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I. From Economics to Politics

The theme of performativity and politics would doubtless be considered in different ways, depending on the disciplinary inclination of the approach. Indeed, sometimes in literary studies, performative politics refers to certain acts of self-constitution. Other times, scholars look at the enunciation of speech acts themselves, and consider whether these effects are illocutionary or perlocutionary. Speech act theorists, those who pursue deconstructive analysis, and followers of Pierre Bourdieu have made use of performativity to think about those acts or processes by which certain kinds of apparently stable phenomenon have been constituted or deconstituted.[1] I am aware, for instance, within the social sciences more generally, that performativity has become a way to think about 'effects', in particular, to supply an alternative to causal frameworks for thinking about effects, and that this has a couple of important consequences. If we say, for instance, that gender is performatively constituted, then we call into question whether there is a stable gender in place and intact prior to the expressions and activities that we understand as gendered expressions and activities. The presumption that gender is a metaphysical substance that precedes its expression is critically upended by the performative theory of gender. Similarly, if we say that there are effects of the state, as Tim Mitchell (1999) has argued, or that there are economic effects, are we in some ways released from the conceptual hold that the idea of a pre-existing and already delimited state has on us. In other words, it is not possible simply to situate certain processes and activities within a state or, indeed, an economy, as if 'state' and 'economy' were pre-given entities, already bounded, identifiable, and knowable. If such notions of the state are produced through state effects, then we must rethink the basic ontologies with which we operate. And the same goes for 'the economy' which only becomes singular and monolithic by virtue of the convergence of certain kinds of processes and practices that produce the 'effect' of the knowable and unified economy.

So in this sense, it seems possible to conclude first, that performativity seeks to counter a certain kind of positivism according to which we might begin with already delimited understandings of what gender, the state, and the economy are. Secondly, performativity works, when it works, to counter a certain metaphysical presumption about culturally constructed categories and to draw our attention to the diverse mechanisms of that construction. Thirdly, performativity starts to describe a set of processes that produce ontological effects, that is, that work to bring into being certain kinds of realities or, fourthly, that lead to certain kinds of socially binding consequences. Let us remember that Austin distinguished between illocutionary and perlocutionary performatives: the first characterize speech acts that bring about certain realities, as when judgments are pronounced by a court or federal increase rate changes are announced by the Federal Reserve chair in the US. The second characterizes those utterances from which effects follow only when certain other kinds of conditions are in place. A politician may claim that 'a new day has arrived' but that new day only has a chance of arriving if people take up the

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utterance and endeavor to make that happen. The utterance alone does not bring about the day, and yet it can set into motion a set of actions that can, under certain felicitous circumstances, bring the day around.

With respect to illocutionary utterances, those realities brought into being depend upon a speech act, but the speech act is a reiterated form of discourse, so we would be mistaken to overvalue the subject who speaks. The judge learns what to say, and must speak in codified ways, which means that the codification and ritualization of that discourse precedes and makes possible the subject who speaks. And this can happen in mundane ways as well. One does not need the economic equivalent of a sitting judge for public discourse to establish, time and again, the existence of something called 'the economy' or, indeed, 'the market'. A series of discursive and non-discursive practices and institutions re-constitute the idea of the market as an existing and autonomous reality. But errancy and failure can and do enter into these performative circuits that we find in economic theory, popular discourse, journalism, and public policy. As a result, when we recognize that it is these repeated and sometimes errant processes that constitute the market as 'existing' in its autonomy, it follows that if those processes become too errant, the very existence of those entities can be called into question. To say that there is no singular economy, for instance, is not to say that the field of economics no longer has an object; it only redescribes that field and affirms that how we describe the field has something to do with how the field finally looks and what we take it to be. As Callon (1998) has pointed out, economic theory contributes to the making of the sphere of economics and, in particular, economic theory can be understood as one of the processes that performatively bring about the market, or what we might call 'the market presumption'. In the place of a methodological assumption of something called 'the market economy' we have a set of processes that work to fortify that very assumption, but also to call into question its pre-given ontological status as well as the supposition that it operates by causal necessity.

Although I am emphatically not in this field at all, wandering as I do between literary theory, philosophy, and social theory, I have a lay understanding of at least two ways in which this might work in relation to economic and political life. The first has to do with the important analysis of Karl Polanyi (1944) and some of the economic anthropologists who revised and furthered his theory. Polanyi's *The Great Transformation* was obligatory reading when I was a university student, since it helped to establish the thesis that market relations did not historically determine the economy, and that it was not possible to think of the economy as autonomous in relation to broader social structures, including structures of social meaning and authority. Read alongside Marx's studies on precapitalist economic formations, *The Great Transformation* helped to show how economic life was embedded in social structures prior to capitalist modes of abstraction and reification, which pertained most consequentially to the reification of the market itself. Polanyi wanted to understand how, historically, the economy became separated from broader social and symbolic processes of meaning, that is, how something called the 'economy' came to appear as an autonomous system.[2] Within the language of performativity, we might say that Polanyi wanted to understand the 'autonomy' effect that was, *après coup*, taken as a heuristic presumption of economic analysis. Of course, to say this is to try and disturb a banal presumption, which does not make the claim itself banal. It is always possible to ask how a banality becomes established as such. Indeed, while the autonomy of the market is presumed as a necessity and a banality, we can still surely ask how that

necessity and banality are established (performatively) through time, and how we understand the spatially distributed and temporally reiterative processes that characterize the performative agency of various institutions. The point is not simply that such an 'effect' is compounded through repetition, but that reiteration is the means through which that effect is established anew, time and again. To understand how this happens more specifically, one would have to, with adequate time, consider the relation between processes of reiteration, re-establishment, and sedimentation in order to sort out the paradox of a process that achieves its effects in both regenerative and accumulative ways. After all, as the papers collected here demonstrate, to say that the market is performatively produced is not to say that it is produced *ex nihilo* at every instant, but only that its apparently seamless regeneration brings about a naturalized effect.

Of course, sometimes the seams and fissures do show, and I hope to return to that in a moment. But for now, I would like to underscore that the particular separation between economy and society does not just happen once (we cannot precisely 'date' it historically). And though we might point to changes in mercantilism that led to that separation, and it would be interesting and fruitful to do so, we would be making a mistake if we failed to see that the separation happens repeatedly, that it is part of an iterable structure, and that even now, when everyone turns their attention to what is called the 'economy', the interpretive procedure enacts and reenacts a selective process by which broader social and symbolic meanings are separated off from the economic thus producing the effect of the ostensible autonomy of the economy.

In my view, it is not just that the apparently autonomous sphere of economic markets is produced on the condition that a conceptual distinction *has been made* between the economic and the social. Rather, that very distinction is performatively produced through a process of selection, elision, and exclusion. Even so, Callon suggests that the unity and naturalized presumption of the economic market is no longer taken for granted in the same way that was presumed in Polanyi's text. Callon remarks,

> . . . now it seems to me that more and more people consider that there are various ways of organizing concrete and specific markets. So it's a very different situation [from the nineteenth century] because you now have an abundance of ways of seeing economic markets. The idea of the market as a unified category and institution is progressively disappearing. (Barry & Slater 2002, p. 291)

Similarly, Callon makes two further distinctions that suggest ways in which we have arrived at an historical juncture that is at a distance from Polanyi's presumption. The first is that social actors are mindful of the polyvalent character of the market and that it is possible to shape not only the market, but also its core institutions. To do this is to engage in politics to the extent that we consider politics to be a concerted act of public deliberation on how to make common institutions. Secondly, Callon suggests that we no longer have macro-structures, which is another way of emphasizing the multiple ways in which economic activity is organized. Once the multiplicity of organizing modes is affirmed, it is no longer possible to accept a single and unified idea of the economy. Although this notion of the variability of economic practice and relation disturbs the idea of the economy as a singular notion, it does not precisely tell us how performativity works to effect that disturbance or, indeed, to what alternative conception that disturbance leads. Neither does it tell us when and why performativity fails to work, when it invariably does. Indeed, if we accept that there are variable modes by which economic life is

organized, and even that theories contribute to those organizations and hence are part of the organizing mode itself, then that only tells us that theories are performative in the sense that they help to organize the objects they theorize. Theorists may then endeavor to think more carefully about how their own work contributes to the organization of the market, but two questions remain: what happens when disjunctions emerge between theory and economic activity? And on what grounds would theorists conclude that it is better to contribute to the making of the economic sphere in one way rather than another? In a sense, both the breakdown of performativity and the normative horizon of its aspirations still remain to be explained and understood.

To turn to both of these questions ('breakdown' and 'normativity'), it is important first to note that various theories of performativity have emerged post-Austin to question the centrality of the speaking subject to the theory of performativity. Although the speech act conventionally works as a model for understanding performativity (and hence, the Austinian presumption that performativity consists of performative utterances), the model of the speaking subject fails to provide an adequate way of understanding how performativity works. After all, there does not have to be an actively speaking subject or discrete act of enunciation for a discursive operation to wield its effects. It is surely possible to restrict a consideration of performativity to speech acts within the economic sphere, and surely the utterances of the Director of the Federal Reserve in the US are flagrant cases in point. Of course, we might usefully consider how a hesitation, cough, or less than enthusiastic adjective on the part of former chair Greenspan or current chair Bernanke actually facilitates certain movements on the stock market. That would surely be one way of finding performativity in the midst of economic life. But if that analysis takes for granted that the speaking subject is the necessary ground of performative agency or, indeed, that the economic sphere as such is defined restrictively by a certain conception of the market, then the uses of performative analysis remain quite limited.

It is not only the explicit speech act that exercises performative power; other exercises include (a) the mundane and repeated acts of delimitation that seek to maintain a separation among economic, social and political spheres, (b) modes of prediction and anticipation that constitute part of economic activity itself, and (c) organizations of human and non-human networks, including technology, that enter into specific economic activities such as price-setting. Hence, even when Bernanke speaks, it is not simply that a subject performs a speech act; rather, a set of relations and practices are constantly renewed, and agency traverses human and non-human domains. What this means, though, is that performativity implies a certain critique of the subject, especially once it is severed from the Austinian presumption that there is always *someone* who is delegated to speak or that performative discourse has to take the form of discrete verbal enunciation.

Such a view strikes me as important in all kinds of ways, especially when we seek to consider situations of performative breakdown, when the effects of a performative operation fail to work. Similarly, once performativity is no longer the discrete action of a subject, we can rethink as well the normative status of such a theory or, rather, the role of norms in establishing the best direction for agency. Donald Mackenzie has made a series of very interesting points about kinds of performativity. What he calls the 'obvious' (2004, p. 305) version of performativity claims that basic categories are not natural or pre-given, but incessantly performed. The second version is what MacKenzie calls 'Austinian', although he clearly has only the 'illocutionary' form of the performative in mind. According to this version, a performative utterance (or practice) brings into being that of which it

speaks (2004, p. 305). Indeed, this is the operative assumption in law or when authority has been delegated or assumed in such a way that a given pronouncement of a state of affairs brings that state of affairs into being (the declaration of war by a sovereign, the nullification of a marriage by a church or legal authority).

In adapting the theory for economic analysis, MacKenzie offers the example from finance of practical models that effectively alter patterns of pricing to make them more compliant with the model itself. This form of circularity is described in effectively illocutionary terms since it tends to produce the phenomenon it names. But because it only 'tends' to do so, it does not act with the same immediate efficacy that a sovereign does when, for instance, he declares war or raises taxes. Already we see how the illocutionary model falters within the economic sphere. MacKenzie clearly notes the limits of the Austinian paradigm for explaining how patterns of pricing tend to conform to the models that seek to explain them, and he turns his attention to what he calls 'counterperformatives' (2004, p. 306) as a way of explaining how the adoption of certain models can actually lead to what Austin (1962) might have called a 'misfire' – a situation in which patterns of pricing exceed or undermine the model that is supposed to explain them.

What seems clear in the adaptation of Austin for thinking about pricing is that something called 'patterns of pricing' exercise performative agency. Such patterns are not the utterance of single subjects, and they rely on broad networks of social relations, institutionalized practices, including technological instruments. So the assumption of a 'sovereign' speaker is lost, and whatever conception of agency takes its place presumes that agency is itself dispersed. What seems less clear is whether the Austinian model is rightly identified with the illocutionary utterance. Why is there no consideration of the 'perlocutionary' model from these discussions?[3] After all, Austin made clear that certain kinds of performative speech acts could only have 'effects' if certain kinds of conditions were first met. So a certain utterance can only bring about a state of affairs in time (and not immediately) if certain intervening conditions are met. The success of a perlocutionary performative depends on good circumstances, even luck, that is, on an external reality that does not immediately or necessarily yield to the efficacy of sovereign authority. If illocutions produce realities, perlocutions depend upon them to be successful. Whereas illocutionary performatives produce ontological effects (bringing something into 'being'), perlocutionary performatives alter an ongoing situation. In this sense, the illocution appears more clearly to rely on a certain sovereign power of speech to bring into being what it declares, but a perlocution depends on an external reality and, hence, operates on the condition of non-sovereign power.

To borrow an analogy from another field, a psychoanalyst might make a suggestive interpretation in the course of an analytic session and that may change the dynamic between the analyst and analysand.[4] This change is a subsequent effect of the utterance (which itself only has a certain significance by virtue of an ongoing relationship), but it is not the magical production of something radically new. For a perlocution to work, there has to be a sequence of events and a felicitous set of circumstances. The perlocution implies risk, wager, and the possibility of having an effect, but without any strong notion of probability or any possible version of necessity.

Generic performativity, according to MacKenzie, implies that economic relationships are performed (and re-performed) by certain practices, but that the means and mechanism of these performances are only made clear on the condition of breakdown or disruption.

It seems clear that naturalized processes can and do reveal the process of naturalization when the effects of naturalization are suddenly exposed as non-natural. Fair enough. Here I would like simply to add that there is a difference between claiming (a) that breakdown and disruption of performative operations can happen, and (b) that the risk of breakdown and disruption are constitutive to any and all performative operations. The first is empirical, but the second is structural. And though these two dimensions may well coincide in any given analysis, it makes a difference whether one understands breakdown as constitutive to the performative operation of producing naturalized effects.

In his 'Signature, Event, Context', Derrida (1988) argued that we can only think the process of iterability by understanding the rupture or failure that characterizes every interstitial moment within iteration. This view set his theory apart from cultural construction, which presumes that performativity describes the process by which certain kinds of phenomenon are made or brought into being, and deconstruction, which assumes that the process of making something introduces failure and undoing as a necessary part of that operation. If one remains within the presumption that performativity works (and that we only trace the ways in which economic life is 'made'), then performativity is assimilated to the notion of cultural construction. An example of this would be the oft-cited formulation found in Callon (1998) that economic theories and models accordingly contribute to the phenomenon that they seek to explain, and we are left with a hermeneutic reading of performativity. I certainly do not mean to muddy the waters with too many distinctions from literary theory and philosophy, but some may well prove useful. A 'hermeneutic' version of cultural construction maintains that the theory that inquires into the phenomenon establishes in advance what the phenomenon can or will be, and so participates in the making of what it finds.[5] But if we want to say that the theory *tends* to produce the phenomenon, but that it can sometimes *fail* to produce what it anticipates, then it seems we have opened up the possibility of 'misfire' at the basis of performativity itself. In other words, it is only under certain kinds of conditions, and with no degree of predictability that theoretical models successfully bring into being the phenomenon they describe. There are occasions in which they fail, or there are 'counter-performative' instances when inverse effects are produced, and both the explanatory and anticipatory dimensions of theory are foiled.

So if we can say that at best financial theories tend to establish patterns of pricing, then they do not function as sovereign powers or as authoritative actors who make things happen by saying them. They do not bring a phenomenon into being or act as a creator in that sense. Rather, they function performatively, which means that certain kinds of effects can possibly follow if and only if certain kinds of felicitous conditions are met. There need be no subject who initiates or enunciates the performative process, only a reiteration of a set of social relations within which theory emerges with limited performative agency.

So why is it that we do not see equal attention paid to the perlocutionary performative within such discussions? My hypothesis is that we may be confused about the difference between cultural construction (which always makes an ontological claim) and performative effects. Our theory would be altogether too happy if we thought that theories always make and build what they prefigure or explain. They do sometimes fail, and they are always brokering failure, whether or not they do actually fail. And this means that fallibility is built into the account of performativity. Of course, illocutions can fail when a sovereign, deposed, still tries to declare war or convene a parliament, and nothing happens. His or her speech acts no longer work because he or she does not occupy the

position of recognized and, hence, efficacious authority. But when perlocutions fail, it is because a certain discursive wager on what reality might be fails to materialize; a prediction proves false; an explanatory scheme proves blind in some key way; an analytic suggestion backfires and the analysand leaves the session and the therapy itself. It matters whether we think we are building a reality or making certain things happen. The former is the conceit of illocutionary performatives; the latter belongs to the realm of the perlocutionary. It seems to me that most of what is interesting in economic and financial performativity belongs to the latter. So even if we say, for instance, that the idea of the economy is brought into being by certain operations of economic theory, we are really only talking about discursive effects, even ontological effects. Perhaps this seems like a minor debate about terminology, but it matters whether we think that new realities are brought about or that new kinds of effects take hold. The first presupposes a set of metaphysical quandaries: what was the former reality from which this new reality emerged? If this new reality is constructed, what is the presumption about a non-constructed reality that serves as the basis of construction?

If we think as well that we can only ask 'how things are made' or 'how are we to join in the making of what is already underway' then it becomes clear that we accept the ongoing making of economic realities and only seek to intervene in them to redirect or further a certain pattern of making. The cultural constructivist position that holds that we cannot 'criticize' existing economic formations seems to imply that we can only take part in making activities that open up new possibilities and think from within that form of engagement. This was, perhaps, my own view as well in *Gender Trouble* (Butler 1990) when I suggested that we can only enter into ongoing practices of gender and perform subversions by resignifying those terms.

But as much as I admire his breathtaking contributions to the field, I am hesitant to accept Michel Callon's view that 'it is very important to abandon the critical position'. And though I agree wholeheartedly that it will not do to say that one opposes 'capitalism' as such, even when it is clear that there is no one capitalism, I am less clear that this means abandoning any effort to evaluate and oppose those multivalent operations of capitalism that augment income disparities, presume the functional necessity of poverty, and thwart efforts to establish just forms for the redistribution of wealth. My worry is that the cultural constructivist position thinks performativity works and that it imputes a certain sovereign agency to the operation of performativity that foregrounds the illocutionary over the perlocutionary. If the theory presumes efficacity, then it fails to see that breakdown is constitutive of performativity (performativity never fully achieves its effect, and so in this sense 'fails' all the time; its failure is what necessitates its *re*iterative temporality, and we cannot think iterability without failure). Its moments of breakdown are also important for another version of 'critique'. Under what conditions do the theories of finance produce impossible scenarios that are bound to backfire and fail? They are not 'bound' to do this for causal or dialectical reasons, but because they seek to derive endless possibilities from limited resources. In a way, the theory of performativity can mirror and support the practices of speculation insofar as the seeking of new possibilities seems to be without limit. Is performativity really 'ceaseless'? And if so, what ideal of limitlessness governs the horizon of its theorization? The ideal of a speculation that can only increase possibilities for profit but never break down in the face of an external limit is surely one that has produced some financial catastrophes in recent months. The present recession in some ways highlights this failure at the heart of financial performativity.

As a result, the question for theorists of performativity is not merely, how are economic matters made? Or how are certain effects instituted? But also, how do we think about the political value of certain economic effects? Even if political questions are already raised within the terms of economic analysis and practice, those questions do not exhaust what we mean by politics. After all, if certain operations of performativity fail, then it is useful to know when and why they do, and whether they ought to. And if new forms of organizing the economic world become available, it will be only on the basis of increased reflection not only on what works and what does not, but also, what is the best way for economics to work? Such a question assumes that there is an outside to economics, even though it is clear that there can be no workable answer without entering into the inside of its current modes of agency. How do we reintroduce such normative questions into the theory of performativity?

II. Politics without Economics?

In the second part of this essay, I would like to give you two examples of how performativity works within theories that are explicitly political, but which tend to define the politic in separation from the economic sphere. I ended the first discussion by considering how the question of politics emerges both inside and outside of economic theory. I would like in this section to work in the inverse direction to ask whether the version of performative politics presumed and reiterated in such theories relies upon a problematic distinction between politics and economics. I can only provide a brief, comparative account of two thinkers, Masao Maruyama (1963, 1974) and Hannah Arendt (1958, 1963, 1992) in this essay, but I am hoping to arrive at a set of questions that meet up with those I have posed in Section I on the status of performativity and politics within economic theory. If performativity operates in part through dividing the spheres of the economic and the political, how do we go about understanding the particular means through which that distinction is built?

Masao Maruyama was among the most important of postwar Japanese political theorists, teaching in Tokyo for most of the second part of the twentieth century. He was a critic of fascist Japan, worried about the ways that Confucianism had installed over time distinctions between private and public life, and worried especially that conformism within public life led to an acceptance of radically unjust public and state policy. The question he posed to himself was whether there were resources within Japan's cultural traditions for developing an openly critical relation to state authority. What he found was that as much as the Confucian legacy led to an evacuation of the subjective sphere and an embrace of apparently objective law, there were other strands within the interpretation of Confucianism that suggested that social norms are not natural, but invented. This struck him as a promising historical resource to draw upon as part of postwar deliberations on what Japan could become.

Invention is not an easy category to understand in these terms, but one stipulation seems clear. Norms are in the process of being elaborated, adapted for new purposes, and their continuing life, even their adaptability, depends on the inventiveness by which they are produced time and again. If inventiveness is an exercise of freedom, it is also an exercise of judgment, and it comes about precisely on those occasions in which existing frameworks no longer yield the grounds or measure we need in order to deliberate upon and form judgments about historical reality.

For Maruyama, the subject who can take responsibility for building a future must become capable of both translation and invention, what I am proposing we might understand as a kind of performative agency.[6] It should come as no surprise that his explicit theory of the subject involves an ethic of doing. The problem of the subject was manifold, not only for Maruyama but also for the numerous debates that followed his work in the 1980s and 1990s. They centered on the following kinds of questions: How does a new form of the subject emerge who would be capable of democratic evaluation and deliberation? How does a new subject emerge, contingently, that is, non-deterministically, from the ravages of war? Is a subject possible who might now traverse the splitting between public and private, becoming the very site of that transversal? These questions all served a larger one, namely, how a social form for the subject might emerge that would be capable not only of apprehending the war, its causes as well as its devastating losses, but of struggling for a democratic political form in the aftermath of war. The point was not merely to understand and account for the devastations of war, but to assume responsibility for a future. This last meant understanding freedom not only in its privative sense, as a freedom from unjust laws, but also as a specific exercise that could and would bring about new social forms.

Earlier, I suggested that Maruyama excavated the past through hermeneutic methods that sought to uncover the 'not yet' and the 'unrealized' in social forms that came before. Such potentials or ideals not only motivate certain democratic movements, but also establish the form of democracy as 'fictional' in a specific sense. This fiction will be that which exceeds the established framework for understanding reality; it will exceed established modes of rule and precedent, social facts, and challenge the limits of established ontology. The tapping into the 'not yet' which is a resource of the past becomes the way of articulating ideals, conceived as non-actualities or, in his view, fictions. The subject who exercises freedom in this way is, in turn, defined by this very exercise, which is to say that the subject becomes a form of performative agency. When, for instance, someone in the immediate post-war period breaks with existing norms to criticize publicly representatives of the former regime as war criminals, the speech act establishes the subject in a new form. In other words, there are now subjects who speak in this way, who break with loyalty and power to make these kinds of claims, and so the speech act, though clearly issued *by* a subject, is also one that remakes the subject of that enunciation. Moreover, such a subject breaks out of the established framework within which public politics proceeds, facilitating a certain crisis in the framework, posing anew the question of what can and cannot intelligibly take place within that framework.

As you can see, one link between performativity and politics for Maruyama has to do not only with formulating a position that is critical of state authority, but of producing a kind of subject, a new subject, who is defined, in part by that very critical capacity. If we turn, then, to the work of Hannah Arendt, we will see something similar. The similarity is all the more interesting when we consider that they are both reflecting on post-fascist possibilities of democratic renewal.

It is fair to say that Maruyama was interested in the cultivation of critical individuals. But Arendt is more concerned with possibilities of political belonging that do not rely on established forms of individualism. For instance, in Arendt's famous book, *Eichmann in Jerusalem*, she takes it upon herself to invoke the ideal judge in the Eichmann case and from that position to sentence him to death at the end of that book. It is something of a redundant act, since the Israeli courts have already sentenced him, but she objects to the

fact that they judge him as a nation. She believes that he has to be judged by all of humankind, and in the name of the necessary plurality and heterogeneity of humankind. The sentencing that she pronounces is surely a speech act, and performative, although it has no power actually to condemn him to death. It models the kind of judgment she wishes the courts would have made, but it stands as an allegory for, and criticism of, those legal speech acts that did carry the power to condemn him to death. So though the speech act is not an efficacious performative, it does something else. It models what a subject might look like, might sound like, who spoke in the name of a diverse humanity and against those who seek to deny or destroy some part of that diversity.

And what Arendt judges Eichmann for is precisely the right he and others asserted to distinguish between the plurality of humans to which they wanted to belong, and that plurality they thought they could not only exclude, but also destroy. His crime was a crime against plurality, and it is in the name of plurality, if not the voice of plurality, that she not only judges him, but also condemns him to death. Of course, Arendt does not have the power to sentence him again, so the act of sentencing she performs is hypothetical, retrospective, wishful, and ideal. She is not satisfied with the way in which the Israeli court issued its judgment, because it acts as a nation, indeed, even deploys the scene of legal decision for the purposes of nation-building, and it judges another nation, rather than coming to terms with the particular form of obedience and non-thinking that characterizes Eichmann. For Arendt, the crime and its punishments cannot remain restricted to the language of the nation-state, and though the meaning of plurality is not yet clear, it operates as the alternative to the nation, even the antidote to nationalism. *The crime at issue is neither committed by an entire nation nor committed against an entire nation, but commits a breakage or rupture in the midst of a plurality that, by definition, cannot know nationality, cannot be bound by nationality, and finally ought not to be.*

The 'we' that Arendt invokes clearly provides the legitimating ground for her own final judgment, as fictional as it is powerful. Does the 'we' whom Arendt invokes at the end of the text actually exist, or does the invocation itself become the legitimating ground that she finds everywhere lacking? Can we say that Arendt is engaged in a performative exercise here? Does the pronoun do the work of aspiration, trying to instate a post-national framework for conceiving of plurality, one that would then serve as the basis for legal decision-making about crimes against humanity, a basis she finds nowhere actually instantiated in law? The 'we' she invokes at once breaks with any 'we' circumscribed by the laws of the nation-state, any 'we' that belongs to the nation. And yet it does not exactly describe some other 'we' except to say that such a 'we' will be plural, that is, internally differentiated, and that this internally differentiated population (my word) should serve as the basis for the judgment of war crimes against humanity. Moreover, this aspirational invocation of plurality seems to engage judgment, practical judgment in the Kantian sense, not as a way of subordinating an example to an existing rule, but as a spontaneous and even creative act. She asks us to consider human judgment not as bound by existing law, 'not bound by standards and rules under which particular cases are subsumed, but on the contrary, [as that which] produces its own principles by virtue of the judging activity itself: only under this assumption can we risk ourselves on this very slippery moral ground with some hope of finding some firm footing' (1963, p. 27).

Arendt, of course, is not a judge except in the sense that each of us has to exercise judgment in some way; she bases herself on no existing law, and yet she exercises judgment, one that deserves to be called 'critical' precisely because it is dependent on no

existing law to ground its legitimacy. Of course, this makes all the more sense once we grasp that her chief objection to Eichmann is that he claimed he was following the law. Following the law!? This is no justification for action, certainly not for Arendt. Since law can be wrong, and often is, there has to be a basis for decision-making that is not dependent on positive law. Although one might expect Arendt to turn to natural law as a way to ground the legitimacy of positive law, she turns instead to a pre-legal understanding of responsibility or a notion of practical reason, something she takes from Kant. She not only makes the case for the priority of moral philosophy to legal institutions, but invests moral philosophy with a fictive, performative, spontaneous, and aspirational character that runs contrary to its usual modalities. After all, Arendt's final paragraph is not exactly argumentative: it enacts a judgment in the name of a conjectured plurality. In this sense, it is practical and performative, grounded less in existing legal code than in the non-existence of an ideal of justice – one that I think might better be described as a recognition of equality that follows from her conception of human plurality.

The difference between disobedience and responsibility, however, turns on the plurality of the subject, the 'we' who Arendt invokes when she levels her final judgment against Eichmann. The 'we' she invokes against him is clearly also the 'we' who Eichmann has sought to destroy – his ultimate crime. When Arendt speaks as a 'we' at the end of the text, she speaks neither as part of an established court of law and not in the name of the Jewish people alone. It is probably important to remember that Arendt argued strongly in favor of a binational federation for Palestine through 1948 and then, in her words, no longer spoke 'as a Jew' after that time. But here she clearly speaks for the Jews, as she does for any other minority who would be expelled from habitation on the earth by another group. Arendt speaks in the name of a plurality that is co-extensive with human life in any and all its forms. Is there a universal principle or presumption in this plurality? Perhaps we can say only that there is a universalization at work, and that seeks to establish inclusiveness for all human society, but which posits no single principle as the common denominator of that humanity. Indeed, one might consider how this notion of plurality, which does, as we will see, maintain its constitutive outside, nevertheless functions as a way of universalizing rights or belonging, and we will see how it does this precisely through differentiation itself. In other words, equality does not operate as a principle that homogenizes those it comprises, but works through differentiation itself. Another way of reformulating this is that universalization is a process, that it does not rest on establishing equivalences or denying cultural and social differences; rather, it takes place through a series of broken or failed analogies. One situation is compared with the next, and the comparison does not fully work; in the place of an assertion of identity or equivalence, a practice of cultural translation has to take place. We thought we knew what universality was, but here is an instance that is not included within its terms; hence, cultural difference becomes the occasion to rethink universality, to understand universalization as a process, as something that is underway.

Arendt offers a certain philosophical anthropology to explain Eichmann, one that presumes that personhood requires an inaudible and invisible dialogue that happens within the self, and so one that would have no verification in the realm of appearance. One might be tempted to speak as if there are two selves, but it is probably more appropriate to consider that the self is rethought as a dialogic relation. In fact, I would suggest that the dialogue that thinking is has a performative dimension. To think is not necessarily to think about oneself, but rather, to think with oneself, to sustain a dialogue with itself, to enter

into concerted action and to act in such a way that the dialogue can be continued; in other words, the maxim according to which I live is that any action I take should support rather than destroy my capacity to keep company with myself (should support the aliveness and audibility of that internal dialogue). To the extent that thought is dialogic, it is a linguistic exercise, and this proves important to my capacity to continue to make myself as one who can and does keep company with myself:

> in this process of thought in which I actualize the specifically human difference of speech, I explicitly constitute myself a person, and I shall remain one to the extent that I am capable of such constitution ever again and anew. (1963, p. 95)

What follows from this is that those who fail to relate to themselves, to constitute themselves, as one does in thinking and judging, fail to actualize as persons. There is a certain kind of speech that is necessary for this actualization of the person to take place; that addresses him directly, which means that she places him within the sphere of interlocution. Some language binds them both together, and she is part of a human plurality with him, indeed, with the likes of him. The death sentence is one of the paradigmatic instances of the perlocutionary performative, and in this way, the final sentences of her book (sentences in both senses) are both discourse and action. Of course, they also are not, since she is not the judge and lacks the power and authority to pass judgment on him, but this is part of her point, since she thinks that judgment has to be based on thinking and not on strict adherence to positive law. Her judgment underscores the difference between the conjectural domain of philosophy and the domain of actual law and politics. The conjecture, the counterfactual, though is meant to articulate a non-legal norm according to which legal reasoning ought to proceed, and in that way, her impossible conjecture, indeed, her fiction, is part of her effort to ground law in the practical thinking, itself a critical exercise of thought.

Arendt is supplying a philosophical norm for just law, but she is also elaborating a social ontology without which no exercise of freedom and no claim to rights is finally possible. And lastly, she is offering a Kantian and performative conception of judgment. Plurality is the condition for the exercise of rights, an exercise through which we also constitute ourselves as social beings. Sociality is both the precondition of the legitimate exercise of rights, but also the effect of that very exercise. For Arendt, freedom is not an attribute of individuals, but an exercise and concerted action that is performed by a 'we' and which, in the exercise and performance, institutes that 'we' as the social condition of rights themselves. One can see how politics is at once performative and universalizing. She writes, 'our political life rests on the assumption that we can *produce* equality through organization, because man can *act in* and *change* and *build* a common world, together with his equals and *only* with his equals' (301). We would be making a mistake if we were to imagine a group of individuals amassing together as a collection of individual actors. None of those individuals become human unless and until concerted and collective action becomes possible. Indeed, to be human is a function, a feature of acting on terms of equality with other humans. But here we can see that every human has already to be a 'we' a plurality, a thinking being, in order to be part of the 'we' who makes and remakes the world. The one is not simply a precondition of the other; but the two pluralities cross when thinking becomes action, which it does in language, and when it asserts its rights, even when there is no legal basis for doing so, even when that assertion threatens to destroy the legal code that exists.

In closing, let me simply remark that Arendt and Maruyama both have illustrated to us how modes of criticism and judgment can be construed as performative at the same time that they are by virtue of their critical and universalizing function, part of democratic theory. But has there been in these pages a consideration of how the sphere of politics is itself delimited? And where would the economic be in such an analysis? Neither thinker could fairly be called a materialist, and neither takes into account the place of the body in politics and political mobilization. Arendt famously relegated the body to the private sphere in *The Human Condition* (1958). Similarly, both take distance from prevailing conceptions of 'the social' which makes it difficult to understand the political norms by which economic life is organized.

Why this renewal of idealism in postwar politics? Let me make a brief and final suggestion about why and how the sphere of the political is repeatedly produced through a disavowal of the economic. Both Maruyama and Arendt are worried about Marxism; Maruyama wants neither the solidaristic notion of the community nor the historical determinist account of history; Arendt actively worried that Marx's model of work could not serve as a model of political *phronesis*. We might justifiably argue with these conclusions, but they both identify the analysis of economics with Marxism, differing versions of Marxism, and so distance themselves from the sphere altogether. One can certainly understand why political theorists might want to avoid those kinds of debates that claim that democracy is only possible on the basis of a certain economic system, whether the argument is being made by Milton Friedman or Hugo Chavez. But is this not once again the case that such fears are based upon the presumption that the only relation between the spheres could be analogical or causal, or where one is understood as the necessary precondition of possibility of the other? To insist upon the autonomy of the political is thus a tactic for getting outside of those particular binds, but it still operates to produce the 'political' as an autonomous sphere, a tenuous conclusion based on consequential forms of disavowal.

Arendt thinks about bonds that tie diverse peoples together, and yet those bonds are not modes of exchange or forms of gift-giving, and we might wonder whether the social bond can be thought at all without an understanding of how the basic materials of life are exchanged, how basic needs are addressed or fail to be addressed. One may or may not be a Marxist or indeed a structuralist to say such a thing, and maybe in the end that is much less important than that such a thing should become speakable. On the one hand, both Maruyama and Arendt contend that the performative is exercised not by a sovereign subject, but through a concerted practice on the part of an historically constituted post-national community (Maruyama) or plurality (Arendt). So though they both reformulate the performative outside of the presumption of a sovereign subject and the nation-state, and even avow the open-ended agency of such a social plurality, they do not consider how those bonds are organized through economic means. And neither do they consider the particular formations of performativity within the social organization of economic life. They offer extremely interesting accounts of performativity that 'fail' to include the economic or, indeed, that require the suppression of the economic in order to construct certain idealized forms of linguistic and political agency. And some ways of economic formulation also 'fail' to include a broad enough notion of politics, especially one that might broach the broader questions of normativity. This may well be an occasion to underscore the general truth that performativity not only fails, but that it depends on failure. And though these positions make parallel and inverse sorts of exclusions, they also

effectively remind us of another feature of performativity. What if it has become a salient characteristic of performative processes in recent years to separate the economic from the political in order, alas, to make political theory? And have we yet begun to consider the process of performativity that makes that distinction with apparent forcefulness time and again? Where and how do we find and promote the conditions of its undoing?

NOTES

1. See Bourdieu (1991) in particular.
2. Polanyi wrote, 'No society could, naturally, live for any length of time unless it possessed an economy of some sort; but previously to our time no economy every existed that, even in principle, was controlled by markets' (1944, p. 43). Principles of redistribution, for instance, were not controlled by markets, which is why, in his view, redistribution tends to enmesh the economic system proper in social relationships.
3. See Austin (1962, pp. 118–120).
4. See Shoshana Felman (2002); and Christopher Bollas (1989)
5. See Hans-Georg Gadamer (1975); and Richard Palmer (1969).
6. The emergence of a subjective form, then, which would be conducive to democratic politics involved, as J. Victor Koshmann (1996) has argued, two stages of development: the first involved a notion of negative freedom, that is, a freedom from external constraints, but the second involved an exercise of freedom that sought not only to realize democratic life, but also to assume responsibility for it.

REFERENCES

ARENDT, H. (1958) *The Human Condition*, University of Chicago, Chicago, IL.

ARENDT, H. (1963) *Eichmann in Jerusalem: A Report on the Banality of Evil*, Viking Press, New York.

ARENDT, H. (1992) *Lectures on Kant's Political Philosophy*, ed. R. Beiner, University of Chicago, Chicago, IL.

AUSTIN, J. L. (1962) *How to do Things with Words*, Harvard University Press, Cambridge, MA.

BARRY, A. & SLATER, D. (2002) 'Technology, politics, and the market: an interview with Michel Callon', *Economy and Society*, vol. 31, no. 2, pp. 285–306.

BOLLAS, C. (1989) *The Shadow of the Object: Psychoanalysis of the Unthought Unknown*, Columbia University Press, New York.

BOURDIEU, P. (1991) *Language and Symbolic Power*, Harvard University Press, Cambridge, MA.

BUTLER, J. (1990) *Gender Trouble: Feminism and the Subversion of Identity*, Routledge, New York.

CALLON, M. (ED.) (1998) *The Laws of the Market*, Blackwell, Oxford.

DERRIDA, J. (1988) 'Signature, event, context', in *Limited, Inc.*, ed. G. Graff, tr. S. Weber & J. Mehlman, Northwestern University Press, Evanston, IL, pp. 1–23.

FELMAN, S. (2002) *The Scandal of the Speaking Body: Don Juan with J. L. Austin, or Seduction in Two Languages*, Stanford University Press, Palo Alto, CA.

GADAMER, H. (1975) *Truth and Method*, Seabury Press, New York.

KOSCHMANN, J. V. (1996) *Revolution and Subjectivity in Postwar Japan*, University of Chicago Press, Chicago, IL.

MACKENZIE, D. (2004) 'The big, bad wolf and the rational market: portfolio insurance, the 1987 crash and the performativity of economics', *Economy and Society*, vol. 33, no. 3, pp. 303–334.

MARUYAMA, M. (1963) *Thought and Behaviour in Modern Japanese Politics*, ed. I. Morris, Oxford University Press, Oxford and London.

MARUYAMA, M. (1974) *Studies in the Intellectual History of Tokugawa Japan*, tr. M. Hane, University of Tokyo Press, Tokyo; Princeton University Press, Princeton, NJ.

MITCHELL, T. (1999) 'Society, economy, and the state effect', in *State/Culture: State Formation after the Cultural Turn*, ed. G. Steinmetz, Cornell University Press, New York, pp. 76–97.

PALMER, R. E. (1969) *Hermeneutics*, Northwestern University Press, Evanston, IL.

POLANYI, K. (1944) *The Great Transformation; The Political and Economic Origins of Our Time*, Beacon Press, Boston, MA.

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