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Where Hannah Arendt Went Wrong

DAVID ABRAHAM

I. Law and Politics: Types of Truth

There has been a great deal of confusion in recent years in regard to what we mean by “truth.” Although confusion and debate over determining the truth is hardly novel for either philosophers or common folks, the issue of “truth” and how we might know it (or produce it) has been quite the rage these last twenty years among historians, legal scholars, and postmodern would-be theorists.¹ Plausibility, coherence, elegance, and consistency over time and within a community are just a few among the current yardsticks. These have, in both their rule-bound and unfettered forms, nudged aside inherited liberal (and marxist) conceptions of “correspondence theory,” which held that there is something really true out there—our task being to get as close to it as we can.

In Israel, the “new Israeli historiography” of the last decade or so has been concerned to demystify several of the dominant and putatively oppressive Zionist master narratives and myths. Some of this work, while politically subversive, has been quite traditional historiographically.² This essay on historical adjudication, by an Israeli scholar long committed to

1. Much of that debate was captured in Peter Novick’s comprehensive and cautious volume, *That Noble Dream: The “Objectivity Question” and the American Historical Profession* (Cambridge: Cambridge University Press, 1988). Among the intellectual historians, David Hollinger and Thomas Haskell have led the fight against both moral and epistemological relativism. Among legal scholars, Duncan Kennedy’s new volume, *A Critique of Adjudication* (Cambridge, Mass.: Harvard University Press, 2000) demonstrates that critical legal studies is not completely out of gas.

2. See, for example, the pioneering work of Benny Morris and Tom Segev, the latter trained in the most traditional canons of German historiography, as well as the more recent work of David De Vries, *Idealism and Bureaucracy in 1920s Palestine: The Origins of “Red Haifa”* (Tel Aviv: Am Oved, 1999).

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historical revision, seeks to combine two missions: a skeptical examination of the truths produced by adjudicatory processes and a frank look at a pair of vital conjunctures in Israeli politics and history. Thus, Maoz writes as epistemologist and as citizen. Although the corresponding discussions are both informative and tell us much about what the new Israeli historiography is up to, the latter task is better achieved than the former.

Let us first, once again, violate our innocence. In the "old days," the job of the historian, judge, and detective was to "sift and weigh" the evidence, while ignoring party, ideology, or other disruptions and pollutants, and to produce findings that corresponded to the truth as closely as possible. The precise canon of rules might vary by profession, but standards of proof were known and shared within and beyond any given community of practitioners. Hence, narratives in both history and law might be energized, or even framed, by "theories of the case," but they were fact-driven searches for the truth. They were different from the work of both politics and memory: the former allowed for instrumental dishonesty within bounds while the latter allowed for psychological truth that might nonetheless not be real.³

Compared to theorists, practitioners have always been more discerning about what it is they did. Litigators, of course, have been chosen to tell one side's truth before themselves determining what the "real" truth might be. They are paid to do the job, and the federal or other rules of evidence are more important to establishing the artifactual truth than are other data more "real" to a historian or government but inadmissible at trial. State investigatory commissions, unlike trial courts, are explicitly mandated to calm the public mood, to assure or explain to the citizenry (rather than the jury or the educated and scholarly public) why and how something happened.⁴ And historians, for their part, know better than to operate strictly by their principles, lest their work yield only confusion or incoherence. Indeed, attacks

3. See the useful contributions made in this regard by the journal *History and Memory: Studies in Representation of the Past* and its chief editor, Saul Friedländer, himself an Israeli. The most important work on the truth of historical memory remains that of the holocaust victim Maurice Halbwachs. See *On Collective Memory/ Maurice Halbwachs*, ed., trans., and with intro. by Lewis A. Coser (Chicago: University of Chicago Press, 1992); the most embarrassing moment for historical memory emerged out of the recovered memory autobiography of Benjamin Wilkomirski, *Fragments: Memories of a Wartime Childhood* (New York: Schocken Books, 1996), whose memory of being a child in a Nazi death camp was so vivid, detailed, compelling, and "true" that it superseded the historical reality of his never having been near one.

4. This is one reason why, in this country at least, such commissions are never really accepted as truthful or accurate. Almost no one really believes the Warren Commission on the Kennedy assassination or the Kerner Commission's explanation of civil disorder (race riots) or the Savings and Loan Investigatory Report. More explicitly political investigations such as Kenneth Starr's "Special Counsel" begin (and generally end) with the presumption of noncredibility.

on so-called “master narratives” have, often unintentionally, revealed the gap between the methodology historians profess and the coherence they often manage to produce in practice.

Still, as Maoz’s essay makes clear, there are good reasons for not transgressing or hybridizing categories of truth inquiry. Knowledge, law, and politics mix uncomfortably. The uncertainty, debatability, and indefinite revisability of “historical truth”—the slow, contended truth of scholarship—sits uncomfortably enough next to “trial truth”—the near-conclusive artifact of rule-bound case resolution enjoying the power of the state to back it up. To hybridize through institutions producing a “state commission truth” is to generate the worst of both worlds—a highly instrumentalized, unreliable stabilization or political resolution of matters of state official memory. It is not a good thing, as Americans familiar with the Warren Commission, the Attica Prison Uprising Commission, or others should know.

Maoz makes a strong case against category confusion and bolsters it with a learned and serious discussion of the Arlosoroff and Kastner trials and commissions. These episodes are extremely important in Israeli history: The Arlosoroff saga tracked a critical conflict between Labor and Revisionist Zionism, while the Kastner chronicle, under the aegis of Hannah Arendt, helped set (or distort) the course for our entire understanding of European Jewry in the Holocaust.

At times, however, Maoz seems more taken aback, more shocked by what he finds than he ought to be. We have to live with system specific norms and should not expect from the courts, and even less from state commissions, what they cannot and are not meant to provide. Sometimes we have to content ourselves with the prospect that History will judge. Thus, for example, is it really shocking that the “witness” requirements of the pertinent law in the courts of mandatory Palestine permitted Arlosoroff’s likely killers to get away free? Of course it does not mean that they were not the killers; it means only that they could not be found guilty and punished by the state. What happened was only a limited exoneration with limited normative ramifications.

Conversely, whose mind was changed about anything when a state commission appointed under Prime Minister Menachem Begin cleared the Revisionists of any culpability. All it meant was that Begin’s Revisionists had come in from the margins and were now fully integrated into the state system, indeed had become the government. Is “political justice” untruthful? No, it is just that the truth is a “political” truth and does not masquerade as something else.⁵ Healing a rift in *yishuv* (pre-State) society may be

5. This may be said of the Warren Commission, the South African Truth and Reconciliation Commission, and numerous other state efforts to “set the record straight.” The offensive political truths are those that emerge from political trials masquerading as legal trials,

a worthy, even paramount goal. As the South African and Central and South American experiences suggest, the connection between Truth and Reconciliation may be far less than perfect. The true and the useful may not always be one and the same, though a society surely needs them both.

II. Politics as Law: Types of Falsehood

It can hardly be doubted that Hannah Arendt's *Eichmann in Jerusalem* has, since its appearance in 1963, remained one of the most influential books on Jewish behavior in the Holocaust. Along with *The Destruction of the European Jews*, Raul Hilberg's lengthy, careful description of the persecutors and killers, Arendt's book does more than any other to shape how we think about the horrendous crimes and events they describe.⁶

Arendt was long criticized for her observation that Eichmann's evil was ultimately "banal." In my view, she was driven to this description because she needed to see Eichmann as a test case of, if not the paradigm for, the new, impersonal, bureaucrat-at-his-desk "totalitarian" evil she had earlier committed herself to in her successful *Origins of Totalitarianism*. The nature of the Nazi regime has remained a central object of scholarship and a vexing question for the generations of analysts who have undertaken to study it.⁷

Arendt's second major assertion in the *Eichmann* study is not quite as well known as the "banality of evil" argument. Or at least it is not as well known outside the Jewish community. Within the Jewish community, however, the most incendiary claim Arendt raised in the book was the claim that, for Jews themselves, the "role of the Jewish leaders in the destruction of their own people is undoubtedly the darkest chapter of the whole dark story." Furthermore, "wherever Jews lived, there were recognized Jewish leaders, and this leadership, almost without exception, cooperated in one way or another, for one reason or another, with the Nazis." Indeed, if the Jewish people had been completely disorganized and leaderless, "the total number of victims would hardly have been" as immense as it was.⁸

i.e., "show trials." See, e.g., Isaac Deutscher, *Stalin: A Political Biography*, rev. ed. (1949; Harmondsworth: Penguin Books, 1966), 310, 368–79; Roy Medvedev, *Let History Judge: The Origins and Consequences of Stalinism* (New York: Knopf, 1971), 174–80.

6. See Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (New York: Viking Press, 1963), and Raul Hilberg, *The Destruction of the European Jews*, 1st ed. (Chicago: Quadrangle Books, 1961).

7. Hannah Arendt, *Origins of Totalitarianism*, 1st ed. (New York: Harcourt, Brace, 1951).

8. Hannah Arendt, *Eichmann in Jerusalem*, rev. and enl. ed. (New York: Viking Press,

It is a signal contribution of the Maoz essay to clarify for us where Arendt picked up this nonsense. How ironic that this independent-minded intellectual, now a darling of post-left emancipatory social theorists and critical intellectuals, derived her understanding of Jewish communal cowardice and incompetence from the Gruenwald-Kastner libel trial. In other words, Arendt adopted, propagated, and promulgated the most scurrilous nonsense put over by the most right-wing forces in Israeli society in a trial that should never have taken place.⁹

Maoz makes clear what mischief emerged from the combination of the trial function and the history function. A dedicated right-wing ideologue, Shmuel Tamir, representing the accuser/defendant and a trial court judge, Benjamin Halevi, who foolishly or nefariously fashioned himself as a historical rather than trial investigator, produced an ungodly mess, consumed eagerly by Arendt.¹⁰

The Gruenwald-Kastner “trial” was, in fact, a shadow boxing event, a conflict between an insurgent right-wing Zionism and the labor Zionist establishment, in which the former sought to tar the latter with the brush of complicity with a craven diaspora Jewry. In seeking to link the two Establishments—Ben Gurion et al. in Palestine and Kastner et al. in Europe—with each other and with the Nazis themselves, the rightists were attempting to trump or “outbid” the mainstream Zionists, who, themselves, of course, had always argued that Jewish life in the diaspora was inherently deficient, weak, dependent, and vulnerable to complicity with ruling powers. The right took the opportunity to don the garb of Rabbi Ben-Yair, the suicide hero of Massada, while portraying the Labor Zionists as temporizing and equivocating Ben-Zakkais, men who, excessively concerned with saving their little worlds, surrendered to the Roman/German enemy.

While not exactly admirable historical work, this “truth” as a theory of

1965), 117, 125. Peter Novick, *The Holocaust in American Life* (Boston: Houghton Mifflin, 1999), 134–45, presents what I believe is an excessively generous portrayal of what Arendt said and was up to. Cf. David Abraham, “Dealing with Histories of Oppression,” *Rutgers Race and Law Review* 2.1 (2000): 85–159.

9. Arendt makes some references in *Eichmann in Jerusalem* to the “Kastner trial,” as she and others inappropriately referred to it, and which dragged on for several years beginning in 1955. Arendt makes scant reference to the “Kastner trial” in her otherwise comprehensive and thought-out contributions to her correspondence with Karl Jaspers; see Lotte Kohler and Hans Saner, eds., *Hannah Arendt-Karl Jaspers Correspondence, 1926–1969* (1985; New York: Harcourt, Brace, Jovanovich, 1992).

10. Of course, the findings that Kastner had been morally, legally, and historically culpable were reversed on appeal. In addition, it must be said that the ruling Labor Party’s hubris and illiberal mentality helped bring this mess upon itself. There was no real reason for the state to prosecute Gruenwald to begin with.

the case made for an even worse trial, one that reflects poorly on the judiciary and the state of Israel in its early days. And, of course, it is quite properly a dispositive example for Maoz of why neither courts of law nor state commissions should do history. Yet for reasons that neither her current admirers nor most Israeli scholars seem to understand, this “tough Jew” mythology nonetheless appealed powerfully to Arendt and won her over.¹¹ Perhaps it is because, in *Eichmann in Jerusalem*, Arendt herself was not writing history but rather taking a stand on the Jewish-German world she had once inhabited but that had left her a refugee and about which she herself felt very ambivalent. After all, no one is entirely immune from what Maoz calls the “moral hazard” of category confusion, of telling the wrong truths.

11. One grasps nothing of this dynamic, for example, in either Seyla Benhabib, *Reluctant Modernism of Hannah Arendt* (Thousand Oaks, Ca: Sage Publications, 1996), or Richard Bernstein, *Hannah Arendt and the Jewish Question* (Cambridge, UK: Polity Press, 1996). Both of these critical philosophers and Jewish progressives would, of course, be aghast at the thought of endorsing Herut ideology.