

Hannah Arendt: Law and Politics

There exists a renewed and growing interest into the work of the German-American political theorist Hannah Arendt (1906 [Hannover] – 1975 [New York]). This is not surprising when we consider the current debates about pluralism, equality, democracy, citizenship, totalitarianism and bureaucracy, as well as the place of today's politics in society. These are all topics that Arendt's work, alongside many other topics, addresses. Her work sketches a certain pessimistic image of society. It detects a change in the political content of modern society. Instead of a political content in which unique individuals could debate with each other on foot of equality about numerous societal topics and reach solutions or decisions along such lines, she sees a political content arising that excludes the citizen, is rationalised and administrative in nature. Politics has fallen more and more in the domain of technocrats at the exclusion of citizens who see themselves incapable to participate anymore. This modern form of politics, which to Arendt has not much to do with what she calls 'the political', is strongly dominated by a creational ideal, which has become transformed in bureaucracies and totalitarian frames of mind.

Strongly grafted on the classical world of Greece and Rome, Arendt presents us an alternative. She sees 'the political' as referring to a practice with which people, on foot of equality, debate, gaining their own identity vis-à-vis their fellow-citizens, and create a common social order. It implies acting with responsibility and accountability instead of citizens merely pursuing and safeguarding their own goals and interests.

Arendt is not a legal philosopher or legal theorist. Nevertheless, it is clear that the themes central to her work – which also addresses authority, power, constitutions and judiciousness – continuously touch upon law because law and its institutions fulfil in both of the aforementioned political descriptions a link; either as an instrument of power or as a condition for freedom and democracy.

Considering that Arendt's work enjoys renewed interest and considering its relevance for questions on law, the editorial board, partly upon the initia-

tive of Thomas Mertens, thought it proper to publish in this issue a number of articles that address the legal philosophical and theoretical dimensions and implications of her work. The contributions of Vasterling en Borren are more general in scope. Vasterling addresses the nature of political judgement, which she juxtaposes as against in particular moral judgement. Borren addresses the political form of societal relations and considers – and in comparison to Schmidt more satisfactorily – which alternative Arendt offers for how this political form is thought of in classical liberalism. The more specialist articles address topics that are more explicitly related to law. Huls tackles the theme of forgiveness in Arendt's work and shows how fruitful it can be to take forgiveness as a point of departure for a debate about, for example, debt settlements. Witteveen considers different conceptions of written law in the context of different political regimes, including totalitarian regimes that can be detected in Arendt's work. Hol elaborates upon Arendt's notion of the public realm and points to the place law and the administration of law occupy within it. Finally, Mertens discusses how Arendt judged the Eichmann trial in a legal manner and touches upon a certain ambivalence in her thoughts.

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