

## Connecting Arendt and Kant on Kant's Legal and Political Philosophy

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### Abstract:

This chapter draws attention to some deep points of philosophical connection between Arendt's *Lectures* and Kant's own and contemporary Kantian legal and political writings in the English-speaking world today. The aim is not to convince as such, but to show ways to bridge these historical divisions such that we can utilize these important works left us in the philosophical canon as we strive to improve our understanding of politics generally and the particular political challenges facing us. In this way, this chapter strives to stay in Arendt's and Kant's philosophical spirit of thinking of their works as resources we can use as we strive to think and do better, whether we see to do so as Kantians, Arendtians, or Karendtians.

### Introduction\*

Kant scholarship in English-language analytic philosophy has paid relatively little attention to Hannah Arendt and her *Lectures on Kant's Political Philosophy* (hereafter *Lectures*). This is a common experience among women who have been able to break into academic philosophy, of course;<sup>1</sup> however, her rich and challenging work should be engaged by philosophers of all stripes, including Kantians. The project of facilitating an improved dialogue between Arendtians and Kantians is therefore long overdue, and it is my aim here to contribute to an improved state of affairs by explaining why and how aspects of *Lectures* may strike Kantians as unattractive before outlining core ideas within both Arendt's and Kant's work that make a dialogue between these two traditions philosophically particularly interesting and rewarding now.<sup>2</sup>

In Section 1, I propose three reasons why analytic Kantians typically have not paid much attention to Arendt's *Lectures*: her low opinion of Kant's own political writings, her use of Kant's *Critique of the Power of Judgment* (hereafter *3<sup>rd</sup> Critique*), and her focus on so-called non-ideal

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<sup>1</sup> Arendt famously self-identifies as a political theorist, but her PhD was in philosophy, and she was and is considered by many to be a practical, including political, philosopher.

<sup>2</sup> Because Arendtians and Kantians tend not to be familiar with one another's works, I err on the side of generously explaining and quoting.

political theory. Section 2 focuses on elements of Arendt that are useful both to understanding Arendt's *Lectures* within the political theory she was developing and to appreciating why Arendt became increasingly convinced that Kant's *3<sup>rd</sup> Critique* is an important resource for re-envisioning action (politics) in (post)modernity.<sup>3</sup> The third section proposes that some of the new topics introduced in *Lectures*, especially the distinction between ethics and right, freedom of the pen, constitutional law, and the transcendental principle of publicness are best addressed not with resources available in Kant's *3<sup>rd</sup> Critique* but with those his "Doctrine of Right." In section 4, I propose that it is the remaining new topics in *Lectures* – sensus communis, the spectator vs. the actor, universal vs. contingent, morality vs. judgment, the enlarged mind, the beautiful, the imagination, the exemplar – that constitute Arendt's main contribution to contemporary Kantian political thought. Overall, the main aim is to show ways of bridging Kant and Arendt scholarship so as to make both traditions stronger. This productive engagement should be welcomed by the many contemporary philosophers looking to overcome historical splits between "continental" and "analytic" traditions, "ideal" and "non-ideal" theory, and "historically informed" and "non-historical" approaches. Our inherited and siloed philosophical practices parallel a lack of genuine political dialogue in the real world and are, of course, deeply inconsistent with the spirit and fundamental tenets of both Arendt's and Kant's thought.

### 1. Arendt's *Lectures* in Analytic Kant Scholarship

"TO TALK ABOUT and inquire into Kant's political philosophy has its difficulties," Arendt begins her *Lectures*, delivered at the New School for Social Research in the fall of 1970. The reason for this difficulty is, she continues, that "he never wrote a political philosophy" (Arendt 1989, 7). Arendt then discloses that she considers Kant's most important political essay to be "Perpetual Peace," which "shows clearly that Kant himself did not take them [these topics] too seriously"; after all, Kant himself describes this essay in a 1795 letter as "reveries" (7). She further observes that few philosophers attend to the "Doctrine of Right" in *The Metaphysics of Morals*, noting that "you will only find it in the book edited by [Hans] Reiss."<sup>4</sup> Arendt then says that the "Doctrine of Right" is "rather boring and pedantic – it is difficult not to agree with Schopenhauer who said about it: 'It is as if it were not the work of this great man, but the product of an ordinary common [hu]man [being]'" (Arendt 1989, 7–8).<sup>5</sup> After further commentary on Kant's political essays that deal with history, Arendt says,

In Kant, history is part of nature.... What matters in history... are not the stories, not the historical individuals, but the secret ruse of nature that caused the species to

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<sup>3</sup> For a general introduction to these lectures, see Beiner ([1982] 1989).

<sup>4</sup> This is only partially correct: Reiss included but a few selections (MM 6: 229–33, 6: 311–55) from the "Doctrine of Right" in his 1970 collection *Kant's Political Writings*. (More on this shortly.) Kant's works are referenced by means of the standard Prussian Academy Pagination as well as the following abbreviations: 'MM' for *The Metaphysics of Morals*; 'CPrR' for *Critique of Practical Reason*; TP is 'On the common saying: That may be correct in theory, but it is of no use in practice'; 'SRL' for "On a supposed right to lie from philanthropy." These appear in Kant (1996a).

<sup>5</sup> Throughout, I have changed Arendt's text to gender neutral descriptions when referencing human beings as such.

progress and develop all of its potentialities in the succession of generations... Kant is never interested in the past; what interests him is the future... [History's] process is progress, and the product of this process is sometimes called culture, sometimes freedom... [and] bringing about "the highest end intended for man, namely, sociability [*Geselligkeit*]".... Progress itself, the dominant concept of the eighteenth century, is for Kant a rather melancholic notion. (Arendt 1989, 8–9)

Arendt also acknowledges objections to her focus on Kant's political writings in her lecture series that underline they "date from Kant's last years and that the decrease of his mental faculties, which finally led into senile imbecility, [which by then] is a matter of fact" (9).

Why, then, does Arendt still think it meaningful to lecture on Kant's political philosophy? She answers:

Kant became aware of the political *as distinguished from the social*, as part and parcel of man's condition in the world, rather late in life, when he no longer had either the strength or the time to work out his own philosophy on this matter ... [T]he third Critique, the *Critique of Judgment* ... actually should have become the book that otherwise is missing in Kant's great work. (Arendt 1989, 9)

Arendt thus aims to write the political philosophy Kant himself did not have time to write. Unfortunately, however, Arendt suddenly died after completing only the first two parts of her *Life of the Mind*. The first part ("Thinking") corresponds to the themes of Kant's 1<sup>st</sup> Critique, the second ("Willing") to those of the 2<sup>nd</sup> Critique, and the third part ("Judgment") would have corresponded to the 3<sup>rd</sup> Critique. Her lecture notes are thus all we have of what she would have written on Kant's political philosophy.

Arendt's comments on Kant's political philosophy suggest two reasons why *Lectures* has received relatively little attention in Kant scholarship to date. First, Arendt does not think highly of and writes very little on Kant's own texts on politics; consequently, there appears to be little to learn about Kant's political philosophy from Arendt's lecture notes. Arendt's assessment of Kant's writing on politics, however, was consistent with that of most twentieth-century philosophers, who held that Kant's masterpieces in practical reason were the (meta-)ethical writings *Groundwork of the Metaphysics of Morals* and *Critique of Practical Reason*. Still, although Arendt deems these works suitable to provide the philosophical basis of Part II ("Willing") of her *Life of the Mind*, she considers them unsuitable for developing Part III. For this, she thinks we need to go to Kant's 3<sup>rd</sup> Critique. Second, Arendt's turn to the 3<sup>rd</sup> Critique – a work on teleology and aesthetics – reinforced the sense that Kantians could learn little about Kant's own political philosophy from her *Lectures*. To illustrate, although John Rawls ([1971] 1999, 2001) agrees with Arendt that Kant did not leave behind a distinctive political theory, he thinks we can use Kant's (meta-)ethical works to develop it on his behalf.<sup>6</sup> In this way, not only was Rawls's "analytic" philosophy much more influential in English-speaking philosophical

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<sup>6</sup> For an overview over some of these debates, see Varden (forthcoming a).

practice than Arendt's, but it also reinforced both the status of Kant's (meta-)ethical works and the marginalization of Arendt's 3<sup>rd</sup> *Critique*-inspired political writings.<sup>7</sup>

Most philosophical engagements with Arendt's *Lectures* have come from more "continental" corners of philosophy – which typically regard our knowledge as fundamentally contextual, historical, or interpretive in nature.<sup>8</sup> The analytic approach, by contrast, emphasizes Kant's freedom works and the 1<sup>st</sup> and 2<sup>nd</sup> *Critiques*' study of a priori principles of reason that enable the search for universal truths; it is uneasy with developing a Kantian political philosophy using the 3<sup>rd</sup> *Critique*'s contingent analyses of teleologically structured earthly phenomena and our human aesthetic imagination. And in the world of law and politics – where Kantians characteristically search for universal (human) rights and rightfully enforceable principles – Kantians are resistant and worried about the contingent and aesthetic imagination, and for good reason: using law and political systems to enforce contingent (cultural, religious, etc.) teleological principles or aesthetic judgments on those who disagree (since their way of life is very different) troubles most Kantians.<sup>9</sup>

Toward the end of the twentieth century, an increasing number of Kantians started to challenge the assumption that Kant did not leave us a good legal and political philosophy. Such Kantians as Sharon Byrd, Joachim Hruschka, Thomas Pogge, Arthur Ripstein, and Ernest Weinrib found in Kant's "The Doctrine of Right" a powerful legal-political theory of rightful freedom.<sup>10</sup> They disagree with Rawls and agree with Arendt that Kantian legal and political philosophy cannot be grounded on Kant's (meta-)ethical writings (even if all of morality is grounded on the moral law), but instead of using Kant's 3<sup>rd</sup> *Critique* as their foundation, they use Kant's "Doctrine of Right." Paul Guyer (2000) and Sarah Holtman (2004, 2018), in turn, took up "Doctrine of Right" to defend Rawls's approach. More importantly for our purposes here, this new research on Kant's legal and political philosophy – both on its own and especially as it is currently being developed beyond Kant by integrating ideas found in other works of his – puts us in a good position to start new conversations between Arendtians and Kantians. And once we do, we can see that the most influential approaches to Kant's legal-political philosophy in the last two to three decades have a distinctive *legal* bent to them, meaning that Arendt's challenge to develop a distinctive *political* philosophy suitable for not only rational beings also but also rational *human* beings who live in *particular historical societies* is still on. In this regard, I believe Arendt's claim that important resources we seek to develop a distinctly *political* Kantian philosophy are found in Kant's 3<sup>rd</sup> *Critique* – as well as in, as she points out, his writings on politics, history, and anthropology – is correct. My main additions to Arendt's resources are the other useful ones that are located in his "Doctrine of Right," his essay on "Theory and Practice," and in his *Religion within the Boundaries of Mere Reason*. The next section on Arendt's analysis of the human condition and modernity sets the stage for such a more complete reimagining of a *Kantian* legal and political philosophy in sections 3 and 4 below.

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<sup>7</sup> Habermas (1977), who was long more influential than Rawls in Europe, does engage Arendt's work directly, even if quite critically.

<sup>8</sup> Ronald Beiner and Seyla Benhabib (2013) also read Arendt as straddling the analytic-continental divide.

<sup>9</sup> For related reflections on Hannah Arendt's political theory, listen to "Hannah Arendt," *In Our Time*, February 2, 2017, BBC Sounds, <https://www.bbc.co.uk/sounds/play/b08c2ljg>.

<sup>10</sup> Their work was preceded by that of Julius Ebbinghaus (1953) and Mary Gregor (1963).

## 2. From *Origins* to *Lectures* – A Brief Sketch

Arendt followed her first major work, *The Origins of Totalitarianism* ([1948] 1973; hereafter *Origins*), which focuses mostly on totalitarianism as it occurred in Nazi Germany, with *The Human Condition* ([1958] 1998).<sup>11</sup> In *The Human Condition*, Arendt posits human existence as having two core components – *vita activa* (the active life) and *vita contemplativa* (the contemplative life) – and critiques the realization of *vita activa*'s three main activities – “labor,” “work,” and “action” – as well as human life generally in modernity. Arendt (in)famously views modernity as mashing together these activities into an alienating activity characterized by consumerism (a perverted form of labor), an overblown sense of sociality, and politics replaced by public bureaucracy, religion, and science.

Arendt's unfinished *Life of the Mind* was supposed to be a critique of *vita contemplativa* and have three parts corresponding to the topics covered in Kant's three critiques. The last part – “Judging” – was supposed to cover the 3<sup>rd</sup> Critique and include the Kantian political theory Arendt thinks Kant could or would have written if he had lived longer. In *Origins*, Arendt argues that “human dignity needs a new guarantee which can be found only in a new political principle, in a new law on earth, whose validity this time must comprehend the whole of humanity while its power must remain strictly limited, rooted in and controlled by newly defined territorial entities” (Arendt [1948] 1973, ix). Her account of the human condition and modernity can be seen as developing that new principle; it provides a theory of what human beings need to live well on planet Earth, which in turn is useful to understand what went wrong in modernity in general as well as in politics generally in so-called Western philosophy. In my view, Arendt's turn to Kant's 3<sup>rd</sup> Critique in *Lectures* can be seen as continuing this project of developing a new political principle.

More specifically, some of the themes from *The Human Condition* also run through *Lectures*, such as the tendency in Western philosophy to devalue (1) certain lives according to a hierarchical ranking (with philosophical life ascendent), though she argues Kant is an important exception to this tendency; (2) politics; and (3) earthy, including bodily, life. In addition, however, there are new topics that indicate why and how she thinks the 3<sup>rd</sup> Critique can advance her theory. In the next section, I discuss several of these new topics in *Lectures*, such as her distinction between ethics and right, freedom of the pen, constitutional law, and the transcendental principle of publicness. Contra Arendt, I propose that these topics are not best addressed from within the 3<sup>rd</sup> Critique in a Karendtian theory; they are topics that the philosophical resources of Kant's “Doctrine of Right” empower us to deal with. This part of a Karendtian theory, therefore, could be part of a revised version of Part II of *Life of the Mind* – which deals with practical reason (the morally right and wrong) – or a sub-section of Part III (analogous in function to Kant's Doctrine of Right in *Metaphysics of Morals*) and could complement the ideas derivable from the 3<sup>rd</sup> Critique. In section 4, I argue that it is with regard to the remaining new topics – *sensus communis*, the spectator vs. the actor, universal vs. contingent, morality vs. judgment, the enlarged mind, the beautiful, the imagination, the exemplar – where, in my view, Arendt makes her most significant contribution to contemporary

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<sup>11</sup> For more on my take on Arendt's *The Human Condition* and *Origins*, see Varden (forthcoming b).

Kantian political thought. Indeed, these arguments give us important insights insofar as we agree with Arendt – which I do – that a complete Kantian theory of justice still must take on the project of developing a distinctly Kantian *political* philosophy.

### 3. Resources in the “Doctrine of Right” for Arendt’s Political Theory

Kant’s “Doctrine of Right” did not become a proper research topic in philosophy until the last decade of the twentieth century. Published in 1797, or seven years after the publication of the *3rd Critique* (1790), the “Doctrine of Right” is now commonly regarded as Kant’s most advanced, systematic, and worked out legal-political text. Arendt argues that Kant wrote this text – which she translates as the “Doctrine of Law” – because after the French Revolution (1789), Kant became increasingly interested in the topic. She argues that this work was focused on “what we today would call constitutional law – the way a body politic should be organized and constituted, the concept of ‘republican,’ i.e., constitutional government, the question of international relations, etc.” (15–16). “The surprising fact is,” however, she writes, “that Kant knew his moral philosophy could not help here” (17) because the possibility of a rightful state – a republic – depends not on virtuous individuals but only “enlightened self-interest” (a nation of rationally calculating devils; 18). Arendt argues that there are “three main points in Kant’s position, as far as political philosophy is concerned”:

First, ... this scheme can only work if one assumes a “great purpose of nature” working behind the backs of acting men. Otherwise, the race of devils would destroy themselves (in Kant, evil is generally self-destructive). Nature wants the preservation of the species, and all it demands of its children is that they can be self-preserving and have brains. Second, there is the conviction that no moral conversion of [hu]man, no revolution in ... [their] mentality, is needed, required, or hoped for in order to bring about political change for the better. And third, there is the stress on constitutions, on the one hand, and on *publicity*, on the other. “Publicity” is one of the key concepts of Kant’s political thinking; in this context, it indicates his conviction that evil thoughts are secret by definition. (18)

In these three main points regarding Kant’s political philosophy, Arendt first identifies a certain teleology in Kant’s argument for the possibility of justice insofar as it presupposes that nature ensures that enlightened self-interest will point in the right direction. Second, Arendt emphasizes that Kant views justice as fortunately not requiring a moral revolution in human beings. Third, the problem of evil, in turn, is handled through publicity, something she here illustrates with a quote from *The Strife of the Faculties*, where Kant claims rulers do not declare that their people have no right to oppose them (19). Finally, regarding justice, Arendt views Kant as thinking that because communicating with others (including through publication or sociality) is necessary for us, the freedom of the pen is defended absolutely (but not a right to revolution; 19, 50).

This account, as a Kant interpretation and as a matter of developing a Kantian political philosophy, leaves Arendt unsatisfied, however, because “there exists one objection that we shall never be able to overcome altogether” (Arendt 1989, 19). To explain this presumed

insurmountable objection, she points to Kant's three fundamental philosophical questions – “What can I know? What ought I to do? What may I hope? – and argues that morality, which is supposed to be spelled out by answering the second question, cannot “be relied on to help us in our inquiry” because it “does not deal with action at all ... [and] concerns the conduct of the self in its independence of others” (19). In other words, she thinks that Kant's own writings on politics do not leave us the philosophical resources we need in a political theory because his moral philosophy does not deal with politics and just interaction, but rather with first-personal ethics or virtue. In addition, she worries, Kant's account of the freedom of the pen (by appeal to humans' sociability) is unsuitable for the problem at hand of envisioning a political theory suitable for a free, historical society – if we take it on on Kant's behalf – because Kant “does not know either a faculty or a need for *action*” (19). This is why, she thinks, we need to go to the 3<sup>rd</sup> *Critique* – and when we do, we cannot only go there with the question Kant poses for it, namely the (fourth) question “How do I judge?” but we need to add yet another (fifth) question, one that Kant asked “in one of his lecture courses and also in his reflections ... [one that] is meant to sum ... [the three fundamental philosophical questions above] up. This is the question What is [Hu]man [Being]?” (20). Earlier in the *Lectures*, Arendt quotes Kant's explanation of how this question sums up Kant's three fundamental ones by saying that “one could call them altogether ‘anthropology’ because the first three questions relate to [indicate] the last one” (12).

In section 4 below, I return to the remaining new topics in Arendt's *Lectures* because they are, in my view, centrally important for a more complete Kantian theory of justice. Before I do this, however, let me show how recent work on Kant's own legal and political writings enable us to revisit the interpretive and philosophical points noted in the previous paragraphs. Some can be re-thought directly by arguments we find in the “Doctrine of Right.” To start, note that the selections from the “Doctrine of Right” included in the aforementioned Reiss anthology – namely the “Introduction to the Theory of Right” (MM 6: 229–42) and “The Theory of Right, Part II: Public Right (MM 6: 309–72)”<sup>12</sup> – would leave anyone confused; it simply isn't possible to understand what Kant's theory is from these selections (as would be the case with most of Kant's book-length writings; they are too technical and constructed in such a way that reading only selections typically results in confusions). When we read the “Doctrine of Right” in full, in contrast, we find not only additional arguments about why ethics is not the same as right but also arguments about legal and political philosophy being grounded on each human being's innate right to freedom.

To illustrate in terms of the points Arendt emphasizes above in such a way that we can also utilize insights given us by contemporary engagements with Kant's “Doctrine of Right,” let us use the concept of morality not as Arendt does but instead as the most general term in Kant's practical philosophy (1996a) – so that moral law is the principle of practical reason – and let *right* (*Recht*) refer to enforceable law and *virtue* to first-personal ethics. If we do, then *right* now refers to lawful external (physical force-motivated) freedom, while *virtue* refers to lawful internal (reflective ought-motivated) freedom. Notice too that, so conceived, rightful external freedom applies to all spatiotemporal rational beings capable of rightful interaction in space and time (earthbound or not; any being that can interact in terms of principles of external freedom),

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<sup>12</sup> In Reiss, these selections from the “Doctrine of Right” are found on 133–75.

while virtuous internal freedom applies to all rational beings capable of free choices (earthbound or not; any being that can act as motivated by the moral law, i.e., regardless of whether they experience this law as an ought, an is, or something else) (MM 6: 213-14, 218-26).

In addition, as much of the recent secondary literature demonstrates, Kant provides ample resources in the “Doctrine of Right” not only to justify the freedom of thought and the pen that goes much beyond our sociality – there are purely ideal arguments presented there – but also to explain why ethics and right are not coextensive, indeed, why it is in principle impossible to enforce virtue.<sup>13</sup> Correspondingly, although Kant views both virtue and right as ultimately grounded on the moral law, Kant’s theory in the “Doctrine of Right” is not envisioned as grounded on the Categorical Imperative, human dignity, and the related accounts of im/perfect duties but rather on the Universal Principle of Right and each person’s innate right to freedom. The latter, in turn, is grounding a theory of innate, private, and public right – of the claims private persons have against one another and the claims they have on each other as citizens or on their public institutions. Although there are several interpretations – libertarian, liberal republican, participatory democratic, legal positivist – of this aspect of Kant’s theory, for our purposes here, the main point is that it is a theory that is grounded on the Universal the Universal Principle of Right and each person’s right to freedom. In addition, these interpretations all, like Arendt, typically identify the challenge of justice as beginning when people, using Kant’s own formulation, “cannot help associating with others” or interacting on a finite surface, such as the Earth (MM 6: 237). Finally, many of these interpretations – that is, those that do not view Kant as defending a world state – view Kant’s theory as envisioning justice as realized in geographically limited territories; it is a way to imagine what states grounded on each person’s right to freedom must be institutionally committed to because states (public authorities) are the means through which we establish rightful relations among ourselves. In these ways, and although Arendt was unaware of this, Kant’s own theory is thus legal and political philosophy deeply in tune with her vision for what we need to do.

Notice, however, that if we accept the points in the last two paragraph – which most contemporary Kant scholars who focus on his “Doctrine of Right” do – we still have the challenge of explaining how to make this theory of right into a political philosophy suitable for earthly human life in general as well as in particular historical societies. Contrary to what Arendt thinks (and many of the existing contemporary “Doctrine of Right” scholars imply by their lack of attention to these aspects of Kant’s writings), however, Kant agrees with this. He argues that *The Metaphysics of Morals* (of which the “Doctrine of Right” is one part) needs to be completed by an account of “moral anthropology” suitable for human life (MM 6: 217), and that we need a “principle of politics” to make it apply to particular political societies (SRL 8: 429). In other words, Kant would agree, I believe, with Arendt’s claim that Kant’s “Doctrine of Right” has a distinctive focus on constitutional legal issues that still needs to be complemented by a political theory that gives proper voice to concerns of moral anthropology and historical politics.

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<sup>13</sup> For an overview of the existing literature on the topics in this paragraph, see the “Introduction to Part II” in Varden (2020).



This brings us to Arendt's question about how "anthropology" – what Kant calls "moral anthropology" – "sums up" the three fundamental philosophical questions as well as the question of how we can get this Kantian freedom theory to apply to actual, political societies (what Kant calls the "principle of politics" or Arendt calls "judgment") in modernity and beyond. My Kantian account in *Sex, Love, and Gender* (Varden 2020) is, I believe, the one (of the currently available options) that comes closest to Arendt's approach. In it, I make sure that I stay consistent with plausible interpretations of the *1<sup>st</sup> Critique* – as presented by Lucy Allais (2015) and Katrina Deligiorgi (2017, 2018) – and then I utilize not only *3<sup>rd</sup> Critique* resources on teleology and aesthetics for the "What may I hope?" question but also Kant's account of human nature – the predisposition to good in human nature and the propensity to evil – in *Religion* (1996b) as well as resources available in his anthropology lectures and essays on politics and history to find ways to synthesize it all into one theory. What you find in these philosophical resources is an alternative to Arendt's account of "labor," "work," and "action." For example, in his *Religion*, Kant provides an account of the phenomenological structure of human being in terms of "animality" (living being: self-preservation, sex drive, and basic community), "humanity" (rationality: free end-setting and social sense of self), and "personality" (responsibility: moral feeling), which, in turn, needs to be developed, transformed, and integrated so that it is in tune with our natural and moral vital forces. Moreover, this process is done with abstract conceptual and associative (*1<sup>st</sup>* and *2<sup>nd</sup> Critiques*) as well as aesthetic and teleological thought (*3<sup>rd</sup> Critique*) to give an integrated account of general human life on planet Earth, which is consistent, as Arendt often emphasizes, with Kant not ranking human lives hierarchically.<sup>14</sup> It is not identical to Arendt's account of *vita activa*– viewing labor, work, action as identical with animality, humanity, personality – and *vita contemplativa* (an imagined complete *Life of the Mind* as identical with Kant's *Three Critiques*), but there are deep philosophical similarities. Also, this account is a way to see the question "What is Human Being?" as summing up the three other questions, and it is a way that is compatible with Kant's "Doctrine of Right" and, in my view, Arendt's political theory.<sup>15</sup>

My way is not the only way to do this, however. Another approach is suggested by Barbara Herman in *Moral Habitat* (2021), in which, like Kant in the "Doctrine of Right," she argues by example. For instance, when Kant discusses the private right category of marriage, sometimes he inserts (infamous) examples, such as the categories "man," "woman," and "sexual organs" to show how this account can be applied to distinctly human beings or phenomena. In addition, Herman improves on Kant by developing further the idea of human rights and by identifying explicit standards and methods of criticism so as to not simply reproduce one's own society (with its prejudices). Herman's casuistical method enables her to maintain a grounding moral value—human rights—as the basis of a moral criticism of standards and institutions in line with what she thinks follows from a correct reading of the "Doctrine of Right." The main difference between our approaches is the focus I put on developing accounts of moral anthropology and the principle of politics more systematically, for lack of a better phrase. In my

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<sup>14</sup> For more on all of this, see Varden (2020, forthcoming b).

<sup>15</sup> Advantages of my account relative to Arendt's is that (1) it is not as inherently conservative; (2) it can capture other philosophical ideas of hers, such as her accounts of love and virtue; and (3) the natural vital force gives us another resource for understanding how we can strive to become grounded, whole beings.

view, although keeping the moral grounding explicit and close helps, developing a general non-ideal theory—comprising both moral anthropology and the principle of politics—gives us further tools with which to combat the risk of reproducing one’s society and one’s own prejudices, including by giving our readers useful philosophical resources for when they try to think through the issues systematically. In my view, the advantages of my type of approach are available to anyone who argues either with Arendt’s account of *vita activa* (labor, work, and action) and *vita contemplativa* or Kant’s account of animality, humanity, and personality as combined with his theories of various kinds of thought and morality (right and virtue). And my approach is fully compatible with giving ample recognition and space for “exemplars,” which we all—Kant, Arendt, Herman, and I—agree are tremendously useful.

Another option is the one advanced by John Rawls in *A Theory of Justice* ([1971] 1999) or in *Political Liberalism* (2001), and two prominent defenders of this approach are Paul Guyer (2000) and Sarah Holtman (2004, 2018). In fact, we can view *A Theory of Justice* as one way to do “moral anthropology” through the hypothetical device of the original position (rational choice within the empirical boundaries of primary goods) or through the fact of reasonable pluralism in *Political Liberalism*. The problem with both approaches is that the contingent sets the boundaries for the universal in problematic ways (O’Neill 1989, 1998, 2000). In the first case, the problem is the list of primary goods in the original position; in the second, it is the limiting of the theory to modern, liberal democracies as characterized by the fact of reasonable pluralism. My approach – and the one I am attributing to Arendt – does not have this problem. My account also offers what Rawls lacks: (1) an a priori account of the basic rights and liberties covered by his first principle of justice as fairness; and (2) an account of human nature which makes it applicable to the human condition on planet Earth.<sup>16</sup>

What about the principle of politics, or how to make the theory applicable to particular societies? One way to think about Rawls’s political philosophy – one that is not his own – is to view *A Theory of Justice* as answering the challenge of moral anthropology and *Political Liberalism* the question of how to apply this theory (of justice as fairness) to a particular society, namely modern liberal democracies, while *Law of Peoples* (2001) answers both questions with regard to the global sphere. The disadvantage of this approach remains, in my view, the problem of contingency. Prejudices sneak into Rawls’s theory undetected – such as when he asks what “we” should do about “them”; should “we” consider it a problem of basic justice that LGBTQIA+ people (*Political Liberalism*) or women (*Law of Peoples*) do not have equal rights, he inquires. Now, women and the LGBTQIA+ community do not fare much better in Kant’s works either, but in my view, there is a way to understand and do this philosophy that is consistent with Kantians’ deepest philosophical commitments and that gives us philosophical resources with which to fight our own (and Kant’s) prejudices. In addition, Kant’s a priori arguments regarding innate, private, and public right in the “Doctrine of Right” provide a universal framework set by the basic principles of freedom. I do not see anything in Arendt or Rawls that requires us to reject these arguments. However, if we borrow these arguments, then, as noted

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<sup>16</sup> Because my account of innate, private, and public right is given in terms of synthetic a priori principles, it also preserves this strength of Kant’s own position. It is also consistent with arguing that Rawls’s concept of public reason is productive and compatible with both Arendt and Kant, and it gets us beyond only appealing to the transcendental principle of publicness.

above, we can then add an account of basic rights corresponding to Rawls's first principle of justice as fairness and to Arendt's political theory. This a priori account requires neither primary goods, the fact of reasonable pluralism, nor an account of the human condition.

What about moral anthropology and the principle of politics? I have already argued above that it seems wiser to go with human nature/human conditions accounts than the list of primary goods. What about the principle of politics? This, in my view, is the point where we in important ways must move beyond the works of Arendt and Kant and think for ourselves – not only as a fundamental matter of method but in terms of content. Doing so also, of course, seems consistent with the most fundamental principle of their way of doing philosophy: “Sapere Aude?” or “Selbstdenken,” to use Kant's phrase (1999a), or “think without a banister” to use Arendt's ([1973] 2018). Regardless of phrase, they are both fundamentally committed to avoiding prejudice and connecting with “sensus communis” by training one's imagination to have an “enlarged mind” and to guard against the problem of unintentionally participating in wrongdoing.<sup>17</sup> From *Sex, Love, and Gender* (2020) onward, I have suggested that when we do examples in the exemplary way within philosophy of the isms, we must do them from the bottom-up, meaning that we strive to make sure that we are heeding and bringing into the center of the account the knowledge and voices of those who are historically dehumanized. Indeed, I believe that it was Arendt's and Kant's failure to heed this principle of theirs that made their thinking very vulnerable to being invaded uncritically by isms (whether sexism, heterosexism, racism, etc.) To put this point differently, Arendt emphasizes in her interpretation of Kant the importance of communicability, that “we can communicate only if one is able to think from the other person's standpoint; otherwise one will never meet [them], never speak in such a way that [they] understand” (1989, 74). If Kant and Arendt had each lived true to this principle, they would both have started their explorations of, for example, sex, gender, and race by listening carefully to those dehumanized in these regards. Instead, neither did—and, indeed, they may have been unable to listen to themselves in some of these regards too—and, so, the prejudices on these topics often and much too easily snuck into many of their analyses of these human or historical phenomena. A general test of us doing this right is to avoid thinking of the kind “what are we going to do/think about them” and instead make sure that the “we” include all and that central spokespersons for the group in question are the people who belong to it. In the next section, I want to develop this further by showing how Arendt's Kantian accounts of morality vs. judgment, the spectator, sensus communis, and the enlarged mind in *Lectures* can be used to develop a Karendtian account of politics. Before doing so, however, let me note one more advantage of the above approach.

If the above is on the right track, then we can make sense of how, as Arendt emphasizes, Kant distinguishes between two versions of the transcendental principle of publicness. The first formulation is called the “transcendental formula of public right” and states: “All actions relating to the rights of others are wrong if their maxim is incompatible with public right” (PP 8: 381). Before giving this principle, Kant clarifies that it captures “the *form of publicity*” and that “every claim to a right must have this capacity for publicity,” and after having given the principle, he adds that “this principle is not to be regarded as *ethical* only (belonging to the

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<sup>17</sup> Regarding sensus communis, this is similar, I believe, to O'Neill (1986) and Degryse (2011).

doctrine of virtue) but also as *juridical* (bearing upon the right of human beings)” and that it is “only *negative*... [in that] it serves only for cognizing by means of it what is *not right* towards others” (PP 8: 381). The second principle is called the “transcendental and affirmative principle of public right” and states, “All maxims which *need* publicity (in order not to fail in their end) harmonize with right and politics combined” (PP 8: 386). Kant then adds:

For if they can attain their end only through publicity, they must conform with the universal [or “general<sup>18</sup>”] end of the public (happiness), and to be in accord with this (to make the public satisfied with its condition) is the proper task of politics. But if this end is to be attainable *only* through publicity, such maxims must only also be in accord with the right of the public, since only in this is the union of the ends of all possible. (PP 8: 386)

If we combine these ideas of Kant’s with the above, we see that what the “Doctrine of Right” can add to Arendt’s Kantian project is an a priori account of right, which yields the (“negative”) framework within which politics must operate if it is to fulfil its function. Right makes possible the perpetually peaceful union of everyone’s ends, and, so, when politics functions at its best – when the maxims are public or, to use Arendt’s words, when words are connected to deeds – then it is the public (“affirmative”) means through which morality (virtue and right) and happiness are brought into union through good politics. Exactly how to do this in a particular, historical society requires, as we saw above, not only an understanding of human beings (for Kant, “moral anthropology” as explored through a theory of human nature, or for Arendt, understanding the human condition), but also what Kant calls “the principle of politics” or what Arendt explores through her theory of judgment. To explore this, let us now turn to Arendt’s Kantian accounts of morality vs. judgment, the spectator, *sensus communis*, and the enlarged mind in *Lectures* to develop a Karendtian account of politics.

#### 4. Toward a Karendtian Theory of Politics

The main aim of this chapter is to facilitate increased interaction between Kantians who so far have focused primarily on Kant’s “Doctrine of Right” and Arendtians who study Arendt’s *Lectures*. In the previous section, I showed how recent work on Kant’s “Doctrine of Right” can re-imagine some points in Kant’s writings that Arendt identifies but finds insurmountably problematic as well as how recent work on Kant’s non-ideal resources (moral anthropology, politics, and examples) are philosophically deeply connected to Arendt’s work in *The Human Condition* through her *Lectures*. This final section aims to facilitate this dialogue further by showing how Arendt presents useful resources for not only contemporary Kantians but also Karendtians who are using the resources of Kant(ians) and Arendt(ians) to develop political theories suitable for the serious political difficulties of our times.

We know from *The Human Condition* that Arendt is critical of so-called Western philosophy’s tendencies to view philosophy as the highest kind of life and politics as something

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<sup>18</sup> The German word used here is “*allgemeinen*,” which in this context appears better translated as “general” rather than “universal” (<http://kant.korpora.org/>).

that in its best forms enables the contemplative (or religious) life. Moreover, she proposes that this way of thinking about life, politics, and philosophy has contributed to why we inherit a planet in such bad shape. She thinks scientists have taken the place of philosophers and philosophy (and the humanities generally) has made itself unimportant as a source of knowledge or wisdom—and this is unfortunate because scientists are good at, exactly, science and not action. Her alternative position is to view various kinds of activities – labor, work, action, and contemplation – as enabling different and equally important kinds of values. The challenge, on this view, is to find a way of doing politics (action) better, one that is attuned to how this activity is crucial to solving the inherited problems of alienation, an overblown sociality, and an inability to ensure that science serves the world (rather than the other way around). These themes stay with Arendt in *Lectures*; they are major reasons why Arendt goes to Kant and to his 3<sup>rd</sup> *Critique* in search of philosophical resources.

Arendt emphasizes that Kant is remarkable in that he viewed the philosopher as ideally living in community with fellow human beings and “*not* among his fellow philosophers” (1989, 28). Correspondingly, a central task of philosophers is to ensure that their work engages with the world in good ways, that their ideas become part of the *sensus communis* (59–60, 73–74). She relatedly affirms Kant’s view that that what makes something distinctly political is that its success depends on it being public; what combines right and politics in the correct way does not depend on secrecy. It is here that she points to Kant’s transcendental principle of publicness, which “rules all political action” (48), and also notes his “affirmative” version of this principle. To understand this from within Arendt’s approach, remember that Arendt considers political power to be inherently intersubjective – it is something we only can have together – and it is this account that she works into her Kantian theory of politics in *Lectures*. Good politics is therefore not only that which can withstand the light of publicity but that which *requires* publicity to succeed because good politics is power; we can only do it together. Arendt correspondingly thinks that the political scholar – like the philosopher in general – strives to use the imagination to develop an enlarged mind. Therefore, though the philosopher’s activity of contemplation is solitary, the (good) philosopher is an extremely good listener and capable of making their philosophical ideas available to others. The philosopher therefore has an enlarged mind, even when working in solitude, by being able to actively imagine others’ points of view, to visit them in their minds, or to make them present as discussion partners when philosophizing. “To think with an enlarged mentality,” Arendt therefore argues, “means that one trains one’s mind to go visiting” (43).<sup>19</sup> This does not mean that one strives to obtain an “enormously enlarged empathy” or that one passively receives and accepts others’ views – as that is “prejudice” (43). Instead, one must always, to use the phrases from *Origins*, aim to “comprehend” and “resist” reality by striving to think accurately and correctly – to think for oneself – but the

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<sup>19</sup> Correspondingly, Arendt interprets Kant as arguing that becoming insane is to lose one’s ability to connect with the *sensus communis*, to communicate or connect in a way that requires one to think from or appreciate others’ point of view; the ideal philosopher (with the enlarged mind) is extremely good also at this – at making the ideas available to everyone – and, she argues, one of Kant’s frustrations was that he was insufficiently good at this.

philosopher participates in the *sensus communis* – a common or shared sense – by producing work that accurately critiques how we think and reason.<sup>20</sup>

Important for politics is the fact that morality – in which we can now include, in light of Kant research in the last couple of decades, both virtue and right – is, as Arendt says, about “right and wrong,” and something about which we have the most certainty with regard to what *not* to do (similar to how we have most scientific certainty with regard to what is not true; which hypotheses fail as possible universal or general laws). As Nicholas Dunn explains, “determining judgment” – the kind we use when we engage in the activities critiqued in the first two critiques – occurs “if there is a universal (a concept or rule) given prior to our encounter with a particular that dictates how we are to subsume it.... The presence of criteria makes these kinds of judgments truth-apt; they will either be true or false” (2019, 245).<sup>21</sup> So, when we are investigating a scientific hypothesis or a moral maxim, we already have a priori principles that we are subsuming the principle under; this is how we are able to check whether they can hold as universal laws. In science, we do this by experimentation. We check whether the empirical facts in the world can be explained by our proposed scientific law or not. One exception to the rule proves definitively that we did not find a universal law of nature after all. In contrast, within Kant’s analysis of virtue, we are checking whether the rule (maxim) we are contemplating acting on can be universalized, while in terms of Kant’s analysis of right, we are checking whether an action is consistent, ultimately, with each person’s right to freedom. If the answer is negative (“no”) in either sphere, we know for a moral fact that the action in question is impermissible (as a matter of virtue or right, respectively).

In contrast, “reflecting judgments occur when no universal is given under which to subsume a particular, leaving us to deal with it in all its particularity” (Dunn 2019, 245). Therefore, when we move from virtue to considerations of human well-being, for example, or from right to politics (from “Recht” to “Gerecht”), this top-down, subsuming type of investigation (determining judgment) is impossible; some actions will be wiser than others, but this wisdom is not identifiable simply by appeal to universal principles of morality. Alternatively, when we move from science as explorable through universal laws of nature to biology, we are moving from truths that characterize the universe to truths that are limited to earthly or biological life – and here there are many exceptions to the rule and only general truths that can be found bottom up (reflecting judgment). A four-leaf clover is still a clover even though the general rule is for clovers to have three leaves, just as a chosen life without children is just as flourishing as a human life with children even though the many choose to have children. In this way, politics is not coextensive with morality, including when we let morality include both right and virtue; exactly which policies will be good for a particular society at a particular time so as to strive for the highest political good (where right sets the frame for the

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<sup>20</sup> See Beiner for a particularly interesting engagement with these ideas about judgment and Arendt on Eichmann ([1982] 1989, 97–101).

<sup>21</sup> I agree with Dunn that in his objection to Arendt – that she is not able to envision political agreement among all citizens on specific topics – Habermas is looking for the wrong thing. Arendt and Kant are right to argue that some things are morally wrong (as a matter of right or of virtue), but in contingent politics, some things are better than others without being the only right option. Good politics involves compromises between the many good, contingent perspectives.

good) requires judgment of the particular event. In *this* situation, *this* is going on, and *this* or *these* types of actions consequently appear more promising than those other ones.<sup>22</sup>

This is therefore where Arendt's 3<sup>rd</sup> *Critique* concept of "judgment" is so useful. To start, our challenge as scholars is to figure out how to theorize action (politics) just as the actors (active citizens) need to figure out what to do (what to vote for, whether as citizens or as figures entrusted with public authority in some capacity).<sup>23</sup> Correspondingly, judgment is not simply a moral determination – morality (right and virtue) gives us that. Rather, judgment enables us to synthesize (via the imagination) the many universal (ideal) and contingent (non-ideal; general human and particular) considerations into one whole (teleological judgment of parts and wholes) – with universal morality setting the framework for the contingent human, historical concerns – so as to strive to find a good, truthful way to describe what is going on as a contemplating political theorist (spectator) and it helps politicians and citizens (actors) understand, including when they listen to the scholars (spectators) as part of figuring out what to do.<sup>24</sup> We can thus say that politics is reducible to neither moral judgment nor to teleological or aesthetic judgment; it rather lets morality set the framework within which concerns of human nature and particular historical societies are given appropriate space – a judgment that requires us to unify the universal and the contingent (generally and in this particular whole) into a whole – a whole that can help us improve the status quo. Moreover, aesthetic judgment is here important, as Arendt emphasizes, because it captures how we are pleased when things have progressed; indeed, it also captures how we as spectators are hopeful (in humanity) even if some actors are trying to do the right thing but fail – our moral sentiment is on their side.<sup>25</sup> And as Bryan Garsten (2007) convincingly argues, we can read Arendt as arguing that *one* way in which citizens in democracies participate in politics is not by running for office, holding public positions, being politicians, or writing publicly, but by striving to stay informed so that they thereby help to give the political sphere vitality and accountability.

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<sup>22</sup> One part of politics can be captured by what contemporary Kant scholars call "public reason." In fact, notice that on the position presented here, public reason, for Kant, can be seen as starting from the a priori arguments that are constitutive of rightful relations, arguments that start from each person's innate right to freedom and, as relevant, carries through arguments regarding innate, private, and public right. Again, if an action, law, or policy is inconsistent with these basic rights, then it is wrong, but that doesn't tell us how to judge a complex historical situation or what would be wisest to do in a particular, complex situation facing us.

<sup>23</sup> The philosophical distinction between actor and spectator is akin to the distinction O'Neill (2002) makes between "trustworthiness" (Arendt: actor) and "trust" (Arendt: spectator). As an actor, a major challenge for me is to find out who is trustworthy (and not just to trust blindly); as a spectator, a major challenge is to see if trust is building in the right ways, which is a teleological judgment that looks not only, in my view (contra O'Neill) to morality but also to morality as well as the good in general and in particular (pursued within the constraints of morality; right and virtue).

<sup>24</sup> In Beiner's view, Arendt's earlier writings didn't distinguish between what he calls "practical" (*vita activa*) and "contemplative" (*vita contemplativa*) theories of judgment ([1982] 1989, 91–92).

<sup>25</sup> We can link this point to Kant's account of the highest good and teleological judgment: we are pleased because we can synthesize the whole in a way that agrees either with how morality sets the framework for happiness while yielding a harmonious whole (TP: 8: 279, CPrR 5: 110–11) or, more narrowly, with how the political whole is consistent with the ideal of perpetual peace (the highest political end; MM 6: 355). For more on this, see my Varden (forthcoming b).

Arendt's core example here is Kant's – and the world's – judgment of the French Revolution; the hope (as revealed in how the spectators felt) was that the people would win in transforming France's oppressive, aristocratic monarchy into a liberal republic.<sup>26</sup> The French Revolution is an exemplar here because it shows us how the oppressed stand up against their oppressors, and our moral public feelings (enabled by right and politics combined) show us that we want them to succeed; these feelings track our judgment that if they succeed, then politics has changed for the better.<sup>27</sup> And this judgment, Arendt emphasizes with Kant, does not need moral experts (of ethics, law, or politics); it is something that our common sense gives us (when practiced politically). Again, even if the revolutionaries did not succeed, we would be morally sad, but that wouldn't take away from our judgment that they were in the right (and the oppressors in the wrong).

Finally, these complex contemplative public moral feelings – and, so, this complex work enabled by the imagination – do not justify a right to revolution; to engage this complexity, we would have to assume not the perspective of the spectator, but, again, that of the actor and a different analysis is necessary. That is to say, once we switch from the perspective of the spectator to the actor – such as from the political theorist to the politician – the analysis switches too. On this switch, Arendt says, “That only the spectator but never the actor knows what it is all about ... is as old as the hills; it is, in fact, among the oldest, most decisive, notions of philosophy” (1989, 55). Relatedly, Arendt interprets Kant as arguing that “the spectator is not involved in the act, but [they are] always involved with fellow spectators. [They do] not share the faculty of genius, originality, with the maker or the faculty of novelty with the actor; the faculty they have in common is the faculty of judgment” (63, see also 62).

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<sup>26</sup> The most extensive discussion of Kant on the French Revolution is found in Maliks (2022).

<sup>27</sup> This is not to say that people have the right to revolution, let alone a coup d'état. Arendt's general take here is that it is Kant's commitment to the “transcendental principle of publicness” (1989, 49), and that he conflates “revolutionary action” and a “coup d'état” – and only the latter requires secrecy. I don't agree with her that Kant confuses the two (1989, 60). In my view, Kant thinks that a right to revolution presupposes a natural executive right – and there is no such right. Rather, what his philosophy shows is that once the freedom movements come, no one has a right to stop them; these movements – women's movements, civil rights movements, labor movements – are simply people exercising their right to engage in politics so as to reform their republics into better ones. This reading, importantly, is consistent with Kant's commitment to the transcendental principle of publicness and what he says about the French Revolution.



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