

## The Two Faces of Judgment

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Hannah Arendt's incomplete work on judgment<sup>1</sup> has been taken up by a wide variety of scholars.<sup>2</sup> From the Arendtian perspective, the exercise of judgment is crucial to politics, and brings a form of freedom both to the individual who practices judgment and to the community within which these practices are fostered. Good judgment, on this account, is politically crucial ability and brings with it a variety of related benefits. These benefits, their nature and complications, have received a great deal of important attention from scholarly commentators.

Oddly, however, there has been very little scholarly comment on how this benevolent picture of judgment fits together with the negative connotations of the word in everyday usage. Perhaps the best known aphorism that captures these negative connotations is the Biblical "judge not lest ye shall be judged."<sup>3</sup> This is in direct contrast to the Arendtian view that judgment is a crucial political responsibility. Eichmann stands as a terrifying example of the dangerous consequences of a failure to exercise judgment. A more mundane example of the popular view is the language of the "inner judge" of pop psychology. The judge invoked here is harsh and condemning, not reflective and engaging in open dialogue. The image here is the (internal) wrathful Yahweh. And this, in turn reminds us of another form of the negative association with judgment. A long-standing form of Christian anti-Semitism has been the story that Judaism is a religion of law and judgment and Christianity is a religion of love.

My project here is to take seriously these negative associations and see what they can tell us about judgment. How might the Arendtian approach be enriched by attending to this side of the meaning of judgment, and how might that approach help us counter the practices that have sustained these negative associations?

I begin with an extremely brief statement of Arendt's theory of judgment, and a highlighting of the value of judgment. Then I will turn to some examples of the negative side of judgment, including the one that prompted this paper. Here I will

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<sup>1</sup> Hannah Arendt, 'Crisis in Culture' in *Between Past and Future*, ed. Hannah Arendt, (New York: Meridian Books, 1961); Hannah Arendt, *Lectures on Kant's Political Philosophy*, edited by Ronald Beiner (Chicago: University of Chicago Press, 1982).

<sup>2</sup> cites

<sup>3</sup> Matthew, 7.1

spell out what I see as the negative consequences of the fear of judgment. I then turn to possible arguments about why the tension between the negative and positive pictures might not be a real one. I conclude that the tension is worthy of attention, and turn to what we can learn from the instances in which judgment is experienced as negative, and how they fit with the Arendtian framework. This leads me to a discussion of how the negative examples could be restructured, to minimize the negative dimensions. This returns us to the heart of Arendt's argument: the importance of taking the perspectives of others. I link this to the issue of power in trying to understand why sometimes being the object of judgment can be positive rather than negative. This then circles me back to the question of solutions to the negative forms of judgment. I conclude that once the Arendtian framework is turned to the puzzle of the dark side of judgment, it helps us to see the possibility of solutions. But the tension remains to remind us both that routine practices of judgment need to be informed by the best of the Arendtian approach, and that we should regularly turn our attention to the realities of how judgment plays out in our societies.

## I. JUDGMENT

My work on judgment builds on the work of Hannah Arendt, who, in turn, was drawing on Immanuel Kant's *Critique of Judgment*<sup>4</sup>. Arendt thought that Kant had correctly perceived that the human capacity to make judgments is a distinct cognitive capacity. In taking up Kant's concept, Arendt is defining judgment in a very particular way, which does not simply match up with ordinary usage. People make what might seem like judgments about all kinds of things. However, for Arendt, there is an important distinction between forming an opinion about something and actually exercising the cognitive capacity for judgment. Judgment, in her terms, involves a particular use of the mind, including imagination. People are only 'really' judging, or making 'true' judgments, when they engage their capacity for the 'enlarged mentality,' to which I will turn shortly. For both Kant and Arendt, judgment, by definition, involves a claim of agreement upon others.

Of course, here I can only offer a brief introduction to this concept of judgment.<sup>5</sup> This distinctive, sometimes counter-intuitive concept makes two crucial contributions. First, it offers an articulation of the way that human cognitive abilities can be simultaneously autonomous and reliant on

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<sup>4</sup> Immanuel Kant, *Critique of Judgment*, translated by Werner S. Pluhar (Indianapolis, IN: Hackett Publishing, 1987).

<sup>5</sup> The following summary is drawn from 'The Reciprocal Relation of Judgment and Autonomy: Walking in Another's Shoes and Which Shoes to Walk In', in *Being Relational: Reflections on Relational Theory and Health Law*, ed. Jocelyn Downie and Jennifer J. Llewellyn. (Vancouver: University of British Columbia Press, 2011).

communication with others. Second, this understanding of judgment makes the vital contribution of showing how judgments that are genuinely subjective are, nevertheless, not merely arbitrary matters of personal preference. In the realms of both science and law, we can see particularly clearly why it is important that the contemporary recognition of the inevitability of subjectivity in judgment should not lead to a collapse into the inevitability of arbitrariness. For Arendt, it was particularly important that the judgments inherent in politics be understood both as inherently subjective and as distinguishable from arbitrary preference. In all of these realms, the Kantian Arendtian conception of judgment allows us to see the possibility of claims of validity for judgments with an inherently subjective dimension.<sup>6</sup>

What enables us to make judgments that are not merely idiosyncratic statements of preference is our capacity for 'enlarged thought,' and it is this capacity that is central to my argument here. In her lectures on Kant, Arendt introduces Kant's concept of 'enlarged thought' through quotes from Kant's letters to a friend<sup>7</sup>, in one of which he says, 'I entertain the hope that by thus viewing my judgments impartially from the standpoint of others some third view that will improve upon my previous insight may be obtainable.' Arendt comments, 'You see that *impartiality* is obtained by taking the viewpoints of

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<sup>6</sup> Kant identified what I see to be the central problem of judgment: how can a judgment that is genuinely and irreducibly subjective also be valid? What does the claim of validity mean if we do not transmute the subjective into something objective—and thus lose the essence of judgment as distinct from ascertaining a truth that can be demonstrably, and thus compellingly, proven? The language of judgment, as developed by Kant and appropriated by Arendt, offers us an answer. They offer us a conception of judgment as a distinct human faculty that is subjective, but which is not therefore something merely arbitrary.

<sup>7</sup> She is speaking here about critical thought: 'It is precisely by applying critical standards to one's own thought that one learns the art of critical thought. And this application one cannot learn without publicity, without the testing that arises from contact with other peoples thinking. In order to show how it works, I shall read to you two personal passages from letters Kant wrote in the 1770s to Marcus Herz'. Hannah Arendt, *Lectures on Kant's Political Philosophy*, edited by Ronald Beiner (Chicago: University of Chicago Press, 1982), 42. She then moves into a discussion of the *Critique of Judgment*, supra note 4, while continuing to use the language of critical thinking. I think this blurs a distinction she makes in other contexts<sup>32</sup>—critical thinking is not something most people routinely engage in, and it is a mistake to assume that they will when thinking about the optimal structures of government. However, judgment is a capacity everyone has, although it is better educated in some than in others.

others into account; impartiality is not the result of some higher standpoint that would then settle the dispute by being altogether above the melee.' She continues, commenting on the second letter, 'we find the notion that one can "enlarge" one's own thought so as to take into account the thoughts of others. The "enlargement of the mind" plays a crucial role in the Critique of Judgment. It is accomplished by "comparing our judgment with the possible rather than the actual judgments of others, and by putting ourselves in the place of any other man.' The faculty that makes this possible is called imagination. When you read the paragraphs in the *Critique of Judgment* and compare them with the letters just quoted, you will see that the former contain no more than the conceptualization of these very personal remarks."<sup>8</sup>

Arendt emphasizes that communication with others, with one's fellow judging subjects, is essential for the capacity for judgment (even though it is the imagination that makes the others present in the solitary moments of judgment). The core of why Arendt saw Kant's theory of judgment as essentially political is what she saw as its inherent social dimension. For her, Kant's focus on communicability is a focus on the ways in which judgment requires community. Unlike Kant, Arendt grounds judgment in an appeal to a common sense that is shared by virtue of sharing an actual community, not by virtue of universally shared cognitive faculties. For Arendt, when we form our judgment in the process of imagining trying to persuade others, it is the perspectives of real others that is involved.

What matters for my argument here is that Arendt shares the Kantian objective of seeing the link between the perspectives of others and judgment that is autonomous, that can transcend the inevitable limitations of one person's experience, interests, and inclinations. The reference to the perspectives of others is necessary to make truly free judgment possible. The ability to think in the place of others makes it possible for us to liberate ourselves from the "subjective private conditions," i.e. as Arendt says, from the "idiosyncrasies which naturally determine the outlook of each individual in his privacy and are legitimate as long as they are only privately held opinions, but which ... lack all validity in the public realm. And this enlarged way of thinking, which, as judgment, knows how to transcend its own individual limitations, cannot function in strict isolation or solitude; it needs the presence of others 'in whose place' it must think, whose perspectives it must take into consideration, and without whom it never has the opportunity to operate at all."<sup>9</sup>

For Arendt, judgment requires, or one might say entails, autonomy. The very meaning of the term involves the exercise of autonomous judgment. It is the capacity of each person to make her own judgments that can free one from the

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<sup>8</sup> Arendt, 1982, 42-43.

<sup>9</sup> 1961, 220-21.

power of public opinion and enable her to form judgments and make good decisions even when the existing canon of concepts seems unable to capture the nature of a new phenomenon. (Arendt called this latter capacity ‘thinking without banisters.’<sup>10</sup>) It is the autonomous nature of these capacities that make them genuine judgment, and it is this exercise of autonomy that provides the ‘freeing’ quality of true judgment.

This freeing quality is at the heart of the benefits that judgment brings. The exercise of judgment allows us to see clearly what is before us and to free ourselves from preconceptions that block both clear vision and appropriate response. It can free us from habits of thought and the use of categories of thought that are not actually appropriate to the particular before us. We can then see, assess, and respond to things in new ways. The perception of novelty (no longer obscured by habitual categories) and the capacity to respond in novel ways are a crucial part of what the exercise of judgment enables. Individuals can be freed from the fetters of convention, and both individually and collectively we are enabled to embrace and advance the new. Judgment is thus crucial both to freedom and transformation. Put somewhat differently, the capacity for the enlarged mentality and judgment enables us to freely, creatively respond to the inevitably changing world around us.

It is important here to highlight the political dimension of the value of judgment. A key part of Arendt’s argument was that while Kant developed his theory of judgment in the context of aesthetic judgment, what politics calls for is the same cognitive capacity. Here is Azmanova’s commentary on one of Arendt’s most important claims:

Arendt deliberately detaches issues of judgment from those of truth and knowledge: Judgment is neither about cognitive truth claims (the domain of theoretic, not practical, reason) nor about mere subjective preferences. “Culture and politics, then belong together because it is not *knowledge or truth* which is at stake, but rather *judgment and decision*, the judicious exchange of opinion about the sphere of public life and the common world.” Thus Arendt adopts Kant’s notion of reflective judgment as basis for political judgment because of the explicit contrast with truth: Where truth *compels*, judgment *persuades*. At stake is not *rational* but reasoned judgment about

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<sup>10</sup> Melvin Hill, ed., Hannah Arendt: The Recovery of the Public World (New York: St. Martin’s Press, 1979), 336.

the particulars of human collective existence. Furthermore, judgment is directed not toward knowledge but toward meaning.<sup>11</sup>

Recognizing that it is judgment not truth claims that characterize political debate brings its own form of freedom. Democratic deliberation thrives, indeed requires, this freedom from truth claims. We deliberate together in our best effort to form good judgment as we take the perspectives of one another into account. We do not imagine that there are truth claims that can compel agreement. Persuasion is the only legitimately available tool. Even the language of rights must be engaged with in this context of judgment. Compulsion, even the compulsion of truth, is not fully consistent with the open dialogue that should characterize democratic debate.

Judgment then, in the Arendtian approach, brings vital benefits, both individually and collectively: freedom, openness to the new and thus to transformation, and creativity. Individuals must do the work of judgment, of the exercise of the enlarged mentality, to reap these benefits, and societies (Arendt actually says little directly about this) must foster practices of politics that foster the mutual exercise of judgment.

## II. BEING JUDGED AND ITS HARMS

Let us now switch from this inspiring vision to some grim realities of how people experience judgment. Here we are switching the perspective from that of the one judging to that of the one being judged. Of course, this is an important shift. But there would be something odd about a theory of judgment that saw vital benefits as intrinsic to judgment, but had no concern with whether those who are judged suffer harms that are close to the opposite of the benefits. And that will be my claim here. In many contexts being judged is experienced as humiliating and the fear of judgment closes people down rather than opening them to a creative encounter with the new. Indeed, the fear of judgment undermines the capacity for judgment.

I will begin with several examples.

The first is the judgment that women engage in with respect to each other's mothering practices and to each other's performance of gender via attire—such as make up and high heels. I have elsewhere commented on how in many professional contexts in which there are enough women to form a community of judgment, we do not in fact share with one another our struggles to find a balance between work and

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<sup>11</sup> *The Scandal of Reason: A Critical Theory of Political Judgment*, (New York: Columbia University Press, 2012) p. 126 quoting *Crisis in Culture*, 223,( emphasis added by Azmonova) and *Life of the Mind, Volume One, Thinking* (New York: Harcourt Brace Jovanovich, 1978) , p13.

family.<sup>12</sup> We do not explore openly with each other the difficulty of decisions around organizing child care or negotiating the division of household labour with our partners. I think one of the reasons for this is fear of judgment. I think this fear arises because so often no fully adequate arrangements are possible. This is in part because the organization of work has made so little accommodation to the fact that in most industrialized countries large numbers children live in households where both parents work. Some kind of exploitation of low wage workers is almost always involved. And so many women feel that they do not have the time for their children and partners that they wish, and that they are not performing as they should professionally. The illusive balance so often seems like it has failure on both sides of the scale. This then is not a context in which one wants to reveal the details of one's choices. In addition, because this issue is so fraught, it is common for women to disapprove of the different choices others make. This can arise around nannies vs. day care, around being a "stay at home mom," or having a high powered job that requires three nannies to cover the child care and be in compliance with labour standards.

My suggestion here is that women cut themselves off from the benefits of a mutual community of judgment out of fear of judgment. And this fear may itself be fuelled by a tacit awareness of their own judgmental stance toward other mothers.

I think something similar goes on, especially among feminists, around the performance of gender via attire. It is not as stark, probably because not as much is riding on it. But my discussions with undergraduates suggest that there is a similar fear and hostility around judgments—and around a failure to judge—matters like make up, high heels, and revealing clothing. These matters become further entangled with issues of ethnicity and religion. The result is a conversation (or its avoidance)--of what feminism is, what is actually freeing and empowering, of cultural norms--that is fraught with hostility and anxiety. Both the actual "judgments" (which might not really meet the standards of Arendtian judgment) and the fear of judgment, seem devoid of the benefits Arendtian judgment claims to bring.

The next example is the judgment that applicants for social assistance are subject to. There are many accounts of how humiliating the encounter with the welfare bureaucracy routinely is. One of the most compelling comes from a report entitled

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<sup>12</sup> "Dilemmas of Passion, Privilege and Isolation: Reflections on Mothering in a White, Middle Class Nuclear Family," in Mother Troubles: Rethinking Contemporary Maternal Dilemmas, Julia Hanigsberg and Sara Ruddick, eds. (Boston: Beacon Press, 1999); "Feminist Constitutionalism: Through the Lens of Gendered Division of Household Labor," in *Feminist Constitutionalism*, Tsvi Kahana, ed. (Cambridge University Press, forthcoming, 2012).

“Walking on Eggshells: Abused Women’s Experiences of Ontario’s Welfare System.”<sup>13</sup> The report takes its name from the accounts of women who use “walking on eggshells” to describe both their relationship with their abusive partners and with the welfare bureaucracy. They never know what abuse will come next, they are virtually powerless to deflect it, yet they organize their lives around trying to minimize the harm. In a longer reflection on this problem I argue that part of the problem is that virtually all social assistance systems are still organized around the 19<sup>th</sup> century project of sorting people into the deserving and undeserving poor. It is in part this core judgment that is so corrosive to the system. It breeds intrusive, invasive practices and a stance of suspicion on the part of welfare workers that makes respectful relations with applicants virtually impossible. The ongoing surveillance and judgment bring both fear and humiliation, and often the need for deceit if one is going to have enough money to feed one’s children. And the judgement of the welfare system is then often echoed in the public at large: recipients feel subject to the judgment of those around them in a way that is humiliating.

This example of welfare applicants brought forth what I thought was a brilliant response from Bogdan Popa, a graduate student at the University of Indiana who was a commentator on a chapter of my book *Law’s Relations* (in the context of suggesting that I underestimated the inevitability of humiliation). He asked what was the difference between sorting the deserving and undeserving poor and sorting between deserving and undeserving graduate students. It was this question that originally started me on this paper. I realized that as academics we routinely engage in judgments that bring fear and humiliation in those we judge. We judge without reflection on whether this form of judgment would meet Arendtian criteria. We simply take for granted institutional habits of “judgment.”

The final example brings in another gender dimension to the issue. Professional success is generally measured by publications in peer reviewed journals. Although it feels risky to reveal this in such a public context, I have only once submitted an unsolicited manuscript to a peer reviewed journal. It was to the *APSR*, the leading journal in political science, in my early years as an assistant professor. It got a “revise and resubmit” response with very divergent reviews. That seems to have put me off for the following 30 years. It is only through great good fortune that my career survived through wide circulation of unpublished manuscripts that got attention from prominent people. I don’t think it would be possible today. I think it is fear of judgment that is at the heart of this pathological relation to the norms of

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<sup>13</sup> Mosher, Janet, Patricia Evans, Margaret Little, Eileen Morrow, Jo-Anne Boulding, and Nancy VanderPlaats. April 5, 2004. “Walking on Eggshells: Abused Women’s Experiences of Ontario’s Welfare System.” Final Report of Research Findings from the Woman and Abuse Welfare Research Project: online <[www.yorku.ca/yorkweb/special/Welfare\\_Report\\_walking\\_on\\_eggshells\\_final\\_report.pdf](http://www.yorku.ca/yorkweb/special/Welfare_Report_walking_on_eggshells_final_report.pdf)>.



the profession. Over the years I have found that other women suffer from this, too. (though rarely in such extreme form). I have heard of far fewer men who cannot bring themselves to comply with these norms. I think a more common form of something similar is the panic that many serious and gifted students feel when a paper is due, and this seems to affect men as well as women.

#### A. Fear and its Consequences

Let us look more closely at the harm of this dark side of judgment. I think the core of it is that fear of judgment closes people down, and closes judgment down.

Linda Zerilli helps us think about this harm by articulating what happens when people avoid judgment. She talks about the Milan Bookstore Collective's appraisal of another feminist organization, Women's Library in Parma, that sought freedom and equality through an embrace of difference. The Parma women had believed that ensuring the representation of all views was "a political guarantee that no one will be erased and everyone will 'exist.'" But the Collective thought the Parma guarantee failed for lack of judgment: "the theory [of the Parma women] is that differences are necessary for the existence of the female sex, but making judgments is not allowed." Zerilli comments that, the unspoken taboo on judgment allowed certain differences to be spoken, but left them meaningless." She quotes the Collective's treatise: "A woman can and must judge other women. A woman can and must face the judgment of other women." She comments: "In the absence of judgment, a way to evaluate and articulate or relate those differences, the latter will not amount to anything. Duly noted, even celebrated, but not judged, differences are no more significant for feminism as a 'practice of doing' than they were for [practices] in which they were either ignored or denied." "The suspension of judgment in early feminism . . . was in no way liberating: on the contrary, *if the need for approval prevails, if women dare not subject their desires to the judgment of other women, female desire will wane.*" (my emphasis)<sup>14</sup>

For Zerilli and the Collective, the effort to achieve equality in the face of diversity by refusing to pass judgment on different ideas and perspectives ends up holding differences in a "crushing equality." Part of what is crushed is the ability to articulate justification for action. A political choice is reduced to a kind of raw un-examinable desire. "And a desire that is exhibited along with the fear of judgment and being judged generates a feeling of superfluousness that damages the foundation [which is desire]." <sup>15</sup>

In this last sentence we get the direct connection with my concern here: fear of judgment. The suggestion is that even if the motivation is equality in difference,

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<sup>14</sup> *Feminism and the Abyss of Freedom*, p. 106

<sup>15</sup> *Ibid.*, 107

trying to achieve this by refraining from judgment (out of fear of judgment) destroys the kinds of relations in which genuine political freedom can thrive.

This debate over the role of judgment in feminism is still alive and well. I assigned my feminist theory class two articles that took up this debate<sup>16</sup>. In Ferguson's, the call for the importance of judgment was similar to Zerilli's: free, creative politics open to transformation requires it. I liked the article. My students, however, overwhelmingly experienced it as judgmental in ways they thought were hostile to or indifferent to some of the claims of difference. (For example, why it might be harder from women from some family backgrounds to resist certain gender norms.) They embraced the stance of Snyder-Hall's article, that actions consistent with feminism are whatever feminists who reflect on the matter say is consistent. Consistency, or even conversation, across divergent views is not to be sought through a process of judgment.

I was surprised by the vehemence of the students' rejection of the call to judgment. I do not want to claim that it was driven solely by a fear of judgment. Their concerns seem similar to those of the Parma women: making space for all perspectives in the face of power asymmetries that make it easier to hear some voices over others. But like Zerilli and the Bookstore Collective, I see an anxiety about judgment underlying it. Better that feminists eschew judgment than have to face the crushing judgment of one's actions as "not really feminist." I have deliberately used this stark phrase to capture what I think the fear is. It may be the case that the range of practices that the feminists of the 1970s (when I became a feminist) treated as anathema—high heels, make up, shaving one's legs—can reasonably be treated as a matter of individual preference (even if not a matter of indifference to feminism). But that doesn't mean that there are not matters like cosmetic surgery that are both issues of intimate personal choice and policy issues calling for feminist debate—and thus judgment. Once one acknowledges that the personal remains the political there is a wide range of issues from the division of household labour, to forms of dress, to use of reproductive technology in which feminists must expect their own intimate choices to be the subject of judgment.

I think all of these issues, like the issue of child care that I mentioned earlier, are fraught because they rarely involve simple autonomous choices. There are usually complex layers of pressures and competing values and a sense of imperfect options, that make the fear of judgment particularly acute.

## B. The Fear of Judgment blocks Judgment

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<sup>16</sup> R. Claire Snyder-Hall (2010). Third-Wave Feminism and the Defense of "Choice". *Perspectives on Politics*, 8, pp 255-261. doi:10.1017/S1537592709992842.  
Michael L. Ferguson (2010). Choice Feminism and the Fear of Politics. *Perspectives on Politics*, 8, pp 247-253. doi:10.1017/S1537592709992830.

The problem is, as Zerilli reveals, that the fear of judgment blocks the exercise of judgment. It pushes toward a collective retreat from the demands of judgment, and thus also from its benefits. This is a loss to individuals and a threat to optimal politics.

Many years ago Sarah Hoagland in *Lesbian Ethics*<sup>17</sup> made what I see as a similar point. She pointed to the destructive, silencing effects of a stance of “accountability,” which she saw as fostering a blaming approach that undermined efforts to identify and discuss issues such as racism. She argued for what I would call a different form of judgment, intelligibility, so that open conversations on these crucial but fraught and painful issues could proceed. She thought that if lesbians (her designated audience) could shift into an intelligibility mode, the fear of blame and shame (at, say, being caught out in a racist remark), would ease so the people could have the necessary, hard conversations from which they could learn and transform.

The point that matters to me here, is that Hoagland thought that the way judgment (in my terms) is exercised can generate fear and a refusal to participate in open conversation. And that this mode of judgment can be shifted. Zerilli is less clear on this point. Both agree that the fear of judgment is a threat to open conversation, and thus the threat to judgment itself. The question I will turn to shortly is whether there is something in the Arendtian approach that helps us to think about forms of judgment that are less likely to provoke this fear.

First, I want to say a bit more about the costs of the fear of judgment in terms of the examples I noted at the outset. Some of the implications for the feminist movement are implicit in the discussion above (and I have only given the briefest statement of Zerilli’s argument here). I think a fair summary is that a vibrant, dynamic movement, characterized by respectful mutuality and a commitment to freedom requires thriving practices of judgment.

The example of the common failure of professional women to constitute a community of judgment about managing family and work has both individual and collective consequences. The absence of a thriving community of judgment means that we do not learn from each other as we could, we do not move toward the deeply alternative perspective that the early consciousness raising groups achieved. We are all coping without evolving an alternative framework that would allow others to do more than cope. Sometimes we share tips on particular band-aid solutions, though even these are not as common as they could be. The individual problem is that we continue to struggle with a sense of individual failure and difficulty because we lack the community of judgment that would allow us to see the issue in its larger perspective. (This is so even if, individually, we think we know the problem is systemic.)

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<sup>17</sup> Hoagland, Sarah Lucia. 1988. *Lesbian Ethics: Toward New Value*. Palo Alto, Calif.: Institute of Lesbian Studies. [a bit more about intelligibility?]

And collectively we deprive one another and the society of the kind of insight and creativity that can come from a thriving community of judgment. Arendtian judgment promises a capacity to break apart preconceptions and reliance on outmoded categories. That is just what a radical rethinking of the structures of work and family requires.

That is a very large cost to a fear of judgment (I would not want to insist that that is the only reason women do not find the time to have open conversations with one another. But I would also note that the felt need to project competence and confidence in the work environment is closely linked to a fear of judgment.)

At the individual level, a fear of judgment can also be paralyzing. An inability to submit articles to peer reviewed journals is an example. Here again, the fear of judgment undermines the capacity for judgment. This inability closes oneself off from the very exchange that can provide the alternative perspectives necessary for exercising judgment, for its freeing dimensions.

For some students, the paralysis can be total. They cannot bring themselves to submit a paper. Or they find the stress unbearable and they give up on an academic career. Or they manage, but with the constant strain of fear-driven procrastination. The anxiety can block everyday capacities for judgment that allow people to make routine choices reasonably well.

For welfare recipients, the fear and humiliation of a constant regime of surveillance and judgment makes life a stressful misery. The sense of humiliation certainly leads to shame, with all its complicated consequences for a sense of well-being and efficacy.

And perhaps fear of judgment also leads to duplicity on the part of welfare applicants. Perhaps, here as with the case of mothering communities of judgment, the fear of judgment closes down the possibility of open conversation. In a similar way, such closing down could impede conversations about strategies of coping as well as about objections to the system. Here is another instance of a broken system desperately in need of creative re-thinking. The stress, fear, and humiliation of being objects of judgment surely impedes the kind of communities of judgment that could foster creative rethinking. (Of course, the time and energy required to try to feed one's family on North American rates of social assistance also virtually precludes anything else.)

In sum then, fear of judgment has a variety of seriously harmful effects. Among the most important is that fear of judgment both has the opposite effect of exercising judgment—it closes down rather than opens one up-- and impedes the exercise of judgment.

### III. IS THE DARK SIDE/LIGHT SIDE TENSION NOT REALLY A PROBLEM OF JUDGMENT?

Before turning to further insight into the problem, I want to address some possible ways of simply disposing of the tension.

First, it could be that it's not really a problem about judgment, but about language—using the same term for things that are actually different. For example, maybe the assessment in the welfare case and the evaluation in the academic contexts are something other than Arendtian “judgment.” In that case, there is no real puzzle about why being judged is negative in these contexts even though the exercise of judgment is positive. And if these contexts were simply unsuitable for Arendtian judgment there would be no reason to expect that Arendt's theory should help.

The first answer to this is that I am inclined to an expansive understanding of Arendtian judgment. She extrapolated from Kant's aesthetic judgment to political judgment, and in some contexts to moral judgment as well (contra Kant who that that moral judgment was not reflective judgment because it was determined by the categorical imperative)<sup>18</sup>. I want to extrapolate further to legal judgment (contra both Arendt and Kant) and to the everyday judgments about choosing courses, evaluating scholarship, and choosing a job or career. These latter judgments that do not fit neatly into the categories of moral, legal, political or aesthetic. I think that there are core similarities and well as interesting differences in how the capacity for judgment functions in these different contexts. But I think it is useful to call them all judgments.

There is also a more detailed answer, about the puzzles of academic judgment in particular, that engages more fully with the Arendtian approach. We will see that the Arendtian approach provides important insights into why people may experience being judged as negative. But we will also see that these questions reveal an unresolved tension in Arendt's thought. We will consider the question of failure to meet Arendtian criteria of judgment together with the question of whether some kinds of decisions fall outside the category of Arendtian judgment.

Thinking about these negative experiences from an Arendtian perspective reveals (as we will see) that the common factor is that these are examples of people who feel themselves to be the *object* of judgment, not part of the community of judges who take each other's perspectives into account. Such a form of judgement seems to violate one of Arendt's most interesting and demanding comments: judgments are only valid for those whose perspectives are taken into account<sup>19</sup>. So perhaps these

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<sup>18</sup> See Barbara Herman on the need to add a judgment dimension (not her language) to the determination of moral salience that must precede an application of the categorical imperative. Herman works within the Kantian framework. “The Practice of Moral Judgment” (august 1985) 82:8 *The Journal of Philosophy* 414.

<sup>19</sup> *Crisis in Culture*, p. 221.

are failures of , judgment. The contrast between the freeing nature of judging and the paralyzing, humiliating experience of being the object of judgment is then no longer a puzzle for Arendt's theory; the theory accounts for the experience in terms of the failure.

But Arendt does not actually offer such a straightforward answer. She seems herself to envision instances of true judgment that are inconsistent with the comment about validity. Consider Arendt's comments in *Crisis in Culture* about the judges at the Greek games or the spectators, who are engaging in the freest of activities, "to look for the sake of seeing only was the freest, *liberalissimum*, of all pursuits." In this context she refers to the "discriminating, discerning, judging elements of an active love of beauty." (p.219) Her comments don't really suggest that those judging are taking the perspective of the actors or performers or even the playwrights. On the contrary the point is that the spectators' perspectives are different from and superior to (for the purposes of judgment) that of the actors. These (admittedly brief) comments by Arendt sound as though those performers are the object of judgment. (See also her comments on the difference between the artist creator and the spectator judge.)<sup>20</sup>

If the problem is a failure of judgment in the academic context, it seems that it is a practice similar to one she treated as a model of judgment. The Greek judgments are assessments of quality, which seem to me to be a category of judgment similar to the assessment of the quality of scholarship—even though not aesthetic. And in any case, while some of the Greek examples are of aesthetic judgment, of beauty, I don't think that accounts for the full range of judgments of plays and athletic performance. These are assessments of quality, against standards that the community of judges create.

While the Arendtian inconsistency remains, I don't think we can discount the academic judgments as outside the domain of Arendtian judgment. One could replace the term beauty, and talk about the discriminating, discerning, judging elements of an active love of wisdom, or truth or insight. So then one must confront the tension between her claim about validity only for those whose perspectives one takes and the model practice of judgment she describes in the Greek context. Although an artist requires genius rather than judgment<sup>21</sup>, I think the validity of the judgment for the artist still matters. Of course, sometimes artists must hold to their own views in the face of opposing judgments of spectators, but that is true in any judgment context. Judgment is never an opinion poll. The puzzle remains of why it is an acceptable judgment practice to exclude the perspective of the one being judged. I do not think Arendt provided an answer in her unfinished work on judgment.

My own view is that it is the validity comment that is the most valuable. While I can imagine arguments about why judges need not take the perspective of the artist, or

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<sup>20</sup> *Lectures, Ninth and Tenth Sessions*

<sup>21</sup> *Ibid., Tenth Session*

performer, or author or student, I do not think I would be persuaded. (I return later to this point.) Arguments about expertise would be very un-Arendtian. And one needs more than the (complex and contested) distinction between actor and spectator to justify the exclusion of the one judged from the community of judgment. I do not think that either the academic context or the arts and performance context Arendt invoked should be treated as categories that are exempt from the demand that validity extends only to those whose perspectives one has taken into account.

So my conclusion is that many of the examples in the academic context are the kinds of judgments that should be guided by Arendt's approach and that the tensions in her own (unfinished) writing should not prevent a diagnosis of failure of judgment. We can then use the puzzle of the contrast between (positive) judging and (negative) being judged to remedy the failure.

What about the judgments of eligibility for welfare recipients? We have the same problem of people being objects of judgment without being part of the community of judgment. One might suggest that there is another category that takes these judgments out of the purview of the Arendtian approach. These might be seen as more adjudicative than political. While this distinction is interesting, I don't think it resolves the tension. There are many reasons (as I have argued elsewhere)<sup>22</sup> to treat law and adjudication as domains of Arendtian judgment, even though Arendt said that law was not a matter of reflective judgment. The problem of excluding those one judges from the community of judges remains, highlighted by Arendt's comment about the scope of validity.

Judgments about mothering practices and modes of gender performance seem clearly within the domain of political judgment.

So exclusion by category of judgment will not work. Another possibility rests on the distinction between exercising judgment and being judgmental. This was my first take on the question of the negative associations with the concept of judgment. I have argued that to be judgmental is to have a closed mind, and thus to form opinions in a spirit the opposite of the Arendtian enlarged mentality<sup>23</sup>. To be judgmental is to interfere with good judgment. This distinction does not, therefore, address the core puzzle I have identified. There can of course be some overlap. I think when people are afraid of judgment, they may become judgmental. (I think one sometimes sees this in the context of both welfare and women judging each other's mothering practices.) That is, bad judgment practices (which I turn to next) may foster judgmental stances, which, in turn, exacerbate fear of judgment. The

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<sup>22</sup> "Communities of Judgement and Human Rights," Theoretical Inquiries in Law 1 (2000), 245-282.

<sup>23</sup> "The Reciprocal Relation of Judgment and Autonomy: Walking in another's shoes and which shoes to walk in," 2012

point here is that the negative effects of being judged cannot be reduced to the issue of being subjected to judgmental attitudes.

Finally, it could be that the fear of judgment is some kind of pathology (say over investment in approval or a failure to distinguish between the worth of oneself and the quality of one's work), which is not really about the nature of the judgment at all. It would exist whether any given judgment were actually optimal or not.

But a second question then arises: if the fear of judgment is widespread (as I think it is), might that not turn out to be because there is something structurally wrong with the way judgment is often exercised? If this is the case, then what might be experienced as individual pathology is actually the result of a collective failure to exercise judgment well. It would also mean that no individual exercise of judgment, properly done, could be expected to overcome the collective problem.

In short, I think the puzzle of judging as positive and being judged as negative is a real one, and one that an Arendtian approach should address. Arendt's insights into judgment turn out to help identify what is wrong with destructive judgments, and trying to integrate being judged into the theory of judgment enriches it.

#### IV. WHEN IS RECEIVING JUDGMENT NEGATIVE?

I begin with an examination of negative experiences of being judged, using two important dimensions of Arendt's theory as applied to the opening examples. In the course of this, the question of power becomes important. I will also highlight the costs of destructive judgment in terms of another of Arendt's important insights: judgment not only requires a community of judgment, but the exercise of judgment builds community. When judgment does not thrive, community is undermined.

As we turn to the negative examples, we need to remember how important judgment is in these contexts. It is this importance that makes it crucial to understand the fear and humiliation of the judged.

Let us begin with the question of what kinds of judgments are humiliating. Why are they experienced like this? Is there some common denominator of the judgments that cause humiliation or fear? Is there a factor, that is problematic from the perspective of Arendtian judgment? Or are there cases where the exercise of judgment itself may be optimal, and yet being subject to it causes fear and humiliation?

As I said above, I think the common factor is that people feel themselves to be the *object* of judgment, not part of the community of judges who take each other's perspectives into account. This issue will be my primary focus as I return to the examples. But it is important also to remember another point I noted about judgment in the introduction. The freeing gift of judgment is the capacity to break apart preconceptions, to be able to apprehend each "object" of judgment in all its



particularity, to perceive its novelty and respond in new ways. Part of what we will see below, is that often the fear is that the “judges” will fail to exercise this gift. The fear is that they will simply apply unexamined preconceptions, they will actually fail to exercise true judgment.

So I now turn back to the examples with these questions in mind: In these examples do the judges take into account the perspective of the judged? Should they? Is there a power hierarchy that interferes with this perspective taking, or makes it appear to be unnecessary? How much of the negative experience is really about the power and not about the nature of the judgment? To what extent is the negative association connected with a fear about a closed minded judge, unable to free himself from preconceptions?

Let us first consider the academic context. Professors routinely “judge” students in a variety of contexts. They grade papers<sup>24</sup>, the rank them for purposes of admission and for fellowships. And to anticipate a point I will make later, it is often the case that one is not simply judging a piece of work such as an essay. Professors are asked to assess things like scholarly potential and a capacity for critical thinking. These assessments blur a line between judgments of a person and of her work. Is it expected that we will take the student’s perspective (either the individual student or some kind of collective understanding of the students’ perspective) into account when we do this judging? I think ordinarily not. The community of judgment, those we expect would recognize our judgments as valid, are our colleagues, not a community of both students and faculty.

Of course, there are justifications for this: we have an expertise that we are sharing with them by evaluating their work according to the standards that we have learned. Part of the objective is to teach them those standards. But the point here is that we rarely even bother to articulate the justification. The appropriateness of constituting a community of judgment that excludes those being judged is taken for granted.<sup>25</sup>

I will return (briefly) to the question of what it would mean to take students’ perspectives into account. And to note that structures of funding can make the issue better or worse. Here I want to suggest that the humiliation of being sorted into deserving and undeserving graduate students may well be connected to the sense of being objects of judgment, not considered worthy to be part of the community of judgment.

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<sup>24</sup> Perhaps the reason everyone hates grading is that to spend so much time at form of judgment stirs our fears of being the object of judgment.

<sup>25</sup> Of course, in the 1960s and 70s there were a variety of experiments intended to avoid this.

And, of course, these are judgments that take place in the context of power and hierarchy. It is that hierarchy that makes it easy to ignore the perspective of students and to treat that as natural. And the sense of vulnerability to the decisions of those in power, without much capacity to participate in them, surely adds to the sense of humiliation and fear. This will prove to be a recurring, but not constant, issue in the negative examples. It is important to note that because asymmetries of power are so routine in judgment contexts, it is extremely important to try to think through how Arendtian judgment can take place in these contexts. This is so even if there may be some residual fear and humiliation that cannot be fully addressed by optimal forms of judgment.

The other form of routine academic judgment I mentioned at the outset was peer review. In the context of submission to journals, I know anecdotally both that others (mostly women in my experience) share my anxiety and allow it to interfere in where they publish their work. I also know that some people are able to use such reviews as an optimal model of judgment would intend: they read the reviews as valuable perspectives to take into account to make their ideas better and clearer. Part of the value comes, as the Arendtian approach would suggest, from getting perspectives one could not have thought of on ones own—so not simply from the like-minded. And I know that I have come to be able to respond to reviews in this way (even solicited manuscripts often receive reviews).

The question here is whether the judgment involved in reviewing a manuscript should involve trying to take the perspective of the author. This might take the form of being attuned to the author's intentions and/or to how the review will be "heard" by the author. Although the latter is about communicating one's judgment, my own experience is that the expression of one's judgment is very often part of its formation. The act of articulation is (or can be) not just a conduit for a pre-formed judgment, but part of the process. In my view, treating the author as part of the community of judgment—that is imagining trying to persuade her of your perspective, and taking seriously how her perspective might alter yours—should be part of the assessment process. For reviewers to take such a stance is an act of respect and inclusion. And a review written this way is much more likely be received in a way that enhances the judgment of the author.

Everyone has heard stories of reviews that do not seem based on such a stance. They can be devastating to young scholars. This presumably is part of the fear around submission for peer review. But I do not think that subjecting oneself to this judgment has the quality of humiliation noted in relation to sorting undeserving graduate students or in relation to welfare (to which I turn shortly). I think this is because, at least notionally, the peer review process is not structured around hierarchy. We are all potentially both judges and the judged. Even junior faculty (at least at well know universities) get asked to be reviewers.

Hierarchy enters when these reviews become part of other judgments, such as tenure, promotion, and salary. A sense of humiliation (and sometimes anger<sup>26</sup>) can follow, and spill over to the sense that one *must* submit one's work to peer reviewed journals with the kind of status necessary for a positive judgment from the hierarchy.

The choice of journals raises the other point I noted above: judgment as an openness to the new. Part of the fear, and the reason for negative experiences, is that the review can fail to be an exercise of genuine judgment. It can be a stale application of pre-existing standards with no scope for the new. And that is I think often the fear of young feminist scholars, that those with the power to "judge" will not do so with the openness of an enlarged mentality. This is, of course, not a crazy fear. It accounts, I think for the proliferation of journals: The sense of a need to create more and more distinct communities of judgment, so that one can have one's work judged according to standards one accepts and feels part of the ongoing process of creating. The alternative is to try to build confidence in a wider and ever expanding and less specialized community of judgment.

In all these cases, I think Arendtian judgment offers us concepts to diagnose causes for the negative experience of being judged. But they are not fully adequate without adding the dimension of power.

If we turn to the example of welfare, at some level there is no mystery about why being subject to surveillance and judgment about access to basic necessities is a source of fear and humiliation. But one might still ask whether it is the invasive nature of the information gathering, lack of respect for privacy that causes the humiliation, rather than the judgment about eligibility. These practices are, however, integrally connected to the basic project of judging who is "deserving" and weeding out those who are "cheating." This often takes place in a framework aimed at reducing the welfare roles, with assumptions of cheating. Thus even to apply, to subject oneself to the judgment, is humiliating. This is all made worse because just to be poor is humiliating, to invite denigrating judgment about one's failure.

I think the question then is whether there are some projects that are defined in ways that render the subjects of judgment "objects" who, of course, are not included in the relevant community of judgment. There would then be some built in failure of Arendtian judgment, at least as far as those who are being judged are concerned. This same stance of exclusion and superiority might also impede the capacity to see each applicant's situation in all its particularity. There might, again, be a tendency to mechanically apply preconceived categories --even when there is some room for discretion in the relevant law. I think this description captures most North American systems of social assistance.

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<sup>26</sup> "Who are they to judge me?" was a fiercely angry comment I heard from someone who had recently received tenure.

It seem clear that in this case, the power disparity between the applicants and the decision-makers compounds these problems.

In the context of women's judgments about each others' mothering practices there is not such a clear cut hierarchy of power. As I said earlier, I think the fear and anxiety is driven in large part by the wide spread sense that one's chosen solutions involve troubling compromises such as low wages for care givers. One's judgments do not feel fully defensible and if hard choices have compromised one's children's well being, that feels unbearable. The thought of the judgment of others is then frightening.

These are systemic problems not tied to how women actually exercise judgment in these contexts. But I think common forms of judgment feed off these problems and make them worse. I think anxiety about one's own judgments makes one judgmental towards others. This, as I said, involves a kind of closed-mindedness that is inimical to Arendtian judgment. In particular, I think "stay at home mothers" fear that professional women will view them with a judgmental stance, with preconceived ideas about what modern egalitarianism requires. Here the issue of fixed preconceptions intersects with the problem of becoming an object of judgment. I think the fear (and often the reality) is that their own perspective will not be taken seriously. They are being excluded from the community of judgment.

Finally, I think a form of hierarchy enters in here, too. The "stay at home" mothers fear being looked down upon by professional women. And this fear has come to have a basis in societal status: women in the professions do now have a higher status than women who stay home to their child-care themselves. It is my strong sense that professional women adopt rather than resist such superiority in part out of their own anxiety about not having the time for their children that they wish they had.

This superiority then impedes judgment. If it is beneath one to take seriously the perspectives of those who (properly) ought to be part of the community of judgment, one is closing oneself off from important avenues of insight and information. And, of course, this is one more way in which fears of judgment undermine community.

Finally, I want to briefly introduce another example where judgment is both crucial and routinely harmful when done in ways inconsistent with the basic precepts of Arendtian judgment: Cross cultural and international judgments about rights violations. These judgments are often made without a serious effort to understand the perspective of the other. This might be said of both sides, the accuser and the accused. But the defensiveness and hostility of those accused of rights violations is often precipitated, or at least exacerbated, by the condescension of those doing the accusing. Not only do they not try to take the perspective of the other, but they speak as though the language of rights shifts politics from a discourse of judgment to that of truth claims. This is a dangerous practice for it cannot foster the necessary

dialogue that could bring changes in practices thought to be rights violations. One widely known examples are some of the efforts to eradicate female genital cutting. One often finds efforts at “education” that are really about instructing others rather than a mutual conversation, intended to mutually educate and thus create a new community of judgment.<sup>27</sup> In these cases there is almost always also a power hierarchy at work.

In sum, when we look closely at negative experiences of receiving judgment, it always seems to turn on the relationship between judge and judged. This relationship generally has a collective dimension to it. It is helpful to remember that Arendtian judgment is always an act of disclosure and always part of building a community of judgment. The examples of humiliating judgment are examples of barriers between the judge and the judged, where the act of judgment reinforces a hierarchy, a barrier.

## V. LESSONS FROM POSITIVE EXPERIENCE

I turn now to briefly contrast the comments above with some rather conjectural reflections on what makes some experiences of receiving judgment positive. I begin with my own experience.

The inspiration for this paper is itself a happy story of criticism that expanded my horizons because I was able to listen to it carefully, openly, even eagerly. Bodgan’s comments offered a perspective I had not thought of before, and it stimulated just the sort of process that I think Arendt had in mind for exercising the enlarged mentality. I saw things in a new way, and was able to creatively revisit a long-standing interest in negative images of judgment in popular culture.

So in some cases, receiving judgment can have the same opening, freeing quality as exercising judgment. It then stimulates the exercise of judgment. It frees one from one’s limitation. Why then does it sometimes work positively?

Of course, the first thing in the inspiration example is the way the judgment was offered. It was respectful and offered in a spirit of mutual exploration of shared interests. When it works well, this is part of how judgment builds community. It was also a bit of risk for a graduate student to offer such a direct, bold challenge. It was done with openness, not defensiveness. And the power disparity worked in my favour (though there were lots of faculty in the audience, which could have made me defensive).

There was also a more general factor: I find I am often able to receive judgment openly in face to face encounters, even though I avoid judgment in many contexts. I fairly often ask friends for critical reading of something I have written. Rather than just getting written comments, I prefer to meet face to face to discuss her comments.

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<sup>27</sup> I discuss this issue more fully in “Communities of Judgment”

In this context, I always enjoy the conversation, and learn from it, and I think my interlocutor does too. Together we are talking about the effectiveness of arguments, of phrasing, of structure, evaluating the success of communicating. Often together we are evolving the ideas. During that conversation it becomes a joint project. The object of judgment is the draft (not me), and together we are talking about, creating as we go, relevant standards and how to apply them—moving in and out of evaluation and the shared development of ideas. I have similar conversations with colleagues, friends, and sometimes graduate students. And when I was younger, and much more paralyzed about sending my work out for review, I had similar positive conversations with senior scholars. So external markers of hierarchy have not prevented me from being able to do this.

Sometimes I have been able to read reviewers' comments in a similar spirit—as an effort to help me succeed in my project better, connecting ideas of theirs with mine, as well as particular suggestions.

The contrast between the positive and negative experiences makes the nature of the fear clearer. When I fear judgment, I think the fear is that it will not take this form. That I will not be part of the community of judgment, but merely subject to it, an object before it. And, of course, I fear that the judgment will be negative. And this expands to a fear of feeling inadequate, or having been found out to have done something wrong, to have failed at something.

## VI. INSIGHTS FROM PATHOLOGY

This reference to fear invites a return to the question of pathology. In order to sort out the positive experience of receiving judgment from the negative, I think we need a greater awareness of the role of pathology—in both its individual and collective forms.

Let me just note a few forms that I think are at work in the fear of judgment. First, some of the fear arises from a culture that fosters (particularly in women) a sense of inadequacy, a need for approval that can never actually assuage the sense of inadequacy. This is not something that improved practices of judgment alone can redress. But if I am right, then we can see how urgent redress is. When women's capacity for judgment is undermined by their fear, they are closed off from crucial political participation as well as professional advancement and everyday competence.

A related form of pathology is a tendency to project an expectation of negative judgment onto audiences, whether live or future readers. This blocks the ability to communicate: to effectively convey one's ideas and to receive the responses of the audience. It thus also interferes with creating a community of judgment between oneself and one's audience. Here I think that widespread improvement in the practices of judgment could make a difference, even if that does not get to the root cause. Also, sometimes being aware of such a tendency can help.

Finally, the form that I think is most directly connected to both the exercise and the reception of judgment is the tendency to confuse what is being judged: oneself or one's work. I foreshadowed this point when I switched my language from "being judged" to "receiving judgment." It is hardly a novel thought that if one thinks one's whole being is being judged that the stakes are so high as to be terrifying. If being told about a flaw in one's argument is interpreted by the author as an allegation of her fundamental inadequacy, it will be hard to engage in open dialogue about it.

Positive experiences of judgment are often those that avoid this problem. When an author turns to friends for helpful criticism, she can usually be confident that she already knows what they think about *her*. She can then open her mind to hear their response to her ideas. Neither judge nor the one judged will be confused about what the proper subject of judgment is.

But of course, turning to friends is not an adequate solution, only some help with diagnosing the problem. And in any case, even the distinction between self and work is not simple in the context of judgment. This issue reveals some important subtleties about Arendtian judgment.

First, it is often the case even in academic writing and certainly in artistic creation that there is a sense of disclosure of the self in the creation. Indeed, I think the power of both is often connected to the degree of disclosure. So then the line between one's work and oneself is necessarily a bit blurred, even if still possible to discern. I think one can acknowledge the disclosure at the same time that one resists over identification with work or performance.

As I noted early on, sometimes the language of judgment in academic contexts also blurs the distinction. One is asked to evaluate not just performance, but promise and capacity.

Arendt's approach to judgment is a help here, at least obliquely. She makes the interesting point that one discloses oneself in one's judgments. She comments that people who share the same judgments are drawn to each other. I think this disclosure is part of how the exercise of judgment builds the community of judgment. When one reveals a judgment, we not only have something to add to our enlarged mentality, we have a deeper understanding of the person.

I think if we take seriously the idea that a true exercise of judgment in the Arendtian sense is an act of self disclosure, and if this idea were widely understood, there could be a greater sense of reciprocity between the author and the audience, the actor and the spectator. Each discloses herself as we communicate with one another. The dimension of mutual vulnerability becomes more evident. Perhaps friends intuitively understand this. And they receive each other's work and judgment accordingly—with honesty but without harshness, with openness to both admiration and disagreement.

There is another dimension of Arendt's thought that is relevant here. As members of a public realm we actively constitute a shared world together. As Azmanova puts it:

Directed by Arendt's vision of judging as the most important activity in which political existence as acting together ("sharing-the-world-with-others") comes to pass—dynamics steered not by a quest for truth but by a quest for meaning—we should see judging not as a process of applying an already available common/public sense but of *making sense in common*. Thus *sensus communis* seems to describe not a universally shared cognitive capacity but an active process of making sense together with others. It is the process of the collective making sense of things that allows us to exercise an "enlarged mentality" by imagining judgments from the standpoint of others.<sup>28</sup>

Arendt talks about the importance of the space of appearance that is created when people act with and before one another<sup>29</sup>. This space of appearance—in which I think the objects of judgment appear—requires a certain kind of distinctness and distance among people. They are not to meld together in some kind of oneness, for that would destroy this vital space of appearance. In this context, Arendt talks a lot about how men disclose themselves to each other as they act in the public realm.

The connection I see to the proper subject of judgment is this. I think there must be a certain distance between the object of judgment—the essay, the painting, the performance—and its creator in order for the object to appear properly in the public space. And both the one who creates and the one who judges must know this. Even though there is an important element of self-disclosure in both creation and judgment, the spaces between must be sustained. Inappropriate identity between creator and creation or between judge and creator would destroy the public space in which the objects of judgment must appear.

An awareness of this could both reduce fear that comes from misplaced identity with one's work, and foster the sort of respectful distance that encourages good judgment. When the judge also knows not to confuse the creator and the creation, she may bring an (intersubjective) "objectivity" that avoids personal attack even in the face of strong disagreement.

I think this framework helps to think about performers, such as musicians, who say they do their best work before an audience. At first, I found this a challenging example for the separation between creator and creation. The musician's whole being seems to be engaged in the performance. And there will be a judgment, whether muted applause or a standing ovation. How is it, I wondered, that they thrive in that environment? I think the public space language works here. The

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<sup>28</sup> Scandal of Reason, p. 127.

<sup>29</sup> *The Human Condition*, (Chicago: University of Chicago Press, 1958). See for example, p.214.



performance takes place in the space created between the performer and the audience. And both count on a community of judgment that in part pre-exists among concert goers, and in part is constituted in the moment of an outstanding performance when everyone understands that something extraordinary has been created in their midst. The performer's best is drawn out in relation to the response (however quiet in the process) of the audience.

I think this helps also with the issues of women judging women. Of course, it is easiest to talk about the fraught questions of how to organize child-care with ones friends who are also mothers. They will see themselves as similarly situated making imperfect choices between inadequate options. They can be counted on to offer judgment about a choice, not personal condemnation (or valorization); they will know the difference because they know and care about you.

But what matters is to create the conditions for thriving communities of judgment among colleagues and neighbours who are not close friends. Feminists, in particular, could practice disclosing their own difficulties with choices around childcare, to start to build not the trust of intimacy, but of public community where people come to share their views about what are proper subjects of judgment and relevant standards and principles. One can hope that if these conversations are built around the kinds of insights into judgment that I have been discussing, that the benefits will foster further disclosure and conversation.

Not only might women be able to make their individual decisions better if they participated openly in communities of mothering judgment, but they might be able to see better the systemic problems (structure of work) that prevent them from finding truly satisfactory solutions. This could then lead to the action for change in structures of work and gendered patterns of care-work that have proven so resistant to change despite decades of successful integration of white middle class women into the workforce. (These women might have been expected to have the power to change these arrangements in ways that working class and women of colour who have long worked outside the home had not been able to.)

While less pressing, I would say something similar about improving the quality of conversation about gender performance. From issues of provocative dress to breast augmentation surgery, there are matters that call for feminist judgment. The challenge is to heed this call with the open, non-judgmental spirit of true judgment. The possibility that provocative dress signals a reclaiming of female sexuality and a playful relation to sex itself needs to be taken seriously—even while we recognize that sexual objectification is hardly a thing of the past. These things matter too much to simply take them off the table as subjects of judgment. That is far too high a price to pay for past failure to exercise judgment well.

Judgment is vital for feminism and for all women to be full participants in public life. (And indeed to manage their domestic life well.) Using reflections on pathologies, on

positive and negative experience of receiving judgment, can give us some clues about the need to transform common modes of what passes for judgment.

## VII. CONCLUSIONS AND SOLUTIONS

Let me begin with a few summary points. I think the positive picture Arendt paints of judgment is persuasive. It captures vital insights into why judgment is so important and into its capacity to free us from limitations and preconceptions. I think the widespread fear of being judged is also important. The two perspectives (in good Arendtian fashion) illuminate each other.

Attention to the negative is crucial because fear of judgment undermines the capacity for judgment. And it is the very importance of judgment in the contexts that give rise to fear that makes it important to try to understand that fear.

The issue is not, of course, that to judge is positive, but to be judged is negative. That would be an implausible theory of judgment as liberating. But we are not faced with that. Not all experiences of receiving judgment are negative. And many of the instances where they are seem to involve a failure of Arendtian judgment: in particular a failure to take the perspective of the judged and a failure to engage with an open mind.

The key to the difference between positive and negative experiences of receiving judgment is the relationship between judge and judged. As we have seen, there are many layers of complexity to the nature of that relationship. And it has a collective as well as an individual dimension to it. Often no single act of optimal judging can transform the negative affect around judgment. But there can be institutional shifts in modes of evaluation, as well as guides to individuals, so that practices of evaluation come closer to genuine judgment.

This brings me to the question of power.<sup>30</sup> Power hierarchy can create fear of consequences of judgment and can distort the creation a community of judgment. Power can encourage those who hold it to exclude from the community of judgment those about whom they make judgments.

To exclude the ones being judged, to render them mere objects of judgment, undermines the quality of judgment. Not just in the immediate instance, but by undermining the possibility of a community of judgment. When judgment is

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<sup>30</sup> Both Iris Marion Young (“Asymmetrical Reciprocity: On Moral Respect, Wonder, and Enlarged Thought” in *Judgment, Imagination and Politics: Themes from Kant and Arendt*, co-edited with Ronald Beiner (Lanham, Maryland: Rowman and Littlefield, 2001) and Azmonova say, in their different ways, that Arendt (and the concept of the enlarged mentality) doesn’t pay sufficient attention to power.

perceived to be humiliating, an exercise of someone's power over you, then judgment is feared and resented. One will resist and avoid judgment where possible. This means that not all negative reactions are inappropriate. What passes for judgment is often badly done, with serious harmful consequences.

Power asymmetries are a problem for good judgment, but if they were really incompatible with it we would be in serious trouble. Those with power routinely need to make judgments about others. Fortunately, there are examples of good judgment, without humiliation (even if perhaps with a bit of fear) that take place across power inequalities such as those between students and faculty and between junior and senior colleagues. But these same contexts are sites of a lot of bad practices.

I think the most important implications of the explorations here is bringing a level of critical attentiveness (judgment) to how we exercise judgment. In the academy, for example, I think we often simply take for granted practices of "judgment" that do not deserve the name. Here, as in other contexts, we need to think about how we model judgment, and how we could shift our institutional practices. For example, departments that have a standard base level of funding for all graduate students, reduces the need for "sorting" them- facilitating better community among them and with the faculty. Even if the fear and humiliation are in part pathological, the norms and practices of "judgment" exacerbate the problem and could be improved—enhancing the actual capacity for judgment for all.

In the academic context the first step is to figure out the ways in which the perspectives of the judged—both students and colleagues—could be taken into account. I do not suggest that this is simple, and I am not going to try to work out details here. The key is to re-examine long-standing practices we have taken for granted to see if there are ways of doing this.

In our public performances of judgment--whether comments at scholarly conferences or seminar conversations--we should ask how we are modeling judgment. Are we teaching our students to take the perspectives of others, to engage with open minds, to be open to shifting preconceptions? Are we modeling respectful encounters, such that both the substance and style of our comments show a willingness to take the other's perspective seriously and to re-examine our own preconceptions? How do we encourage students to engage with texts? Are we fostering true judgment?

When we shift to the context of welfare, we should remember that in addition to the unavoidable problem of power disparity, applicants have a limited ability to have their perspective taken seriously, to be heard. Often they are kept so ill-informed about the rules and policy, that they not able to participate meaningfully.

Here there is at least the beginning of a clear answer: take their perspectives into account, both via listening carefully to the individual claimant and by including

current and former recipients in the formulation of policy and in adjudicating claims. When people participate in the formulation of the standard or norms applied to them (participating in norm creation), then they are no longer objects of judgment, but members of the community of judgment<sup>31</sup>. This is both respectful and promotes good judgment. Contemporary Canadian administrative law has the tools to move in this direction, although it has not done much with them.

A final note on modeling: Contemporary political debate in both the US and Canada does a sorry job of modeling good judgment. Distorting judgment through fear is a routine practice. Offering reflective engagement with opposing perspectives is almost non-existent.

My last point returns to the earlier discussion of feminists' relation to diversity and links it to the question of cross-cultural human rights issues. This one of the spheres in which I think examining the two faces of judgment has the greatest theoretical promise. I will just sketch that promise here. (Those of you who heard my lecture on human rights will hear the resonances between the two arguments.)

In the story Zerilli tells about the Parma Library women (contrasted with the Milan Bookstore collective) the disagreement over judgment centres on how to engage with difference. As I noted, feminist literature continues to engage with this question and my students reacted strongly to it. How to engage respectfully with multiple forms of difference, almost always intertwined with power differentials has been a focus of feminism at least since the 1970s (beginning with the gay/straight divide).

The crucial point that I think the judgment framework brings is that diversity is not just a problem to be negotiated, it an asset. It is not only an inherent part of the plurality of human beings, it is a requirement for our cognitive functions, judgment in particular. Or might also say that our capacity for judgment is what fits us for living in a diverse world.

The point I want to emphasize here is that it is the availability of diverse perspectives that permits us to know our shared world<sup>32</sup>, as well as to construct its meaning. But for the availability of diverse perspectives, we would be locked in the inevitable limitations of our experience and preconceptions. Judgment as I emphasized in the beginning is a freeing activity. And it is diversity that enables it.

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<sup>31</sup> I elaborate this argument in *Law's Relations: A Relational Theory of Self, Autonomy, and Law* (Oxford University Press, 2011), Ch 3.

<sup>32</sup> I know that there is some tension between this claim and Azmonova's persuasive argument that judgment is not about truth or knowledge. I think this is correct in important ways. But I also think that Arendt thinks that we can come to know our world because we can see our shared world (as well as create it) through the eyes of others. Here our inter-subjectivity creates a form of objectivity.

To optimally exercise our capacity for judgment, we need to seek out diversity—not just cope with it when it obtrudes itself on us.

I think this shift in approach, in affect really, is extremely important. Of course, there is still the work of the enlarged mentality to be done. And in many contexts it will be difficult and painful. But it matters to see the possibility of this engagement as a gift, and one that is vital to our individual and collective thriving. Without it, we cut off a crucial part of our capacity to be fully in the world, and to share with others the creative work of shaping its meaning.

This has consequences for our understanding of rights and for the ways judgments about rights are carried out. We must understand that rights, like all core political matters, involve genuine judgment, which means the exercise of the enlarged mentality. The definition and protection of rights is an important part of shaping the meaning of the core values of society. And the conversations that take place across societies about what counts as a rights violation must also reflect this understanding. However confident either side is of its conception of justice and rights, it must try to understand the perspective of the other. This is the necessary path for a political solution that is simply an imposition of force (in one form or another).

In all the contexts I have discussed here, the attempt to exercise “judgment” without taking the perspective of the judged turns into a failure of judgment. When the one judged is excluded from the community of judgment, the judged will not see the judgment as valid. They will see it as an imposition of power, and that will breed fear, resentment and hostility. All those things further impede the exercise of judgment and the construction of an encompassing community of judgment.

I do not mean to claim that a genuine effort to exercise the enlarged mentality can erase the distortions of power, and the fear and humiliation they can bring. Knowing that one’s life choices are in the control of another can alone bring fear and humiliation, and one may well doubt the ability of the powerful to take one’s perspective seriously.<sup>33</sup> And indeed that doubt may be well founded. Long standing power imbalances may so distort people’s “vision,” that their capacity for taking the perspective of those over whom they hold power is impaired. This becomes one more reason to work to transform unnecessary power disparities.

However, some power disparities—between parent and child, student and teacher, bureaucrat and impoverished applicant—are inevitable. That fact should not make us less vigilant about thinking about ways to both minimize the power disparity and

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<sup>33</sup> Indeed Iris Marion Young thought that only asymmetrical reciprocity is possible in the face of the pervasive power imbalances. “Asymmetrical Reciprocity: On Moral Respect, Wonder, and Enlarged Thought

structure it so that it is consistent with the autonomy of the subordinate. But it should alert us to the importance of figuring out how best to exercise the enlarged mentality in these contexts. As we have seen, this means learning how to try to take the perspective of the other (perhaps by recognizing the limits of asymmetrical reciprocity as Young suggests<sup>34</sup>), and to keep our minds open to challenges to preconceptions.

My claim here is that by integrating the negative side of receiving judgment into our understanding of what is involved in making judgments, we can learn important lessons both about the nature of judgment and about what can mitigate the fear and humiliation that are so inimical to judgment itself. As long as there are power disparities (as well as human weaknesses) there will be two faces of judgment.

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<sup>34</sup> Ibid.