

The Perpetrator Occult: Francis Bacon paints Adolf Eichmann

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I would like to thank Martin Hammer for generously sharing his work on Francis Bacon and the Eichmann trial with me, and A. Dirk Moses and Shaun Hargreaves Heap for their reading and comments on earlier versions of this essay.



Francis Bacon, 'Study for a Portrait' (1949) Collection Museum of Contemporary Art, Chicago. Gift of Joseph and Jory Shapiro. © 2009 Artists Rights Society (ARS), New York / DACS, London.

I have no idea what any artist is trying to say, except the most banal artist.

Francis Bacon

From innocence beyond virtue and guilt beyond vice, from a hell where all Jews were of necessity angelic and all Germans of necessity diabolical, we must return to the reality of politics.

Hannah Arendt, 'An Image of Hell' (1946)

When Hannah Arendt first made her plea for a sober study of perpetrators and their victims in 1946, she echoed a widespread call for the return of reason, judgement and political justice in the wake of hellish atrocity. The Nuremberg Tribunal held the same year was the most emphatic demonstration of the desire for the restoration of rational judgement in the immediate postwar period -- one of the 'greatest tributes power paid to reason', in American Prosecutor, Robert J. Jackson's memorable opening words. Yet what I want to describe in this essay as the perpetrator occult also finds one of its first and most tenacious expressions in the major war crime trials of the Holocaust. A trial, of course, is meant to be a demonstration of legal reason, not an image of hell. In the epic drama of the war crime trial, however, there is often a legal category leakage -- a moral and affective spillage -- that runs over into the court, menacing legal reason with the very nightmare it is attempting to master.

Shoshana Felman has written of a 'juridical unconscious' that scars the attempt to legislate for the Holocaust in the twentieth century in the form of a trauma. Hell, she argues, quite literally opens up once more in the centre of the courtroom in the traumatic testimony of the victims as, for example, famously, when the writer-survivor, Yehiel Dinoor, collapsed on the witness stand in the Eichmann trial.¹ But the other image that haunted that trial and haunted an imagination beyond the trial too, was that of the scrawny bespectacled man fidgeting with his papers in his glass box. While the victims' testimony was an outpouring of grief, Eichmann's box provided a counter image of impenetrability: there he sat, specimen of an entirely different species in his cage, trapped behind glass, held in and for the gaze of the spectator.

As well as a juridical unconscious, there is too a perhaps less examined juridical imaginary, a place where the perpetrator is not only tried, but also imagined, captured within a mirroring and doubling that Eichmann's famous glass cube materializes so explicitly. This visual and, I want to suggest, phantasmatic entrapment of the perpetrator is the product of the coincidence of the rapid development of modern visual culture and the exponential growth of international law in the postwar period. Foremost a legal spectacle, the Nuremberg Tribunal played a crucial part in the development of twentieth-century juridical screen culture. The defendants were the most photographed criminals in history, and although it was not the first trial to use photographic evidence, the scale of visual material on display was unprecedented: 18,000 hundred photographs were prepared as trial exhibits, and for the first time documentary films, shot by the Americans and Soviets, were shown as evidence.² In 1961 the newly constructed House of the People, *Beit Ha'am*, in Jerusalem not only transformed itself into a courtroom, but into a TV studio. Three cameras framed the trial: one faced the audience, a second the witness stand, while a third held

Eichmann's box 'permanently in its gaze'.³ Tied to the imperative to judge in both trials was what Valerie Hartouni has called 'an injunction to look'.⁴ In terms of putting the Holocaust on trial that looking also meant believing --- look at what has happened, believe that this has happened. 'I would never be able to forgive myself', Arendt wrote to Karl Jaspers before she visited the Eichmann trial, 'if I didn't go and look at this walking disaster face to face in all his bizarre vacuousness, without the mediation of the printed word'.⁵

As psychoanalysis reminds us looking, even at bizarre vacuousness, is never balanced, never neutral. Something in the nature of how we look means that the kind of identifications we make and the sort of judgements that follow are always charged, which is why looking can also be a way of not seeing or understanding. Arendt famously complained of what she believed was a refusal to engage with Eichmann's status as a completely new kind of criminal in the Jerusalem court. Keeping the perpetrator in his glass box as though he were a separate category of humanity, she thought, acted as a block to judgement. Instead, Arendt wanted a kind of judgement that acknowledged at least a common history with the perpetrator (as the law must presuppose): only then, she argued, would the political reality of the genocide fully come into view.⁶ The explosive consequences of her decision to emphasise the role of the *Judenrate* (the Jewish Councils) in the Holocaust for the reception of her reports on the trial (first published in the *New Yorker* and then as *Eichmann in Jerusalem: A Report on the Banality of Evil* in 1963) are well known. In pre-1967 Israel and beyond, the timing was not right for a political reality in which angels sometimes consorted with devils.

Neither is taking the perpetrator out from under glass any easier today, as Eyal Sivan and Rony Brauman discovered when they used the original footage of the trial

to make their controversial 1999 film essay, *The Specialist*. Turning Eichmann the perpetrator into Eichmann a self-indicting witness for some critics, like *Eichmann in Jerusalem* from which the film explicitly takes its point of view, resulted in a morally dubious diluting of absolute guilt into a dangerously proliferating set of culpabilities. Like Arendt's, the film's focus on Eichmann's lethal banality was read as a though it were also somehow a twisted absolution of his guilt ('representing the perpetrators', as the slightly risky title of this issue suggests, as sliding into to representing their case in an identification too far).⁷

What happens, however, if we leave the question of guilt and looking to one side for the moment, and ask more simply what kind of image – what kind of face -- we actually see when we look into the glass box and at the perpetrator. Rather than approach this as a question of good or bad identification, terms that have come to haunt contemporary Holocaust historiography, what happens if instead we begin with the assumption that the business of making judgements itself is implicated in identifications that are always at once violent and empathetic, intimate and distancing? The reason why the reproduction of a Francis Bacon painting is at the beginning of this essay, therefore, is not because it is a representation of a perpetrator. This is not Eichmann, despite the tie and the box, but a painting entitled *Study for a Portrait* from 1949, a good twelve years before his trial, three years after the Nuremberg Tribunal (and the same year as Jacques Lacan published 'The Mirror Stage'). But it is perhaps an image of hell. The primitivism of that screaming mouth, as we will see, recalls the atavism that accompanied the representation of Nazi war criminals in the Nuremberg trial. Yet at the same time the glass box does not secure the distance the planes of glass might seem to secure. We are drawn to the man in the glass booth even as we are separated from him. As is characteristic of Bacon's other

glassed figures, the man in the box suggests both an absolute otherness and invokes a discomfiting kind of proximity. It is not that we pity the man his capture, but neither are we indifferent to the hell he seems to occupy.

In this essay I want to use Bacon's painting as a hinge first, historically, to think about the different kinds of perpetrator occults in the Nuremberg Tribunal and the Eichmann trial, and second, interpretatively, to draw out the contrast between the kind of looking that keeps the perpetrator behind glass, and a more implicated looking that may (if not return us to the reality of politics) allow us to begin to think about the types of perception and imagination, and the kinds of reflective judgements, we might bring to the war criminal. If Bacon seems an appropriate artist to draw into this discussion, even at its margins, this is not just because of the historical associations between his work and the trial. Bacon, after all, never actually completed a painting of Adolf Eichmann.⁸ If it looks, however, as if he has painted Eichmann, this is because of the way his painting is uniquely situated between, on the one hand, the rise of the documentary photograph within the history of the Holocaust, and on the other, a powerful drenching of nameless emotion in his work that is also often so present in representation of perpetrators, but rarely acknowledged in legal or historical discourse. Like the perpetrators of the genocide against the Jewish people, Bacon's paintings sit uncomfortably between history and nightmare, documentary evidence and hell.

Nuremberg

One of the more dramatic instances of visual vertigo in the Nuremberg tribunal occurred with the screening of the film *Nazi Concentration Camps*, comprising atrocity footage from the camps liberated in the West by the Allies and shot by US Signal Corps.⁹ As the film was shown to a darkened courtroom the prison psychologist, G.M. Gilbert, and his assistant were positioned to watch the reactions of the defendants, specifically to look at their faces, as they viewed the footage. Presumably the expectation was that the perpetrator-spectators might betray not only signs of guilty complicity but, more visibly, of a shame that might reconnect them to humanity (or not) in an early example of trial by screen. The defendants mostly comply; what is expected of them, despite the horrors on display, is after all pretty normative behaviour. Some shudder, others gasp, some look away. All but Goering who instead effortlessly slips into the role of melodramatic villain: 'It was such a good afternoon,' he later complains to Gilbert, 'And then they showed that awful film, and it just spoiled everything.'¹⁰ A chilling indifference with a malevolent hint of self-parody: small wonder Goering's comment is quoted so often in accounts of the Tribunal. Yet if Goering's performance of himself seems so diabolically apt, this is not only because he is an accomplished creep but also because the terms of the trial created that role for him.

Although the first trial to pursue the charge of crimes against humanity in history, in reality the prosecution at Nuremberg struggled to define the unprecedented nature and complexity of the evidence that lay before them. Crimes against humanity, to give the most famous example of compromised jurisprudence at Nuremberg, in the end were restricted to acts committed only in the prosecution of war. Whatever Nuremberg did achieve, it was not a genocide trial and, as historians Donald Bloxham and Lawrence Douglas have demonstrated, still less a trial that did justice to the

Jewish people.¹¹ The decision to avoid victim testimony in favour of ‘hard’ documentary evidence, for example, although made in good legal faith, was nonetheless symptomatic of the downplaying of the specifically genocidal and antisemitic core of Nazi crime. Douglas wryly observes that *Nazi Concentration Camps* mentions the word ‘Jew’ just once. Facing a crime the nature of which the law itself could not yet bring itself to recognise, as Douglas describes, the prosecution fell back on the atavistic rhetoric that was to become part of the stock and trade of representations of Nazi perpetrators and the Holocaust in the postwar period.¹² The perpetrators were a primitive throwback, barbaric beasts whose actions were less a part of modern history than a vicious return of savage pre-history. ‘How can we explain how Germany’, the French Prosecutor Menthon asked in his opening address, ‘could have come to this astonishing return to primitive barbarism?’¹³ The language of barbarism supported the court’s visual iconography. Exhibits such as the infamous shrunken head and tattooed pelts from Buchenwald were photographed and reprinted in newspapers across the world.¹⁴ Although not behind glass, the perpetrators were none the less rhetorically framed as beasts to be caged, creatures who had smeared civilisation with an unspeakably primitive cruelty. The Nazis, wrote Rebecca West who attended the trial for the *New Yorker* ‘were maniacs who plastered history with the cruelty which is a waste product of man’s moral nature, as maniacs on a smaller scale plaster their bodies and their clothes with excreta.’¹⁵ One thinks here again, perhaps irresistibly, of Francis Bacon.

I think, in particular, of Bacon’s controversial 1965 triptych ‘Crucifixion’ in which one contorted and paint-smeared character (the association between paint and excrement is well noted in Bacon criticism) wears a Nazi armband. Bacon claimed that he was simply ‘trying to make the figure work’ and was drawing from

photographs he had of 'Hitler standing with his entourage.'¹⁶ But if part of making the atavism of the painting 'work' means drawing from photographs of Nazi perpetrators this is because the image of the perpetrator occult had already been established – not least at the Nuremberg Tribunal (in his list of works from the early 1960s, Bacon apparently has written 'Figure going through door as in Eichman (sic) photo').¹⁷ This did not come from nowhere. The trial's inability to furnish its legal originality with a moral correlative, its failure recognise the genocide of the Jews, left a deficit in the courtroom. In place of the kind of political and moral understanding that Arendt had wished for there arose instead the image of the perpetrator occult.

By occult I mean not only in the sense that the perpetrators were cast in atavistic and primitive terms, but occult too in the sense of otherworldly, diabolic. When Arendt wrote to her mentor Karl Jaspers to complain that the Nuremberg's Nazis looked so smug because theirs was a guilt 'beyond crime', he cautioned her against bestowing the perpetrators with streak of 'satanic greatness' (instead Jaspers thought it important 'to see these things in their total banality', thus pointing Arendt in the direction she eventually took in *Eichmann in Jerusalem*).¹⁸ To an extent, he need not have worried. The image of hell that played in the Nuremberg courtroom belonged not, perhaps as one might have hoped, to Goya, but rather to the more cartoonish villains of melodrama. There is a grotesque theatricality to Nuremberg's perpetrators that is picked up by nearly all the major writers on the trial, including not only West, but also Martha Gellhorn and Janet Flanner.¹⁹ With the 'coarse bright skin of an actor who has used grease paint for decades and the preternaturally deep wrinkles of a drug addict', writes West, who is particularly drawn to way that the defendants display their diabolism in their physical characteristics, Goering's tacky theatricality 'adds up to something like a ventriloquist's dummy'.²⁰ 'Particularly when

he is talking to his friends in the intervals,' she adds, 'his gestures recall a tout in a Paris café offering some tourists a chance to see a Black Mass'.²¹

Putting Nazi perpetrators into melodrama is often to trivialise their crimes, as numerous popular films and TV depictions demonstrate. But melodrama also has a complicated moral and aesthetic history that in its postwar incarnation has developed in intimate parallel with representations of the Holocaust.²² With its emphasis on moral and visual absolutes, one can see why melodrama might find its way into the modern war crime trial. As Peter Brooks demonstrated in his classic study, *The Melodramatic Imagination* (1976), the visual extravagances of melodrama are in fact a measure of its moral seriousness. For Brooks melodrama's real subject is the collapse of the morally sacred.²³ Its elaborate gestures, over-blown moral conflicts and excessive theatricality are all there in an attempt to re-animate the moral occult; to restore ethical meaning by putting pressure on what the surfaces of things can signify. Melodrama, we might say, performs the gap between legal reason and poetic, moral and historical justice present in most courtrooms, but perhaps especially so when the crime challenges the limits of believability (another reason the Nuremberg prosecutors were loathe to bring in survivor witnesses was that they were worried that the court would not believe what they heard).

If Nuremberg's perpetrators frequently found themselves cast in a melodramatic version of recent history, then, this was as much a symptom of a deficit at the heart of the trial, and beyond the trial too, as it was an indication of their guilt. While most secular trials can live with the gap between legal reason and absolute justice, at Nuremberg there was always a threat that the legal drama might be swept into melodrama itself. This was why so many commentators were horrified by Goering's suicide the night before his planned execution. The worry was not so much

(or at least not only) that he had escaped earthly justice, but that with his self-aggrandising and operatic death he had succeeded in reducing the entire trial itself into a vaudeville pantomime. Rebecca West was enraged to think that the didactic and moral purpose of the trial should be usurped at its denouement. “That one! We always knew he would get the better of them yet.”²⁴ Later she would describe Nuremberg as ‘an unshapely event, a defective composition, stamping no clear image on the mind of the people it had been designed to impress.’²⁵

Eichmann

The Eichmann trial responded to Nuremberg’s failure. If the court in 1946 could not yet find an image or composition to make the genocide meaningful, Jerusalem furnished the Holocaust with its most powerful objective correlative in the narratives of suffering that were finally heard from its victims. It was also at the Eichmann trial that the first attempts to understand the perpetrators in terms of a Weberian model of bureaucratic obedience were forged: the melodramatic villain became the office man, the specialist, the man in the glass booth who might be selling train tickets for all his apparently banal business (Eichmann, in fact, was also doing just this in his scheme get people to pay for their own transportation).²⁶ This understanding did not so much end the perpetrator occult as qualify it. Nazi diabolism was now seen the product of modernity, not the exception to its civilising rule. When Eichmann-the-bureaucrat stepped into his booth with his files and glasses, thin tie and ill-fitting suit, he also carried with him the rhetoric of atavism cast at an earlier moment in the history of the juridical imaginary; a fact that the prosecution was quick to exploit. Gideon Hausner, the Israeli Chief Prosecutor in his opening address in the court’s seventh session

described Eichmann as ‘a beast in the jungle’ who ‘no longer deserves to be called human.’²⁷ For the Prosecution, keeping Eichmann caged was part of a rhetorical strategy of establishing his absolute guilt. Despite the fact that the genocide was, finally, being tried, Eichmann’s trial was not so much the return to political reality that Arendt had waited for, as (so she thought at least) the playing out of a politics of absolute angels and diabolic villains against the background of developing Israeli nationalism.²⁸

Bacon’s 1949 *Study for a Portrait* captures (the verb is particularly apt here) the torsion between caged beast and the nightmare of evil without agency that the encaged Eichmann embodied. So strikingly do Bacon’s be-suited and be-glassed figures seem to refer to Eichmann in his box that many (including some art historians) have been duped into thinking that Bacon directly painted his portrait, and others to speculate on the unconscious historical perspicacity of paint.²⁹ In 1962 Bacon denied explicitly the connection between his glass boxes and Eichmann’s, insisting that his were there only to ‘cut down the scale of the canvas’, to ‘concentrate the image down’.³⁰ He was right to insist on the primacy of his art over recent history. The reason for the persistence of associations between his painting and the courtroom in Jerusalem has less to do with any foresight than with the fact that he was working with a visual iconography that had already been established at least as far back as Nuremberg. Yet this is also the problem. If Bacon’s phantom Eichmanns seem to have captured something of Eichmann the perpetrator, if so many seem to misrecognise the real Eichmann in his work, this is also because they conform to a ready-made image of hell without questioning it. The perpetrator remains in his glass box.

Without making any specific connection with the Holocaust, this was also art critic John Berger's criticism of Bacon in 1972. 'For Bacon', Berger wrote, 'the worst has already happened'; and the 'worst is that man has come to seem mindless'.³¹ Alone, but utterly without privacy, the screeching representatives of a species self-condemned, Bacon's glass box figures are distinguished by their conspicuous lack of self-reflection. 'Living man', Berger writes, 'has become his own mindless spectre.'³² Berger's terms here echo directly Arendt's analysis of the real Eichmann's absolute thoughtlessness. 'The longer one listened [to him]', she wrote of Eichmann, 'the more obvious it became that his inability to speak was closely connected with an inability to *think*, namely, to think from the standpoint of somebody else.'³³ The particularity of Eichmann's thoughtlessness, for Arendt, was exemplary of a more general failure of judgement in the wake of the Holocaust. To think in the face of such thoughtlessness, to judge where there had been a void, was the imperative that she took away from the trial and that drove her insistence on finding new terms for political judgement.³⁴ By contrast, and in an echo of the debates generated by Eichmann, Bacon's failure, for Berger at least, is to concede to this mindlessness: there are no alternatives, no ways out, the worst has already happened – and will keep on happening. Bacon, says Berger, resembles Disney more than Goya. 'Disney makes alienated behaviour look funny and sentimental and, therefore, acceptable', he notes, his world too is 'charged with vain violence'.³⁵

Bacon then, for all that he seems to capture something disturbing about how we look at Nazi perpetrators, might not really take us very far from the melodrama of Nuremberg's villains at all. Indeed, if his paintings seem to speak to Nuremberg and the Eichmann trial so forcefully, this is not only because of the way they incorporate its visual iconography, but also because they expose a deficit in the perception of the

Holocaust. Rather than seeing the genocide, its victims and its perpetrators, historical agents and subjects, we see instead the worst that happened and, in a psychic and political sense, a worst that keeps on happening. This is the perpetrator occult: a timeless on-going nightmare that locks us in an image of hell, leaving no space for reflection. The implications of this kind of looking go beyond Bacon's images of hell or even Eichmann's glass cage. We continue to live in a world of absolute innocents and total villains: the reality of politics (particularly perhaps the politics of the Holocaust) seems no closer today than it did to Arendt in 1946. If anything the world seems even more willing to recognise its melodramatic villains than struggle with the question of what transforms people into agents of atrocity. Arendt's call to look at this 'walking disaster face to face in all his bizarre vacuousness' is as urgent now as did fifty years ago.

But what can it mean (or is it really possible) to look through the perpetrator occult and directly at 'bizarre vacuousness'? In her letter to Jaspers already Arendt is not saying that she wants to look at Eichmann as a man, but at the empty space where perhaps a man should be. Recognising a common history with the perpetrator does not entail an identification with him, not for Arendt at least, and despite claims by her critics that she somehow normalises him in her account of his thoughtless banality. It means rather looking at an image of mindlessness – bizarre vacuousness -- and (and this is the crucial point for Arendt) discovering a position from which one can respond to this hateful and yet compelling void. 'I would never forgive myself if I did not go', Arendt writes to Jaspers. It is not only the perpetrator who is on trial but the spectator too.

At this point I want to go back to psychoanalysis. 'Wouldn't it be awful', one of Donald Winnicott's patients once remarked, 'if the child looked into the mirror and

saw nothing?’³⁶ Or, thinking again of *Study of Portrait* from 1949, saw nothing in the empty open mouth of a never-ending soundless scream. In fact Winnicott’s patient *has* just been looking at a 1964 French catalogue of Bacon’s paintings which includes the *Study* (Bacon, says Winnicott in the same paper, ‘forces himself into any present day discussion of the face and the self’, which might be another reason why he seems to have painted Eichmann)³⁷ It is a chilling question that invokes not only the menace that lurks in Bacon’s partly human figures, but one which also continually threatens the trials of the Holocaust: the danger that nothing in the end might be able to represent the crime on trial; that its monstrosity will exceed the law’s ability to measure. A far more devastating scenario, indeed, than looking at Eichmann the bureaucratic animal in hell would be to look through the glass and find nobody there at all. (One possible reason for the strong resistance to the Weberian model of institutionalized perpetrator behaviour might be less (or not only) a queasiness about normalising the perpetrator, but the more terrifying thought of a genocide with no human agency).

But if Bacon brushes with a very similar kind of negative sublime to that in the war crime trial, one that I have been suggesting is more frequently swept into the more conformist frame of the perpetrator occult, it is also Bacon who suggests another kind of looking, or at least he does to Winnicott’s patient, who has also, as these things happen in psychoanalysis, just been reading Jacques Lacan’s ‘The Mirror Stage’. Bacon ‘likes to have glass over his pictures because then when people look at the picture what they might see is not just a picture; they might in fact see themselves,’ she comments.³⁸ As Winnicott points out, his patient does not mean that thereby you discover yourself in Bacon’s figures, any more than looking at the perpetrator necessarily entails making an identification with him. Looking itself is not

empathy, the distinction is important; we are not talking here about anything shared, be it barbarism or humanity, still less any putative ethical encounter with absolute otherness. What she means, more simply, is that the glass can be mirroring as well as encaging; that the mirror is also necessary if one is to have a sense of a self that can survive the catastrophe of utter vacuity – of finding that nothing is looking back at you from behind the glass.

In Bacon's preference for having his paintings glazed, Winnicott's patient finds a perfect metaphor for psychoanalysis' account of the paradoxical ways in which we come into being through experiencing absence. On the one hand you look at something – or someone – that pushes you to the edge of thought and perception precisely because the image gives you nothing back. On the other, however, because of the glass you see yourself looking. The figure of the spectator emerges at the point of the void. In Winnicott's narrative, psychoanalysis itself is a sort of looking (and a sort of art) that allows the patient 'to be able to exist and to feel real'. This is not the same reality that Arendt wanted to return to. But despite her famous hostility to psychoanalysis, she might have responded to the idea that out of nothing, as it were, is born a reality in which it is possible to exist in relation to others (natality is also a key concept in Arendt's understanding of the human condition).³⁹ 'Feeling real is more than existing' Winnicott says, 'it is finding a way to exist as oneself, and to relate to objects as oneself.'⁴⁰

Put in a more Kantian language, which is the language Arendt increasingly turns to in the wake of Eichmann's trial, this reflecting looking, with the threat of an abyssal fall, is also the pre-condition for the return of reflective, retrospective, judgment; the task, she says of the historian after the Holocaust.⁴¹ At the heart of Kant's aesthetic is the pleasure and effort of contemplating an object without a

concept (an experience not so dissimilar from looking in a mirror and finding nothing that you recognise). This becomes an issue of judgement when we attempt to account for how this deeply paradoxical experience is communicated: how does taste become universal? The ‘monstrous events of the twentieth century’, Paul Ricoeur has argued, following Arendt, similarly require a ‘judicatory imaginary’; not just because of the negative sublime that comes from the contemplation of glass boxes in the courtroom, but because of the political imperative to find ways of ‘administering the law in a universal fashion’ that follows.⁴²

In this essay I have been tracking the failure of the juridical imaginary to provide forms of judgement adequate to the crime of the Holocaust in its two most famous trials. The melodrama of the perpetrator occult, a defective composition, as Rebecca West described it, is not only opaque, more injuriously in political but perhaps also psychic terms, it screens off other forms of imagination and judgement. The grimmest irony is that it was because the law could not, for historical, political and frequently frankly antisemitic reasons, address Nazi crime as a crime against the Jews in the immediate postwar period, that the compensatory image of the perpetrator occult arose in the first place. It is not only, in other words, a focus on perpetrators that leaves debates about guilt and motive immured in the very image of hell that they created. Not looking in the glass box is another way of keeping that image dangerously intact.

Refusing to concede the future of the law and politics to the ‘agents of history’, its makers, actors and of course perpetrators, Ricoeur suggests, is the first task of the figure he calls, after Kant and Arendt, the cosmopolitan spectator of

history.⁴³ Like the critic of art, it is this spectator's task to look at the unprecedented, and from that experience to make not only retrospective, but reflective historical judgements capable of forging a common universal sense, of doing politics. What that politics might mean is still being worked through in today's genocide trials.⁴⁴

I want to end by evoking the final scenes from Eyal Sivan and Rony Brauman's *The Specialist*. One of the first events ever to be recorded on VHS, over 350 hours of the Eichmann trial was shot by the American Leo T. Hurtwitz. Only 72 hours, mainly recording victim testimonies, were formally preserved, the remaining (by his account) were re-discovered by Sivan later. These were edited, and then (and let us be just as clear about this as the film-makers are themselves, although often to deaf ears) deliberately and drastically manipulated by special effects. Sivan has spoken of a 'digital attack' on appearances in the making of the film -- this is an art that bares its affectivity at least as violently as Bacon's painting (Bacon talked famously of projecting his 'nervous system' onto canvas). This time around, however, the worst is deliberately put back into politics and is made to move across history.

One of the immediate effects of Sivan and Brauman's attack is to literalise and visualise the act of reflective judgment. Superimposed upon Eichmann's box, as though reflected by the glass box, are the faces of the trial's spectators. Some are survivors, some journalists, some others; the demographic of the audience at the Eichmann trial fluctuated. For this film it does not really matter who is watching themselves watching Eichmann: what matters is that a generalised injunction to look is coupled with an imperative to reflect. Focusing not away but intently on Eichmann, the camera insists that Eichmann be judged. True, sometimes in the film Eichmann glides back into the perpetrator occult. While *Nazi Concentration Camps* is screened

(this time with an affecting minimalist commentary from Gideon Hausner that leaves us in absolutely no doubt as to the identity of the victims), he squirms a little, wriggles his tight little mouth, blinks a lot and then, when the film is over, picks his nose, in a performance of which Goering would have been proud. But then again, even here, this is not all we see. Through the glass, Moshe Landau, the presiding judge, has his head in his hands. Such bitterly ironic superimposition asks, as it does throughout the film, not only that we look but also that we think about how what we see might make sense. How might the law lift its head out its hands when confronted with Eichmann's numbing banality? This was also, of course, Hannah Arendt's question in 1961. Benjamin Robinson has accurately described *The Specialist* as moving from an 'identificatory' to a 'contemplative' mindset in its presentation of the trial.⁴⁵

Yet I think the film is also, like Winnicott's patient looking at Bacon, struggling with something much darker and more difficult in the act of reflection than contemplation implies. Towards the end of a talk at a conference on the filming of the Eichmann trial at UCLA in 2009 Eyal Sivan asked – and it was an intentionally outrageous question -- what possible redemption could come from looking at the perpetrator.⁴⁶ His context was the documentary genre that has from its inception turned the camera on the figure of the outsider, the other. If the witnesses and survivors of atrocity are such morally appropriate subjects for documentaries it is not least, he suggests, because witnessing their otherness confirms in us our sense of humanity. By contrast, the perpetrator as subject, rather than as encased specimen or atavistic villain has no redeeming function. Hence, I would add, the need to reflect, not just on a common history, as the law demands, but more urgently on a void in which we must also struggle to catch a glimpse of ourselves, as really existing in

relation to others (as Winnicott might say) as the precondition of a return to political life (as Arendt might well have added).

Sivan doesn't answer in those terms at the UCLA conference. Instead he shows the final scenes of his film. These display Eichmann at his morally self-incriminating and thoughtless worst. Still unable to grasp the reality of either his situation or his crime, Eichmann babbles on, true to form, parroting clichés that, coming from his mouth are just so many more acts of injurious speech. He wants to write a book, he blathers, that would explain this terrible, unfortunate, chapter of history. We can guess what such a book might contain. Eichmann's repetition of what by the 1960s were already a set normative clichés about the Holocaust – 'never again', a 'monstrous crime' -- reveal the distance we still have to go to find a discourse that cannot be uttered so blithely by (of all people) the perpetrators of the genocide.

Arendt believed that Eichmann's mindlessness was not diabolic, but endemic to contemporary political life: modern evil is not radical or deep, she wrote to Gershom Scholem, it is shallow, banal and spreads 'like fungus'.⁴⁷ The yeasty persistence of the catastrophic insouciance of the administrators of genocide is also Sivan and Brauman's point. Hence, in the film's final scene, the falling away of the apparatus of the courtroom right and the black and white suggesting the original 1961 coverage, exposing Eichmann, untypically bathed in vibrant colour, sitting behind a desk poised to efficiently manage another massacre from his desk. The point is that the administrators of genocide are still busy. To my eyes, however, that sudden recall into colour doesn't bring me into the politics of the present day: at least not directly. The colours are a little too vivid, too insistent. Film becomes canvas. Just as the

apparatus of the documentary fades, I feel that that new image might itself begin to distort. I feel I am on the edge of seeing myself reflected in another Francis Bacon painting.

¹ Shoshana Felman, 'Theaters of Justice: Arendt in Jerusalem, the Eichmann Trial, and the Redefinition of Legal Meaning in the Wake of the Holocaust', *The Juridical Unconscious: Trials and Traumas in the Twentieth Century*, (Cambridge, Mass.,: Harvard University Press: 2002), pp.106-130.

² Lawrence Douglas, *The Memory of Judgment: Making Law and History in the Trials of the Holocaust* (New Haven: Yale University Press, 2001), p.12. Douglas's two opening chapters give an excellent account of the ways in which visual evidence shaped the kinds of judgement that were possible in Nuremberg. See 'Film as Witness: Screening *Nazi Concentration Camps* Before the Nuremberg Tribunal', and 'The Idiom of Judgment: Crimes Against Humanity', pp.11-37, pp.38-64.

³ David Cesarani, *Eichmann: His Life and Crimes* (London: Heinemann, 2004), p.254.

⁴ Valerie Hartouni, 'Thoughtlessness and the Optics of Moral Argument: Screening the Spectacle of Eichmann', paper delivered at 'Filming the Eichmann Trial', UCLA, 22-23 February, 2009, <http://www.international.ucla.edu/cnes/conferences/eichmann-trial/article.asp?parentid=109087>, accessed 10 September 2011. Forthcoming as 'Thoughtlessness and Evil' in *Visualizing Atrocity: Arendt, Evil, and the Optics of Thoughtlessness* (New York: NYU Press, 2012).

⁵ Hannah Arendt letter to Karl Jaspers, 2 December 1960, *Hannah Arendt, Karl Jaspers Correspondence, 1926-1969*, ed. Lotte Kohler and Hans Saner (New York:

Harcourt Brace, 1992), pp.409-10.

⁶ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil* (1963; London: Penguin, 1994), p.251.

⁷ One of most recent (and over-stated) accusations against Sivan and Brauman is made by Deborah Lipstadt in her book published in 2011 to coincide with the 50th anniversary of the trial. The filmmakers, she writes, ‘portray Eichmann not just as a “clown” and an “everyman” but as someone unfairly prosecuted – if not persecuted by Israel.’ It would take an extraordinary amount of creative editing of the original footage of the trial to present Eichmann as anyone’s victim other than his own thoughtless vanity which contrary to Lipstadt’s reading, the film exposes relentlessly and ruthlessly (as did Arendt). Deborah Lipstadt, *The Eichmann Trial (Jewish Encounters)* (New York: Schocken Books, 2011), p.178.

⁸ He started one, however, as Martin Hammer points out in a compelling account of how the Eichmann trial shaped Bacon’s work of the 1960s. Among the many ways in which the delayed consciousness of the Holocaust forced itself into Bacon’s work, Hammer notes that an image of Eichmann cleaning his cell from *Paris-Match* was the starting point for a painting that Bacon began and then destroyed. See Martin Hammer ‘After Eichmann’, forthcoming (REFS).

⁹ See Douglas, ‘Film as Witness: Screening *Nazi Concentration Camps* Before the Nuremberg Tribunal’ for a full account of the screening of the film and its implications for the framing of judgement in the trial. *The Memory of Judgment*, pp.106-130.

¹⁰ G.M. Gilbert, *Nuremberg Diary* (New York: Da Capa, 1995), p.45.

¹¹ Donald Bloxham, *Genocide on Trial: War Crime Trials and the Formation of Holocaust History and Memory* (Oxford: Oxford University Press, 2001), and

Douglas, *The Memory of Judgment*.

¹² See Zygmunt Bauman's influential critique of Holocaust atavism in *Modernity and the Holocaust* (Ithaca: Cornell University Press, 1992).

¹³ Quoted in Douglas, *The Memory of Judgment*, p.85.

¹⁴ Ibid., pp.85-87.

¹⁵ Rebecca West, 'Greenhouse with Cyclamens I', in *A Train of Powder: Six Reports on the Problem of Guilt and Punishment in Our Time* (Chicago: Ivan R. Dee, 1955), p.68. Originally published as 'Extraordinary Exile', *New Yorker*, 23 August 1946, pp.34-46, and 'The Birch Leaves Falling', *New Yorker*, 22 October 1946, pp.94-103. West made significant revisions and additions in the 1955 version of her Nuremberg articles. In this essay I refer to the original *New Yorker* pieces unless quoting from revised or additional prose. I draw here directly from my lengthier discussion of Rebecca West's coverage of Nuremberg at greater length in "'An event that did not become an experience": Rebecca West's Nuremberg', *The Judicial Imagination: Writing After Nuremberg* (Edinburgh: Edinburgh University Press, 2011), pp.23-46.

¹⁶ Quoted in Matthew Gale, 'Crucifixion', *Francis Bacon*, eds. Matthew Gale and Chris Stephens (London: Tate Publishing, 2008), p.143. Bacon had long been fascinated by photographic images of Nazi leaders, as art historians such as Martin Harrison, Chris Stephens and Martin Hammer have shown recently. His transformation of the visual documents of fascism into the metaphysics of paint is also part of the story I am attempting to tell here. See Martin Harrison, *In Camera: Francis Bacon, Photography, Film and the Practice of Painting* (London, Thames & Hudson, 2005), and Chris Stephens and Martin Hammer, 'Seeing the Story of One's Time: Appropriations from Nazi Photography in the Work of Francis Bacon', *Visual Culture in Britain*, vol. 10, Issue 3, 2009, p.315-351.

¹⁷ Quoted in Gale, 'Crucifixion', p.276.

¹⁸ Hannah Arendt, Letter to Karl Jaspers, 17 August 1946 and Karl Jaspers, Letter to Hannah Arendt, 19 October, 1946, *Hannah Arendt, Karl Jaspers Correspondence, 1926-1969*, p.54 and p.62.

¹⁹ See Martha Gellhorn, 'The Pathos of Glory' (1946) in *The Face of War* (1959; London: Granta, 1999), p.22, and Janet Flanner, 'Letters from Nuremberg', in *Janet Flanner's World: Uncollected Writings, 1932-1975*, ed. Irving Drutman (New York: Harcourt Brace Jovanovich, 1979), pp. 98-127.

²⁰ West, 'Extraordinary Exile', p.34.

²¹ Ibid., p.35.

²² See Amos Goldberg, 'The Victim's Voice and Melodramatic Aesthetics in History', *History and Theory*, 48, October 2009, pp.220-237, and my *The Judicial Imagination*, pp.9, 29-33, 90-92, 128-131.

²³ Peter Brooks, *The Melodramatic Imagination: Balzac, Henry James, Melodrama, and the Mode of Excess* (1976; New Haven and London: Yale University Press, 1995).

²⁴ West, 'Birch Leaves Falling', p.104.

²⁵ West, 'Greenhouse with Cyclamens III', in *A Train of Powder*, p.246.

²⁶ For an account of this turn see Donald Bloxham, 'Organized Mass Murder: Structure, Participation, and Motivation in Comparative Perspective', *Holocaust and Genocide Studies*, 22, no. 2 (Fall 2008), pp.209-230.

²⁷ For a full transcript see:

<http://www.nizkor.org/hweb/people/e/eichmann-adolf/transcripts/Sessions/Session-006-007-008-07.html>, accessed 22 September 2011.

²⁸ Arendt, *Eichmann in Jerusalem*, pp.5-20. See also Idith Zertal, *Israel's Holocaust and the Politics of Nationhood* (Cambridge: Cambridge University Press, 2005).

²⁹ John Russell, for example, reads the relation between Bacon's glass boxes and the widely circulated images of Eichmann in his booth in the early 1960s as an example of 'the capacity of paint to go on ahead of the conscious mind.' *Francis Bacon* (London: Thames & Hudson, 1979), p.22. Although his 1960's work clearly draws from the proliferation of images in newspapers and on TV news, Bacon was putting figures in glass boxes well before Eichmann was put in his. See Martin Hammer, forthcoming.

³⁰ Quoted in Alan Woods, 'Animal Locomotions', *Cambridge Quarterly*, (1985) 14 (2), 1985, p.148.

³¹ John Berger, 'Francis Bacon and Walt Disney' (1972), *About Looking* (London: Writers and Readers Publishing Cooperative, 1980), p.114.

³² Ibid., p.116.

³³ Arendt, *Eichmann in Jerusalem*, p.49.

³⁴ See Arendt, 'Thinking and Moral Considerations', *Responsibility and Judgment* (ed. Jerome Kohn), pp.159-189. 'Thinking' formed one third of Arendt's final book, *The Life of the Mind*. She did not live to complete the final section on 'Judging'. However much of Arendt's thought on this topic can be found in the lectures she delivered on late Kant at the University of Chicago just after the publication of *Eichmann* and at the New School in 1970, and in Aberdeen in 1973. See *The Life of the Mind* (1971; New York: Harcourt Brace Jovanovich, 1978) and *Lectures on Kant's Political Philosophy* (Chicago: Chicago University Press, 1992).

³⁵ John Berger, 'Francis Bacon and Walt Disney', p.117.

³⁶ Donald Winnicott, 'Mirror-Role of Mother and Family in Child Development' (1967), *Playing and Reality* (1971; London: Routledge, 2005), p.156-7. I am indebted to Vicky Lebeau's reading of the pertinence of Winnicott's account of 'looking at nothing' for an understanding of postwar screen culture. See Vicky Lebeau, 'The Arts of Looking: D.W. Winnicott and Michael Haneke', *Screen*, 50 (1), 35, 2009, pp.35-44.

³⁷ Winnicott, 'Mirror Role', p.153-4.

³⁸ Ibid., p.57.

³⁹ In *The Human Condition* (1958) Arendt claims that natality is the ground of political action. Julia Kristeva has argued that Arendt shares psychoanalyst Melanie Klein's emphasis on negativity as the origin of collective human life. Klein, *The Human Condition* (Chicago: Chicago University Press, 1998); Julia Kristeva, *Melanie Klein*, trans. Ross Guberman (New York: Columbia University Press, 2001), pp.28-29.

⁴⁰ Winnicott, 'Mirror Role', p.158.

⁴¹ Arendt, *Lectures on Kant's Political Philosophy*, ed. Ronald Beiner (Chicago: University of Chicago Press, 1992), pp.65-72.

⁴² Paul Ricoeur, 'Aesthetic Judgment and Political Judgment', *The Just*, trans. David Pellauer (Chicago: Chicago University Press, 2000), p.98, p.101. In this essay Ricoeur is critical of the way that Arendt puts so much weight on reflective judgment in her later appropriation of Kant. As with Kant's own turn from aesthetics to morality, he argues, too little space is left in Arendt's reading for a judicatory imaginary more aligned with the historical movement of Hegel's *Sittlichkeit*, ethical life.

⁴³ Ibid., p.100.

⁴⁴ In the International Criminal Tribunal for the former Yugoslavia, for example, where Ratko Mladic is currently re-inventing the pantomime villain for today's justice (in contrast with Eichmann's Mladic's is a particularly loutish vacuousness). See 'Can we verify that Mr Madlic is on the right channel?',

<http://www.mediaatueablog.net/category/lyndsey-stonebridge/>

⁴⁵ Benjamin Robinson, 'The Specialist on the Eichmann Precedent: Morality, Law, and Military Sovereignty', *Critical Inquiry* 30, Autumn 2003, p.62.

⁴⁶ See <http://www.international.ucla.edu/cnes/conferences/eichmann-trial/article.asp?parentid=108478>, accessed 28 September 2011.

⁴⁷ Arendt, 'Letter to Gershom Scholem', in *The Jewish Writings*, ed. Jerome Kohn and Ron H. Feldman (New York: Schocken Books, 2007), p.471.