Arendt's (and Jaspers') emphasis on particularity is helpful to remember. For Arendt, reflective judgment established a *particular* perspective as non-relative. Aesthetic objectivity (which was also political, for Arendt) meant that an opinion (as she called it in "Truth and Politics") or a judgment (as she called it in *LKPP*) did not have to relinquish its particularity in order to be objective.

Arendt's translation of *erweiterte Denkungsart* as "enlarged mentality" emphasized the addition of something *other* into one's way of thinking, or mentality. This something other was the perspective(s) of those one hoped to convince. Thus, her concept of "enlarged mentality" specifically referred to the work of the imagination, whose job it was to incorporate -- by way of representation -- outside elements into the faculty of judgment. Her idea of enlarged mentality was one of the few elements of reflective judgment about which Arendt did not change her mind, at least not significantly so. In D XXII Arendt wrote

it is not self-bound reason, but rather the imagination that makes "thinking in the place of others" possible, it is not reason but rather the imagination that forms bonds between men. Contra the self-sense, reason, that resides in the I-think,

stands the world-sense, which lives in relation to others in common sense (passively) and as imagination (actively)¹⁷⁵

This passage shows that Arendt believed that common sense and imagination actually referred to *different states* of the same fundamental capacity of human beings to be receptive to the common world. Common sense and the imagination were different functions of the same fundamental capacity – what Arendt calls world sense (*Welt-Sinn*). The question is: what is the world sense? In my view, Arendt’s *Welt-Sinn* is nothing other than the faculty of judgment in its autonomy¹⁷⁶; that is, Arendt’s *Welt-Sinn* described an attunement to something outside the self in a fundamentally relational way that was not reducible to moral or epistemological categories. She maintained that world-sense stood in contrast to reason (*Selbst-Sinn*) in that world-sense entailed the living-in-relation-to (*von den Andern leben*) human plurality.

While such a claim does not, to my knowledge, ever appear in her other writings on judgment, my interpretation of this fragment finds support in the following remark from BPF. In “The Crisis in Culture,” Arendt referred to common sense as that which, “discloses to us the nature of the world insofar as it is a common world.”¹⁷⁷ The faculty of judgment in its passive sense was our capacity to attune ourselves to the state of the common world. In order to communicate our assessment of the world required us to *actively* use the faculty of judgment. The fragment from D XXII that I included above suggests that Arendt viewed the faculty of

¹⁷⁵ D, XXII [19]; Da nun aber die selbst-gebundene Vernunft, sondern nur die Einbildungskraft es möglich macht, “an der Stelle jedes andern [zu] denken,” ist es nicht die Vernunft, sondern die Einbildungskraft, die das Band zwischen den Menschen bildet. Gegen den Selbst-Sinn, die Vernunft, die aus dem Ich-denke lebt, steht der Welt-Sinn, der als Gemein Sinn (passiv) und als Einbildungskraft (aktiv) von den Andern lebt.

¹⁷⁶ Again, for Arendt the autonomy of judgment meant its functioning in a non-moral, non-epistemological capacity

¹⁷⁷ BPF, 218

judgment in its *active sense* as nothing other than the enlarged mentality. Enlarged mentality, in turn, entailed the representation of other view points and perspectives so as to render a judgment communicable. The faculty of judgment, then, was the condition for the possibility of politics.

Before I move on, I believe a brief note about Arendt's terminology in D XXII is warranted – specifically, we need to pay close attention to the term Arendt used to indicate 'common sense,' because her term is not consistent with Kant's. In §40 of the *Critique of Judgment*, Kant made a distinction between two uses of the phrase 'common sense,' between *Gemeinsinn* and *gemeinschaftlich Sinn*.¹⁷⁸ Kant's distinction was between a 'sense' that is, "common [...] encountered everywhere, to possess which is certainly not an advantage or honor"¹⁷⁹ and that of "a faculty for judging that in its reflection takes account (*a priori*) of everyone else's way of representing in thought, in order as it were to hold its judgment up to human reason as a whole [...]."¹⁸⁰ Kant distinguished his concept of common sense (*gemeinschaftlich Sinn*) from the more vulgar meaning of *Gemeinsinn* as uncultivated common understanding. Curiously, the term *gemeinschaftlich Sinn* appears once in D XXII of the and its appearance is in the context of a quote that Arendt copied word for word from the *Critique of Judgment*. Curiously, despite Kant's distinction between *Gemeinsinn* and *gemeinschaftlich Sinn*, Arendt used the term *Gemeinsinn* to indicate what Kant preferred to describe as *gemeinschaftlich Sinn*. Anytime Arendt wrote about common sense in D XXII, she used the term *Gemeinsinn*. I find Arendt's use of *Gemeinsinn* is puzzling. Arendt viewed common sense as an inherently political faculty because it corresponded to human existence as a member of some community.

¹⁷⁸ 5:293

¹⁷⁹ 5:293

¹⁸⁰ 5:293

Her distinctly political understanding of common sense resonates particularly well with the German *Gemeinschaft*, which means “collective,” “commonwealth,” or “community.”

Arendt viewed common sense as a thoroughly *empirical* exercise¹⁸¹. I have already showed that Arendt viewed common sense and enlarged mentality as two different activities of the faculty of judgment. Common sense as a passive *receptivity* to the state of the common world, and enlarged mentality as an *activity* by which we engage in reflective judgment formation by rendering a judgment or evaluation disinterested by means of the representation of other perspectives and viewpoints. The empirical nature of common sense, in my view, means that Arendt viewed the enlarged mentality as an empirical exercise as well. In order to represent the perspective of another individual or individuals, I must obviously have experienced these perspectives to a sufficient degree to facilitate their internalization and deployment by the imagination.

The empiricity of common sense and enlarged mentality had significant theoretical consequences on the way in which Arendt understood the scope and range of reflective validity. Reflective validity, Arendt recognized, was a limited affair if its guarantors (common sense and enlarged mentality) were forms of empirical reflection. In D XXII, Arendt committed herself to a common sense that was limited to the community in which one lived. She wrote

¹⁸¹ Although I take this point to be self-evident given the textual evidence, it is worth nothing that this view is not ubiquitous in scholarly commentary. For the argument that Arendt does not detranscendentalize important aspects of Kant’s aesthetic theory see Annalies Degryse, “*Sensus Communis* as a Foundation for Men as Political Beings: Arendt’s Reading of Kant’s *Critique of Judgment*,” *Philosophy and Social Criticism* 37(3), 2011: 345-358. Degryse’s argument relies on the point that common sense is a function of the imagination.

There is always a limit to this abstraction¹⁸², and where this limit begins, there ends the general validity, the competence, of judgment. I cannot say what the Indian world looks like, how Indian music should sound, however I do know that there are such competent judgments.¹⁸³

By way of common sense and enlarged mentality, I do not have access to *everyone's* perspective. Instead, I have access only to those perspectives corresponding to the common world (viz., the community) of which I am a part. In other words, reflective validity does not extend to communities to which I do not belong for the simple reason that, (a) my common sense would not disclose to me the state of such a community, and (b) even if I did form an opinion or judgment about some such community, I could not purify such a judgment by way of enlarged mentality so as to ensure that my judgment be persuasive to its members.

The fact that reflective validity is not universal in scope is a very important point that only comes out in the D XXII. Aesthetic or political validity is not valid at all places and at all times. It is situational and contextual by its very nature. The limited scope of its validity does not imply subjectivity or relativity. An apt analogy would be an expiration date. Aesthetic/political validity holds only under certain conditions. These conditions correspond to the community in which a judge forms her judgment and uses the perspectives of other community members in order to temper it.

¹⁸² By 'abstraction' Arendt is referring to the removal of private interests and conditions that would otherwise render the judgment biased and relative.

¹⁸³ D, XXII [32]; „Es gibt immer eine Grenze dieser Abstraktion, und wo diese Grenze anfängt, hört die Allgemeingültigkeit des Urteils, seine Kompetenz, auf. Ich kann nicht sagen, wie die indische Welt aussehen, wie indische Music sich anhören soll, aber ich weiss doch, dass es auch da kompetentes Urteilen gibt.“

(b) erweiterte Denkungsart in Kant's Critical Philosophy

I now return to Kant's writings. While it is no secret that Arendt's appropriation of Kant was not faithful to Kant's system, the ways in which Arendt departed from Kant are disclosive and should allow us to glimpse crucial aspects of her thinking. In examining Kant, I intend to go beyond current commentary Arendt's use of his philosophy. To my knowledge, there are two interpretive routes. Some commentators have concluded that Arendt simply misunderstood Kant.¹⁸⁴ More ubiquitous is the assumption that Arendt found useful conceptual resources in Kant and used them as she saw fit. On this reading, Arendt's writings on judgment were not motivate by any genuine concern with getting Kant correct. I subscribe to neither of these positions. I think it likely that Arendt understood Kant's positions in the *Critique of Judgment*, but that she was convinced that she understood Kant better than he understood himself. In my view, Arendt understood Kant, but thought that he failed to live up to the depth of his own insights about the autonomy of the faculty of judgment. I have hinted at this position earlier in this chapter and intend to develop it fully in this section. To anticipate, I argue Arendt intended her account of reflective judgment to stand as a correction, one that presented a Kantian-style theory of judgment fully in line with what she considered to be Kant's most important insights. I shall argue for this position by examining Kant's notion of the *erweiterte Denkungsart* and comparing it with the interpretation of Arendt's that I developed above.

Kant's use of the verb *erweitern* in order to describe the *erweiterte Denkungsart* is somewhat puzzling. Any close examination of Kant's *Critique of Judgment* must conclude that although

¹⁸⁴ The position that Arendt appropriated concepts that she found useful is more or less ubiquitous. Some commentators, however, have found Arendt's use of the *Critique of Judgment* problematic. See, for instance, Matthew C. Weidenfeld, "Visions of Judgment: Arendt, Kant, and the Misreading of Judgment," *Political Research Quarterly* 66(2), 2012: 254-266.

Kant used the verb *erweitern*, his notion of *erweiterte Denkungsart* simply was not describing the addition or incorporation of particular perspectives at all. For this reason, I think, both major English translations of Kant's *Critique of Judgment* avoid the language of enlargement or addition and instead favor 'broadening.' Werner Pluhar glosses *erweiterte Denkungsart* as "broadened way of thinking,"¹⁸⁵ and Paul Guyer and Eric Matthews gloss it as "broad-minded way of thinking."¹⁸⁶ In the introduction to his translation, Werner Pluhar noted that the previous translations of Kant's third critique were not "accurate and readable,"¹⁸⁷ and this is certainly true insofar as the older translations actually translated *erweiterte Denkungsart* as "enlarged mentality" as well. The translation of this term is but one way in which the translations of Pluhar and Guyer/Mathews are far more faithful to the spirit, if not always the letter, of Kant's *Critique of Judgment*.

In her writings on judgment, Arendt was only concerned with a relatively small portion of the *Critique of Judgment* in which Kant argued for the existence of an inner state (a feeling) that was non-relative and, hence, objective. Early in the text, Kant provisionally described the way in which a subjective inner state could be "valid." He wrote

The subjective universal communicability of the kind of representation in a judgment of taste, since it is supposed to occur without presupposing a determinant concept, can be nothing other than the state of mind in the free play of the imagination and understanding (insofar as they agree with each other as is requisite for cognition in general): for we are conscious that this subjective relation suited to cognition in general must be valid for everyone and

¹⁸⁵ Immanuel Kant, *Critique of Judgment* trans. Werner S. Pluhar (Indianapolis: Hackett, 1987), 161

¹⁸⁶ Immanuel Kant, *Critique of the Power of Judgment*, trans. Paul Guyer and Eric Matthews (Cambridge: Cambridge University Press, 2006), 175

¹⁸⁷ *Critique of Judgment*, xix

consequently universally communicable, just as any determinate cognition is, which still always rests on that relation as its subjective condition¹⁸⁸

In this passage, Kant noted that the possibility of cognitive judgment rests on the faculties of cognition (imagination and understanding) working together. Both were necessary, but not in themselves sufficient conditions for human cognition. That is, the imagination provided the matter of cognition (what Kant called the “manifold” of intuition), and the understanding provided its form by way of a concept (causality, for instance). The main difference Kant observed between a cognitive judgment (such as the experience of a causal relationship) and a reflective judgment of taste was that in the latter there was no determinant concept (i.e., causality) at work. However, just because the understanding lacked a concept under which to subsume the experience of beauty did not mean that the understanding and the imagination no longer worked together. The experience of beauty was still a sort of cognition for Kant, albeit a sort of cognition for which there was no determining concept.

Kant believed that the absence of a determining concept meant that judgments of taste, “determine[d] the object, independently of concepts, with regard to satisfaction and the predicate of beauty.”¹⁸⁹ In other words, the absence of an objective ground to aesthetic judgments of taste implied that they had a subjective ground (viz., satisfaction). “Beauty” was not a determining concept, but a reflective concept, generated anew for each experience of beauty in order to characterize the feeling (viz., subjective ground) that arose from the unique relationship between the imagination and understanding elicited in us by the experience of beauty. No two objects, in other words, were beautiful in the same way. One reason for Kant’s thinking this was his belief

¹⁸⁸ 5:218

¹⁸⁹ 5:219

that the concept of “beauty” was a predicate applied to a feeling elicited in us by an object in the world, and not to that object itself.

Now, I return to common sense and the *erweiterte Denkungsart*. Common sense (he used *gemeinschaftlich Sinn* and *sensus communis* interchangeably in the *Critique of Judgment*), Kant stated, was a form of reflection. Insofar as judgments of taste were grounded subjectively and not objectively, common sense was reflection on the source and nature of the pleasure taken in beauty. Recall that Kant understood the “validity” of judgments of taste in terms of the degree to which the pleasure that grounded these judgments was “disinterested.” The crux of Kant’s argument that there could be such a thing as a “subjective universality” (*subjektiv allgemeine Gültigkeit*) was that the pleasure we take in beauty *could* be without purpose or interest. Disinterested pleasure was only based on the unique relationship of our cognitive faculties elicited by the experience of beauty. In other words, disinterested pleasure rested on transcendental grounds and because it rested on transcendental grounds, such pleasure could be expected of others when confronted with the same object. The source of disinterested pleasure was not and could not be anything that was particular or idiosyncratic to the self that was making the judgment. Insofar as a judgment of taste met these conditions, Kant believed that the individual who judged an object or experience to be beautiful was entirely justified in expecting that others agree. In the third *Critique*, common sense was a ‘sense’ that evaluated pleasure in the beautiful for biases, interests, prejudices, etc. that would render the judgment idiosyncratic and hence invalid.

According to Kant, the *erweiterte Denkungsart* was the engine that powered common sense. It was the mechanism by which common sense was able to determine whether an inner state was interested or without interest (and hence characterized by subjective universality). Kant wrote

By “*sensus communis*,” however, must be understood the idea of a communal sense, i.e., a faculty for judging that in its reflection takes account (*a priori*) of everyone else’s way of representing [*Vorstellungsart*] in thought, in order as it were to hold its judgment up to human reason as a whole and thereby avoid the illusion which, from subjective private conditions that could easily be held to be objective, would have a detrimental influence on the judgment. Now this happens by one holding his judgment up not so much to the actual as to the merely possible judgments of others, and putting himself into the position of everyone else, merely by abstracting from the limitations that contingently attach to our own judging; which is in turn accomplished by leaving out as far as possible everything in one’s representational state that is matter, i.e., sensation, and attending solely to the formal peculiarities of his representation or his representational state.¹⁹⁰

For my purposes, I wish to emphasize the three of Kant’s positions that appear in this passage as crucial to any textually warranted interpretation of Kant’s third *Critique*.

First, the function of the *erweiterte Denkungsart* was thoroughly negative. According to Kant, what the *erweiterte Denkungsart* accomplished was the elimination of “subjective private conditions” from a judgment. In the “Deduction of Judgments of Taste,”¹⁹¹ Kant made it clear that reflective validity was purely a function of the degree to which the judgment was determined by “that subjective element one can presuppose in all human beings.”¹⁹² Thus, pleasure in the beautiful was disinterested *only if* its source was something common to human cognition *per se*. We have already seen that this ‘something common’ was nothing but the same harmony between cognitive faculties that underwrote theoretical cognition, only in the absence of a determining concept. Nowhere in the *Critique of Judgment* did Kant discuss the *erweiterte Denkungsart* as

¹⁹⁰ 5:293

¹⁹¹ 5:290

¹⁹² 5:290

adding something to human cognition. The directionality of Kant's deduction goes from particular to general. The process of aesthetic reflection was one in which a particular inner state (viz., satisfaction arising from the experience of beauty) acquired sufficient *generality* to expect the agreement of others. Kant did not believe that subjective universality was identical to determinate validity, so it is important to avoid the term "universal" in understanding his thinking in the *Critique of Judgment*. At the same time, however, his account was not a wholesale valorization of particularity, as Arendt (following Jaspers) appeared to believe. For this reason, Guyer/Matthews' and Pluhar's emphasis on "broadening" rather than "enlargement" is arguably a far better rendering of what Kant meant by *erweiterte Denkungsart*, provided that we understand "broadening" as the result of the *removal* of idiosyncratic content and not the result of the addition of something new or different.

Second, it is worth paying close attention to how, precisely, the *erweiterte Denkungsart* accomplished its work. To this end, I shall reproduce an excerpt from the longer passage from the *Critique of Judgment* above. Kant wrote

By "*sensus communis*," however, must be understood the idea of a *communal* sense, i.e., a faculty for judging that in its reflection takes account (a priori) of everyone else's way of representing [*Vorstellungsart*] in thought, in order as it were to hold its judgment up to human reason as a whole and thereby avoid the illusion which, from subjective private conditions that could easily be held to be objective, would have a detrimental influence on the judgment.¹⁹³

Kant understood the *erweiterte Denkungsart* as one of the ways in which common sense accomplished the work described in the passage above, the work of removing private conditions from a judgment until all that remained was something general. For Kant, the *erweiterte*

¹⁹³ 5:293

Denkungsart was a transcendental, and not an empirical exercise. Thinking from the perspective of others did not involve the representation of any one person's actual perspective. It involved reflection on *Vorstellungsart* (the way or form of human representation *in general*) and not *Vorstellungen* (representations). Because the *erweiterte Denkungsart* was a transcendental reflective exercise, it was also, as Kant noted in the above passage, *a priori*. That is, in comparing the nature of my representation (viz., my particular judgment) with the way in which human beings in general form representations, I may become aware of private conditions that limit the validity of my aesthetic judgment of taste. Now, we must keep in mind that Kant was very clear that this process did not involve the representation of any *actual* perspective, but rather the representation of *possible* other perspectives. Kant believed that these "merely possible judgments of others" were arrived at by considering how people in general might react to the object of my judgment. Kant's point was that, in attempting to consider my judgment from the perspective of a person *in general*, I put myself in optimal position to discover subjective conditions that would otherwise remain hidden.

Third, and finally, I maintain that despite the social/political connotations of the German word *Gemeinschaft*, Kant clearly did not mean to suggest that common sense as *gemeinschaftlich Sinn* was connected to any empirical community (broadly construed). Kant did clearly believe that in judging reflectively, I do judge as a member of some community insofar as I allow my thought to be purged of its idiosyncractic content. However, Kant did not translate this social nature of aesthetic judgments of taste into an empirical account of reflective judgment. Instead, in judging I judge as a member of the human species and in judging reflectively I adopt a generally human perspective. This fact follows clearly from points one and two above. After all, thinking from the perspective of others clearly did not denote: (i) the representation of any actual

perspective or perspectives, or (ii) the attachment of common sense to any political community. Instead, Kant most likely wished to emphasize the function of common sense to reveal what was truly common in judgments of taste (in the sense of caused only by universally distributed faculties of cognition) and was idiosyncratic or private in them.

(c) Correcting Kant

Thus far, I have offered an overview of the concept of *erweiterte Denkungsart* as it appeared in the thinking of Hannah Arendt and Immanuel Kant. In examining the two thinkers' accounts, it became clear that the two accounts of the same concept really have only one thing in common: that both thinkers understood it as making possible a sort of non-epistemological, non-moral validity that both called 'reflective.' Beyond this, the two thinkers offered radically different accounts of its mechanism. In this section I shall discuss the significance of these difference in terms of what they can tell us about why Arendt read Kant in the way that she did.

In closing this section, I shall argue that Arendt did not naively misunderstand Kant. Nor, I maintain, did she simply appropriate concepts that she found useful. Rather, the precise nature of her reading of Kant followed from two factors: (i) what *she* understood as Kant's most important insights in the third *Critique*, and (ii) the ways in which Kant's account of common sense failed to live up to the insights that Arendt thought she saw at the heart of this work. In other words, in reading Kant's third critique in the way that she did, Arendt was correcting Kant; she was offering an account of judgment that she felt closer approximated the standard to which Kant's work failed to live up.

Earlier in this chapter, I emphasized Arendt's enthusiasm for Kant's commitment to the autonomy of the faculty of judgment in the *Critique of Judgment*. Arendt was suspicious of

philosophical attempts to understand politics because the vast majority of political philosophers tended to present politics as either a subspecies of the search for truth or the pursuit of goodness. At the same time, however, Arendt wanted to avoid reducing politics to rhetorical manipulation. In D XXII she wrote, “Judgment claims validity without being in the least bit able to compel. It is by no means more subjective than other knowledge, but it lacks the compulsion of finality.”¹⁹⁴ She believed that political words and deeds were a non-relative affair. Political objectivity was simply not of the moral and epistemological variety. Instead, it was aesthetic.

However, as I have also emphasized in this chapter, it was not merely the autonomy of the faculty of judgment in Kant’s system that led Arendt to develop her account of political judgment from out of the *Critique of Judgment*. She also believed that, of all of Kant’s works, the third *Critique* was most firmly rooted in the realities of human social life. Repeatedly in her notebooks, Arendt emphasized that aesthetic validity was the only form of validity that required the presence and activity of something other than the self. She wrote that, “In Kant legislation arises from the principle of self-consistency and judgment out of “enlarged mentality,” agreement with others.”¹⁹⁵ Aesthetic validity, Arendt thought, corresponded to human life as it was conditioned by the presence of other human beings. Political philosophies based in moral and/or epistemological universality, she thought, were based in a philosophical anthropology that considered human beings as they were identical and self-conditioned. We have seen that Arendt viewed the search for truth and the pursuit of goodness as being based in the relationship with

¹⁹⁴ D, XXII [21]; „Das Urteilen erhebt Anspruch auf Gültigkeit, ohne doch im mindesten zwingen zu können. Es ist keineswegs subjektiver als andere Erkenntnisse, aber es ermangelt des Zwanges im Schliessen.“

¹⁹⁵ D, XXII [21]; „Bei Kant die Gesetzgebung aus dem Prinzip der Übereinstimmung mit sich selbst und die Urteilskraft aus der „erweiterte Denkungsart“, der Einstimmung mit den Anderen [hervor].“

the self, and not our relationships with others. For these reasons, Arendt read Kant as offering something remarkable in the third *Critique*: a tentative affirmation of human plurality.

Thus far, we have seen that Arendt recognized that Kant's 'subjective universality' depended upon the ability of an aesthetic judgment of taste to appeal to something that was truly common. Insofar as it did, aesthetic judgments of taste could justifiably expect others' assent. Insofar as Kant characterized this "something common" as "everyone else's way of representation" (*die Vorstellungsart jedes andern*), Arendt insisted that this constituted an affirmation of the *public* character of the faculty of judgment in its reflective capacity. In her notes, she emphasized that,

[Aesthetic] general validity is "something remarkable," that indicates a "property of our faculty of cognition" [...] It stands against "merely private judgment," indicating that this is generally valid (public)." Thus expressed here, that publicity constitutes general validity [...] Publicity: in the judgment of taste a "universal voice" is postulated. What is expected is the "consent" of others.¹⁹⁶

In this passage, Arendt read the faculty of judgment as something like a political element in human cognition. I've already emphasized her belief that the faculty of judgment was the condition for the possibility of politics. Kant, of course, made no such claim in the third *Critique*. Which raises the question, why did Arendt claim this the absence of textual evidence? In the fragment cited above, Arendt clearly wished to read the faculty of judgment as requiring something outside of the self in order to function correctly. She called this 'publicity.' In Arendt's view, the faculty of judgment in its autonomy required that human beings come out of

¹⁹⁶ D, XXII [23]; „Diese Allgemeingültigkeit ist eine „Merkwürdigkeit“, die eine „Eigenschaft unseres Erkenntnisvermögens“ (sic! trotz p. 39) anzeigt. Ihr steht entgegen das „bloße Privat Urteil“, an dem gemessen dies ein „gemeingültiges (publik)“ ist. Also hier ausgesprochen, dass die Publizität die Gemeingültigkeit ausmacht [...] Publizität: Im Geschmacksurteil wird eine „allgemeine Stimme“ postuliert (54). Was erwartet wird, ist „der Beitritt“ der Anderen.“

themselves. And as we saw in the previous section, insofar as Arendt believed that moral life was at best akin to a sort of self-care, she did not believe that it required human beings to come out of themselves. Political life, it seems, required autonomous judgment in Arendt's view – and insofar as it did, we may infer that Arendt believed that it was only in political life that one became truly other directed.

However, there are a number of inaccuracies in Arendt's reading of Kant's third *Critique*. We must ask the further question as to the nature of these inaccuracies. I think it unlikely that Arendt was unaware of the extent of her departures from the position Kant outlined in the *Critique of Judgment*. In order to see this, we must examine the way in which Arendt read and criticized §38, the "Deduction of judgments of taste."

In §38 of the *Critique of Judgment* Kant argued that a subjective inner state could be characterized by a measure of objectivity. While the objectivity that characterized aesthetic judgments of taste was not as strong as epistemological or moral objectivity, it was sufficiently strong to distinguish the feeling that attended the experience of beauty from other inner states.

Kant wrote

[Disinterested] pleasure must necessarily rest on the same conditions in everyone, since they are subjective conditions of the possibility of cognition in general, and the proportion of these cognitive faculties that is required for taste is also requisite for the common and healthy understanding that one may presuppose in everyone.¹⁹⁷

In other words, Kant intended his deduction to show that as long as an inner state rested on something that was common, one could justifiably expect others to agree. Kant understood "common" in a transcendental sense. That much is clear from his understanding of

¹⁹⁷ 5:293

gemeinschaftlich Sinn (or *sensus communis*) as reflection on the degree to which pleasure in the beautiful was *only* caused by a relationship between universally distributed faculties of cognition. *Erweiterte Denkungsart*, on Kant's account, allowed human beings to adopt a general standpoint – the standpoint of human cognition *per se* – that recognized and extirpated otherwise hidden prejudices from the judgment of taste. Whatever else Kant had in mind in composing the third *Critique*, it was not the defense of particularity that Jaspers and Arendt emphasized. Instead, the process that Kant described was one in which the particular (viz., a particular pleasure elicited in us by beauty) was purified and became *general*. This process of purification was one in which an inner state attained a “subjective universal validity” by becoming sufficiently general in its source to be expected of all others endowed with the same transcendental sources of cognition.

In D XXII, Arendt was critical of Kant's attempts to secure the autonomy of the faculty of judgment. Arendt registered her disappointment at Kant's commitment to common sense as transcendental reflection rather than empirical (political) reflection. Thus, she clearly understood that the reading she was outlining in D XXII was certainly not what Kant had endorsed in the *Critique of Judgment*. She was critical of the coherence of Kant's deduction and clearly viewed his attempt to justify the autonomy of the faculty of judgment by recourse to the transcendentalism of common sense as a betrayal of the otherwise stunning insights that she wished to locate in his account of aesthetic judgment. She wrote

In the deduction, Kant reverts back to subsumption again. The question was: is there general validity without subsumption? The whole thing collapses under his hands. The actual reason is that the power of judgment, which must always be

rooted in assent, falls out from the Kantian schema of the two roots of knowledge.¹⁹⁸

In this fragment, we can see that Arendt believed the deduction signaled a serious inconsistency in Kant's methodology in the *Critique of Judgment*. We have already seen that her emphasis on common sense and "enlarged mentality" indicated that she understood Kant to be excavating a theory of judgment that would require the presence of something other than the self in order to be valid. Insofar as this was the case, she believed that such a theoretical attempt constituted a tentative affirmation of human plurality. However, in insisting that the *erweiterte Denkungsart* did not entail the confrontation with any other actual perspective(s), Arendt believed Kant failed to develop his most important insight. She located Kant's failure in the deduction of judgments of taste, where Kant committed himself to a transcendental account of common sense.

This aspect of Arendt's reading of Kant has remained entirely absent from scholarly literature because it never made its way out of D XXII. While it is obviously a sterile exercise to become caught in speculation as to what would have appeared in the final volume of LM, I think that Arendt's final account of judgment would have included a systematic critique of the methodology of Kant's *Critique of Judgment*. We can observe the outlines of such a critique in D XXII, which I reconstruct in the following way. First, Kant's account of reflective validity entailed the removal of private conditions and idiosyncrasies from an inner state (viz., pleasure in beauty). Second, Kant misconstrued the removal of private conditions as the result of a form of transcendental reflection. Insofar as common sense was transcendental, and not empirical,

¹⁹⁸ D, XXII [31]; „In der Deduktion (p. 140f) fällt Kant dann wieder auf das Subsumieren zurück. Die Frage war ja aber gerade: Gibt es Allgemeingültigkeit ohne Subsumption? Die ganze Sache bricht ihm unter den Händen zusammen. Der eigentliche Grund ist, dass die Urteilskraft aus dem Kantischen Schema von den zwei Erkenntnisstämmen, die immer in Einstimmung gebracht werden müssen, herausfällt.“

Arendt thought that Kant never successfully escaped the self. Thus, his deduction failed (on Arendt's account), because the "subjective universal validity" that Kant believed he had located must require resources that go beyond that offered by the self, even on the transcendental level.

Against what she believed was Kant's flawed deduction, Arendt insisted that the autonomy of the faculty of judgment must be a function of *plurality*.¹⁹⁹ In a stunning passage, she wrote

Instead of the word taste, in Kant one can insert the faculty of judgment throughout. Then it is instantly obvious that it is a critique of political reason hidden in the *Kritik der Urteilskraft*. So indeed the problem is to understand both characteristics of judgment – (1) that its *universality* is not made from "collecting votes and asking around" and (2) that the "the universality of a single judgment" is not a result of "concepts" [...] As reason [is] the seat and justification of the ideas, namely the power of the ideas and therefore of the transcendental, and the

¹⁹⁹ The close relationship between Arendt's turn to Kant's third *Critique* and the fact that she saw an affirmation of plurality tentatively articulated therein has remained absent from most secondary literature. Most commentators, of course, understand that there must be something inherently political in the faculty of judgment, for Arendt. However, because commentators do not place adequate emphasis on Arendt's belief that theoretical and practical cognition were identical insofar as they were based in an experience of the self, the *political* nature of judgment has remained hazy at best. Maurizio Passerin D'Entrèves argues that Arendt turned to Kant because, "it enables individuals to orient themselves in the public realm and to judge the phenomena that are disclosed within it from a standpoint that is relatively detached and impartial." (*The Political Philosophy of Hannah Arendt*, 112). Benhabib states that, "what Arendt saw in Kant's doctrine of aesthetic judgment was something else [...] a procedure for ascertaining intersubjective agreement in the public realm." (*The Reluctant Modernism of Hannah Arendt*, 188) Dana Villa argues that Arendt's work on judgment was intended to counter the hostility to plurality characteristic of most political thinkers (*Politics, Philosophy, Terror*, 94). Taken together, these three approaches characterize the dominant trends in the literature. What all of them have in common is that they do not locate the precise way in the *structure* of reflective judgment is political or what its precise connection to human plurality is. Villa comes the closest, however his analysis is not informed by the *Denktagebuch* (as far as I know). If my analysis is correct, then the reason that Arendt thought that Kantian reflective judgments of taste were political is because she believed they needed recourse to something *outside the self*. Enlarged mentality, then, was a form of inner plurality that corresponded to the empirical plurality that constituted human life on earth.

understanding [is] the seat and the justification of concepts, so common sense is the justification of judgment. The difficulty for Kant is that this power is not “egoistic” but “pluralistic” [...] In this case the *plural* is in me, which appears paradoxical, but is not. Common sense contains the condition for the possibility of [human] sociality.²⁰⁰

Arendt’s discussion of plurality as the only capable guarantor of the autonomy of the faculty of judgment closely resembled her concept of power that she would subsequently develop. Arendt characterized power as, “corresponding to the human ability not just to act but to act in concert. Power is never the property of an individual; it belongs to a group and remains in existence only so long as the group keeps together.”²⁰¹ The autonomy of the faculty of judgment, Arendt suggests in this fragment, is a result of a sort of plurality, or working together of disparate elements.

Properly speaking, for Arendt there was no such thing as an “egoistic” power. By “egoistic” she was indicating reason and the understanding, whose judgments were valid by way of the law of non-contradiction, which she understood as being rooted firmly in the self. Properly speaking, we ought to understand the “egoistic power” of truth and morality to be compulsion, rather than power. In D XXII as well as her other writings on judgment, Arendt discussed truth

²⁰⁰ D, XXII [31]; „Anstelle des Wortes Geschmack kann man bei Kant überall Urteilskraftfähigkeit einsetzen. Dann ist sofort offenbar, dass es sich in der Kritik der Urteilskraft um eine versteckte Kritik der Politischen Vernunft handelt. So ist in der Tat das Problem, die beiden „Eigentümlichkeiten“ des Urteils zu verstehen – 1. dass es seine Allgemeinheit nicht von „Stimmensammlung und Herumfragen abhängig“ macht und 2. nicht von „Begriffen“, dass es sich ferner um „die Allgemeinheit eines einzelnen Urteils“ handelt [...] Wie die Vernunft der Sitz und Legitimation der Ideen, nämlich das Vermögen der Ideen und damit des Übersinnlichen, und der Verstand der Sitz und die Legitimation der Begriffe, so ist der Gemeinsinn die Legitimation des Urteilens. Die Schwierigkeit für Kant ist, dass dies Vermögen nicht „egoistisch“, sondern „Pluralistisch“ [...] In diesem Fall ist der Plural in mir, was paradox anmutet, es aber nicht es. Der Gemeinsinn enthält die Bedingung der Möglichkeit des Miteinander.“

²⁰¹ V, 44.

in terms of its compulsive nature and she characterized it as unsuitable for politics for that very reason. There is no reason to think that she viewed Kant's categorical imperative in different terms. Contra the demands of truth and goodness, Arendt understood the autonomy of the faculty of judgment to be located in common sense, the faculty according to which human beings are able form assessments of the state of the world, form relationships and convince one another of common goals towards which to work. Aesthetic (or political) validity proceeded in between individuals, never solely within them.

In her writings on reflective judgment, then, Arendt saw herself as remaining faithful to the true bent of Kant's insight that the faculty of judgment corresponded to human social and political life and, as such, its autonomy must be located in the world and among others. According to Arendt, political judgment entailed a duty to condition one's thought with other perspectives. Insofar as one failed in this duty, then one's thinking was mere prejudice and bias. Kant, however, had backed off from articulating in this duty insofar he understood transcendental reflection to guarantee the autonomy of the faculty of judgment. We ought, furthermore, to understand Arendt not as merely misreading Kant, but as attempting to rearticulate many of his central concepts (such as what she called "enlarged mentality" and the concept of common sense) in ways that remained faithful to his true insight, as she understood it.

Section Three: From Actor to Spectator

Thus far in this chapter I have offered a reading of D XXII, emphasizing the resources it offers us in understanding *why* Arendt chose Kant's *Critique of Judgment* as her model by which to give an account of the faculty of judgment. At the beginning of this chapter, I suggested that if we wish to understand Arendt's interest in Kant's aesthetics, we must resist the temptation to

chalk it up to the larger concerns for which she is well known. As I have pointed out, there is no evidence to suggest that Arendt's initial interest in Kant's text was a result of her controversial analysis of the Eichmann trial or even her analysis of totalitarianism. Of course, she adapted her work on reflective judgment to these concerns over the course of the sixties and seventies. In the following chapters, I shall argue that EJ and the controversy that surrounded its publication was perhaps the most important element in the changes in her account of judgment between BPF and LKPP. For now, I shall close this chapter by focusing on two more important D XXII supplements our understanding of an underappreciated question in scholarly commentary on Arendt. This question is, what relationship (if any) did Arendt see between the actor and spectator models of political judgment? In closing this chapter, I shall argue for two positions.

Because the material in D XXII that I have been discussing was the material with which Arendt used to compose important portions of "The Crisis in Culture" and "Truth and Politics," I shall highlight several ways in which D XXII deepens our understanding of Arendt's early attempts to discuss reflective judgment. Second, I shall offer an analysis of what the D XXII can tell us about one very important question: why did Arendt seem to change her mind on many central aspects of political judgment? While the D XXII cannot offer any clear-cut answer to this question, I shall argue that a close examination of D XXII *does* give us a helpful hint as to how Arendt most likely understood the difference between the two models of judgment she seemed to offer. To this end I shall discuss (a) precedent and political discourse in D XXII and (b) what Arendt's remarks on precedent in D XXII can tell us implicitly about a situation in which precedent may no longer be relied upon.

(a) Precedent and Political Discourse

In the first chapter of this dissertation, I offered a reading of Arendt's essays on judgment: "The Crisis in Culture" and "Truth and Politics." There, I emphasized two important aspects to Arendt's early treatment of political judgment. First, by *political* judgment Arendt meant the evaluation and understanding of political speech and action. For Arendt, the fundamental subject of politics was care for the common world by way of speech and action. Thus, political judgment sought to evaluate the meaning and significance of human speech and action insofar as it was properly political, which is to say, human speech and action as it aimed to change the world.

In other words, in BPF Arendt was interested in developing a model of judgment that could properly arrive at the meaning and significance of ordinary political speech and action. For Arendt, it was axiomatic that we avoid applying external standards to politics. The two external standards of which she was most critical were truth and morality. Politics, Arendt thought, was not a sub-species of either of these realms of human experience. Therefore, *if* moral/epistemological standards were the primary tools with which we approached politics, we would necessarily misunderstand human words and deeds in their properly political significance. To be sure, standards of truth and goodness can tell us many things about human speech and action, but the *political* dimension of human speech and action is not one of them. In order to develop an evaluative mechanism that was internal to politics, Arendt turn to the Kant's aesthetics.

At this point, an important question arises: If Arendt believed that politics ought to be evaluated primarily according to its own standard(s), then how would turning to aesthetic theory accomplish this? Wasn't she merely making politics a sub-species of the aesthetic in turning to

Kant's *Critique of Judgment* and developing an aesthetic model of political judgment? Given the work my last two chapters, as well as my analysis of the D XXII in this chapter, I am in good position to offer some plausible answers to these questions.

First, Arendt did believe that political experience was closest to aesthetic experience. She believed this because of her commitment to human speech and action disclosing the uniqueness of the speaker and actor. In Arendt's view, political speech and action was most akin to the performing arts because both of these activities are most dependent upon human appearance and spontaneity. Her arguments to this effect are most developed in HC and "The Crisis in Culture." I discussed this in the first chapter and shall not revisit the fine details of her argument for these positions. However, that Arendt believed that politics and the performing arts were closely related does not necessarily mean that she thought political speech and action were derivative from, say, the dramatic or comedic speech and action that we witness in the performing arts. Rather, she thought both politics and the performing arts shared the same root: human spontaneity. If Arendt believed that political judgment was a sub-species of a larger form of judgment (say, aesthetic judgment), then she would surely have also argued that the categories that govern aesthetic judgment ought to be applied to political speech and action in order to understand them.

Second, as I demonstrated in the previous section of this chapter, Arendt neither misunderstood Kant nor did she see herself as uncritically applying his framework to political theory. Instead, Arendt believed that Kant had not sufficiently grasped the insights that allowed him to structure aesthetic reflective judgment in the way he did. Arendt's writings on judgment were an attempt to correct Kant and to bring his concepts in line with the insights that Arendt thought guided the spirit (but not the letter) of the third *Critique*. We must take Arendt's

insistence that a “hidden political philosophy” was to be found in Kant’s third critique seriously. Arendt believed that Kant was the first to discover and outline the form or model of judgment that corresponded to human plurality. According to Arendt, this form or model of judgment was neither specific to politics nor to aesthetics, but common to both insofar as both corresponded to human sociality (*Miteinander*). It is likely that Arendt believed that all realms of human life that corresponded to human plurality (and presumably this would extend beyond art and politics) would also be characterized by a reflective model of judgment.

We are now in good position to begin to discuss the connection between the two accounts of judgment that Arendt offered in BPF and LKPP. In order to do this, I believe we need to consider each account of judgment in light of an important fragment from D XXII. The passage itself appears at the beginning of the very first fragment of D XXII. Arendt wrote

Judgment: Kant: the impossibility of subsuming the individual. The individual may be hit or missed in judgment. That is why it is in politics we are always confronted with situations for which there are at most precedent cases, but no general rules given. Hence, the role of precedent cases for the Romans, the English²⁰²

To anticipate: to end this chapter, I shall argue that this passage offers us an invaluable clue as to the relationship that Arendt most likely saw between the two accounts of judgment that she seemed to offer in BPF and LKPP. I believe it is of the utmost importance to understand her reference to precedent in light of the position on judgment she offered in BPF, for it was in there

²⁰² D, XXII [19], Urteilen: Kant: die Unmöglichkeit, das Individuelle zu subsumieren. Das Individuelle kann nur im Urteil getroffen oder verfehlt werden. Darum handelt sich in der Politik, wo wir immer mit Situationen konfrontiert sind, für die es höchstens Präzedenzfälle, aber keine allgemeinen Regeln gibt. Daher die Rolle der Präzedenzfälle bei den Römern, den Engländern.

– and not in LKPP – that Arendt was clearly emphasizing ordinary speech and action and ordinary political actors.

In the passage above, Arendt made a crucial connection between ordinary political discourse and the availability to standards by which to understand human words and deeds in their distinctly political significance. This connection is an important qualification to Arendt's position that human speech and action always reveals a "self" that is not reducible to determinant categories. For, when we take into account this fragment, we see that Arendt did not think that there were *no* standards by which we could understand political words and deeds. Instead, she believed that there were precedents or, more precisely, precedent cases. This immediately raises the question: how was it that precedent cases were applied to particular instances in political judgment that distinguished it from determinant subsumption?

Arendt believed that the application of precedents was significantly different from the application of moral or epistemological categories to particular cases. In other words, the application of precedent cases was not an instance of determining judgment. She explicitly associated judgment in its reflective variety with precedent *and* with the impossibility of subsuming the particular. There can only be one answer. Arendt believed that the application of precedents to ordinary political discourse and action was aesthetic in the sense in which Kant outlined in the *Critique of Judgment*. In other words, there were many categories and standards by which political things could be evaluated. Some of these could be borrowed from the realms of morality or epistemology. Arendt's concern seems to have been the manner of their application. She insisted that any category must be treated as a precedent, and not as a universal category, insofar as it was applied to the realm of political speech and action.

This suggests Arendt believed the form of judgment that applied the precedent to the particular was judgment in its reflective capacity, and not judgment in its determining capacity. Arendt's term for this activity would be political judgment, understood narrowly in the sense that a form of judgment most appropriate to human life in its plurality turned its attention to properly political things (viz., human speech and action insofar as it was concerned with the world and its preservation or change). Furthermore, the application of precedent(s) to particular cases would be considered "valid" when it met the "aesthetic" standards of the *Critique of Judgment* (as Arendt understood them), and not insofar as the precedent exhausted the particular to which it was applied. The application of precedent to human words and deeds was identical to political judgment, at least as Arendt presented political judgment in D XXII and BPF. Before moving on, I will highlight several important characteristics that follow from this understanding of reflective judgment.

First, political judgment attended to the appearance of human words and deeds in judging them reflectively by way of precedent(s). This meant that the evaluation of political speech and action did not rely on categories that appealed to an underlying reality behind or beneath the way that human words and deeds appeared. Recall that suspicion of evaluative standards that went beyond the appearance of a thing and appealed to an underlying reality was the foundation of Arendt's analogy between the aesthetic and the political in "The Crisis in Culture."

Second, a "valid" reflective application of precedent cases to political speech and action is one that is persuasive, and not one that is "correct" in the strict epistemological sense. This follows from my gloss of Arendt's appropriation of Kantian concepts. Reflective application of precedent cases entails conditioning your judgment by the consideration of how other individuals you wish to convince might make the same judgment. Furthermore, there will likely never be a

case in which the application of precedent cases is done so well that it need not be done again with reference to the same event at another point in time. In other words, as with Kant's discussion of aesthetic judgments of taste, Arendt thought that the best you could do was the *expectation* that others agree. Universal agreement was unlikely.

In conclusion, in D XXII and BPF, Arendt saw herself as offering an account of political judgment tailored to a specific situation. She saw this situation as that confronting us whenever we wished to engage in political discourse. Ordinary political discourse, by definition, corresponded to our obligation to come to terms with and understand political speech and action on its own terms. In order to do this, our judgments were mediated by precedent cases, and not by universal categories. Furthermore, the application of these precedent cases proceeded by way of a model of judgment that corresponded to human beings in their plurality, and not their singularity.

(b) Beyond Ordinary Political Discourse

In the second chapter, I emphasized that one of the major problems that attends reading BPF and LKPP as providing one "theory" of judgment is that Arendt seemed to abandon the perspective of the actor in favor of that of the spectator. Moreover, along with her shift from actor to spectator, Arendt seemed to build new conditions into her understanding of reflective judgment as well as the conditions under which reflective judgment was valid. I will take a moment to recapitulate some important points of my analysis in chapters one and two that I shall use in concluding this chapter.

First, in "The Crisis in Culture" and "Truth and Politics," Arendt maintained that the primacy of appearance in politics was what justified the adoption of an aesthetic model of

judgment. This meant that reflective judgment made claims about things in the world (viz., human speech and action), but primarily by the way in which these things appeared. However, while she did not recant this position in LM and LKPP exactly, she did seem to tell a very different story. In LKPP, Arendt insisted that reflective judgment was defined by its having a subjective ground. Specifically, this meant that reflective judgment *did not* make claims about things in the world in the same way in which Arendt seemed to think it did in BPF. Instead, reflective judgment made claims about inner subjective states.

Second, in her later writings on judgment Arendt nested the account of reflective validity she had offered in the D XXII and BPF in another, broader, requirement: spectatorship. In other words, only the non-participant had access to the meaning and significance of worldly events. This did not mean that the non-participant would necessarily produce a valid reflective judgment, but it did mean that those who were involved in politics could not. In other words, spectatorship seemed to be a necessary condition for the process of reflection that I have described in this chapter that terminated in a valid reflective judgment. Political judgment was no longer the purview of those who were involved in political things.

Third, Arendt's discussion of spectatorship de-emphasized ordinary political discourse, or so it seemed. Her example *par excellence* of the judgment of the spectator was Kant's enthusiasm for the French Revolution. While Arendt still believed that judgment in its reflective capacity corresponded to human life insofar as it was communal, the only community she discussed in LKPP was a community of spectators, united in their non-involvement with worldly affairs. If she did see the evaluation of ordinary political speech and action as derivative from the account of judgment she developed in the 1970's, she never articulated her argument for such a position to any significant degree.

Concluding Remarks

In closing this chapter, I shall not discuss whether Arendt intended to unify the disparate perspectives of the actor and the spectator. Instead, I shall simply remark that Arendt's discussion of the perspective of the spectator seems to a situation defined primarily by the *lack of available precedent cases*. This would certainly be the case in terms of the French Revolution. That is, Arendt's shift from the actor model of reflective judgment to the spectator model of reflective judgment corresponded with an emphasis on the evaluation and assessment of the meaning of unprecedented historical events. Unfortunately, it is impossible to examine this topic in depth further if we limit ourselves to those primary texts in which Arendt commented on the topic of reflective judgment. However, there exists excellent (and neglected) material in many of the important texts that appeared between the publication of BPF and LM. In the following chapters, I turn to the task of examining what I take to be the most important texts that can deepen our understanding of why Arendt seemed to shift from the actor to the spectator on the question of political judgment.

CHAPTER V
BEYOND THE JUDGMENT OF THE ACTOR

Introduction

In this chapter, I turn to some of Arendt's writings that are not directly about the faculty of judgment. I shall argue that these sources are very important for understanding Arendt's writings on judgment, particularly in answering the question as to why Arendt offered such a different account of judgment in LKPP. None of the sources that I examine in this chapter will add any detail to our understanding of the specifics of Arendt's account (or accounts) of political judgment. In the previous three chapters of this project, I have discussed all of Arendt's writings in which she attempted to use Kant's *Critique of Judgment* in order to describe political judgment. In the last chapter, I argued that one particular resource – D XXII – has been neglected in scholarly literature and I hope that I have demonstrated the value of the material contained therein.

In my view, however, one serious limitation in scholarly commentary on Arendt's account of political judgment is precisely that it is (for the most part) confined to the texts in which Arendt wrote about judgment directly. It is not my purpose in the rest of this project to resolve the discrepancies that exist between Arendt's texts on judgment. I do believe that there are significant differences in the texts that I focused on in the previous three chapters. In the following three chapters, I shall use other writings by Arendt – as well as Kafka – in an attempt to reconstruct the road that led Arendt from the so-called 'actor model' of judgment to that of the

spectator. I believe that the resources that I will discuss in this chapter and the two that follow supplement our understanding of the developmental trajectory that Arendt's understanding of reflective judgment took. These resources, moreover, do not prominently figure in scholarly commentary on Arendt's work on judgment. In this chapter, I propose to integrate them as integral to making sense of the road that led Arendt from "The Crisis in Culture" and "Truth and Politics" to LKPP and the first volume of LM – from the actor model of judgment to that of the spectator.

One reason that the sources I emphasize in this chapter have not figured in scholarly commentary on Arendt's theory of judgment to a significant degree is that D XXII has been neglected when assessing when and why Arendt began to read Kant's third *Critique* as concealing a political philosophy. The relative neglect of D XXII has had the result of encouraging some scholars to assume that Arendt's emphasis on Kant's *Critique of Judgment* was primarily a reaction to certain issues that she first announced in EJ. Indeed, if D XXII and its resources are not taken into account, then it does seem as if Arendt only began to emphasize reflective judgment after Eichmann's trial. After all, Arendt only turned to the question of judgment in a systematic way as a result of realization that Eichmann could not judge. While it is certainly true that Eichmann's trial had a decisive impact on the questions that Arendt used the third *Critique* to answer, it is simply untrue that Eichmann's trial motivated Arendt's reading of Kant's aesthetics. After all, D XXII was composed nearly four years prior to Eichmann's trial.

The claim that Arendt was not interested in judgment prior to Eichmann's trial is not ubiquitous, but there is a tendency to assume that the question of judgment became a *serious* question for Arendt after her publication of EJ. Although Dana Villa, for instance, notes that Arendt's general project required the "rethinking [of] such central political concepts such as

action, freedom, authority, judgment, and power [...],”²⁰³ he nonetheless emphasizes Eichmann’s trial as leading, “Arendt to focus increasingly on the activities of thinking and judgment as they relate to politics.”²⁰⁴ I certainly do not wish to deny that Arendt only began to consider a systematic examination of reflective judgment after Eichmann’s trial. This much is undoubtedly true and it is also likely that the Eichmann trial and the controversy surrounding Arendt’s analysis of it exerted an unmeasurable influence on Arendt’s decision to undertake the project attested to in LM.

However, in my view it is potentially misleading to portray Eichmann’s trial as motivating Arendt to undertake (or more accurately, to renew) the question of judgment and its relation to *politics* for a couple of reasons. First, as I demonstrated in the first and third chapters of this dissertation, by the late 1950’s Arendt had already begun the process of excavating a model of political judgment out of Kant’s third *Critique* and applying it to politics. It is simply historically inaccurate to read Eichmann’s trial into Arendt’s reasons for turning to the third *Critique*. After all, “The Crisis in Culture” and “Truth and Politics” attempted to apply Kant’s model of reflective judgment to ordinary political speech and action. Second, one of the most prominent characteristics of Arendt’s post-EJ remarks on judgment is the conspicuous *absence* of politics and political actors. If anything, a close examination of Arendt’s post-EJ writings on judgment ought to lead us to conclude that she decided that the question of judgment was no longer answerable by political actors at all.

²⁰³ Dana Villa, “The Development of Arendt’s Political Thought,” in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000), 12.

Henceforth, “The Development of Arendt’s Political Thought”
²⁰⁴ Villa, “The Development of Arendt’s Political Thought,” 16

More recently, Dana Villa has pointed out that in EJ, “Arendt is concerned with the “broader historical significance” of the Eichmann trial.”²⁰⁵ This much is surely true. One of the most significant features of this ‘broader historical significance’ was the widespread crisis in judgment that Arendt believed Eichmann’s trial helped to magnify. In her post-EJ writings on judgment, one of the reasons for the absence of politics and political actors was the fact that she came to believe that political institutions that rely on judgment (i.e., trial by jury) can no longer be counted on to do so. Thus, if Villa is correct in his assertion that Eichmann’s trial motivated Arendt to think about judgment in its relation to politics, Arendt did so by *re-thinking* political judgment as no longer the prerogative of political actors, but of uninvolved spectators.

In my view, perhaps the single most important reason for the changes in Arendt’s writings on judgment was, in fact, EJ. However, I do not believe that EJ caused Arendt to think about politics and judgment. I have demonstrated that from the start, Arendt’s engagement with the *Critique of Judgment* was motivated by her interest in judgment and its relation to political speech and action. I do believe that EJ caused Arendt to re-think many of the aspects of political judgment that she had emphasized in places such as D XXII and the two essays from BPF (“The Crisis in Culture” and “Truth and Politics”). More specifically, I believe that Arendt’s experiences at Eichmann’s trial revealed the *shortcomings* of the judgment of the actor and revealed another position from which political judgment may take place – the position of the spectator.

I intend the present chapter to be the first step towards demonstrating that Arendt discovered so-called ‘judgment of the spectator’ in her own experiences at Eichmann’s trial. In

²⁰⁵ Dana Villa, “*Eichmann in Jerusalem: Conscience, Normality, and the “Rule of Narrative”*,” in *The Trial that Never Ends: Hannah Arendt’s Eichmann in Jerusalem in Retrospect*,” ed. Richard J. Goslan and Sarah M. Misemer (Toronto: University of Toronto Press, 2017), 61. Henceforth, “Conscience, Normality, and the “Rule of Narrative””

this chapter, I shall argue that we ought to recognize the ‘banality of evil’ as the result of reflective judgment. Given the resources that I shall discuss in this chapter, recognizing the ‘banality of evil’ as deeply related to the question of judgment in its reflective variety should not be difficult. Doing so, furthermore, promises to advance our understanding of Arendt’s *developing* thought on the topic of reflective judgment. The following discussion of the banality of evil suggests Arendt discovered the so-called ‘spectator model’ of judgment in *praxis*, and not in theory. In this chapter, I focus my attention on two sources that are not normally discussed in conjunction with Arendt’s notion of reflective judgment. In the first section I discuss “Thinking and Moral Considerations,” and in the second the Scholem-Arendt correspondence about Arendt’s concept of the ‘banality of evil.’ There has been little scholarly attention paid to “Thinking and Moral Considerations,” and while there is a decent body of work that has been devoted to Arendt’s epistolary exchange with Gershom Scholem²⁰⁶, this body of work has not to my knowledge emphasized its importance to the development Arendt’s thinking on judgment. Beginning with “Thinking and Moral Considerations,” I emphasize its role as a deduction in the spirit of Kant’s critical philosophy. Then, turning to the specifics of Arendt’s arguments in “Thinking and Moral Considerations” as well as in her correspondence with Scholem, I shall argue that Arendt’s defense (or ‘deduction’) of EJ fit the criteria for the defense of a reflective

²⁰⁶ Richard Bernstein, *Radical Evil* (Blackwell Press: Malden, MA, 2002), 205-220; Raluca Munteanu Eddon, “Gershom Scholem, Hannah Arendt and the Paradox of a ‘Non-Nationalist’ Nationalism,” *The Journal of Jewish Thought and Philosophy* 12(1), 2003: 55-68; David Suchoff, “Gershom Scholem, Hannah Arendt, and the Scandal of Jewish Particularity,” *The Germanic Review: Literature, Culture, Theory* 72(1), 1997: 57-76; Shira Kupfer and Asaf Turgeman, “The Secularization of the Idea of Ahavat Israel and Its Illumination of the Scholem-Arendt Correspondence on Eichmann in Jerusalem,” in *Modern Judaism* 34(2), May 2014: 188-209; David Kaposi, “Between Orient and Occident: Tradition, politics and the limits of criticism in the Scholem-Arendt exchange,” in *Journal of Language and Politics* 9:3(2010), 409-432

judgment. The way(s) in which Arendt defended her use of the ‘banality of evil,’ I argue, strongly suggest that she considered it to be the product of reflective judgment.

If I am successful in this chapter, I will show that any scholarly engagement with Arendt’s work on judgment must orient itself sufficiently in the peripheral sources that I discuss. I also intend to establish EJ (specifically, the ‘banality of evil’) as an enactment or exercise of reflective judgment in this chapter. The reading of EJ that I propose in this chapter will serve to ground the closing chapters of this project, in which I shall discuss EJ as Arendt’s discovery of the judgment of the spectator.

Section One: “Thinking and Moral Considerations” and Reflective Judgment

Despite the fact that the published text is dated 1971²⁰⁷, Arendt composed “Thinking and Moral Considerations” in 1970. She presented it at a meeting of SPEP (Society for Phenomenology and Existential Philosophy) hosted by the New School for Social Research on October 30, 1970. She edited her conference presentation and published it in *Social Research* in 1971. She developed and expanded the ideas she expressed in “Thinking and Moral Considerations” in LM, including much of the essay in the first volume (entitled “Thinking”) in the chapters “The Answer of Socrates” and “The Two-in-One.”²⁰⁸

In this section, I shall discuss Arendt’s argument in “Thinking and Moral Considerations.” “Thinking and Moral Considerations” not usually discussed in conjunction with Arendt’s writings on political judgment. In fact, there is only one published article and I know

²⁰⁷ R, 159-189

²⁰⁸ LM, 166-193

that is devoted solely to it.²⁰⁹ “Thinking and Moral Considerations” is often discussed in the context of explaining Arendt’s analysis of Adolf Eichmann and her dialogical account of the activity of thinking.²¹⁰ Commentators recognize that Arendt connected thinking to *moral* judgment in “Thinking and Moral Considerations.” In EJ, Arendt claimed that it was a lack of thinking - and not ideological indoctrination - that led Eichmann to participate in state sponsored genocide. However, the close connection between this essay and reflective (political) judgment has not, to my knowledge, been closely examined. No doubt, commentators are right to cite this essay as an important clarification of what Arendt meant by the ‘banality of evil’ and by her account of thinking. However, I do not believe that Arendt’s primary intention in composing “Thinking and Moral Considerations” was to clarify the meaning of the banality of evil. Although the essay is a sustained argument that thinking is closely related to moral life, the primary purpose of “Thinking and Moral Considerations” was closely related to reflective judgment.

My work in this section is twofold. I shall argue (a) that Arendt considered “Thinking and Moral Considerations” to be a deduction in the style of Kant’s critical philosophy. Having established the proper context in which to read “Thinking and Moral Considerations,” namely as

²⁰⁹ Joseph Beatty, “Thinking and Moral Considerations: Socrates and Arendt’s Eichmann,” *Journal of Value Inquiry* 10, 1976: 266-278

²¹⁰ See Kateb, *Hannah Arendt: Politics, Conscience, Evil*, 36-38, 189-190; Bernstein, *Radical Evil*, 219, 222 recognizes that there is a connection between thinking and judgment, but remarks that, “we can only speculate about what Arendt might have said in the final, unwritten part of *The Life of the Mind*”; d’Entrèves, *The Political Philosophy of Hannah Arendt*, 126 also recognizes the intimate connection between thinking and judgment in its moral capacity; Benhabib, *The Reluctant Modernism of Hannah Arendt*, 174, 190; d’Entrèves, “‘To Think Representatively’: Arendt on Judgment and the Imagination,” 372; Ferrara, “Judgment, Identity, and Authenticity: A Reconstruction of Hannah Arendt’s Interpretation of Kant,” 133; Robert Fine, “Judgment and the Reification of the Faculties: A Reconstructive Reading of Arendt’s *Life of the Mind*,” 160

a deduction, I then turn to (b) a close textual examination of Arendt's argument that there was a robust connection between thinking and moral life. I shall examine the two separate arguments Arendt offered for the moral relevance of thinking.

(a) *"Thinking and Moral Considerations" as a Kantian Deduction*

I want to begin my examination of "Thinking and Moral Considerations" with a remark that appears at the beginning of the essay, and that Arendt reiterated in her introduction to the first volume of LM.²¹¹ Early in "Thinking and Moral Considerations," Arendt reverted to the language of Kant to talk about her basic purposes in the essay. She wrote

Such were the questions. To put it differently and use Kantian language, after having been struck by the phenomenon – the *quaestio facti* – which willy-nilly "put me into the possession of a concept," (the banality of evil), I could not help raising the *quaestio juris* and asked myself, "with what right did I possess and use it."²¹²

Arendt's reference was to a fragment in which Kant developed terminology that he would famously use in deductions. In his unpublished notes Kant wrote

The *quaestio facti* is in what way one has first come into the possession of a concept.

The *quaestio iuris* is with what right one possesses and uses it.²¹³

In her invocation of Kant, Arendt drew an explicit comparison between the methodological exercise Kant called a deduction and what she saw herself as doing in "Thinking and Moral Considerations." It appears that Arendt wished "Thinking and Moral Considerations" to be read

²¹¹ LM, 5

²¹² R, 161

²¹³ 18:268

as a deduction in the Kantian tradition. In what follows, I shall use this fact as an interpretive lens by which to examine “Thinking and Moral Considerations” closely.

In this section, I will emphasize the Kantian aspects of “Thinking and Moral Considerations” in two ways. First, I will examine what a deduction was for Kant. Since Arendt articulated her concerns in “Thinking and Moral Considerations” in such a way as to suggest that she understood herself to be carrying out a Kantian exercise, it is optimal that we possess a clear understanding of what that Kantian exercise is. Second, I offer an answer as to how we ought to understand Arendt’s invocation of Kant within the context of Kant’s critical project. After all, Kant included deductions in all three of his critiques, and their structure and content vary. I argue that Arendt understood the deduction she offered in “Thinking and Moral Considerations” to be a deduction of a reflective judgment.

In, “Kant’s Notion of a Deduction and the Methodological Background of the First Critique,” Dieter Henrich has pointed out that there are forgotten dimensions to Kant’s use and understanding of the word “deduction.” He wrote

‘deduction’ is a term that is quite familiar to us. It refers to the logical procedure by means of which a proposition – namely, the conclusion – is established through the formal relationship of other propositions, its premises. Thus we take a deduction to be a syllogistic proof. Kant was familiar with this usage of the term ‘deduction.’ Yet, unlike now, this was not the only, and not the most common, usage in the eighteenth-century academic language.²¹⁴

²¹⁴ Dieter Henrich, “Kant’s Notion of a Deduction and the Methodological Background of the First Critique,” in *Kant’s Transcendental Deductions: The Three Critiques and the Opus postumum*, ed. Eckart Förster (Stanford: Stanford University Press, 1989), 31. Henceforth, “Kant’s Notion of a Deduction”

Against the more common, logical meaning of the term “deduction,” Henrich emphasizes its role as a legal procedure, “to justify controversial legal claims between the numerous territories, city republics, and other constituents of the Holy Roman Empire.”²¹⁵ In composing deductions in all three *Critiques*, Kant was appealing to the juridical meaning of the term ‘deduction,’ and not to its logical meaning. Anyone who is familiar with any of Kant’s deductions immediately sees that Kant did not compose them with intention of providing a formal logical deduction. In its eighteenth-century legal meaning, a deduction did not establish a proposition as necessarily true following the truth of other propositions. Instead, a deduction *justified* an already existing property claim.

Henrich shows that Kant adapted the legal terms *quaestio facti* and *quaestio iuris* to his own philosophical project. In other words, in his deductions Kant was not offering syllogistic proofs, though his deductions did incorporate syllogistic arguments at times. In Henrich’s words, “the deduction is indeed a proof, and it brings various partial results together by means of a syllogistic chain, but its being a “deduction” is not defined in terms of a chain of syllogisms.”²¹⁶ The great value of Henrich’s argument is that it frees readers of Kant from the impossible task of trying to understand Kant’s deductions as logical deductions and allows for a historically accurate understanding of the provenance of some of the most difficult passages in Kant’s critical philosophy.

One of the most important results of recognizing the juridical provenance of Kant’s deductions is that it implies that the structure and content of each deduction may vary, depending on the particular claim to be justified. Logical deductions, after all, are valid by way of form, and

²¹⁵ Henrich, “Kant’s Notion of a Deduction,” 32

²¹⁶ Henrich, “Kant’s Notion of a Deduction,” 39

not by content. Unlike logical deductions, legal deductions can be, but need not necessarily be successful by virtue of its form. The form of a legal deduction may vary depending on the kind of claim to be justified. To this effect, Henrich writes, “the very notion of a deduction is compatible with any kind of argumentation suitable for reaching the goal [...]”²¹⁷ This neatly explains why the deductions in the first, second, and third *Critiques* are quite different from one another while still being deductions.

In this chapter, my purposes are twofold. First, I aim to demonstrate that Arendt intended “Thinking and Moral Considerations” to be a deduction. Second, I also intend to show that Arendt considered “Thinking and Moral Considerations” to be a deduction of a *reflective* judgment. In order to do this, I will need to demonstrate that the *form* of “Thinking and Moral Considerations,” as well as the other texts I will examine in this chapter, corresponds to the way Arendt understood reflective judgments to be justified. However, because the form of logical deductions is dependent upon the specific sort of claim that needs to be justified, the deductions that Kant composed in his three *Critiques* vary in terms of their form. Thus, before transitioning to a close examination of the rest of “Thinking and Moral Considerations,” I will briefly discuss the three deductions that appeared in the *Critique of Pure Reason*, *The Critique of Practical Reason*, and *The Critique of Judgment*. Fortunately, I will not need to examine any given deduction in great detail in order to find the resources needed by my argument. I shall briefly turn to each deduction, simply identifying the relevant *questio facti* and *quaestio iuris* for each.

In the first *Critique*, Kant intended both versions of the “Transcendental Deduction of the Pure Concepts of the Understanding”²¹⁸ to justify our claim to *a priori* knowledge. Fortunately,

²¹⁷ Henrich, “Kant’s Notion of a Deduction,” 39

²¹⁸ A84-130/B129-168

we need only examine the content of the deduction with a mind that its purpose was to justify an already existing claim, and not to illustrate the necessary truth of any proposition(s). In terms of the first *Critique*, the answer to the *quaestio facti* would be equivalent to a comprehensive account of the way in which we acquire such knowledge. Because Kant's deduction was primarily an exercise in justifying a claim to *a priori* knowledge (instead of demonstrating how we acquire it), he did not need to offer a comprehensive account of how we come to know things *a priori*; he only needed to possess a comprehensive understanding of whatever was sufficient to justify our claim to have it. Henrich writes

deductions can never be given without reference to the facts from which our knowledge originates. We cannot arrive at, and don't need a comprehensive understanding of, the genesis and constitution of these facts in themselves. Yet we must arrive at an understanding of the aspects of them that suffice to justify the claims attached to our knowledge.²¹⁹

In other words, Kant's deduction in the first *Critique* is successful *only if* it answers the *quaestio iuris* with respect to *a priori* knowledge, and its success need not depend on a complete answer to the *quaestio facti*. Indeed, Kant's commitment to the fact that rationalist and empiricist attempts to give a complete answer to the question of how we acquire knowledge were doomed to failure is good evidence that he probably would not have wished to become entangled in answering that particular *quaestio facti* at all.

The fact that a successful deduction only needs those aspects of the *quaestio facti* that are sufficient to answer the *quaestio iuris* is important to understanding the deduction Kant included in the second *Critique*. There, Kant sought to justify our use of the concept of freedom. The justified use of this concept implied the possibility of a will that was not determined by natural

²¹⁹ Henrich, "Kant's Notion of a Deduction," 37

causality. The project of morality, insisted Kant, required that we be able to justify our claim that, “pure reason proves itself actually practical, namely autonomy in the principle of morality by which reason determines the will to deeds.”²²⁰ However, as in the first *Critique*, Kant did not need to deductively prove that a will could be condition by pure practical Reason in order to justify our everyday use of the concept of freedom in practical life. In closing his deduction, Kant emphasized that the concept of freedom had objective reality in practical life only and that his deduction did not imply any cognitive knowledge about a non-empirical causality. Thus, in the second *Critique*, Kant’s deduction answered the *quaestio juris* in the absence of a complete answer to the *quaestio facti*.

In the previous chapter, I discussed Kant’s deduction in the third *Critique* in detail. Here, I will only revisit its most crucial elements. In the *Critique of Judgment*, Kant intended his deduction to show the possibility of an inner state (namely, the feeling of purposiveness) that was not entirely idiosyncratic. In providing a deduction, Kant saw himself as justifying the possibility of a *communicable* inner state that could justifiably expect the assent of others. In §38, Kant’s argument to this effect specified that if an inner state was the result of the same working together (or harmony) between our cognitive faculties that resulted in ordinary cognition *and* if the inner state had no other, idiosyncratic content then it could be justifiably expected of others in the same circumstance.²²¹ Obviously, in order to offer successful deduction Kant did not need to argue for the possibility of any one particular disinterested inner state (although he was surely not indifferent to this question). All he needed to do was show that given the structure of human cognition, disinterested inner states were possible.

²²⁰ 5:42

²²¹ 5:290

At this point, I return to Arendt. If it is true that Arendt saw herself as offering a Kantian-style deduction in “Thinking and Moral Considerations,” then we must understand this project in the following way. Arendt was not arguing that her use of the concept of the banality of evil to characterize Adolf Eichmann was necessarily true in virtue of some finite set of premises. In other words, she was not engaging in a logical procedure in which she offered a *proof* of her correctness in using ‘banal evil’ to describe Eichmann. She was attempting to demonstrate that she had the *right* to her use of the concept. In the quote with which I opened this section, Arendt specified that the argument she would offer in “Thinking and Moral Considerations” was an answer to the *quaestio juris*. Presumably, this means that an answer (partial or complete) to the *quaestio facti* was contained in *EJ*, in which she recounted the experiences that led her to come up with the concept. In this chapter, I shall demonstrate that Arendt’s ‘deduction’ of her right to the use of the concept of the “banality of evil” is not found in one place in her writings. Instead, in defending her use of the term, she tended to offer arguments that strongly suggest that she took herself to be justifying a reflective judgment, and not a cognitive or a moral one. I will discuss two important components to her ‘deduction.’ First, I turn to “Thinking and Moral Considerations” to examine her argument that she was justified in her use of the banality of evil because thinking really was morally relevant. Then, I turn to her debate with Gershom Scholem in order to show that her response to him was, in effect, an argument about the *disinterestedness* of the judgment she had made.

Arendt’s invocation of Kantian terminology at the beginning of “Thinking and Moral Considerations” strongly suggests that she intended “Thinking and Moral Considerations” to justify her right to the concept of the banality of evil. However, it is also important to understand what sort of deduction Arendt was giving in “Thinking and Moral Considerations.” To this end, I

will discuss the argument she offered in that essay, as well as her epistolary exchange with Gershom Scholem. To anticipate, in the rest of this chapter I shall argue that Arendt's arguments in which she attempted to justify her use of the concept of 'the banality of evil' can only be understood as corresponding to judgment in its *reflecting* capacity. In order to show this, I will discuss her arguments in detail. As I do so, I shall be careful to show how these arguments seem to be tailored to the exact specifications that Kant gave for valid aesthetic judgments of taste in the third *Critique*.

*(b) On the Moral Relevance of Thinking*²²²

In this section, I turn to Arendt's arguments about the moral relevance of thinking.²²³ By moral relevance I mean that Arendt thought that thinking would have been a sufficient condition

²²² In this chapter, I limit myself to "thinking" as it appeared in Arendt's later writings – specifically EJ, "Thinking and Moral Considerations," and LM. In doing so, I do not wish to suggest that thinking was a "new" topic of interest for Arendt that only appeared late in her life. Richard Bernstein has demonstrated that the topic of thought was consistently of interest to Arendt. My discussion of thinking is bracketed by the fact that I shall be arguing that the way in which Arendt discussed thinking late in her life is intimately connected with the development of her "spectator" model of reflective judgment. For Bernstein's rich discussion of thinking as it appears in Arendt's *oeuvre* see, Richard J. Bernstein, "Arendt on Thinking," in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000): 277-291. Henceforth, "Arendt on Thinking."

²²³ It is worth noting at this point that the vast majority of commentators have recognized that the argument that Arendt offers in "Thinking and Moral Considerations" does link thinking with judgment, specifically moral judgment. For a detailed list of prominent commentators and their discussions of "Thinking and Moral Considerations," see footnote 7 of this chapter. As I demonstrated in the previous chapter, Arendt believed that *political* judgment was structurally distinct from moral judgment – the former being rooted in something outside of the self and the latter being self-centered. While Arendt does admit at the end of "Thinking and Moral Considerations" that in times of crisis the *consequences* of moral judgment may come to have political significance, this fact does not make moral judgment a form of political judgment. The structural distinctness of political judgment from practical and theoretical judgment has been passed over in the literature because Arendt does not develop the claim in any serious depth in her unfinished writings on judgment. Nonetheless, in examining "Thinking and Moral

for Eichmann to have acted other than he did. In EJ, Arendt had (controversially) claimed that the only reason Eichmann had committed war crimes was because he didn't think. One of the primary things Arendt intended the "banality of evil" to express was the commonplace nature of the intentions with which Eichmann discharged his duties during the Second World War.²²⁴ In Arendt's view, placed in a different context (such as, for instance, UNESCO), Eichmann would never have committed crimes at all. In Arendt's view Eichmann was not, as Daniel Conway has pointed out, "thoughtful, imaginative, diabolical, malevolent, *and*, therefore, [a ripe subject] for further study and contemplation."²²⁵ At the beginning of "Thinking and Moral Considerations," Arendt rearticulated what she took to be the main phenomenon she intended the banality of evil to describe. She wrote

the phenomenon of evil deeds, committed on a gigantic scale, which could not be traced to any particularity of wickedness, pathology, or ideological conviction in the doer, whose only personal distinction was a perhaps extraordinary shallowness."²²⁶

The 'extraordinary shallowness' that Arendt imputed to Eichmann was the result of a lack of thinking.

Considerations" it is worth bearing in mind that any attempt to use the essay as an outline of political judgment is misguided for the reasons that I have articulated in this footnote.

²²⁴ In his analysis of EJ, Dana Villa demonstrates that the banality of Eichmann's intentions was bound up with his ability to *conscientiously* commit war crimes and genocide. Villa's analysis powerfully demonstrates the importance of the fact that Eichmann's had a conscience to a proper understanding of Arendt's notion of the banality of evil in Dana Villa, "Eichmann in Jerusalem," in *The Trial that Never Ends: Hannah Arendt's Eichmann in Jerusalem in Retrospect*, ed. Richard J. Goslan and Sarah M. Misemer (Toronto: University of Toronto Press, 2017), 43-66. Henceforth, "Eichmann in Jerusalem"

²²⁵ Daniel Conway, "Banality, Again," in *The Trial that Never Ends: Hannah Arendt's Eichmann in Jerusalem in Retrospect*, ed. Richard J. Goslan and Sarah M. Misemer (Toronto: University of Toronto Press, 2017), 74. Henceforth, "Banality, Again."

²²⁶ R, 159

One reason why EJ was such a controversial book was because Arendt claimed that everyday thoughtlessness could be the cause of state-sponsored genocide, but did not spell out in detail how thinking *per se* could have provided Eichmann with the means to act differently. Her attempt to do so only came later, coinciding with the three-volume LM project. In this section, I shall focus on the argumentative structure of “Thinking and Moral Considerations,” and to a lesser extent on the corresponding two chapters of LM. In “Thinking and Moral Considerations,” Arendt offered two models of thinking that she thought could prevent evil-doing. However, only one of models fit the specifications that Arendt had implied in her analysis of Eichmann as thoughtless. Before I examine these two arguments, it is important to introduce the reasons that Arendt gave for approaching the activity of thinking in the way that she did.

The controversy surrounding EJ had the effect of motivating Arendt to defend many of the claims she made there. “Thinking and Moral Considerations” was the first place in her writings where she attempted to answer the question of how thinking could prevent evil-doing. Indeed, much of the first volume of LM appears to be an attempt to answer this question. In the introduction to its first volume, Arendt listed offered two reasons for her turning to the subject of thinking. First, she listed EJ, and reiterated that her concept of the ‘banality of evil’ had implied the moral relevance of thinking. Second, Arendt stated that she had wanted to approach thinking from a non-philosophical vantage point since the late 1950s.

These two issues – the moral relevance of thought and a theoretical interest in coming to terms with thinking as *activity* – were intertwined for Arendt. Writing about the moral questions she believed Eichmann’s trial magnified, she wrote

those moral questions, arising from factual experience, and going counter to the wisdom of the ages [...] were apt to renew in me certain doubts that had been plaguing me ever since I had finished a study of what my publisher wisely called

“The Human Condition,” but which I had intended more modestly as an inquiry into “The Vita Activa.” I had been concerned with the problem of Action, the oldest concern of political theory, and what had always troubled me about it was that the very term I adopted for my reflections on the matter, namely, *vita active*, was coined by men who were devoted to the contemplative way of life and who looked upon all kinds of being alive from that perspective.²²⁷

In previous chapters of this project, I have discussed Arendt’s suspicion of the political relevance of traditional philosophical resources for understanding politics on its own terms. Her desire to look beyond truth and goodness in order to develop a model of political judgment was driven by such skepticism and suspicion. Her engagement with thinking in LM and “Thinking and Moral Considerations” was marked by a similar suspicion. Arendt evinced her desire to distance thinking from *philosophical* thinking in her invocation of Cato, a political actor and not a thinker, who supposedly said, “never is a man more active than when he does nothing, never is he less alone than when he is by himself,” a quote that Arendt used as an epigraph to the first volume of LM.

Arendt’s argumentative strategy in “Thinking and Moral Considerations” was straightforward. In EJ, she had claimed that Eichmann’s crucial failing was the fact that he was thoughtless. Her diagnosis of Eichmann’s thoughtlessness had implied that had he been thoughtful, he could have avoided becoming complicit in genocide, but she did not clearly explain why this was the case in EJ. Clearly, if Arendt was *entitled* and *justified* in her use of the “banality of evil” to describe Adolf Eichmann, she needed to offer an account of thinking that could plausibly suggest that thinking would have been a sufficient condition for Eichmann to act

²²⁷ LM, 6

other than he had. Arendt's first important move in this direction was to distance thinking from philosophical thinking.

Arendt defined philosophical thinking narrowly, writing that it, "aims at and ends in contemplation, and contemplation is not an activity but a passivity; it is the point where mental activity comes to rest."²²⁸ In Arendt's view philosophical thought was a receptivity towards eternal truth(s). Obviously, such a definition of philosophical thinking is quite narrow and inaccurate for a great many thinkers in the history of Western philosophy. Calling Arendt's definition of philosophical thinking into question is beyond the scope of my purposes in this project. However, I do think it is helpful to keep in mind Arendt's reasons for adopting such a narrow account of philosophical thought. One reason was that her analysis of Eichmann in EJ had painted him as all-too-passive in the face of the pressure to coordinate himself to the demands of those who surrounded him.

Another reason was Arendt's belief that philosophy was becoming an increasingly irrelevant component in modern life. In "Thinking and Moral Considerations," she remarked that the questions with which she was concerned "belong to philosophy or metaphysics, terms that designate a field of inquiry which, as we all know, has fallen into disrepute."²²⁹ In other words, Arendt thought that philosophy had died out as an activity that gave meaning to human life, and was limited to historical scholarship on particular philosophers, which was obviously not the same as engaging in philosophical thinking. In LM and "Thinking and Moral Consideration," Arendt stated that philosophical thinking presupposed a world-view in which there were such

²²⁸ LM, 6

²²⁹ R, 161

things as eternal truths graspable by reason, as opposed to truths that required experimentation and manipulation in order to access.²³⁰

Thus, a major part of Arendt's rejection of philosophical accounts of thinking was her desire to cast it as an *activity* rather than a *receptivity*. Insofar as traditional philosophical contemplation was (she believed) fundamentally passive, she believed it was in her interest to jettison such accounts and develop her own. However, we must keep in mind her goal in "Thinking and Moral Considerations." She wished to argue that thinking was morally relevant in that it could have prevented Eichmann from becoming complicit in state-sponsored genocide. In rejecting philosophical accounts of thinking, Arendt also discarded the doctrinaire elements of philosophical systems of that; elements that, after all, contained detailed moral arguments and ethical systems to guide practical life. Arendt needed to give an account of thinking that highlighted its moral relevance, while explicitly rejecting all traditional moral and ethical theory. Adolf Eichmann was not a philosopher, and insofar as Arendt wished to blame him for failing to think, she obviously did not wish to say that he failed to exercise or understand any specific method of thinking (such as deontological thinking or utilitarian thinking etc.).

Thus, in "Thinking and Moral Considerations" Arendt presented thinking as something that anybody could do and that had no doctrinaire elements whatsoever. As she put it, if the connection she wished to draw between moral life and thinking existed, "then the faculty of thinking, as distinguished from the thirst for knowledge, must be ascribed to everybody; it cannot be a privilege of the few."²³¹ At bottom, Arendt needed an account of thinking that met three

²³⁰ I shall not develop this point further here. See, however, HC 248-325, where Arendt develops a detailed argument to this effect

²³¹ R, 166

conditions. First, that anybody could exercise it, regardless of education or material circumstances. Second, she needed her account of thinking to be able to undermine social *mores* and obligations as sufficient conditions for action. This second condition followed from her analysis of Adolf Eichmann. Third, that thinking not be dependent upon any particular characteristic or talent that was not universally distributed among human beings. Arendt also needed her account of thinking that could fulfill these three conditions in the absence of any moral/ethical framework in which any notion of ‘the good’ or ‘human flourishing’ was theoretically specified. In other words, whatever Arendt’s thinking would be, its moral relevance would not come from the ability of thinking to generate practical syllogisms.

I now turn to Arendt’s argument in “Thinking and Moral Considerations.” Thus far in this chapter, I have demonstrated that Arendt considered this essay to be a deduction of a judgment. However, recognizing that “Thinking and Moral Considerations” is a deduction in the style of Kant’s critical philosophy is only the first step towards understanding its significance to Arendt’s engagement with the question of political judgment. Clearly, “Thinking and Moral Considerations” is successful as a deduction *only if* it secured Arendt’s right to the use of her concept of the banality of evil to describe Adolf Eichmann’s motivations in committing state-sponsored genocide. In order to appreciate why Arendt believed her use of the banality of evil to be justified, we must turn to a detailed examination of the main argument in “Thinking and Moral Considerations.” I now turn to this task. I shall examine “Thinking and Moral Considerations” in two parts, each corresponding to one of the two accounts of thinking Arendt provided therein.

Argument 1

In “Thinking and Moral Considerations” Arendt offered two models of thinking. Each of these models were similar in that Arendt’s considered them to be capable of overriding social mores and obligations as sufficient conditions to act. In “Thinking and Moral Considerations,” Arendt’s only concern was to argue that thinking *could* (but of course, need not always) override what others expect us to do. She needed to make this argument because in EJ she claimed that the only significant reason why Eichmann committed war crimes was because he didn’t think about what he was doing.

Both models of thinking were Socratic in the sense that Arendt used Plato’s dialogues as their basis. The first appeared in the second section of the essay²³², and the second account of thinking appeared in the third and final section.²³³ Here, I shall focus on the first argument. As we shall see, this first model of thinking met the second condition that I listed above, but not the first. In other words, although Arendt’s first model of thinking was able to undermine the ability of tradition(s) and *mores* to determine human action, it also presupposed resources not universally distributed among human beings. Even though Arendt rejected this model of thinking, the reasons for her rejection of it are important to keep in mind and inform the way in which she would outline thinking in the following section of the text.

Arendt built her first model of thinking around the *aporia* that resulted from many of Plato’s so-called early dialogues, which she believed came closest to representing the historical Socrates. In LM, she wrote that in the later dialogues, “Plato used Socrates [as] the spokesman

²³² R, 168-180

²³³ R, 180-189

for theories and doctrines that were entirely un-Socratic.”²³⁴ Against those dialogues in which Socrates had some commitment about the nature of things or some doctrine to teach his interlocutors, the dialogues Arendt had in mind in building her first model of thinking in “Thinking and Moral Considerations” were those in which no theoretical questions were answered. She wrote

[In Plato’s early dialogues] none of the *logoi*, the arguments, ever stays put; they move about, because Socrates, asking questions to which he does *not* know the answers, sets them in motion. And once the statements have come full circle, it is usually Socrates who cheerfully proposes to start all over again and inquire what justice or piety or knowledge or happiness are.²³⁵

Arendt’s attraction to Plato’s early dialogues makes sense. Recall the first condition that Arendt’s account of thinking in “Thinking and Moral Considerations” needed to meet – thinking needed to be an activity that *anyone* could reasonably exercise. She did not want her account of thinking to presuppose any specific commitments about the nature of reality or the ability to understand and assent to certain abstract theoretical propositions. The ironic ignorance of the early Socrates was an excellent model for the sort of thinking that could be expected of anybody. If the sort of thinking that Eichmann had failed to do presupposed access to truths about reality or to a theoretical framework within which to think, then obviously he was not blameworthy if he never had access to these truths.

Here, I will emphasize the way this first model of thinking type of thinking could plausibly prevent Eichmann from obeying his orders *just because* they were orders that he received. In Richard Bernstein’s words, Arendt was worried about thoughtlessness because of

²³⁴ LM, 168

²³⁵ R, 171

the, “ease with which habits, customs, and mores could be transformed.”²³⁶ In other words, I shall emphasize the way in which Arendt’s first account of thinking in “Thinking and Moral Considerations” could prevent social/political conditions from being sufficient conditions for practical action. Then, I shall discuss the reasons why Arendt rejected model of thinking in “Thinking and Moral Considerations.”

In his work, Dana Villa has discussed the first account of thinking we find in “Thinking and Moral Considerations.” He writes that it involved, “dissolving prejudices [...] “critical thinking” – as performed publicly in Socratic dialectic.”²³⁷ What Arendt’s first model of thinking was about was coming to know that one did not know what one previously thought one did know. In terms of Arendt’s concern with justifying her use of the banality of evil vis-à-vis Adolf Eichmann, Arendt described her first model of thinking as attacking practical categories that are deployed socially or politically in order to motivate collective action. What did the thoughtful individual come to know in terms of this first model of thinking? She possessed a deeper insight into the fact that what the community or collective of which she was a part believed was just or right was not necessarily so. *Just because* there existed a social, political, or military obligation to perform an action was not a sufficient condition to perform that action.

I shall discuss an example Arendt gave of the sort of thinking she had in mind. But first, I want to emphasize the directionality of this mode of thinking. The directionality of this mode of

²³⁶ Bernstein, “Arendt on Thinking,” 284

²³⁷ Villa, “Thinking and Judging,” 23. While Dana Villa is no doubt correct in this description, it is nonetheless somewhat incomplete insofar as he intended it to represent Arendt’s preferred account of thinking in “Thinking and Moral Considerations. Villa’s remarks on thinking gloss over the fact that Arendt did *not* wish to hold Eichmann accountable for failing to dissolve his own prejudices. In fact, Arendt’s analysis in EJ is focused on the degree to which Eichmann did not hold and was therefore not motivated to act by the prejudices that were typical of Nazi war criminals.

thinking is important to observe, because as we shall see, its directionality is sharply contrasted with that of the second. By ‘directionality,’ I mean simply that the first model of thinking in “Thinking and Moral Considerations” was directed to something outside of the self.²³⁸

Obviously, what Arendt had in mind was critical engagement with categories such as ‘justice,’ etc., but she indicated that this mode of thinking could engage with even the simplest concepts.

In an important passage, Arendt described this mode of thinking in reference to a simple universal (the concept of ‘house’). She wrote

The word ‘house,’ Solon’s ‘unseen measure,’ ‘holds the limits of all things’ pertaining to dwelling; it is a word that could not exist unless one presupposes thinking about being housed, dwelling, having a home. As a word, ‘house’ is shorthand for all these things, the kind of shorthand without which thinking and its characteristic swiftness – ‘swift as a thought’ as Homer used to say – would not be possible at all. *The word ‘house’ is something like a frozen thought which thinking must unfreeze*, defrost as it were, whenever it wants to find out its original meaning [...] In any event, this kind of pondering reflection does not produce definitions and in this sense is entirely without results; it might however be the case that those who, for whatever reason, have pondered the meaning of the word ‘house’ will make their apartments look a bit better – thought not

²³⁸ Commentators on Arendt’s later account of thinking tend to gloss over significant differences in the two modes of thought that we find in “Thinking and Moral Considerations.” In his rich article, “Arendt on Thinking,” Richard Bernstein’s description of Arendt’s post-*EJ* account of thinking includes characteristics of both of models of thought found in “Thinking and Moral Considerations.” See Bernstein’s focus on both thinking as critique of universal concepts on pg. 280 of *The Cambridge Companion to Hannah Arendt* and his emphasis on the Socratic injunction against self-contradiction on the following page. It is certainly true that Arendt discusses Socrates’ in both of these contexts, however Bernstein’s analysis minimalizes the fact that these characteristics belonged to different models of thinking and that Arendt rejected one and accepted the other. In my analysis, I wish to highlight the reasons *why* Arendt favored the one model over the other.

necessarily so and certainly not without being conscious of anything so verifiable as cause and effect.²³⁹

In this passage, Arendt described several important facets of her first model of thinking. I shall discuss these as they apply to the example at hand (house), then show how this example is easily applied to practical categories, and then how its application to practical categories could undermine the power of social expectations to determine human behavior.

First, Arendt stated that the more we think about universal concepts in the absence of particular instances of them, the less we understand what these concepts mean. This *aporia* tended to undermine the *self-evidence* with which we must treat these concepts in practical life, when we must act rather than think. Hence, in her example, thinking about the concept ‘house’ does not make the universal concept any clearer to us – the result “does not produce definition and in this sense is entirely without results,” in her words. The only ‘outcome’ of this sort of thinking that Arendt was interested in discussing was a general awareness that the historical meaning of a certain category (house) that we use to guide us in practical life is rarely equivalent to its ideal meaning. In other words, this model of thinking drove a wedge between the specific way a community defined the meaning of any given practical category and the illusive content enshrined in the word itself. In what follows, I shall call this the ‘critical insight’ of this form of thinking.

Second, Arendt claimed that the critical insight of thought *was* capable of practically affecting the decisions we would ordinarily make by way of the category ‘house.’ That is, the critical insight of thinking vis-à-vis the concept ‘house’ need not paralyze us into inaction; instead, it *could* (but of course, need not) cause us to act differently than we otherwise would.

²³⁹ R,172

Later in the essay, Arendt returned to her example of ‘house,’ describing specifically how the critical insight of thinking could result in acting differently, and in the absence of a clear-cut practical syllogism. She wrote

to use once more the example of the frozen thought inherent in the world ‘house,’ once you have thought about its implied meaning – dwelling, having a home, being housed – you are no longer likely to accept for your own home whatever the fashion of the time may prescribe; but this by no means guarantees that you will be able to come up with an acceptable solution for your own housing problems.²⁴⁰

In her view, the critical insight of thinking could serve as an impetus to act in the absence of self-evident categories by which to guide our action. The first model of thinking was liberatory in that it freed us to act without clear rules for doing so.

Now, that I have gone over the basics of Arendt’s first model of thinking in “Thinking in Moral Considerations,” I return to the three conditions that this model of thinking needed to meet in order to justify Arendt’s use of the banality of evil. The first model model of thinking fits at least two of the three conditions that I mentioned above. First, this model of thinking does not seem to presuppose any technical knowledge or proficiency in order to carry out. Anyone, it seems, is capable of comparing the content of a concept with the way the particular community in which they live chooses to understand that category. To return to the practical categories with which Arendt was much more interested, it would seem that had Eichmann thought about, say, the category ‘duty,’ and compared what was implied in the meaning of the word with the way in which his community was defining it, he would have been less likely to have accepted the latter so easily and readily. Second, the first model of thinking could produce less reliance on custom

²⁴⁰ R, 176

and tradition in terms of practical action. In my view, had Eichmann been freed by the critical insight of thinking to act in the absence of self-evident external rules and obligations, he really would have been less likely to coordinate himself to the expectations that those around him had. Arendt believed that in times of crisis, the rules and mores that codified common sense morality could be perverted, sometimes even codifying the opposite of common sense morality. Arendt described totalitarian regimes in precisely such terms. But had Eichmann engaged in the first model of thinking, he could probably have been less reliant on rules on mores.

So far, the first model of thinking in “Thinking and Moral Considerations” fits two out of the three conditions I listed above. However, Arendt did not believe that this account of thinking could meet the third condition: that anybody could be expected to do it. In “Thinking and Moral Considerations,” Arendt warned that for all its benefits the critical insight of thinking could produce a highly dangerous result: nihilism. This danger, she thought, was underscored in Socrates’ pupils that were not, “content with being taught how to think without being taught a doctrine, and they changed the nonresults of the Socratic thinking examination into negative results.”²⁴¹ In other words, the critical insight of thinking carried with it the danger that one could simply reject objective standards of behavior outright – and therein commit evil out of a nihilistic rejection of any meaningful yardstick against which to measure practical life. The critical insight of thinking *was* capable of producing individuals that were less likely to act in a certain way *just because* society expected them to. However, individuals who do not or will not conform can also be quite dangerous, particularly in times of crisis. For this reason, Arendt pointed out that this model of thinking actually presupposed a special characteristic that not everybody possessed –

²⁴¹ R, 177

erōs, which she described as, “a kind of love which is primarily a need [for] lovable things – beauty, wisdom, justice, etc.”²⁴² This meant, however, that only individuals with a love of wisdom could withstand the critical insight of thinking without succumbing to nihilism.

Argument 2

In my examination of Arendt’s first model of thinking in “Thinking and Moral Considerations” above, I explained Arendt rejected thinking as a critique of concepts and categories. This model, on other words, was not the account of thinking Arendt believed would justify her use of ‘the banality of evil.’ To be sure, the first model of thinking was no doubt valuable, but it was also dangerous in that it undermined faith in the world as it is given to us by our communities. In the concluding section of “Thinking and Moral Considerations,” Arendt offered another account of thinking – one that she thought fit the three criteria that her analysis of Eichmann’s thoughtlessness had implied. That is, Arendt believed that only the second model of thinking she offered in “Thinking and Moral Considerations” could be reasonably expected of every human being, required no special characteristics or knowledge in order to perform, and could plausibly result in a decreased tendency to succumb to the conformity inherent in mass society.

In discussing the first model of thinking, I hinted that one the most important differences to observe between the two accounts of thinking is their directionality. There, I pointed out that the first model of thinking aimed at something other than the self: namely universal categories as they are defined by the communities and organizations of which we are a part. The only ‘result’

²⁴² R, 178

of the first model of thinking was the discovery that the way any given community defined words like ‘justice’ did not live up to the ideal content of the standard. This ‘critical insight,’ as I have called it, could produce a decreased tendency to go along with the way in which everyone else defined justice by requiring people to act in the absence of self-evident rules for action. But one of two things could result from the first model of thinking. An individual could exhibit reduced tendency to comply with external obligations *just because* they were external obligations. In such a case Eichmann could have plausibly refused to carry out what his community defined as ‘duty’ just because it was a duty. But in Arendt’s view the critical insight of thinking was also dangerous in that it could produce a cynical rejection of any possible standards for action. For this reason, Arendt believed that her first account of thinking relied upon a desire for wisdom that could not be predicated to everyone.

Unlike the first account of thinking, the closing section of “Thinking and Moral Considerations” contains an account of thinking that is steadfastly self-centered. By the term ‘self-centered,’ I intend to describe the fact that the second model of thinking was a sort of self-care. This model of thinking was self-centered in that ‘the self’ was always the subject of this thought. The directionality of the second model of thinking was opposite that of the first. Whereas the first model of thinking criticized the nature of external obligations and pressures, the second took the self as object of criticism. Arendt described this form of thinking as a way of living with oneself. In her work, Seyla Benhabib has rightly pointed out that, “Arendt emphasized *harmony* as the morally relevant experience [...]”²⁴³ And indeed, in what follows we

²⁴³ Benhabib, *The Reluctant Modernism of Hannah Arendt*, 190. In her writings, Benhabib has taken issue with Arendt’s conception of moral experience, arguing that it is too narrow, writing on pg. 193 that, “Arendt’s skepticism 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

shall see that Arendt's favored model of thinking was all about achieving and maintaining a sort of harmony through difference within the thinking self. In describing this model of thinking, I shall emphasize two important points. First, I shall discuss the notion of difference that Arendt built into this model of thinking and shall emphasize the fact that it seems to entail a sort of 'inner plurality.'²⁴⁴ Second, I shall discuss how, precisely, Arendt intended this model of thinking to be morally relevant. That is, I shall outline how this model of thinking met all three of the conditions Arendt needed it to meet.

Arendt's main argument in discussing her second model of thinking in "Thinking and Moral Considerations" was to outline a model of thinking that established a relationship to the self that could take precedence over one's relationship to others or to one's community. In other words, thinking established an internal obligation that *could* (but of course, need not) outweigh external obligation(s). Her argumentative strategy was fundamentally different from the one that I outlined in the previous section. There, we saw that the first model of thinking entailed a *loss* of confidence in the practical standards used by communities to regulate human social and political life. The danger of that model of thinking, we also saw, was that it required human beings to operate in the absence of reliable external standards by which to act. However, Arendt did not believe that all human beings would be able to weather the destruction of seemingly self-evident

rights and dignity, leads to a normative lacuna in her thought." While Arendt certainly *does* give a narrow definition to what constitutes 'moral experience,' it is simply not the case that Arendt thought that her skepticism of morality entailed a normative lacuna. In the last chapter, I demonstrated how it was, precisely, that Arendt thought that reflective political judgment was characterized by a *non-epistemological, non-moral* validity. In arguing that Arendt's emphasis on moral experience as a sort of harmony with oneself is too narrow, Benhabib commits a category mistake, of sorts. The sort of moral experience for which Benhabib argues is actually what Arendt would call political experience, insofar as it transcends the self.

²⁴⁴ For the role of "inner plurality" implied in Arendt's post-*EJ* account of thinking, I am indebted to Daniel Conway's analysis. Here, I follow Conway, "Banality, Again," 77-81

standards and subsist on the love of wisdom alone. Thus, Arendt's favored model of thinking was one in which thinking established an internal standard of action that could replace external – and possibly pernicious – standards of action. In her view, the establishment of a countervailing (and hopefully stronger) internal obligation eliminated the danger of nihilism inherent in Socratic dialectic.

In order to locate an internal obligation of sufficient significance to outweigh external obligations, Arendt offered an account of thinking that she grounded in two sayings from Plato's *Gorgias*. The first was, "It is better to be wronged than to do wrong."²⁴⁵ The second was, "It would be better for me that my lyre or a chorus I directed should be out of tune and loud with discord, and that multitudes of men should disagree with me rather than that I, *being one*, should be out of harmony with myself and contradict *me*."²⁴⁶ Arendt believed that these sayings of Socrates were not theoretical (philosophical) propositions, but rather, "insights, to be sure, but insights of experience."²⁴⁷ Arendt believed that the second saying was of the utmost importance in that it implied an account of thinking that entailed the actualization of something like an inner plurality.²⁴⁸ As Dana Villa has put it, the account of thinking that Arendt introduced in "Thinking

²⁴⁵ R, 181

²⁴⁶ R, 181

²⁴⁷ R, 182

²⁴⁸ Benhabib's critique of Arendt's account of judgment as lacking a robust normative foundation (and Benhabib's turn to moral experience in order to re-construct just such a foundation) is premised upon the fact that Benhabib overlooks the degree to which plurality is not just an outer condition, but is also an inner condition that is actualized in thinking. Benhabib's critique of Arendt's notion of moral experience as a sort of harmony glosses over the fact that this "harmony" is in fact a harmony that is forged out of the experience of an element of difference in the self (viz., a form of inner plurality). Benhabib's criticism that, "if the basis of the validity of our moral judgments is that they allow us "to be at home with ourselves," [implies] making [moral] validity a matter of idiosyncrasies of the individual psyche" is founded on the fact that she overlooks the fact that moral validity is, in fact, based on an experience of plurality within the self. See Seyla Benhabib, "Judgment and the Moral Foundations of Politics

and Moral Considerations,” “has the effect of introducing a kind of plurality into the self. This plurality lies at the root of conscience itself, enabling it to be something more than the simple internalization of social or creedal norms.”²⁴⁹ Thus, what Villa, Conway, and others have aptly called a kind of “inner plurality” is the guarantor of an internal obligation. In Arendt’s view, the fact that thinking set up such an obligation to the self is the mechanism that allowed moral life to be more than just rule following. And unlike the first model of thinking, the second has the additional benefit of not stripping moral agents of all obligations by which to guide them in acting.

The first element of this model of thinking I will discuss is Arendt’s argument that thinking implied an *activity* between two different elements in the thinking ego. She believed that the ability to contradict one’s self implied in the second proposition she highlighted from Plato’s *Gorgias* that the self was not, in fact, a unitary ego. She pointed out that, “nothing that is identical with itself, truly and absolutely *one* like A is A, can be either in or out of harmony with itself; you always need two tones to produce a harmonious sound.”²⁵⁰ Thus, the thinking experience involved the actualization of difference within the self. Arendt explicitly associated the actualization of this difference with her concept of plurality, writing that,

Human consciousness suggests that difference and otherness, which are such outstanding characteristics of the world of appearances as it is given to man as his habitat among a plurality of things, are the very conditions for the existence of man’s ego as well. For this ego, the I-am-I, experiences difference in identity precisely when it is not related to the things that appear but only to itself. Without

in Hannah Arendt’s Thought,” in *Judgment, Imagination, and Politics*, ed. Ronald Beiner and Jennifer Nedelsky (New York: Rowman & Littlefield, 2001): 183-205. See also Benhabib, *The Reluctant Modernism of Hannah Arendt*, 191.

²⁴⁹ Villa, “The Development of Arendt’s Political Thought,” 18

²⁵⁰ R, 183

this original split, which Plato later used in his definition of thinking as the soundless dialogue between me and myself, the two-in-one, which Socrates presupposes in his statement about harmony with myself, would not be possible.²⁵¹

Thinking, as it appeared in the final section of “Thinking and Moral Considerations,” is an essentially dialogical exercise in which an element of difference in the self is actualized, and a dialogue takes place. The directionality of this mode of thinking is important to emphasize because it did not point beyond self. The second model of thinking was something that was fundamentally self-centered, in the sense that the proper subject of this form of thinking was, according to Arendt, “what we say and what we do.”²⁵² Whereas the previous model of thinking was one in which thought targeted something other than the self (viz., concepts and categories), the form of thinking with which “Thinking and Moral Considerations” concluded was one in which thought interrogated the ego about its speech and action.

Arendt believed that the activation of inner plurality set up a *new* obligation to the self, an obligation that would not exist for the individual who did not think. On Arendt’s account, the moral relevance of thinking was the result of the fact that this new obligation *could* (but of course, need not necessarily) outweigh the duty to others, the community, and other institutions or associations. Arendt’s claim was that the relationship to the self was of sufficient importance to influence one to act to preserve this relationship, even at the expense of our relationship to the external world. In her words, “two-in-one meant simply that if you want to think you must see to it that the two who carry on the thinking dialogue be in good shape, that the partners be

²⁵¹ R, 184

²⁵² R, 187

friends.”²⁵³ The crux of Arendt’s argument in constructing the second model of thinking was that the relationship that inner plurality activated was of the sort that must be maintained and nurtured, once established. Violating the relationship would result in its termination. It followed, then, in Arendt’s view, that insofar as an individual wished to continue the (thinking) relationship, she ought to be motivated to *act* to do so. Thus, the thoughtful individual would be motivated to choose the relationship that she had to herself over the relationship she had with others.

Before I continue, I believe it worth noting that Eichmann’s thoughtlessness did not imply that he lacked an inner life. Arendt did not wish to claim in EJ (or any of her writings) that his thoughtlessness meant he lacked what he would have considered to be a meaningful existence. Daniel Conway has helpfully drawn attention to this aspect of Arendt’s diagnosis. Conway argues that what Eichmann lacked (in Arendt’s view, of course) was not interiority *per se*, but a specific sort of interiority – the sort of interiority that *would have* provided him with sufficient practical reasons for not becoming complicit in state-sponsored genocide. Conway writes

When Eichmann engaged in (what passed for him as) introspection, or so Arendt suspected, he encountered nothing other than the familiar clockwork of his duty-bound conscience. He was able to engage (formally) in self-reflection, but not in what we might call *self-contestation*.²⁵⁴

In my view, we ought not assume that Arendt’s analysis of Eichmann was such that he lacked all interiority, but that he did not tend to examine what he said and what he did in such a way that his words and deeds ever appeared problematic. Arendt’s (and Conway’s) point is that the

²⁵³ R, 185

²⁵⁴ Conway, “Banality, Again,” 79

importance of thinking is its ability to establish a sufficient practical reason for *transgressing* what may appear (in dark times) as duty to others or to one's community or to an institution or association to which one belongs. In the following chapters, I shall return to the topic of Adolf Eichmann and interiority. As we shall see, Eichmann and interiority occupies a special (if underappreciated) place in EJ. I shall examine this fascinating topic in depth in the sixth and final chapter of this project.

For now, there are two important aspects of the 'thinking obligation' established by inner plurality that I want to emphasize. Together, these two points explain neatly the way the activity of thinking generated both a new relationship *and* sufficient motivation to preserve it at the expense of other, external relationships and obligations. First, Arendt conceived of this obligation as constitutive of a kind of conscience. This much makes good sense; if Arendt wanted her account of thinking to be capable of regulating human behavior in any meaningful way, then obviously it needed to issue some sort of practical command or imperative. However, Arendt was careful to distance her notion of "conscience" from the traditional notion of conscience as generating positive practical imperatives. "This conscience," Arendt wrote, "unlike the voice of God within us or the *lumen natural*, gives no positive prescriptions."²⁵⁵ If thinking carried with it an obligation to only act in such a way that can foster future thought, then this obligation was primarily negative insofar as it only ruled out actions that would terminate the relationship to the self established by inner plurality. However, Arendt was careful to specify that the obligation never prescribed any particular act. In other words, the activity of thinking established a primarily proscriptive faculty within us, and never a prescriptive faculty. Her

²⁵⁵ R, 187

argument clearly indicates that the purely negative function of conscience was a direct result of the fact that the only goal purpose of this conscience is to preserve a relationship to the self.

These facets of Arendt's account of thinking should not be surprising. In other chapters of this project, I have emphasized Arendt's commitment to the fact that moral judgment was not (primarily) other-directed. One may tentatively say it was egoistic, with the caveat that 'egoism' here does not mean what is beneficial to the self in an instrumental or material sense. When morality was not the following of *mores*, Arendt conceived of it as based on the axiom that the (thinking) relationship to the self was more important than the relationship to other persons or to the community in which we live. I wish to underscore that the primarily self-centered nature of Arendtian morality *does not* necessitate that moral action does not affect or is not at all concerned with one's relationship to others. After all, Arendt was interested in offering an account of morality such that Eichmann would have been able to *refuse* to organize trains to death camps and concentration camps. However, in my view we must recognize that the argument Arendt offered was one in which the desire to maintain a relationship with oneself mediated one's actions towards others. Properly speaking, the motivation that this model of thinking offered was self-care.

Second, Arendt believed this obligation was an internal standard that was capable of *replacing or overriding* external standards of action while simultaneously eliding the threat of nihilism or relativism. This is an important point; for it was the threat of nihilism that caused Arendt to reject the model of thinking found in the second section of "Thinking and Moral Considerations." At the end of the essay, we find Arendt still affirming the dangerous tendency of thinking to throw into question the standards according to which we act. Thinking, Arendt wrote, "does not create values, it will not find out, once and for all, what 'the good' is, and it

does not confirm but rather dissolves accepted rules of conduct.”²⁵⁶ This much was true of the account of thinking that she rejected earlier in “Thinking and Moral Considerations.” However, the crucial difference between the two models of thinking found in “Thinking and Moral Considerations” is the fact that second was able to establish an objective standard of action even in the absence of relevant or helpful external standards.

At this point, I hope it is clear that the second model of thinking met all three of the conditions Arendt needed to meet in order to justify her use of the banality of evil to describe Adolf Eichmann in EJ. Recall the three conditions were: (i) that thinking be an unspecialized, non-technical activity that could reasonably be expected of any member of society, (ii) that thinking be able to plausibly undermine external standards and obligations and sufficient conditions for action, and (iii) that the ability to exercise thinking depended only on universally distributed characteristics. The second model of thinking clearly met (i) insofar as the critical examination of what we say and what we do does not presuppose proficiency in any technical skill that must be thought. (ii) is met insofar as individuals who examine critically examine their speech and action would be more likely not to simply coordinate themselves to others’ expectations. Such individuals might resist coordinating themselves with problematic expectations because the practice regular self-criticism requires that they answer to a countervailing (and hopefully more important) relationship to themselves. Finally, (iii) is met because the conditions for exercising this model of thinking seem to be equivalent to the capacity to speak and to act. Anyone who could be put in the position of coordinating with immoral or evil expectations would, by definition, be capable of this sort of thinking.

²⁵⁶ R, 188

To end my discussion of “Thinking and Moral Considerations,” I want to draw attention to a passage in which Arendt’s invokes the faculty of judgment in its final pages. In my view, we must resist the temptation to conclude that Arendt was talking about judgment in its *reflective* capacity in “Thinking and Moral Considerations.” My reasons for this position should be clear. In this chapter and the three previous chapters I have insisted that we take seriously Arendt’s belief that political judgment and moral judgment are distinct on a structural level. In her view, moral judgment is self-directed and political judgment is other direct. In the final pages of “Thinking and Moral Considerations,” Arendt discussed the destructive tendency of thinking in terms of its relation to the faculty of judgment. She wrote

[Thinking] has a liberating effect on another human faculty, the faculty of judgment, which one may call, with some justification, the most political of man’s mental abilities. It is the faculty to judge *particulars* without subsuming them under those general rules which can be taught and learned until they grow into habits that can be replaced by other habits and rules. The faculty of judging particulars (as Kant discovered it), the ability to say, ‘this is wrong,’ ‘this is beautiful,’ etc. is not the same as the faculty of thinking.²⁵⁷

We must keep in mind the strict distinction Arendt wished to draw between politics and morality in all phases of her authorship. In this passage, she mentions two *forms* of judgment, both of which, she tells us, proceed in the absence of relevant standards or concepts: aesthetic judgment and moral judgment. Moral and reflective (aesthetic) judgment thus have one thing in common – both are able to function in the absence of pre-established standards or patterns according to which judgment may proceed. However, that both of these forms of judgment *can* proceed in the absence of universal standards does not make them equivalent to one another. We have already

²⁵⁷ R, 188

seen that Arendt believed that politics was best understood by way of an aesthetic model of judgment. However, this was not the case with morality or moral judgment.

But doesn't the fact that Arendt introduced an inner plurality that characterized moral judgment indicate that Arendt may have been willing to blur the line between moral and political? After all, Arendt did think that, "politics is based on the fact of human plurality."²⁵⁸ Insofar as Arendt offered an account of moral judgment that was also based on human plurality, it is certainly tempting to suggest that Arendt was offering an account of moral/political judgment. In closing, I wish to warn against such a misreading. Although Arendt certainly did ground her account of the moral relevance of thinking in a notion of plurality, this is not sufficient to make moral judgment political. Inner plurality notwithstanding, Arendt's understanding of moral judgment in "Thinking and Moral Considerations" does not escape the self. Arendt believed that political judgment *must* of necessity be grounded in the care for something outside the self – the state of the common world.

Section Two: The Scholem-Arendt Exchange

As with much of the primary sources I am discussing in this chapter, Arendt's brief exchange with Gershom Scholem on the banality of evil has been the subject of scholarly commentary, but its importance to the development of Arendt's account of political judgment has been overlooked. In *The Cambridge Companion to Hannah Arendt*, Scholem is only mentioned once. There, in Seyla Benhabib's analysis of Eichmann's trial she writes, "Gershom Scholem's cruel phrase that Arendt lacked "Ahabath Israel" (love of the Jewish people)"²⁵⁹ embodies the

²⁵⁸ p, 93

²⁵⁹ Benhabib, "Arendt's *Eichmann in Jerusalem*," 65

enduringly controversial nature of her analysis of Adolf Eichmann. However, Benhabib downplays the importance of banality of evil in her piece. Maurizio Passerin D'Entrèves does not mention the correspondence in his introduction to Arendt's theory of judgment.²⁶⁰ In fact, reference to the epistolary exchange is all but absent from scholarly literature that seeks to explicate Arendt's account of judgment.²⁶¹

The only exception to this trend in the literature of which I am aware is Dana Villa's excellent analysis of Arendt's thought in *Politics, Philosophy, Terror: Essays on the Thought of Hannah Arendt*. In the chapter entitled "Conscience, Banality of Evil," he mentions Arendt's debate with Scholem at some length, even going so far as to suggest that Arendt's thesis about the banality of evil was a product of reflective judgment. Villa writes

failed to clarify sufficiently not only how the concept of the "banality of evil" was rooted in the particularity of Eichmann, but also what led her to generalize this notion – not with regard to the motivations of the perpetrators, but in her philosophical reflections on the nature of evil. As a result, her critics failed to grasp the distinction between the "banality of evil" considered as a *reflective judgment* and as a *philosophical thesis*.²⁶²

²⁶⁰ D'Entrèves, "Arendt's Theory of Judgment," 245-260

²⁶¹ *Power, Judgment, and Political Evil*, ed. Andrew Schaap, Danielle Celermajer, and Vrasidas Karalis (Burlington: Ashgate Publishing Company, 2010), 109 contains one mention of Scholem, but not in the context of his exchange with Arendt.

²⁶² Dana Villa, *Politics, Philosophy, Terror: Essays on the Thought of Hannah Arendt* (Princeton: Princeton University Press, 1999), 58. Henceforth, *Politics, Philosophy, Terror*. One of the most interesting aspects of Villa's analysis that he does not explore is that Arendt may not have made it sufficiently clear that she had judged Eichmann reflectively because, in so doing, she had effectively discovered through praxis (and not theory) an alternate mode or form of reflective judgment: that of the spectator. It seems likely to me that the fact that Arendt did not adequately call attention to this fact indicates that Arendt was still working through the theoretical consequences of her experience of so judging Adolf Eichmann. If this is the case, then the theoretical elaboration that Villa rightly points out is missing would be found in LKPP and in the first volume of LM. I shall defend this thesis in depth in the following two chapters of this dissertation.

Unfortunately, Villa makes this remark in passing at the end of his analysis and does not develop it further. In what follows in this chapter, I intend to build off of Dana Villa's recognition that EJ contains, among other things, an *exercise* of reflective judgment. Indeed, this claim is central to the thesis I am defending in this project. In this section, I shall examine the Arendt-Scholem epistolary exchange. Specifically, I argue that in defending herself against Scholem's criticisms, Arendt appeared to structure her defense according to the standards for disinterested aesthetic judgments of taste, as Kant had specified them in the *Critique of Judgment*. If I am successful, then I will establish the second goal of this chapter – that many of Arendt's writings in which she defended her notion of the banality of evil (writings such as “Thinking and Moral Considerations” and her letters to Scholem) suggest that she understood herself to be offering a deduction of a *reflective* judgment. In the previous section of this chapter, I have demonstrated that Arendt considered her essay “Thinking and Moral Consideration” to be a deduction, but I still need to answer the question as to *what kind* of deduction. Here, I shall argue that, given the nature of her defense against many of Scholem's criticisms, she understood herself to be defending a reflective judgment.

In mid-1963, Gershom Scholem was sharply critical in print of many of the positions that Arendt had taken in EJ. In January 1964, *Encounter* published Scholem's initial letter as well as Arendt's response to it.²⁶³ While my emphasis shall be on the content of Arendt's response to Scholem's critique, it is important to understand the basics of Scholem's position so that we can fully appreciate the nature of Arendt's response. Specifically, I shall emphasize the dimensions

²⁶³ All references to Scholem's initial letter to Arendt are made to Gershom Scholem, “Eichmann in Jerusalem” An Exchange of Letters between Gershom Scholem and Hannah Arendt, *Encounter* XXII January 1964, 51-56. Henceforth, “An Exchange of Letters.” For Arendt's response, I reference J.

of the debate between the two thinkers as they relate to the question of judgment. In doing so, I shall rely on the incisive analysis of Shira Kupfer and Asaf Turgeman.²⁶⁴ I follow them in their insistence that the concept of *Ahavat Israel*, “epitomiz[es] the correspondence between the [Scholem and Arendt], as well as capturing the ‘collective bitterness’ of the entire *Eichmann in Jerusalem* polemic.”²⁶⁵ In this section, I shall argue that Arendt’s response to Scholem’s deployment of this term was closely related to her understanding of reflective judgment.

In his published contribution to the debate, Scholem made it clear that his issue with Arendt’s analysis of the Eichmann trial was not its factual accuracy, although he was careful to note that, “I fear your book is not free from error and distortion.”²⁶⁶ Instead, Scholem was almost solely concerned with the judgment that Arendt had made in EJ, both in terms of its form and content. As we shall see, in responding to Scholem’s criticism, Arendt argued that she (and everyone else) had a robust duty to judge, even in the absence of any reliable standards for making a traditionally ‘valid’ judgment. The structure of Scholem’s letter indicates that he had two fundamental issues of disagreement with EJ: Arendt’s analysis of Jewish actions during the Holocaust (particularly statements that Arendt made about the *Judenräte*), and her analysis of Adolf Eichmann as embodying ‘the banality of evil.’ Scholem’s points of contention with Arendt’s judgment were unified by the concept of guilt. He took issue with what he took to be

²⁶⁴ Shira Kupfer and Asaf Turgeman, “The Secularization of the Idea of Ahavat Israel and Its Illumination of the Scholem-Arendt Correspondence on Eichmann in Jerusalem,” in *Modern Judaism* 34(2), May 2014, 188-209. Henceforth, “The Secularization of the Idea of Ahavat Israel”. For a different take on the significance of *Ahavat Israel* in the Scholem-Arendt correspondence, see David Kaposi, “Between Orient and Occident: Tradition, politics and the limits of criticism in the Scholem-Arendt exchange,” in *Journal of Language and Politics* 9:3(2010), 409-432.

²⁶⁵ Kupfer and Turgeman, “The Secularization of the Idea of Ahavat Israel,” 189

²⁶⁶ Scholem, “An Exchange of Letters,” 51

Arendt's claims about the guilt (or complicity) of the Jews in their own destruction, as well as her analysis of Eichmann's guilt. Scholem's critique focused on two aspects of EJ: (i) the quality of the judgment that Arendt made, and (ii) the tone in which Arendt expressed the judgment.

Scholem was most sharply critical of EJ at those points at which he interpreted Arendt to be engaging the question, "why did they [the Jews] allow themselves to be slaughtered?"²⁶⁷ To be sure, Scholem recognized the question as inevitable and impossible to avoid. However, he was also convinced that the present generation could not hope to answer this question in any adequate way. He wrote

The discussion of these matters is, I believe, both legitimate and unavoidable – although I do not believe that our generation is in a position to pass any kind of historical judgment. We lack the necessary perspective, which alone makes some sort of objectivity possible – and we cannot but lack it.²⁶⁸

In other words, Scholem thought that the catastrophe of WWII demanded judgment in the absence of the possibility of doing so objectively. Presumably, he was skeptical of objective judgment of these matters because the generation of thinkers of which he was a part were too close to the events in question. This passage also indicates that he believed that in EJ Arendt was pronouncing judgment on persons and events that he considered to be beyond the scope of her (or anybody's) judgment. However, since he recognized the inevitability of the questions, he directed his criticism (primarily) to how she had judged, rather than that she had judged.

In the absence of the possibility of objective judgment, Scholem believed that resources that would otherwise render a judgment biased must mediate engagement with such unavoidable

²⁶⁷ Scholem, "An Exchange of Letters," 51

²⁶⁸ Scholem, "An Exchange of Letters," 51

questions. Thus, Scholem insisted that Arendt ought to have grounded her analysis of the trial on the fact of her Jewishness. He wrote

In the Jewish tradition there is a concept, hard to define and yet concrete enough, which we know as *Ahabeth Israel*: “Love of the Jewish people...” In you, dear Hannah, as in so many intellectuals who came from the German Left, I find little trace of this. A discussion such as is attempted in your book would seem to require – you will forgive my mode of expression – the most old-fashioned, the most circumspect, the most exacting treatment possible – precisely because of the feelings aroused by this matter, this matter of the destruction of one-third of our people, and I regard you wholly as a daughter of our people, and in no other way.²⁶⁹

Her failure to do so, suggested Scholem, resulted in her judgment being characterized by “flippancy [and] in place of balanced judgment, a kind of demagogic will-to-overstatement.”²⁷⁰

At bottom, Scholem was not taking issue with the facts as Arendt had presented them in her analysis of the Eichmann trial; he was taking issue with the way in which Arendt had chosen to interpret the facts as well with the way in which she had expressed her interpretation, which according to Scholem, “acquire[d] overtones of malice.”²⁷¹

Scholem’s criticism of the way Arendt broached the subject of Jewish conduct during the Second World War extended to Arendt’s discussion of Adolf Eichmann. He noted that, “after reading your book I remain unconvinced by your thesis concerning ‘the banality of evil’ – a thesis which, if your sub-title is to be believed, underlies your entire argument.”²⁷² He drew a comparison between Arendt’s earlier work in OT and EJ. According to Scholem, the ‘banality of

²⁶⁹ Scholem, “An Exchange of Letters,” 51

²⁷⁰ Scholem, “An Exchange of Letters,” 52

²⁷¹ Scholem, “An Exchange of Letters,” 51

²⁷² Scholem, “An Exchange of Letters,” 53

evil' was little more than a "catchword," perhaps intended to generate publicity, but incapable of withstanding serious analysis. For that reason, he claimed that the term would require, "investig[ation], at a serious level, as a relevant concept in moral philosophy or political ethics."²⁷³ For Scholem, Arendt's central thesis of the banality of evil was second rate theorizing, when compared to her earlier analysis of radical evil in OT.²⁷⁴

Two major points emerge from Scholem's letter to Arendt that are important for understanding the Scholem-Arendt correspondence as it relates to Arendt's account of political judgment. First, Scholem believed Arendt was attempting to pronounce judgment on matters that resisted objective judgment, and in an extremely insensitive fashion. In response to her discussion of the *Judenräte*, Scholem claimed that adequate judgment presupposed exposure to the historical events in question. "I do not," he wrote, "know whether they were right or wrong. Nor do I presume to judge. I was not there."²⁷⁵ Although he indicated his agreement that the actions of certain Jews were repugnant from a moral perspective, he was not prepared to come to any general assessment of the meaning and significance of Jewish action *per se*. Second, he claimed that Arendt's use of 'the banality of evil,' was unconvincing and did not seem to him to be serious theoretical analysis. The concept had value as a 'slogan' or 'catchword,' but it did not

²⁷³ Scholem, "An Exchange of Letters," 53

²⁷⁴ In this project, I am primarily interested in Arendt's notion of judgment. In my view, her notion of the banality of evil is of central importance to understanding observable changes in the way she talked about political judgment. Her analysis of radical evil in OT has been the subject of scholarly analysis and I shall not discuss it in any detail in this or any of the following chapters. For accounts of Arendt's development on the topic of evil in the modern world, see for instance Babette Babich, "Arendt's Radical Good and the Banality of Evil: Echoes of Scholem and Jaspers in Margarethe von Trotta's 'Hannah Arendt,'" in *Existenz: An International Journal in Philosophy, Religion, Politics, and the Arts*, 9(2), 13-26; Richard Bernstein, "Did Hannah Arendt Change her Mind; From Radical Evil to the Banality of Evil," in *Hannah Arendt: Twenty Years Later* (Cambridge: MIT Press, 1998)

²⁷⁵ Scholem, "An Exchange of Letters," 52

have anything meaningful to add to the conceptual arsenal that moral philosophy could use to understand the modern world.

Most important, however, is Scholem's claim that Arendt ought to have grounded her analysis in what he called *Ahabeth Israel*. Scholem's invocation of this term is opaque – it is not quite clear from his use of it *or* from Arendt's response what, exactly, was entailed by *Ahabeth Israel*. In their article, Kupfer and Turgeman offer a genealogy, of sorts, of the term. They begin with its roots in Leviticus to its secularization in the enlightenment period. By the time that Gershom Scholem deployed the term in his letter to Hannah Arendt, Kupfer and Turgeman contend that *Ahabeth Israel* entailed a, “demonstration of empathy, as well as uncompromising loyalty on the part of those who shared this belonging [...]”²⁷⁶ In other words, in using the term Scholem was not only scolding Arendt for acting in a way that was not in keeping with her Jewish heritage, he was also reminding her of, “the very clear, active obligations that [her] belonging entails.”²⁷⁷ According to Scholem, then, Arendt's Jewishness demanded that she based her analysis of Eichmann's trial in a sort of solidarity with the Jewish people in such a way that it was articulated or formulated differently. I do not think that it is a stretch to conclude that Scholem believed that *Ahabeth Israel* should have influenced Arendt's assessment of Eichmann (and others) in EJ, both in terms of the content and form of these assessments.

Before I turn to Arendt's response, I want to emphasize some important dimensions of judgment as it appeared in Scholem's critique of Arendt. First, Scholem frankly admitted two things. First, that many – if not most – elements of genocide in WWII were unprecedented and, as a result, could not be judged in any traditional fashion. Furthermore, the proximity of the

²⁷⁶ Kupfer and Turgeman, “The Secularization of the Idea of Ahavat Isreal,” 201

²⁷⁷ Kupfer and Turgeman, “The Secularization of the Idea of Ahavat Isreal,” 202

generation of thinkers to which Scholem and Arendt belonged to the event itself precluded the possibility of objective (or perhaps, final) assessment. In Scholem's view, this was a precarious situation in which to fashion and pass judgment. What Scholem was claiming was that there were no precedents available by which to judge many of the events and individuals about which Arendt had pronounced judgment in EJ. In such times and under such conditions, Scholem's advice to Arendt was to wait until valid precedents become available. Presumably, this would entail waiting until a different generation of thinkers could examine the facts in a non-biased way. To be sure, Scholem did not advocate ignoring the questions that Arendt had raised in EJ; he recognized that these were issues that needed to be discussed. However, he seemed to believe that *until* an objective discussion or judgment was possible, it was best to rely on different banisters – banisters such as *Ahabeth Israel*. As we shall see, contra Scholem, Arendt doubled down on the importance and urgency of judging in the absence of any and all valid banisters.

In her response to Scholem – published in the same issue of *Encounter* – Arendt famously disavowed being motivated by *Ahabeth Israel*. Arendt's stated reason was that she did not, “‘love’ abstractions, collectives, or identities but only “my friends.”²⁷⁸ Additionally, she requested that Scholem explain, “since when this concept has played a role in Judaism, when it was first used in Hebrew language and literature, etc.”²⁷⁹ Commentators such as Kupfer and Turgeman as well as David Kaposi have analyzed this seemingly innocuous request by Arendt in admirable detail. Here, I shall focus on Arendt's disavowal of *Ahabeth Israel* and its implications for my thesis that the “banality of evil” was the product of an exercise of reflective judgment, something that is lacking in scholarly commentary. I have already emphasized that Arendt

²⁷⁸ J, 467

²⁷⁹ J, 466

considered portions of her investigation of the thinking activity to constitute a deduction in the Kantian tradition. Although the Scholem-Arendt correspondence predates the composition of “Thinking and Moral Considerations” by several years, it stands as powerful evidence that Arendt already understood her deployment of the ‘banality of evil’ in EJ as an exercise of reflective judgment. This comes out most clearly if we attend to Arendt’s response to Scholem’s invocation of *Ahabeth Israel*. I shall briefly discuss two aspects of Arendt’s letter to Scholem: (i) her insistence that ‘balanced judgment’ of the events in question was possible, and (ii) her insistence that it would be inappropriate that a feeling of solidarity of the Jewish people or the state of Israel condition the judgment she had made. As we shall see, Arendt did not wish to condition her judgment with *Ahabeth Israel* because she viewed her judgment as disinterested – the exact criteria for a valid reflective judgment.

Against Scholem’s insistence that the generation of thinkers that had lived through the Second World War were unlikely to present a balanced judgment of it, Arendt pointed out that she was judging things she understood to be open to judgment. Although she granted Scholem that it *might* be, “too early for a ‘balanced judgment,’”²⁸⁰ she also insisted that, “I do believe that we shall only come to terms with this past if we begin to judge and to be frank about it.”²⁸¹ Importantly, Arendt insisted on a distinction between judging whether or not individuals were good or bad and evaluating the reasons that they had given for their actions. “Concerning these arguments,” she wrote, “we are entitled to pass judgment.”²⁸² Thus, both in terms of the actions of Jewish functionaries and in the case of Eichmann himself, Arendt insisted that so long as

²⁸⁰ J, 468

²⁸¹ J, 468

²⁸² J, 468

²⁸² J, 469

analysis remained at the level of how individuals justified their participation (or lack thereof), then balanced judgment was perfectly possible and desirable.

Second, I want to emphasize Arendt's insistence that it was inappropriate to allow her Jewishness or a feeling of solidarity with the Jews to condition the form or the content of the judgment(s) she had expressed in EJ. This point comes out in multiple locations in her response to Scholem. She wrote

‘love of the Jews’ would appear to me, since I am myself Jewish, as something rather suspect [...] wrong done by my own people naturally grieves me more than wrong done by other peoples. This grief, however, in my opinion is not open for display, even if it should be the innermost motive for certain actions or attitudes.²⁸³

In other words, Arendt believed that the issues magnified by Eichmann's trial were of world-historical importance, and went beyond the interests of the Jewish community. For this reason, Arendt was careful not to judge solely from a Jewish perspective. Judgment from only a Jewish perspective would render a judgment not terribly persuasive. Such a judgment might be convincing to a primarily Jewish readership. At any rate, Arendt clearly thought that her concerns in EJ were addressed to most individuals. In my view, Arendt's worry was that had judged from a Jewish perspective, she was careful to condition her judgment with other perspectives to a sufficient degree that her judgment could appeal to non-Jewish perspectives. Thus, for her *Ahabeth Israel* would have rendered a *biased* and *idiosyncratic* judgment that, because of the biases and idiosyncracies contained therein, would not be *communicable* to a general audience.

²⁸³ J, 467

For Arendt, even if she *did* feel either of these things (and she admitted to feeling the latter), she believed she had a duty to present her statements in EJ as if she did not. In her letter to Scholem she cited her reservations about emotion and sentiment becoming a driving factor in political affairs. Clearly, Arendt was not interested in any attempt to cast the positions she had taken in EJ as needing to be determined by a *feeling* (either of solidarity with the Jews *or* from the perspective of grief). However, she was also committed to the position that it was not possible to reduce her arguments and judgments to a definite ideological framework (Zionist or otherwise). She had, in her words, “great confidence in Lessing’s *selbstdenken*, for which, I think, no ideology, no public opinion, and no ‘convictions’ can ever be a substitute.”²⁸⁴

I have already emphasized that Scholem’s criticism of Arendt implied that he thought that she should wait, and that her judgment as she had pronounced it in EJ was impetuous, out of place, and that it should have been tempered by Arendt’s loyalty to the Jewish people. In her response to these charges, we see that Arendt not only refuses to temper her judgment, but that she also believed that the duty to judge extended to situations in which final judgment is not yet possible. Indeed, Arendt’s response to Scholem reveals that she believed that judgment of the issues raised by Eichmann’s trial must proceed even in the absence of any valid precedent.²⁸⁵ In a word, Arendt did not believe that the absence of concepts and categories under which to subsume many of the issues she raised in EJ (including, but not thereby limited to that of Eichmann and his motivations) relieved us of the duty and responsibility to judge anyways. Instead, judgment must proceed *provisionally* and in the absence of banisters.²⁸⁶ Arendt agreed

²⁸⁴ J, 470

²⁸⁵ I shall consider this element of Arendt’s *EJ* in more depth in Chapter 6

²⁸⁶ I am indebted to Daniel Conway for his suggestion of this formulation of Arendt’s response to Scholem.

with Scholem that what he called ‘historical judgment’ may not be possible at the present moment. However, unlike Scholem, Arendt did not believe that it was appropriate to wait for the precedents and perspective that ‘historical judgment’ entailed. In her view, the appearance of the unprecedented (whether in the form of crimes against humanity²⁸⁷ or Eichmann himself) brought with it the duty to judge so as to generate such precedents.

We ought, I think, to read Arendt’s response to Gershom Scholem in line with the concerns that she articulated in “Thinking and Moral Considerations.” In other words, if it is the case that Arendt believed she needed to deduce (or justify) the positions that she had taken in EJ, then it appears she considered the judgments she had made there – particularly her use of the concept ‘the banality of evil’ – to be a product of judgment in its reflective capacity. Arendt’s responses to Scholem constitute a claim that the judgments that she made are *disinterested*. Insofar as the disinterestedness of her judgment was Arendt’s concern, then her arguments to that effect clearly are attempts to hold herself to conditions that Kant specified in Third *Critique*.

Concluding Remarks

In this chapter, I have argued for two positions. First, I maintained that “Thinking and Moral Considerations” is a Kantian-style deduction. Second, and more importantly, I have argued Arendt considered her concept of the ‘banality of evil’ to be a product of reflective judgment. In order to argue for these two positions, I analyzed two sources: Arendt’s correspondence with Gershom Scholem and the essay “Thinking and Moral Considerations.” In

²⁸⁷ See Seyla Benhabib, “International Law and Human Plurality in the Shadow of Totalitarianism: Hannah Arendt and Raphael Lemkin,” *Constellations* 16(2), 2009: 331-350

both of these sources, Arendt was on the defensive with respect to many of the positions she had taken in *EJ*.

In discussing the Scholem-Arendt correspondence and “Thinking and Moral Considerations” I emphasized the importance of *disinterestedness* to Arendt’s arguments in defense of *EJ*. In her epistolary exchange with Gershom Scholem, she explicitly rejected the need to ground her analysis of the Eichmann trial in what Kant would have called an idiosyncratic condition. I argued that we ought to read her rejoinder to Scholem as emphasizing the need for disinterested, independent judgment of events and individuals without the aid of precedent. In *EJ*, she was not writing as a Jew or only for Jewish readers. Arendt thought that she had a duty to present her analysis of Eichmann’s trial in a way that appealed to a wide audience of readers. In order to do this, she explicitly downplayed her personal stakes in the outcome of the trial. Her goal was to approximate what Kant called *disinterest*.

In “Thinking and Moral Considerations,” we found Arendt explicitly claiming to be providing a deduction for her concept of ‘banal evil.’ There, she took it upon herself to forge a theoretical connection between the activity of thinking and moral life. Taken together, these suggest a strong connection between Arendt’s interest in reflective judgment and her thesis of the banality of evil. To be sure, Arendt did not use the term ‘disinterest’ anywhere in these arguments; but her concerns in defending *EJ* were obviously not to deploy Kantian terminology to her critics. In defending *EJ*, Arendt was clearly holding her judgment to the specifications of an aesthetically valid judgment of taste.

If the arguments I offered in this chapter have been successful, then it seems that Arendt more or less explicitly understood the ‘banality of evil’ to be the result of an enactment or exercise of reflective judgment. This much is clear from her referring to “Thinking and Moral

Considerations” as a deduction as well as the way in which she defended herself from her critics. However, the ‘banality of evil’ as reflective judgment raises many questions. I shall raise and answer only one here. In the first and second chapters of this project, I emphasized conflicting aspects of Arendt’s work on judgment in the 1960s and 1970s. The ‘actor model’ of judgment was significantly different from the ‘spectator model’ of judgment. If the banality of evil was the product of reflective judgment, then this fact obviously raises the question of *which kind of reflective judgment*. Did Arendt judge as an actor or as a spectator?

It is obvious enough, I think, that the banality of evil cannot have been an exercise of the actor model of reflective judgment. Arendt was not a participant in the trial and she had no effect on its developmental trajectory or outcome. This leaves only one alternative: EJ must contain an exercise in judgment from the perspective of the spectator. Indeed, all of the major characteristics of judgment in LKPP are satisfied when we consider Arendt’s position at Adolf Eichmann’s trial. She was obviously interested in the trial and its outcome; however, she was an uninvolved spectator who was able to arrive at insights that would have been difficult for an ‘actor’ in the trial to recognize.

What’s more, the drastic shift in her writings on judgment took place sometime between the early 1960s and the late 1960s, when she began to prepare for the LM project. The single most significant event that took place during the decade of the sixties (in terms of the development of Arendt’s thinking) was the publication of EJ and the enormous controversy that followed it. For these reasons, in the following chapters I shall treat EJ as containing *the* fundamental experience that led to Arendt’s shift in emphasis from actors to spectators in her theory of judgment. I shall argue that it is possible to use EJ in order to clarify important aspects of Arendt’s spectator model of judgment – many of which were not sufficiently developed in the

fragmentary LKPP. However, EJ is not a theoretical exposition on a model of judgment. As Arendt emphasized many times to her critics, she saw her position in EJ as a trial reporter and not a theorist. Assuming that something like an account of judgment is to be found in EJ in any direct sense is potentially misleading. In the following chapters, I opt for what I take to be a safer road. Rather than trying to excavate a theoretical account of judgment from EJ in any direct sense, I shall attempt to distill the most fundamental characteristics of the situation of the spectator, as Arendt experienced it. In order to accomplish this, I shall use Franz Kafka's *The Trial* as a clarifying lens. Accordingly, in the next chapter I shall interpret – and also justify my use of – Kafka's text, before bringing it to bear on Arendt's.

CHAPTER VI

FRANZ KAFKA'S *THE TRIAL* AND MERE APPEARANCE

Introduction

In this chapter, I turn to Franz Kafka's *The Trial*.²⁸⁸ The interpretation of Kafka's work is notoriously difficult, and this difficulty is compounded when one considers *The Trial*. Before offering my interpretation of *The Trial*, I wish to emphasize the unique difficulties that attend to making claims about what Kafka intended or did not intend to accomplish in composing what became *The Trial*. Many scholars of Kafka's writings have emphasized the degree to which the structure and content of the novel as Kafka had intended it are unknown as a result of Max Brod's attempts to transform unfinished manuscripts into finished literary works. Most recently, Reiner Stach put this in the following way in his three-volume biography of Kafka.

[Max Brod] ended up with 161 loose sheets, most with writing on both sides, torn out of various notebooks. Kafka had brought these sheets into a makeshift order by giving each little bundle that could be interpreted as a chapter a cover page and a provisional title. Some bundles consisted of a single sheet, others seemed to make up more than one chapter. He did not say which parts he considered complete and did not number them. Consequently Brod was faced with a hodgepodge of finished, almost finished, half finished, and just-begun chapters,

²⁸⁸ Franz Kafka, *The Trial*, trans. Breon Mitchell (New York: Schocken Press, 1998). Henceforth, *The Trial*

the sequence of which he himself had to determine if a book were to come out of this.²⁸⁹

In Stach's estimation, the only way to ascertain basic facts about the novel such as the precise development of its narrative trajectory would be to discover, "a table of contents written by Kafka himself [...] in some forgotten attic in Prague."²⁹⁰ I mention these difficulties because any attempt at ascertaining the meaning of *The Trial* should include a frank admission of the unique limitations entailed in such a task. Fortunately, the problems that attend what Kafka may or may not have intended in composing *The Trial* will not be an issue for my treatment of this text. Although I shall be discussing *The Trial* in depth in this chapter, my primary purpose will be to draw out and emphasize themes from Kafka's novel that will be helpful in connecting EJ to Hannah Arendt's unfinished 'spectator' account of judgment, and not to argue what Kafka's intentions were in composing the novel. Though I shall ground my analysis in relevant secondary literature, my intention in turning to Kafka's novel is to further our understanding of Arendt, and not necessarily of Kafka.

Numerous commentators have pointed out that the shift in Arendt's treatment of reflective judgment seemed to coincide with the publication of and controversy surrounding EJ. In Annalies Degryse's words, Arendt's attendance at Eichmann's trial resulted in, "a shift that characterizes Arendt's work in general."²⁹¹ Despite the fact that commentators on Arendt's work have recognized the tremendous influence that Eichmann's trial had on her subsequent writings, I am not aware of any systematic attempt to link EJ with the specific characteristics that Arendt

²⁸⁹ Reiner Stach, *Kafka: The Decisive Years*, trans. Shelley Frisch (Frankfurt am Main: S. Fisher Verlag GmbH, 2002), 466. Henceforth, *Kafka: The Decisive Years*

²⁹⁰ Stach, *Kafka: The Decisive Years*, 466

²⁹¹ Annelies Degryse, "Sensus communis as a foundation for men as political beings: Arendt's reading of Kant's *Critique of Judgment*," *Philosophy and Social Criticism* 37(3) (2011), 347

built into her spectator model of judgment. One reason for this lacuna in the literature is obvious: EJ is simply not about reflective judgment in any direct sense, making such a linking problematic, to say the least. As Arendt repeatedly pointed out during the controversy surrounding her analysis of Eichmann, in EJ she had limited herself to acting as a reporter, and not as a political theorist. She reminded her readers of this fact in the postscript to EJ, writing that, “This book contains a *trial report*.”²⁹² Just a few pages later, she clarified how her role as a trial reporter limited the content of EJ, noting that, “the report of a trial can discuss only the matters which were treated in the course of the trial, or which in the interest of justice should have been treated.”²⁹³ Looking for a theoretical treatment of the problem of judgment in EJ, then, would be to misread EJ and to disregard Arendt’s intentions in composing it.

However, I believe that the evidence I presented in the last chapter demands that we recognize Eichmann’s trial as one of the most important experiences that led her to re-think judgment in terms of the spectator rather than in terms of the actor. If this is the case, we ought to re-examine EJ, not to find a hidden account of judgment, but in order to try to bring to light the most important features of the situation that prompted Arendt’s discovery of the position of the spectator. To be sure, there exists no direct connection between Kafka’s *The Trial* and Arendt’s EJ and it is not my intention to argue for one. Rather, in this chapter and the next I shall develop a reading of *The Trial* and use it as a clarifying lens with which to examine EJ.

In this chapter, I shall offer a close textual examination of Kafka’s novel. In order to use *The Trial* to clarify important issues in EJ, I argue that Kafka’s novel shares many of the same features that Arendt built into her spectator model of judgment. My discussion of *The Trial* is

²⁹² EJ, 280

²⁹³ EJ, 285

divided into three sections. In the first section, I will offer an original interpretation of the parable “Before the Law.” In the second section, I shall discuss the attempts of Kafka’s protagonist, Josef K., to interpret the parable in terms of his (K.’s) struggle with ‘the court.’ In the third section, I use the interpretation of the parable that I developed in the first section in order to offer an interpretation of what Josef K. ought to get out of the parable, but ultimately does not.

In what follows, I will emphasize three themes as very important for the interpretation of EJ that I shall offer in the next chapter. All three of these themes figure prominently in both *The Trial* and EJ. Accordingly, I shall discuss each of these three themes in each of the three sections of this chapter. These themes are: (a) the primacy of appearance, (b) the breakdown of the distinction between interiority and exteriority, and (c) the inadequacy and danger of using traditional standards in order to understand an appearance that renders these standards irrelevant. In this chapter, I shall discuss all three of these themes in each of the three sections of this chapter.

Section One: “Before the Law”

(a) “Before the Law” and Self-Knowledge

One of the most important structural features of *The Trial* is the *mise en abyme* it contains: the parable that Kafka entitled “Before the Law” (*Vor dem Gesetz*).²⁹⁴ As I shall demonstrate, the purpose of “Before the Law” in *The Trial* is to reduce a parabolic novel into an

²⁹⁴ “Before the Law” was one of the few works that Kafka deemed worthy of publication during his lifetime. It appeared in *Ein Landarzt* (A Country Doctor). Obviously, the meaning and significance of this parable changes drastically depending on whether one reads in the context of *The Trial*. In this project, I am only concerned with this parable as it appears in *The Trial*.

even more condensed and abstract parable. For this reason, “Before the Law” contains many, if not all, of the most important characteristics of Josef K.’s struggle with ‘the court.’ “Before the Law” is supposed to recast Josef K.’s struggle with ‘the court’ in terms of the struggle of the ‘man from the country’ with ‘the law.’ Because Kafka himself deputizes us to read “Before the Law” as expressing the most important features of the novel as a whole, I begin with the parable, “Before the Law”²⁹⁵.

In what follows, I shall offer an interpretation of the parable. I shall turn to the novel as a whole in the second and third sections of this chapter. In interpreting “Before the Law,” I will avoid applying an external standard to Kafka’s text. Thus, I shall avoid bringing psychoanalysis, Marxism, and other such external theoretical frameworks to bear on the text. I do not wish to

²⁹⁵ The extant commentary on Kafka is vast, as is scholarly treatment of *The Trial*. Here, I shall only sketch the most dominant trends. Generally, commentary on Kafka’s work takes the following hermeneutic paths. Some commentators read Kafka’s *The Trial* and “Before the Law” as religious metaphor. Pietro Citati takes this route in analyzing both the parable and the novel in Pietro Citati, *Kakfa* (New York: Knopf, 1989): 127-161. See also Erwin R. Steinberg, “Kafka’s ‘Before the Law’: A Religious Archetype with Multiple Referents,” *Essays in the Judeo-Christian Tradition* 18(1), 1978: 27-45. Others read *The Trial* as a fundamentally autobiographical novel that describes Kafka’s disastrous relationship with Felice Bauer. See Elias Canetti, *Kafka’s Other Trial: The Letters to Felice* (New York: Schocken, 1988). For a critique of Canetti’s approach as reductive see Louis Begley, *The Tremendous World I have Inside my Head Franz Kafka: A Biographical Essay* (New York: Atlas & Co., 2008): 180. Henceforth, *The Tremendous World I Have Inside my Head*. By far, the most detailed analysis of the conditions under which Kafka composed *The Trial* is that of Stanley Corngold, *Franz Kafka: The Necessity of Form* (New York: Cornell, 1988): 228-250. Henceforth, *The Necessity of Form*. Perhaps the most dominant trend is to read Kafka’s novel as a prophecy of the triumph of bureaucratic, instrumental rationality. For this approach see Ernst Pawel, *The Nightmare of Reason: A Life of Franz Kafka* (New York: Farrar Straus Giroux, 1984): 324. Philosophical commentary on *The Trial* is somewhat sparse, when it does not read *The Trial* as primarily telling us something about bureaucracy. The most prominent commentators have been Jacques Derrida and Giorgio Agamben. In Jacques Derrida, *Acts of Literature* (New York: Routledge, 1992), Derrida discusses “Before the Law” and literature at length. In Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1995), Agamben suggests that “Before the Law” contains an allegorical description of the structure of modern sovereignty.

suggest that these interpretive strategies cannot bear fruitful results – quite the opposite is the case.²⁹⁶ However, I wish to read Kafka’s novel in order to clearly understand the unique relationship between the man from the country and the doorkeeper that emerges from the parable. To this end, I believe a close textual examination is most productive.

The parable appears in the penultimate chapter of *The Trial*. Prior to telling Josef K. the parable, the priest to whom he is speaking (and who is an official of the court) makes it clear that the parable serves a specific purpose. Its purpose is described in the following passage. Kafka writes

“You’re very friendly toward me,” said K. They walked side by side up and down the dark aisle. “You’re an exception among those who belong to the court. I trust you more than I do any of them I’ve met so far. I can speak openly with you.”

“Don’t deceive yourself,” said the priest. “How am I deceiving myself?” asked K.

“You’re deceiving yourself about the court,” said the priest, “in the introductory texts to the Law it says of this deception [...]”²⁹⁷

Two very important characteristics of Josef K.’s trial emerges from this passage. Both of these characteristics are also important to keep in mind in examining “Before the Law.” First, Josef K.’s position before the court is not unique because there is a parable that describes it. Josef K.’s situation before the court is sufficiently common to have a parable dedicated to its expression. In my view, the fact that there is a parable that can be said to describe Josef K.’s situation at all suggests that his ‘trial’ is somewhat common.

²⁹⁶ For an analysis of the Hasidic elements implied by Kafka’s use of parables see Iris Bruce, “Kafka and Jewish Folklore,” in *The Cambridge Companion to Kafka*, ed. Julian Preece (Cambridge: Cambridge University Press, 2002), 150-168

²⁹⁷ Kafka, *The Trial*, 215

The second important characteristic of Josef K.'s trial that emerges from the short passage above is the purpose of the parable. We have seen that Josef K.'s trial is not new. If we take the words of the priest seriously, then Josef K.'s trial is not new because he (like other defendants before him) is engaged in self-deception *about the nature of his trial*. The parable, then, is intended to give the defendant the opportunity to become aware of a way in which she deceives herself *about the nature of her trial* and about the court in general. In the essay, "The Legend of the Doorkeeper and Its Significance for Kafka's Trial," Ingeborg Henel writes about this function of the parable. She writes that, "Kafka's text is at this point completely unambiguous [...] the purpose of the legend is thus to show Josef K. his error concerning the court and its representatives."²⁹⁸ From the beginning, self-deception and adequately understanding one's situation as a defendant (viz., one's situation before the court) go hand in hand. In my view, to come to know the way in which one deceives oneself about the court is to come to know the way in which one has deceived oneself. In this sense, interpreting "Before the Law" is about self-knowledge.²⁹⁹

²⁹⁸ Ingeborg Henel, "The Legend of the Doorkeeper and Its Significance for Kafka's Trial," in *Twentieth Century Interpretations of The Trial: A Collection of Critical Essays*, ed. James Rolleston (Englewood Cliffs: Prentice-Hall, Inc., 1976), 43. Henceforth, "The Legend of the Doorkeeper and Its Significance." Henel's analysis of the parable and its purpose is incisive, however in my view she does not adequately thematize the interior/exterior distinction or *judgment* as they appear in the parable. One reason for this is Henel's reliance on Kafka's letter to his father in order to offer a theological reading of the parable. My analysis of the parable builds upon the foundations that Henel has laid. However, as shall become clear, I depart from many of the theological conclusions of Henel's analysis.

²⁹⁹ My emphasis on knowledge and on the *knowability* of the court is not universally accepted or even ubiquitous amongst commentators on Kafka's work. Louis Begley, for instance, writes that the purpose of the parable is to reveal the, "that the ways of the Court [...] and the Law itself cannot be penetrated by the human mind, and do not concern themselves with human notions of justice." While it is clearly the case that the Law has nothing to do with traditional notions of justice (or guilt, for that matter), Begley's claim that the Law is not knowable is simply not textually warranted. In my view, his interpretation creates more problems than it solves, because

However, the parable is not about a court or a trial; it is about a man who lives and dies before a gateway, waiting for admittance. Clearly, the major task in interpreting “Before the Law” is to understand how the ‘man from the country’ deceives himself in a similar way as do defendants before the court. The interpretive task in reading “Before the Law” is to come to a deeper understanding of how the ‘man from the country’ does what he does because he is deceiving himself. I believe these issues demand that we ask the following question - about what does the man from the country deceive himself? In interpreting the parable, Josef K. is supposed to come to know how the man from the country retains full agency throughout the course of the parable, despite the fact that it is easier simply to assume that the Law is a pernicious and deceptive institution that manipulates or deceives him.

Although this much does not appear in the text directly, I believe that an adequate interpretation of the parable *could* (but of course, need not) be a sufficient condition for changing the nature or outcome of one’s trial. An adequate interpretation of “Before the Law” could serve as a practical reason for action. In other words, Josef K. *could* come to a deeper understanding of his own situation before the court in interpreting the parable adequately (or perhaps correctly). Before I continue interpreting the parable, I should point out that in *The Trial* Josef K. fails to interpret the parable adequately. As we shall see, he does *not* come to a deeper understanding of either his situation or that of the man from the country. For this reason, my commentary in this chapter will twofold. I shall endeavor to follow the text of *The Trial* closely, while also pointing out along the way what I believe Josef K. *should* (but of course, does not) learn from the parable.

it must inevitably find a way around the fact that the priest clearly states that the purpose of the parable is to *make Josef K. aware of a lack of knowledge*, implying the possibility of coming to know that about which he is has been ignorant. See Begley, *The Tremendous World I Have Inside my Head*, 193.

In the following chapter, I will discuss what I take to be the significance of Josef K.'s failure to learn anything from the parable.

(b) The Self-Deception of the Man from the Country

A cursory reading of the parable suggests that the self-deception described in the parable has to do with the doorway and the possibility of passing through it. Upon arriving before the Law, a doorkeeper informs the man from the country that his admittance to the Law is possible, but not at the present moment. The man decides to wait. At the end of the parable, the man from the country learns that the doorway before which he has lived and is currently dying, “was meant solely for [him].”³⁰⁰ The doorkeeper’s moving to close the gate only when the man from the country dies makes it clear that the doorway stands open only insofar as the man from the country sits before it, waiting for permission to enter. From the doorkeeper’s closing words to the man from the country, I infer that admittance to the Law is not possible at all – at least not in the way in which the man from the country understands admittance. The doorway before which he sits stands open only insofar as he waits to pass through it, and closes at the moment at which the man from the country is no longer able to wait for entrance. In order to observe the man’s self-deception, I will discuss the way the Law appears to the man from the country as well as the conclusions the man from the country makes about the Law on the basis of how it appears to him.

In my view, the parable describes two modalities of the Law. Each modality corresponds to a mode in which the Law appears to the man from the country in the parable. The first

³⁰⁰ Kafka, *The Trial*, 217

modality of the Law is characterized by its seeming to invite entry by way of an open door, entrance into which is possible but deferred by a doorman. In the final lines of the parable, Kafka allows us a brief glimpse of the second modality of the Law. The second modality of the Law becomes apparent only at the end of the parable and is characterized by the door shutting at the very moment that entrance is no longer a possibility (viz., as the man from the country dies). I will characterize this modality as the impossibility of entry. This second expression of the Law corresponds to its door being closed, and therefore no longer inviting the assumption that its doorway is the sort of doorway that one may pass through. Because the second modality of the Law only appears in the parable briefly, I believe it is reasonable to assume that the first modality is the primary way in which the Law manifests itself.

The text of the parable suggests that it is not possible for the man from the country to gain *what he understands as admittance* (namely, to pass through the doorway) at all. The impossibility of admittance follows from a consideration of what I am calling the two modalities of the Law. Either the Law appears in such a way as to elicit the assumption that one may go through the doorway – what else, after all, does an open door signify? – or it precludes this possibility by way of its door being shut, but only at the very moment that entrance is no longer a possibility. I believe that Kafka structured the parable so that the second modality of the Law is expressed only when it is too late to benefit from the knowledge that traditional admittance is not possible. The man from the country only learns something useful from the Law (viz., that this is not a doorway through which he can pass) when this knowledge cannot be put to productive use. In other words, the Law reveals itself more fully to the man from the country only when the man is dying and can no longer use that knowledge to act. Had he known that what he understood as admittance was not possible, perhaps he would not have chosen to spend his life waiting to

permission to go through the door. Clearly, if the man from the country is to learn something about the Law in time to use this knowledge productively, he cannot wait for the Law. He must come to such conclusions on his own, and before the second modality of the Law manifests itself. For these reasons, quite a lot hangs on the conclusions that the man from the country makes on the basis of the first modality of the Law. In other words, I believe that the central issue of the parable is what – if anything – the man from the country concludes from the Law’s appearance as an open door.

Earlier, I mentioned that if the man from the country is deceiving himself, this suggests that the narrative trajectory of the parable is determined by the man from the country, and not by the doorkeeper or the Law. In my view, if the man from the country is the victim of self-deception, this means that he is not manipulated into living and dying before the Law. Instead, he unwittingly makes the decision to do so in the absence of any means of coercion. The fundamental reason for his doing so, I argue, are unrecognized assumptions he has made about what I have called the first modality of the Law. These assumptions do not correspond to the nature of the Law. The man from the country does not pay attention to the fact that there exists little to no evidence to support these assumptions. These issues raise the following questions: what would an ‘adequate’ understanding of the Law look like? And how would such an understanding differ from the way in which the man from the country understands the Law in the parable? In the rest of this section, I shall offer answers to these questions.

In my view, an adequate understanding of the Law would be one that recognizes the two modalities that I pointed out. The first way in which the Law appears invites the man’s assumption that admittance is a concrete possibility. That is, he assumes that the open door implies the *possibility* of his going through the doorway (he calls this “admittance”). The

developmental trajectory of the parable clearly reveals the man's inability to question this assumption. In his last moments of life, the man from the country experiences the other modality of the Law: its being impossible to enter. It is safe, I think, to assume that as the doorkeeper informs him that the doorway was made only for him and that now he is going to close the door, the man from the country realizes that he could never have passed through the doorway to begin with.

Because the man from the country clearly comprehends the second modality of the Law, if there is a self-deception involved in "Before the Law," then it is bound up with what I have identified as its first modality and the way that the man from the country misunderstands it. The question that "Before the Law" demands that we consider is: does the Law (or its representative, the doorkeeper) *force* or *trick* the man from the country into his belief in the possibility of what he understands as admittance to the Law? Or, does the man from the country unknowingly *deceive himself* in making the assumption that the initially open door to the Law entails the possibility of entry? In order to offer plausible answers to these questions, I shall discuss what, exactly, the man from the country thinks that the Law is.

I believe that the fundamental mistake that the man from the country to assume that the Law is equivalent to something like positive law. This follows from a consideration of the following passage from the parable, "The man from the country has not anticipated such difficulties; the Law should be accessible to anyone at any time [...]"³⁰¹ Upon approaching the doorway, the man from the country notes the open door, and makes the seemingly reasonable assumption that the Law has the following basic qualities. Henel glosses this aspect of the

³⁰¹ Kafka, *The Trial*, 215

parable in the following way, writing that, “[the Law] does not lead to a universal, generally valid law, comprehensible by reason and accessible to any rational person of good will.”³⁰² In my view, Henel proceeds too rapidly; it is true that the Law is a positive law, but I will demonstrate, the incomprehensibility of the Law does not necessarily follow from this fact. One of the benefits of my analysis of this parable in terms of *appearance* and *judgment* is that I can give a plausible account of the comprehensibility of the Law as well as the form or structure of judgment required in order to comprehend it. To begin, I shall more closely examine the assumptions that the man from the country makes about the Law.

First, the man believes that the Law makes a universal claim on all persons, and not a particular claim that applies only to him. However, the precise nature of this claim that the Law makes is unknown to him because he is positioned ‘outside’ the doorway. The man from the country believes he is simultaneously before the Law insofar as he is subject to a structure of authority that makes a claim on him *and* excluded from it insofar as the Law does not make the content of its claim clear to him. In virtue of this claim and because he takes it seriously, the man from the country decides to wait in order to learn what this claim is.

This brings us to the second assumption that the man from the country makes about the Law. Because he understands the Law to be making a claim on him (and everyone else), he also believes that the Law has some determinant content that is being concealed from him. The man from the country is convinced that if he could learn about the claim made by the Law on him (and in his mind, others), then this claim would necessarily be comprehensible. If he could only be given admittance to go through the entrance to the Law, he thinks, he could no doubt

³⁰² Henel, “The Legend of the Doorkeeper and Its Significance,” 48

determine the precise nature of its claim and act accordingly. His belief that the Law possesses some determinant content also necessitates his belief that this content *ought* to be universally accessible. In his mind, the Law must be universally accessible because he believes it is universally applicable.

These two basic assumptions – that the Law applies to everybody and that is accessible to those it claims – are underwritten by a more basic, third assumption that the man from the country has made about the Law. The third assumption is: there is a fundamental difference between access (or admittance) to the Law and waiting for access (or admittance) to the Law. At bottom, the only reason why the man from the country is willing to spend all of his possessions (and his life) trying to gain access to the Law is because he believes that there is something different (and arguably, desirable) on the other side of the entrance. I translate this into the spatial terms of “Before the Law” in the following way: the man from the county has assumed that there is a significant difference between being on one side of the entrance and being on the other side. Put yet another way, the man from the country thinks that the ‘interior’ concealed by the entrance is qualitatively distinct from its exterior.

(c) ‘The Law’ as Mere Appearance

Thus far in this chapter, I have argued that the purpose of “Before the Law” in *The Trial* is to reveal how Josef K. deceives himself by describing K.’s self-deception in terms of the attempts of the man from the country to gain access to the Law. That the parable’s purpose is to reveal to Josef K. how he is deceiving himself means that an adequate interpretation of the parable would be one that located self-deception as the reason for the actions of the man from the country. I have also stated that the behavior of the man from the country in “Before the Law”

strongly suggests that he believes that the Law is a positive law. My claim in this section is that these three assumptions about the Law, and the man's inability or unwillingness to call them into question are constitutive of his self-deception. My argumentative strategy to this effect is twofold. First, I shall consider the evidence for my reading based on the text of the parable. I shall identify one important reason in support of my claim based on the content of "Before the Law." Then, in sections two and three of this chapter I shall argue that my interpretation of the parable makes good sense of the novel as a whole.

I wish to guard against the objection that to interpret the parable in a certain way and then to justify my interpretation by applying it to *The Trial* is circular, and therefore problematic. The circularity is unproblematic in this case because the stated purpose of "Before the Law" is to take fundamental aspects of Josef K.'s relation to the court and to render it in condensed form, presumably clarifying these aspects so that he may come to recognize them. Thus, the parable *ought* to clarify *The Trial's* overall narrative structure. In my view, Kafka likely structured the narrative trajectory of *The Trial* to be an instantiation of the relationship between the man from the country and the Law as described in "Before the Law." While my argumentative strategy may be circular, I do not think that this fact invalidates my argument precisely because the parable and *The Trial* as a whole are supposed to be in circular relationship in which they mutually clarify one another.

The crucial textual evidence found in "Before the Law" that I believe supports my claim that the self-deception of the man from the country is closely related to the assumptions he makes about the Law is that 'admittance' to the Law is something that is only mentioned by the man from the country. The doorkeeper never mentions admittance nor suggests to the man directly that anything like admittance. To be sure, the doorkeeper understands what the man

means by admittance when the man asks to go through the doorway. We can be sure of this because of his reply, “it is possible, but not now.”³⁰³ However, the doorkeeper never mentions the possibility of straightforward admittance to the Law. The notion of admittance to the Law enters into the parable through the mouth of the man from the country. And, as we shall see, the doorkeeper’s response that neither confirms nor denies that admittance is a concrete possibility is consistent with the unique nature of the Law.

Yet, doesn’t the evasive answer of the doorkeeper – “it is possible, but not now” – deceive the man from the country into thinking that there is such a thing as admittance to the Law? In the remainder of this section, I shall argue that the doorkeeper does not deceive the man from the country. This point shall emerge even more fully in my examination of the attempts of Josef K. to interpret the parable with the help of the priest in the next section. For now, I only wish to point out an important characteristic of the Law. Namely, Kafka structured the Law such that its defining feature was its ability to weaponize those who come before it. That is, when successful, the work of the Law is carried out unwittingly by those who come before it against themselves. The willingness of the man from the country to live and die before the Law without ever being told he will be able to enter or being forced to remain before its entrance attests to this characteristic of the Law. There is no textual evidence in Kafka’s parable suggesting that the Law has any other purpose than to ensnare the man from the country and to keep him waiting before its entrance. Its open entrance is useful, it seems, only insofar as it keeps the man from the country sitting on the stool. As soon as he can no longer remain suspended before the Law (viz.,

³⁰³ Kafka, *The Trial*, 215

as soon as he dies), the doorkeeper closes the entrance because it no longer serves any meaningful purpose.

If the purpose of the Law is to keep individuals suspended before it, then there is no reason to think that the terms ‘exclusion/inclusion’ or ‘exterior/interior’ necessarily apply to the Law in any traditional sense. The ability of the Law to function (viz., to keep the man from the country suspended before it in wait) need not depend on the fact that it possesses an interior that is qualitatively distinct from its exterior. The Law *could* function just as well as long as it is able to appear in such a way that those who come before simply assume that there is something like ‘access’ to the Law. The manner in which the Law *appears* in its first modality seems to me to be key to its ability to elicit precisely the sort of assumptions that would lead an individual to willingly wait before in perpetuity. In other words, the Law is an appearance to which a deeper, more meaningful reality does not necessarily correspond; it could very well be the case that on the other side of the entrance is simply another stool and another doorman. In this chapter and the next, I shall refer to the fact that the Law is *mere appearance*. By this term I simply mean that the Law is an appearance to which a deeper, more significant reality need not correspond. Indeed, as I discuss more resources from *The Trial* in the sections to come, I shall demonstrate that the Law almost certainly lacks the content that the man from the country ascribes to it.

Yet, that the man from the country makes a number of seemingly reasonable assumptions based upon the way that the Law appears to him does not necessarily imply self-deception. However, his willingness to spend his entire life before the Law waiting for admittance implies something like a compulsive and systematic unwillingness to question some of the basic assumptions that he has made about the Law. Insofar as he is incapable of stepping back, so to speak, and question these assumptions, I believe that he deceives himself about the possibility of

admittance. This raises the following question: what explains the man from the country's stubborn insistence on his initial assessment of the meaning and significance of the Law? In my view, the judgment of the man from the country is bound (perhaps willingly so) to traditional concepts and categories. We have seen that upon encountering the Law, the man from the country quickly applies orthodox categories of legality to the Law and remains trenchant in this assessment of its meaning and significance. The man from the country allows his assessment of the way that the Law appears to him to be determined by what he assumes its appearance conceals (namely, a comprehensible interior to which he is entitled access).

In my view, in "Before the Law" the Law is an appearance that demands to be judged solely by way of its manner of appearance. The fact that the Law is mere appearance means that it *must* be judged only according to the manner in which it appears. In the context of the parable, the centrality of appearance with reference to the Law is a negative measurement – the Law must *not* be evaluated according to any deeper reality or content, implying the primacy of appearance to its proper evaluation. In the parable, the man from the country grounds his assessment of the Law in an evaluation of what he believes the doorway conceals or hides from him. That is, he allows his assessment of the way in which the Law appears (viz., an open doorway) to be determined by what he has already decided its appearance conceals.

The primacy of appearance implied in "Before the Law" also attests to the danger of traditional concepts and categories. The man from the country assumes that the Law is equivalent to traditional, positive law. His assumption to this effect is underwritten by his more basic assumption that there exists a deeper reality to the Law other than the way it appears to him. It is his assumption that the law to which he believes himself to be subject is a positive one that leads him to live and die before the Law in the parable. Thus, the Law is an appearance that

invites the assumption that it is generic. However, the application of traditional categories leads the man from the country to his death. I shall discuss all of these themes in more depth in the pages to come. For now, I turn to a discussion of Josef K.'s reception of the parable in *The Trial*. In so doing, I shall turn away from the text of the parable and towards the parable's place in the novel as a whole, how it is supposed to apply to Josef K.'s situation, and what Josef K. should (but does not) get out of its interpretation.

Section Two: Josef K. and "Before the Law"

The context in which the "Before the Law" appears in *The Trial* is crucial to understanding the purpose that Kafka assigned to it in *The Trial*. In Henel's words, "If a parable is supposed to explain a given situation, then it is also in its turned explained through its relationship to this situation. So it is with the legend of the doorkeeper."³⁰⁴ Likewise, in *The Cambridge Companion to Franz Kafka*, Rolf Goebel notes that the parable is, "constructed around questions of legitimacy, power, and deceit that arise from the man's desire to enter the Law, the exegetical dialogue between K. and the priest about the parable's many implications recapitulates the positions and counter-positions that endlessly prolong K.'s trial."³⁰⁵ Kafka understood the parable to be bound up with the project of coming to understand the structure of authority that he called 'the court.' After all, the whole purpose of the priest's offering the parable to Josef K. was that the parable speaks specifically of a self-deception – the self-deception by which Josef K. was, in the priest's words, "deceiving himself about the court."³⁰⁶ In order to complete the

³⁰⁴ Henel, "The Legend of the Doorkeeper and Its Significance," 42

³⁰⁵ Rolf J. Goebel, "Exploration of the modern city in *The Trial*, in *The Cambridge Companion to Kafka*, ed. Julian Preece (Cambridge: Cambridge University Press, 2002), 56.

³⁰⁶ *The Trial*, 215

interpretation that I started in the previous section, I must discuss Josef K. and his attempts to interpret the parable. In so doing, my primary objective is to locate the same form of self-deception within Josef K. in his struggle with the court as we saw characterized the man from the country and his struggle with the Law. The penultimate chapter of *The Trial* contains not only “Before the Law,” but also an in-depth discussion of it. The priest asks Josef K. to interpret the parable. Insofar as the parable is about self-deception, we may presume that Josef K. needs to interpret the parable in such a way that *his own* (Josef K.’s) self-deception about the court becomes clear. For this reason, I have pointed out that the task of interpreting “Before the Law” implies self-knowledge insofar as the parable is supposed to rectify a lack of it. However, to come to know one’s self-deception is also to come to know something about the court. In *The Trial* self-knowledge and knowledge about the court are intertwined.

During his interaction with the priest immediately prior to the priest’s telling of “Before the Law,” Josef K. explicitly considers the priest a potential ally in his struggle against the court. In the pages immediately preceding “Before the Law,” Kafka has his protagonist understand the priest as on his (K.’s) side, even though the priest is an official of the court. Kafka writes

the priest’s good intentions seemed to clear to K.; it was not impossible that they might come to terms if he [the priest] would come down, it was not impossible that he might receive some form of decisive and acceptable advice from him, something that might show him, for example, not how to influence the trial, but how to break out of it, how to live outside the trial. If the priest knew of such a possibility, he might reveal it if asked, even though he himself was a part of the court [...]³⁰⁷

³⁰⁷ *The Trial*, 214

The context provided in this passage is crucial. Josef K. has assumed that one official he has just met (the priest) is significantly different than the other officials of the court. In Josef K.'s mind, the priest is different in that K. believes him to be more sympathetic to him than the other officials. In response to this, the priest encourages Josef K. to reconsider what he thinks he knows about the court. Specifically, the priest accuses Josef K. of "deceiving himself."

Josef K. hopes to find an ally in the priest – an official of the court who is well disposed towards him and who can help him accomplish what the court seems to make impossible: an end to his trial *or* the ability to stop caring about it (to "live outside of it,"³⁰⁸ in K.'s words). Josef K. addresses the priest in the following way, "You're very friendly toward me [...] You're an exception among those who belong to the court. I trust you more than I do any of them I've met so far. I can speak openly with you."³⁰⁹ Addressing the priest in this way prompts the priest to offer the parable, warning Josef K. that he is deceiving himself. From this, we may glean that Josef K.'s self-deception is closely related to his tendency to assume that officials of the court are either his enemies or his friends. The first question we must answer is what does Josef K.'s orientation toward the priest tell us about Josef K.'s self-deception?

First, the priest informs Josef K. that he is deceiving himself immediately after Josef K. attempts to make a distinction between the priest and all the other court officials. Presumably, the priest objects to Josef K.'s assumption that officials of the court are either his enemies or friends. The priest's warning about self-deception is as much a repudiation of himself as K.'s ally as it is a repudiation of all the other officials as K.'s enemies. Clearly, the priest is warning Josef K. about his (K.'s) tendency to adopt a Manichean outlook on his trial. Rather than

³⁰⁸ *The Trial*, 214

³⁰⁹ *The Trial*, 215

assuming that the course his trial takes is dictated by good or evil forces, the priest encourages Josef K. to re-visit some of his most basic assumptions about the court. In order to accomplish this reevaluation of values, so to speak, the priest tells Josef K. the parable. The task implicit in the parable is threefold: Josef K. is supposed to (i) identify with the man from the country, and (ii) evaluate the situation of the man from the country in such a way that the man's self-deception becomes apparent, and (iii) to use the man's self-deception as an analogy to learn about his own self-deception. As we shall see, Josef K. succeeds at (i), but is unable to accomplish (ii) and (iii).

Josef K.'s attempts to interpret "Before the Law" appear in three iterations, each of which is centered on the question of deception. In what follows I will discuss each of these three interpretive iterations (a)-(c), and in so doing I will locate Josef K.'s deception as well as discuss his failure to interpret the parable in an adequate way.

(a) Interpretation I

"So the doorkeeper deceived the man," K. said at once, strongly attracted to the story."³¹⁰ Josef K.'s initial reaction to the parable is important, because his initial reaction determines all subsequent discussion of it in *The Trial*. Josef K. identifies immediately with the man from the country and, like himself, assumes that the man from the country is a victim, deceived by a pernicious doorkeeper. As Henel points out, "Josef K. understands immediately the analogy between himself and the man from the country on the one hand, and the court and the doorkeeper on the other hand, and reacts to the story by identifying himself completely with

³¹⁰ Kafka, *The Trial*, 217

the man from the country and defending him passionately.”³¹¹ As we shall see, Josef K.’s crucial failing is his propensity to (in Henel’s words) *defend* the man from the country rather than to criticize him. Josef K.’s only hope to discover his own self-deception is to adopt a more critical orientation towards the actions of the man from the country.

Josef K. cites the following reason for his initial interpretation that the man from the country is deceived by the doorkeeper. Kafka writes, ““it’s clear,” said K, “[...] the doorkeeper conveyed the crucial information only when it could no longer be of any use to the man.”³¹² To this, the priest offers a twofold response. First, the priest points out that the doorkeeper makes “two important statements [...] concerning admittance to the Law, one at the beginning and one at the end.”³¹³ These two statements are that the man from the country cannot be admitted yet and that the entrance was made only for the man from the country. The priest argues that these two statements do not amount to a contradiction. The priest even goes so far as to say that, “the first statement even implies the second.”³¹⁴ While Kafka does not clarify how or why the first statement implies the second, he clearly structured the priest’s response to counter Josef K.’s insistence that the doorkeeper deceived the man from the country into spending his whole life before the Law. The priest’s first response highlights the fact that *just because* the man was not admitted to the Law does not entail any deceptive element in the doorkeeper’s two statements about admittance. Second, the priest points out that the dearth of textual evidence suggesting the doorkeeper has the qualities characteristic of a liar.³¹⁵

³¹¹ Henel, “The Legend of the Doorkeeper and Its Significance,” 43

³¹² Kafka, *The Trial*, 217

³¹³ Kafka, *The Trial*, 217

³¹⁴ Kafka, *The Trial*, 218

³¹⁵ I shall not dwell on this point further in my analysis. See Kafka, *The Trial*, 218-219

(b) Interpretation II

The priest then points out to Josef K. that the doorkeeper could be the one who is deceived. “In any case,” the priest says, “there’s even an opinion according to which the doorkeeper is the one deceived.”³¹⁶ According to the priest, one may infer that the doorkeeper is deceived in two ways. The first of these is derived from the spatial location of the doorkeeper. The doorkeeper is located on the same side of the entrance as the man from the country. Because the parable does not specify that the doorkeeper has any first-hand knowledge of the interior, the priest points out that the doorkeeper’s knowledge of the Law cannot be assumed. Josef K. cannot, in other words, assert non-problematically that the doorkeeper *knows* that the man from the country cannot ever pass through the doorway and withholds this information from him.

The priest also points out that the doorkeeper acts as if he is superior to the man from the country. No doubt, the priest has in mind the passage from the parable that specifies the doorkeeper questions the man from the country, “indifferently, as great men do.”³¹⁷ The priest believes that the superior way in which that doorkeeper acts is actually problematic. It could be, the priest suggests, that the doorkeeper is actually subordinate to the man from the country. The doorkeeper is subordinate to the man for the scholastic reason that, “the free man is superior to the bound man [and] the story mentions no element of force.”³¹⁸ Second, the priest points out that the parable makes it clear that the Law only makes a claim on the man from the country. If it is the case that the doorkeeper serves the Law, then the doorkeeper arguably, “serves only this

³¹⁶ Kafka, *The Trial*, 220

³¹⁷ Kafka, *The Trial*, 216

³¹⁸ Kafka, *The Trial*, 221

man, for whom the entrance is solely meant.”³¹⁹ According to this reading, any servant of the Law is by extension a servant of the man from the country. Together, these two reasons suggests that the doorkeeper may be deceived insofar as he acts as if he were superior to the man.

At this point in the text, the priest has already made it clear that his contributions to the discussion of the parable should not be taken as revealing its final meaning and significance. He has told Josef K. that, “I’m just pointing out various opinions that exist on the matter.”³²⁰ However, while the priest is careful not to put himself in a place of authority vis-à-vis the text, his contributions to the conversation he has with Josef K. are not haphazard. We are in good position to appreciate two important facets of the role the priest plays. First, the priest does not claim any ‘expertise’ in the meaning and significance of the parable supports my claim that Kafka meant the parable to announce a task – a task that only the defendant who is ‘before the court’ may undertake. Second, the priest’s contributions to Josef K.’s attempt to interpret the parable serve a specific purpose. It is undeniable that his suggestion that the doorkeeper is the one who is deceived is intended to distance Josef K. from his insistence that the man from the country is being abused by an all-knowing, pernicious institution or agent. Thus, we may reasonable to infer that the role of the priest – directly or indirectly – is to push Josef K. toward greater critical self-reflection. The unstated goal of the priest seems to be direct Josef K. away from his assumption that the agency in the parable belongs to the Law (via the doorkeeper), and towards an interpretation emphasizing the role that the man from the country plays in determining his fate.

³¹⁹ Kafka, *The Trial*, 221

³²⁰ Kafka, *The Trial*, 220

(c) *Interpretation III*

Now, we arrive at the final interpretive iteration of the discussion of the parable. At this point in the text, Josef K. signals his inability (or unwillingness) to reconsider the role of the Law and its representatives. In response to the priest's reasons for thinking that the doorkeeper may be deceived, Josef K. effectively doubles down on his original thesis that the man from the country is the victim of deception at the hands of the doorkeeper. Josef K. says

That's well reasoned [...] It's well reasoned, and now I too believe that the doorkeeper is deceived. But that doesn't change my earlier opinion, for in part they coincide. It makes no difference if the doorkeeper sees clearly or is deceived. I said the man was deceived. If the doorkeeper sees clearly, one might have doubts about that, but if the doorkeeper is deceived, the deception must necessarily carry over to the man. In that case the doorkeeper is indeed no deceiver, but is so simpleminded that he should be dismissed immediately from service. You have to realize that the state of deception in which the doorkeeper finds himself doesn't harm him but harms the man a thousandfold.³²¹

In this passage, Josef K. stubbornly refuses to jettison his claim that the man from the country is deceived into his living and dying before the Law. At first glance, K.'s argument is plausible enough, so I shall examine it closely. Josef K. assumes that the doorkeeper is deceived in that the doorkeeper is not necessarily privy to any knowledge of the interior of the entrance.³²² Josef K.'s argument is a proof by cases, of sorts. He believes that he has shown that if the doorkeeper is not deceived (viz., that he *knows* that the man from the country will never be able to pass through the entrance), then he deceives the man from the country willingly; on the other hand, if the

³²¹ Kafka, *The Trial*, 222

³²² It is important to note here that this is only *one* of the ways the doorkeeper can be understood as deceived. The other – that the doorkeeper is actually subordinate to the man, but does not realize this – is not mentioned by Josef K. in his rebuttal to the priest

doorkeeper is deceived (viz., he does not know the man from the country will never be able to enter), then he inadvertently deceives the man from the country because of his (the doorkeeper's) inability to warn him. On this account, the doorkeeper simply tells Josef K. what he has been instructed to tell those who come before the gateway, with no knowledge that permission to enter the doorway will never come. Thus, argues K., both cases leading to the man from the country's being deceived into spending his whole life before the mirage otherwise known as 'admittance' to the Law. According to Josef K.'s argument, whether or not the doorkeeper deceives intentionally is an irrelevant question because the man from the country is deceived in either case. Clearly, Josef K. is willing to admit of only two interpretations of the Law and its representatives: pernicious or incompetent. Both of these interpretive efforts are clearly tainted by Josef K.'s desire to exact vengeance upon a court that he can only see as either pernicious or incompetent. Stanley Corngold has discussed this aspect of the parable in the following terms, "Joseph K. is inculpated by his very impatience to find himself innocent; it prevents him from taking on the question: What, apart from my need to find myself innocent, is the nature and authority of the court that has arrested me?"³²³

The priest responds by attempting to undercut one important assumption that Josef K. has made about the doorkeeper: that what he says about the Law is truth-functional. Both of Josef K.'s interpretations rely upon the tacit assumption that the propositions spoken by the doorkeeper about admittance to the Law have some truth-content. That is, Josef K. believes that the words spoken by the doorkeeper about admittance to the Law can and ought to be evaluated based on the degree to which they correspond to the objective facts about the Law. This follows from a

³²³ Corngold, *The Necessity of Form*, 238

consideration of Josef K.'s insistence that the doorkeeper's statements must be capable of being checked against the Law, or that he be fired for incompetence. At bottom, the priest suggests to Josef K. that it may not be possible to pass such judgment on the doorkeeper or his words at all.

The priest says

there are those who say the story gives no one the right to pass judgment on the doorkeeper. No matter how he appears to us, he's still a servant of the Law; he belongs to the Law, and is thus beyond human judgment. In that case one can't see the doorkeeper as subordinate to the man. To be bound by his office, even if only at the entrance to the Law, is incomparably better than to live freely in the world. The man has only just arrived at the Law, the doorkeeper is already there. He has been appointed to his post by the Law, to doubt his dignity is to doubt the Law itself.³²⁴

The priest's final interpretive suggestion targets Josef K.'s confidence that he is in position to pass judgment on the Law (and the doorkeeper). The priest suggests to Josef K. that it is not necessary that the words of the doorkeeper be truth-functional at all. That is, Josef K.'s assumption that the words of the doorkeeper are to be assessed by the degree to which they reflect the 'reality' of the Law is not textually supported. To this Josef K. responds in the following way. K. says

"I don't agree with that opinion," said K. shaking his head, "for if you accept it, you have to consider everything the doorkeeper says as true. But you've already proved conclusively that that's not possible." "No," said the priest, "you don't have to consider everything true, you just have to consider it necessary."³²⁵

This passage reveals that Josef K. assumes that the priest has suggested that the "dignity" that the Law bestows upon the doorkeeper necessitates the fact the doorkeeper's words must reflect the

³²⁴ Kafka, *The Trial*, 223

³²⁵ Kafka, *The Trial*, 223

reality of the Law (viz., his words must be true). However, the priest responds by suggesting that the doorkeeper's words could be merely necessary, instead of true. At this point in the text, Josef K. gives up on the task of interpreting the parable. He makes his unwillingness to consider the words of the doorkeeper as anything but truth-functional clear, saying that the priest's suggestion results in, "Lies [being] made into a universal system."³²⁶ Then, he becomes exhausted and gives up on the task of interpreting the parable.

The distinction between true and necessary words is obviously both important and opaque. We must keep in mind that the subject of discussion at the moment at which the priest makes this distinction is not the parable as a whole being true, but only parts of it. Josef K. has been insisting that the propositions spoken by the doorkeeper on the subject of admittance must be truth-functional. That is, when the doorkeeper tells the man from the country that admittance is possible, but delayed, Josef K. believes that this proposition must be either true or false. The truth or falsity of that proposition must be checked against the doorkeeper's knowledge (or lack thereof) of the fact that the man from the country cannot gain entrance to the Law. If Josef K. is right about this, then his desired conclusion does seem to follow; the man from the country is deceived by the doorkeeper, who either does or does not mean to deceive the man or does not mean to do so.

The priest's suggestion that the words of the doorkeeper may be *necessary*, and not true or false is meant as a counter to Josef K. unwillingness to read the parable in terms other than the man from the country being deceived by an external force. But what would it mean for the propositions of the doorkeeper to be necessary, and not truth-functional? The distinction seems

³²⁶ Kafka, *The Trial*, 223

to target the tendency to assume that the words of the doorkeeper must correspond (or not correspond) to some deeper, objective reality to the Law. Josef K. certainly wishes to insist that either the doorkeeper must be familiar with the Law (in which case he is a deceiver) or ignorant of it (in which case he is incompetent but still a deceiver). To read his words as necessary frees us of the burden of needing to answer the question of what the doorkeeper knows or does not know.

If the doorkeeper's words are necessary, then they need not and perhaps do not correspond to any *hidden* or *deeper* reality to the Law lurking behind its appearance. When we read the doorkeeper's words as necessary, the proposition, "It's possible, but not now," merely duplicates the appearance of the Law, translating its physical appearance into conceptual terms without adding any content to the Law or offering any deeper insight into its nature. In my view, Josef K.'s desire to analyze the propositions of the doorkeeper in terms of their truth-value is akin to the man from the country's desire to find out what is 'hidden' on the other side of the entrance.

In this section, I've suggested a couple of things. First, I've argued that there *need not* be any deeper reality to the Law in order for it to perform its function – to perpetually ensnare individuals before it. Second, the desire to discover an underlying reality to the Law is the self-deception of which the parable speaks. If my arguments to this effect are plausible, then it also seems likely that in introducing the distinction between 'necessary' propositions and truth-functional propositions the priest is trying to undercut Josef K.'s own self-deception that the words of the doorkeeper must possess some deeper content and value.

Section Three: "Before the Law" and *The Trial*

Now, I shall discuss my interpretation of the parable in terms of *The Trial* as a whole. Because the stated purpose of the parable is to distill significant features of Josef K.'s relationship to the court and his trial, any adequate interpretation of the parable ought to clarify most, if not all, important features of *The Trial*. In this closing section, I will focus primarily on the implications of my interpretation of the parable as they relate to the major categories of the novel as a whole: innocence and guilt.³²⁷ I argue that the interpretation of the parable that I offered earlier in this chapter serves as an excellent clarifying lens with which to examine the meaning and significance of Josef K.'s struggle against the court and his trial.

I have already emphasized that one of the key features of "Before the Law" is that it is designed to allow Josef K. to come to know the way(s) in which he is deceiving himself. Like many victims of self-deception, Josef K. appears to be unaware of his self-deception. As we shall see, Josef K. is in the process of projecting inner states (desires, needs) onto real situations in which he finds himself. In so doing, he treats subjective states as if they were features of objective reality. In *The Trial*, the focal point of Josef K.'s projections is unsurprisingly, the court. In other words, just as the man from the country supplied most of the 'content' to the Law by way of the assumptions the Law was able to elicit from him, Josef K. also (unknowingly) contributes most of the meaning and significance of his trial. "Before the Law" translates the moral and legal categories of Josef K.'s trial (innocence/guilt) into spatial terms, recasting them as 'inclusion' and 'exclusion.' All of this merely underscores the following question: what, if

³²⁷ Here, I am only interested in specifying the interplay of guilt and innocence in their relation to Josef K. For an account of guilt and innocence as they related to Kafka's composition of this text see Stanley Corngold, *Lambent Traces: Franz Kafka* (New Jersey: Princeton University Press, 2004): 37-44

anything, should Josef K. get out of “Before the Law”? In my view, this question is also identical to the question: what, specifically, is the nature of Josef K.’s self-deception?

My commentary on *The Trial* will mirror my commentary on the parable. I shall argue that (a) most – if not all – of the agency in *The Trial* actually belongs to Josef K. Like the man from the country in “Before the Law”, Josef K.’s self-deception consists in the belief that the court takes his agency away from him, when in reality it does not. Then, I show that (b) just as the man from the country is deceiving himself with reference to the distinction he believes he sees between admittance to the Law and exclusion from it, so Josef K. is deceiving himself with reference to the distinction he believes he sees between innocence and guilt before the court.³²⁸ In discussing (a)-(b), we shall be able to view Josef K.’s self-deception clearly.

(a) *The Agency of Josef K.*

I take it to be more or less noncontroversial that Josef K. enjoys (albeit unknowingly) far more agency in his trial than many philosophical commentators allow. One of the great benefits of Henel’s analysis is her recognition of this fact. She writes that, “Like the man from the country Josef K. is also free, despite his arrest.”³²⁹ There is an abundance of textual evidence that Josef K.’s trial is no ordinary one, and one of its most important features is that it can end whenever and however Josef K. decides. There are several good reasons for this conclusion.

³²⁸ For a fascinating analysis of the relationship between *The Trial* and “In the Penal Colony” as offering different theses as to the possibility of the guilty individual coming to know her guilt see Malcolm Pasley, “In the Penal Colony,” in *The Kafka Debate: New Perspectives for Our Time*, ed. Angel Flores (New York: Gordian Press, 1977), p. 298. Stanley Corngold discusses Pasley’s conclusions about “In the Penal Colony” in terms of Kafka’s composition of *The Trial* in Corngold, *The Necessity of Form*, 235

³²⁹ Henel, “The Legend of the Doorkeeper and Its Significance,” 46

First, as early as the first chapter, the text makes it clear that there is no robust distinction between arrest and not being under arrest. “You’ve misunderstood me,” Kafka has one of the officers who puts K. under arrest say, “you’re under arrest, certainly, but that’s not meant to keep you from carrying on your profession. Nor are you to be hindered in the course of your ordinary life.”³³⁰ From the very outset, *The Trial* blurs the distinction between guilt and innocence before the court, and this passage should suggest to us (and Josef K.) that his trial is no ordinary one.³³¹ Josef K. responds to this news that his arrest is more or less equivalent to life as he as always lived it by remarking, “Then being under arrest isn’t so bad.”³³²

Second, Josef K. becomes exasperated at his disastrous initial hearing and decides that he simply won’t return to any subsequent hearings. He decides, in other words, to live outside of his trial. The opening lines of the next chapter strongly suggest that there are no consequences to Josef K.’s decision to ignore his trial. We find the following passage.

K. waited from day to day throughout the following week for further notification; he couldn’t believe they had taken his waiver of interrogations literally, and when the expected notification had not arrived by Saturday evening, he took it as an implicit summons to appear again in the same building at the same day.³³³

These two passages from relatively early in the text are good evidence that Josef K. retains a large amount of agency throughout his trial. He is not, in other words, *forced* to act in the way that he does. Despite his frequent complaints of being deceived or abused by the court, there is little textual evidence that the court forces him to take his trial as seriously as he does. Nor is

³³⁰ Kafka, *The Trial*, 17

³³¹ For a linguistic analysis of the subtle shifts in the words that Kafka uses that are translated as “arrest,” see Corngold, *Lambent Traces*, 51-66

³³² Kafka, *The Trial*, 17

³³³ Kafka, *The Trial*, 54

there any textual evidence that the court could or would exert any coercive force over Josef K. in order to force him to take its claim on him seriously.

The passage I quoted above is significant for my interpretation of the text for a couple of reasons. First, it stands as good textual evidence that had Josef K. persisted in his plan to simply disregard the fact that he was ‘under arrest,’ then his trial would have simply ended. Or, what may amount to the same thing, his trial would have continued without him. Second, the passage makes it plain that Josef K. also *cannot* ignore his trial. Despite having explicitly told the officials in charge of his initial inquiry that he would not be appearing at any subsequent hearings, Josef K. decides (almost inexplicably) to interpret the court’s unwillingness or inability to exert any coercion over him as “implicit summons to appear in the same building at the same time.”³³⁴ For some reason, he seems to be drawn naturally into becoming involved in its developmental trajectory and outcome. Josef K.’s being so drawn can only be the result of one thing: on a fundamental level, Josef K. believes that there is a robust (and traditional) distinction between innocence and guilt before the court. In other words, Josef K. takes the court’s claim on him – that he is guilty – seriously.

(b) The Irrelevance of the Distinction between Innocence and Guilt before ‘the court’

During the course of Kafka’s novel, Josef K. is given plenty of evidence that he is mistaken about his assumptions about innocence and guilt. I shall only mention the most prominent of these, found later in the text during K.’s meeting with the court painter. The painter informs Josef K. that, “There are three possibilities: actual acquittal, apparent acquittal, and

³³⁴ Kafka, *The Trial*, 54

protraction.”³³⁵ Continuing, the painter tells Josef K., “I know of no actual acquittals [...] from the moment I was allowed to go to court I attended constantly, heard the crucial stages of innumerable trials, followed them insofar as they could be followed, and – I must admit – never saw a single actual acquittal.”³³⁶ ‘Actual acquittal’ serves the same function in *The Trial* as ‘admittance’ serves in “Before the Law”: the structure of the Law as a gateway demands the possibility of admittance. However, like admittance to the Law, that there is an abstract possibility of actual admittance is due to the conceptual necessity of some robust notion of innocence to correspond to that of guilt. The closest that Josef K. – or any defendant – may come to acquittal is ‘apparent acquittal’ or ‘protraction,’ both of which do not allow for one’s trial to actually come to an end.³³⁷

Just as there is no traditional form of innocence in relation to the court, there is also not a traditional form of guilt in which a specific sentence is handed out following a finite procedure of examination and judgment. In the penultimate chapter of the text, shortly before offering Josef K. the opportunity to interpret “Before the Law,” the priest tells Josef K. that, “The judgment isn’t simply delivered at some point; the proceedings gradually merge into the judgment.”³³⁸ While Josef K.’s trial does come to a very definite end with his death at the hands of court officials in the final chapter, this passage makes it clear that it need not – the judgment may be simply be *equivalent* to the never ending inquiries and hearings of the court. Furthermore, the vast majority of other defendants – in fact, *every* other defendant we meet in *The Trial* – is

³³⁵ Kafka, *The Trial*, 152

³³⁶ Kafka, *The Trial*, 153

³³⁷ I shall not discuss this further. See Kafka, *The Trial*, 325-334

³³⁸ Kafka, *The Trial*, 213

presented as caught up in a never-ending sentence of hearings and interrogations. Their guilt is not reflected by a sentence, but by their being subjected to the procedures of the court.

These reasons are sufficient, I think, for Josef K. to come to the conclusion that traditional notions of juridical guilt and innocence are simply irrelevant when it comes to the court and he would obviously do well to jettison them. Indeed, the textual evidence concerning guilt and innocence before the court leads us to the conclusion that there is no substantive distinction between the two. Both ‘apparent acquittal,’ ‘protraction,’ and ‘guilt’ all share one common denominator: one’s trial does not come to an end.

We are now in good position to observe Josef K.’s self-deception, using that of the man from the country as our model. Josef K. seems to be unable or unwilling to reconsider many of the central assumptions that the court has been able to elicit from him.³³⁹ We have already seen two of these assumptions in great detail. First, he has assumed that the court operates according to traditional notions of innocence and guilt. This assumption underwrites his continual attempts to secure from the court either an acquittal or an admission that they arrested the wrong person. But his strategy of proving his innocence does not bear results; it only serves to entangle him further in the seemingly labyrinthine procedures of the court. This brings us to the second of Josef K.’s assumptions. Josef K. assumes that the failure of his attempts to use traditional notions of innocence and guilt against the court proves that the court is either pernicious or incompetent.

³³⁹ Here, I depart from some prominent interpretations of Kafka, which take Kafka to be portraying a protagonist that is capable of accomplishing something that he (Kafka) was not. Stanley Corngold, for instance, reads *The Trial* as expressing Kafka’s inability to, “contemplate his engagement [to Felice Bauer] and the war, both of which he is guilty of evading [...]” See Corngold, *The Necessity of Form*, 234

Looked at in this way, Josef K.'s behavior mirrors that of the man from the country, who is similarly unable or unwilling to re-think some of his most basic assumptions about the Law until it is too late. The common denominator between the two seems to be twofold. First, both figures share a tendency to project *additional* content and significance onto an appearance (the court and the Law) that may lack further depth. In terms of the man from the country, this projection is that of a robust 'interior' whose content is significantly different from that of its appearing exterior. In terms of Josef K., he assumes that the claims of the court (that he is guilty) amount to much more than they necessarily do. All of his actions during the course of the novel are motivated by his assumption that his guilt is finite, limited and expressible according to some action that he either did or failed to do. Furthermore, to their detriment both Josef K. and the man from the country project highly traditional content onto the appearances with which they are confronted. That is, both individuals use the projection of traditional categories in order to understand that which appears to them.

In this chapter, I have suggested that there need not be anything other to these appearances than the way in which they appear. In other words, I believe that one of the most interesting themes in *The Trial* is the degree to which appearance takes clear precedence over underlying reality. The precedence of appearance comes out most clearly, I think, in the parable. Clearly, the Law is structured so as to elicit the assumption of exclusion and the assumption of exclusion implies that there is something *else* from which one is excluded. However, it is not difficult to discern this same precedence of appearance in the court. Josef K. clearly takes the officials of the court at their word when they speak of its labyrinth of offices and officials. However, none of this need be the case in order for the court to ensnare Josef K. All that is necessary is that Josef

K. believe that there is. This, coupled with his tendency to rely on traditional notions of innocence and guilt determine the trajectory of his trial.

Perhaps the most significant common feature of the Law and the court is the fact that traditional concepts and categories not only do not apply to them, but if applied these concepts and categories are dangerous. They are dangerous in the obvious sense that they lead the man from the country and Josef K. to their deaths. The way these institutions work is to appear in a quasi-traditional sense (as a doorway, which seems to imply admittance or a court, which seems to imply innocence/guilt) and to elicit traditional assumptions from those to whom they appear. Clearly, these institutions demand to be treated as unique in the sense that the temptation to posit traditional content is dangerous. In this sense, appearance rather than reality is the most important category in *The Trial*. The self-deception of the man from the country and Josef K. is not simply the fact that they make rather traditional assumptions about the meaning and significance of the Law and the court. Josef K. and the man from the country seem to be deceiving themselves in a much more fundamental way. Their inability to operate in the absence of traditional categories bespeaks a more general difficulty with recognizing the *unique*. Although neither individual says as much directly, their actions strongly suggest that they cannot or will not conceive of an appearance that shatters the relevance of the traditional conceptual apparatuses with which they operate.

Before ending my discussion of *The Trial*, I wish to point out one of the most important upshots of the interpretation that I have offered in this chapter. Namely, were Josef K. able to come to a sufficient interpretation of the parable, then he would learn – among other things – that the court is simply unable to grant him a certificate of innocence in much the same way as the Law may be *unable* to grant the man from the country the specific sort of admittance that he

seeks. As I have emphasized in this closing section of the chapter, the inability of the court of recognize Josef K.'s innocence does not necessarily follow from its pernicious nature; rather, the court seems to be structured according to different notions of innocence and guilt. In the face of this evidence, what should Josef K. take from the parable? I shall only sketch one brief answer here.

Josef K. ought to recognize that there is no robust distinction between innocence and guilt before the court. Again, he has all the necessary resources to come to this conclusion, but he does not. Speculation as to *why* Kafka structured his protagonist in such a way that he (Josef K.) was unable or unwilling to come to crucial insights about his situation before the court would take us to far afield.³⁴⁰ However, this much is clear: the most fundamental insight at which Josef K. must – but cannot, it seems – arrive is that he must be his own certificate of innocence or guilt before this particular court. He is guilty, in other words, only insofar as he takes the claims of the court seriously and he is innocent only insofar as he does not. Such a recognition would allow Josef K. to formulate and carry out his decisions in full knowledge of the agency that he exerts in so doing.

³⁴⁰ Stanley Corngold has argued that Kafka came to see his composition and completion of *The Trial* as both a way to redeem himself from his own guilt *and* as embodying Josef K.'s fruitless struggle against the court. Corngold argues that, "Breaking with Felice, he was guilty of abandoning the woman whom he made fascinating. Literature could appear as the one possible agency of his exculpation." Despite this, Kafka's inability to successfully complete *The Trial* led him to associate guilt with the act of writing itself. See Corngold, *The Necessity of Form*, 240

CHAPTER VII

CONCLUSIONS:

EJ AND ARENDT'S DISCOVERY OF THE JUDGMENT OF THE SPECTATOR

Introduction

In the previous chapter, I mentioned that one must be cautious in reading EJ as saying anything directly about the faculty of judgment. Caution is warranted because Arendt clearly stated that her book was a work of journalism, and not theory. Even though her thesis about the banality of evil was a theoretical proposition that was informed by a deep understanding of Western moral philosophy, it would be a mistake to read the book as primarily a theoretical work. Indeed, the most theoretical portions of EJ in which Arendt offered her famous analysis of crimes against humanity and addressed the banality of evil explicitly – the “Epilogue” and “Postscript” – were additions that Arendt prepared for the publication of EJ as a book manuscript.³⁴¹ Nowhere is the journalistic nature of Arendt’s analysis of Eichmann’s trial attested to more than in the titles of the articles she wrote for *The New Yorker*, which appeared as

³⁴¹ Arendt’s analysis of Eichmann’s trial was published in *The New Yorker* in five installments that appeared in the following issues of the magazine. See Hannah Arendt, “A Reporter at Large: Eichmann in Jerusalem – I,” in *The New Yorker*, February 16, 1963: 40-113; Hannah Arendt, “A Reporter at Large: Eichmann in Jerusalem – II,” in *The New Yorker*, February 23, 1963: 40-111; Hannah Arendt, “A Reporter at Large: Eichmann in Jerusalem – III,” in *The New Yorker*, March 2, 1963: 40-91; Hannah Arendt, “A Reporter at Large: Eichmann in Jerusalem – IV,” in *The New Yorker*, March 9, 1963: 48-131; Hannah Arendt, “A Reporter at Large: Eichmann in Jerusalem – V,” in *The New Yorker*, March 16, 1963: 58-136

“A Reporter at Large: Eichmann in Jerusalem,” in five installments. The articles’ title does not present the articles as “A Report on the Banality of Evil,” as did EJ.

Despite the journalistic nature of EJ – both in its article and book form – I have argued that the developmental trajectory of Arendt’s writings on judgment suggests strongly that her own experience *as a spectator* at Eichmann’s trial revealed another dimension of political judgment. In the years that followed her attendance at Eichmann’s trial, Arendt turned to the theoretical exposition of a form of political judgment that was the prerogative of the uninvolved spectator. In previous chapters of this project I have argued that Arendt viewed the judgment of the spectator as mutually exclusive to the judgment of the actor. Furthermore, Arendt’s shift in emphasis to the judgment of the spectator only appears in her post-EJ writings. For these two reasons, I have suggested we ought to read EJ as providing an implicit description of the situation in which Arendt ‘discovered,’ so to speak, the importance of the judgment of the spectator. In my view, any serious examination of Arendt’s writings on judgment such as LKPP and LM must take EJ into account. Failing to do so risks overlooking important characteristics of the judgment of the spectator that Arendt did not live to develop. In this chapter, I shall support and develop this position by interpreting EJ as providing important details about Arendt’s model of judgment by using *The Trial* as a clarifying lens.

Section One: *The Trial* and the Spectator

First, a few remarks justifying my use of *The Trial* are in order. In my view, one of the most compelling reasons for using my interpretation of *The Trial* as a model by which to examine Arendt’s EJ is that a very similar notion of the spectator seems to be at play in *The Trial*. After arguing for the importance of the spectator to *The Trial*, I return to Arendt. In the

second and third sections of this chapter, I will argue that the notion of the spectator that is implied in *The Trial* is similar to the notion of the spectator that appears in Arendt's later writings on judgment. To end this chapter, I will apply my reading of *The Trial* to EJ and discuss several important features of the spectator model of judgment that emerge when examined through the lens of *The Trial*. The spectatorial position that is important to *The Trial* also fits most, if not all, of the characteristics of the spectator as Arendt conceived of it in her post-EJ writings.

In this section, I argue that a notion of 'the spectator' is central to *The Trial*, or at least to the interpretation of *The Trial* that I offered in the previous chapter. My purpose in arguing for this position is to forge a connection between Hannah Arendt's later spectator model of judgment and Kafka's novel. To be sure, I am not arguing that Arendt recognized the strong similarities between her analysis of Eichmann and central themes in Kafka's *The Trial*.³⁴² Rather, I draw this connection because I believe that using Kafka's work in order to read EJ can reveal hidden and unfinished dimensions to Arendt's later work on judgment that I shall discuss in subsequent sections of this chapter. My analysis of the spectator in *The Trial* emphasizes three crucial aspects of Kafka's novel: (i) the structure of the parable and of the perspectival shift that its

³⁴² In fact, the opposite is the case. During the time at which Arendt was reading Kafka, it was common belief that the order in which Kafka wrote his three novels was opposite to the order in which he actually wrote them. Thus, in the first half of the twentieth century, scholars believed that Kafka composed *The Castle*, *The Trial*, and *Amerika* in that order. This allowed a number of interesting – albeit fallacious – interpretations of the developmental trajectory of his thinking as it was exemplified in his novels. This mistake was a result of the fact that Max Brod decided to publish Kafka's writings in inverse chronological order. Howard Caygill has demonstrated that these assumptions about the order in which Kafka wrote his three unfinished novels was accepted by Arendt, leading her to accept the fact that there was a teleology, of sorts, implicit in the three novels' developmental trajectories. See Howard Caygill, "The Fate of the Pariah: Arendt and Kafka's "Nature Theatre of Oklahoma," *College Literature* 38(1), Winter 2011: 1-14

interpretation asks Josef K. to enact; (ii) the benefits of the perspectival shift described in (i) as implying a primacy on the spectator over the actor in terms of the question of adequately *judging* ‘the Law’ or the court; and (iii) the general Kafkian theme of abject failure as also implying something like the primacy of the spectator over the actor. To anticipate: I shall be arguing that the seemingly necessary failures of both Josef K. and the man from the country to assess the meaning of ‘the Law’ indicates salient limitations in the ability of those who are involved with ‘the Law’ to assess its meaning. I will end by pointing out that the notion of the spectator that I draw out of *The Trial* is similar to the way in which Arendt described the spectator in reference to judgment.

In the previous chapter, I emphasized that “Before the Law” serves a specific purpose in *The Trial*. Its purpose is to alert Josef K. (and presumably other defendants) to ways in which they deceive themselves about their trial and about the court more generally. My purpose here is not to offer an in-depth recapitulation of my argument for this interpretation, but to point out that the way in which the parable is *supposed* to accomplish its task of alerting the defendant to her self-deception implies a notion of spectatorship. To be sure, ‘actor’ and ‘spectator’ are not Kafka’s terms. My analysis of the spectator and *The Trial* appears in this chapter, rather than the preceding one because I take myself to be going beyond the text in importing Arendtian language in order to interpret it. However, because I take my interpretation of *The Trial* to be textually strong, I take my following remarks on spectatorship to be plausible, at the very least.

Recall that in order to interpret the parable adequately, Josef K. must consider something that is *like* his trial but is not identical to it. This fact follows from the first of the three things asked of him by the parable that I pointed out in the previous chapter: K. must be able to see himself in the man from the country. Doing so implies that K. must be able to recognize that the

story of the man from the country is also his own (or could be his own if he does not change his course of action). However, in order to see himself in the man from the country, Josef K. is not asked to consider a story about a trial that is like his own; rather, he is asked to consider his own situation in spatial – and not legal or moral – terms. The parable asks Josef K. to recognize that the notions of guilt and innocence with which he is preoccupied are similar to the notions of access and exclusion with which the man from the country is preoccupied. When he recognizes the similarity between the position of the man from the country and his own, he is ready to interpret the parable as having something to say about him, and not just the man from the country. In other words, Josef K. is asked to look on and observe the struggles of the man from the country who is ‘before the Law’ and to come to recognize how he (K.) is ‘before the court’ in a similar way.

What I wish to emphasize as crucial is that Josef K.’s ability to see himself in the predicament of the man from the country (as well as to accomplish the other two tasks that the parable asks of him) requires him to effect a very important transition. Josef K. must relinquish his position as an *actor* (viz., a defendant) in his trial and inhabit (albeit temporarily) the position of a *spectator* of someone else’s. The ability to offer an adequate interpretation to the parable is underwritten by the ability to shift from the perspective of the actor to that of the spectator. In my view, the purpose of the parable in *The Trial* is to allow Josef K. to temporarily free himself of factors that may be determining the quality of his judgment – factors that follow from his involvement in his own trial. In the previous chapter, I emphasized that the interpretive attempts of Josef K. are failures. One of the most important reasons for Josef K.’s failure in interpreting “Before the Law” is that he is unable to fully enact the necessary transition from actor to spectator.

The second aspect of spectatorship in *The Trial* that I will emphasize is something I take to be a development of the fact that the parable is constructed so as to require defendants to become spectators to their own trial, albeit momentarily. If it is the case that the parable requires one to become a spectator, rather than an actor, then this fact seems to imply a *primacy* of spectatorship, at least when it comes to the adequate evaluation of ‘the Law’ or ‘the court.’ Only a disinterested and uninvolved spectator who does not have a personal stake in the outcome of a trial may come to a deeper understanding of its nature. If it is the case that the perspective of the spectator is the more important one, then this further implies an inadequacy that is built into the perspective of the actor – an inadequacy that necessitates the task that “Before the Law” asks of Josef K. Before moving on to the third theme of spectatorship that I see in *The Trial*, I will briefly discuss the nature of the inadequacy of the perspective of the actor in *The Trial*.

In the previous chapter, I pointed out that Josef K.’s behavior in *The Trial* is self-defeating. There is good textual evidence, for instance, that the court is not prepared to punish him if he decides to ignore his trial, as he does briefly in the second chapter of the text when he resolves not to return for any further hearings. I also pointed out that Josef K.’s understanding of his situation is underwritten by a number of unwarranted assumptions that he makes about the court and that he never succeeds in verifying or examining these assumptions critically. Briefly, the assumptions that Josef K. makes about the court amount to his projecting a deeper layer of moral significance onto it. In other words, Josef K.’s understanding of the court is that it is a traditional court that will deliver a traditional sentence of either traditional innocence or guilt. Josef K. also understands that he has not committed a crime (at least not in any traditional way), and his understanding that he has not broken any positive law coupled with his assumption of the

traditional nature of the court is what underwrites his belief that the court is either incompetent or corrupt. This projection is what leads Josef K. to his doom.

I think it is fair to characterize Josef K.'s *assumption* that the court is either morally pernicious or incompetent as a *biased* evaluation of it. His evaluation of the court is biased because it is not determined by actual nature of the Law, but by Josef K.'s own subjective orientation towards it. Josef K. has succumbed to the tendency of the court to elicit a certain projection from those who come before it. He desires to overthrow it and to expose its claim on him as unwarranted, unfair, wrong, etc. Keeping the biased nature of Josef K.'s evaluation of the court in mind, it appears that in asking him to transition from the perspective of an actor to that of a spectator, "Before the Law" is offering Josef K. the opportunity to view his own trial in a less biased, arguably more objective fashion. In the previous chapter, I emphasized that it was in the nature of 'the Law' to lack any further depth or content. For this reason, in order to view 'the Law' in a more objective fashion, Josef K. would need to focus on its manner of appearance. In interpreting the parable adequately, Josef K. would be viewing the court in a way that was not determined by his own desire to exact vengeance on it. Thus, part of the reason that the parable requires the defendant to temporarily become a spectator is because the court invites or elicits highly biased judgments from those who become involved with it as defendants.

In other words, I believe that *The Trial* presents us with an implied description of a situation in which the judgment of spectators is more desirable than that of actors. Before I move on, I want to clarify that it is reasonable and natural that Josef K. react to 'the Law' in the way that he does and it is not my purpose to suggest that Josef K. ought not to be outraged by his trial. At the same time, however, it must be observed that Josef K.'s rational displeasure with the court is the very thing that prevents him from ever questioning central assumptions that he has

made about it. Kafka appears to have structured ‘the court’ and ‘the Law’ in such a way that defendants enact their trials on themselves, all the while thinking that ‘the court’ is in charge of what happens to them. There are many salient aspects to the way in which the court appears to which Josef K. does not pay sufficient attention – such as the fact that it does not (and perhaps, cannot) force him to attend hearings. These aspects of the court *could* suggest to Josef K. that the court is not a normal court, but unfortunately his desire to receive a formal acquittal clouds his judgment.

I believe that one of the reasons that “Before the Law” recasts Josef K.’s position before the court in the spatial terms of exclusion and admittance is that this recasting gives Josef K. the opportunity to view his own position in a more disinterested manner. Considering the position of an unknown ‘man from the country’ who spends his life trying to gain access to a doorway could allow Josef K. to distance himself from his own growing obsession with gaining a certificate of innocence from the court. I have described this recasting as asking Josef K. to enact a perspectival shift and I believe that this perspectival shift is one in which Josef K. must go from being an actor in his own trial to a spectator of someone else’s. For these reasons, then, *The Trial* may be read as a meditation, of sorts, on judgment as it relates to the actor and to the spectator.

The final aspect of spectatorship in *The Trial* that I will point out is something I take to be a general theme of the novel as a whole. Helplessness and failure are ubiquitous themes in Kafka’s writings and the nightmarish surrealism that accompanies these themes is what is commonly referred to as ‘Kafkaesque’. In *The Trial*, at least, the theme of failure seems to me to be closely associated with the notion of spectatorship. Both Josef K. and the man from the country are more or less unable to do other than they do in the novel. I have argued that internal – and not external – forces are behind this inability. In the previous chapter, I pointed out that

this was a result of the fact that both men cannot recognize and critically examine some basic assumptions that they make about ‘the Law’ or ‘the court.’ In my view, that Josef K. is asked to observe the failure of the man from the country in order to observe his (the man from the country’s) self-deception implies that the man from the country cannot accomplish this because he is *too involved* in his struggle to gain access to the gateway. This, in turn, suggests that *only* the spectator may come to a meaningful or adequate evaluation of the Law and that the ability to judge ‘the Law’ sufficiently requires that one not be before it. In *The Trial*, there is an inverse relationship between the ability to judge ‘the Law’ and an active engagement with ‘the Law.’ Thus, the more the man from the country has a stake in gaining access to ‘the Law’, the less he is able to view it objectively. The same relationship, of course, holds for the novel as a whole. The more that Josef K. becomes invested in being acquitted by the court, the less objectively is he able to assess it.

Thus far, I have argued that Kafka’s *The Trial* implies a notion of spectatorship. While I believe this notion of spectatorship is omnipresent throughout the novel, it is particularly obvious in the chapter in which Josef K. hears the parable “Before the Law.” I also argued that the notion of spectatorship found in *The Trial* is privileged over the perspective of the actor. To sum up: *The Trial* may be read as describing a situation in which the evaluation or judgment of the spectator is more desirable than that of the actor. Of course, the fact that one may productively read a notion of the spectator into *The Trial* does not justify my using Kafka’s novel as an interpretive lens with which to approach EJ. In order to justify my use of *The Trial*, I shall argue that the *The Trial* privileges the spectator over the actor in a way that is similar to Arendt’s own privileging of the spectator in LKPP and the extant volumes of LM.

In the second chapter of this dissertation, I discussed what I take to be the most salient characteristics of Arendt's later engagement with the question of judgment. One of the characteristics that I highlighted was Arendt's marked preference for talking about judgment almost solely in terms of the perspective she called that of the 'spectator.' Arendt's shift in emphasis from the actor to the spectator is one of the best reasons for skepticism as to whether essays such as "The Crisis in Culture" or "Truth and Politics" are really talking about the same sort of judgment as LKPP and LM. Here, I shall only recapitulate some of the most basic – and important – aspects of Arendt's discussion of the spectator.

In LKPP, Arendt nested her reading of Kant's notion of reflective validity in a new notion of spectatorship. Her doing so amounted to the addition of a *new* condition upon which reflective validity depended. In her later works, reflective validity depended not only on conditions such as "enlarged mentality" and "thinking from the perspective of others," but *also* on whether or not the individual judging was *involved* with the activity or event that she judged. Judgment was the purview of the uninvolved (but still interested) spectator. Put another way, in her post-EJ writings, Arendt seemed to think that certain limitations in judgment were part of the structure of what it meant to be an actor in human affairs. She thought that one of these limitations meant that the actor was barred, as it were, from the meaning and significance of that activity in which she was involved. Hence, the primacy of the judgment of the spectator to the proper evaluation of the meaning of human affairs implied that political judgment was the purview of the spectator of human affairs, and not the actor who took part in them.

The notion of spectatorship that we find in Arendt's later writings on judgment is similar to the notion of spectatorship that I argued was present in *The Trial*. In both Arendt and Kafka, the perspective of the spectator is emphasized for the same reason - because of the limitations

inherent in what it means to be an actor. Josef K. cannot, it seems, properly judge the court because of the fact that he has become so involved in the outcome of his trial. To be sure, as the novel proceeds, Josef K. becomes distant and distracted – both in his capacity as a bank executive and as a defendant. But Josef K. is never able to distance himself from his own involvement in his trial to an extent that he is able to evaluate it on its own terms. For this reason, I argued, the parable demands that Josef K. affect a perspectival shift from the actor to the spectator. Only from the perspective of the spectator, it seems, could K. arrive at a deeper insight into his trial. Just as Josef K. must become a spectator of the man from the country in order to come to a deeper understanding of the court before which he stands, so actors in human affairs cannot fully understand the meaning and significance of their actions. As we shall see, Arendt’s experience at the Eichmann trial most likely convinced her that actors could not be counted on to base their judgment on the enact of such a perspectival shift.

However, the similarities between *The Trial* and Arendt’s work on judgment do not end here. In the remainder of this chapter, I shall argue that reading *The Trial* and EJ together reveals under-appreciated dimensions of Arendt’s spectator model of judgment. In the following section, I shall emphasize the degree to which both texts present the primacy of the spectator as being closely related to the ability to judge something merely by the way in which it appears.

Section Two: “Before Adolf Eichmann”: A Kafkian Analysis of EJ

Thus far, I have argued for the importance of the judgment of the spectator in Kafka’s *The Trial*. I have also argued that the themes of spectatorship and judgment that I have read into *The Trial* are very similar to the ways in which Arendt talked about the judgment of the spectator in her later writings on political judgment. In this section, I will extend my analysis of *The Trial*

to EJ. As a first step, I shall demonstrate the helpfulness of my reading of *The Trial* to understanding some of Arendt's more basic claims about Eichmann and his trial. In this section, I turn to the themes of judgment and appearance as I see them in EJ. As I shall demonstrate in this section, the importance of *appearance* to Arendt's commentary on the Eichmann trial is greatly clarified when keeping in mind the reading of Kafka that I offered in the previous chapter.

Before I begin, I should clarify that my discussion of EJ will not be comprehensive in scope. As any careful reader of this text knows, EJ is complex and difficult to understand. In her contribution to *The Cambridge Companion to Hannah Arendt*, Seyla Benhabib has pointed out that one of the reasons for this difficulty is because "there are at least three sociohistorical narratives in *Eichmann in Jerusalem*, each of which could have been the topic of several volumes [...]"³⁴³ According to Benhabib, these are: the story of Eichmann's trial; the story of the Jewish councils; and, finally, "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 intelligent people could get caught in the machinery of evil and commit the deeds they did."³⁴⁴ In this chapter, I am only concerned with what Benhabib identifies as the third sociohistorical narrative embedded in *EJ*: her analysis of Adolf Eichmann as embodying banal evil.

I shall break my analysis into three sub-sections, each of which follows from the interpretation of *The Trial* that I developed in the previous chapter. First, I argue that Arendt

³⁴³ Seyla Benhabib, "Arendt's *Eichmann in Jerusalem*," in *The Cambridge Companion to Hannah Arendt*, ed. Dana Villa (Cambridge: Cambridge University Press, 2000), 68. Henceforth, "Arendt's *Eichmann in Jerusalem*"

³⁴⁴ Benhabib, "Arendt's *Eichmann in Jerusalem*," 68

believed that the most important aspect to judging Eichmann adequately was his appearance. Second, I emphasize Arendt's contention that traditional juridical resources are inadequate to the task of bringing Eichmann to justice and establishing a valid precedent for his new crimes. To conclude, I shall demonstrate that, according to the picture Arendt painted in EJ, Eichmann's trial was before Eichmann in the same way as the man from the country is before 'the Law' and Josef K. is before the court.

(a) Eichmann and Appearance

One of the linchpins of Arendt's analysis of Adolf Eichmann is that he was shallow. In "Thinking and Moral Considerations," she clarified her analysis of Eichmann in the following words,

Some years ago, reporting the trial of Eichmann in Jerusalem, I spoke of "the banality of evil" and meant with this no theory or doctrine but something quite factual, the phenomenon of evil deeds, committed on a gigantic scale, which could not be traced to any particularity of wickedness, pathology, or ideological conviction in the doer, whose only personal distinction was a perhaps extraordinary shallowness³⁴⁵

She went on to associate Eichmann's 'shallowness' with, "something entirely negative: it was not stupidity but a curious, quite authentic inability to think."³⁴⁶ Earlier in this chapter, I mentioned that Arendt believed that Eichmann was adept at following rules but was unable to evaluate rules in order to find out whether they ought to be followed or not. Many critics of Arendt (such as Stangneth and Cesarini) have pointed to the fact that Eichmann made anti-

³⁴⁵ R, 159

³⁴⁶ R, 159

Semitic statements during and after his tenure in the SS. Arendt would view this fact as confirmation of her analysis. When Eichmann was expected to hold the beliefs of a convinced Nazi by those around him, he was adept at appearing as if he held such beliefs. But when he was no longer expected to act in such a fashion, he would not do so. In other words, Eichmann's so-called 'conscience' tended to adopt any set of rules with which it was presented. Obviously, it took Eichmann's conscience some time to fully adjust to a new set of rules. In EJ, Arendt answered the question of Eichmann's conscience in the following way: "yes, he had a conscience, and his conscience functioned in the expected way for about four weeks, whereupon it began function the other way around."³⁴⁷ But once Eichmann's conscience had adopted a set of rules, he could be trusted to follow these rules consistently. At his trial, Eichmann stated explicitly that he had adapted his conscience to the following maxim, "act as if the principle of your actions were the same as that of the legislator or of the law of the land."³⁴⁸ Thus, as long as Hitler was alive, Eichmann continued to carry out the final solution, even when doing so ran counter to Himmler's orders late in the war. His doing so, according to Arendt, was no proof of his ideological indoctrination but was actually proof that he was acting *conscientiously*.

Eichmann's shallowness had one very important consequence that I will emphasize here. Eichmann's shallowness – literally the fact that there was no deeper level of juridically relevant intent or motivation to be excavated from Eichmann's commission of war crimes – meant that he needed to be judged in a new way. On Arendt's account, because Eichmann lacked criminal intent, he could not be judged in the same way as many others who had committed similar crimes. To anticipate, Eichmann's shallowness was such that it brought the way in which he

³⁴⁷ EJ, 95

³⁴⁸ EJ, 136

appeared to the fore at his trial. In fact, we shall see that Arendt believed that Eichmann required judgment *solely* according to the way in which he appeared. For Arendt, this meant that those whose task it was to judge him needed to avoid the ubiquitous assumption that Eichmann's rather underwhelming appearance in court was carefully concocted to conceal a deeper level of subjectivity that included criminal intentions.

In chapter four, I discussed Arendt's association of shallowness with thoughtlessness in some detail, so I shall not recapitulate it again here. What I will do is focus on the fact that when Arendt claimed that Eichmann did not think, she was making a specific claim about the intentions with which he committed crimes against humanity during the Second World War. To begin, let us visit some of Arendt's most controversial claims about Eichmann in EJ. Early in the text she wrote,

Half a dozen psychiatrists had certified him as 'normal' – "More normal, at any rate, than I am after having examined him," one of them was said to have exclaimed, while another had found that his whole psychological outlook, his attitude toward his wife and children, mother and father, brothers, sisters, and friends, was "not only normal but desirable" – and finally the minister who had paid regular visits to him in prison after the Supreme Court had finished hearing his appeal reassured everybody by declaring Eichmann to be "a man with very positive ideas."³⁴⁹

From the beginning, Arendt emphasized the available evidence that suggested that Adolf Eichmann did not fit the psychological profile of someone guilty of mass murder. There have been numerous studies suggesting that Arendt's confidence in this evidence was misplaced and

³⁴⁹ EJ, 26

that, for one reason or another, Arendt was duped by Eichmann.³⁵⁰ I shall not engage these arguments in any detail here, as my purpose is not to argue that Arendt was correct (or incorrect) in her analysis of Eichmann. I am sympathetic to Arendt's analysis and I take myself to be engaged in a sympathetic reconstruction of it. My points of disagreement with Stangneth and Cesarini shall become clear at later points in this chapter.

One of the most controversial elements of Arendt's claims that Eichmann was 'banal' is her claim that Eichmann lacked any criminal motivations for doing what he did while employed by the SS. In his book *Radical Evil: A Philosophical Interrogation*, Richard Bernstein helpfully expresses the connection between intent and banal evil in the following way.

[Arendt] did change her mind about one crucial aspect of evil – the *motivation* for committing these crimes. Or perhaps it is more accurate to say that she clarified an ambiguity that was present in her earlier reflections. Previously, she had insisted that radical evil could not be explained or deduced from humanly comprehensible motives. When confronted with Eichmann in the Jerusalem court, she came to the conclusion that he committed monstrous deeds without being motivated by monstrous evil intentions.³⁵¹

According to Arendt, Eichmann's motivations for carrying out his murderous duties were different from many of his fellow colleagues in state-sponsored genocide. In EJ, Arendt resisted

³⁵⁰ The two most critical studies of Arendt's analysis of Eichmann's trial are those of David Cesarini and Bettina Stangneth. See David Cesarini, *Becoming Eichmann: Rethinking the Life, Crimes, and Trial of a "Desk Murderer,"* (Cambridge: Da Capo Press, 2006) and Bettina Stangneth, *Eichmann Before Jerusalem: The Unexamined Life of a Mass Murderer,* (New York: Knopf, 2014). Both Cesarini and Stangneth use evidence that was not available to Arendt to argue that Eichmann was a convinced Nazi and that Arendt's description of him as 'banal' is incorrect. Also relevant is Deborah Lipstadt's detailed study of Eichmann's trial. Lipstadt's analysis is less polemical than Cesarini's and Stangneth's. See Deborah E. Lipstadt, *The Eichmann Trial,* (New York: Schocken Press, 2011)

³⁵¹ Richard Bernstein, *Radical Evil: A Philosophical Interrogation* (Cambridge: Polity Press, 2002), 218

the ubiquitous assumption that Eichmann did what he did because of ideological indoctrination or antisemitism. Daniel Conway has clarified this important aspect of EJ. He writes

The banality of evil pertains only to the motives (or intentions) of the criminals in question and not to the magnitude or audacity or horror of the crimes they commit. Rather than suppose or claim that the evil perpetrated by Eichmann was “commonplace,” as her critics often allege, Arendt insists that his intentions were unremarkable. According to her analysis, nothing about his motives would remotely suggest the catastrophic consequences for which she holds him criminally responsible.³⁵²

Arendt was wary of making an inferential leap from the enormity of Eichmann’s crimes to a corresponding set of horrendous motivations. Instead, she focused on Eichmann’s testimony, taking seriously the possibility that his motivations were such that if they had appeared in the context of a different institution with different goals, their consequences would have been lauded. Earlier, I expressed this in the following way: had Eichmann been employed at UNESCO, in Arendt’s view, he would have been highly effective for the *same* reasons he was so effective at perpetrating genocide.

The banality of Eichmann (and others) does not, of course, imply that Arendt believed that the banality of evil captured the workings of the entire apparatus of genocide developed by the Nazis. Dana Villa has warned against such a misreading of Arendt. He writes

Arendt is *not* denying the presence of fanatics, sadists, anti-Semites, and ideologues in the upper echelons of the Nazi apparatus or among the “foot soldiers” of the Holocaust. What she is pointing out is that his policy of evil could hardly have worked as well as it did had not countless normal – law-abiding, and generally “moral” individuals – not seen it as their obligation to fight their

³⁵² Conway, “Banality, Again,” 69

inclinations and perform their specific duties as long as the law of the land required it.”³⁵³

Arendt’s notion of the banality of evil was meant to describe the fact that totalitarianism had successfully weaponized mediocre individuals in order to carry out its bidding. The success of the state-sponsored genocide of Germany during the Second World War, Arendt believed, was overwhelmingly dependent upon the cooperation of individuals who were unremarkable and ordinary. She considered Eichmann to be the first of such individuals to appear before a criminal court.

Here, my main purpose is to draw attention to some dimensions of Arendt’s analysis that are underappreciated – specifically the notion of Eichmann’s *appearance* and its tremendous importance that Arendt thought that Eichmann’s banality implied. According to Arendt, the way in which Adolf Eichmann appeared at his trial in Jerusalem corresponded to the ‘real’ Adolf Eichmann. Arendt did not believe that Eichmann was a liar, or was covering his tracks, or was attempting to appear as a bumbling individual in order to cover up the *real* reasons for his actions during the Second World War. In her view, there was no deeper substratum of motivations other than those that Eichmann admitted to at the trial. In EJ, Arendt repeatedly emphasizes the fact that Eichmann regularly contradicted statements that he had made earlier during the trial or prior to it. When confronted with these contradictions, however, Arendt insisted that Eichmann was not strategically attempting to hide anything. Arendt worried that occasional inconsistencies or even minor lies would *tempt* the trial into jumping to the (in her view, unwarranted) conclusion that Eichmann was ideologically indoctrinated or sociopathic.

³⁵³ Villa, *Eichmann in Jerusalem*, 60

It was far easier – and in many ways far more natural – Arendt worried, to conclude that Eichmann’s contradictions implied that he was a liar. Concluding that Eichmann was a liar was not simply arriving at a factually incorrect conclusion (though in Arendt’s view it certainly was that); Arendt thought doing so also entailed the postulation of another dimension to Eichmann, a dimension that was, in Arendt’s view, nonexistent. That is, inferring that Eichmann was trying to conceal criminal intent from minor inconsistencies in his statements amounted to downplaying the way in which he *appeared* in court in favor of focusing on an underlying, traditionally criminal *depth* that his appearance was carefully concocted to conceal. If he was a liar, then he was a traditional criminal who was lying in an attempt to exonerate himself. However, Arendt was not convinced that Eichmann was trying to conceal criminal motivations. This meant that Eichmann was not attempting to hide the motives that the trial was trying to pin on him – ideological indoctrination, antisemitism, etc. For Arendt, the fact that Eichmann was not lying implied that he had committed crimes against humanity *in the absence of any traditionally criminal motivations*.

Arendt’s diagnosis of Eichmann as embodying the ‘banality of evil,’ was a major departure from the Western philosophical tradition that associated moral goodness with the ability to follow rules consistently. According to Arendt’s reconstruction of Eichmann, he was not an individual who had decided that he was above the rules or that these rules did not matter. Arendt believed that Eichmann’s conscience was adept at following rules, but was unable to determine which rules were worth following at which were not. Her analysis of Eichmann in EJ implied that one of the greatest dangers of totalitarianism was its ability to weaponize mediocre

individuals to commit acts of great evil.³⁵⁴ Totalitarian systems accomplished this weaponization of mediocrity by redefining the content (but not the form) of moral rules. According to Arendt, that this was what had, in fact, happened under the totalitarian conditions of the Third Reich and Stalin's Russia. Totalitarianism, according to Arendt, succeeds by capturing the conscience and not by destroying it. In "Some Questions of Moral Philosophy," she addressed these implications of her analysis of Eichmann in terms of moral theory in the following way.

[...]it is almost always overlooked that the true moral issue did not arise with the behavior of the Nazis but of those who only "coordinated" themselves and did not act out of conviction. It is not too difficult to see and even to understand how someone may decide "to prove a villain" and, given the opportunity, to try out a reversal of the Decalogue, starting with the command "Thou shalt kill," and ending with a precept "Thou shalt lie" [...] What these people did was horrible and the way they organized first Germany and then Nazi-occupied Europe is of great interest for political science and the study of forms of government; but neither the one nor the other poses any moral problems. *Morality collapsed into a mere set of norms – manners, customs, conventions to be changed at will – not with criminals, but with ordinary people, who, as long as moral standards were socially accepted, never dreamt of doubting what they had been taught to believe in.*³⁵⁵

This excerpt from "Some Question of Moral Philosophy" is important because it brings to the fore the most controversial element of Arendt's analysis of Eichmann: that he was not one of those individuals who had, in her words, 'decided to prove a villain,' despite the uniform that he

³⁵⁴ I am indebted to Daniel Conway, again, for his suggestion of this formulation of Arendt's position as describing a weaponization of mediocrity during a seminar he offered in the Fall semester of 2013 at Texas A&M University

³⁵⁵ R, 54.

had worn. Instead, Arendt insisted that Eichmann was one of the individuals who had ‘coordinated themselves’ with a new set of rules and had followed them out of a sense of duty.

Arendt’s insistence that Eichmann was one of the many otherwise unimpressive individuals who had ‘coordinated themselves’ to a new set of moral rules meant that Eichmann ought not to be lumped in with those who had ‘decided to prove a villain’ and this claim has proved to be one of the most controversial and thought-provoking elements of EJ. What I would like to emphasize is the degree to which Arendt’s analysis of Eichmann in EJ as someone who simply coordinated himself to a new set of rules made the manner of his appearance the most important factor in adequately judging him. Because Eichmann lacked, according to Arendt, any *deeper* substratum of motivations beneath those with which he appeared in court, Arendt thought that it was of tantamount importance that he be judged *according to his manner of appearance*.

At this point, it should be clear that the reading of *The Trial* that I gave earlier is helpful in clarifying this aspect of Arendt’s analysis. In discussing *The Trial* in the previous chapter, I placed special emphasis on the importance of appearance to the assessment of ‘the Law’ or ‘the court.’ The importance of appearance, I argued, was negative. By ‘negative’, I meant that appearance was important to evaluating the Law just because it *lacked* any further content or depth. Arendt’s diagnosis of Eichmann as ‘shallow,’ lacking in any further depth of content that could be morally and legally judged, means that Eichmann’s appearance takes on a similar importance. Because Arendt was convinced that Adolf Eichmann lacked a traditionally criminal set of intentions that corresponded to his crimes, it was of the utmost importance to take his rather ridiculous manner of appearance seriously and not to write them off as the familiar attempts of a traditional criminal to deceive or mislead. In EJ, Arendt emphasized this fact clearly in the following way.

These habits of Eichmann's created considerable difficulty during the trial – less for Eichmann himself than for those who had come to prosecute him, to defend him, to judge him, and to report on him. *For all this, it was essential that one take him seriously*, and this was very hard to do, unless one sought the easiest way out of the dilemma between the unspeakable horror of the deeds and the undeniable ludicrousness of the man who perpetrated them, and declared him a clever, calculating liar – which he obviously was not.³⁵⁶

In this passage, we find Arendt claiming that Eichmann's appearance is deceptive, not in the traditionally philosophical sense of an appearance concealing and underlying reality or truth, but deceptive in that the basic distinction between appearance and reality is not helpful in judging him. Banal evil, in other words, is equivalent to a sort of *mere appearance*.

But Arendt's diagnosis of Eichmann as shallow does not suggest that he lacked an inner life, just one that was legally relevant to judging him. In his article on the banality of evil, Daniel Conway has helpfully clarified Arendt's position vis-à-vis Eichmann's interiority. In Conway's view, Eichmann's inner life did not merit further investigation and it was precisely this quality that Arendt intended her notion of the banality of evil to address. "For Arendt," Conway writes, "the question of the *real* Eichmann, the actor behind the masks, the schemer behind the schemes, was simply a non-starter."³⁵⁷ Evil-doers who are banal (like Eichmann), are able to do what they do out of everyday motives, and their doing so, Arendt recognized, stands as a tremendous challenge to Western jurisprudence with its reliance on criminal guilt being dependent upon determining criminal intent.

In her analysis of Eichmann, Bettina Stangneth points out the fact that Eichmann had attested to ideological commitments at various points in his career and had done so again while

³⁵⁶ EJ, 54, my emphasis

³⁵⁷ Conway, "Banality, Again," 83

in hiding in Argentina and adduces these facts as proof of the fact that Arendt had been duped by him. Arendt, however, would view Eichmann's anti-Semitic statements as support for her thesis that Eichmann was merely adept at adopting whatever prejudices and beliefs happened to surround him. That Eichmann had endorsed anti-Semitic views at certain periods of his life, in Arendt's view, did not necessarily entail ideological *commitment*, but rather the lack of an authentic self. Like 'the Law' in "Before the Law," Eichmann's 'interior' may simply be no different than the way in which he appears. Arendt's Eichmann is a mirror, of sorts, for whatever he is required to be by those around him. Just as I argued that interior to 'the Law' may be characterized by another stool and another doorman, so Eichmann's interior (in Arendt's view) is simply no more significant than his appearance. In this sense, Eichmann's interiority would simply duplicate his appearance rather than shed light on it. Arendt's notion of the banality of evil was supposed to describe the fact that Eichmann's appearance, according to Arendt, did not conceal a deeper content to his subjectivity.

Arendt's exhortation to take Eichmann's appearance seriously was actually a warning that not only did his appearance not conceal any substratum of criminal intent, but that Eichmann lacked further depth of any juridical significance. Like 'the Law' in "Before the Law," Arendt's Eichmann was *mere appearance*. When we consider it alongside *The Trial*, Arendt's insistence about the primacy of appearance to the judgment of Eichmann is a prescient warning. Arendt believed that in assuming that Eichmann *must* be a liar, the court in Jerusalem was hypostatizing a traditional interior to an appearance that was *only* appearance. The value of the interpretation of *The Trial* that I developed in the previous chapter is that when we use it as a lens by which to examine EJ, it becomes clear that Eichmann's trial is in the similar position before Adolf Eichmann as the man from the country was before 'the Law.'

Many of Arendt's critics argue that Arendt was duped by Eichmann. Bettina Stangneth states that Arendt, "fell into his trap: Eichmann-in-Jerusalem was little more than a mask. She didn't recognize it, although she was acutely aware that she had not understood the phenomenon as well as she had hoped."³⁵⁸ I believe that the language of trickery or duping is inappropriate and recapitulates the very error that Arendt took herself to be pointing out. For, in Arendt's view Eichmann did not dupe or trick those who took it upon themselves to bring him to justice. This is another important dimension to Arendt's analysis of Eichmann's trial that my interpretation of Kafka is able to magnify. Just as 'the Law' did not dupe the man from the country and the court did not dupe Josef K., so Eichmann did not dupe those who sought to bring him to justice. Rather, just as the man from the country failed to comprehend 'the Law' adequately, the court in Jerusalem (on Arendt's account) failed to comprehend Eichmann on his own terms. To anticipate, the failures of Eichmann's trial – like those of Josef K. or the man from the country – were *self-inflicted* to a large degree. However, in order to examine this aspect of EJ, I turn to a discussion of precedent.

(b) Eichmann and Precedent

Having established the centrality of appearance to the judgment of Eichmann, I now have the resources to deepen and extend my analysis of EJ using *The Trial*. Thus far, I have argued that in both of these texts *appearance* is important in the same way – namely, as a category of utmost importance to judging an appearance that lacks further depth (but appears as if it does). In this section, I will discuss another important feature present in *The Trial* and EJ. Namely, both

³⁵⁸ Stangneth, *Eichmann before Jerusalem*, xxiii

‘the Law’ and Adolf Eichmann are unprecedented. Moreover, both Eichmann and ‘the Law’ are unprecedented in the same way. Namely, both are appearances that defy traditional concepts and categories *and* simultaneously elicit their application. To anticipate, in this section I will demonstrate that Adolf Eichmann appeared in such a way at his trial so as to elicit the use of irrelevant categories. Scholarly literature emphasizes Arendt’s claim that Eichmann was unprecedented. Using my interpretation of *The Trial*, I demonstrate that Arendt also believed that Eichmann’s unprecedentedness was dangerous in that it elicited a doubling down on the very categories that he rendered irrelevant – categories such as guilt implying criminal intent.

In her epilogue to EJ, Arendt made it clear that the most important task of Eichmann’s trial was to, “prosecute and to defend, to judge and to punish Adolf Eichmann.”³⁵⁹ However, she also thought that the Eichmann trial (along with the Nuremburg trials) also had an additional, secondary purpose: to establish a valid precedent for crimes that had not yet confronted Western juridical institutions. Foremost among these new crimes was the ‘crime against humanity.’ While she applauded the execution of Eichmann and was critical of arguments to spare his life (including those of her mentor, Karl Jaspers), she thought that Eichmann’s trial failed at its second task. Writing of the trial after it was over she said, “I think it is safe to predict that this last of the Successor trials will no more, and perhaps even less than its predecessors, serve as a valid precedent for future trials of such crimes.”³⁶⁰

Arendt made it clear that she thought the trial had succeeded in its first task – that of trying and punishing Adolf Eichmann. In her view it had failed, however, to accomplish the second task – that of generating a valid precedent for an unprecedented crime. Arendt’s powerful

³⁵⁹ EJ, 273

³⁶⁰ EJ, 272

analysis of crimes against humanity in EJ has been the subject of scholarly literature and has taken precedence over her analysis of Eichmann as embodying banal evil. There is a tendency to downplay or to criticize the importance and accuracy of Arendt's thesis concerning the banality of evil, and its capacity to generate fresh controversy is attested to in books such as *Becoming Eichmann* and *Eichmann before Jerusalem*, both of which attempt to prove Arendt was incorrect in diagnosing Eichmann's banality. In her study of EJ Seyla Benhabib downplays the importance of the banality of evil, writing

Arendt's contribution to moral and legal thought in this century will certainly not be the category of the "banality of evil" [...] the category that is closest to the nerve of her political thought as a whole [...] is that of "crimes against humanity."³⁶¹

However, it is undeniable that Arendt understood the task of adequately understanding the new 'crime against humanity' as inextricable from the task of adequately understanding Eichmann. Arendt did not believe that crimes against humanity are possible without banal evil. This is not to say that crimes against humanity may *only* be committed by criminals such as Eichmann (or rather, Arendt's Eichmann). However, Arendt recognized that the Holocaust would not have been possible in the absence of the everyday complicity of individuals whose complicity and willingness to go along with what was 'legal' was identical to Eichmann's. Insofar as state sponsored genocide presupposes the complicity of everyday individuals, the banality of evil and crimes against humanity are two sides of the same coin. For this reason, Arendt thought that an adequate understanding of crimes against humanity required an adequate understanding of the banality of evil. For this reason, it is unwise to minimize the importance of one at the expense of

³⁶¹ Benhabib, "Arendt's *Eichmann in Jerusalem*," 76

the other – an adequate understanding of Arendt’s analysis of crimes against humanity must be grounded in an adequate understanding of her notion of the banality of evil, and vice versa.

In the epilogue to EJ, Arendt clearly describes what I have identified as the secondary task of Eichmann’s trial (that of generating a valid precedent) as involving three interrelated things.

In sum, the failure of the Jerusalem court consisted in its not coming to grips with three fundamental issues, all of which have been sufficiently well known and widely discussed since the establishment of the Nuremberg Tribunal: the problem of impaired justice in the court of the victors; a valid definition of the ‘crime against humanity’; *and a clear recognition of the new criminal who commits this crime.*³⁶²

In Arendt’s view the task of defining the concept of crimes against humanity was bound up with the fact that it required a *new* type of criminal – a criminal that suggested to her the banality of evil. Thus, Arendt took her analysis of crimes against humanity to be inseparable from her notion of the banality of evil. Richard Bernstein has emphasized this connection in the following way, “Arendt was not satisfied just to describe what she took to be the phenomenon of the banality of evil; she wanted to understand what it was about Eichmann that allowed him to commit such crimes.”³⁶³ It is a misunderstanding of Arendt position to downplay the banality of evil in discussing Arendt’s analysis of crimes against humanity.

Despite the close relationship between Arendt’s criticism of the trial’s failure to adequately define crimes against humanity and its failure to comprehend the banality of evil, I

³⁶² EJ, 274. My emphasis

³⁶³ Bernstein, *Radical Evil: A Philosophical Interrogation*, 220

shall only focus on the latter in this project.³⁶⁴ Here, I will examine what Arendt meant when she characterized Eichmann as a ‘new criminal.’ In doing so, my purpose will be to draw attention to the way that Arendt thought Eichmann was unprecedented. Namely, Arendt believed that he was a unique appearance insofar as there was no valid precedent that applied to him. For this reason, Eichmann required what Arendt called “clear recognition” in the passage I cited above.

However, in Arendt’s view Eichmann’s significance went beyond the fact that he had committed a crime that had not yet confronted Western jurisprudence. As is also evident in the passage I cited above, Arendt believed that the emergence of crimes against humanity was marked by the emergence of a new criminal, without which this crime would not have been possible. On Arendt’s view, both the crime and the banality that appeared in many (but not all) of its perpetrators were unprecedented and required close attention. What I will emphasize in this section is an underappreciated aspect of Arendt’s analysis of Eichmann’s importance. Namely, Arendt believed that Eichmann’s uniqueness was curious in that it elicited almost compulsive attempts of the prosecution and, to a lesser extent, the judges to turn him into an ordinary criminal. That is, Eichmann’s banality was, from the start, avoided at all costs by those who were to judge him.

Arendt was worried by what she perceived to be the vigorous attempts (mostly on the part of the prosecution) to *force* Eichmann to fit into the traditional moral and legal categories that (in Arendt’s view) did not apply to him. In the previous section of this chapter, I argued that

³⁶⁴ I am indebted to Seyla Benhabib, whose scholarship on Arendt’s analysis of crimes against humanity allows me to focus on the banality of evil in this chapter. See Benhabib, *The Reluctant Modernism of Hannah Arendt*, 184-185 as well as Benhabib, “International Law and Human Plurality in the Shadow of Totalitarianism: Hannah Arendt and Raphael Lemkin,” *Constellations*, 16(2), 2009: 331-350

these attempts amounted to hypostatizing an additional (and nonexistent) level of depth to Eichmann. According to Arendt, Eichmann lacked traditionally criminal intentions, and yet had nonetheless helped to carry out genocide. That Eichmann lacked criminal intent needed to be frankly admitted, and judgment rendered in the absence of the determination of criminal intent. Instead, the prosecution tried to prove that Eichmann was a traditional criminal by insisting that many of his actions implied criminal intent. In EJ, Arendt was very critical of such attempts, as attested to in the following passage, in which she discussed the rejection of Eichmann's appeal.

The judgment of the Court of Appeal was actually a revision of the judgment of the lower court, although it did not say so. In conspicuous contrast to the original judgment, it was now found that "the appellant had received no 'superior orders' at all. He was his own superior, and he gave all orders in matters that concerned Jewish affairs"; he had, moreover, "eclipsed in importance all his superiors, including Müller." And, in reply to the obvious argument of the defense that the Jews would have been no better off had Eichmann never existed, the judges now stated that "the idea of the Final Solution would never have the infernal forms of the flayed skin and tortured flesh of millions of Jews without the fanatical zeal and the unquenchable blood thirst of the appellant and his accomplices." Israel's Supreme Court had not only accepted the arguments of the prosecution, it had adopted its very language.³⁶⁵

According to Arendt, Adolf Eichmann's significance did not just lie in the crimes that he committed (many others had committed similar crimes, after all), but also in the fact that his appearance in Jerusalem was such that his testimony and defense elicited an almost compulsive insistence to identify the presence of criminal intent.

³⁶⁵ EJ, 249

At this point, it is helpful to briefly return to a couple of points from my analysis of *The Trial*. In the previous chapter, I argued that in *The Trial* ‘the Law’ was not just unprecedented in the sense that traditional concepts and categories did not apply to it. ‘The Law’ was an unprecedented appearance that elicited certain assumptions about its meaning and its ability to do so made it dangerous. In “Before the Law,” we saw the ability of ‘the Law’ to appear in such a way so as to manipulate individuals who were not ready or willing to assess it in the absence of traditional categories. Recall that the man from the country felt no qualms about his conclusion that ‘the Law’ was equivalent to positive law *and* that his dying before the gateway was a direct result of his inability or unwillingness to question this assumption. One of the most important reasons for this, I pointed out in the previous chapter, was that Kafka structured ‘the Law’ so that its appearance invited such assumptions about its meaning and significance. These aspects of *The Trial* are helpful in understanding some covered over dimensions to Arendt’s analysis of Adolf Eichmann. For Arendt, his bumbling and underwhelming appearance in Jerusalem were not only characteristics that needed to be taken seriously; these very same characteristics were also the means by which he (unwittingly) elicited the use of moral and legal categories that did not apply to him. The fact that Eichmann’s appearance elicited a doubling down on irrelevant categories suggests that he presented a similar threat as did ‘the Law’ or the court in *The Trial*.

It is important to connect Eichmann’s curious ability to cause the prosecution to actively avoid understanding him to Arendt’s larger concerns in EJ. Arendt believed that Eichmann required “clear recognition.” In her view, “clear recognition” entailed the fact that Eichmann did commit crimes against humanity with anything that could be called criminal intent. Among other things, this meant that Eichmann’s guilt could and should not be measured by criminal motivations. In Arendt’s view, one of the central problems that the Eichmann trial was poised to

confront was that of how to judge an individual guilty of crimes against humanity in a way that was not grounded the presence of criminal intent to do so. In order to accomplish this, however, those who were to bring Eichmann to justice would need to take what Arendt called his banality seriously.

Although in EJ Arendt did not frame her criticism of the trial in these terms, she took herself to be pointing out a fundamental crisis in judgment of which Eichmann's trial was merely a part. In order to clarify what I take to be Arendt's larger concerns in EJ, I shall briefly turn to another text. She spoke most explicitly of the crisis in judgment in her posthumously published "Introduction into Politics."³⁶⁶ There, in a section of the text entitled "Prejudice and Judgment," Arendt addressed the relationship between what Kant called determining judgment and reflective judgment.

In our general usage, the word "judgment" has two meanings that certainly ought to be differentiated but that always get confused whenever we speak. First of all, judgment means organizing and subsuming the individual and particular under the general and universal, thereby making an orderly assessment by applying standards by which the concrete is identified, and according to which decision are then made. Behind all such judgments there is a prejudgment, a prejudice. Only the individual case is judged, but not the standard itself or whether it is an appropriate measure of what it is used to measure. At some point a judgment was rendered about the standard, but now that judgment has been adopted and has become, as it were, a means for rendering further judgments. Judgment can, however, mean something totally different, and indeed it always does when we are confronted with something which we have never seen before and for which there are no standards at our disposal³⁶⁷

³⁶⁶ P, 93-200

³⁶⁷ P, 102

I have already discussed determining and reflective judgment at some length in previous chapters of this project. Here, I want to focus on Arendt's basic claim that the standards that guide judgment in its determining capacity are actually prejudices. As this passage shows, Arendt did not believe in the existence of universal standards (or transcendental ones, for that matter) that could guide us in our attempts to navigate the world. The faculty of judgment, Arendt believed, was capable of producing standards and applying them.

However, Arendt also believed that human beings could not render original judgments of every particular. She wrote

Men cannot live without prejudices and not only because no human being's intelligence or insight would suffice to form an original judgment about everything on which he was asked to pass judgment in the course of his life, but also because such a total lack of prejudice would require a superhuman alertness.³⁶⁸

Arendt believed that prejudices were judgments that have come to be treated as universal standards. Earlier in the same text, Arendt remarked that, "upon closer examination, we realize that a genuine prejudice contains conceals some previously formed judgment which originally had its own appropriate and legitimate experiential basis, and which evolved into a prejudice only because it was dragged through time without its ever being reexamined or revised."³⁶⁹ In "Introduction into Politics," Arendt was describing a basic process that she believed was essential to human social and political life – our ability to navigate the world by way of concepts and categories. On Arendt's account, *all* concepts and categories are finite in their applicability and will most likely be rendered irrelevant at some point in time. In other words, Arendt believed

³⁶⁸ P, 99

³⁶⁹ P, 101

that what Kant called determinate categories were actually *prejudices* in that the content of so-called universal categories was made up of a previous judgment that had been taken to be universal at one point in time.

Arendt believed that in times of crisis, “it is the prejudices that begin to crumble first and can no longer be relied upon.”³⁷⁰ Times of crisis, according to Arendt, were characterized by a breakdown in the standards – standards which, in dark times, are revealed to have an illusory universality. In such times, the faculty of judgment must judge an appearance in the absence of a relevant standard in such a way that a new standard is generated. That is, dark times required judgment to act autonomously – that is, reflectively. However, Arendt also believed that the dark times of modernity were characterized by an increasing unwillingness to judge in the absence of familiar, traditional standards – that is, an unwillingness to Arendt worried about the seeming ubiquitous assumption that, “human beings can be expected to render judgments only if they possess standards, that the faculty of judgment is thus nothing more than the ability to assign individual cases to their correct and proper places within the general principles which are applicable to them and about which everyone is in agreement.”³⁷¹

Given the resources I have introduced in this and other chapters, it should not be difficult to see that Arendt viewed the shortcomings of the Eichmann trial in terms of the larger crisis in judgment of which she wrote in “Introduction into Politics.” Indeed, the failure of Eichmann’s trial fits precisely into the critical framework that Arendt introduced in “Introduction into Politics.” As I have demonstrated, Arendt believed that Eichmann’s trial failed in two crucial ways. First, it failed to recognize that Eichmann did not fit the legal paradigm of criminal guilt

³⁷⁰ P, 102

³⁷¹ P, 103

because he lacked criminal intent. In Arendt's words, Eichmann's trial failed to "comprehend" the criminal about whom they had to render judgment. But second, Eichmann's trial insisted that Eichmann *must* be concealing some measure of criminal intent. In other words, from the beginning Eichmann's trial (and, according to Arendt, the Nuremberg trials as well) framed guilt in terms of criminal intent. Arendt was very concerned about the degree to which Eichmann was framed in a certain way at his trial. As we have seen, Arendt believed that Eichmann shattered an important way in which the West framed criminal guilt and she considered her criticism of the trial for refusing to move beyond such a frame to be a centerpiece of EJ.

It should be clear that what I am calling a "frame" is a seemingly-universal standard grounded in what Arendt believed to be a prejudice (namely, a judgment with finite applicability). Arendt no doubt believed that Eichmann's trial presented Western jurisprudence with a world-historical opportunity to comprehend the most pernicious aspects of totalitarian domination and to protect against them. However, doing so would require the trial to move beyond the way in which criminal guilt was framed (namely, as implying criminal intent). In EJ, Arendt rightfully emphasized the importance of the trial's secondary task of establishing a valid precedent for both the crime *and* for the criminal. This secondary task, she also claimed, put the trial in the difficult position of needing to pronounce judgment on a criminal in the absence of a valid precedent. Hence, in Arendt's view the judgment rendered at Eichmann's trial would not and *should not* be valid from a formal perspective. But if done correctly, however, the trial's judgment would be capable of generating a future precedent *both for the crime against humanity and the new criminal that Arendt thought corresponded to the new crime*. She notes this very clearly in the following passage.

It is essentially for this reason: 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 [...]. Success or failure in dealing with the hitherto unprecedented can lie only in the extent to which this dealing may serve as a valid precedent on the road to international penal law. And this demand, addressed to the judges in such trials, does not overshoot the mark and ask for more than can reasonably be expected.³⁷²

The importance of generating a valid precedent for a new crime and a 'clear recognition' of a new type of criminal made Eichmann's tendency to elicit a doubling-down on irrelevant moral and legal categories dangerous. According to Arendt, the stakes at Eichmann's trial were tremendous. It had the potential to achieve many goals of which the Nuremburg Trials fell short. Thus, Arendt's exasperation in EJ when very few people took Eichmann's manner of appearance in court seriously, assuming it was a ploy to cover up a deeper, traditionally evil set of motivations.

Section Three: EJ and the Discovery of the Judgment of the Spectator

In this closing section, I will discuss two things. The first point follows from my analysis of *The Trial* and EJ. The second point is historical and I believe it follows from my analysis in the six chapters that comprise this project. I have pointed out that Arendt's analysis of Adolf Eichmann fit into a much larger 'crisis in judgment' that she took herself to be diagnosing. After making some general remarks about this crisis in judgment. Then, I will close this chapter by pointing out that the evidence that I have presented in this, and other chapters offers a plausible reconstruction of the developmental trajectory of Arendt's thinking about the faculty of judgment. I take myself to have offered the most complete account of what Arendt said about the faculty of judgment and the reasons that what she said about it changed over time. As I shall

³⁷² EJ, 273

demonstrate in this section, EJ is perhaps the single most important factor that went into Arendt's shift from an actor-centered account of political judgment to a spectator-centered one. EJ, on my account, was a contributing factor to the development of Arendt's thinking on judgment in that her experience at Eichmann's trial revealed to her another model of judgment: that of the spectator.

One of the more underappreciated aspects of Arendt's analysis of Eichmann's trial is the degree to which she believed that the failings of the trial were *part* of a larger phenomenon that merited serious theoretical investigation. Dana Villa, one of the few commentators who has emphasized this dimension of EJ, has called this phenomenon a crisis in judgment, writing that, "[thoughtlessness] reflects the broader "crisis in judgment Arendt sees affecting modern Western culture."³⁷³ In *Politics, Philosophy, Terror*, Villa argues that Arendt's diagnosis of Eichmann as banal corresponds to her larger concern with the fact that modern individuals did not tend to follow "their own thought and judgment in moral matters rather than rules or traditional values."³⁷⁴ On Villa's reconstruction of Arendt position, Eichmann's tendency to 'coordinate himself' to new sets of values indicates a more general phenomenon of human behavior in the West that facilitated crimes against humanity in WWII to a far greater degree than did traditionally evil motivations.

Here, I wish to build on Villa's analysis and argue for another dimension of the 'crisis in judgment.' In his writings, Villa emphasizes the *moral* dimension of the crisis in judgment. At bottom, Arendt worried that morality in the West had become a formal exercise in rule following. The disconcerting ease with which Eichmann (and others) had coordinated themselves

³⁷³ Villa, *Politics, Philosophy, Terror*, 52

³⁷⁴ Villa, *Politics, Philosophy, Terror*, 55

to a new set of rules suggested to Arendt that moral life had become separate from the evaluation of the content of the rules that one was expected to follow. As I emphasized in Chapter 4, Arendt believed that thoughtlessness facilitated this ‘coordination’ because thinking was able to establish a countervailing obligation to the self that was capable of overriding our obligation to other individuals or associations. In the absence of thought, individuals would be more likely to treat external obligations (such as those that attend our inevitable membership in groups and associations) as sufficient conditions in themselves for discharging whatever these associations might ask of us. Thus, in Arendt’s view it was that Eichmann’s thoughtlessness that underwrote his ability to seamlessly adopt and coordinate with different – and often contradicting – rules over the course of his life, following all of them ‘conscientiously.’ When Eichmann was surrounded by Nazis, he had no problem adopting a new set of rules and when he was no longer surrounded by Nazis, he no longer made statements or committed actions that would suggest that he was (or ever had been) a committed Nazi.

Here, I would like to draw attention to the *political*, rather than the moral, dimension of the crisis in judgment. In my view, Arendt’s recognition of the political component of the so-called crisis in judgment played an important role in her turn to the judgment of the spectator. First, however, it is important to specify what I mean by the political dimension of the crisis in judgment. In this chapter, I have attempted to use *The Trial* as an interpretive lens by which to examine EJ. Thus far I have used Kafka’s text in order to argue that in EJ the court – by which I mean the prosecution and the judges – were ‘before’ Eichmann in a similar way that the man from the country is ‘before’ the Law. In Chapter 5, I developed an interpretation of *The Trial* in which I identified the salient features of the relationship between the man from the country and ‘the Law.’ In this chapter, I have demonstrated that all of these features are recapitulated in the

dynamic between Eichmann and those who sought to bring him to justice that Arendt identified in EJ. In my view, the political dimension of the crisis in judgment emerges clearly from paying attention to one of the aspects of *The Trial* that I have not yet discussed in conjunction with Arendt's analysis of the Eichmann trial: namely, the self-inflicted nature of the defeat suffered by the man from the country and Josef K.

When extended to EJ, the self-inflicted defeats of Kafka's protagonists in *The Trial* complements and deepens our understanding of Arendt's insistence that Eichmann's trial was put in a unique, difficult position by the unprecedented nature of the defendant they sought to bring to justice. In EJ, Arendt insisted that in order to properly judge Eichmann the trial must forgo the use of available, but irrelevant precedents. I have emphasized guilt implying criminal intent as but one of these precedents. Thus, according to Arendt, an adequate juridical treatment of Eichmann (and his crimes) would actually result in a judgment that was formally invalid in that the judgment would – of necessity – not be anchored in any precedent case. Arendt believed that a formally invalid judgment was entailed by the fact that Eichmann (and his crimes) were unique. Just as the use of traditional categories led the man from the country astray when he was before 'the Law' in *The Trial*, the application of *seemingly* appropriate traditional precedents led the court astray. More precisely, one of the most important ways in which Arendt believed that Eichmann was unprecedented was that his guilt was not measurable in terms of any determinable amount of 'criminal intent.' Because Eichmann's motivations in committing genocide were, in her words, 'banal,' judging Eichmann required judging 'without banisters.' The court in Jerusalem, in other words, would have to admit that Eichmann was guilty of war crimes but that his guilt was not measurable in terms of his intent to commit such crimes. Such a task would be monumental, to say the least. In the previous section, I mentioned that, because of the unique

nature of the defendant, the task of the court (in Arendt's view) was nothing less than to go beyond the way in which Western jurisprudence framed guilt (and justice). In so doing, the court would hopefully offer a new frame in which to view criminal guilt in the shadow of totalitarianism. While such a judgment would not – and indeed, *could not* – be grounded in precedent cases, Arendt believed that if it was done correctly, such a judgment *could* serve as a precedent for future cases, thereby bolstering the ability of Western political institutions to withstand totalitarian assaults.

Arendt believed that Eichmann's trial failed on this (and other) counts. Although it admirably served its most important purpose – that of trying, convicting, and ultimately executing Adolf Eichmann – the trial was not, in Arendt's view, successful in offering a precedent case to posterity, both in terms of the new crime and in terms of the new criminal.

Dana Villa has expressed facet of Arendt's position in the following way,

In Arendt's view, the Eichmann trial – both in its process and judgment – failed to elicit the novelty of either the crime or the criminal, and thus failed to engage the legal problem posed by Eichmann's absence of criminal intent (the problem Arendt encapsulates in the phrase “the banality of evil”). It thus failed to provide a valid legal precedent for future cases involving genocide as state policy.³⁷⁵

In the first chapter of EJ, Arendt painted the trial as beset from both internal and external forces that threatened to derail it and prevent it from accomplishing its purposes. In terms of external forces, Arendt cited the tremendous publicity that the trial generated and the political pressure she perceived from the state of Israel to use the trial in order to generate domestic unity, describing David Ben-Gurion as “the invisible stage manager of the proceedings.”³⁷⁶ I have

³⁷⁵ Villa, *Eichmann in Jerusalem*, 45

³⁷⁶ EJ, 5

already described the internal forces that Arendt identified at length – these were largely a function of the prosecution. She worried that the trial might become “a show trial under the prosecutor’s love of showmanship.”³⁷⁷

To these pressures I believe that we may add one more internal factor. While Arendt praised the judges for resisting both the external political pressure and what she perceived to be the dramatic exaggerations of the prosecution, she nonetheless believed that they were incapable of recognizing the significance of what she called the ‘banality of evil.’ That is, the judge were incapable of what she called ‘comprehending’ Eichmann. In an important passage of EJ, Arendt states this in the following words,

Alas, nobody believed [Eichmann]. The prosecutor did not believe him, because that was not his job. Counsel for the defense paid no attention because he, unlike Eichmann, was, to all appearances, not interested in questions of conscience. And the judges did not believe him, because they were too good, and perhaps also too conscious of the very foundations of their profession, to admit that an average, “normal” person, neither feeble-minded nor indoctrinated nor cynical, could be perfectly incapable of telling right from wrong. They preferred to conclude from occasional lies that he was a liar – and missed the greatest moral and even legal challenge of the whole case. Their case rested on the assumption that the defendant, like all “normal persons,” must have been aware of the criminal nature of his acts, and Eichmann was indeed normal insofar as he was “no exception within the Nazi regime.” However, under the conditions of the Third Reich only “exceptions” could be expected to react “normally.” This simple truth of the matter created a dilemma for the judges which they could neither resolve nor escape.³⁷⁸

³⁷⁷ EJ, 4

³⁷⁸ EJ, 26

In this passage, Arendt clearly states that the main reason for the trial's "miss[ing] the greatest moral and legal challenge of the whole case" was the inability (or unwillingness) of those in charge of judging Adolf Eichmann to make a judgment in the absence of traditional concepts and categories.

In my view, the failure of those in charge of Eichmann's trial to perceive or take seriously the fact that Eichmann's guilt was not measurable in terms of criminal guilt corresponds to the degree of (unperceived) agency that the man from the country enjoyed in "Before the Law" or the degree of (again, unperceived) agency that Josef K. played in his trial before the court. In the previous chapter, I demonstrated that each unwittingly drives the developmental trajectory of his respective story. Both Josef K. and the man from the country tended to assess the meaning of unique appearances with which they were confronted (viz., 'the Law' or the court) by way of traditional concepts and categories. Their 'self-deception,' I argued in Chapter 5, was that this tendency remained *unexamined*. As a result of their failure to examine the assumptions they make, these characters inevitably feel as if they were being controlled by the external forces of either 'the Law' or the court when in fact they were in control of their own fate.

When examining the passage that I cited from EJ above, one gets the sense that Arendt believed that those who had to judge Adolf Eichmann succumbed to a similar tendency, although perhaps she would not have gone so far as to say that the judges at Eichmann's trial were deceiving themselves. Nonetheless, Arendt did believe judging Eichmann in such a way as to generate a valid precedent for the appearance of future criminals of the same nature necessarily required Eichmann's judgment to abandon traditional juridical categories and precedents. I believe we should recognize the tendency to assume that Eichmann *must* be judged according to

traditional juridical resources as an internal pressure to which, unfortunately, the trial succumbed. In this sense, those who had to legally judge Eichmann really do resemble the man from the country or Josef K. Like Kafka's protagonists in *The Trial*, the trial in Jerusalem was confronted with a unique appearance – an appearance that lacked any further depth. Furthermore, Eichmann was able to elicit and enhanced dependence on the very juridical categories that he went beyond. The judges' preferred to conclude that Eichmann was not 'average' or 'normal,' rather than consider that he had committed crimes against humanity out of banal motives. Eichmann was thus a unique appearance that lacked further depth *and* was dangerous in that he tended to elicit a doubling down on irrelevant traditional categories. If Arendt believed that the trial was a partial failure (and we have seen that she did believe this insofar as it failed to generate a new precedent), then she believed that this failure was not due to external pressure, but due to factors internal to the trial itself. In my view, the fact that the trial succumbed to internal – and not external – pressures corresponds neatly to the (unperceived) agency enjoyed by the man from the country and Josef K.

If what I have said thus far in this section is plausible, then two interesting things follow. First, the banality of evil and Kafka's 'the Law' are structurally isomorphic – they may be used to clarify one another. For the reasons I have given above, I believe that 'the Law' in *The Trial* comes close to exemplifying in parable form the phenomenon that Arendt took herself to be describing in EJ. Because of this, I believe that my analysis of Kafka is capable of specifying the precise nature of what Arendt called the 'banality of evil' in such a way as to clarify why Arendt believed banal evil to be so threatening. In my view, the way in which 'the Law' is structured in Kafka's *The Trial* corresponds to what Arendt was trying to describe when she described

Eichmann as embodying “the fearsome, word-and-thought-defying *banality of evil*.”³⁷⁹ Arendt was not merely worried about the unprecedented nature of the banality of evil (although she surely thought that its unprecedentedness was of great concern). It was not that banal evil was unprecedented *per se* that made it so dangerous; in Arendt’s view, it was the specific *mode* in which banal evil was unprecedented.

My analysis of Kafka and application of it to Arendt’s EJ has shown that banal evil is unprecedented in such a way that it *appears* to be every day, or ‘banal.’ In ‘Before the Law’ we witnessed the banality of ‘the Law’ in its ability to elicit from the man from the country the assumption that it *must* be equivalent to the law that the man from the country experienced on an everyday, normal basis (viz., positive law). I have demonstrated that Arendt’s analysis suggests that Eichmann was unprecedented in precisely the same way. His unprecedented nature was such that he elicited a dangerous response: a doubling down on the conventional juridical categories that he rendered irrelevant. According to Arendt, the danger of banal evil was that it tended to appear such that its appearance corresponded to a familiar or conventional interior, inviting the assumption that it was not unprecedented at all. In EJ, Arendt recognized that certain ways in which Eichmann appeared in court (occasional lies or inconsistencies) encouraged the belief that his appearance concealed criminal intent. Arendt believed that the failure of the court in Jerusalem to deliver justice in such a way as to also generate a valid precedent for future cases was a result of its inability to operate *outside* of traditional juridical resources such as guilt implying criminal intent. Arendt thought that banal evil was so dangerous because of the assumptions it was able to elicit from those who regarded it a projection of depth/substance.

³⁷⁹ EJ, 252

The second important feature that I believe follows from my analysis concerns my main claims in this dissertation project: the developmental trajectory of Arendt's analysis of the faculty of judgment, particularly its post-EJ iteration. In my view, given the resources I have brought to bear on the topic in this and the preceding chapters it should be clear that Arendt's turn to the judgment of the spectator was motivated by her experiences at Eichmann's trial. In his analysis of the banality of evil, Daniel Conway has pointed out that the Eichmann trial "prompted her to identify the need for a new paradigm in moral psychology, which, she apparently hoped, legal theorists would eventually adopt in their efforts to reshape the modern practice of jurisprudence."³⁸⁰ In closing, I wish to identify another paradigm shift that Arendt believed necessary following her experiences at Eichmann's trial: namely, at Eichmann's trial Arendt made two important discoveries. First, that the judgment of *the* actor (viz., the judgment of those individuals who were official 'actors' in Eichmann's trial) was plagued by serious limitations. Second, because the dark times of modernity made the judgment of the actor unreliable when it mattered most, Arendt also discovered the necessity of a new model of political judgment. It is my contention in this dissertation that Arendt discovered the so-called 'judgment of the spectator' in *praxis*. That is, Arendt's shift from the judgment of the actor to the judgment of the spectator began as a result of her experiences at Eichmann's. After witnessing Eichmann's trial, she was convinced that those who had to judge Eichmann were not able to recognize Eichmann's banality. At least one important reason for her thinking so appears to be that she recognized certain limitations inherent in what it meant to be a political actor – limitations that precluded those in charge of Eichmann's trial from recognizing what Arendt

³⁸⁰ Conway, "Banality, Again," 72

described as the banality of evil. It is likely that Arendt recognized that her own distanced and uninvolved relationship to the trial allowed her to formulate what she considered to be an objective, unbiased assessment of Adolf Eichmann, one that properly recognized and described his most dangerous aspects. In so doing, she had also discovered the judgment of the spectator in her own judgment. In the years following Eichmann's trial, Arendt turned to the task of the theoretical elaboration of these experience in LM and LKPP. Properly speaking, the model according to which Arendt discovered the judgment of the spectator was *her own*.

Earlier in this chapter, I mentioned that although I see the 'self-deception' of the man from the country as analogous to the failure of the Eichmann trial to judge in absence of relevant precedent, I do not believe that Arendt would have described the failings of the trial as the result of self-deception. Instead, I believe that in Arendt's view the failure of the trial to generate a new precedent was a result of the capacity of the perspective of the actor to distort – distortion that according to her was a natural and unavoidable characteristic of human action. As a result, she built into her later, 'spectator model' of judgment the disinterestedness that she experienced in her own, spectatorial perspective at Eichmann's trial. In the long passage I cited above, Arendt explicitly states that she believed that the judges failed to recognize Eichmann's unprecedentedness because they were "perhaps also too conscious of the very foundations of their profession." In other words, Arendt seemed to believe that one of the reasons for the failure of the Eichmann trial to generate a valid precedent for the new type of criminal that accompanied state-sponsored genocide was because the *institution* of trial by jury was ill equipped to act in the absence of existing precedent.

As Conway has pointed out, Arendt clearly intended her notion of the banality of evil to be more than a 'catchphrase,' to borrow Gershom Scholem's term. Instead, she thought the term

had real explanatory power, explanatory power that, in her view, *could* have provided the means for a much-needed update of Western jurisprudence. Unfortunately, Arendt's generation of the concept of the banality of evil did not effect the paradigm shift in moral psychology for which she hoped. But it did, I argue, have a lasting effect on the direction that her theoretical writings took for the remainder of her life. Her recognition that the juridical institutions of the West were not equipped to deal with the criminals that emerged out of the state-sponsored genocide of the Third Reich led her to *re-think* the issue of political judgment from a different perspective. This new perspective was, I argue, the very perspective from which Arendt had arrived at insights from which she believed the actors in the trial were barred.

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