

## Judging Eichmann

### *History, Judgment, and Hannah Arendt's Eichmann in Jerusalem*

#### I. Introduction

In the first chapter of *Bava Metzia*, a tractate in the Talmud, two men each hold a corner of a piece of cloth, each claiming to be its rightful owner. The question posed is how a judge or judges may adjudicate the ownership of the cloth without the help of witnesses. The discussion among the Rabbis goes on for pages and pages. The obvious answer—cut the cloth and give each claimant half—is summarily dismissed. Undoubtedly, one man owns the whole cloth and the other is an impostor. Cutting the cloth in half leaves the rightful owner with only half of his property and produces an unfair windfall for the deceitful claimant. Such an unfair decision is entirely unacceptable. Instead, the chapter goes on at great length about how difficult it is to adjudicate this situation. The subtext of the chapter is that God, of course, knows who owns the cloth. But that is of no help to the judges. God is not going to do their work for them. Justice is a human task, and human beings are charged with coming to a judgment. The further subtext is the concern that, if it is so difficult to judge who ultimately owns a single piece of cloth, how much more difficult would it be to render judgment in a case when a man has been killed or, we may say, over a thousand years later, when those murdered number six million.<sup>1</sup>

The job of rendering such a judgment fell to three judges in Jerusalem, Israel, in 1961, when they conducted the trial of Adolf Eichmann, who, during World War II, was the director of Subsection IV-B-4 of the Head Office for Reich Security, an office concerned exclusively with the so-called Jewish Question. Hannah Arendt, by then a well-known political philosopher, accepted a posting from the *New Yorker* magazine to cover the trial. She wrote four articles for the *New Yorker* that later were expanded to form a book, *Eichmann in Jerusalem*, published fifty years ago, in 1963.

In retrospect, I imagine that her readers, friends, and editors expected her to come back from Jerusalem and tell a story—one which was becoming familiar to all by 1961—of the horrors of the Holocaust, the planned and executed extermination of most of European Jewry, during the years 1941–1945. It was a story of enormous sadness but also of rebirth in the newly established State of Israel. To place Eichmann at the center of that story and to tell it again through his trial was certainly the intent of the trial's prosecutor, Gideon Hausner. Arendt observed that the capture of Eichmann, who had been hiding in somewhat plain view in Argentina, and his indictment for trial in Jerusalem, were both accomplished to effect the telling of that story on a world stage.<sup>2</sup>

Arendt decided not to tell that story at all. She labeled it “bad history”<sup>3</sup> and instead produced her own historical interpretation of Eichmann and the Holocaust. Her interpretation found Eichmann (1) evil, but banal at the same time; and (2) very difficult to adjudicate as guilty of any specific or statutory crime. She also insisted on understanding Eichmann in the context of the cooperation by some Jewish leaders in carrying out the Holocaust.

Because Arendt distinctly chose to relate a historical narrative different from the one she was expected to tell, an enormous controversy ensued

upon the publication of the articles and the book. That controversy concerned, in part, the difficulties inherent in coming to a judgment. If Eichmann's case was egregious compared to the hypothetical circumstances stated in *Bava Metzia*, the problem remained. It is inordinately difficult for human beings to come to a fair and just judgment of another human being.

This problem was highlighted in an exchange of letters between Arendt and Gershom Scholem, an equally eminent Jewish scholar, which was conducted shortly after *Eichmann in Jerusalem* was published.

I contend that the controversy also concerned how a historian constructs a narrative: that is, what choices are made in telling a historical story, especially one that the reader thinks he or she already knows. This article is about both elements of the controversy: the historiographical problem of historical story telling and the juridical problem of judgment.

#### II. Hannah Arendt and Gershom Scholem: A Colloquy on the Limits of Judgment

Because of the controversy that followed the publication of *Eichmann in Jerusalem*, Arendt published a slightly revised version in 1965. That latter version included a postscript that, in one sentence, summarized what she thought she had accomplished by reporting on the trial: “The present report deals with nothing but the extent to which the court in Jerusalem succeeded in fulfilling the demands of justice.”<sup>4</sup>

Arendt conceived of her work as being, among other things, a meditation on the demands of judgment, and she and Gershom Scholem engaged in an exchange of letters on the subject of judgment during the summer of 1963. Scholem was a celebrated scholar of Judaism teaching at the Hebrew University in Jerusalem.

Upon reading Arendt's report, he wrote her a letter. Therein he took her to task for passing judgment on persons other than Eichmann. In *Eichmann in Jerusalem*, Arendt wrote briefly, but without much qualification, about the role of the Jewish leadership throughout Europe, the so called *Judenräte*, who often, but not always, cooperated with Eichmann's office in preparing their communities for transport to death and concentration camps.

Wherever Jews lived, there were recognized Jewish leaders, and this leadership, almost without exception, cooperated in one way or another, for one reason or another, with the Nazis. The whole truth was that if the Jewish people had really been unorganized and leaderless, there



Hannah Arendt, 1961 (Courtesy of the Hannah Arendt Bluecher Literary Trust)

would have been chaos and plenty of misery but the total number of victims would hardly have been between four and a half and six million people.<sup>5</sup>

Scholem, among others, commented on this passage. He found it offensive to the extent it blamed the Jewish victims for their own destruction, but he also found it wrong as a judgment of the Jewish leaders.

There were the *Judenrate*, for example; some among them were swine, others were saints. I have read a great deal about both varieties. There were among them also many people in no way different from ourselves, who were compelled to make terrible decisions in circumstances that we cannot even begin to reproduce or reconstruct. I do not know whether they were right or wrong. Nor do I presume to judge. I was not there.<sup>6</sup>

Arendt replied in a letter of July 24, 1963, that a judgment on this difficult issue was necessary.

This [the cooperation of the Jewish leaders] constitutes our part of the so-called “unmastered past” and although you may be right that it is too early for a “balanced judgment” (though I doubt this), I do believe that we shall only come to terms with this past if we begin to judge and be frank about it.<sup>7</sup>

Later, in her 1965 postscript, Arendt continued,

The argument that we cannot judge if we were not present and involved ourselves seems to convince everyone elsewhere, although it seems obvious that if it were true, neither the administration of justice nor the writing of history would ever be possible.<sup>8</sup>

This colloquy is important for an understanding of the judgments rendered in Arendt's book.<sup>9</sup> Particularly, in her last comment, Arendt refers to two types of judgment: a legal judgment that would comprise “the administration of jus-

tice” and a historical judgment that would be part and parcel of a work of history. Neither Arendt nor Scholem delved into the difference between the two.

Scholem and Arendt are, in the quotations above, discussing judgment of the Jewish leadership. That argument consumed a great deal of attention when *Eichmann in Jerusalem* was first published. However, the controversy over the *Judenräte* is not the primary subject of this essay. The above argument is quoted at length mainly to illustrate that a crucial distinction is glossed over in the exchange of letters: the distinction between a historical and a legal judgment. A similar distinction concerns any judgment of Eichmann. He can be judged both historically and legally. In fact, Arendt, in her book, explicitly renders both a historical and a separate legal judgment of Eichmann. However, as in the letters above, she does

not analytically distinguish between these types of judgment. What follows is such an analysis.

### III. The Difference Between Historical and Legal Judgments

As noted above, Arendt considered her report from Jerusalem to be about how judgment and justice were rendered there. Nonetheless, in her postscript, Arendt describes her work as one of history: “The problems faced by a writer of a report may best be compared with those attendant on the writing of a historical monograph.”<sup>10</sup>

In going to Jerusalem, Arendt was prepared to deliver both a historical and a legal judgment. And she did so. Of course such judgments are functionally different. A historical judgment functions to make the past meaningful. It does not function as a final determination that is predicate to a pen-

alty. But there are other distinctions between historical and legal judgments.

Historical judgments are statements about the past that seek to understand the past and give it meaning.<sup>11</sup> Historians also work without a burden of proof, and their judgments are of course retrospective and open.<sup>12</sup>

Legal judgments, on the other hand, are statements about the past that seek to condemn an individual. The judges who render legal judgments work with a burden of proof, and their judgments are prospective and closed.

One way of understanding the difference between historical and legal judgments is to diagram them in a manner proposed by both Stephen Toulmin and Van Harvey.<sup>13</sup> Both Toulmin and Harvey describe historical arguments as moving from data (D) to conclusion (C) by way of an inference license or warrant (W). Further, in most historical arguments, the conclusion is qualified (Q) by such words as “possibly,” “probably,” or “presumably” and subject to a rebuttal (R).

When applied to a generic historical argument about Eichmann, such an argument would look like Figure 1. This diagram illustrates the relationship among data, warrants, and conclusions and indicates that a historical argument is qualified and open, that is, subject to rebuttal.

Although Harvey compares historical and legal judgments, he does not diagram a legal judgment. Nevertheless, using his and Toulmin’s analysis, the same sort of diagram can illustrate a legal judgment, as shown in Figure 2. (BOP stands for Burden of Proof.)

These two diagrams demonstrate that legal and historical arguments are structurally different from each other. While both use data and warrants to reach a conclusion, a legal judgment is based on a burden of proof and is closed, admitting ultimately of no rebuttal. The mechanical fact that in some instances a historical judgment may function as a warrant for a legal judgment or vice versa does not alter that difference. A historical judgment is not a legal judgment. In her book, Arendt renders both a historical judgment and a legal judgment. Each should be analyzed separately in order to better understand the structure of her argument.

### IV. Arendt’s Historical Judgment

As noted above, Arendt understood that she was engaged in a historical endeavor. Specifically, she was trying to understand Eichmann, and through him, the Nazi regime and its effort to exterminate the Jews of Europe. Arendt had been a student of totalitarianism.<sup>14</sup> In *Eichmann*, she had a case study available to her to illustrate the twentieth-century totalitarian phenomenon.

However, like any other historian, she could not simply report the events of the past. The past is infinite in detail and scope. Anyone writing history must choose among historical questions, sources, and data and choose also an explanatory scheme to make sense of the chosen data.<sup>15</sup> In reporting on the trial in Jerusalem, Arendt had to make the choices incumbent on any historian. That she chose Eichmann as her protagonist is hardly surprising, although she could have chosen the prosecutor Gideon Hausner or any of the judges or even an institution or idea.<sup>16</sup>

After choosing Eichmann, she still had to choose an interpretive scheme through which to understand him. A crucial part of that effort was choosing a context in which he became understandable. There were any number of possible contexts to choose from.

And my point is to emphasize the need to recognize that, in treating the relation of texts to con-

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texts, one does indeed have a problem and that what is often taken as a solution should be reformulated and investigated as a real problem. An appeal to the context does not *eo ipso* answer all questions in reading and interpretation. And an appeal to *the* context is deceptive: one never has . . . the context. [O]ne has a set of interacting contexts whose relations to one another are variable and problematic and whose relation to the text being investigated raises difficult issues in interpretation.<sup>17</sup>

Substitute “Eichmann” for “text” and we may understand that any historian of Eichmann and his trial had a choice of numerous contexts through which he could be understood.

The prosecution deliberately chose a particular context in which to place Eichmann. Arendt specifically identifies that context, which consisted of testimonial evidence giving a “general picture” of the persecution and suffering of the Jewish victims.<sup>18</sup> The prosecution blurred the distinction between a historical and a legal judgment when it sought a legal judgment against Eichmann by first painting such a historical background picture. The court cogently objected to such “picture painting.” As a purely legal matter, the terrible sufferings of the Jewish victims were not contested and often not relevant to the particular crimes for which Eichmann had been indicted.<sup>19</sup> Nonetheless, in its own legal judgment, the court also chose to paint a background picture describing the horror of the Nazi persecution. In the District Court of Jerusalem’s judgment at section 89, the Court disavows being a historian but states that it is “laying the ground for the evaluation of the Accused’s responsibility” and noting “the background of events” and “emphasizing certain facts.”

Arendt correctly takes note of the context in which the legal judgment was being formulated. But in arguing for a historical judgment of Eichmann, she rejects the context chosen by the prosecution and, to a lesser extent, by the court. Instead, she chooses a different context altogether.

For Arendt, the context that provided the most meaning to Eichmann as an accused criminal was the almost total moral breakdown in Europe during World War II.<sup>20</sup> The fact that at almost every turn governments and individuals were more than willing to cooperate with the Nazis was a context that made Eichmann understandable. His status as an ordinary person who nonetheless could not tell right from wrong makes sense, not against the backdrop of Jewish suffering, but against the backdrop of almost universal moral collapse. The fact that he professed not to know about, or think about, the murderous consequences of his actions,<sup>21</sup> coupled with the fact that, on numerous occasions, he professed to have forgotten the most horrendous events,<sup>22</sup> was a puzzle for Arendt that she solved in part by seeing him in the context of Europe’s moral collapse.<sup>23</sup>

Of course, Arendt went further, and in order to prove that the moral collapse was total, she introduced evidence of moral collapse even among the leaders of the Jewish community.

I have dwelt upon this chapter of the story, which the Jerusalem trial failed to put before the eyes of the world in its true dimensions, because it offers the most striking insight into the totality of the moral collapse the Nazis caused in respectable European society—not only in Germany but in almost all countries, not only among the persecutors but also among the victims.<sup>24</sup>

According to Arendt, she included the evidence of Jewish cooperation in order to fill in gaps and la-


Figure 1		
(D) Eichmann was the director of Subsection IV-B-4.		(C) Therefore, Eichmann, (Q) most likely, was one of the persons responsible for the deaths of the Jews sent to the death camps.
	(W) The work of subsection IV-B-4 was to transport Jews to death camps where Jews in fact were killed.	
		(R) Unless Eichmann used his position to deport Jews to safety and not to death camps or unless Eichmann was ignorant of the fate of Jews in the death camps.


Figure 2		
(D) Eichmann was the director of Subsection IV-B-4.		(C) Therefore, Eichmann was, (BOP) <i>beyond a reasonable doubt</i> , responsible for the deaths of the Jews sent to the death camps.
	(W) The work of subsection IV-B-4 was to transport Jews to death camps where Jews in fact were killed.	
		(R) Because no rebuttal evidence raised a reasonable doubt.



Figure 3		
(D) Eichmann testified that he did not think about the mass deaths that resulted from his actions. He also claimed to have forgotten important aspects of what he did.		(C) Eichmann is an example of the banality of evil; that is, evil that is, because of a universal moral collapse, without any self-scrutiny or self-knowledge.
	(W) There was total moral collapse in World War II Europe, which included a moral collapse among Jewish leaders.	
		(R) Unless he was lying about his state of mind.

Figure 4		
(D) Person A committed an act that caused the death of another person.		(C) A is guilty beyond a reasonable doubt of murder.
	(W) When A acted, he or she had a legal state of mind called “malice aforethought.”	

cunae in the context, the background picture, that the prosecution had painted.<sup>25</sup>

Thus the gravest omission from the “general picture” was that of a witness to testify to the cooperation between the Nazi rulers and the Jewish authorities. . . .<sup>26</sup>

If, then, Arendt has chosen the moral collapse in European society as the context for her study of Eichmann, we may diagram her historical judgment of Eichmann as in Figure 3. The rebuttal to Arendt’s historical judgment is significant and may render her historical judgment suspect. Nonetheless, I am not interested here in the correctness of her judgment. I only want to describe its structure.

V. Arendt’s Legal Judgment

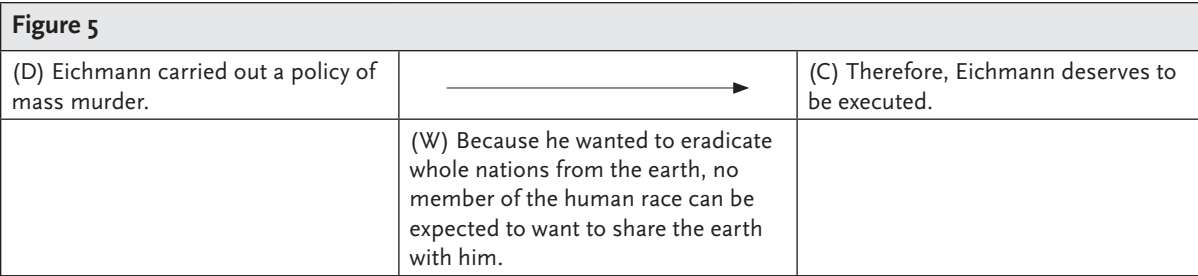
Separate and apart from Arendt’s historical judgment of Eichmann as an example of the banality of evil, she offers a legal judgment as an alternative to the judgment rendered in Jerusalem. This judgment is offered at the very end of the Epilogue.<sup>27</sup>

Arendt prefaces her judgment with the explanation that in all systems of criminal justice, a necessary condition of judging a person legally responsible for his or her acts is an intent to commit the crime.<sup>28</sup>

For example, to prove a person guilty of first- or second-degree murder in California, the prosecution must prove “(1) the defendant committed an act that caused the death of another person and (2) when the defendant acted, he/she had a state of mind called malice aforethought.”<sup>29</sup> Consequently, a typical criminal judgment can be diagrammed as in Figure 4.

Continuing, Arendt explains that in order for the Jerusalem judges to have rendered cognizable justice, they should have judged Eichmann in the alternative manner she proposes. She then offers a judgment and condemns him for crimes against humanity.

And just as you supported and carried out a policy of not wanting to share the earth with the Jewish people and the people of a number of other nations—as though you and your superiors had any right to determine who should and who should not inhabit the world—we find that



no one, that is, no member of the human race, can be expected to want to share the earth with you. This is the reason, and the only reason, you must hang.<sup>30</sup>

Given the preface to her judgment concerning criminal intent, the interesting thing about Arendt’s legal judgment is that it pointedly does not include that element. In fact, she admits in her judgment that “there is some, though not very much, evidence against you [Eichmann] in this matter of motivation and conscience that could be proved beyond reasonable doubt.”<sup>31</sup> This admission, which must undercut her alternative judgment, is a necessary consequence of Arendt’s historical judgment as analyzed above. In her historical judgment, Arendt finds Eichmann typical of the moral collapse in Europe because he did not think about what he was doing.

That such remoteness from reality and such thoughtlessness can wreak more havoc than all the evil instincts taken together, which perhaps, are inherent in man—that was, in fact the lesson one could learn in Jerusalem.<sup>32</sup>

If it was his *thoughtlessness* that caused the “havoc,” then it was logically impossible to attribute malice *aforethought* to him. Arendt’s histori-

cal judgment is a necessary predicate to her legal judgment. Given her historical judgment, Arendt had to formulate a completely new type of legal judgment. She could not find that he had legal intent to murder. Instead, she says that he “supported and carried out a policy of not wanting to share the earth with the Jewish people and the people of a number of other nations.” But carrying out someone else’s policy of mass murder actually absolves him of criminal intent. He was carrying out someone else’s intent, not his own.

Ultimately, Arendt states that Eichmann was guilty because he wanted to eradicate whole nations from the earth. Her judgment can be diagrammed as shown in Figure 5. Once her legal judgment is diagrammed in this fashion, certain problems become clear.

Given her historical judgment, Arendt had to formulate a completely new type of legal judgment.

Actually, her judgment is not a legal or criminal judgment at all. It is really less a judgment of Eichmann and more a justification for his execution. Arendt apparently concluded that because the court, on the evidence before it, could not find criminal intent and, therefore, could not enter a true criminal judgment, the court instead had to find a different basis for its order for his execution.<sup>33</sup> Arendt is quite certain Eichmann should be executed, but, given her historical judgment, she can find no legal justification for that sentence. It is of no small interest that Arendt struggles with a justification for executing one man, who, in her own analysis, did not struggle to understand the deaths of millions.

Ultimately, the reason for his execution—and she is quite clear that in her mind it is the only reason—is that “no member of the human race can be expected to want to share the earth with” him. This seems a very weak reason to take a person’s life.

First, it is transparently rhetorical. Certainly, there are countless members of the human race who would gladly share the earth with Eichmann—not despite his support of a plan to eradicate the Jewish people, but because he supported such a plan. Unfortunately, the sordid history of anti-Semitism did not end with the Nazis. It did not even end in Europe. In any event, Arendt gives no justification for her speaking for the entire human race. To the extent she does, her judgment or justification is unpersuasive.

Further, as a technical matter, she contradicts herself when she justifies Eichmann’s execution in that manner. This is apparent if the warrant in her historical judgment is compared to the warrant in the legal judgment. In her historical judgment, the warrant for finding Eichmann “banal” is that there was a complete moral breakdown among the people of Europe during World War II. On the other hand, her warrant, which allows

her to unequivocally determine that he should be executed, states that no member of the human race, including Europeans, would want to share the earth with him. In other words, the persons who were morally bankrupt in the historical judgment are, in the legal judgment, among those who are allowed to condemn Eichmann to death. The collaborators during the 1940s, Jews and non-Jews, have been transformed into a type of jury by 1961.

In expressing this contradiction, albeit unwittingly, Arendt may have come across an actual historical conundrum. But she does not couch it in those terms. She is certain of the rightness of both her historical judgment and her legal judgment. But her certainty in the face of such an obvious contradiction belies an uncertainty in the whole enterprise of judgment.

VI. Conclusion

If we return to Bava Metzia, we may understand Arendt in the context of a long Jewish tradition of reluctant judges (Scholem included). She is so reluctant to judge, even Eichmann, that she must recruit the entire human race as supporters of her position. Without their support, as rhetorical as it is, she could not bring herself to reach a legal judgment. Therein she may be right. And the ex-


hortation to caution laced all through *Eichmann in Jerusalem* may be correct also, because as Bava Metzia teaches, judgment is an entirely human endeavor. In parts of the Jewish tradition, judgment is an arduous task left completely up to human beings. In Bava Metzia, no supernatural interference helped the rabbis in their deliberations on a very simple and innocuous case. And in Jerusalem, where the case was immeasurably more significant, it was still up to human beings, and human beings alone, to render judgment on another human being. In Arendt’s estimation, even when the accused functioned to bring about the deaths of millions—and even when, to many others, the ultimate judgment seemed obvious—that was no small task. No wonder that she is compelled to include all of humanity in her judgment. She sees it as a burden on all persons. As noted above, that conclusion may be unconvincing legally, but it may be far more edifying as a description of the human condition.

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NOTES

1. In fact, another Talmudic tractate, Sanhedrin 1:4, addresses exactly the issue of how to conduct a murder trial. The death penalty may be imposed only by 23 judges. There must be two witnesses who can testify to warning the murderer beforehand of the consequences of killing someone, and they must also be able to testify that the culprit accepted the warnings but went ahead with the crime anyway. Finally, a confession by the murderer cannot be accepted as evidence against him or her. In other words, rendering a judgment for the death penalty would be almost impossible. However, because the Romans had denied the Jewish courts the power to impose the death penalty after 70 C.E. at the latest, the admonition against such a judgment may be more rhetorical than actual.
2. Hannah Arendt, *Eichmann in Jerusalem* (“EJ 1”), New York: Viking Press, 1963, at p. 16.

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3. *Id.*
4. Hannah Arendt, *Eichmann in Jerusalem* ("EJ II"), New York: Penguin, 1965, at p. 311
5. EJ I at p. 111.
6. Scholem's letter was published in Hannah Arendt, *The Jew as Pariah*, Ron H. Feldman ed. ("JP"), New York: Grove Press, 1978. The passage quoted is on p. 243.
7. Arendt's reply letter is also published in JP and the above quotation is at p. 248.
8. EJ II at pp. 308–309.
9. It also sheds light on Scholem's historiography, but that is not the subject of this essay.
10. EJ II at p. 296.
11. I. Hodder and S. Hutson, *Reading the Past*, Cambridge, UK: Cambridge University Press, 2003, at pp. 145–152; R. G. Collingwood, *The Idea of History*, Oxford, UK: Oxford University Press, 1946.
12. Van A. Harvey, *The Historian and the Believer* ("HAB"), Toronto: Macmillan, 1966, at pp. 60–62.
13. Stephen Toulmin, *The Uses of Argument*, New York: Cambridge University Press, chap. iii. HAB at pp. 50–51.
14. Hannah Arendt, *The Origins of Totalitarianism*, New York: Harcourt, Brace & World, 1951.
15. Some basic texts in modern historiography include the following: R. G. Collingwood, *The Idea of History*, cited above; Marc Bloch, *The Historian's Craft*, Manchester, UK: Manchester University Press, 1954; Patrick Gardiner, *The Nature of Historical Explanation*, Oxford, UK: Oxford University Press, 1952; W. H. Dray, *Philosophy of History*, Englewood Cliffs, N.J.: Prentice Hall, 1964; Fernand Braudel, *The Mediterranean and the Mediterranean World in the Age of Philip II*, New York: Harper & Row, 1972; Hayden White, *Metahistory*, Baltimore: Johns Hopkins University Press, 1973; Arthur Danto, *Analytical Philosophy of History*, Cambridge, UK: Cambridge University Press, 1965; Emmanuel LeRoy Ladurie, *The Mind and Method of the Historian*, Chicago: University of Chicago Press, 1981; Ian Hodder and Scott Hutson, *Reading the Past*, 3d ed., Cambridge, UK: Cambridge University Press, 2003.
16. D. L. Hull, "Central Subjects and Historical Narratives," *History & Theory* 14 (1975): 253–274.
17. D. La Capra, "Rethinking Intellectual History and Reading Texts," *History & Theory* 19 (1980): 254.
18. EJ I at pp. 106–107.
19. EJ I at p. 191.
20. EJ I at p. 111.
21. EJ I at p. 89, and at p. 134 re Eichmann's conscience.
22. EJ I at pp. 53, 56, 72, 75–76, 88, 89, 93, 99 for a selection of Arendt's comments on Eichmann's faulty memory.
23. EJ II at p. 306: "Eichmann acted fully within the framework of the kind of judgment required of him. . . ."
24. EJ I at p. 111.
25. EJ I at pp. 105–106.
26. EJ I at p. 110.
27. EJ I at pp. 254–256.
28. EJ I at p. 254.
29. Judicial Counsel of California Criminal Jury Instructions, Section 520.
30. EJ I at pp. 255–256.
31. EJ I at p. 254.
32. EJ II at p. 301.
33. Of course, the actual District Court in Jerusalem reached no such conclusion. At sections 182 *et seq.* the court did a deep analysis of the question of Eichmann's intent. Ultimately, at section 244, where actual judgment is stated, the court found criminal intent to murder and on that basis found him guilty and ordered his execution.

We, therefore, convict the Accused . . . of a crime against the Jewish People . . . in that . . . he, together with others, caused the deaths of millions of Jews, with the purpose of implementing the plan which was known as the "Final Solution of the Jewish Question," *with intent* to exterminate the Jewish People. [Emphasis added.]

Arendt, however, categorically disagrees with that judgment and for that reason offers her own alternative.



# Fall Poetry From Omnidawn

★★★ Winner: Omnidawn 1st/2nd Book Prize ★★★

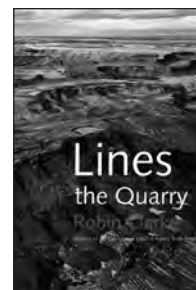


Selected by Brenda Hillman

***Lines the Quarry* by Robin Clarke**

**\$17.95 96 pages 978-1-890650-89-6**

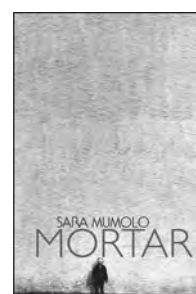
"One of the most compelling first books I've read in years. If there is a literary equivalent to the financial cliff, Robin Clarke's *Lines the Quarry* represents the mountain of wreckage at the bottom of the free fall."—Mark Nowak



***Mortar* by Sara Mumolo**

**\$17.95 80 pages 978-1-890650-90-2**

"With wry feminist humor and not a little ambivalence, her poems document the psychic costs of an economy that conflates sex and capital, the female nude and the courtesan. 'Rolling over onto backs, we're conflict's mascot,' Mumolo bravely writes, 'none of these anxieties are new.' Dear wise and foolish virgins of late, late capitalism: this book is for you."—Brian Teare



***Songs without Words* by Paul Verlaine**

**Translated by Donald Revell**

**French on Facing Pages**

**\$17.95 96 pages 978-1-890650-87-2**

*Songs without Words (Romances sans paroles)* is the book in which, unabashedly, Paul Verlaine becomes himself and, in so doing, becomes the iconic poet of the French nineteenth century. A book of musical sequences, it seeks and finds exquisite purity of expression, best exemplified by "Il pleure dans mon coeur," the most famous and most inimitable of all French lyric poems.



***Transfer of Qualities* by Martha Ronk**

**\$17.95 88 pages 978-1-890650-82-7**

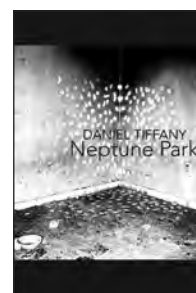
"Martha Ronk's *Transfer of Qualities* belongs to the same tradition as Stein's *Tender Buttons* and Ponge's *Le Parti pris des choses*, but Ronk's homage to the 'not-me' of objects, and of others, is suffused with an elegance, melancholy, and intimacy all her own. Her meditation offers quiet, multiple, and profound insights into intimacy, grief, and the 'residue of lost time.'"—Maggie Nelson



***Neptune Park* by Daniel Tiffany**

**\$17.95 88 pages 978-1-890650-86-5**

"*Neptune Park's* uncanny couplets are not like anything else—they read like Lynchian jingles, 3 AM blurts, off-key songs overheard in a Shell station mart. They are pastiche distillations or riddling alchemies that switch from the profound, to the kitsch, to the crass. Read these tantalizing, unfamiliar telegrams from a world that's a theme park of our own."—Cathy Park Hong



***The Not Forever* by Keith Waldrop**

**\$17.95 112 pages 978-1-890650-88-9**

"Lifting vocabulary and tone from the philosophic, the mythic, the scientific, and the biblical, these pieces take a vast range of knowledge and of ways of knowing and fold them in together to create a millefeuille of idea and image in which the only real thing is language. This is a work whose beauty and intensity anchor us to the present, and keep us there."—Cole Swensen



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