

EICHMANN'S JUDGEMENT.
THE LOSS OF MORAL COMMUNITY

by M W Jackson¹

The sad truth ... is that
most evil is done by
people who never made up
their minds to ... do evil
or good.
Hannah Arendt²

My title 'Eichmann's Judgement' is deliberately ambiguous, referring both to the judgements made by and of Adolf Eichmann. While at his trial Eichmann was portrayed as an inhuman monster, since then his own claim to have been a simple bureaucrat has been widely accepted. In either case there would be little point in reflecting upon Eichmann today. If he was a monster, the only thing to be learned is to beware of monsters. If he was the inevitable outcome of bureaucracy, then we would do well to reflect upon bureaucracy and not upon Eichmann. In these pages I will challenge both the Eichmann stereotypes of monster and bureaucrat. The purpose of these criticisms is to bring to light Eichmann's judgement, and ours.

1. Eichmann: The Monster.

Eichmann's defence at Jerusalem followed the example of General Alfred Jodl at Nuremberg. Jodl denied all responsibility for his actions. He said that it is "not the task of a soldier to act as **judge** over his supreme commander. Let history do that or God in Heaven."³ Exculpation on the grounds of obedience to superior orders was a defence discouraged by the Nuremberg charter.⁴ The tribunal itself admitted the plea where duress could be shown, but it only applied to mitigation. The tribunal did not entertain the plea from high ranking officials who were regarded as the policy-makers and programme designers.

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² **The Life of the Mind, Volume I, Thinking** (London: Secker & Warburg, 1978).

³ Hannah Arendt, **Eichmann in Jerusalem**, Rev. ed. New York: Viking, 1964, p.149. My emphasis.

⁴ R Wassertrom, "The Relevance of Nuremberg", in M. Cohen, T Nagel and T. Scanlon, eds, **War and Moral Responsibility**, Princeton: Princeton University Press, 1974, pp.140-141.

As a matter of fact Jodl's plea did not sit well with existing German law and precedent. A German Supreme court in 1921 had heard and rejected this very plea from two submarine officers who had obeyed orders to massacre the survivors of a sinking ship. This judgement had never been repudiated.⁵ Moreover, the German army field manual declared each soldier responsible for his own conduct, a standard proviso to discourage indiscipline, pillage, and rapine. No soldier in the army Jodl commanded had the duty of blind obedience he claimed for himself. Judgement was not left either to God or history but to a tribunal and the result was definitive. Jodl and the others received capital sentences. That Eichmann should choose a defence with such a poor track record indicates not only his desperation but also his bad judgement.⁶

Eichmann described himself as a petty factotum. Throughout interrogation and testimony he alleged that he had decided nothing. Every decision he had referred to his superiors.⁷ Pity me, he said, "I was a tool in the hands of the strong and powerful."⁸ This defence was made no easier by the fact that lines of authority were seldom clear in Eichmann's deadly work. He was sometimes vague about who the relevant superiors were. There was also much conflict with the army and local authorities. There is little sign that his department was a smooth running, hierarchically situated office with clear terms of reference and goals.

Since the plea of blind obedience was not an acceptable defence on the precedent of Nuremberg, the prosecution at Jerusalem might have charged Eichmann with crimes committed as a dutiful bureaucrat, but the prosecution did not. Instead he was vilified as evil incarnate in all but the word. He was portrayed as a fanatical Nazi and a thorough-going anti-Semite. In his absence at Nuremberg other defendants depicted him as that, the better to shift attention from themselves. The severe sentences meted out to these defendants indicates the Nuremberg Tribunal did not

⁵ Lord Russell of Liverpool, **The Trial of Adolf Eichmann**, London: Heinemann, 1962, p.310ff.

⁶ See John von Lang, ed., **Eichmann Interrogated**, London: Bodley Head, 1984.

⁷ **Ibid.**, p.208.

⁸ **Ibid** , p.231.

⁹ Gideon Hausner, **Justice in Jerusalem**, London: Nelson, 1966, p.4 ff Hausner was the Israeli Attorney-General who conducted the prosecution.

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conclude that Eichmann was responsible for everything others attributed to him. Nonetheless his reputation preceded him and in Jerusalem the assumption seems to have been that only a monster could have committed such monstrous crimes. Hence a good part of the prosecution's efforts were directed at Eichmann's intentions and beliefs as well as at what he had done.

But even the most committed demonologist found it hard to reconcile this satanic characterization with Eichmann. He was small, grey, and insignificant in more than stature. The disproportion between Eichmann's crimes and Eichmann was obvious. Everyone who observed the trial remarked upon it. They rejected the self-evident fact that Eichmann was a pigmy, opting for intellectual consistency at the expense of the facts.¹⁰ If his crimes required skill and dedication to be accomplished, they reasoned, then he must have or have had skill and dedication, all appearance to the contrary notwithstanding.¹¹ This is the fallacy of affirming the consequent: if Eichmann were an evil man, he would have committed these crimes. He committed these crimes. Therefore he is an evil man. But the conclusion does not follow.

Alone among those who observed the trial, Hannah Arendt "took seriously Eichmann's own understanding of himself as a man without base motives, a man who had conscientiously done his duty ..."¹² Then she asked, "What's wrong with this man? Didn't he have any ability to tell right from wrong?"¹³ Arendt argues that Eichmann was neither the demonic anti-Semite asserted by the prosecution nor the archetype of the bureaucrat asserted by Eichmann himself. Rather he was a man devoid of the ability to make a judgement or even to see that a judgement was needed. This is what she described as the

¹⁰ "Pigmy" is the word of Margaret Canovan, **The Political Thought of Hannah Arendt**, London: Dent, 1974, p.46.

¹¹ See the reports of H. Trevor-Roper, **The Sunday Times**, 23 April 1961; P. O'Donovan, **The Observer**, 23 April 1961; or R. Crossman, **The Observer**, 13 October 1963.

¹² Elisabeth Young-Bruehl, **Hannah Arendt**, New Haven: Yale University Press, 1982, p.382.

¹³ M. Denny, "The Privilege of Ourselves", in Melvyn Hill, ed., **Hannah Arendt**, New York: St Martin's Press, 1979, p. 254.

banality of evil¹⁴ Though her book **Eichmann in Jerusalem** aroused a storm of protest, most of the controversy settled on her interpretation and¹⁵ judgement of the role Jews played in their own destruction. Her interpretation of Eichmann as anything but an inhuman monster received criticism, but mainly because it seemed to many people to imply that the Jews were responsible for their own destruction. As we shall see in part II, her interpretation of Eichmann has since been taken as authorizing the bureaucratic stereotype.

Eichmann had neither the strong beliefs nor the will power to be a consistent anti-Semite or anything else. He was vain, weak, supercilious, a man who very often tried to get along with everyone by telling them what he thought they would like to hear. He was also very stupid; his perceptions of the cravings of others were none too keen. The essential point is that it was not the bureaucratic system that had prevented him from exercising what Immanuel Kant had called reflective judgement to distinguish right from wrong. He lacked that ability in the first place.

Arendt makes clear exactly what kind of man Eichmann was. He was very unintelligent with nearly no education.¹⁶ His testimony shows that he had little or no grasp of the routines of his own office.¹⁷ His speech was prolix. Asked to name the day he arrived in Vienna to take up a post, his reply took 180 words.¹⁸ His language was riddled with neologisms, malapropisms, and euphemisms. When challenged to be concrete, he replied that "officialese is my only language"¹⁹ To Arendt he seemed incapable of uttering "a single sentence that was not a cliché."²⁰ Others had already

14 A thesis confirmed by Jesse Glenn Gray's interviews with German power as quoted in Young-Bruehl, **Hannah Arendt**, *supra* n.12, p.370 and more systematically in H.T. Nash, "The Bureaucratization of Homicide", in E.P. Thompson and Dan Smith, eds, **Protest and Survive**, Harmondsworth: Penguin, 1980, pp.62-79. One thinks of Stanley Milgram, **Obedience to Authority**, New York: Harper & Row, 1974

15 Her book, e.g., is dismissed in a footnote by Lucy Dawidowicz, **The War Against the Jews**, Harmondsworth: Penguin, 1975, p.514.

16 Arendt, **Eichmann in Jerusalem**, *supra* n.3, p.133.

17 Russell, **The Trial of Adolf Eichmann**, *supra* n.5, p.203.

18 Arendt, *supra* n.3, p.121.

19 *Ibid.*, pp 43 and 44.

20 *Ibid.*, pp 44 and 50

perceived him to be a liar and a braggart ²¹ These traits
Arendt, too, saw ²² He made ridiculous claims of saving Jews
by the thousands in ²³ the face of the evidence that he had done
nothing of the kind

Eichmann went to some pains to suppress the "normal
knowledge" that Jews were human beings. ²⁴ When he visited
the death camps at Chelmo, Minsk, and Treblinka he was
horrified, but he strove to quell his own innate repugnance
towards his crimes. ²⁵ After all, "he could see no one, ²⁶ no
one at all, who was actively against the Final Solution."

Eichmann did not become as Arendt and the others saw him
to be thanks to long years of bureaucratic service in some
government office, working his way up from a clerk. Far from
it In fact, it is not accurate to speak of him as a
bureaucrat at all. He was never a public servant, but a low
ranking officer in the S.S. He had joined the S.S. in the
hope of finding a career. Whatever influence he had on
decision-making he did not rise in rank. The S.S., if it
needs to be said, was not just another government department,
and no model ²⁷ of bureaucratic functioning either internally or
externally.

Admittedly during his S.S. career and later at his trial
Eichmann demonstrated a shrewd peasant cunning and he was
completely self-serving. His consuming interest was
promotion and pay, not duty or anti-Semitism. These
qualities sufficed to make him useful to others and he was a

²¹ Russell, *supra* n.5, p.224.
²² Arendt, *supra* n.3, pp.40 and 41.
²³ *Ibid.*, p.172. There is a moving account of a moral S.S.
officer by Saul Friedlander, **Counterfeit Nazi: The
Ambiguity of Good**, C. Fullmann, trans., London:
Weidenfeld & Nicholson, 1969.
²⁴ Arendt, *supra* no.3, p.86; cf.S. Dossa, "Human Status and
Politics", **Canadian Journal of Political Science**, XIII
(1980) 2, p.314.
²⁵ Arendt, *supra* n.3, p.93.
²⁶ *Ibid.*, p.116.
²⁷ Eugen Kogan, **The Theory and Practice of Hell**, H. Norden,
trans., New York: Octagon, 1978. Cf. the excellent
discussion of B Kent, "Bureaucracy in Nazi Germany",
Public Administration, (Sydney), 32 (1973), pp.56-61

survivor, although ultimately not a successful one like Albert Speer²⁸

II. Eichmann: The Bureaucrat.

Adolf Eichmann has been reputed to be the "archetype" of the bureaucrat, industrious, obedient, committed, and efficient.²⁹ He³⁰ has also been described as a loyal Organization Man. Consequently, it is said that he "believed ... disobedience to his superiors would have been a worse crime than killing Jews."³¹ What is described as Eichmann's "insensitivity" is attributed mainly to his "bureaucratic mentality."³² One Robert B. Denhardt has gone so far as to declare that the logic of bureaucracy itself implies that Eichmann had only to obey superior orders.³³ A slightly more sophisticated interpretation can be inferred from Albert Hirschman's notion of an unconscious loyalist, even though it is³⁴ presented by an unconvincing analogy to visual perception. In these references his horrible crimes are taken to prove the evil potential of the reification we call bureaucracy.

To assume that Eichmann was a bureaucrat does a disservice to our comprehension of bureaucracy. Max Weber defined bureaucracy as the application of rules, the realm of

²⁸ See the perceptive remarks of John K. Galbraith, **Annals of an Abiding Liberal**, London: Deutsch, 1980, pp.217-218 and Matthias Schmidt, **Albert Speer**, New York: St. Martin's, 1984.

²⁹ Christopher Hodgkinson, **The Philosophy of Leadership**, Oxford: Blackwell, 1983, p.146.

³⁰ Robert Banks, in Banks, ed., "The Vocation of the Public Servant", **Private Values and Public Policy**, Sydney. Lancer, 1983, p.109.

³¹ William G. Scott and David K. Hart, **Organizational America**, Boston: Houghton Mifflin, 1979, p.156.

³² The tendency is noted but criticised in Eugene Kamenka and A.E.S Tay, "Freedom, Law and the Bureaucratic State", in E. Kamenka and M. Krygier, eds, **Bureaucracy**, London: Arnold, 1979, p.128.

³³ Robert B. Denhardt, **In the Shadow of Organization**, Lawrence: University of Kansas Press, 1981, p.84.

³⁴ Albert O. Hirschman, **Exit, Voice, and Loyalty**, Cambridge: Harvard University Press, 1970, p.93

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Kant's determinative judgement ³⁵ But nothing in Weber's famous list of the ten features of bureaucracy implies that each and every existing rule is beyond reflective judgement of right and wrong and is an end in itself ³⁶ In addition there is plenty of reason to doubt that the S S fulfilled Weber's ten criteria. Nor are there empirical grounds for supposing that bureaucracies do slavishly apply rules without the slightest exercise of discretion or that they are in fact "a hundred percent prescription." ³⁷ There is plenty of evidence to the contrary. ³⁸

If the initiative and intelligence of reflective judgement are not shown in the existing institutions called bureaucracies that is not the inevitable outcome of the logic of bureaucracy, but a result of human failing. Subordinates all too often like to be told what to do, as Michel Crozier has shown. ³⁹ All too often superordinates are threatened by the initiative and intelligence of subordinates, incompetents are manipulated by others for their own ends, and the employees of large organizations are transfixed by rank, superannuation, leave, allowances, loadings, and so on. People for whom these things are priorities do not want to make reflective judgement even if they are not organized into Weberian bureaucracies. Let us hope the irony is intentional when Paul Hasluck described first his work at the war crimes trials and then goes on to praise his Australian colleagues at home for being "unambitious, valuing security of tenure and the status of a public servant." He adds, "they did the accustomed tasks in the accustomed way without the vanity of thinking they knew better than their senior ..." They were "humdrum but dutiful." ⁴⁰ For Arendt evil results less from premeditation than from "thoughtlessness." ⁴¹

³⁵ See Kant, **The Critique of Judgement**, J.C. Meredith, trans., Oxford: Oxford University Press, 1952.

³⁶ **The Theory of Social and Economic Organization**, T. Parsons, trans., Glencoe: Free Press, 1947, pp.333-334

³⁷ Victor Thompson, **Without Sympathy or Enthusiasm**, University: University of Alabama Press, 1975, p.13.

³⁸ See, e.g., R. Hall, "The Concept of Bureaucracy: An Empirical Assessment", **American Journal of Sociology**, 69, (1963), pp.32-40.

³⁹ **The Bureaucratic Phenomenon**, Chicago: University of Chicago Press, 1964.

⁴⁰ **Diplomatic Witness**, Melbourne: University of Melbourne Press, 1981, pp 133 and 160 Emphasis added

⁴¹ **The Life of the Mind, Volume I, Thinking**, supra n.2, p 5

That the people are more important than the method of their organization can be seen in comparing the bureaucracies of Oxfam with the Australian Development Assistance Bureau. Oxfam keeps overheads to a minimum while implementing more successful projects than any official agency. Yet the employees of these official agencies always live better than their clients and often live better overseas than they would at home⁴²

Eichmann does not represent some necessary consequence of bureaucracy. One need look no further than the resistance Nazis. As M.R.D. Foot has noted, there are numberless occasions when resistance came from those who had spent a life time in some⁴³ government office filing papers, in other words the clerks. These, the most stereotyped of all bureaucrats, were certainly not any the less capable than anyone else of reflection and resisting.

Elsewhere in her study of **The Pentagon Papers** Arendt considers a good deal of evidence that shows that even the most bureaucratic of systems is not necessarily dishonest, amoral, and self-serving. **The Pentagon Papers** show that throughout the Vietnam War intelligence reports undermined the glib generalities of American politicians, that analysts like Daniel Ellsberg argued against past and present policy tirelessly, that policy-makers like Robert McNamara were aware of their own mistakes. Indeed what is remarkable is that nearly all of the disastrous decisions made in Washington were made in the full cognizance of the fact that they would probably not succeed. For example, when it was declared that North Vietnam was to be bombed the stated goal was to bolster the morale of the South, but intelligence reports and analysis at hand⁴⁴ indicated that "pandemonium reigned in Saigon" already. Yet the bombing proceeded. A new objective was found to justify the bombing when it was declared that it would stop Vietcong aid to the Pathet Lao, but a Joint Chiefs of Staff report stated that this goal was a pipe dream.⁴⁵ And so on. Though Arendt is generally inclined to name bureaucracy (by which she usually means impersonal rule)⁴⁶ as one of the two great misfortunes of modern life, in this particular case she admitted, albeit

⁴² See the account of Ben Whitaker, **A Bridge of People**, London: Heinemann, 1983.

⁴³ **Resistance**, London: Paladin, 1978, p.13.

⁴⁴ **The Pentagon Papers**, New York: Bantam, 1971, pp.312 and 393.

⁴⁵ **Ibid.**, p.240.

⁴⁶ Quoted in Melvyn A. Hill, ed, **Hannah Arendt**, New York: St Martin's 1979, p.321

reluctantly, "that the evils of bureaucracy" do not "suffice as an explanation" for the thoughtlessness of the American conduct of the war.⁴⁷ The failure was in the people and not in the system. Evidence was simply ignored and, even more remarkable,⁴⁸ dissent was domesticated, in the phrase of J C Thomson. Dissenters became devil's advocates much like the fool at a royal court. In the years since the war many closet dissenters have declared themselves, but Daniel Ellsberg was the first and nearly the only bureaucratic or political office bearer to resign.

There is no sure safeguard against the evil of banality. Arendt concluded that the collapse of a decent society is not retarded by the faithful of any noble creed. "Those who are reliable in such circumstances are not those who cherish values and hold fast to moral norms and standards", she has written. "Much more reliable will be the doubters and sceptics." Not because scepticism is good or doubting wholesome, but because these kinds of people are used to examining things for themselves thoroughly and making up their own minds.⁴⁹ A sceptic and a doubter can certainly perform the functions required by a bureaucratic system and many of them have.

III. Judging.

In Jerusalem Eichmann sometimes boasted that he slavishly obeyed rules. The result was a distorted version of Kant's categorical imperative: act as though the principle of your action were the same as that of the legislator (the Fuhrer) or the law of the land (the law of the Fuhrer).⁵⁰ Hitler's success was sufficient proof for Eichmann that Hitler should be obeyed. Hitler's will became Eichmann's will. This boast was the basis upon which the stereotype of him as a dutiful bureaucrat that now populates the public administration literature was generated. This stereotype is just as wrong as that of him as an evil monster. The difficulty in Eichmann's case is that ordinarily crime is the individual's failure to live according to the existing rules, but in Eichmann's case the rules themselves were criminal. So it was that Eichmann could agree that he had participated in one of the greatest crimes of history while insisting that if he had not done so

47 Arendt, "Lying in Politics", in her **Crises of the Republic**, Harmondsworth: Penguin, 1972, p.22.

48 J.C. Thomson, "How Could Vietnam Happen?", **Atlantic Monthly**, (April 1968), p.49.

49 Arendt, "Personal Responsibility under Dictatorship", **The Listener**, (6 August 1964), p 185

50 Arendt, **Eichmann in Jerusalem**, supra n 3, p.136

"his conscience would have bothered him at the time" for disobeying the rules.⁵¹ Somehow conscience and morality became set in opposition in Eichmann, and this is the moral collapse of the 20th Century Europe in Arendt's view

Of course, not all were conscience-bound in the way that Eichmann was.

Those few who were still able to tell right from wrong went really only by their own judgements, and they did so freely; there were no rules to be abided by, under which the particular cases with which they were confronted could be subsumed. They had to decide each instance as it arose, because no rules existed for the unprecedented.⁵²

But how can an individual judge right and wrong without reliance on rules? How can one judge a particular without reference to a universal rule? Arendt returned to these questions at the end of her life a decade after the publication of **Eichmann in Jerusalem**. She was sure that these were radical questions. For Arendt the life of the mind consisted of three autonomous, but interactive functions: thinking, willing, and judging. Socrates was the thinker par excellence. Since Socrates Western philosophy has judged particulars by reference to universals. The judgement of a particular is determined by a universal. When a man was called courageous, Socrates asked "What is courage?" He did not say "Tell me this man's story." Socrates taught that to call something beautiful we must have a prior idea of what beauty is, whether we realize it or not. The realization of those ideas became the program of Western philosophy. A thinker who does not concentrate on the Socratic question, but dwells on the story would not be accorded the status of a philosopher by either the laity or the profession. And yet most of us do love stories.

The desire to treat particulars under universals is too general to document. A political theorist simply takes it as read that "choice is meaningless without rules" and refers to Monopoly as if there is only one model of choice.⁵³ My students are always morally disturbed by the Nuremberg War Crimes Trials. Invariably these students conclude that the Nuremberg Trials judged particulars without the grace of a prior universal. Needless to say it is the budding law students who are the most sensitive to the point. I use students as an example here because I assume that they are

51 M. Denny, "The Privilege of Ourselves", *supra* n.13, p.255.
52 Arendt, **Eichmann in Jerusalem**, *supra* n.13, p.295.
53 Clarke E Cochran, **Character, Community, and Politics**, University: University of Alabama Press, 1982, p 116.

representative of a common body of opinion. The Nuremberg Tribunal, of course, invited this sort of response from anyone because it anticipated this criticism and made feeble efforts to justify itself by reference to some prior rules of moral and legal character, as I did earlier regarding General Jodl. Law students do not find these justifications very satisfying. Nor did Arendt, though for different reasons.

In her view Socrates's two world theory - particular things and universal ideas - collapsed intellectually in the 19th Century and morally in the 20th Century.⁵⁴ We lost our universals, but not the habit of thinking in terms of universals, or to be more precise, the habit of thinking that the only rational way⁵⁵ to think of particulars was by reference to universals. Today we still want to think in terms of universals to which we can relate particulars, but we have lost faith in our universals. The result is thoughtless willing. For Arendt, Eichmann was the paradigmatic example of the un-thinking, un-judging person. Without the thought to imagine other people, without judgement in common with them, he had only himself. Willing is private for Arendt if it is uninstructed by thought and not aimed at a judgement. Another response is to call for a return to lost faiths, be they religious or ideological.

The universals that used to be accepted as limits are lost: tradition, nature, God, natural law, nation, or ideology. These transcendent values have given way to the impermanence of individuals of Arendt's telling. The transitory impermanence of the individual's life is now the measure of all things. This reversal in the 20th Century is partly due to the accelerated rate of change experienced in this century. It is also partly due to the fragility of the world. Once we imagined it would take a wrathful God to destroy the World with fire and flood, but now we imagine that a person just like ourselves could destroy the world by accident. In such a world, tradition, God, nation, and so on no longer offer firm ground for the judgement of human action.

The loss of universals is readily discernible in the moral relativism that is so pervasive. To offer a moral judgement is an anathema to most people. The more highly educated people are, the more reluctant they are to make moral judgements. Yet these same people may approve of extreme political action such as that of revolution or terrorism. It is only a slight parody to suggest that for many people today one may say: (1) "I will kill you in order to assert my values." but that one may not say (2) "You are

54 Arendt, **Between Past and Future**, London: Faber & Faber, 1961, p.17.

55 On habits in morality see Alasdair MacIntyre, **A Short History of Ethics**, London Routledge & Kegan Paul, 1967, pp 94-95.

wrong." Statement (2), to these people, is hopelessly naive and irrational (as well as impolite) in its assumption that there is a right and wrong, let alone that any of us may confidently ascertain and assert right and wrong. Statement (1) is, to these same people, intellectually honest in its amorality. For Arendt the ethics of individuals without universals boils down to "might makes right" and that is no ethics at all. Embracing a set of rules, be it the Fuhrer's word or an ideology, is no alternative because the rules may be wrong in themselves or inappropriate or misapplied or whatever.

The alternative is judgement. As Erich Auerback has remarked regarding Montaigne, judgement is making oneself at home in a world without fixed points of reference, without universals.⁵⁶ Judgement is the assertion of values that are no longer underwritten by a transcendent reality. This loss of transcendent universals began when we learned to distrust our senses thanks to Galileo's telescope (whether he used it or not). The Cartesian divide between **res extensa** and **res cogitans** resulted. Since that division moral life and philosophy have oscillated between the equally fruitless poles of objectivity and subjectivity.⁵⁷

Arendt concluded that the only thinkers who escaped the prison of this Cartesian dualism were those concerned with taste. Taste is the faculty that perceives realities that are neither objective nor subjective, and yet existed all the same. It is Immanuel Kant's **Critique of Judgement** to which she turned to find how one can judge value that is neither an objective fact nor subjective assertion, that is neither a determinative judgement such as Eichmann applied in following given rules nor a subjective preference akin to my liking of chocolate. Can one judge the particular without reference to a general concept or universal rule and can that judgement have any validity beyond the judging subject, i.e., for other people?

A reflective judgement is one without an absolute rule. We make such a judgement of taste when we say "This is beautiful." A judgement is aesthetic precisely because it is a direct experience. No one can judge the beauty of an unseen object, but one can judge the truth of a scientific proposition without direct experience. "The judgement of taste is not based on concepts; for, if it were, it would be open to dispute (decision by means of proofs)" in Kant's

56 **Mimesis**, Princeton: Princeton University Press, 1953, p 311.

57 For example, Felix Oppenheim, **Moral Principles in Political Philosophy** 2nd ed., New York: Random House 1976

words.⁵⁸ Risking a legal analogy to the common law tradition unknown to Kant and ignored by Arendt, a reflective judgement is made when a jury pronounces what is just in a case, though no juror knows what justice itself is. Justice develops through cases as taste develops through a study of exemplary models. However vague the processes are, one thing is certain. Judgements such as "The Final Solution to the Jewish Question was evil" command far greater⁵⁹ comprehension and agreement than any scientific proposition. (1) We can and do make particular judgements all of the time whether we know what courage is, what beauty is, what justice is, or what evil is. (2) And these judgements are no less intelligible or pervasive than scientific propositions (which propositions for the sake of this argument I am assuming are the very models of Socratic thinking from universals to particulars).

Now philosophers since Socrates have been unable to explain how we make such judgements and why we understand and agree to them when other people make them and so philosophers ignore them. The phrase generally used is that (1) and (2) above are not "philosophically relevant." In ethics what is philosophically relevant is, e.g., a proof that evil is conceptually impossible or that theft is self-contradictory. The fact that people murder and steal all the same is not philosophically relevant.⁶⁰ Arendt was not one who respected "philosophical relevance" and the price that she had paid for that irreverence has been the scorn of professional philosophers.⁶¹

According to Kant, when we are confronted with an object we respond subjectively by saying "This pleases me" rather than objectively by saying "This is good." Subjective statements such as "This pleases me" or such equivalents as "it seems to me" make no demand on others. However to say "This is beautiful" does make a demand on others. In this statement we mean not only that it pleases me, but that it will and should please others or everyone. There is no contradiction if I say of something "This pleases me" and you say of it "It does not please me." But there is a

58 Kant, **Critique of Aesthetic Judgement**, London: Oxford University Press, 1928, p.198.

59 D L. Phillips, "Normative Theorizing in the Social Sciences", **Kennis en Methode**, XII (1983) 3, p.183.

60 See Norbert Elias, "Scientific Establishments", in N Elias, H. Martins and R. Whitley (eds), **Scientific Establishments and Hierarchies**, Hague: Nijhoff, 1982, pp.94.

61 The aristocratic disdain is palpable in Anthony Quinton's biography of her in A Bullock and R B. Woodings, (eds), **Twentieth Century Culture: A Biographical Companion**, New York: Harper & Rowe, 1983, p 19

contradiction if I say something is beautiful and you say it is not. In this case we have to have a judgement of beauty. In making this judgement we take the perspective of others or of everyone, but we⁶² do not judge as others would or as we think others would. That would be empathy rather than judgement. If an object pleases me independently of my particular subjective situation, then it ought to please others, too, independently of their subjective situations. Arendt does not go so far as to require a veil of ignorance **pace** John Rawls's **A Theory of Justice**, but that veil expresses the disinterestedness and generality of the moral community of judgement that she requires.⁶³ She would differ from Rawls in his faith in the application of the veil as a universal and as a rule of judgement.

By not judging, Eichmann was the essentially private person devoted to making a good life for his family. He willed his private desires which dictated to his public duties. The dominance of private motives is, of course, not limited to the Eichmanns of this world. The private dominates the public realm when personal grievances are politicized as some of my kind recommend⁶⁴ or when politicians enrich themselves and their lawyers through ritualistic defamation actions. The perversion of the public by the private is complete when members of the public excuse and even justify this kind of self-serving by politicians and by themselves. If our leaders are essentially private, it is because we are essentially private. To Arendt the private person "has driven the dichotomy of private and public ... so far that" there is no longer any connection between the two. The private person not only leaves the moral community, but destroys it. When a public occupation forces such a private person to murder, the person does not regard herself as a murderer because she has not done it out of personal motives but in a professional capacity. "Out of sheer passion he would never do harm to a fly."⁶⁵

Eichmann did not think and, consequently, could not judge. The "desk murderer" Eichmann was a "sleepwalker".⁶⁶ One of the most common excuses made for domesticated dissenters or near Eichmanns is the plea of the lesser evil.

⁶² Arendt, **Between Past and Future**, *supra* n.54, p.220ff.

⁶³ John Rawls, **A Theory of Justice**, Cambridge: Harvard University Press, 1971, pp.136-142.

⁶⁴ Hanna Pitkin, "Justice", **Political Theory**, IX (1981) 3, p 348.

⁶⁵ Arendt, in R.H. Feldman, ed. **The Jew as Pariah**, New York: Grove Press, 1978, p.234.

⁶⁶ Arendt, **The Life of the Mind, Volume I, Thinking**, *supra* n 2, p 191

But Arendt insists that those who justify to themselves and others their immoral deeds as the lesser evil "forget quickly they chose evil"⁶⁷ No moral idea is more liable to abuse with the result that "good men do the worst."⁶⁸ To say that the end justifies the means is just another thoughtless way to escape making judgements but it is not a way to escape being judged. A plea of the lesser evil creates a situation where those who took part in an evil policy could charge those who refused to take part with irresponsibility.⁶⁹ "We who appear guilty today in fact are those who stayed on the job in order to prevent worse things from happening." The refusal to collaborate with evil in the name of the lesser evil, even where it means great risks, occurred "not because the world would then be changed for the better, but because only on this condition could they [those⁷⁰ who refused to collaborate] go on living with themselves."⁷⁰

One can "judge particulars [like Eichmann] without subsuming them under those general rules which can be taught and learned until they grow into habits."⁷¹ Eichmann wholly lacked⁷² the ability to judge, because he was unable to think⁷² There is no recipe for judging. Arendt described the reflective procedure in this way:

In judging you say, spontaneously, without any derivation from general rules, this man has courage. If you were a Greek, you would have "in the depth of your mind" the experience of Achilles. Imagination is again necessary: you must have present Achilles though he is certainly absent. If we say of someone he is good, we have in the back of our minds the example of St. Francis or Jesus of Nazareth. The judgment has **exemplary validity**⁷³ to the extent that the example is rightly chosen.

67 Arendt, "Personal Responsibility Under Dictatorship", *supra* n.49, p.186.

68 Young-Bruehl, Hannah Arendt, *supra* n.12, p.374.

69 George Kateb, Hannah Arendt, Oxford: Martin Robertson, 1983, p.87.

70 Arendt, "Personal Responsibility under Dictatorship", *supra* n.49, p.186.

71 Arendt, "Thinking and Moral Considerations", *Social Research*, XXXVIII (1971), p.446.

72 Kateb, Hannah Arendt, *supra* n.69, p.38.

73 Quoted from a letter in Young-Bruehl, Hannah Arendt, *supra* n 12, pp.300-301

We do not spontaneously see the general in the particular, contrary to Socrates. It is precisely when the determinative rules of judgement disappear (because they do not exist or are wrong as Eichmann's were) that the faculty of judgement comes into its own.⁷⁴

The spontaneous appeal to examples depends on a prior choice of examples. That earlier choice is stimulated by thinking. A person is prepared to make particular judgements spontaneously by having thought about the questions "What is courage?" "What is justice?" "What is beauty?" and "What is goodness?" When Arendt asked, "What is thinking?" she settled on Socrates as the example.⁷⁵ Arendt once said that "in the last analysis ... our decisions about right and wrong will depend upon our choice of company, with whom we wish to spend our lives. And this company is chosen through thinking of examples from history, from literature, from experience."⁷⁶ Arendt chose Achilles and Socrates for company. The gift of thought to judgement is these examples in the depth of the mind. "Thinking is 'good for nothing' in the world,⁷⁷ but in the mind it is good for guidance" - not legislation.

If judgement is not exercised it atrophies. Arendt wrote:

The argument that we cannot judge if we were not present and involved ourselves seems to convince everyone, although it seems obvious that if it were true, neither the administration of justice,⁷⁸ nor the writing of history would ever be possible.

The reflection that I might also have done wrong under the circumstances may kindle forgiveness but that follows judgement, it does not replace it. "The sad irony is that this atrophy of the faculty of judgement was precisely what had made⁷⁹ Eichmann's monstrous crimes possible in the first place."

⁷⁴ Arendt, "Understanding and Politics", *Partisan Review*, 20 (1953) 5, p.391.

⁷⁵ Young-Bruehl, "Reflections on Hannah Arendt's *The Life of the Mind*", *Political Theory*, X (1982) 2, p.302.

⁷⁶ Ronald Beiner, "Interpretive Essay", in Beiner, ed., *Hannah Arendt, Lectures on Kant's Political Philosophy*, London: Harvester Press, 1982, p.113.

⁷⁷ Young-Bruehl, "Reflections", *supra* n.75, p.302.

⁷⁸ Arendt, *Eichmann in Jerusalem*, *supra* n 3, pp 295-296.

⁷⁹ Beiner, "Interpretive Essay", *supra* n.76, p 99

IV Ethics.

The moral community for Arendt is a community of judgement. It consists of the thinking individual who, like Socrates, is not alone, when without company. Because Socrates thought, he was never alone. He always had several points of view present in his mind's imagination. Because he did not think, Eichmann was always alone. The community of judgement also consists of the examples one esteems, however unconsciously. And it always consists of others. For while thinking can be done alone, judging cannot. Judgement is "inherently social because our aesthetic judgments make reference to a common or shared world."⁸⁰ The particulars judged, like Eichmann in Jerusalem, are in common. Judgement is a boundary principle for a moral community in Arendt's telling of the story of the life of the mind. When Eichmanns refuse to judge, or neglect to judge, they leave the moral community, if ever they were in it. The boundary of the moral community is not shared universal rules, but the common experience of particulars to be judged. Thinking requires judgement, thinking makes judgement possible, but thinking is not judgement. The paradox is that as social as judgement is, to render judgement a person must withdraw from the company of others to contemplate, to reflect, but if I think, I will not be alone. Judgement is social in another sense, too. I never judge for myself alone. A judgement is a communication to others. Persuading others of the validity of the judgement is the *raison d'etre* of judging.⁸¹ General Jodl could not have been more wrong. History does not judge; historians do. According to Arendt the inability to judge means that a 20th Century Aristotle would have to conclude that the principle of our polity is boredom. Though there is much advocacy of a renewal of morality these days it is not always founded on the understanding of ethics.

The study of ethics does not tell one what to do or furnish maxims for conduct. That is all in the nature of a determinative judgement. Those who imagine that they can restore the moral community with yet another set of rules miss the point entirely.⁸² The study of ethics shapes the kind of person one is. It is a process that goes on throughout a lifetime. If it is successful, the individual is more reflective, more self-critical, more discriminating, and more attentive. It is in the formation of character that the study of ethics deeply influences the practice of judging. Oh, for the great day when a Weberian bureaucracy

80 *Ibid.*, p.119.

81 *Ibid.*, pp.119-120.

82 For example, William C. Louthan, *The Politics of Managerial Morality*, Washington, D C : University Press of America, 1981

Alas, today no one, including university students bound for the law and public service, looks to books to meet the problems of life. If we do not turn to accounts of vice and virtue in books, it is because we do not admit that vice and virtue are at stake. In our formative years the role once played by **The Iliad**, **The Bible**, or Shakespeare is now played by films, popular music and journalism, the work of mercurial and ephemeral minds.

Books on public administration that cite Eichmann's example now have a mandatory chapter on ethics. In these perfunctory discussions all too often moral relativism or subjectivism is assumed and all ethical terms are qualified in some unspecified way by the liberal use of quotation marks, underlining, or rhetorical questions.⁸³

If this textbook discussion is sustained it is sometimes declared to be "practical". That seems to mean determinative judgements of the most mundane kind.⁸⁴ A U.S. Department of Agriculture manual for trainees provides an example. Respondents are asked to judge the following case.

On a Sunday afternoon on the way to a field location in an official Government vehicle, a U.S.D.A. employee who was travelling on Sunday to be at his destination for a Monday morning assignment, drove approximately 8 miles off the main route he was taking to visit some relatives whom he had not seen for several years.⁸⁵

The approved judgement is negative. In this example ethics means staying out of trouble. It does not mean profound thought and faithful service to the best interests of the nation. Eichmann would have passed this test.

The apparent alternative to such practical discussions is no better. It is sometimes a short course on moral and political theory stringing together summaries of the great thinkers of our culture. At other times it consists of setting a single book like John Rawls's **A Theory of Justice**

83 A recent instance is Christopher C. Hood, **The Tools of Government**, London: Macmillan, 1983, pp.139-141.

84 The level of the debate here is made clear in C.Hughes, "Administrative Ethics", in G.R. Curnow and R.L. Wettenhall, eds, **Understanding Public Administration**, Sydney: Allen & Unwin, 1981, pp.192-201.

85 See **Ethics and Conduct**, Cranford, N J.. Didactic Systems, 1976, p 52

as an authoritative text Rawls's book is set on the grounds that it is an exposition of liberal democratic values⁸⁶ But surely there is something fundamentally wrong in being asked to accept these values because they are ours. The point of these values, as argued say by John Stuart Mill in **On Liberty**, is that there are a variety of sound arguments, including those for liberty and democracy, that are not always consistent or conclusive. Because they are inconsistent and inconclusive we must think about them, not for a three day training course, but for a lifetime.

⁸⁶ John Rohr, **Ethics and Bureaucrats**, New York: Dekker, 1978, p 56.