

In Sensible Judgement

MAX DEUTSCHER



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Contents

<i>Preface</i>	<i>vii</i>
<i>Acknowledgements</i>	<i>xi</i>
<i>Abbreviations</i>	<i>xiii</i>
Introduction	1
PART I ACHIEVING JUDGEMENT	
1 In Sensible Judgement	13
2 Deemed and Sentenced	35
3 Dissenting Judgement	49
PART II MAKING JUDGEMENTS	
4 Judging as Right	65
5 Living on the Premises	81
6 Inferring, Judging, Arguing	97
PART III QUESTIONING CRITIQUE	
7 Sting of Reason	111
8 Mystique of Critique	133
9 Enigma Absolute	149
PART IV MOVING ESTABLISHMENT	
10 Nomadic Judgement	171
11 Chasing After Modernity: Some Friendly Words for the Postmodern	187

12	When to Forget	201
	<i>Bibliography</i>	<i>213</i>
	<i>Index</i>	<i>219</i>

Preface

As he finds himself on the path to his *Inferno* Dante says, ‘*In the middle of the journey of our life, I came to myself in a dark wood, and the straight way was lost*’. The hazard I apprehend is to lose my way, abandoned in the dark wood of morality’s language. In the forest of what is ‘morally and ethically’ right¹ we lose our vision of the pleasures and displeasures involved in all that we do. I run this risk deliberately, however, since the way I approach the problem of judgement must involve some trespass upon those intensely cultivated domains called ‘moral philosophy’ and ‘ethics’ (the new version oriented towards professional conduct). The trespass is necessary because there are those judgements that concern what is right and wrong. It is only as standing securely within the domain of judgement that I would lean over morality’s shrubbery to open the canopy – to prune ‘*moral*’ from ‘*morally* good’ and ‘*ethical*’ from ‘*ethically* right’ – so as to judge what is right and good, *simpliciter*. ‘Morally right (or good)’ or ‘ethically right (or good)’ are dead wood – the remnants of what were once live judgements of what is good and right.

The ensuing story about judgement has some bearing on theories of moral language typical of the analytical tradition of moral philosophy that was established in the first two or three decades after the Second World War. If *being pleased at* is at the heart of what it is to judge then this has something in common with what contemporary inheritors of the tradition of analytical meta-ethics deem to be ‘non-cognitivism’ – that the sentences of good and bad, right and wrong do something other than *state* what could be *known*. To approach this matter *via* judgement alters the terms of the debate. To judge a line of action as right is not in itself to make an utterance, whether that be a cognitive statement, an expression of emotion or the issuing of an imperative. To parody Mark Antony, were I to say that Cassius is a good and honourable man then I have come not to describe but to praise and recommend him. In saying that some line of action is *right*, your language is performative. You issue an imperative, a plea or a request.

But the claim of my work is one about judgement rather than utterances and it is therefore not itself a theory of moral utterances. Rather, such acts are numbered amongst the many and various objects of judgement. One judges all kinds of matters – what one ought to do, but also what one can do and how it can be done. Judgement, no matter how well grounded in fact, is neither a statement of those facts, a generalisation or theory of them, on the one hand, or the expression of

1 The scare quotes indicate their use both to intensify each other and to suggest a distinction.

emotion, or recommendation or imperative. If you are pleased at a certain state of affairs being the case then it will be relevant to recommend, request, order and so on, depending on the situation you are in.

The account that emerges in this study of judgement explains something of the attractions and demerits of those ‘meta-ethical’ theories of moral and ethical language, I think. To look back at judgement from recent theories of what it is to *say* that something is right helps us describe what it is to *judge* an action or situation as right. I allude to these analytical ethical and moral theories because the terrain of this work on *judgement* bears the marks of generations of morality’s heavy furrows. My concern with judgement means that I must plough across that old field, but at a diagonal to its usual lines.

In speaking of ‘right’ one does need some ‘right’ to trespass on that so-cultivated field of others – that domain of legality and morality. I plead in my defence that recent philosophies of ‘morals’ or ‘ethics’ have rarely used the language of judgement significantly. I enter the fields of others so as to alert the local inhabitants to this lack. We hear about our differing ethical or moral *beliefs*, and the extent to which reason might be brought to bear upon them. To declare something right or wrong (*simpliciter*) is to make a *judgement* upon what one is inclined to think. When analytical philosophy advances hypotheses concerning what is ‘morally’ right it tests them against our ‘intuitions’. But what is their status? Are they convictions? Are they hunches? Are these intuitions some rational or emotional *perception*? They are at least *ours*. But what are the criteria of membership for this ‘moral community?’ And who is in this position of gatekeeper, in thus speaking of ‘us’ and ‘our’ possession of these powers?

* * *

This work is directed at what it is to judge and what judgement achieves. ‘In Sensible Judgement’ means that the use of intellectual rigour intrinsic to judgement involves sensibility; ‘*in sensible*’ also suggests how we may be insensible to the making of our judgements – which may be good ones for all that. Whether judgements appear in the grand old categories of the legal, moral, and aesthetic, or as uncategorised amongst the plethora of *petits riens* that we confront every day, they all involve sensibility – that we are pleased (or displeased) at something’s being the case. That is the thesis of the work.

The first chapter acknowledges the continuing power of Kant’s groundbreaking work on judgement, particularly as brought into play for this last century by Hannah Arendt. It is her work that inspires me to broaden the scope of Kant’s theory of aesthetic judgement – a possibility to which she constantly alluded, but

finally lacked the time to establish.² I test the strongest hypothesis – that what Kant says of aesthetic judgement’s origin in pleasure can be extended to all evaluative judgements. (That, I presume, must be *all* judgements.) The striking discovery of the third *Critique* is that activity with pleasure as its modality can possess the grounds and universal scope required of a judgement whose validity lies in the public domain. Kant shows how aesthetic judgement involves taste at its very centre and yet each person’s judgement that arises from this taste must remain open to critique by the expression of the varying tastes encountered in an interacting community. Then, even while we applaud Kant’s ideal of a cosmopolitan consciousness he recalls us to the immediate pleasure we gain from what we judge to be beautiful. To attempt to escape this ‘subjectivity’ by *deferring* to what is preferred by a community of people with ‘good’ or ‘refined’ or ‘informed’ taste is to cease to contribute an aesthetic *judgement*. The demand of Kant and Arendt’s use of a common *sense* – their *sensus communis* – is not to seek security in numbers. Rather, it puts in question our acquiescence in commonly shared opinions.

Then, after outlining the idea of judging as ‘sentencing’ I offer a description and some observations about the ‘Mabo’ case – the most significant peculiarly *national* judgement that has been made by the High Court of Australia since the federation into a nation of the colonies that became ‘states’. I seek to bring the reader further within the active field of judgement by considering the dissenting judgement in that case. If we are to think about judgement for law, politics or philosophy we need some such enlivened understanding of all that a real and complex judgement can involve.

In the second section I proceed to develop, for judgements of what is right and wrong, Kant’s idea that aesthetic judgement finds its origin in pleasure. The next two chapters deal with the regressive nature of traditional attempts to ‘ground’ or ‘ultimately justify’ what we hold to be the case. These chapters prepare the way for an account of the role of forms of reason as bearing upon this *being pleased* in judgement.

In the third section I take up the challenge posed by the thesis of the opening chapter of the book. Judgement takes the form of *being pleased at*, and yet, as judgement it involves intimately what we think, observe, infer, theorise and know. If we fail to take heed of that then no one will deem us to have judged *well*. At its worst, we shall be deemed not to have *judged* at all. And yet the insistence on the role of intellect and knowledge in judgement must fully take account of how in judgement we are *pleased at* some state of affairs – to judge is not only to conclude the *reality* of that state of affairs. And so the argument seesaws. If sensibility is thus involved at the heart of judgement, how *can* reason have a proper purchase

2 Some of the ideas on judgement, thought and the will that set the ground for the direction of this book are to be found in my *Judgement after Arendt* – particularly in Parts III and IV.

upon it?³ As part of the resolution of that tension I reconsider, criticise and partially deconstruct the tradition that reason is at the mercy of the passions – as if only they are efficacious in taking control of mind and body in action. I pursue the reality of the ‘sting’ of reason and the *strength* of understanding as motivating, controlling and informing the thought that is involved in judgement. Upon reconsidering the limits of ‘critique’ I conclude the section by pondering the theme of ‘absolutism’ that belongs within the cliché of ‘Platonism’. I read again and rework that allegory of Plato’s about empiricist cave dwellers and form-seeking sun worshippers. The allegory has become so often cited that it has become a cliché of thought about the absolute. I look to how the allegory deals with and then suppresses sensibility. Plato’s repudiation of poetry is integral to his celebration of the absolute and central to his metaphysics as encoding politics.

The final section takes up the theme of mobility – the cultural, political and aesthetic ‘visiting’ that is essential to judgement that negotiates a way between formal absolutes and stifling parochialism. I revisit first the figure of the nomad, and then the spectre of postmodernism as epistemological anarchy that haunted the culture wars during the latter decades of the last century. I argue that respect for judgement suggests that in retrospect we should speak some ‘friendly words for the postmodern’. To conclude the work as a whole, I take up the themes of memory, forgetting and forgiveness – again, issues typical of much recent European thought. These thoughts about memorial and forgetfulness bring the work back in full circle to the opening exemplary case of judgement.⁴ To have force and validity within a tradition that subverts elements of that tradition, the justices of the High Court of Australia had to newly remember the past of their country. They had to remember in order responsibly to forget – to detour around and behind those legal precedents by which the nation had been wrongly shaped.

3 This has concerned those who oppose an ‘aestheticising’ of judgement and politics – Habermas, Wellmer, R. Bernstein and Seyla Benhabib, for instance, who promote judgement as ‘communicative reason’.

4 Exemplary cases of judgement are exemplary not as faultless but as demonstrating something about judgement. As controversial, with ragged edges, they enable us to move within them, to sound them out.

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A version of chapter Seven ('The Sting of Reason') has appeared in *Parrhesia*. I read an earlier version at the 2010 conference (on 'Affect') of the Australasian Association of Continental Philosophy. I thank the editors for permission to use it.

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Abbreviations

- CJ Immanuel Kant, *Critique of Judgement*, trans. Werner Pluhar, (Indianapolis: Hackett, 2002).
- CPR Immanuel Kant, *Critique of Pure Reason*, trans. Paul Guyer & Allen Wood, (Cambridge: Cambridge University Press, 1998).
- CPrR Immanuel Kant, *Critique of Practical Reason*, trans. Werner Pluhar, (Indianapolis: Hackett, 2002).
- EJ Hannah Arendt, *Eichmann in Jerusalem*, (New York: Penguin, 2006).
- LM *The Life of the Mind*, Hannah Arendt: Book One, (New York: Harcourt Brace, 1978).
- LMW *The Life of the Mind*, Hannah Arendt: Book Two.

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Introduction

Judgement between the Lines

I take a good deal from Immanuel Kant and Hannah Arendt on the nature of judgement as part of the life of the mind and of politics. Arendt sets up specific references to judgement and the role that it would have to play in resolving problems about the relation of thinking to willing, and the inadequacy of both of those phenomena to an account of mental life. My previous work (*Judgement after Arendt*) contains a more detailed account of her ideas on thinking and willing than will be found here. From that I began to work out a line of thought about judgement that is closely tied to the problem as she formulated it. Readers experienced in studies of Kant and Arendt will be aware of the extended discussion of her views on judgement in political life. I allude to some of this work from time to time to frame the work that I am doing.

When we attempt to define judgement it appears as a ‘mysterious’ endowment, Arendt remarks. Yet judgement is a familiar business, as she demonstrates. We need to make judgements but this ‘faculty’ seems ‘mysterious’ in contrast with theorising, deducing and calculating. It is hard to normalise an account of judgement because judgement is precisely what we need in order to *apply* theory, deduction and calculation to events. Without judgement we could only imitate others in following rules. In making our judgements we achieve what theory, calculation and deduction cannot accomplish. We apply established principles to new cases and in ‘reflective judgement’ we set out from something individual in order to discern some principle from within that exemplary case. In that derivation we have no principle from which to make or justify our judgement. In contrast with thinking’s abstracted ‘objects’, judgement deals with the concrete realities that arise within the world as it appears to us. We judge, affirmatively or negatively, the world into which we are born (LM, 71)

When we form our will or come to judge, we are engaged in something other than thinking’s activity. The objects of willing and of judging are individual matters that emerge out of the world that appears to us. Arendt’s discussion of the stance of the ‘spectator’ concerns the ‘withdrawal’ from the world of appearance that the *thinker* effects. The withdrawal from beneficiary interest in an issue so as to achieve impartiality in judgement is yet another stance (LM, 92). The withdrawal that *judgement* requires is different from what the philosopher needs in order to *think*. The one who judges does not ‘leave the appearing world’, but makes a partial withdrawal from involvement in the matters that have to be judged. There

are limits to this ‘withdrawal’. The one who judges is impartial, but should not withdraw from exposure to the views of others (LM, 94, Deutscher 2007, 69–77).

This distinction of thinking and judging comes to the fore in Kant, but to deal with thinking and willing Arendt has to deal with judgement ‘prematurely’. She has to use a provisional account of it (LM, 96). The ‘faculties’ are autonomous but the lines of interdependency between thinking, willing and judging are close and intricate. The metaphors by which we explain what it is to judge are drawn from taste; we draw upon different metaphors to describe thinking. The ‘noble distance’ of sight serves us a model for knowledge whereas it is the intimately private and idiosyncratic sense of *taste* that throws up the question of judgement (LM, 111). Judgement originates with intimate involvement and yet the other central figure for judgement is *detachment*. So the puzzles begin. What we use from Arendt is a profusion of hints, exemplary cases and historical proof of our need for judgement. This is her famous epigram to the volume she intended to devote to the theme of judgement:

In times of a crisis in conventional values and politics, thinking, as destructive of complacency, becomes a kind of action that liberates us in using our faculty of judgement (LM, 192).

Judgement may arise from thinking but is not the same. Judging deals with particulars. Arendt describes how Shakespeare’s Richard III fails in his thinking because of his lack of judgement and she surmises that Eichmann fails in his judgement because of his lack of thought. Judging is related to thinking as conscience is related to consciousness. Judgement, made manifest by the wind of thought, does not amount to knowledge. Rather, it is the source of our ability to judge right from wrong, and the beautiful from the ugly (LM, 193).¹

Arendt attends to judgement in the midst of developing her theme of thinking. She alludes to Kafka’s allegory of the ‘HE’ who stands at the junction of past and future, subject to the pressure of both. She shows how Kafka locates thinking’s calm in the eye of the storm of historical conflict within which we must judge (LM, 203). The tradition of the *vita contemplativa* as the highest form of life errs in using thinking as an escape from the pressures that bear in upon us from the past, and from what is looming in the future. Arendt finds Kafka congenial company. His allegory illustrates the illusion of contemplation as a life-long state, as if a higher form of being. Thinking is the vital momentary interlude where we recognise the pressures upon the will as we come to judge what has to be done. Judgement is the ‘silent sense’. In practical and moral matters it is what we call conscience, and Kant recognises its power as a special ‘gift’, recognisable particularly as we move to deal with the past, Arendt suggests. We cannot change the past so here the will is irrelevant. The past is the domain of thought, but thinking is not enough. What

¹ Anything might, on occasion, have to be judged but what is right or beautiful can only be judged.

we learn about the past puts demands upon our power of judgement as we create a coherent historical narrative.

Arendt's recognition of judgement as autonomous – not yet achieved in thinking or by willing – had emerged in her study of Augustine's resolution of will, desire and counter-will. Arendt recalls his idea that God who is 'eternal' creates man in order to *make a new beginning ... rooted in natality*. Arendt welcomes this *natality* as a worldly figure of creative freedom. Still, Augustine's suggestion is 'incomplete' and 'opaque'. What does the figure of natality imply? We have no choice about being born. Are we thus 'doomed to be free?' Can we choose to be 'pleased with' our freedom in natality, or else escape it by intellectualising 'fatalism'?

Arendt says that this impasse between the fact of causality and the phenomenon of free initiative can be solved only by appeal to the faculty of *judgement*. This (unexamined) faculty is 'mysterious' in the same sense as a free initiative – a 'beginning' that occurs and has its consequences within the causal world of appearances. A timely word – or a revolutionary act – initiates what can be understood causally only by looking back at events after they have transpired.² Arendt ends the second book of *The Life of the Mind* with a modest hope about what a discourse about judgement might give us. She says that analysis of this faculty 'may at least tell us what is involved in our *pleasures and displeasures*'.

Judgement in Politics and Philosophy

Arendt's Lectures

In the *Lectures on Kant's Political Philosophy* (Beiner 1992), Arendt spoke of how, in writing his *Critique of Judgement*, Kant became aware of the 'political' as distinct from the 'social' order. Written 'spontaneously' (compared with the two earlier *Critiques*) this work on aesthetic judgement contains the germ of a plant that might branch more widely. By investigating the meaning, conditions, and public dimensions of *taste* he showed how judgement has its own way of invoking observation, reason, inference and logical intuition. Judgement, rooted in this *taste*, cannot encompass the *a priori* moral imperative of his previous *Critique*. We cannot *judge* fundamental moral imperatives. We grasp their validity by *pure reason*. Judgement deals with 'particulars' and has validity, but only 'for human beings on earth'. There is another employment of judgement that is broader in scope than aesthetics. To put it in my own terms: everything has arisen from natural causes. Every phenomenon may be described in terms of its originating causes and the causal relations between its inner components. Still we make our continuous assessment of what these causal systems amount to. We judge of some interacting set of molecules that it is *this person with whom we converse*, or quite simply

2 This observation is derived from the *Lectures* and many incidental statements in *The Life of the Mind*.

that it is *this blade of grass*.³ In its broadest sense judgement is the application of principles and concepts to individual cases. In this sense, judgement is involved in the testing of scientific theories, the making of legal judgements, and in domestic morality no less than the dramas of international affairs.

This is ‘determinate’, ‘determinant’ or ‘determinative’ judgement in the standard lexicon about judgement in the tradition that derives from Kant. Judgement works in the other direction also, and this fact is at the centre of the more radical hopes that Arendt had for it. How do we gain our principles? How do we check on them, and limit excessive and oppressive uses of them? From exemplary cases, we come to judgements about new principles. This is a work involving reason and learning that works without appeal to the *a priori* universal necessity that Kant promoted as the epitome of reason.

For Kant, pure *practical* reason is not *judgement* in his sense of pure reason applied to the principles of what is right. Nevertheless, our moral declarations about people and their individual actions *do* involve judgement. Judgement, though it has a home in taste, has to be brought into play in social and political affairs in order that we apply moral principles to them. Furthermore, it is only by judgement that we can derive moral principles from a consideration of exemplary individual qualities and actions. There is an involved and ‘immediate’ dimension to judgement – we judge on the spot the character of what someone is doing; we judge on the run what to do in a fluid situation.⁴ There is also a contemplative exercise of judgement. Kant likes to say that judgement arises from purely contemplative pleasure – an inactive delight. This is because he took aesthetic judgement as his paradigm. But, asks Arendt, how can this account relate to judgement as required in our socially involved practice? In the ‘Third Session’ of the *Lectures* she asks whether the American and French revolutions might have woken Kant from his ‘political slumbers’. These dramatic events show that absolute universal principles discerned by pure reason cannot produce the just constitution of a state.

Although the need for judgement works implicitly throughout these first two Kantian *Critiques*, the question, ‘*How do I judge?*’ does not emerge until the third *Critique*. There, as Arendt puts it, Kant faces the political problem of plurality. In his first *Critique* the concept of judgement is used, but does not become the *object* of analysis. In the second *Critique* (*of Practical Reason*), the demand of his moral theory for universal principles constrains his recognition of plurality as vital to political life. Nevertheless, in the long process of the three *Critiques* we do see Kant, fitfully, making his departure from one of Plato’s prejudices – that pleasure can only distract the mind from its discovery and contemplation of truth. From the outset, Kant recognises that all cognition depends upon the interplay of sensibility and intellect. Philosophers are ‘like you or me’ amongst our fellow men. Evaluating life with respect to pleasure and displeasure is the common lot.

3 Contemporary problems of consciousness, brain and reductionism leap out of the pages of the *Critiques*.

4 Here I begin to lean towards my own expression of these matters.

In the second *Critique* there arises the final antinomy: pure reason demands that we set aside pleasure if we are to determine what is right; reason also demands that we pursue the best possible life. Pleasure and happiness *are* part of the best life to which we can aspire. Practical (moral) reason does no more than to set the boundaries for our pursuit of a happiness of which we will be worthy.⁵

In the sixth ‘Session’, Arendt considers Kant’s idea of a ‘critical appraisal’ that is an active alternative to ‘indifference’ between scepticism and dogmatism. In the first *Critique* Kant reveals what is wrong with a certain concept of truth in science that pushes us into that dilemma. But in the process of setting limits to any possible metaphysics he does not see that he has dismantled its whole machinery, Arendt declares. What he does provide is a way to think about the connection between freedom and reason. In the terms that he takes from his *Critiques*, political freedom consists in our being able to make public use of our reason at every point. Furthermore, the probity of thinking depends upon its public use.⁶ Impartiality, in turn, is achieved not by ascending to some ‘higher’ standpoint above the mêlée, but by taking seriously the plurality of the views of others – this we see the emergence of Kant’s famous ‘enlargement of the mind’.

Arendt is particularly interested in judgement as achieved from the standpoint of the detached spectator but she does not limit judgement to that role (Deutscher 2007, 69–72). Furthermore, the detached spectator may luxuriate in the knowledge of events that he should deplore were he to be involved in them. Kant admired the French Revolution even while being rigorously opposed to any revolutionary undertaking that flouted existing law, for instance. A spectator can properly judge the qualities of bravery in the actions of a soldier, even while his moral reason would lead him to condemn the war in which that soldier fights. (Kant’s language of judgement is carried by legal metaphors of the ‘impartiality’ and ‘detachment’ of a judge in a court of law.) Certainly, withdrawal from direct involvement with the outcome of an issue is a *sine qua non* of some judgements, but Arendt holds that the traditional *vita contemplativa* is not a proper model for a well-judged and responsible life. Far from permanent detachment being intrinsic to judgement, it can betray it – a subterfuge for indifference or procrastination.

In the tenth ‘Session’, Arendt introduces the theme of a ‘clash’ of the attitudes of spectator and active participant. Though the active participant must judge, and cannot use his involvement as a pretext for avoiding that, still he should not despise, as if merely parasitic, the status of the spectator. It would be an over-reaction to judge that only the involved party is capable of serious judgement. A spectacle, observes Arendt, is enacted as for the benefit of eliciting a spectator’s judgement. In *practical* matters (Kant’s category for what we ought to do) it is not the *will*, but rather *judgement* that prevails. But now we have to remember (from his *Critique of Judgement*) that judgement is rooted in taste. Only in that we

5 The critiques of knowledge and of morals lead to the need for a thorough democracy.

6 Arendt develops this idea in *The Life of the Mind*, Vol. I; (See Deutscher 2007, Chs. 3 and 4.)

have ‘taste’ can we resolve and judge.⁷ The spectator, who brings into play their ‘faculty’ of taste, is not merely a secondary character in relation to the real players. No one would act out a spectacle if there were to be no spectators. The presence of spectators makes sense of the fact of any performance, whether dramatic, social or political. If it takes genius to produce a work, says Kant, it requires people of taste to judge it. Genius may well fail at criticism.

We may reflect on our own account that the spectator is not purely ‘uninvolved’, in any case. While spectators must not get involved in the action they witness, it is vital that they be involved with each other. For Kant, (social) insanity is precisely the loss of that common sense that enables us to *judge* as spectators. Common sense, judgement and the discrimination of right and wrong all depend upon taste. Arendt asks how Kant can elevate taste as the key to judgement. The answer, she says, lies in what imagination achieves. Imagination transforms objects of sense into imagined objects, and provides us with our *representations* of what happens.⁸ (To represent is to begin to detach.)

Arendt develops the theme of judgement that takes other judgements into account. The ‘other-directedness’ of judgement is ‘in the greatest possible apposition’ to the ‘idiosyncratic taste’. In judgement, Arendt distinguishes the activation of imagination, by which we can represent what we need to judge from reflection.⁹ Taste is an inner sense according to Kant and the critique of judgement grows out of a critique of taste. This ‘two-fold’ operation establishes the conditions of impartiality – of disinterested delight. As well as this *reflecting-upon* sensation, we *condense* what we experience by use of the concepts that we thus develop. The spectator who judges with skill and commitment has learned to see the play of events *as a whole*.

1. What, then, are the standards of the operation of reflective judgement? Inner sense, Arendt replies, is ‘discriminating by definition’. To use inner sense is to choose between one thing and another: ‘this pleases’, ‘that displeases’. Then, we approve or disapprove our being pleased or displeased. Arendt mentions (Kantian) examples such as the ‘joy of a needy well-meaning son at becoming heir of an affectionate but penurious father’, or ‘being pleased to find oneself able to grieve at someone’s death, and being pleased that the world of art gives one pleasure. The criterion of judgement must arise out of what stirs feeling, how we communicate that feeling, and what pleases us in the thing we judged. Arendt finds three important points that, following Kant, she would make about this ‘communicability’:

7 To judge is not only to present one’s taste for public critique. We dedicate attention to what we taste.

8 In a modern context, we can judge a current war only because we have access to the daily news.

9 When we judge wines, we develop a vocabulary for tastes, which takes us beyond simple enjoyment.

2. Any single sensation (of taste) is private, and no judgement is involved.
3. On Kant's account we rationally comprehend that principles of pure practical reason are necessary. This grasp of pure principle is at the opposite pole from the judgement we need to apply a principle to a case.
4. Judgements about what is beautiful involve our 'common sense' – like an extra mental capacity. Communication and language depend upon this capacity. This collective reason of humanity makes judgement possible.¹⁰

In the thirteenth 'Session', Arendt makes a further point. Something pleases or displeases us as within a community of sense. As such, it is open to challenge and correction within our systems of communication. Nevertheless, the judgements we make within this *common sense* of taste are not cognitive or scientific. Cognitive or scientific statements are not *judgements* in the strict sense of the word. They state what we have discovered, hypothesised, or observed. Others agree when they make the same observations and successfully test the hypotheses. In contrast, as Arendt puts it, we must 'woo' or 'court' those who disagree with our judgements.

Arendt's Achievement

Ronald Beiner included the seminar on 'Imagination' as a closing piece to the thirteen sessions on Kant's 'political philosophy'. It is devoted to Kant's *Critique of Judgement*. Here, Arendt sets out from the analysis of imagination as 'perception in the absence of its object', the capacity for which is the foundation of memory. (She relates this back to the *nous* of Parmenides, by which we perceive the 'it is' of whatever 'is'.) Imagination, which provides 'schemata' for cognition, provides *examples* for judgement. Sensory intuition gives us *particulars*; concepts make them *known* to us. The question remains, how the faculties of intuition and of reason come to work together. It is by imagination, Arendt claims, that we possess an image for a concept. A concept (a Kantian 'schema') is more like a blueprint than an 'image in the mind's eye'.

To judge is to 'think the particular'. To think is to generalise. So, to judge is to 'generalise the particular'. This may be easy when the principle is given and the only problem is to apply it to a particular case.¹¹ It is difficult when only the particular to be judged is given, and the principle must first be derived from it. The standard cannot be 'borrowed' from experience or derived from principles already accepted. Arendt analyses Kant's method as claiming that 'we might attend to the "purpose" of a thing, when in search of a principle – even, simply, when its purpose to give us pleasure'.

10 Beiner criticises Arendt's exchange with Jonas about ultimate standards (Beiner 114–5).

11 To apply a principle to a new case can be the most challenging act – the 'Mabo' judgement, for instance.

In seeking to form a principle from a particular case we look to something that has ‘exemplary validity’. As Kant said, famously, ‘Examples are the go-cart of judgements’. Every object has a corresponding concept by which we recognise it as such. Arendt suggests that we might approach this either as a Platonic ‘idea’ or as a Kantian ‘schema’. We may have many examples of a thing and think out their common core of resemblance, or we may encounter an exemplary example that reveals the ‘generality that otherwise cannot be defined (see Scarry, 9, 19–20)’. To discover something’s purpose does not solve the problem. What is beautiful, like the dignity that pertains to being human, is an end in itself. (Kant sees beauty *as if* purposive in its structure.)

Kant’s Impasse

In writing about judging one is forewarned by Kant and Arendt that the road ahead is fractured. In their very discovery of judgement as a theme, each arrives at an impasse. They see judgement as indispensable not only in practice but also for understanding how thought and will relate to action. Neither can say how judgement fulfils that requirement, however. For Kant (as for Arendt) judgement is based in sensibility and he hopes that by appeal to this he can explain how we cross the abyss between the ‘noumenal’ world of pure reason and the ‘phenomenal’ arena of motive, will and action. By insisting on the purity of the reason that reveals what is right, he has created a crevasse between that realm and the *actions* that reason requires of us.

Kant will not yield *moral* principles to the sway of judgement rather than of reason and so he can articulate only their formal shape. He means his principles to be strict, but their abstraction has an opposite effect when people apply them. An abstract principle is a Rorschach inkblot. People see in it what already preoccupies them. One can raise moral monstrosities of inhuman legal practice upon these pure practical principles (Cornell, 158–9). To judge *well* on the basis of a principle one must have that benevolence which Kant fears will pollute reason’s purity. Arendt points out that Eichmann, for whom obedience to his ruler is an absolute principle, was prepared to will his maxim of obedience as universal law. His lack of judgement does not stand out against the background of Kant’s pure principle whose interpretation of *universal will* requires the moral substance of a *good will*.¹² In sensibility we take in the character of what we judge as right.

Kant’s appeal to pure practical reason is valuable nevertheless. His objections to unguided sensibility are sound. It is salutary to challenge someone who is capable of judgement as to whether she would will her maxim as a universal law (moral or natural). Kant’s ‘Would I make of my maxim a universal law of nature?’ has the power of criticism for someone who does have good judgement. Kant’s recognition of reason’s autonomy of judgement about what is right counters our

12 The term is central to practical reason in Kant’s earlier, *Groundwork for the Metaphysics of Morals*.

tendency to favour our own interests, but we need judgement to discover and to apply principles, and that involves what we are *pleased* to countenance. Kant's defence of purity of reason in setting aside irrelevant considerations is admirable, but he errs in fearing sensibility as only distracting us from the work of reason. He is right to subject every expression of sensibility to critique, but critique requires judgement. With that judgement in hand, sensibility can return to the field of reason. Kant's appeal to pure principle checks our self-regard but self-regard is not the only threat to good judgement. Eichmann's moral failure arose not from self-regard. It seems that a one-dimensional devotion to duty was his defect.

A 'pure reason' that recognised a formal rule to promote a *good* will would still have to judge what is good *and* what is right if it were to articulate *operative* rules – rules by which we could live. That is what calls upon sensibility. Kant would agree that though an abstract principle might be transparent to reason, we have to *judge* whether some individual action or person falls under that principle. Our revision of Kant's legacy goes beyond this. In discovering what is right we need more than reason. We must judge when and how to use it. We must judge not only that some action or quality is determined by a rule under a concept. We must interpret the meaning of the rule itself (Cornell, 155–69).

Kant implicitly relies on the business of judgement throughout the first two *Critiques*. When he makes a theme of judgement in the third *Critique* consequences appear that require us to reform, radically, his appeal to *pure* practical reason. He cannot relate the purity of comprehension in the 'noumenal' realm to the rough and ready world of phenomenality, but his need to appeal to judgement in order to link his worlds, thus challenges his dream of pure reason.¹³ New possibilities arise when he brings judgement centre stage to relate the noumenal to the phenomenal.

Arendt's Impasse

At the end of the second volume of *The Life of the Mind*, Arendt declared that she too had come to an impasse – she could not resolve the tension between thinking and willing, nor could she understand willing by turning to those who defined it within a field of action. The political revolutionary finds an 'abyss of pure spontaneity' between prevailing conditions and the new order she would bring about. This problem has the same form as that of 'thinkers' who attempted to understand an individual's *metaphysical* freedom. For Arendt, 'judgement' stands at the intersection of politics and metaphysics: thinking is part of life *and* a condition of sound judgement upon it. The trajectory of the *will* crosses the same junction, in tension with the thinking it meets there. In its demands upon us, the will to act competes with thinking's withdrawal. And yet they cannot be kept apart. The business of the will also places its demands; it may set the agenda for thought; the will is even closer to the heart of thinking than that. We have to *be willing* to think, and to stay with what stands in need of thought. It is by *willing thought*

13 Hume's empirical philosophy 'roused him from his dogmatic slumbers', as Kant put it.

that we can turn from thought to will without falling into a mindless urgency of ‘making decisions and getting on with things’ (Deutscher 2007, Ch.12). We have to judge when it is time to have done with thinking and move towards doing, but it is a matter of judgement when to resist the urgency of a situation – to ‘stop and think’. How these sides of our mental life support each other can be revealed in sustained and accurate *descriptions* of what we do.

Lines of metaphysical thought cross through this same intersection. Heavy traffic. In Kant’s terms the question is how the ‘noumenal’ order of pure practical reason can be brought to bear upon a ‘phenomenal’ world of cause and effect. In her volume on the will Arendt adjusts Kant’s conception of the relation between physical principles and subjection to causality. Freedom arises with judgement; with judgement we bring something new into being by thought and will. Arendt’s inspiration here is from Augustine, who accepted temporality as more than a human limitation: ‘*God created man as a temporal creature; time and man were created together ... [for] the purpose of creation was to make a beginning*’.

Arendt is keenly aware of the fragmentary character of her account of judgement as co-ordinating thinking and willing. Natality as a model for innovative well-judged actions is ‘somehow opaque’. If *natality* is the figure of innovative freedom then perhaps Augustine has told us only that ‘by being born we are doomed to be free’. We might reply on her behalf that we are not ‘doomed’ in our natality. We can take pleasure both in bringing it about and in the thought of having been born. If judgement is a mode of *being pleased at* something then we can freely judge concerning natality. Arendt has observed that it is ‘by appeal to judgement’ that we escape the impasse between thinking and willing. Let freedom be our power of innovation. In that case, being born is the fundamental innovation. I need not judge myself as ‘doomed’ in being free simply because my birth must be prior to my freedom.¹⁴

We can make more of *natality* as figure for innovation. To be born is not intrinsically an imposition. Birth does not reduce to its historical and biological facticity. The conception of a child now comes within the freedoms a woman or a man may exercise. In the atmosphere of care that technology provides we are now free not only to conceive but also to conceive of what pregnancy means (Karpin 2012). We have some say in what it means to be giving birth – and to have given it. A child inherits this mode of having been conceived, gestated, and then born in freedom. Whether conception was planned or a happy accident, *having been born* need not be thrust upon child or parent. We come to understand how in judgement we may disclose the meaning of our ‘pleasures and displeasures’.

14 Her ‘doomed to be born’ resonates with Sartre’s ‘doomed to be free’.