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Hannah Arendt on Political Legitimacy without Philosophical Justification¹

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Introduction: The Legitimacy of Political Power

After the collapse of communism, liberal democracy seemed to be the only form of government left that was considered to be legitimate. In his famous book *The End of History and the Last Man* (1992), Francis Fukuyama argued that there were no viable alternatives left. The choice for liberal democracy seemed to be self-evident. Around the world, political leaders willy-nilly called themselves democrats in order to acquire and sustain legitimacy for their regimes. However, after the Islamist attack on the New York Twin Towers in 2001, it became clear that liberal democracy has become challenged again. The call for more “direct democracy” within European countries such as the Netherlands is potentially threatening for established parliamentary democracy. To be more precise, by the *de facto* challenge to democracy, it has become manifest again that democracy, in any form, is *de jure* a controversial idea. The political urgency of the justification of democracy in response to this challenge, gives a new impulse to the classical philosophical question of the legitimacy of democracy, and thereby, of political regimes or forms of government in general.

In this paper, I will examine the way in which Hannah Arendt conceives the question of the legitimacy of political order. At first sight, it may seem a bit odd to turn to Arendt for such a project. After all, her political theory encompasses a critique of the classical classification of

¹ The presentation of this paper at the Political Theory Workshops of the Department of Political Science of the University of Chicago has been made possible by the financial support of the Leiden University Fund.

“regimes” or types of rulership (*Herrschaft*). She aims to think politics without the concept of “rule”, which according to her implies a division between “those who know and do not act and those who act and do not know”², between those who command and those who are forced to obey. According to Arendt, the notion of “rule” (upon which the division of regimes into rule by one, rule by few, or rule by many is based) leads to an escape from politics.³ It is her aim to work out a phenomenology of politics *within* the framework of the human *vita activa*, instead of from *without*, that is, from the human *vita contemplativa*. Key political concepts like “power”, “revolution”, “freedom”, “authority”, “sovereignty”, “violence”, etc. are being re-thought in terms of the active life of human beings.⁴ Although Arendt rarely writes about the legitimacy of specific regimes or forms of government in general,⁵ she has important things to say about the legitimacy of politics as such.

In her account of politics, the concept of “power” plays a pivotal role, which she defines as “acting in concert”.⁶ In *On Violence*, Arendt describes political institutions, among which she counts “forms of government”, as “manifestations and materializations of power; they petrify and decay as soon as the living power of the people ceases to uphold them.”⁷ She goes even further by declaring “power” to be “the *essence* of all government [emphasis added]” and by describing “government” as “organized and institutionalized power”.⁸ On the basis of these passages one could reasonably assume that any justification of political organization requires a justification of

² Hannah Arendt, *The Human Condition*, p. 223.

³ *op.cit.*, p. 222.

⁴ Generally it is assumed that Arendt rejects sovereignty and violence altogether, and that she claims that authority has vanished and cannot be retrieved. Yet, a closer study of her works will show that these concepts too are being re-thought in her new political phenomenology and receive a genuine place within the realm of politics. See for example her conception of sovereignty in *The Human Condition*, p. 245 and her conception of violence in *On Violence*, p. 64.

⁵ The major exception, of course, is *The Origins of Totalitarianism*, in which she tries to show that totalitarianism is a form of government that destroys the very prerequisites of every form of government. However, in this work her political phenomenology, especially her conception of power, remains rather traditional and does not reach the maturity and originality of *The Human Condition* and later publications. Whereas in her later work she defines power as “an end in itself” (*On Violence*, p. 51), in her earlier work she describes power as “essentially only a means to an end” (*The Origins of Totalitarianism*, p. 142).

⁶ Arendt introduces this expression for the first time in *The Origins of Totalitarianism*, in the context of her discussion of the differences between the Anglo-Saxon and the Continental party-systems. According to her, only the former is “a political organization of citizens who need to “act in concert” in order to act at all” (p. 254). She borrows the expression from Edmund Burke, *Upon Party*, second edition, London, 1850: “They believed that no men could act with effect, who did not act in concert; that no men could act in concert, who did not act with confidence; that no men could act with confidence, who were not bound together by common opinions, common affections, and common interests.”

⁷ Hannah Arendt, *On Violence*, p. 41.

⁸ *op.cit.*, p. 51.

power. Yet, Arendt states that power, in contradistinction to violence, does *not* stand in need of justification. She argues that what needs justification by something else cannot be the essence of anything. Power is the essence of all government, and being an essence, it does not need justification. She calls power “an end in itself”. In this respect, the concept of “power” is comparable to the concept of “peace”, which she calls “an absolute”.⁹

This conception of power being an absolute could surprise us, when we bring to mind that Arendt is at the same time attacking every conception by which power is presented as something resembling omnipotence, which she finds represented in the everyday expression that “power corrupts”.¹⁰ Yet, she adds that power, although it does not need justification, does need *legitimacy*.¹¹ She explains the distinction between “justification” and “legitimacy” in the following way:

Power springs up whenever people get together and act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow. Legitimacy, when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future.¹²

The question rises, what shape exactly the articulation of this legitimacy can take, and wherein it differs from the justification of (other) political ends. In my paper, I will attempt to clarify the meaning of this passage in which Arendt makes a distinction between justification and legitimacy. Wherein lies the difference if both can be applied to politics? First I will explain the relation of power as “acting in concert” to the human conditions of natality and plurality. Secondly, Arendt’s crucial distinction between legitimacy and justification will be explored and related to two different concepts of politics. Thirdly, I will propose that the concept of *mimēsis* offers a fruitful approach to the question in what way political legitimacy can be articulated without lapsing into a philosophical justification. Fourthly, I will examine whether Arendt’s own theory is able to escape from this very same predicament. Fifthly, I will argue that Arendt’s

⁹ *ibid.*

¹⁰ Hannah Arendt, *The Human Condition*, p. 205: “Perhaps nothing in our history has been so short-lived as trust in power, nothing more lasting than the Platonic and Christian distrust of the splendour attending its space of appearance, nothing – finally in the modern age – more common than the conviction that “power corrupts.”

¹¹ Hannah Arendt, *On Violence*, p. 52: “Power needs no justification, being inherent in the very existence of political communities; what it does need is legitimacy.”

¹² *op.cit.*, p. 52.

conception of legitimacy implies a certain political ethic. Finally, and only tentatively, the relation will be explored between the theoretical ideal of Arendt on the one hand, and the institutional reality of forms of government, especially democracy, on the other.

1. Power as “acting in concert” – The Human Conditions of Natality and Plurality

Primarily, Arendt seems to be interested in the phenomenology of politics in general, instead of that of specific political regimes or, as Arendt calls them, “forms of government”¹³ or “forms of political organization”,¹⁴ of which democracy is only one. In fact, she rarely speaks about democracy. When she does, she calls democracy “the rule of the many”¹⁵ or “majority rule”¹⁶. As we know that she fiercely criticized the notion of “rule”, we may conclude that she does think very highly of democracy either. Still, she leaves open the possibility of a more positive account of democracy, for example by supplementing it by a constitution,¹⁷ or by making it consist of “spaces of appearances”.¹⁸ In any event, her conception of democracy – if she has one – is derived from her account of politics. Therefore, I will first provide an account of Arendt’s political phenomenology.

In her most important work, *The Human Condition*, Hannah Arendt provides an account of politics¹⁹ on the basis of her analysis of the human condition. There are six “conditions of human existence”: life, wordliness, plurality, natality, mortality, and the earth.²⁰ Two of these conditions, natality and plurality, are constitutives for politics.²¹ The first, that of natality, is the fact that all men are born. Referring to St. Augustine’s dictum *initium ut esset, hominem creatus est*, Arendt claims that as men are born, as they are a new beginning, they have the capacity of

¹³ Hannah Arendt, *On Revolution, The Origins of Totalitarianism*.

¹⁴ Hannah Arendt, *The Human Condition*, pp. 201-2.

¹⁵ Hannah Arendt, *On Violence*, p. 38

¹⁶ *op.cit.*, p. 42.

¹⁷ *ibid.*: “A legally unrestricted majority rule, that is, a democracy without a constitution...”. *cf.* Hannah Arendt, *The Human Condition*, p. 220: “This attempt to replace acting with making is manifest in the whole body of argument against “democracy,” which, the more consistently and better reasoned it is, will turn into an argument against the essentials of politics.”

¹⁸ Hannah Arendt, *On Revolution*, p. 275.

¹⁹ The distinction between “politics” (*la politique*) and “the political” (*le politique*) which has become fashionable in the wake of Carl Schmitt’s *Der Begriff des Politischen* (1932) and which has been systematically developed by Claude Lefort, will not be used here.

²⁰ Hannah Arendt, *The Human Condition*, p. 11.

²¹ *op.cit.*, pp. 175-181.

beginning something new.²² The second condition, that of plurality, is the fact that each human being appears in his or her distinct uniqueness. He or she appears as a “who” and not as a “what”. According to Arendt, action and speech are the political capacities of man. Action is possible on the basis of natality, speech is possible on the basis of plurality. Speech and action are what make man into a *political* being, as the result of speaking and acting together, of “acting in concert”, is power.²³ Acting together is “the sharing of words and deeds”.²⁴ Action without speech is not possible, as the actor is disclosed or revealed in his words.²⁵ Thus, speech plays the dominant role. Arendt reads Aristotle’s famous two definitions of man as *zoōn politikon* (political living being) and as *zoōn logon ekhon* (living being capable of speech) as belonging together and which indicated “a way of life in which speech and only speech made sense and where the central concern of all citizens was to talk with each other.”²⁶ It is not surprising, therefore, that Arendt holds the verbal activities of debate, deliberation, and persuasion to be the most genuinely political.²⁷ All these activities belong to the sphere of opinion, which, according to Arendt, is the opposite of truth. Truth does not belong to the political realm in the strict sense of the word.²⁸

By power Arendt primarily characterizes “what keeps the public realm, the potential space of appearance between acting and speaking men, in existence”: “...power springs up between men when they act together and vanishes the moment they disperse.”²⁹ Arendt continues:

The only indispensable material factor in the generation of power is the living together of people. Only where men live so close together that the potentialities of action are always present can power remain with them, and the foundation of cities, which as city-states have remained

²² *op.cit.*, p. 177. The quotation is from St. Augustine, *De civitate dei*, 12.20.

²³ Hannah Arendt, *On Violence*, p. 44. In *The Human Condition*, p. 188, Arendt makes a distinction, in passing, between “political” and “non-political” action. Yet, she does not provide a criterion by which to distinguish between the two.

²⁴ Hannah Arendt, *The Human Condition*, p. 198: “...the political realm rises directly out of acting together, the “sharing of words and deeds.””

²⁵ *op.cit.*, p. 178.

²⁶ *op.cit.*, p. 27. *cf.* Hannah Arendt, ‘Philosophy and Politics’, pp. 73-74: “To persuade, *peithein*, was the specifically political form of speech, and since the Athenians were proud that they, in distinction to the barbarians, conducted their political affairs in the form of speech and without compulsion, they considered rhetoric, the art of persuasion, the highest, the truly political art.”

²⁷ Hannah Arendt, ‘Truth and Politics’, p. 241: “...debate constitutes the very essence of political life.” See also Hannah Arendt, *On Revolution*, pp. 86-87: “...processes of persuasion, negotiation, and compromise, which are the processes of law and politics...” On several occasions, she includes “decision”, e.g. on p. 119: “...the twofold process of decision and persuasion.”

²⁸ Hannah Arendt, ‘Truth and Politics’, p. 259: “To look upon politics from the perspective of truth...means to take one’s stand outside the political realm.”

²⁹ Hannah Arendt, *The Human Condition*, p. 200.

paradigmatic for all Western political organization, is therefore indeed the most important material prerequisite for power. What keeps people together after the fleeting moment of action has passed (what we today call “organization”) and what, at the same time, they keep alive through remaining together is power.³⁰

Power preserves the public realm and the space of appearance, and as such it is also the lifeblood of the human artifice, which, unless it is the scene of action and speech, of the web of human affairs and relationships and the stories engendered by them, lacks its ultimate *raison d’être*.³¹

On the basis of these passages I assume that according to Arendt there is the “foundation of cities” which brings about “the living together of people” as the indispensable *material* prerequisite of power, which then as “organization” produces laws, institutions, forms of government, etc, which are *materializations* of power. Arendt herself never explicitly draws this conclusion, and it seems to me that there is a tension between these two concepts of the matter / materialization of power.³²

It is important to notice that Arendt describes power as something “positive”, something which is *exposed* by the acting in concert of people, whereas in liberal political theory power is rather represented as something “negative”, something being *imposed*, which is therefore potentially corrupting, and which needs to be kept in check. Arendt is nonetheless aware of this negative aspect of power when she states the following:

For power, like action, is boundless; it has no physical limitation in human nature, in the bodily existence of man, like strength. Its only limitation is the existence of other people, but this

³⁰ *op.cit.*, p. 201. *cf. op.cit.*, p. 22: “...the world into which we are born, would not exist without the human activity... which established it through *organization*, as in the case of the *body politic* [emphasis added].”

³¹ *op.cit.*, p. 204. *cf. p.* 198: “The *polis*, properly speaking, is not the city-state in its physical location; it is the organization of the people as it arises out of acting and speaking together, and its true space lies between people living together *for this purpose* [emphasis added], no matter where they happen to be.”

³² On the one hand Arendt seems to consider “founding” as a non-political activity (especially in her treatment of “the Greek solution” in *The Human Condition*, pp. 192-199, whereas she seems to consider “founding” as the political activity par excellence when treating the Romans and the revolutionary tradition in *On Revolution*, p. 187, pp. 207-213. The latter claim, however, is in better agreement with her overall conception of politics. See e.g. *The Human Condition*, p. 188: “The popular belief in a “strong man” who, isolated against others, owes his strength to his being alone is either sheer superstition, based on the delusion that we can “make” something in the realm of human affairs – “make” institutions or laws, for instance, as we make tables or chairs...”

limitation is not accidental, because human power corresponds to the condition of natality to begin with.³³

In other words, power has a limitation in itself, which is *essential* and not accidental: power is only possible on the basis of human plurality and natality. As soon as power becomes so strong as to destroy these very prerequisites, it will vanish immediately. She gives one example: “Power corrupts indeed when the weak band together in order to ruin the strong, but not before.”³⁴

Hereby she already indicates that power is legitimate only under specific conditions, viz. as long as it stays within the limits of its own prerequisites (in this case, the inclusion of a plurality of people, including “the strong”). Note that Arendt, because she is using the words “corrupt”, “band together”, and “ruin”, seems to draw *normative* conclusions from her *descriptive* premises concerning the human conditions of natality and plurality. She hereby creates the possibility of deriving from her political phenomenology a political ethic of a reflexive and possibly transcendental (in the Kantian sense) nature.

2. Justification versus Legitimacy: Two Concepts of Politics

As we have seen, Arendt claims that “[p]ower needs no justification, being inherent in the very existence of political communities; what it does need is legitimacy.”³⁵ She makes a distinction between justification and legitimacy. I contend that this distinction corresponds to a distinction that Arendt implicitly makes throughout her work between two kinds of politics. On the one hand, there is politics (or political action) that can be justified without being legitimate, and on the other hand there is politics (or political action) that is legitimate without being justified. What is the difference between both forms? Let us again turn to the passage from *On Violence* quoted above:

Power springs up whenever people get together and act in concert, but it derives its legitimacy from the initial getting together rather than from any action that then may follow. Legitimacy,

³³ Hannah Arendt, *The Human Condition*, p. 201.

³⁴ *op.cit.*, p. 203.

³⁵ Hannah Arendt, *On Violence*, p. 52.

when challenged, bases itself on an appeal to the past, while justification relates to an end that lies in the future.³⁶

What does she mean by “legitimacy” and “justification” and what is the distinction between the two? Power derives its legitimacy from the initial getting together, Arendt says. The adjective “initial” is decisive here, as it refers to Arendt’s insistence on the human condition of natality, in which the human capacity of beginning something new (the capacity of freedom) is rooted. One could say that power is legitimate as long as it remains *faithful* to this initial beginning (*initium*), which lies in the *past*. Justification on the other hand is related to a political end to be reached in the *future*. Legitimacy is being provided *ex ante*, whereas justification is being provided *ex post*. Arendt uses the example of violence (“violent action”): although it can never be legitimate, in some cases it might be justified by certain political goals.³⁷

First, we will turn our attention to the concept of “justification”. We can find an important clue in another work of Arendt: *On Revolution*. In this text, she contends that the act of justification itself, has a political character, that is, belongs to the sphere of power, the sphere of action and speech. In several works, she characterizes this sphere – “the political realm” – as the sphere of opinion, the sphere of discussion, the sphere of verbal exchange between “peers”.³⁸ Thus, justification belongs to the sphere of opinion. It belongs to “the political realm” which is constituted by power, which has, in my interpretation of Arendt, both material prerequisites (people willing to live together) and materializations (institutions and laws). Whereas violence in itself is anti-political,³⁹ the justification of it (which necessarily makes use of argument and speech) does remain bound to the political sphere of opinion. Justification can take place only within an already constituted political realm.⁴⁰

³⁶ *ibid.*

³⁷ *op.cit.*, p. 79.

³⁸ Hannah Arendt, *The Human Condition*, p.32.

³⁹ Hannah Arendt, *On Violence*, p. 64: “The point is that under certain circumstances violence – acting without argument or speech and without counting the consequences – is the only way to set the scales of justice right again. (...) That such acts, in which men take the law into their own hands for justice’s sake, are in conflict with the constitutions of civilized communities is undeniable; but their *antipolitical* character...does not mean that they are inhuman or “merely” emotional [emphasis added].”

⁴⁰ Hannah Arendt, *On Revolution*, p. 19: “A theory of war or a theory of revolution, therefore, can only deal with the justification of violence because this justification constitutes its [i.e. of violence] political limitation; if, instead, it arrives at a glorification or justification of violence as such, it is no longer political but *antipolitical* [emphasis added].” Only when justification does not remain “faithful” to these genuinely political means of discussion and persuasion, only when violence becomes glorified per se, justification destroys the political realm and becomes anti-political. Or, in other words, power can never be justified, as the political practice of justification already

To put it somewhat differently, one could say that justification belongs to the sphere of “politics in the strict sense”, a term that Arendt uses on several occasions,⁴¹ or to the sphere of “normal politics”, borrowing a term of Bruce Ackerman.⁴² By this I mean the sphere wherein by means of discussion, argument, and persuasion decisions are being taken. Yet, Arendt seems to imply that there exists yet another type of politics, which could be called “constitutional politics” (Ackerman).⁴³ The latter type of politics concerns the foundation or constitution or maintaining of the political realm as such, and is the domain of legitimacy instead of justification.

We will now, secondly, turn our attention to the concept of legitimacy. First we have to emphasize that it is decisive that Arendt only speaks of “legitimacy” and not of “legitimization”, whereas she does speak of “justification”. This seems to indicate that “legitimacy” is something which is either simply there / given, or it is not at all. She seems to imply that we cannot deliberately or actively achieve legitimacy for our political realm in the same sense as we can achieve a justification for certain political ends (e.g. the use of violence). Secondly, it is important to emphasize that Arendt speaks of legitimacy “when challenged”. Only when it is challenged, the legitimacy that is implicit in power is forced to become explicit and explained. This is the moment when legitimacy, which originally only has an *implicit* or “performative” character (it is revealed and disclosed in the acting and speaking of agents), becomes *explicit* or discursive, narrative, symbolical.

In addition, Arendt describes legitimacy as something that bases itself on “an appeal to the past”. What exactly is the content of this “appeal”? On the basis of *On Revolution* and ‘What Is Authority?’ it can be concluded that power and government stay legitimate as long as they justly or rightly appeal to the past in which there was a beginning shaped by an initial “event”, in other words, to its own initial act of foundation. Arendt provides an account of the exemplary form of an “appeal to the past” as expressed in the Roman “trinity” of tradition, religion, and authority.⁴⁴

presupposes the existence of power. On this basis, one could argue that the attempt to establish a political realm (“democracy”) by means of mere violence is a contradiction in terms.

⁴¹ *ibid.*: “In so far as violence plays a predominant role in wars and revolutions, both occur outside the political realm, strictly speaking...” *cf.* Hannah Arendt, ‘Truth and Politics’, p. 241: “The modes of thought and communication that deal with truth, if seen from the political perspective, are necessarily domineering; they don’t take into account other people’s opinions, and taking these into account is the hallmark of all strictly political thinking.”; p. 261: “For this very important political function of supplying [factual] information is exercised from outside the political realm, strictly speaking; no action and no decision are, or should be, involved.”

⁴² Bruce Ackerman, *We the People*, Volume I: Foundations.

⁴³ *op.cit.*

⁴⁴ Hannah Arendt, ‘What Is Authority?’, p. 140.

There is an event in the past that constitutes the legitimacy of the political organization in which we live now. In ‘Truth and Politics’ Arendt even calls the past the “main stabilizing force” of the political realm.⁴⁵ She continues by saying that “power, by its very nature, can never produce a substitute for the secure stability of factual reality, which, because it is past, has grown into a dimension beyond our reach.”⁴⁶

Our question is, in what way this legitimacy, when challenged, can be articulated. In ‘Truth and Politics’, Arendt puts the problem as follows:

...the question is whether power could and should be checked not only by a constitution, a bill of rights, and by a multiplicity of powers... – that is, by factors that arise out of and belong to the political realm proper – but by something that arises from without, has its source outside the political realm, and is as independent of the wishes and desires of the citizens as is the will of the worst tyrant.⁴⁷

Is legitimacy as Arendt presents it part of opinion (*doxa*) (discussion and persuasion just like in normal politics) or does it imply a reference to a certain type of truth (*epistēmē* or else)? We have to keep in mind that Arendt is seeking for an account of the act of foundation of a political community that is “non-foundationalist”, that is, that is not fixed in “objective” knowledge of a “what”. Thus, she excludes the possibilities of (i) *religious* foundation (based on an appeal to Revelation or the Commandments of God) and of (ii) *philosophical* foundation (based on an appeal to true knowledge or *epistēmē* of “human nature”, possibly solidified in “natural right”).⁴⁸ In addition, we already saw provisionally that she excludes (iii) *political* foundation, that is, “political” in the “normal” sense of a justification in the form of opinion or *doxa* of certain political ends to be achieved by certain means (i.e. instrumental justification).

3. The Articulation of Political Legitimacy: *Mimēsis*

⁴⁵ Hannah Arendt, ‘Truth and Politics’, p. 258: “If the past and present are treated as parts of the future – that is, changed back into their former state of potentiality – the political realm is deprived not only of its main stabilizing force but of the starting point from which to change, to begin something new.”

⁴⁶ *op.cit.*, p. 258.

⁴⁷ *op.cit.*, p. 240.

⁴⁸ Hannah Arendt, *On Violence*, pp. 38-39.

In what way *can* legitimacy be articulated or shown? In my view, in Arendt's theory there are only (or still) two possibilities left of articulating legitimacy. The first (iv) is by way of narrative or interpretation. Arendt often refers to the important role of the "poets" and "historians".⁴⁹ They are the ones who, in distinct ways, keep the original "event" and "experience" intact and prevent it, being "an example of virtue or holiness" from vanishing into oblivion.⁵⁰

The specific content as well as the general meaning of action and speech may take various forms of reification in art works which glorify a deed or an accomplishment and, by transformation and condensation, show some extraordinary event in its full significance.⁵¹

Here, we should ask Arendt whether those "reifications" are part of opinion, and hence, of the fragile political realm, or part of truth, and hence of a (more) transcendent nature. The former justification, by the "normal" means of deliberation and persuasion, is possibly futile. The latter justification, by an appeal to an absolute philosophical truth, is possibly tyrannical.

The second possible articulation of legitimacy is (v) performance or (re-)enactment. One could argue that power and government remain legitimate as long as they remain, in their own actions, *faithful* to the original beginning. This means that they should never act or speak in a way that threatens precisely the possibility of acting and speaking *tout court*. They should never make use of the faculties of acting and speaking in order to make the future exercise of action and speech utterly impossible.

How could Arendt's notion of "legitimacy" be explained if it is to be non-foundationalist, that is, if it is not fixed in knowledge of an objective "what" that could be instrumentalized? The first explanation that I mentioned, emphasizing the importance of the poets and historians, seems to indicate a *hermeneutical* argument, i.e. the interpretation of founding "events" and

⁴⁹ On the role of the historian, see especially Hannah Arendt, *The Human Condition*, p. 192: "All accounts told by the actors themselves, though they may in rare cases give an entirely trustworthy statement of intentions, aims, and motives, become mere useful source material in the *historian's* hands and can never match his story in significance and truthfulness. What the storyteller narrates must necessarily be hidden from the actor himself, at least as long as he is in the act or caught in its consequences, because to him the meaningfulness of his act is not in the story that follows. Even though stories are the inevitable results of action, it is not the actor but the story teller who perceives and "makes" the story." On the role of the poet, see especially *The Human Condition*, p. 197: "Homer was not only a shining example of the poet's political function, and therefore the "educator of Hellas"; the very fact that so great an enterprise as the Trojan War could have been forgotten without a poet to immortalize it several hundred years later offered only too good an example of what could happen to human greatness if it had nothing but poets to rely on for its permanence."

⁵⁰ Hannah Arendt, 'Truth and Politics', p. 248.

⁵¹ Hannah Arendt, *The Human Condition*, p. 187.

“experiences” the *meaning* of which are thought to be constitutive for the political community. Thus, the legitimacy of power is articulated by interpreting the constitutive event of the political order in question and saving it from oblivion. The second explanation that I mentioned, which emphasizes the importance of (re-)enactment, points in the direction of a reflexive and possibly *transcendental* argument, that is, a political ethic which could possibly be conceived of in the guise of a categorical imperative, which demands that one should act in such a way that one preserves the conditions of acting, especially the human conditions of natality and plurality.

As Arendt does not make explicit the nature of this kind of articulation of legitimacy, we have to reconstruct it ourselves, making use of the scarce hints which she gives us. I contend that both types of articulation that I mentioned share a *mimetical* character. With this, I do not refer to the traditional depiction of the Platonic notion of *mimēsis* as simply copying and thereby forging the original. Instead, I refer to the notion of mimesis that is commonly associated with Aristotle and could be described as a re-enactment which reveals the *meaning* of an exemplary deed.⁵² Arendt herself refers to this latter notion of mimesis in *The Human Condition*:

...the specific revelatory quality of action and speech, the implicit manifestation of the agent and speaker, is so indissolubly tied to the living flux of acting and speaking that it can be represented and “reified” only through a kind of repetition, the imitation or *mimēsis*, which according to Aristotle prevails in all arts but is actually appropriate only to the drama, whose very name (from the Greek verb *dran*, “to act”) indicates that play-acting actually is an imitation of acting. But the imitative element lies not only in the art of the actor, but, as Aristotle rightly claims, in the making or writing of the play, at least to the extent that the drama comes fully to life only when it is enacted in the theatre. Only the actors and speakers who re-enact the story’s plot can convey the full meaning, not so much of the story itself, but of the “heroes” who reveal themselves in it.⁵³

⁵² According to Stephen Halliwell, *Aristotle’s Poetics*, pp. 134-5, Aristotle’s view of mimesis consists of three components: (i) “an emphasis on the *enactive* [emphasis added] mode which he regards as a defining feature of poetry, in contrast to discursive, analytical and even narrative uses of language”; (ii) “an acceptance of poetry’s *fictional* [emphasis added] freedom to imagine human action of more than one kind, or to derive its models of action from sources other than common reality”; (iii) even if the poet were to take his material from history, in distinction from the historian, “the poet is not to be tied to *transcribing* [emphasis added] reality in any straightforward manner.”

⁵³ Hannah Arendt, *The Human Condition*, p. 187.

The reason why Aristotle in his *Poetics* finds that greatness (*megathos*) is a prerequisite of the dramatic plot is that the drama imitates acting and acting is judged by greatness, by its distinction from the commonplace.⁵⁴

According to these passages, the “imitation” (i) saves a great, extraordinary, non-commonplace deed from oblivion; (ii) interprets the event or experience in order to reveal its meaning and significance. The mimetical character resides both in the art of the actor (on stage) and in the art of writing / making of the poet. This means that in articulating legitimacy by ways of articulating a fundamental or founding event, both a performative aspect (the re-enactment of the “who”) and a discursive, narrative aspect (the interpreting of the “who”) is present.

According to Arendt, both the historian’s “transformation of the given raw material of sheer happenings” and the poet’s “transfiguration of moods or movements of the heart” perform their “politically relevant functions” from *outside* the political realm (one would add, in the strict sense of the word).⁵⁵ The political deed itself constitutes an event that can be re-enacted and thus saved in art. That is why Arendt calls the theatre “the political art par excellence”.⁵⁶ Only *there* is the political sphere of human life transposed into art. But, as we are searching for ways of articulating the legitimacy of political power, we should ask in what way this quality of the art of drama could also be a quality of politics itself: could the art of drama be (metaphorically) transposed back into politics, where it stems from and which it “imitates”? In *The Human Condition*, Arendt uses the word “enactment” on one other occasion, when describing the words of Pericles in his Funeral Oration:

The words of Pericles, as Thucydides reports them, are perhaps unique in their supreme confidence that men can *enact* and *save* [emphasis added] their greatness at the same time and, as it were, by one and the same gesture, and that the performance as such will be enough to generate *dynamis* and not need the transforming reification of *homo faber* to keep it in reality.⁵⁷

⁵⁴ *op. cit.*, p. 205n33.

⁵⁵ Hannah Arendt, ‘Truth and Politics’, p. 262.

⁵⁶ Hannah Arendt, *The Human Condition*, p. 188.

⁵⁷ Hannah Arendt, *The Human Condition*, p. 205. *cf.* p. 197: “The *polis* – if we trust the famous words of Pericles in the Funeral Oration – gives a guaranty that those who forced every sea and land to become the scene of their daring will not remain without witness and will need neither Homer nor anyone else who knows how to turn words to praise them; without assistance from others, those who acted will be able to establish *together* [emphasis added] the everlasting remembrance of their good and bad deeds, to inspire admiration in the present and in future ages.”

It is decisive that she uses the word “enact” instead of “re-enact” here. The deed of Pericles constitutes an exemplary or authoritative event or experience which calls for *mimēsis* or re-enactment, whereas the original deed itself can be described in terms of the original meaning of *technē* which implies that the “product” is identical with the performing act itself.⁵⁸ “Greatness, therefore, or the specific meaning of each deed, can lie only in the *performance* [emphasis added] itself and neither in its motivation nor in its achievement.”⁵⁹ Arendt contends that this insistence on “the living deed” and “the spoken word” was conceptualized by Aristotle in his notion of *energeia* (actuality). These activities do not pursue an end and leave no work behind, but “exhaust their full meaning in the performance itself.”⁶⁰ The paradoxical expression “end in itself” derives its meaning from this experience of full actuality, because the end (*telos*) lies in the activity itself and the performance is the work. Aristotle defined this “work of man” as “to live well” (*eu zēn*), and the means to achieve it, the *aretai* (virtues) are not means in the sense of “qualities which may or may not be actualized”, but they are themselves “actualities”.⁶¹

In sum, Arendt’s way of articulating the legitimacy of power can be called *mimetical* in a twofold way. Legitimacy is articulated *not* by referring to an absolute, fixed for ever, but to an original “event” or “experience” that should be re-enacted by both (i) saving it from oblivion and interpreting it in order to make it meaningful (the task of historians and poets) and (ii) performing it (the task of the citizens / politicians). The model one could think of is rather not the Platonic carpenter who reproduces the Idea of the Bed over and over again (Book X of the *Republic*) but of both the Aristotelian actor who plays his role in the tragedy and of the Aristotelian author who wrote the play (*Poetics*).⁶² Seen in this light, legitimacy can never be reached in a foundationalist

Although the poets might be superfluous, the presence of others who actually watch and hear the man of action’s words and deeds, is indispensable.

⁵⁸ *op.cit.*, p. 207: “It is like a feeble echo of the prephilosophical Greek experience of action and speech as sheer actuality to read time and again in political philosophy since Democritus and Plato that politics is a *technē*, belongs among the arts, and can be likened to such activities as healing or navigation, where, as in the performance of the dancer or play-actor, the “product” is identical with the performing act itself.” According to Arendt, the ancients considered occupations like “healing, flute-playing, play-acting” to be examples of “the highest and greatest activities of man.” *cf.* p. 19n19: “[t]he Greek language does not distinguish between “works” and “deeds,” but calls both *erga* if they are durable enough to last and great enough to be remembered. It is only when the philosophers, or rather the Sophists, began to draw their “endless distinctions” and to distinguish between making and acting (*poiein* and *prattein*) that the nouns *poiēmata* and *pragmata* received wider currency...”

⁵⁹ *op.cit.*, p. 206.

⁶⁰ *ibid.*

⁶¹ *op.cit.*, pp. 205-6.

⁶² *cf.* Stephen Halliwell, *Aristotle’s Poetics*, p. 137: “The immediacy of the mode of poetic enactment is not required for the sake of deceptive simulation of life, but in order to be the vehicle of a structure of *meaning* [emphasis added] which Aristotle believes can nourish the understanding and move the emotions with ethical force.”

way, unless one uses “foundationalist” in the way of re-enacting a fundamental or founding event, just like one should according to Arendt speak of *technē* not in the sense of reproducing or copying an original idea, but in “performing” it.

4. Political Legitimacy without Philosophical Justification

We have seen that Arendt presents a non-foundationalist theory of political legitimacy. Still, the question arises what the status of her own theory is. Is she presenting a meta-theory of all legitimizations? Or is her theory *itself* an articulation of legitimacy, an attempt to retrieve or to remain faithful to a *specific* original beginning? Should one be “faithful” to a certain decisive event (*initium*) in history, which has a fixed time and place and a limited (although not fixed) content, or to (the faculty of) “beginning” (*initiating*) itself? Her own interpretations of the American Revolution⁶³ and the Funeral Oration of Pericles⁶⁴ seem to point into the former direction. In this case, her theory could be described as a “story” or “tale” attempting to save from oblivion two fundamental historical events or experiences. We would then have to call her a historian or a poet. Yet, one could also argue that Arendt herself makes use of a philosophical anthropology which is a theory of an objective or absolute “what” from which the rest can be deduced. Is her account of “the human condition” not an account of “human nature”? Arendt herself refused to be counted among the circle of philosophers and preferred the predicate “political theorist”,⁶⁵ but is she truthful in this respect?

When Arendt speaks about legitimacy, it seems that the body politic can only be legitimate when remaining faithful to action and speech, to natality and plurality, though not as theoretical concepts, but as living experiences. Transcendent truth is thus not present in some discourse, but only in the appearance in public of the “who” instead of the “what”. In other words, that which legitimizes is itself not of the discursive, narrative, or symbolical order. Discourse should nevertheless try to keep and to protect this *initium* and remind us of its continual possibility. Yet, the “absolute” or “truth” in itself is only present in the event, in the experience, in the appearance of the “who” and the “acting in concert”, but can never be fully

⁶³ Hannah Arendt, *On Revolution*.

⁶⁴ Hannah Arendt, *The Human Condition*, p. 205.

⁶⁵ Hannah Arendt, ““What Remains? The Language Remains”: A Conversation with Günther Gaus (1964)”, in: *Essays in Understanding: 1930-1954*; cf. Hannah Arendt, *The Life of the Mind*, p. 3.

reached in the interpretations that follow upon the event. Thus, in the political realm, and, by extension, in the realm of human affairs as a whole, only *opinion* is possible. Legitimacy can only be *manifest* in the enactment, the performance, the appearance. Thereby, every interpretation of the event must necessarily be opinion, as it is by definition not able to grasp the “true” nature of the living event, which Arendt often compares with a “miracle”.⁶⁶ The only way in which a philosopher seems capable of contributing to political legitimacy, is by setting an example:

Socrates decided to stake his life on his truth... And this teaching by example is, indeed, the only form of “persuasion” that philosophical truth is capable of without perversion or distortion; by the same token, philosophical truth can become “practical” and inspire action without violating the rules of the political realm only when it manages to become manifest in the guise of an example. (...) ...examples teach or persuade by inspiration, so that whenever we try to perform a deed of courage or of goodness it is as though we *imitated* someone else... (...) This transformation of a theoretical or speculative statement into exemplary truth...is a borderline experience for the philosopher: by setting an example and “persuading” the multitude in the only way open to him, he has begun to *act* [emphasis added].⁶⁷

Arendt’s own theory is non-foundationalist, as the absolute does not lie in her *anthropology*, in the *logos* or discourse on human being (as species), but in the phenomena, in the appearance of human beings (individuals in the plural) not as “what” but as “who”. The moral imperative of preserving in-the-act the conditions of human acting and speaking together assumes the shape of a reflexive or *transcendental* argument, which is supported by *hermeneutical* attempts to remind us (in narrative, discourse) of the legitimacy which is nonetheless constituted only in the acting itself.

5. Performative Legitimacy and Its Implicit Political Ethic

However, there seems to be one obstacle left. There is a possible contradiction between Arendt’s emphasis on the importance of the appearance and the deed and speech of an *individual* “who” on the one hand and her emphasis on the importance of the “acting *in concert*,” that is, as a

⁶⁶ Hannah Arendt, *The Human Condition*, p. 178, pp. 247-8.

⁶⁷ Hannah Arendt, ‘Truth and Politics’, pp. 247-8.

community. One of the problems is that Arendt's decisive notion of power as "acting in concert," which suggests a performative *harmony*, obscures the potential tension that lies underneath it. I will give three examples of this tension from Arendt's own work. Firstly, there is a potential conflict between newborn children on the one hand and the pre-existing common world in which they are born, on the other.⁶⁸ Secondly, there exists a potential conflict between the "agonal spirit" of Greek *polis* life – "an intense and uninterrupted contest of all against all" – on the one hand, and the "commonweal" on the other.⁶⁹ Thirdly, the conflict between Socrates and the *polis* of Athens can be generalized into the potential conflict between "personal conscience" (the dialogue of the two-in-one) on the one hand, and the laws of the political community on the other.⁷⁰

How is this tension to be accommodated? We have already seen that power has its limitation in "the existence of other people."⁷¹ This limitation does not come from the outside, but is inherent in power itself, insofar as it can only exist on the basis of the human conditions of natality and plurality. When power wants to survive, it needs to respect these implicit limits. This is the reason why power can be characterized as an "end in itself," which happens to be the very same expression that Arendt uses to characterize Aristotle's notion of "actuality" and its accompanying and implicit *aretē* (virtue). But how can power be prevented from overstepping its own inherent limits? What political ethic can be derived from Arendt's political phenomenology? The *aretē* (virtue) could be articulated in the form of the earlier mentioned *moral imperative*, which states that one should act in such a way that the conditions of acting are being preserved. On two occasions, she seems to hint in this direction. When she speaks about the irreversibility and the unpredictability of action, and of their two respective remedies of forgiving and promising, she concludes:

In so far as morality is more than the sum of total *mores*, of customs and standards of behaviour solidified through tradition and valid on the ground of agreements, both of which change with

⁶⁸ Hannah Arendt, 'The Crisis of Education', p. 196: "Education is the point at which we decide whether we love the world enough to assume responsibility for it and by the same token save it from that ruin which, except for renewal, except for the coming of the new and young, would be inevitable. And education, too, is where we decide whether we love our children enough not to expel them from our world and leave them to their own devices, nor to strike from their hands their chance of undertaking something new, something unforeseen by us, but to prepare them in advance for the task of renewing a common world."

⁶⁹ Hannah Arendt, 'Philosophy and Politics', p. 82.

⁷⁰ *ibid.*, p. 90.

⁷¹ See Hannah Arendt, *The Human Condition*, p. 201 (quoted on pp. 6-7 of this paper).

time, it has, at least *politically* [emphasis added], no more to support itself than the *good will* [emphasis added] to counter the enormous risks of action by readiness to forgive and to be forgiven, to make promises and to keep them. These *moral precepts* [emphasis added] are the only ones that are not applied to action from the outside, from some supposedly higher faculty or from experiences outside action's own reach. They arise, on the contrary, directly out of the *will to live together with others in the mode of acting and speaking*, and thus they are like control mechanisms built into the very faculty to start new and unending processes.⁷²

These “moral precepts” which guarantee the legitimacy of political power are not “applied to action from the outside”, but arise out of a “good will” which accompanies the “will to live together with others in the mode of acting and speaking” to begin with. Here again, her conception of action is performative, which fits perfectly with her thesis that of all human activities (labor, work, and even thought), action is the only one that can not be limited from the outside, but only by itself.⁷³

Arendt does not devote much attention to the question how these “limitations” may be *institutionalized*. Her reluctance in this regard probably stems from the fact that she is very much aware of the danger of bureaucracy, which she regards as another form of “rule”, that is “the rule of nobody”, which “may indeed, under certain circumstances, even turn out to be one of its cruellest and most tyrannical versions.”⁷⁴ However, in ‘Truth and Politics’ she contends that the political realm (in the strict sense) should recognize that it needs institutions outside the power struggle which are impartial, especially “institutions of higher learning:” “...whether these places of higher learning are in private hands or in public hands is of no great importance; not only their integrity but their very existence depends upon the *good will* [emphasis added] of the government anyway.”⁷⁵ Arendt does recognize the need for such impartial and independent institutions: “...at least in constitutionally ruled countries, the political realm has recognized, even in the event of

⁷² Hannah Arendt, *The Human Condition*, p. 246.

⁷³ Hannah Arendt, *The Human Condition*, pp. 236-7: “What in each of these instances saves man – man *qua animal laborans*, *qua homo faber*, *qua* thinker – is something altogether different; it comes from the outside – not, to be sure, outside of man, but outside of each of the respective activities. From the viewpoint of the *animal laborans*, it is like a miracle that it is also a being which knows of and inhabits a world; from the viewpoint of *homo faber*, it is like a miracle, like the revelation of divinity, that meaning should have a place in this world. The case of action and action's predicaments is altogether different. Here, the remedy against the irreversibility and unpredictability of the process started by acting does not arise out of another and possibly higher faculty, but is one of the potentialities of action itself.”

⁷⁴ Hannah Arendt, *The Human Condition*, p. 40. Cf. *On Violence*, pp. 38-9.

⁷⁵ Hannah Arendt, ‘Truth and Politics’, p. 261.

conflict, that it has a stake in the existence of men and institutions over which it has no power”.⁷⁶ At the same time, however, she makes it clear that institutions, which still belong to the realm of human affairs, cannot be “made.”⁷⁷ Their functioning and survival depends in the last analysis on the “good will” of the government and the people supporting it.

6. Conclusion: Prerequisites for Legitimate Forms of Government

On the basis of the tentative analysis that I gave, it is impossible to provide for a complete reconstruction of an Arendtian account of legitimate *democracy*. It is, however, possible to indicate the requirements of any legitimate form of government as such. According to Arendt, a form of government can never be legitimate as an answer to the question “Who rules Whom?” Instead, it could be legitimate as the genuine form for the matter of “legitimate power” or as the genuine materialization of or matter for the form of “legitimate power”. A form of government is legitimate only if it is the materialization of power which is constituted by “acting in concert”. In this, it remains faithful to “the initial getting together”, or, maybe even better formulated, if it is a materialization of this *initium*.

I will conclude this paper by briefly mentioning three elements that should necessarily be part of every legitimate form of government. Firstly, the “initial” getting together refers to *freedom* as the end-in-itself of politics. This points in the direction of liberal democracy, which is the form of government which is best capable of securing freedom for all citizens, i.e. the freedom to appear in public and act in concert (persuade, discuss, debate, decide on matters of common concern). Secondly, this “getting together” implies the *equality* of peers. Citizens as citizens appear in the public space, and thus, before the law, as equals. This also points into the direction of democracy, although, of course, it remains to be seen whether equality before the law is the same as real equality. Thirdly, the reference to the past, the being faithful to a moment in the past and the story told about it implies the notion of “foundation” and “constitution”. This points in the direction of democracy, too, in the sense that certain principles are laid down in a constitution, written or non-written, and that this constitution serves as an ultimate point of reference for the continual deliberating and deciding on the *meaning* of this very same

⁷⁶ *ibid.*

⁷⁷ *cf.* Hannah Arendt, *The Human Condition*, p. 188 (see footnote 32 of this paper).

constitution for the body politic in question. In the sense of “constitutionalism”, this implies a separation of different spheres, which not only means the protection of an independent judiciary, but also the respecting of academic freedom (which is especially important for historians), and the drawing of a line between fiction and non-fiction (which is especially important for poets).⁷⁸ These three elements, the principle of individual freedom, the principle of equality before the law, and constitutionalism, are essential to our notion of “liberal democracy,” *demokratische Rechtsstaat*, or – Arendt’s favourite term – the republic. Its legitimacy, and therewith, its survival, depends in the last analysis not on “rule”, but on our very own “good will” to preserve the human conditions of natality and plurality in our political deliberations and decisions.

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⁷⁸ Hannah Arendt, ‘Truth and Politics’, p. 260-261.