

PERSONAL RESPONSIBILITY UNDER DICTATORSHIP

To begin, I want to comment on the rather furious controversy touched off by my book *Eichmann in Jerusalem*. I deliberately use the words “touched off,” rather than the word “caused,” for a large part of the controversy was devoted to a book that was never written. My first reaction, therefore, was to dismiss the whole affair with the famous words of an Austrian wit: “There is nothing so entertaining as the discussion of a book nobody has read.” As this went on, however, and as, especially in its later stages, there were more and more voices who not only attacked me for what I had never said but, on the contrary, began to defend me for it, it dawned on me that there might be more to this slightly eerie exercise than sensation or entertainment. It seemed to me also that more than “emotions” were involved, that is, more than honest misunderstandings that in some instances caused an authentic breakdown of communication between author and reader—and more too than the distortions and falsifications of interest groups, which were much less afraid of my book than that it might initiate an impartial and detailed further examination of the period in question.

The controversy invariably raised all kinds of strictly moral issues, many of which had never occurred to me, whereas others had been mentioned by me only in passing. I had given a factual

account of the trial, and even the book's subtitle, *A Report on the Banality of Evil*, seemed to me so glaringly borne out by the facts of the case that I felt it needed no further explanation. I had pointed to a fact which I felt was shocking because it contradicts our theories concerning *evil*, hence to something true but not plausible.

I had somehow taken it for granted that we all still believe with Socrates that it is better to suffer than to do wrong. This belief turned out to be a mistake. There was a widespread conviction that it is impossible to withstand temptation of any kind, that none of us could be trusted or even be expected to be trustworthy when the chips are down, that to be tempted and to be forced are almost the same, whereas in the words of Mary McCarthy, who first spotted this fallacy: "If somebody points a gun at you and says, 'Kill your friend or I will kill you,' he is *tempting* you, that is all." And while a temptation where one's life is at stake may be a legal excuse for a crime, it certainly is not a moral justification. Finally, and in a way most surprisingly, since after all we dealt with a trial whose result invariably was the passing of judgment, I was told that judging itself is wrong: no one can judge who had not been there. This, incidentally, was Eichmann's own argument against the district court's judgment. When told that there had been alternatives and that he could have escaped his murderous duties, he insisted that these were postwar legends born of hindsight and supported by people who did not know or had forgotten how things had actually been.

There are a number of reasons why the discussion of the right or the ability to judge touches on the most important moral issue. Two things are involved here: First, how can I tell right from wrong, if the majority or my whole environment has prejudged the issue? *Who am I to judge?* And second, to what extent, if at all,

can we judge past events or occurrences at which we were not present? As to the latter, it seems glaringly obvious that no historiography and no courtroom procedure would be possible at all if we denied ourselves this capability. One might go a step further and maintain that there are very few instances in which, in using our capacity to judge, we do not judge by hindsight, and again this is equally true of the historiographer as it is of the trial judge, who may have good reasons to mistrust eyewitness accounts or the judgment of those who were present. Moreover, since this question of judging without being present is usually coupled with the accusation of arrogance, who has ever maintained that by judging a wrong I presuppose that I myself would be incapable of committing it? Even the judge who condemns a man for murder may still say, and there but for the grace of God go I!

Thus, *prima facie*, all this looks like elaborate nonsense, but when many people, without having been manipulated, begin to talk nonsense, and if intelligent people are among them, there is usually more involved than just nonsense. There exists in our society a widespread fear of judging that has nothing whatever to do with the biblical "Judge not, that ye be not judged," and if this fear speaks in terms of "casting the first stone," it takes this word in vain. For behind the unwillingness to judge lurks the suspicion that no one is a free agent, and hence the doubt that anyone is responsible or could be expected to answer for what he has done. The moment moral issues are raised, even in passing, he who raises them will be confronted with this frightful lack of self-confidence and hence of pride, and also with a kind of mock-modesty that in saying, *Who am I to judge?* actually means *We're all alike, equally bad*, and those who try, or pretend that they try, to remain halfway decent are either saints or hypocrites, and in either case should leave us alone. Hence the huge outcry the

moment anyone fixes specific blame on some particular person instead of blaming all deeds or events on historical trends and dialectical movements, in short on some mysterious necessity that works behind the backs of men and bestows upon everything they do some kind of deeper meaning. As long as one traces the roots of what Hitler did back to Plato or Gioacchino da Fiore or Hegel or Nietzsche, or to modern science and technology, or to nihilism or the French Revolution, everything is all right. But the moment one calls Hitler a mass murderer—conceding, of course, that this particular mass murderer was politically very gifted and also that the whole phenomenon of the Third Reich cannot be explained solely on the grounds of who Hitler was and how he influenced people—there is general agreement that such judgment of the person is vulgar, lacks sophistication, and should not be permitted to interfere with the interpretation of History. Thus, to give you another example from a contemporary controversy, the argument of Rolf Hochhuth's play *The Deputy*, in which Pope Pius XII stands accused of his singular silence at the time of the great massacres of Jews in the East, was immediately countered, and not only by outcries from the Catholic hierarchy, which after all is understandable. It was also countered by the falsifications of the born image makers: Hochhuth, it has been said, accused the pope as the chief culprit in order to exculpate Hitler and the German people, which is a simple untruth. More significant in our context has been the reproach that it is "of course" superficial to accuse the pope, all of Christianity stands accused; or even more to the point: "No doubt, there is ground for serious accusation, but the defendant is the whole human race."* The point I wish to

*Robert Weltsch, "Ein Deutscher klagt den Papst an" in *Summa iniuria oder Durfte der Papst schweigen? Hochhuths "Stellvertreter" in der öffentlichen Kritik*, Edit. F. J. Raddatz (Rowohlt: 1963) 156.—Ed.

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raise here goes beyond the well-known fallacy of the concept of collective guilt as first applied to the German people and its collective past—all of Germany stands accused and the whole of German history from Luther to Hitler—which in practice turned into a highly effective whitewash of all those who had actually done something, for where all are guilty, no one is. You have only to put Christianity or the whole human race into the place originally reserved for Germany to see, or so it would seem, the absurdity of the concept, for now not even the Germans are guilty any longer: no one at all is for whom we have so much as a name instead of the concept of collective guilt. What I wish to point out, in addition to these considerations, is how deep-seated the fear of passing judgment, of naming names, and of fixing blame—especially, alas, upon people in power and high position, dead or alive—must be if such desperate intellectual maneuvers are being called upon for help. For is it not obvious that Christianity has survived rather handsomely many popes who were worse than Pius XII, precisely because it was never all of Christianity that stood accused? And what shall one say of those who would rather throw all mankind out of the window, as it were, in order to save one man in high position, and to save him from the accusation not even of having committed a crime, but merely of an admittedly grave sin of omission?

It is fortunate and wise that no law exists for sins of omission and no human court is called upon to sit in judgment over them. But it is equally fortunate that there exists still one institution in society in which it is well-nigh impossible to evade issues of personal responsibility, where all justifications of a nonspecific, abstract nature—from the *Zeitgeist* down to the Oedipus complex—break down, where not systems or trends or original sin are judged, but men of flesh and blood like you and me, whose

deeds are of course still human deeds but who appear before a tribunal because they have broken some law whose maintenance we regard as essential for the integrity of our common humanity. Legal and moral issues are by no means the same, but they have a certain affinity with each other because they both presuppose the power of judgment. No courtroom reporter, if he knows what he is doing, can avoid becoming involved in these questions. How can we tell right from wrong, independent of knowledge of the law? And how can we judge without having been in the same situation?

It is at this point that I think it would be proper to make my second personal remark. If the heat caused by my "sitting in judgment" has proved, as I think it has, how uncomfortable most of us are when confronted with moral issues, I better admit that not the least uncomfortable one is myself. My early intellectual formation occurred in an atmosphere where nobody paid much attention to moral questions; we were brought up under the assumption: *Das Moralische versteht sich von selbst*, moral conduct is a matter of course. I still remember quite well my own youthful opinion of the moral rectitude we usually call character; all insistence on such virtue would have appeared to me as Philistine, because this, too, we thought was a matter of course and hence of no great importance—not a decisive quality, for instance, in the evaluation of a given person. To be sure, every once in a while we were confronted with moral weakness, with lack of steadfastness or loyalty, with this curious, almost automatic yielding under pressure, especially of public opinion, which is so symptomatic of the educated strata of certain societies, but we had no idea how serious such things were and least of all where they could lead. We did not know much about the nature of these phenomena, and I am afraid we cared even less. Well, it turned out that we would be

* the moral is obvious

given ample opportunity to learn. For my generation and people of my origin, the lesson began in 1933 and it ended not when just German Jews but the whole world had been given notice of monstrosities no one believed possible at the beginning. What we have learned since, and it is by no means unimportant, can be counted as additions and ramifications of the knowledge acquired during those first twelve years, from 1933 to 1945. Many of us have needed the last twenty years in order to come to terms with what happened, not in 1933, but in 1941 and 1942 and 1943, up to the bitter end. And by this, I do not mean personal grief and sorrow, but the horror itself to which, as we can see now, none of the concerned parties has as yet been able to reconcile itself. The Germans have coined for this whole complex the highly questionable term of their "unmastered past." Well, it looks as though today, after so many years, this German past has turned out to remain somehow unmanageable for a good part of the civilized world. At the time the horror itself, in its naked monstrosity, seemed not only to me but to many others to transcend all moral categories and to explode all standards of jurisdiction; it was something men could neither punish adequately nor forgive. And in this speechless horror, I fear, we all tended to forget the strictly moral and manageable lessons we had been taught before, and would be taught again, in innumerable discussions, both inside and outside of courtrooms.

In order to clarify the distinction between the speechless horror, in which one learns nothing, and the not at all horrible but frequently disgusting experiences where people's conduct is open to normal judgments, let me first mention a fact which is obvious and yet rarely mentioned. What mattered in our early, nontheoretical education in morality was never the conduct of the true culprit of whom even then no one in his right mind could

expect other than the worst. Thus we were outraged, but not morally disturbed, by the bestial behavior of the storm troopers in the concentration camps and the torture cellars of the secret police, and it would have been strange indeed to grow morally indignant over the speeches of the Nazi bigwigs in power, whose opinions had been common knowledge for years. The new regime posed to us then nothing more than a very complex political problem, one aspect of which was the intrusion of criminality into the public realm. I think we were also prepared for the consequences of ruthless terror and we would gladly have admitted that this kind of fear is likely to make cowards of most men. All this was terrible and dangerous, but it posed no moral problems. The moral issue arose only with the phenomenon of "coordination," that is, not with fear-inspired hypocrisy, but with this very early eagerness not to miss the train of History, with this, as it were, honest overnight change of opinion that befell a great majority of public figures in all walks of life and all ramifications of culture, accompanied, as it was, by an incredible ease with which lifelong friendships were broken and discarded. In brief, what disturbed us was the behavior not of our enemies but of our friends, who had done nothing to bring this situation about. They were not responsible for the Nazis, they were only impressed by the Nazi success and unable to pit their own judgment against the verdict of History, as they read it. Without taking into account the almost universal breakdown, not of personal responsibility, but of personal *judgment* in the early stages of the Nazi regime, it is impossible to understand what actually happened. It is true that many of these people were quickly disenchanted, and it is well known that most of the men of July 20, 1944, who paid with their lives for their conspiracy against Hitler, had been connected with the regime at some time or other. Still, I think this early moral disintegration in

German society, hardly perceptible to the outsider, was like a kind of dress rehearsal for its total breakdown, which was to occur during the war years.

I brought these personal matters to your attention in order to lay myself open, not to the accusation of arrogance, which I think is beside the point, but to the more justifiable doubt whether people with so little mental or conceptual preparation for moral issues are at all qualified to discuss them. We had to learn everything from scratch, in the raw, as it were—that is, without the help of categories and general rules under which to subsume our experiences. There stand, however, on the other side of the fence, all those who were fully qualified in matters of morality and held them in the highest esteem. These people proved not only to be incapable of learning anything; but worse, yielding easily to temptation, they most convincingly demonstrated through their application of traditional concepts and yardsticks during and after the fact, how inadequate these had become, how little, as we shall see, they had been framed or intended to be applied to conditions as they actually arose. The more these things are discussed, the clearer it becomes, I think, that we actually find ourselves here in a position between the devil and the deep sea.

To give at this point but one particular instance of our bedevilment in all these matters, consider the question of legal punishment, punishment that is usually justified on one of the following grounds: the need of society to be protected against crime, the improvement of the criminal, the deterring force of the warning example for potential criminals, and, finally, retributive justice. A moment of reflection will convince you that none of these grounds is valid for the punishment of the so-called war criminals: these people were not ordinary criminals and hardly any one of them can reasonably be expected to commit further crimes;

society is in no need of being protected from them. That they can be improved through prison sentences is even less likely than in the case of ordinary criminals, and as to the possibility of deterring such criminals in the future, the chances again are dismally small in view of the extraordinary circumstances under which these crimes were committed or might be committed in the future. Even the notion of retribution, the only nonutilitarian reason given for legal punishment and hence somehow out of tune with current legal thought, is hardly applicable in view of the magnitude of the crime. And yet, though none of the reasons for punishment which we usually invoke is valid, our sense of justice would find it intolerable to forego punishment and let those who murdered thousands and hundreds of thousands and millions go scot-free. If this were nothing but a desire for revenge, it would be ridiculous, quite apart from the fact that the law and the punishment it metes out appeared on earth in order to break the unending vicious circle of vengeance. Thus, here we are, demanding and meting out punishment in accordance with our sense of justice, while, on the other hand, this same sense of justice informs us that all our previous notions about punishment and its justifications have failed us.

To return to my personal reflections on who should be qualified to discuss such matters: is it those who have standards and norms which do not fit the experience, or those who have nothing to fall back upon but their experience, an experience, moreover, unpatterned by preconceived concepts? How can you think, and even more important in our context, how can you judge without holding on to preconceived standards, norms, and general rules under which the particular cases and instances can be subsumed? Or to put it differently, what happens to the human faculty of judgment when it is faced with occurrences that spell the breakdown of all

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customary standards and hence are unprecedented in the sense that they are not foreseen in the general rules, not even as exceptions from such rules? A valid answer to these questions would have to start with an analysis of the still very mysterious nature of human judgment, of what it can and what it cannot achieve. For only if we assume that there exists a human faculty which enables us to judge rationally without being carried away by either emotion or self-interest, and which at the same time functions spontaneously, that is to say, is not bound by standards and rules under which particular cases are simply subsumed, but on the contrary, produces its own principles by virtue of the judging activity itself; only under this assumption can we risk ourselves on this very slippery moral ground with some hope of finding a firm footing.

Luckily for me, our topic tonight does not require that I offer you a philosophy of judgment. But even a restricted approach to the problem of morality and its foundations demands the clarification of one general question as well as a few distinctions which, I fear, are not generally accepted. The general question concerns the first part of my title: "Personal Responsibility." This term must be understood in contrast to political responsibility which every government assumes for the deeds and misdeeds of its predecessor and every nation for the deeds and misdeeds of the past. When Napoleon, seizing power in France after the revolution, said: I shall assume the responsibility for everything France ever did from Louis the Saint to the Committee of Public Safety, he only stated a little emphatically one of the basic facts of all political life. And as for the nation, it is obvious that every generation, by virtue of being born into a historical continuum, is burdened by the sins of the fathers as it is blessed with the deeds of the ancestors. Whoever takes upon himself political responsibility will always come to the point where he says with Hamlet:

The time is out of joint: O cursed spite
That ever I was born to set it right!

To set the time aright means to renew the world, and this we can do because we all arrived at one time or another as newcomers in a world which was there before us and will still be there when we are gone, when we shall have left its burden to our successors. But this is not the kind of responsibility I am talking about here; it is not personal, strictly speaking, and it is only in a metaphorical sense that we can say we *feel* guilty for the sins of our fathers or our people or of mankind, in short for deeds we have *not* done. Morally speaking, it is as wrong to feel guilty without having done anything specific as it is to feel free of all guilt if one actually is guilty of something. I have always regarded it as the quintessence of moral confusion that during the postwar period in Germany those who personally were completely innocent assured each other and the world at large how guilty they felt, while very few of the criminals were prepared to admit even the slightest remorse. The result of this spontaneous admission of collective guilt was of course a very effective, though unintended, white-wash of those who *had* done something: as we have already seen, where all are guilty, no one is. And when we heard, in the recent discussion in Germany about an extension of the statute of limitations for the Nazi murderers, how the minister of justice countered any such extension with the argument that further zeal in looking for what the Germans call "the murderers among us" would only result in moral complacency among the Germans who are not murderers (*Der Spiegel*, no. 5, 1963, p. 23), that is, in those who are innocent, we see at once how dangerous this moral confusion can become. The argument is not new. A few years back, the execution of the death sentence for Eichmann aroused wide-

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spread opposition, on the grounds that it might ease the conscience of ordinary Germans and “serve to expiate the guilt felt by many young persons in Germany,” as Martin Buber put it. Well, if young people in Germany, too young to have done anything at all, *feel* guilty, they are either wrong, confused, or they are playing intellectual games. There is no such thing as collective guilt or collective innocence; guilt and innocence make sense only if applied to individuals.

Recently, during the discussion of the Eichmann trial, these comparatively simple matters have been complicated through what I'll call the cog-theory. When we describe a political system—how it works, the relations between the various branches of government, how the huge bureaucratic machineries function of which the channels of command are part, and how the civilian and the military and the police forces are interconnected, to mention only outstanding characteristics—it is inevitable that we speak of all persons used by the system in terms of cogs and wheels that keep the administration running. Each cog, that is, each person, must be expendable without changing the system, an assumption underlying all bureaucracies, all civil services, and all functions properly speaking. This viewpoint is the viewpoint of political science, and if we accuse or rather evaluate in its frame of reference, we speak of good and bad systems and our criteria are the freedom or the happiness or the degree of participation of the citizens, but the question of the personal responsibility of those who run the whole affair is a marginal issue. Here it is indeed true what all the defendants in the postwar trials said to excuse themselves: if I had not done it, somebody else could and would have.

For in any dictatorship, let alone a totalitarian dictatorship, even the comparatively small number of decision makers who can still be named in normal government has shrunk to the figure of

One, while all institutions and bodies that initiate control over or ratify executive decision have been abolished. In the Third Reich, at any rate, there was only one man who did and could make decisions and hence was politically fully responsible. That was Hitler himself who, therefore, not in a fit of megalomania but quite correctly once described himself as the only man in all Germany who was irreplaceable. Everybody else from high to low who had anything to do with public affairs was in fact a cog, whether he knew it or not. Does this mean that nobody else could be held personally responsible?

When I went to Jerusalem to attend the Eichmann trial, I felt that it was the great advantage of courtroom procedure that this whole cog-business makes no sense in its setting, and therefore forces us to look at all these questions from a different point of view. To be sure, that the defense would try to plead that Eichmann was but a small cog was predictable; that the defendant himself would think in these terms was probable, and he did so up to a point; whereas the attempt of the prosecution to make of him the biggest cog ever—worse and more important than Hitler—was an unexpected curiosity. The judges did what was right and proper, they discarded the whole notion, and so, incidentally, did I, all blame and praise to the contrary notwithstanding. For, as the judges took great pains to point out explicitly, in a courtroom there is no system on trial, no History or historical trend, no ism, anti-Semitism for instance, but a person, and if the defendant happens to be a functionary, he stands accused precisely because even a functionary is still a human being, and it is in this capacity that he stands trial. Obviously, in most criminal organizations the small cogs are actually committing the big crimes, and one could even argue that one of the characteristics of the organized criminality of the Third Reich was that it demanded tangible proof of

criminal implication of all its servants, and not only of the lower echelons. Hence, the question addressed by the court to the defendant is, Did you, such and such, an individual with a name, a date, and place of birth, identifiable and by that token not expendable, commit the crime you stand accused of, and Why did you do it? If the defendant answers: "It was not I as a person who did it, I had neither the will nor the power to do anything out of my own initiative; I was a mere cog, expendable, everybody in my place would have done it; that I stand before this tribunal is an accident"—this answer will be ruled out as immaterial. If the defendant were permitted to plead either guilty or not guilty as representing a system, he would indeed become a *scapegoat*. (Eichmann himself wished to become a scapegoat—he proposed to hang himself publicly and to take all "sins" upon himself. The court denied him this last occasion for elating sentiments.) In every bureaucratic system the shifting of responsibilities is a matter of daily routine, and if one wishes to define bureaucracy in terms of political science, that is, as a form of government—the rule of offices, as contrasted to the rule of men, of one man, or of the few, or of the many—bureaucracy unhappily is the rule of nobody and for this very reason perhaps the least human and most cruel form of rulership. But in the courtroom, these definitions are of no avail. For to the answer: "Not I but the system did it in which I was a cog," the court immediately raises the next question: "And why, if you please, did you become a cog or continue to be a cog under such circumstances?" If the accused wishes to shift responsibilities, he must again implicate other persons, he must name names, and these persons appear then as possible codefendants, they do not appear as the embodiment of bureaucratic or any other necessity. The Eichmann trial, like all such trials, would have been devoid of all interest if it had not trans-

formed the cog or “referent” of Section IV B₄ in the Reich Security Head Office into a man. Only because this operation was achieved even before the trial started could the question of personal responsibility, and hence of legal guilt, arise at all. And even this transformation of a cog into a man does not imply that something like cog-ness, the fact that systems transform men into cogs, and totalitarian systems more totally than others, was on trial. This interpretation would be but another escape from the strict limitations of courtroom procedure.

Still, while courtroom procedure or the question of personal responsibility under dictatorship cannot permit the shifting of responsibility from man to system, the system cannot be left out of account altogether. It appears in the form of circumstances, from the legal as well as the moral point of view, much in the same sense in which we take into account the conditions of underprivileged persons as mitigating circumstances, but not as excuses, in the case of crimes committed in the milieu of poverty. And it is for this reason that, coming to the second part of my title, “Dictatorship,” I must now bother you with a few distinctions which will help us to understand these circumstances. Totalitarian forms of government and dictatorships in the usual sense are not the same, and most of what I have to say applies to totalitarianism. Dictatorship in the old Roman sense of the word was devised and has remained an emergency measure of constitutional, lawful government, strictly limited in time and power; we still know it well enough as the state of emergency or of martial law proclaimed in disaster areas or in time of war. We furthermore know modern dictatorships as new forms of government, where either the military seize power, abolish civilian government, and deprive the citizens of their political rights and liberties, or where one party

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seizes the state apparatus at the expense of all other parties and hence of all organized political opposition. Both types spell the end of political freedom, but private life and nonpolitical activity are not necessarily touched. It is true that these regimes usually persecute political opponents with great ruthlessness and they certainly are very far from being constitutional forms of government in the sense we have come to understand them—no constitutional government is possible without provisions being made for the rights of an opposition—but they are not criminal in the common sense of the word either. If they commit crimes these are directed against outspoken foes of the regime in power. But the crimes of totalitarian governments concerned people who were “innocent” even from the viewpoint of the party in power. It was for this reason of common criminality that most countries signed an agreement after the war not to bestow the status of political refugee upon those culprits who escaped from Nazi Germany.

Moreover, total domination reaches out into all, not only the political, spheres of life. Totalitarian society, as distinguished from totalitarian government, is indeed monolithic; all public manifestations, cultural, artistic, or learned, and all organizations, welfare and social services, even sports and entertainment, are “coordinated.” There is no office and indeed no job of any public significance, from advertising agencies to the judiciary, from play-acting to sports journalism, from primary and secondary schooling to the universities and learned societies, in which an unequivocal acceptance of the ruling principles is not demanded. Whoever participates in public life at all, regardless of party membership or membership in the elite formations of the regime, is implicated in one way or another in the deeds of the regime as a whole. What the courts demand in all these postwar trials is that the defendants should not have participated in crimes legalized by

that government, and this nonparticipation taken as a legal standard for right and wrong poses considerable problems precisely with respect to the question of responsibility. For the simple truth of the matter is that only those who withdrew from public life altogether, who refused political responsibility of any sort, could avoid becoming implicated in crimes, that is, could avoid legal and moral responsibility. In the tumultuous discussion of moral issues which has been going on ever since the defeat of Nazi Germany, and the disclosure of the total complicity in crimes of all ranks of official society, that is, of the total collapse of normal moral standards, the following argument has been raised in endless variations: We who appear guilty today are in fact those who stayed on the job in order to prevent worse things from happening; only those who remained inside had a chance to mitigate things and to help at least some people; we gave the devil his due without selling our soul to him, whereas those who did nothing shirked all responsibilities and thought only of themselves, of the salvation of their precious souls. Politically speaking, this argument might have made sense if an overthrow of the Hitler regime had been achieved, or even attempted, in the very early stages. For it is true that a totalitarian system can be overthrown only from within—not through revolution, but through a coup d'état—unless, of course, it is defeated in war. (We may perhaps assume that something of this sort occurred in the Soviet Union, either before or immediately after Stalin's death; the turning point from an outright totalitarian system to a one-party dictatorship or tyranny probably came with the liquidation of Beria, the head of the secret police.) But the people who speak in this manner were by no means the conspirators—successful or not. They are as a rule those civil servants without whose expert knowledge neither the Hitler regime nor the Adenauer administration that succeeded it

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would have been able to survive. Hitler had inherited civil servants from the Weimar Republic, which had inherited them from Imperial Germany, just as Adenauer was to inherit them from the Nazis, without much difficulty.

I must here remind you that the personal or moral issue, as distinct from legal accountability, hardly arises with those who were convinced adherents of the regime: that they could not feel guilty but only defeated was almost a matter of course, unless they changed their minds and repented. And yet, even this simple issue has become confused because when the day of reckoning finally came it turned out that there had been no convinced adherents, at least not of the criminal program for which they stood trial. And the trouble is that, though this was a lie, it is not a simple or total lie. For what had started in the initial stages with politically neutral people who were not Nazis but cooperated with them, happened in the last stages with the party members and even with the elite formations of the SS: there were very few people even in the Third Reich who wholeheartedly agreed with the late crimes of the regime and a great number who were perfectly willing to commit them nevertheless. And now every single one of them, wherever he stood and whatever he did, claims that those who, under one pretext or another, had retired into private life had chosen the easy, the irresponsible way out. Unless, of course, they had used their private station as a cover for active opposition—a choice which can be easily dismissed since it is obviously not everybody's business to be a saint or a hero. But personal or moral responsibility is everybody's business and there, it is argued, it was more "responsible" to stay on the job no matter under what conditions or with what consequences.

In their moral justification, the argument of the lesser evil has played a prominent role. If you are confronted with two evils,

thus the argument runs, it is your duty to opt for the lesser one, whereas it is irresponsible to refuse to choose altogether. Those who denounce the moral fallacy of this argument are usually accused of a germ-proof moralism which is alien to political circumstances, of being unwilling to dirty their hands; and it must be admitted that it is not so much political or moral philosophy (with the sole exception of Kant, who for this very reason frequently stands accused of moralistic rigorism) but religious thought that most unequivocally has rejected all compromises with lesser evils. Thus the Talmud holds, as I was told during a recent discussion of these matters: if they ask you to sacrifice one man for the security of the community, don't surrender him; if they ask you to give one woman to be ravished for the sake of all women, don't let her be ravished. And it is in the same vein, and clearly remembering Vatican policy during the last war, that Pope John XXIII wrote about the political behavior of Pope and Bishop, which is called the "practice of prudence": they "must beware of . . . in any way conniving with evil in the hope that by doing so they may be useful to someone."

Politically, the weakness of the argument has always been that those who choose the lesser evil forget very quickly that they chose evil. Since the evil of the Third Reich finally was so monstrous that by no stretch of the imagination could it be called a "lesser evil," one might have assumed that this time the argument would have collapsed once and for all, which surprisingly is not the case. Moreover, if we look at the techniques of totalitarian government, it is obvious that the argument of "the lesser evil"—far from being raised only from the outside by those who do not belong to the ruling elite—is one of the mechanisms built into the machinery of terror and criminality. Acceptance of lesser evils is consciously used in conditioning the government officials as well

as the population at large to the acceptance of evil as such. To give but one among many examples: the extermination of Jews was preceded by a very gradual sequence of anti-Jewish measures, each of which was accepted with the argument that refusal to cooperate would make things worse—until a stage was reached where nothing worse could possibly have happened. The fact that in this last stage the argument was not abandoned and survives even today when its fallacy has become so glaringly obvious—in the discussion of the Hochhuth play we heard again that a protest from the Vatican in whatever form would only have made things worse!—is surprising enough. We see here how unwilling the human mind is to face realities which in one way or another contradict totally its framework of reference. Unfortunately, it seems to be much easier to condition human behavior and to make people conduct themselves in the most unexpected and outrageous manner, than it is to persuade anybody to learn from experience, as the saying goes; that is, to start thinking and judging instead of applying categories and formulas which are deeply ingrained in our mind, but whose basis of experience has long been forgotten and whose plausibility resides in their intellectual consistency rather than in their adequacy to actual events.

To clarify this predicament of judging without being able to fall back upon the application of generally accepted rules, I'll switch from moral to legal standards because the latter are generally better defined. You may know that in the trials of war criminals and the discussion of personal responsibility, the defendants and their lawyers appealed either to the argument that these crimes were "acts of state," or that they were committed upon "superior orders." These two categories should not be confused. Superior orders are legally within the realm of jurisdiction, even though the defendant may find himself in the classically "difficult

position" of the soldier "liable to be shot by a court martial if he disobeys an order, and to be hanged by a judge and jury if he obeys it" (as Dicey puts it in his *Law of the Constitution*). Acts of state, however, are altogether outside the legal framework; they are presumably sovereign acts over which no court has jurisdiction. Now, the theory behind the formula of acts of state claims that sovereign governments may under extraordinary circumstances be forced to use criminal means because their very existence or the maintenance of their power depends on it; the reason-of-state, thus the argument runs, cannot be bound by legal limitations or moral considerations, which are valid for private citizens who live within its boundaries, because the state as a whole, and hence the existence of everything that goes on inside it, is at stake. In this theory, the act of state is tacitly likened to the "crime" an individual may be forced to commit in self-defense, that is, to an act which also is permitted to go unpunished because of extraordinary circumstances, where survival as such is threatened. What makes this argument inapplicable to the crimes committed by totalitarian governments and their servants is not only that these crimes were in no way prompted by necessity of one form or another; on the contrary, one could argue with considerable force that, for instance, the Nazi government would have been able to survive, even perhaps to win the war, if it had not committed its well-known crimes. It may be of even greater importance, theoretically, that the reason-of-state argument, which underlies the whole discussion of acts of state, presupposes that such a crime is committed within a context of legality which it serves to maintain together with the political existence of the nation. The law to be enforced stands in need of political power, hence an element of power politics is always involved in the maintenance of legal order. (I am, of course, talking here not about

acts committed against other nations, nor am I concerned here with the question of whether war itself can be defined as a “crime against peace”—to use the language of the Nuremberg trials.) What neither the political reason-of-state theory nor the legal concept of acts of state foresaw was the complete reversal of legality; in the case of the Hitler regime, the whole state machinery enforced what normally are considered criminal activities, to put it mildly: there was hardly an act of state which according to normal standards was not criminal. Hence, it was no longer the criminal act which, as an exception to the rule, supposedly served to maintain the rule of the party in power—as for instance in the case of such famous crimes as the murder of Matteoti in Mussolini’s Italy, or the assassination of the duc d’Enghien by Napoleon—but on the contrary, occasional noncriminal acts—such as Himmler’s order to stop the extermination program—were exceptions to the “law” of Nazi Germany, concessions made to dire necessity. To revert for a moment to the distinction between totalitarian government and other dictatorships, it is precisely the relative rarity of outright crimes that distinguishes fascist dictatorships from fully developed totalitarian ones, although it is of course true that there are more crimes committed by fascist or military dictatorships than would even be conceivable under constitutional government. What matters in our context is only that they are still clearly recognizable as exceptions and that the regime does not openly acknowledge them.

In a similar way the argument of “superior orders,” or the judges’ counterargument that the fact of superior orders is no excuse for the commission of crimes, is inadequate. Here, too, the presupposition is that orders normally are not criminal and that for this very reason the receiver of orders can be expected to recognize the criminal nature of a particular order—as in the case of

an officer gone mad who orders the shooting of other officers or in the case of maltreatment or killing of prisoners of war. In juridical terms, the orders to be disobeyed must be “manifestly unlawful”; unlawfulness “should fly like a black flag as a warning reading Prohibited.” In other words, as far as the man is concerned who has to decide whether to obey or disobey, the order must be clearly marked off as an exception, and the trouble is that in totalitarian regimes, and especially in the last years of the Hitler regime, this mark clearly belonged to noncriminal orders. Thus for Eichmann, who had decided to be and remain a law-abiding citizen of the Third Reich, the black flag of manifest unlawfulness flew above those late orders given by Himmler in the fall of 1944, according to which deportations were to be stopped and the installations of the death factories dismantled. The text from which I just quoted is contained in the judgment of an Israeli Military Court, which, more than most other courts in the world, was aware of the difficulties inherent in the word “lawfulness,” in view of the outright and, as it were, legally criminal nature of Hitler’s Germany. It therefore went beyond the usual phraseology that a “feeling of lawfulness . . . lies deep within every human conscience, also of those who are not conversant with books of laws,” and spoke of “an unlawfulness glaring to the eye and repulsive to the heart, provided the eye is not blind and the heart is not stony and corrupt”—which is all very fine, but will, I am afraid, be found wanting when the chips are down. For in these cases, the men who did wrong were very well acquainted with the letter and the spirit of the law of the country they lived in, and today, when they are held responsible, what we actually require of them is a “feeling of lawfulness” deep within themselves to *contradict* the law of the land and their knowledge of it. Under such circumstances there may be considerably more required than an

eye not blind and a heart not stony and corrupt in order to spot “unlawfulness.” They acted under conditions in which every moral act was illegal and every legal act was a crime.

Hence, the rather optimistic view of human nature, which speaks so clearly from the verdict not only of the judges in the Jerusalem trial but of all postwar trials, presupposes an independent human faculty, unsupported by law and public opinion, that judges in full spontaneity every deed and intent anew whenever the occasion arises. Perhaps we do possess such a faculty and are lawgivers, every single one of us, whenever we act: but this was not the opinion of the judges. Despite all the rhetoric, they meant hardly more than that a *feeling* for such things has been inbred in us for so many centuries that it could not suddenly have been lost. And this, I think, is very doubtful in view of the evidence we possess, and also in view of the fact that year in, year out, one “unlawful” order followed the other, all of them not haphazardly demanding just any crimes that were unconnected with each other, but building up with utter consistency and care the so-called new order. This “new order” was exactly what it said it was—not only gruesomely novel, but also and above all, an *order*.

The widespread notion that we deal here with nothing more than a gang of criminals who in conspiracy will commit just any crimes is grievously misleading. True, there was a fluctuating number of criminals in the elite formations of the movement and a greater number of men guilty of atrocities. Only in the beginning of the regime, however, in the concentration camps under the authority of the storm troopers, did these atrocities have a clear political object: to spread fear and to flood in a wave of unspeakable terror all attempts at organized opposition. But these atrocities were not typical and what is more important, although there was a great permissiveness about them, they were not actu-

ally permitted. Just as stealing was not permitted or the acceptance of bribes. On the contrary, as Eichmann was to insist time and again, the directives said: "unnecessary hardships are to be avoided," and when during the police interrogation it was suggested to him that these words sounded a bit ironical when dealing with people who were being sent to their certain deaths, he did not even understand what the examining police officer was talking about. Eichmann's conscience rebelled at the idea of cruelty, not that of murder. Equally misleading is the common notion that we deal here with an outbreak of modern nihilism, if we understand the nihilistic credo in the sense of the nineteenth century: "all is permitted." The ease with which consciences could be dulled was partly the direct consequence of the fact that by no means all was permitted.

For the moral point of this matter is never reached by calling what happened by the name of "genocide" or by counting the many millions of victims: extermination of whole peoples had happened before in antiquity, as well as in modern colonization. It is reached only when we realize that this happened within the frame of a legal order and that the cornerstone of this "new law" consisted of the command "Thou shalt kill," not thy enemy but innocent people who were not even potentially dangerous, and not for any reason of necessity but, on the contrary, even against all military and other utilitarian considerations. The killing program was not meant to come to an end with the last Jew to be found on earth, and it had nothing to do with the war except that Hitler believed he needed a war as a smoke screen for his nonmilitary killing operations; those operations themselves were intended to continue on an even more grandiose scale in time of peace. And these deeds were not committed by outlaws, monsters, or raving sadists, but by the most respected members of

respectable society. Finally, it must be realized that although these mass murderers acted consistently with a racist or anti-Semitic, or at any rate a demographic ideology, the murderers and their direct accomplices more often than not did not believe in these ideological justifications; for them, it was enough that everything happened according to the “will of the Führer,” which was the law of the land, and in accordance with the “words of the Führer,” which had the force of law.

The best proof, if proof were still needed, of the extent to which the whole people, regardless of party affiliation and direct implication, believed in the “new order” for no other reason than that that was the way things were, was perhaps the incredible remark Eichmann’s lawyer, who had never belonged to the Nazi Party, made twice during the trial in Jerusalem, to the effect that what had happened in Auschwitz and the other extermination camps had been “a medical matter.” It was as though morality, at the very moment of its total collapse within an old and highly civilized nation, stood revealed in the original meaning of the word, as a set of *mores*, of customs and manners, which could be exchanged for another set with no more trouble than it would take to change the table manners of a whole people.*

I have dwelt at some length upon this overall situation because no discussion of personal responsibility would make much sense without some precise knowledge of the factual background. Let me now raise two questions: First, in what way were those few different who in all walks of life did not collaborate and refused to participate in public life, though they could not and did not rise in rebellion? And second, if we agree that those who did serve on whatever level and in whatever capacity were not simply mon-

*Editor’s note: Arendt was fond of drawing an analogy between customs and table manners and used this analogy in a number of other discussions.

sters, what was it that made them behave as they did? On what moral, as distinguished from legal, grounds did they justify their conduct after the defeat of the regime and the breakdown of the “new order” with its new set of values? The answer to the first question is relatively simple: the nonparticipants, called irresponsible by the majority, were the only ones who dared judge by themselves, and they were capable of doing so not because they disposed of a better system of values or because the old standards of right and wrong were still firmly planted in their mind and conscience. On the contrary, all our experiences tell us that it was precisely the members of *respectable* society, who had not been touched by the intellectual and moral upheaval in the early stages of the Nazi period, who were the first to yield. They simply exchanged one system of values against another. I therefore would suggest that the nonparticipants were those whose consciences did not function in this, as it were, automatic way—as though we dispose of a set of learned or innate rules which we then apply to the particular case as it arises, so that every new experience or situation is already prejudged and we need only act out whatever we learned or possessed beforehand. Their criterion, I think, was a different one: they asked themselves to what extent they would still be able to live in peace with themselves after having committed certain deeds; and they decided that it would be better to do nothing, not because the world would then be changed for the better, but simply because only on this condition could they go on living with themselves at all. Hence, they also chose to die when they were forced to participate. To put it crudely, they refused to murder, not so much because they still held fast to the command “Thou shalt not kill,” but because they were unwilling to live together with a murderer—themselves.

The precondition for this kind of judging is not a highly developed intelligence or sophistication in moral matters, but rather the

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disposition to live together explicitly with oneself, to have intercourse with oneself, that is, to be engaged in that silent dialogue between me and myself which, since Socrates and Plato, we usually call thinking. This kind of thinking, though at the root of all philosophical thought, is not technical and does not concern theoretical problems. The dividing line between those who want to think and therefore have to judge by themselves, and those who do not, strikes across all social and cultural or educational differences. In this respect, the total moral collapse of respectable society during the Hitler regime may teach us that under such circumstances those who cherish values and hold fast to moral norms and standards are not reliable: we now know that moral norms and standards can be changed overnight, and that all that then will be left is the mere habit of holding fast to something. Much more reliable will be the doubters and skeptics, not because skepticism is good or doubting wholesome, but because they are used to examine things and to make up their own minds. Best of all will be those who know only one thing for certain: that whatever else happens, as long as we live we shall have to live together with ourselves.

But how is it with the reproach of irresponsibility leveled against these few who washed their hands of what was going on all around them? I think we shall have to admit that there exist extreme situations in which responsibility for the world, which is primarily political, cannot be assumed because political responsibility always presupposes at least a minimum of political power. Impotence or complete powerlessness is, I think, a valid excuse. Its validity is all the stronger as it seems to require a certain moral quality even to recognize powerlessness, the good will and good faith to face realities and not to live in illusions. Moreover, it is precisely in this admission of one's own impotence that a last remnant of strength and even power can still be preserved even under desperate conditions.

This last point may become a bit clearer when we now turn our attention to my second question, to those who not only participated willy-nilly as it were but who thought it their duty to do whatever was demanded. Their argument was different from those of the mere participants who invoked the lesser evil, or the *Zeitgeist*, thereby implicitly denying the human faculty of judgment, or in surprisingly rare cases the fear which in totalitarian governments is all pervasive. The argument from the Nuremberg trials to the Eichmann trial and the more recent trials in Germany has always been the same: every organization demands obedience to superiors as well as obedience to the laws of the land. Obedience is a political virtue of the first order, and without it no body politic could survive. Unrestricted freedom of conscience exists nowhere, for it would spell the doom of every organized community. All this sounds so plausible that it takes some effort to detect the fallacy. Its plausibility rests on the truth that "all governments," in the words of Madison, even the most autocratic ones, even tyrannies, "rest on *consent*," and the fallacy lies in the equation of consent with obedience. An adult consents where a child obeys; if an adult is said to obey, he actually *supports* the organization or the authority or the law that claims "obedience." The fallacy is all the more pernicious as it can claim a very old tradition. Our use of the word "obedience" for all these strictly political situations goes back to the age-old notion of political science which, since Plato and Aristotle, tells us that every body politic is constituted of rulers and ruled, and that the former give commands and the latter obey orders.

Of course, I cannot here go into the reasons why these concepts have crept into our tradition of political thought, but I should like to point out that they supplanted earlier and, I think, more accurate notions of the relations between men in the sphere

of concerted action. According to these earlier notions every action, accomplished by a plurality of men, can be divided into two stages: the beginning, which is initiated by a "leader," and the accomplishment, in which many join to see through what then becomes a common enterprise. In our context, all that matters is the insight that no man, however strong, can ever accomplish anything, good or bad, without the help of others. What you have here is the notion of an equality which accounts for a "leader" who is never more than *primus inter pares*, the first among his peers. Those who seem to obey him actually support him and his enterprise; without such "obedience" he would be helpless, whereas in the nursery or under conditions of slavery—the two spheres in which the notion of obedience made sense and from which it was then transposed into political matters—it is the child or the slave who becomes helpless if he refuses to "cooperate." Even in a strictly bureaucratic organization, with its fixed hierarchical order, it would make much more sense to look upon the functioning of the "cogs" and wheels in terms of overall support for a common enterprise than in our usual terms of obedience to superiors. If I obey the laws of the land, I actually support its constitution, as becomes glaringly obvious in the case of revolutionists and rebels who disobey because they have withdrawn this tacit consent.

In these terms, the nonparticipants in public life under a dictatorship are those who have refused their support by shunning those places of "responsibility" where such support, under the name of obedience, is required. And we have only for a moment to imagine what would happen to any of these forms of government if enough people would act "irresponsibly" and refuse support, even without active resistance and rebellion, to see how effective a weapon this could be. It is in fact one of the many vari-

ations of nonviolent action and resistance—for instance the power that is potential in civil *disobedience*—which are being discovered in our century. The reason, however, that we can hold these new criminals, who never committed a crime out of their own initiative, nevertheless responsible for what they did is that there is no such thing as obedience in political and moral matters. The only domain where the word could possibly apply to adults who are not slaves is the domain of religion, in which people say that they *obey* the word or the command of God because the relationship between God and man can rightly be seen in terms similar to the relation between adult and child.

Hence the question addressed to those who participated and obeyed orders should never be, “Why did you obey?” but “Why did you *support*?” This change of words is no semantic irrelevancy for those who know the strange and powerful influence mere “words” have over the minds of men who, first of all, are speaking animals. Much would be gained if we could eliminate this pernicious word “obedience” from our vocabulary of moral and political thought. If we think these matters through, we might regain some measure of self-confidence and even pride, that is, regain what former times called the dignity or the honor of man: not perhaps of mankind but of the status of being human.

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