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The Concept of Political Responsibility

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St. Cuthbert's Society

03 MAR 2009



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Lorraine Holmes
1st September 2008

Introduction

‘Since human beings are not merely political animals but also language-using animals, their behaviour is shaped by their ideas. What they do and how they do it depends upon how they see themselves and their world, and this in turn depends upon the concepts through which they see.’

Hanna Fenichel Pitkin¹

This investigation is concerned with the possibility of establishing a concept of *political responsibility*. For, if Pitkin is correct and our behaviour is shaped by our ideas and concepts, then if we understand what it means to be responsible, and in this case in particular politically responsible, that understanding should direct or delineate our behaviour. Even the most superficial examination of the behaviour of those who operate and act within the political milieu would confirm that there appears to be a failure to accept responsibility for these actions. This, in Pitkin’s terms, would suggest that there is no understanding of the meaning of a concept of responsibility, and in particular *political responsibility*. That this is the case seems to be borne out by the findings of the Butler Enquiry, into the events leading to the war waged against Iraq where it appeared that almost everybody had done something wrong but that nobody was responsible.

The fact that it is possible to find many examples in which there are calls for the ascription of *political responsibility* suggests that indeed *political responsibility* is a concept through which we see ‘ourselves and our world’. However, it would appear that the political realm consists of political actors who seek to avoid the ascription of and/or the acceptance of *political responsibility*. Is this because they do not understand what it means to be politically responsible or is it that they are all too well aware of the ramifications and consequences of

¹ Pitkin, Hanna Fenichel, *The Concept of Representation*, (Berkeley, University of California Press, 1967), p. 1.

such a concept and, therefore, seek to avoid it, or is it a combination of both? This investigation will explore the apparent gap between the theoretical concept and practice. It will clarify the possibility of, and also make explicit the parameters of the concept of *political responsibility*. In addition it will suggest strategies that may make the ascription and/or acceptance of *political responsibility* less objectionable to political actors.

To begin this process of clarification it is essential to understand the prevailing environment in which claims for the ascription and/or acceptance of *political responsibility* are made. There is no doubt that “responsible” and *political responsibility* are terms that are in frequent use and appear to be afforded elevated importance in the political realm. In fact at any point in time, within the public sphere, there will be demands made to identify those to whom responsibility can be ascribed, and if experience has demonstrated anything it is that it will be equally certain that these demands will almost certainly remain unfulfilled. The diversity of the calls for *political responsibility* is illustrated by the following examples. From across Europe, come belated demands from Spain for an investigation of atrocities committed by both sides engaged in the Civil war and also to establish who it is that is politically responsible for the death squads, the GAL, in the ‘dirty war’ against ETA.² From the United Kingdom there are calls to attribute *political responsibility* for the events that contributed to the death of the scientist David Kelly and the false “intelligence” information that appeared in the Iraq dossiers. From Germany come demands for the identification and prosecution of those who were politically responsible for the repression in the former German Democratic Republic in the Cold War era and in The Hague the international criminal court has begun to try those who are alleged to be politically responsible for war crimes. From Africa, the discovery by the Truth and Reconciliation Committee in South

² Woodworth, Paddy, ‘The stain of Spain’s dirty war’, *Irish Democrat*, August/September 2001.

Africa, of those politically responsible for atrocities committed in the apartheid era, and the trials of those who are similarly accused in Rwanda and in Sierra Leone. From the Americas, lawyers still seek in South America those politically responsible and, therefore, justice for victims of the Pinochet regime; and in North America human rights activists seek to attribute *political responsibility* for international war crimes to Henry Kissinger and for the torture of Iraqi civilians to Donald Rumsfeld.

As interesting as these diverse calls for *political responsibility* are, our real concern here is the confusion and complexity to which these calls for *political responsibility* give rise. The following examples underline this concern. At the time of the trial of the now late Slobodan Milosovic it was confidently asserted that Milosovic ‘clearly shares *political responsibility* for the country’s immolation, with his opportunist pandering to rapacious nationalism.’³ Or that ‘with every passing day, Iraq becomes a bigger challenge than many Americans imagined ...Rather than deny that a problem exists, Mr Bush should invite the UN to assume *political responsibility* for restoring Iraqi sovereignty’.⁴ A succinct example of our concerns is shown by the problems associated with the Victoria Climbié case. Climbié, a Nigerian child, was brought into Britain illegally, and was subsequently beaten and starved to death by her “carers”. The problems associated with this very distressing case regularly resurface and remain unresolved. At a subsequent enquiry into her death, the lines of responsibility were found to be confused and in fact unfortunately still remain so. This confusion is illustrated by a conference declaration where it was suggested that ‘it could be the [elected] leader [of the local authority] who would take *political responsibility* and the

³ Milne, Seumas, ‘Hague is not the place to try Milosevic’, *The Guardian*, 2nd August 2001.

⁴ *Toronto Star*, Editorial 28th October 2003. <http://www.guardian.co.uk/editor/story/0,12900,1072824,00html> 16/11/03.

chief executive who would be ultimately responsible for the operational management'.⁵ The Climbié case still leaves many questions unanswered, and the only person to have been disciplined and punished (apart from the direct perpetrators) is the newly qualified junior social worker involved. The problem with each of these cases is that there is no explanation of what is understood by *political responsibility* or how it could be achieved.

These few of many available examples illustrate how diverse and elusive the concept of *political responsibility* can be. The need to ascribe *political responsibility* is very often in order to attribute blame or invoke sanctions, because 'people spontaneously attribute responsibility for the behaviours they observe. Attributions of responsibility are known to exert powerful influence over a broad spectrum of ...social attitudes.'⁶ This study is not however, an empirical investigation of *political responsibility*, although numerous examples are cited, but is instead a conceptual analysis. As a conceptual analysis of *political responsibility* this work will explore its meaning, to discover if indeed such a concept as *political responsibility* can be a real phenomenon in the political realm. It will also examine how *political responsibility* is used in everyday and academic contexts and the validity of such usage in the political lexicon.

The problem with *political responsibility* as a concept is that it concerns the juxtaposition of two highly contested terms and is therefore about two words, nevertheless, 'it is not about mere words, not merely about words.' For, as Pitkin reminds us, for social scientists words cannot be "mere", they are not only the 'tools of his trade' but also 'a vital part of his

⁵ Carvel, John, 'Where the buck stops', *The Guardian*, Society, 4th June 2003. Those attending the conference were from Local Government Associations, the NHS Confederation and associations representing social services and educators.

⁶ Iyengar, Shanto, 'Framing Responsibility for Political Issues', *Annals of the American Academy of Political and Social Science*, Vol. 546, The Media and Politics, 1996, p. 60.

subject matter.’⁷ Pitkin whilst discussing “representation” could well be writing about *political responsibility* when she states that considering ‘the frequency with which it is used by writers [and commentators] on politics, there has been surprisingly little discussion or analysis of its meaning.’⁸ Her observation about “representation”, that there exists a kind of ‘reductionist realism’ that asserts that ‘representation exists if and only people believe in it,’⁹ could equally be an observation made about *political responsibility*. Theorists such as Niklas Luhmann, for example, claim that *political responsibility* is merely a necessary fiction on which the political system resides. Indeed, even one of the few academics who claim to interpret *political responsibility*, John Dunn, appears to be convinced that political concepts such as *political responsibility* ‘are hopelessly abstract, general and hence inadequate in relation to the heterogeneity, intricacy and vastness of the facts of actual political life.’¹⁰ This does not appear to be very encouraging preface to this investigation. Notwithstanding these negative claims the imperative of this investigation is in fact based on the damage that the lack of *political responsibility* inflicts on the polity. The first casualties of the lack of *political responsibility* are the profound problems that are created for truth and justice which impact on the health of the polity with devastating consequences. It is no less than an understanding that any failure to identify those who are politically responsible ‘enfeeble[s] representative government and encourages political cynicism and passivity.’¹¹ Despite the difficulties, therefore, the confusions invite clarification and *political responsibility* deserves close scrutiny because of the potential its absence has to damage the polity.

⁷ Pitkin, *The Concept of Representation*, p. 1.

⁸ Ibid., p 3.

⁹ Ibid. p 9.

¹⁰ Dunn, John, *Interpreting Political responsibility*, (Cambridge and Oxford, Polity Press and Basil Blackwell, 1990). Quoted in a book review by D. A. Lloyd Thomas, *Mind*, New Series, Vol. 100, No. 3, 1991, p. 381.

¹¹ Shklar, Judith, *The Faces of Injustice*, (New Haven, Yale University Press, 1990), p. 83.

The first task undertaken was to review the available scholarly literature. This review illustrated the confusion and conflation of different types of responsibility. These illustrations underlined the lack of a clear understanding of the meaning of *political responsibility*, the scope of its application and to whom it can be applicable. The literature review did, however, confirm a limited but persistent consensus that the concept of *political responsibility* has in some way a direct bearing on the democratic political system and therefore required careful investigation.

What was also revealed by this review was the lack of discussion of the concept of *political responsibility* as a discrete meaningful concept separate from other descriptions of responsibility. This was not because commentators failed to appreciate that *political responsibility* is a matter of intense concern and public interest, but was instead that commentators did not ascribe any significance to the “political” in *political responsibility*. Moreover, the literature review as well as revealing the lack of clarity and understanding also revealed that there are significant problems and influences that require further investigation. The conflation of *political responsibility* with moral and legal responsibility although problematic, was not the most intractable problem. The problems explored concerning agency and the disagreements over cause and capacity, demonstrated not only the contested nature of these areas but identified the vital importance of contingency to any discussions of *political responsibility*.

The evidence from the literature review concerning the possibilities of ascribing *political responsibility*, not just to the individual, but to the collective, illustrated the essential importance of justice. The role of justice is essential because *political responsibility*,

although concerned with issues of the past, has a profound bearing on the future of the community. Arising from attempts to begin to address the problems that can occur when injustices from the past are not acknowledged and societies have to rebuild themselves using narratives that are at best incomplete or at worst a fabrication, illustrate that issues of truth also have a central role in any discussion of *political responsibility*.

The literature review also revealed the lack of any systematic discussion of *political responsibility* and how it relates to the “political” amongst even the most eminent political theorists. This omission is addressed in the second chapter, as the nature of the political plays a vital role in the understanding of *political responsibility*. In order to clarify this significance there is an examination of the thought of three political theorists, who do discuss *political responsibility*, Max Weber, Hannah Arendt and Jürgen Habermas. This examination leads to three different but enlightening conceptions of the nature of the political that give us definitive contexts for our understanding of *political responsibility*. *Political responsibility* emerges as a completely separate discrete concept not to be confused with legal, moral, criminal or any other type of responsibility. For each thinker their view of *political responsibility* is circumscribed by their notion of the political. All three differentiate between the public and the private, but disagree about who can be politically responsible and how *political responsibility* is possible. All three thinkers also emphasise the difficulties caused by the contingency and complexity of the world. Arendt and Habermas also discuss the necessity to ameliorate the problems concerning choice and risk and the importance of truth and justice in this process. These considerations delineate the elements that influence the possibility of *political responsibility* and are discussed in subsequent chapters.

The first of these influential elements is contingency. The third chapter, therefore, examines the arguments between those who claim that the contingency of the world mitigates against any possibility of *political responsibility* and those who aver that this very contingency renders *political responsibility* essential. Notwithstanding these difficulties, *political responsibility* emerges as being essential to the political process, and more specifically to representational democracy. What is discovered is that it is essential to “give an account”. This arises from the understanding that the notion of “responsibility” is integral to representational democracy. This understanding limits *political responsibility* to political representatives acting in a representational democracy. Although our efforts fail to discover a strategy that will offset the inherent unpredictability and irreversibility of the contingent world there is still scope to speculate on strategies that may mitigate against this unavoidable contingency. These discussions, therefore, lead to an examination of Arendt’s strategy of forgiving and promising as they relate to the political realm.

The initial literature review identified that the first casualties of the failure to ascribe and/or accept *political responsibility* were justice and truth. Arising from the previous work on contingency it is seen that the most devastating consequences for the polity arise from the sense of injustice and alienation. Further, the integral element of “giving an account” as a cornerstone of representational democracy indicates that the nature of that account must be truthful in order to allow for new beginnings which are not based on a false narrative of the past. Both these essential elements to *political responsibility* are examined almost in parallel in the final two chapters of this investigation.

What emerges is a limited and somewhat narrow concept of *political responsibility*. It has been possible to identify specific normative values inherent within this concept, which designate it as a discrete and potentially crucial ingredient to the maintenance and re-legitimisation of the polity. This is a comprehensive and conceptual analysis of the possibility and the potential role of *political responsibility*. This understanding limits *political responsibility* to political representatives acting in a representational democracy and as such is in sharp contrast to claims such as those by David Blunkett the ex-Home Secretary. Blunkett remonstrated with citizens concerning their alleged failure to take their responsibilities as citizens seriously enough whilst simultaneously denying that politicians could be politically responsible. ‘...in the eyes of [the] Government “responsibility is for job-seekers and single parents and not for the ruling classes.”’¹² Despite the efforts of this investigation, such a mindset as demonstrated by Blunkett would appear to make the ascription and/or acceptance of political responsibility a very remote and unlikely possibility. It was to circumvent such cynical claims that this investigation was initiated, as failure by politicians to acknowledge the concept and consequences of *political responsibility* is ultimately self-defeating in that it undermines their own legitimacy and more importantly the very legitimacy of democratic representational government.

¹² Cathcart, Brian, “”Sorry” has come to mean “Don’t blame me””, *Independent on Sunday*, 18th July 2004, p. 25.

Chapter One

The Problem of Political Responsibility

It is clear that *political responsibility*, whether expressly identified by the adjective or not, is a central part of our political vocabulary. Attempts to understand the concept are, however, problematic. An example of how problematic was evident in the reporting of the death of Lena Riefenstahl on 9th September 2003 at the age of 101 years. Riefenstahl was a controversial figure best known for her film of the Berlin Olympics in 1936 and 'Triumph of the Will' a stunning documentary of a Nazi Party rally at Nuremberg in 1934. Although fated by some for her innovation and as 'a visionary and pioneer'¹ she was, nevertheless, hated and despised by many who claimed that her work was merely propaganda that glorified a regime which had been responsible for the deaths of millions. Riefenstahl's past connections with Hitler and the Nazi Party had resulted in her being arrested and questioned by the Allies at the end of the war. Although she was never prosecuted for war crimes, nevertheless, she was never able to work as a major filmmaker again. Riefenstahl herself always denied that her work was propaganda, claiming instead that it was art. This denial of the political nature of her work was not accepted by the majority of her critics; thus, when asked to comment on Riefenstahl's death, the German Culture Minister Christina Weiss stated that Riefenstahl's life had demonstrated that 'art is never unpolitical and that form and content cannot be separated from one another.'² Also, whilst discussing her life and work on BBC radio news the Director of the Berlin Film Institute offered an insight into

¹ *Berliner Morgenpost*, 10 September 2003. BBC News, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/entertainment/film/3097018.stm> Accessed 11/09/2003

² *Washington Times*, Obituaries, 10 September 2003.

why she aroused such hostility, claiming that ‘Riefenstahl could never be rehabilitated because she never accepted *political responsibility* for her actions.’³ (my italics)

This is a typical example of the way in which the term *political responsibility* is pressed into service. In this particular instance, the Director of the Film Institute gave no indication of how or why he had come to such a conclusion that Riefenstahl’s crime was her non-acceptance of her *political responsibility*. Nor did the interviewer question him to elicit any further explanation, implying that further clarification was unnecessary and that both parties had a clear understanding of what was being said. There are, however, a number of radical and far reaching assumptions inherent within the statement made both by the Culture Minister and Director. The Director accepts the view expressed by the Culture Minister that art can be political (a view denied vehemently by Riefenstahl), and that individuals and not just politicians can and should be held to be politically responsible. For an individual such as Riefenstahl to be rehabilitated it is essential that they accept *political responsibility* for their actions and therefore seek forgiveness; it appears to be implicit that forgiveness is possible, although, in this instance, there is no indication from whom such forgiveness could be sought. We must assume that the Director believed that he knew exactly what *political responsibility* entailed when he used the term, but is this really a shared understanding? Was the notion of *political responsibility* so clearly understood by both interlocutors that no further clarification was necessary? These are just some of the problems that need to be addressed, if *political responsibility* is to be taken seriously as a concept.

Despite its frequent use, however, the following review of the scholarly literature will show that *political responsibility* is an under-explored and often elusive concept. This is

³ BBC Radio News, *P.M. Programme*, Tuesday 10 September 2003.

significant because the lack of a clear understanding of its meaning, the scope of its application and to whom it is applicable results in *political responsibility* as a concept appearing to be everywhere and nowhere. This lack of clarity has serious consequences for the political process. This manifests itself in two different ways. Concepts and usages of *political responsibility* that impose very high burdens upon those held to be responsible, whether few or many, risk inciting strategies of evasion by the putatively responsible. In turn, such evasion induces cynicism amongst citizens as they discover that no one appears to be responsible. This was graphically illustrated in the worst tragedy that had ever occurred in a public facility in New Zealand. In the disaster that took place at Cave Creek, in which 14 young people died,⁴ the fact that no high level minister accepted responsibility or resigned 'probably enhanced public cynicism. There remains a strong public perception that justice has not been done, let alone seen to have been done.'⁵ Even the subsequent public enquiry 'seemingly failed to reassure a small population of 3.6 million citizens ...Herein may lie the real failing of political responsibility.'⁶ Conversely, accepting *political responsibility* can appear to bring with it such minimal sanctions that it has little or no credibility. Thus Tony Blair whilst appearing to accept *political responsibility* when commenting on the Butler report into the Iraq war stated '... for any mistakes made, as the report finds, in good faith, I of course take full responsibility,' but then failed to accept that there had been anything wrong with his actions and no sanctions of any kind were taken

⁴ 'On 28 April 1995, in a wilderness area of New Zealand's South Island, 18 people were standing on a viewing platform when it collapsed, plummeting them 30 metres below on to rocks. 'Fourteen of them died, 10 almost immediately. All but one were members of a polytechnic outdoor recreation course on a geology field trip. Their ages ranged from 17-31. Gregory, Robert, 'Political Responsibility For Bureaucratic incompetence: Tragedy at Cave Creek', *Public Administration*, Vol.76, Autumn, 1998, p. 519.

⁵ Gregory, Robert, 'A New Zealand Tragedy: Problems of Political responsibility', *Governance*, Vol.2 No.2, 1998, p. 239.

⁶ Ibid.

against him. Instead he reiterated his claims about the rightness of his actions stating that ‘I cannot honestly say I believe getting rid of Saddam was a mistake at all.’⁷

It will be argued below that this vicious circle is encouraged by a failure to confront the “political” in *political responsibility*. This omission leads to attempts to establish the meaning of *political responsibility* through general discussions of the concept of “responsibility” and discussions of generic types of responsibility. It will be demonstrated that this failure to clearly specify the meaning of the “political” in *political responsibility* and thereby establish its scope, inevitably leads to the unexamined conflation of *political responsibility* with moral, legal and criminal responsibility. This inability to establish either meaning and/or scope engenders yet further inconclusive discussions concerning to whom *political responsibility* can be assigned. Despite these reservations, the review of the literature does reveal some positive results. It shows that recurrent problems in the discussion of responsibility, whether purportedly political or not, arise from the difficulty of reconciling *political responsibility* with the contingency of the world and considerations of justice and truth. Subsequent chapters will, therefore, seek to provide a definition of the “political” in *political responsibility* and to show how this might be reconciled with the contingency of the world and those considerations of justice and truth.

Since there are few, if any, attempts to deal directly with *political responsibility* as a concept this review will address the three identified major areas of contention, i.e. meaning, scope and agency. Each of these issues has a *prima facie* bearing upon the concept of *political responsibility*. The review will deal firstly with attempts to extract a meaning for *political*

⁷ Cathcart, Brian, ‘After Butler: “Sorry has come to mean ‘Don’t blame me’”, *The Independent Sunday*, (London , 18 July 2004), p. 25.

responsibility through general discussions of the concept of “responsibility” and “responsibility” in its generic sense. Secondly, the problems uncovered by this approach generate a review of attempts by commentators to displace discussions of *political responsibility* in favour of discussions of political accountability. The third part of the review addresses the scope of *political responsibility* and deals with the tendency to conflate political with moral, legal and criminal responsibility. Finally, discussions concerning those who can be held to be politically responsible fall into three distinct groups. The fourth part, therefore considers philosophically informed attempts to approach responsibility from the viewpoint of the responsibility of the individual. The fifth considers debates about collective responsibility that have arisen as a reaction against this individualistic focus. The sixth, demonstrates how dissatisfaction with the perceived inadequacies of the displacement of the individual with the collective has resulted in a resort to identifying those who can be politically responsible in terms of their “role”. What has been revealed by this review is that the lack of discussion of the concept of *political responsibility* as a discrete meaningful concept separate from other descriptions of responsibility is not because commentators fail to appreciate that *political responsibility* is a matter of intense concern and public interest. It is instead that commentators do not ascribe any special significance to “the political” as a concept. This omission will be addressed after the review of the literature as the nature of the political plays a vital role in understanding *political responsibility*.

The lack of explicit literature which deals directly with *political responsibility* might indicate that it is perceived to have little value as a concept. This is, however, not the case. It now seems, that for modern men and women, ‘responsibility is so integral a part of human relationships that in its various meanings and shadings it serves as a synonym for almost

every important political word'.⁸ One would expect, therefore, that at least as a concept the term "responsibility" would be uncontested. The philosopher Gallie, however, has called it 'an essentially contested concept'.⁹ The first part of this review, therefore, concerns the attempts to attribute meaning to the term *political responsibility* and begins with discussions that locate *political responsibility* as part of a wider discussion of "responsibility" in its general sense. The first surprising discovery is that considering how frequently demands are made concerning "responsibility" and "being responsible", detailed explorations of these concepts have a very short history. Chester Barnard, for example, noted with astonishment in 1950, that 'unlike "authority", "responsibility" has not been the subject of extensive literature, ...[C]onsidering the common use of "responsibility" and "responsible" in connection with politics, government, and organisation, this is a matter of astonishment'.¹⁰ The lack of earlier scrutiny can perhaps be attributed to the fact that "responsibility" was not a term used by the ancients, 'Homeric heroes had little use for [it], centring their moral vocabulary on merit and kudos instead.'¹¹ Although we now take the notion of responsibility for granted, and use it in many different contexts, in fact the term was not used at all in English until 1643. According to the Oxford English Dictionary the first citation of the adjective "responsible" occurred 'in a passage referring to the king as "responsible to Parliament".¹² "Responsibility" appeared in 1776 in Bentham's *A Fragment of Government* and was used also by Alexander Hamilton in No.63 of the *Federalist* published in 1787. Richard McKeon states that 'responsibility was first used in English and French in 1787, and was applied to the operation of political institutions.'¹³ Although it

⁸ Bovens, Mark, *The Quest for Responsibility*, (Cambridge, Cambridge University Press, 1998), p. 22.

⁹ Ibid.

¹⁰ Ibid. p. 23.

¹¹ Lucas, J.R. *Responsibility*, (Oxford, Clarendon Press, 1995), p. 5.

¹² Ibid., p. 5.

¹³ Pennock, J. Roland, 'The Problem of Responsibility', in Carl J., Friedrich, (ed.) *Responsibility*, (New York, The Liberal Arts Press, 1960), p. 5.

seems clear from this discussion that the term responsibility when it was originally used was overtly political, this fact is now almost universally, studiously ignored.

Although since the 1950s there has been a good deal more literature dealing with the concept of “responsibility”, including discussions by commentators such as Hart, Spiro, Glover, Feinberg, Thompson, Jonas, Pennock and Lucas,¹⁴ these are philosophical discussions and follow a similar pattern. Glover and Lucas, for example, both offer a comprehensive history of the concept of “responsibility” beginning with Aristotle, but neither of them discusses *political responsibility* directly. Lucas does refer conclusions that emerge as a result of his general discussions of responsibility back to the political arena but by way of discussions concerning the responsibility of office and responsible government. Jonas and Thompson provide typical examples of yet another strategy. The account offered by Jonas has the advantage of being one of the few texts that directly addresses *political responsibility*. He does this, however, by relying on generic types of responsibility, for example, parental responsibility or ministerial responsibility. Jonas contrasts *political responsibility* with parental responsibility which he claims is the ‘archetypal paradigm’.¹⁵ Although he claims that *political responsibility* and parental responsibility are in some ways at the opposite ends of the spectrum, nevertheless, it is by examining parental responsibility that we can understand *political responsibility*. Jonas is not alone in adopting this strategy. Commentators who adopt this approach hope that an understanding of the implications of one type of responsibility may be transferable, and thus give insight, to the notion of *political responsibility*. The problem with this strategy is that it does not facilitate any overt discussion of what is political in *political responsibility*. Thus, Thompson also claims that

¹⁴ Bovens, *The Quest for Responsibility*, p. 23.

¹⁵ Jonas, Hans, *The Imperative of Responsibility*, (Chicago, University of Chicago Press, 1984), p.101.

we can aid our understanding of *political responsibility* by attempting to discover the characteristics of other types of responsibility. Although his discussions are centred squarely in the political realm, nevertheless, he does not even consider, except in passing, the possibility of *political responsibility* being a separate and discrete concept.

Both Pennock and Hart, however, similarly argue that attempting to extract meaning by the process of identifying generic types is a flawed strategy and that in fact, “responsibility” has varied meanings in different contexts. Pennock claims that responsibility has two primary meanings, or more correctly a single core value with two distinct facets; ‘(a) accountability and (b) the rational and moral exercise of discretionary power (or the capacity or disposition for such exercise), and that each of these notions tends to flavour the other. In any particular application, either one may be dominant, but the other remains in the background.’¹⁶ Assigning different shades of meaning to the term “responsibility” is expanded and refined in the work of Hart, who has been extremely influential in this area. Using Hart’s work, Bovens claims that as far as meaning is concerned, the term “responsibility” has been identified as having at least five distinct shades of meaning.¹⁷ Responsibility can be used in a descriptive non-moral sense as part of a process (e.g. the stock market collapse was responsible for the company’s financial difficulties) but conversely it can also be used as a moral imperative. Hart, for example, lists four distinct uses; responsibility as cause; responsibility as liability; responsibility as capacity; responsibility as role fulfilment; a fifth

¹⁶ Pennock, ‘The Problem of Responsibility’, pp. 13-14.

¹⁷ Bovens, *The Quest for Responsibility*, pp. 24-26.

is added by Bovens responsibility as virtue. (Hart includes virtue as a part of role/task responsibility and not as a separate category).¹⁸ It is not clear, however, how we are to utilise these definitions of meaning to facilitate an understanding of *political responsibility*. Although providing a general definition of “responsibility”, which can then be applied to different contexts, including the political, might appear an interesting development, it leaves too much power to the interpreter. Rather than creating clarity it merely adds to the confusion because it requires an assessment in each individual case of which meaning is to be adopted. Rather than providing a definition of *political responsibility*, instead a choice has to be made of which meaning of responsibility will be utilised in any particular political circumstance. It fails to overcome the problem of who will, and how we are to decide, in any individual context, which of these meanings is dominant. Is it to be left to the protagonist to decide on which meaning he/she will give prominence? For example, if the term “responsibility” has so many meanings, then what role does it play in the ascription of *political responsibility* in the Climbié case previously cited in the introduction? Are all of these meanings inferred, or just some of them? Is the elected leader to be politically responsible in terms of liability, task or virtue, or as many suspect, because of its lack of

¹⁸ Hart, Herbert L.A., *Punishment and Responsibility: Essays in the Philosophy of Law*, (Oxford, Clarendon Press, 1968), pp. 211-230. Quoted in Bovens, *The Quest for Responsibility*, pp. 24-26. ‘Responsibility as cause. The term “responsible for” can in some contexts be replaced by the word “caused” or “to have as a consequence” or some other form of words that indicate that there is a causal connection.’ In this sense not only people or their behaviour can be said to have caused situations but also things, situations and circumstances. For example, his poor driving was responsible for the accident, or the falling tree was responsible for the broken greenhouse, or the SARS virus was responsible for many deaths worldwide.

Responsibility as liability. “Being responsible” is often used in the sense of political, moral or legal liability (either separately or in conjunction). Who is to be held responsible for the decision to allow Dr. David Kelly’s name to be made public?

Responsibility as capacity. To be responsible in the sense of being able to be held responsible, one has to be capable of understanding what this means, therefore, young children, people who are mentally ill, including the demented, are often said to be incapable of being held responsible.

Responsibility as role/task fulfilment. When we have a perceived role in society or in an organisation that it is our duty to fulfil this is called a role or task responsibility. For example, parents have responsibilities towards their children, auditors have responsibilities to shareholders, or David Blunkett in his role as Home Secretary has responsibilities towards Parliament.

Responsibility as virtue. As a positive value judgement, for example, my son’s teacher is a very responsible person. ‘In this sense, the concept refers to a virtue, it suggests that someone takes his tasks and duties seriously, acts only after due deliberation and considers himself answerable to others for the consequences of his actions.’

clear definition, is *political responsibility* really being utilised as a “Sunday” concept in an attempt to add gravity without any real substance? ¹⁹

Pennock reports that because the concept has so many diverse implications any idea that “responsibility” can be used in a generic sense is mistaken. It is suggested that the term “responsibility” should always have attached to it an ‘explicit or implicit modifier’. This would assist investigations because they could then be ‘confined to a single topic, such as “*political responsibility*” or criminal responsibility’. This would overcome concerns that, to take one example, “*political responsibility*” has in common with moral and legal responsibility nothing more than the use of the same combination of letters.²⁰ This strategy appears to have some merit. Cooper similarly identifies the usage of an “explicit modifier” advising us that this method has proved to be successful in discussions of another contested term, “self-deception”.²¹ He claims that the adoption of such a procedure overcomes the problems created by analytic philosophers when they subject self-deception to an analysis of its component parts.²² Cooper makes a persuasive case for the practical application of the concept serving as a way to clarify the term without subjecting it to theoretical examination. Although initially this might appear to be a promising avenue of investigation, in the instance of *political responsibility* it is an erroneous development. In the case of self-deception, “self” merely modifies “deception”. The “political”, in *political responsibility*,

¹⁹ Bovens, *The Quest for Responsibility*, p. 22.

²⁰ Pennock, ‘The Problem of Responsibility’, p. 4.

²¹ Cooper, David, *Existentialism*, (Oxford, Blackwell, 1990), pp. 117-118.

²² This analysis results in an initial discussion of deception that is I who believe x set out to deceive you by persuading you that not-x. If self-deception were then construed as deception of oneself using the definition of other deception, then ‘since a second person is required whom one intends to deceive, deceiving oneself deliberately seems to contain a contradiction.’ We would then have to agree with philosophers such as Kant that such a claim ‘smacks of paradox’, all subsequent discussions are then focused on finding solutions to this alleged paradox. Cooper points out, however, that when the term is used in a practical sense by Sartre to give examples, what is revealed is ‘a phenomenon that is not in the least paradoxical.’ Kant, Immanuel, *Metaphysical Principles of Virtue*, (trans.) James Ellington, (Indianapolis, Bobbs-Merrill, 1964,) p. 91.

however, signifies the intrinsic qualities of a discrete concept hitherto unacknowledged, rather than merely modifying through description the theatre of influence or operation.

Although the strategy of attempting to extract the meaning of *political responsibility* from discussions of “responsibility” in its general or generic sense is commonplace, it is always unsuccessful. This inability to establish any clear definition of *political responsibility* has resulted in the abandonment by some political scientists of the concept of *political responsibility* altogether. Whilst they acknowledge the importance of the concept of “responsibility” to the political realm they also understand its contested nature, and believe that the only way that clarity can be achieved is to abandon the notion of *political responsibility* in favour of political accountability. Indeed some commentators, such as Barker, claim that ‘accountability and responsibility are different concepts, despite their increasing use as identical ones.’²³ It will be demonstrated, however, that this strategy involving the abandonment of *political responsibility* in favour of political accountability is also invalid. Firstly, notwithstanding commentator’s claims to be discussing “political accountability”, they nevertheless succumb to the same temptations as those analysing *political responsibility* - they fail to give any real consideration to “political” and instead concentrate on “accountability”. Secondly, despite the claims of commentators that the notion of political accountability is superior to that of *political responsibility* because it is able to deliver precise and definitive definitions, after examining these claims it is clear that they remain unsubstantiated.

²³ Barker, Anthony, ‘Accountability and Responsibility of Government and Public Bodies’, *Political Quarterly*, Vol.2, 2001, p. 138.

This strategy is clearly demonstrated in the thinking of two influential political scientists, Keohane and Schedler. Keohane in 'Political Accountability' claims that his purpose is to 'fashion a concept of political accountability that could be applied coherently'. He provides an example of the first problem when he advises us that when he refers to "accountability in this paper, I refer to political accountability.' One would expect, therefore, that he would proffer a comprehensive definition of the term "political". His acknowledgment that "political" needs any further clarification is, however, minimal, merely stating that 'political accountability relationships exclude purely personal and familial relationships...such as those between parents and teen-age children'.²⁴ This is the only definition that he offers of the "political". Instead he embarks on the now familiar route of those who discuss responsibility, except that he refers to it as accountability. Similarly, in 'Conceptualising Accountability', although Schedler asks the questions 'who is politically accountable for what?' and 'who are the agents of political accountability?', nevertheless he also fails to discuss the nature of "the political". Instead it is only accountability that he addresses, dwelling on its alleged basic connotations of answerability and enforcement. Although he begins by asking 'What is the essence of politics?' his answer is power, 'in politics, first comes power, then the need to control it.'²⁵ Schedler does not enter into any discussion about the source of this power, and therefore his entire argument is based on the notion that power cannot be 'subjected to full control' and equally neither can it be 'opened up to full transparency'. This, by his own admission, reduces the notion of political accountability to a modest concept.²⁶

²⁴ Keohane, Robert O. 'Political Accountability', Paper prepared for *Conference on Delegation to International Organisations*, May 2002, p. 1.

²⁵ Schedler, Andreas, 'Conceptualising Accountability' in Andreas Schedler, Larry Diamond, Marc F. Plattner, *The Self-Restraining State*, (Boulder, Colorado, Lynne Rienner, 1999), p. 13.

²⁶ Ibid. p. 27.

Keohane claims that political accountability, unlike *political responsibility*, can be precisely located and is, therefore, a superior concept and that 'fortunately...there is wide agreement on how to define [political] accountability...'. He gives us examples from several commentators including one from Oakerson that 'to be accountable means to have to answer for one's action or inaction, and depending on the answer, to be exposed to potential sanctions, both positive and negative'.²⁷ He concludes that 'all satisfactory definitions of political accountability include, explicitly or implicitly, two essential features: *information* and *sanctions*'.²⁸ Schedler, similarly, asserts that the 'the notion of political accountability carries two basic connotations: answerability....and enforcement...This two-dimensional structure of meaning makes the concept a broad and inclusive one.'²⁹

Keohane and Schedler are obviously convinced that the use of the term political accountability will deliver the precision and clarity of meaning that is absent from the notion of *political responsibility*. Nevertheless, even the most cursory examination of the etymology of responsibility and accountability illustrates that they are mistaken in that belief. For example, Lucas, Bovens and Pennock, each undertake a brief examination of the etymology of the word "responsible", and conclude that 'the term "to be responsible" suggests, both in its Germanic as in its Romance origin, the notion of giving an answer, *respondere*',³⁰ 'I must give an account',³¹ and in German and Dutch is 'formed on the basis of the noun Antwort, meaning "answer"'.³² The definition of responsibility in the Oxford English Dictionary is "the state or fact of being responsible"; and responsible means

²⁷ Oakerson, Ronald J., 'Governance structures for enhancing accountability and responsiveness', in Perry, James L., (ed.), *Handbook of Public Administration*, (San Francisco, Jossey-Bass, 1989), p.114 in Keohane, 'Political Accountability', p. 3.

²⁸ Ibid, pp. 2-4

²⁹ Schedler, 'Conceptualising Accountability', p.14.

³⁰ Pennock, 'The Problem of Responsibility', p. 6.

³¹ Lucas,, *Responsibility*, p.5.

³² Bovens, *The Quest for Responsibility*, p. 23.

“liable to be called to account; answerable (*to person for thing*).”³³ ‘Webster lists as synonyms, ‘responsible, accountable, amenable and liable’ saying that they all mean ‘subject to an authority which may exact redress’.³⁴ Further, Crabb (*English Synonyms*) says that “responsible” and “answerable” convey ‘the idea of a pledge given in performance of some act, or the fulfilment of some engagement.’³⁵ When responsibility and accountability are viewed in these terms (with almost identical meanings and inference) it is difficult to understand why Keohane and Schedler believe that utilising political accountability rather than *political responsibility* resolves any of the problems.

This strategy is partly explained by Schedler’s acknowledgement that agents are reluctant to accept *political responsibility* and are aided in this task by a lack of an explicit definition. This lack of a clear definition can result in the terms *political responsibility* and “political accountability” being used synonymously. This practice is clearly illustrated in British government circles. The difficulties surrounding such discussions and the obfuscation that they produce become apparent in the comments from The Cabinet Office in Britain, when submitting evidence to the Scott Enquiry in 1994. It was stated that ‘The Government has not distinguished consistently between the use of the terms “[politically] accountable” and “[politically] responsible”, nor can it determine the use of the words by others. They can and have been used interchangeably even in the most authoritative texts.’³⁶ It is the desire to overcome such obfuscation (deliberate or otherwise) that causes both Schedler and Keohane to promote the concept of political accountability. Schedler claims that whilst you are always politically accountable to someone for something, ‘responsibility for something may

³³http://dictionary.oed.com/cgi/entry/50204300?single=1&query_type=word&queryword=responsibility&first=1&max_to_show=10

³⁴ <http://www.merriam-webster.com/dictionary/responsibility>

³⁵ Pennock, ‘The Problem of Responsibility’, p. 6.

³⁶ Mather, Graham, ‘Clarifying Responsibility and Accountability’, , *Government Accountability: Beyond the Scott Report*, in CIPFA Report, 1996, p. 22.

go entirely without responsibility to somebody.’³⁷ He claims that ‘the presumptive burden of [political] responsibility has become an easy formula to legitimate political power...And it has also become the formula to shed off prospective [political] accountability... In essence, while [political] accountability forces power to enter into a dialogue, the notion of [political] responsibility permits it to remain silent.’³⁸ Similarly Keohane also claims that political accountability is easier to promote, institutionally, than *political responsibility*. However, his observation that ‘*political responsibility* without political accountability may often be important, but it is more a matter of moral character and psychology than strictly of political institutions’ merely leads to further obfuscation by introducing an entirely different concept.³⁹

One reason given for the use of political accountability rather than *political responsibility* by Keohane is that there is wide agreement about how to define political accountability. This agreement, however, may not be as inclusive as he would wish. Schedler, for example, despite his promotion of the concept of political accountability, appears to disagree about its ease of definition. He could just as well be discussing *political responsibility* and identifying the main problems caused by the lack of an explicit definition, when he claims that ‘due to its novelty, accountability represents an under-explored concept whose meaning remains evasive, whose boundaries are fuzzy, and whose internal structure is confusing.’⁴⁰ In British government circles discussions are often limited to an ‘attempt to identify in the normal usage of the words “accountability” and “responsibility”...tidy and precise

³⁷ Schedler, ‘Conceptualising Accountability’, p. 19.

³⁸ Ibid.

³⁹ Keohane, ‘Political Accountability’, p. 7.

⁴⁰ Schedler, ‘Conceptualising Accountability’, p. 13.

meanings, distinct as between one word and another'.⁴¹ Woodhouse notes that 'confusion arises from the failure to separate theoretical requirements and political practice.'⁴²

More critically for Keohane and Schedler, Kutz claims that although sometimes used synonymously with responsibility, accountability is merely a subset of responsibility.⁴³ Gregory concurs with Kutz, agreeing that accountability is part of responsibility, thus, 'whilst [political] responsibility is a duty of obligation; accountability is the need to account for – to explain, justify or tell a story about – one's actions to one's superiors in the hierarchical chain of command'.⁴⁴ Lucas, similarly, claims that the central core of the concept of responsibility is that I am obliged to give an answer.⁴⁵ Accountability viewed in these terms is answerability. Although he fails to articulate what the burden of *political responsibility* actually entails, Graham Mather claims that 'to be responsible is a heavier burden than simply to give an account.' He claims that to be politically responsible goes beyond merely having to give an account, that when 'properly analysed, accountability is merely a part of responsibility, a subset, something which makes it possible in practice to hold someone [politically] responsible. The giving of an account makes it possible to assess the factors which led a responsible individual to a particular set of acts and omissions, to place their behaviour in context and make a judgement of it fair.'⁴⁶

When all these reservations are taken into account, abandoning *political responsibility* in favour of political accountability is not a means to overcome the contested nature of the

⁴¹ Woodhouse Diana, 'Ministerial Responsibility: Something Old, Something New', *British Journal of Administrative Law*, Summer 1997, p. 271.

⁴² Ibid., p. 267.

⁴³ Kutz, Christopher, *Complicity*, (Cambridge, Cambridge University Press, 2000), p. 18.

⁴⁴ Gregory, 'Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek', *Public Administration*, Vol.76, Autumn, 1998, p. 529.

⁴⁵ Lucas, *Responsibility*, p. 5.

⁴⁶ Mather, 'Clarifying Responsibility and Accountability', p. 22.

concept of *political responsibility*, but instead to discuss a more ‘modest concept’, one that according to some commentators is merely a subset of the original concept under discussion. This reliance on political accountability leaves the way open for the rejection of *political responsibility*. Thus, the British government has argued that political accountability ‘relates to the constitutional obligation for ministers to account to Parliament’, whereas to be *politically responsible* ‘implies direct personal involvement.’⁴⁷ Thus, ‘a Minister is [politically] *accountable* for all the actions and activities in his department, but is not [politically] *responsible* for all the actions in the sense of being blameworthy.’⁴⁸ The inherent dangers of this route are again starkly illustrated with reference to the British government. Whilst giving evidence to the Scott Enquiry, Sir Robin Butler, the Cabinet Secretary, sought to limit the scope of both *political responsibility* and political accountability on several occasions. The result is that ‘ministerial [political] responsibility for departmental acts has been defined away almost to nothing...while officials have no [political] responsibility other than to Ministers.’ The elusive relationship *between political responsibility* and politicians and officials is further confused by Barker’s assertion that [political] ‘responsibility should be reserved for the politician’s or official’s formally determined relationships with their political superiors.’⁴⁹ The reliance on political accountability, however, to deliver clarity fares no better. The so-called “Butler doctrine” maintains that ‘[political] accountability is discharged by giving information to Parliament. Even if this information is misleading, and the Minister knows that it is misleading, the view is that no liability attaches unless the information is not given in good faith.’⁵⁰ A very modest proposal indeed.

⁴⁷ Woodhouse, ‘Ministerial Responsibility: Something Old, Something New’, p. 270.

⁴⁸ Ibid.

⁴⁹ Barker, ‘Accountability and Responsibility of Government and Public Bodies’, p. 138.

⁵⁰ Mather, ‘Clarifying Responsibility and Accountability’, p. 21.

We can wholeheartedly agree with Keohane concerning the necessity of accountability, and also agree that it would be unwise to rely on any sense of responsibility and virtue that politicians may have. He cites US President Madison to support his claim: 'It is vain to say that enlightened statesmen will be able to adjust these clashing interests, [parochial and personal] and render them all subservient to the public good. Enlightened statesmen will not always be at the helm.'⁵¹ We can, therefore, endorse Keohane's exhortation that, in light of this observation 'to rely on responsibility without [political] accountability is too risky.'⁵² The resort to political accountability alone is, however, an equally risky strategy because as an incomplete concept it is too narrow and therefore far too easily satisfied.

All of the strategies examined so far - discussions of responsibility in its general and generic sense and the abandonment of *political responsibility* in favour of political accountability - whilst acknowledging the importance of responsibility in the political realm, have done little to advance the quest for a definition. Having identified this lack of an explicit definition and therefore the inability to establish the scope of *political responsibility*, the next step is to illustrate how this lack of definition generates alternative strategies which in turn create further difficulties. The first of these strategies to be considered is the conflation by commentators of political, moral and legal responsibility. Pennock reminds us that 'when one starts thinking about the general notion of responsibility, certain aspects or categories immediately come to mind',⁵³ for example, moral, criminal and legal responsibility. He claims that there are well-established and comprehensive properties ascribed to the notions of criminal and moral responsibility, and if pressed, the man on the Clapham omnibus might well be able to provide a relatively comprehensive definition of what moral or criminal

⁵¹ *The Federalist* # 10 (1787-88), Edited with introduction and notes, by Cooke, Jacob E., (Wesleyan, Wesleyan University Press, 1961), in Keohane, 'Political Accountability', p. 7.

⁵² Keohane, 'Political Accountability', p. 7.

⁵³ Pennock, 'The Problem of Responsibility', p. 5.

responsibility entail. This is not, however, the case for *political responsibility*. Thompson, for example, recommends that we examine the notions of moral responsibility and then devise ways in which our conclusions can be referred to public officials. He hopes that by concentrating on different types of responsibility, qualities and values can be discovered that can, by inference, be used to ‘enrich our understanding of *political responsibility*.’⁵⁴ He fails, however, to consider what it is about the political sphere that makes it so problematic, failing to appreciate that *political responsibility* is of a different *order* to other types of responsibility (e.g. legal, or moral) because of the nature of “the political”. This can result in immoral and criminal acts often being presumed to be political acts merely because they take place in what is thought of as the political arena. It also can make the burden of responsibility for politicians so onerous that it will inevitably lead to strategies of avoidance. There follows an illustration of this conflation in two different spheres, the first domestic and the second international.

Woodhouse demonstrates the conflation of moral, legal and criminal responsibility with *political responsibility*, referring to various examples of Ministerial resignations, including Edwina Currie, Cecil Parkinson, Ron Davies and Peter Mandelson.⁵⁵ Currie was forced to resign after she made statements about eggs and salmonella, which precipitated a drop in egg sales, the slaughter of millions of chickens and a loss of confidence and therefore livelihoods, in the poultry markets. Parkinson resigned when his private life became a matter of public debate and an embarrassment to his party. Davies, Secretary of State for

⁵⁴ Thompson, Dennis F. ‘Moral Responsibility of Public Officials: The Problem of Many Hand’, *The American Political Science Review*, Vol.74, p. 107. Although Thompson correctly identifies the deficiencies of utilising generic types, and rejects both the collective and hierarchical models as inadequate when utilised in the political sphere, rather than discussing *political responsibility* he instead attempts to impose the much more demanding criteria of moral responsibility.

⁵⁵ Woodhouse, Diana, ‘The Reconstruction of Constitutional Accountability’, *Newcastle Law School Working Papers*, 2000/10, pp. 2-4.

Wales, resigned after being attacked and robbed whilst on Clapham Common late at night in an area known to be frequented by homosexuals. Mandelson, Secretary of State for Trade and Industry, resigned when concerns were raised over the matter of an undisclosed loan to Mandelson from the then Post Master General, Geoffrey Robinson. It appears from the examples that Woodhouse provides that if a minister behaved badly in any area then that necessitated their resignation. Although Woodhouse offers no comments on the failure to discriminate between the private and public realm, as we can observe in fact only Currie resigned over an overtly political matter. The other resignations appear rather to be based on moral, criminal or legal responsibility and although becoming a matter of public scrutiny were certainly matters within the private realm. There appears to be no distinction made between the public and private life of the individual. That the conflation of different types of responsibility is also widespread is demonstrated by examples from both France and Germany. In France, there were demands for those who were thought politically responsible for the HIV “blood scandal” to be put on trial,⁵⁶ and from Germany where Avishai Margalit delivering lectures on ‘Ethics and Remembrance’ for the Holocaust memorial ceremony ‘conflates political with moral responsibility and confuses guilt with shame’.⁵⁷ This tendency to conflate different types of responsibility leads to the burden of *political responsibility* being impossibly and unreasonably wide, and becomes too onerous to be accepted by politicians and therefore almost inevitably leads to attempts at avoidance.

The same lack of any clear understanding of the scope of *political responsibility* also engenders a similar conflation between “war crimes” and *political responsibility*. This desire to ascribe responsibility to political leaders through the legal system is a relatively

⁵⁶ Roussel, Violaine, ‘Changing Definitions of Risk and Responsibility in French Political Scandals’, *Journal of Law and Society*, Vol.29, No.3, September 2002, pp. 461-462.

⁵⁷ Alweiss, Lilian, ‘Collective Guilt and Responsibility’, *European Journal of Political Theory*, Vol.2, No.3, 2003, p. 307.

recent phenomenon. García-Mora, claims that it was first attempted after the First World War by the imposition of criminal responsibility upon individuals in ‘Articles 227 and 228 of the Treaty of Versailles which provided for the prosecution of Kaiser Wilhelm II and other German leaders’⁵⁸. Although this attempt at prosecution was a failure, it set a precedent and was next attempted at the Nuremberg and Tokyo trials after the Second World War. The Nuremberg Tribunal, and the verdicts reached, were landmark rulings because they changed the emphasis, re-imposing duties and obligations on individuals as well as on states. There are two sets of problems here. First, the acts of sovereigns, and by extension political leaders acting in the name of the sovereign, were traditionally held to be beyond the law. Secondly, political leaders are typically too remote from the physical perpetrators of acts held to be reprehensible. The case of Slobodan Milosovic was a good illustration of the difficulties that arise when the international community attempts to ascribe *political responsibility* to those accused of war crimes. Although our commentator Milne⁵⁹, cited in the introduction, is convinced that Milosovic shares *political responsibility*, it is not clear what exactly this *political responsibility* is. It is in these very difficult and emotive cases that there is little clarity about the type of responsibility that can be attributed to those accused of such war crimes. In an attempt to bring sovereign acts and political leaders within the scope of the law, and especially international law, *political responsibility* has been invoked to close the gap between the political leader and the physical perpetrators. It is, however, not clear that the responsibility in these cases is properly political.

This attempt to close the gap between political leaders and the physical perpetrators undertaken at the Nuremberg Tribunal led to the identification by The Tribunal of three new

⁵⁸ García-Mora Manuel R., *International Responsibility for Hostile Acts of Private Persons Against Foreign States*, (The Hague, Martinus Nijhoff, 1962), p.36.

⁵⁹ Milne, Seamus, ‘Hague is not the place to try Milosevic’, *The Guardian*, 2nd August 2001.

kinds of crimes, ‘crimes against peace, war crimes and crimes against humanity’.⁶⁰ The outcome of the changes that were instigated after the Nuremberg Tribunal is illustrated by Babic who claims that now the international community presumes that immoral and criminal acts are political acts. He argues persuasively that despite the categorisation of crimes at the Nuremberg Tribunal into three new types, it is only ‘crimes against peace’ that are actually war crimes.⁶¹ The other two categories of crimes, dreadful though they are, need to be prosecuted in the normal course of criminal prosecutions and are not, therefore, the province of international courts. He argues that ‘a “crime of war” is really a crime if the act in question is criminal, and [that] the characterisation “of war” is, morally superfluous...’⁶² It is morally irrelevant that acts took place in times of war; war is merely the context in which the acts were undertaken. Although Milne confidently asserts that Milosovic ‘clearly shares *political responsibility* for the country’s immolation’, if we agree with Babic, then crimes such as rape, torture and mass killings, although carried out in the arena of war, are nevertheless, nothing more nor less than criminal acts. To this extent Milosovic was, therefore, not being tried in The Hague for his *political responsibility* but rather his criminal responsibility. If, as our commentator claims, politicians like Milosovic pandered opportunistically to rapacious nationalism that in turn led to conflict, then his incitement to racial or religious hatred is a criminal category. As Babic demonstrates, however, it is only the aggressive losers in a conflict who are subject to indictment for ‘crimes against peace’. This has serious implications for claims concerning *political responsibility*. For, although Babic claims that these crimes are ‘simply political’, he is not indicating that the nature of the crime is political but the nature of the decisions taken by the

⁶⁰ Gewith, Alan ‘War Crimes and Human Rights’, Jokić Aleksandar (ed.), *War Crimes and Collective Wrongdoing*, (Oxford, Blackwell, 2001), p. 49.

⁶¹ Babic Jovan, ‘War Crimes: Moral, Legal or Simply Political?’ Jokić Aleksandar (ed.), *War Crimes and Collective Wrongdoing*, p. 63

⁶² Ibid., p. 59.

prosecuting authorities is political; ‘...prosecuting war crimes is a political practice, even when it is described in legal and moral terms.’⁶³ These decisions are based on the wish to punish the aggressive loser because they are perceived to have flouted the moral values espoused by the prosecuting authority. This prosecution may be by the international community or, as Babic notes, it may simply be a court of the victorious side, or a court espousing the moral values of a superpower.⁶⁴ In any event, what is on trial are the moral values of the aggressive loser rather than any attempt to assign *political responsibility*.

An alternative strategy for dealing with those who are perceived to have broken international conventions is suggested by Thorneycroft. She argues for Courts of International Delinquency in order to arbitrate in contested cases. These courts would have the ‘power to recommend that a politician, diplomat or other representative of one country who has officially given orders in breach of international obligations, should be treated as *persona non grata* by all states.’⁶⁵ She does not make it clear, however, if this refers to criminal, moral or political decisions. By conflating what are criminal and moral responsibilities into *political responsibility*, rather than clarifying the situation it merely brings the concept of *political responsibility* into further disrepute. These illustrations of the tendency to conflate *political responsibility* with moral, legal and criminal responsibility demonstrate that without a proper definition and understanding, the scope of *political responsibility* can be expanded to such an extent that it merely invites evasion.

The final part of this review will concentrate on agency. Whilst still acknowledging the centrality of the concept of responsibility in the moral and political realm, an alternative

⁶³ Babic, ‘War Crimes: Moral, Legal or Simply Political?’ p. 68.

⁶⁴ Ibid.

⁶⁵ Thorneycroft, Elizabeth, *Personal Responsibility and the Law of Nations*, (The Hague, Martinus Nijhoff, , 1961), p. 22.

strategy adopted by some philosophers is to focus instead on *who* can be held responsible. This is an attempt to overcome the lack of definition and therefore the scope of *political responsibility*. The literature that exists in this area comprises two broad schools of thought, one is that responsibility in whichever realm it is to be ascribed, belongs rightly to the individual, the alternative view is that it is possible to ascribe responsibility to collectives. The discussions that ascribe responsibility to the individual have centred on capacity and cause. As far as the capacity of an individual to be held responsible, the literature review of such discussions reveals that rather than reaching any agreed conclusions, philosophers disagree profoundly over this question and, therefore, capacity remains resolutely contested. For an example, we will return to the attempt by Jonas, cited earlier, to define *political responsibility* by contrasting parental responsibility with *political responsibility*. Jonas claims that a property of parental responsibility is to ‘encompass the total being of their object’ and similarly, ‘for the duration of his office or his power, [the statesman has political] responsibility for the total life of the community...’⁶⁶ The discussion in a later chapter of the problem of contingency although firmly attributing *political responsibility* to the “statesman”, nevertheless concludes that the scope of *political responsibility* is restricted to decision making concerning “high policy”. We find here a conceptual problem. Jonas correctly attributes *political responsibility* to the political representative. However, his description of that responsibility as being analogous to parental responsibility and therefore all encompassing (the *total* life of the community), without taking into consideration the problem of contingency, sets an impossibly high standard that statesmen are, quite rightly, likely to reject. The political representative’s rejection of his *political responsibility* for the ‘total life of the community’ will mean that he can deny that he has *political responsibility* for it. As has been already illustrated by the Cave Creek disaster the significance of the

⁶⁶ Jonas, *The Imperative of Responsibility*, pp. 101-102.

consequences of attempts to evade *political responsibility* are clear. The public enquiry found the fact that no high level minister accepted responsibility 'probably enhanced public cynicism. There remains a strong public perception that justice has not been done, let alone seen to have been done.'⁶⁷ Thus, the consequences of the evasion or denial of *political responsibility*, its lasting damage to the polity, are explored in the chapter on injustice. That the political representative has some *political responsibility* is however, clear and the subsequent chapter which deals with forgiveness and promising will discuss means by which sanctions can be effective without being excessive.

This recognition of the contested nature of capacity (of a political representative to be ascribed *political responsibility*), has led other philosophers to rely on causation, but as will be demonstrated this also remains a contested issue. Discussions of the capacity of an agent to be ascribed responsibility, therefore, add little to the clarification of *political responsibility* but they do help to emphasise some troubling aspects of responsibility in general that will be taken into account in presenting a viable account of *political responsibility*.

While strict determinism will be rejected, individuals do, however, act in the light of social and cultural constraints that, in significantly divergent ways, have been so interpreted as to amount to the exoneration of the individual. Firstly, it has been held that cultural interpretations of acts make it impossible for the individual to understand his or her acts as reprehensible. Secondly, an extension of this argument actually upholds the general principle of responsibility, and purportedly condemns not only the physical perpetrators, but also the entire population that is in thrall to the reprehensible cultural interpretation. The

⁶⁷ Gregory, 'A New Zealand Tragedy: Problems of political responsibility', p. 239.

first case directly diminishes responsibility. The second case apparently inflates it but in doing so makes it difficult to hold anyone in particular responsible. Yet in both cases, indeed especially in the latter, justice seems to demand that someone be held responsible.

The first review will be of discussions that are based on the notion of the individual. It soon becomes clear, however, that there are going to be problems with this strategy from the outset. As Lucas reminds us, ‘responsibility, though central in our moral and political thinking, can nonetheless be impugned.’⁶⁸ Any claims made for the capacity of an agent to have responsibility ascribed to them are resolutely challenged by the philosophical claims made by determinists and post-modernists. It is these groups of thinkers who are most convinced that individuals cannot be held responsible. The arguments postulated for determinism, such as those found in *Determinism, Free Will and Moral Responsibility* edited by Dworkin, assert that responsibility is an incoherent concept because the universe is a deterministic system.⁶⁹ The very notion of responsibility, therefore, is inconsistent with the determinist’s claims that we only react to stimuli that are entirely determined by our genetic make-up and coloured by our past experiences.⁷⁰ In contrast, the concept of “responsibility” ‘presupposes that there are agents, that agents act for reasons, and that it is up to an agent whether he/she acts or not.’⁷¹ The argument proceeds thus: for an agent to be said to have free will she must be able to make choices; these choices must not just be theoretical but genuinely possible. This freedom to act is defined, roughly, for thinkers such as Locke, Hume and Mill, as being able to do what one wishes to do.⁷² For these thinkers,

⁶⁸ Lucas, *Responsibility*, p. 12.

⁶⁹ Dworkin Gerald, *Determinism. Free Will and Moral Responsibility*, (New Jersey, Prentice Hall, 1970), pp. 1-5.

⁷⁰ Lucas, *Responsibility*, p. 2.

⁷¹ Ibid., p. 12.

⁷² Dworkin, Gerald, (ed.), *Determinism, Free Will and Moral Responsibility*, (New Jersey, Prentice-Hall, 1970), ‘Introduction’, p. 9.

further enquiries into whether an individual was indoctrinated, manipulated etc., are illegitimate, unnecessary further steps. The determinists claim that their theory relieves the individual of the burden of vengeance and vindictiveness. Those, however, who dismiss the arguments of the determinists such as Spinoza, Marx and Freud, claim that rather than simply relieving the burden of vengeance and vindictiveness, the determinists have instead destroyed the entire notion of a human agent and thereby the capability to hold anyone responsible.⁷³

Similarly, Habermas criticises post-modernists such as Foucault, for the way in which Foucault conceptualises power; that is, modern strategies of power seem to operate independently of responsible human agents. 'While the Foucaultian conception of power helps overcome a crude distinction between a perpetrator-class and victim-class in society, ...this appears to be achieved at the cost of understanding individuals as creative social agents.'⁷⁴ Isaiah Berlin eloquently outlines the problems that would occur if we were to accept the arguments for determinism. He believed that the results would be untenable and also counter-intuitive. It would require

...changes in the whole of our language, our moral terminology, our attitudes towards one another, our views of history, of society, and of everything else will be too profound to be even adumbrated. The concepts of praise and blame, innocence and guilt and individual responsibility from which we started are but a small element in the structure, which would collapse or disappear. Our words – our modes of speech and thought – would be transformed in literally unimaginable ways; the notions of choice, of responsibility, of freedom, are so deeply embedded in our outlook, that our new life,

⁷³ Dworkin, (ed.), *Determinism, Free Will and Moral Responsibility*, p. 10.

⁷⁴ Schaap Andrew, 'Power and Responsibility: Should we spare the King's Head?', *Politics*, Vol. 20, No.3, 2000, pp. 132-133.

as creatures in a world genuinely lacking in these concepts, can, I should maintain, be conceived by us only with the greatest difficulty.⁷⁵

In order to proceed, therefore, we will have to accept the notion of agency and dismiss the claims of the determinists and post-modernists.

Discussions concerning the ability of an agent to be held responsible almost immediately develop into discussions of the capacity of the agent. Glover and Lucas offer typical examples of arguments that centre on the individual as the bearer of responsibility. They both begin their discussions with Aristotle, although Aristotle in fact never actually used the term “responsible”. He did, however, make references to something that greatly resembles the concept of responsibility, in the *Nicomachean* and *Eudemian Ethics*.⁷⁶ This is why it is Aristotle who is credited with the first systematic discussion of personal responsibility in response to the contentious claim, attributed by Plato to Socrates, that nobody errs voluntarily. Aristotle sets about ‘reinstating the common-sense view that people do in fact do wrong deliberately. Hence he is primarily concerned with the cases where something has gone wrong, and considering then to what extent the action was voluntary.’⁷⁷ Thus, Aristotle asks, why did you do it/ not do it? In answering this question you give an account (logon) of your action or inaction. When accused of such action or inaction, you might be able to state that there has been a mistake, in fact you did not do it, or if accused of inaction, that you did indeed do it. Alternatively, it might be that even though you did do it, you did not act freely, you were compelled to do it, or that you did it/did not do it through ignorance.

⁷⁵ Berlin, Isaiah, *Four Concepts of Liberty*, (Oxford, Oxford University Press, 1969), p. 113, quoted in Lucas, *Responsibility*, p.12.

⁷⁶ Aristotle, *Nicomachean Ethics*, III.1.3, III^a1-3, and III. 1.6, III^a15-18; cf. *Eudemian Ethics*, II. 6, 1223^a9-18.

⁷⁷ Lucas, *Responsibility*, pp. 275-279.

These very early discussions by Aristotle of personal responsibility are utilised by philosophers as the basis for many of the subsequent discussions of responsibility in general. The basic Aristotelian premise, which according to many commentators is still relevant, is that when something goes wrong the questions that should be asked are, was the action voluntary, and was the agent culpable? ⁷⁸

It is assumed that Aristotle's basic premise that centres on the ability to make choices, is a suitable means by which we are able to assess how reasonable it is in any given circumstance to hold an agent responsible. Thus, in order to be able to produce a yardstick against which it is possible to measure our responsibility for our actions, analytical thinkers have subjected this basic Aristotelian premise to further scrutiny. As soon as attempts are made to systematise Aristotle's premise however, instead of adding clarity they simple generate further controversy and disagreement. For although we have already discounted the determinist's claim that choices are not possible, there are other commentators, who whilst also dismissing determinism, nevertheless similarly argue that there are some circumstances in which it is impossible for agents to make choices. In the discussion by Kutz we find an example of such claims. According to him two distinct elements must be in place in order for the agent to be thought responsible.

...responsibility bears two distinct senses, an internal and an external sense. Given a certain relation of an agent to a harm, the first sense of responsibility refers to a set of internal psychological competencies a person must have in order to be answerable for the harm. The second sense of responsibility refers instead to a set of normative, external affiliations, the duties of the agent to other surrounding agents.⁷⁹

⁷⁸ Lucas, *Responsibility*, pp. 5-12.

⁷⁹ Kutz, Christopher, *Complicity*, (Cambridge, Cambridge University Press, 2000) pp. 17-18.

These definitions might initially appear to clarify the situation, by setting clear guidelines for the conditions that must be met for an agent to be held responsible. A more thorough examination of the implications of these two distinct elements, however, merely demonstrates the obfuscation that surrounds them. In fact, this concentration on the conditions that must be met in order to verify the capacity of an agent to be responsible, although superficially appearing promising, merely creates a further mire of contested claims. The first of these contested areas relates to the ability of an agent to have the requisite internal psychological competencies to be thought responsible and reveals that commentators are deeply divided over this issue. For example, some claim that agents can be so influenced by ideology, nationalism, racism or religious bigotry etc. that they cannot be held responsible. To support such claims, Scarre, for example, discusses the idea that individuals in the Third Reich were ‘dupes of an “hallucinatory ideology”’.⁸⁰ Similarly, Jokic, discussing atrocities committed in Bosnia, claims that the perpetrators were in fact people ‘who are themselves products of cultures which are imbued with hatred for persons of other ethnic groups, simply because they *are* members of those groups.’⁸¹ Goldhagen in his controversial book, *Hitler’s Willing Executioners*, claims that Germany was ‘permeated by a particularly radical and vicious brand of anti-Semitism...that this “viral” strain of anti-Semitism “resided...in the heart of German political culture and was based on the teachings of the Christian religion ...the Nazi machine only turned this ideology into a reality’⁸²

The claims of Scarre, Jokic, Goldhagen et al who question the ability of individuals to act voluntarily, that is to be able to choose freely because of the influence of ideology, nationalism, racism or religious bigotry etc, are strongly repudiated by other commentators.

⁸⁰ Scarre, Geoffrey, ‘Understanding the Moral Phenomenology of the Third Reich’, *Ethical Theory and Moral Practice*, 1, 1998, p. 445.

⁸¹ Jokic, (ed), *War Crimes and Collective Wrongdoing*, p. 72.

⁸² Hay, Colin, ‘Willing Executors of Hitler’s Will ? The Goldhagen Controversy, Political Analysis and the Holocaust’, *Politics*, 20,(3), 2000, p.120.

Both Arendt and Hay make similar points. Hay not only vehemently contests such claims but also demonstrates that they can lead to bizarre outcomes. In his very critical article on Goldhagen he claims that on the one hand Goldhagen seems to be indicting most of German society for their culpability in crimes against humanity, but on the other hand providing them with the perfect opportunity to deny responsibility. Goldhagen does this by appearing to absolve them of blame because of their historic total immersion in anti-Semitism. Hay reports that Finkelstein perceptively notes that ‘Goldhagen’s thesis is, in fact, their [“ordinary Germans”] perfect alibi. Who can condemn a “crazy” people?’⁸³ Arendt, similarly denounced Adolf Eichmann who, whilst never denying that he had been responsible for transporting millions of victims to their deaths, claimed that he lacked the ability to make a different choice. Eichmann claimed that he lacked the internal psychological competencies to be able to make such choices, and, therefore, no other course of action had been open to him. He completely dismissed ‘those who today told [him] that he could have acted differently, [claiming that they] simply did not know, or had forgotten, how things had been.’⁸⁴ Arendt of course did not accept such self-justification. Similarly, French, who focuses on two types of evil, perverse and preferential, also challenges Aristotle’s initial premise, that in order to be held responsible it is necessary to be able to make choices. He concludes, as does Arendt, that all evil is preferential. He acknowledges that, for example, in the Balkans people did not choose to become racially or ethnically bigoted. Instead they grew up and imbibed these centuries old prejudices from their families and culture. French quarrels, however, with claims such as those held by Scarre, that whilst it is of course possible to condemn their actions it is not possible to hold the perpetrators morally responsible. French argues that even if evil is ‘unchosen’ it is still possible to hold

⁸³ Hay, ‘Willing Executors of Hitler’s Will ? The Goldhagen Controversy, Political Analysis and the Holocaust’, p.127.

⁸⁴ Arendt, Hannah, *Eichmann in Jerusalem: a Report on the Banality of Evil*, (London, Faber & Faber, 1963), p. 21.

individuals responsible. He argues that to refer only to “choice-based” responsibility is a mistake. Instead he claims that we should base it on character. He argues persuasively that it is inconceivable that the average Balkan war criminal did not understand that he was performing an evil act when he was raping and/or torturing and/or murdering women in a Muslim village. French rejects ‘choice-basing as the sole justification of ascriptions of moral responsibility’.⁸⁵ It is worth noting here that when considering the capacity of an agent there appears to be an inevitable propensity to conflate legal, criminal, moral and political responsibility.

An extension of the capacity argument is provided by Wolf and Donagan who attack the Aristotelian thesis that ‘an adult agent’s ignorance of what she ought to do is, in general, no excuse for wrongdoing.’⁸⁶ They also claim that it is cultural impediments that render one unable to know that certain actions are wrong. They call this the “Inability Thesis” and claim that it is unfair, for example, to be critical of ancient Greek society based on slavery. The Inability Thesis is itself attacked by Moody–Adams, who claims that if it is possible for an individual to have a sense of negation then it is impossible for them to claim that they could not envisage a world that is organised other than it is now. In discussing the case of Greek slave culture she claims that ‘the belief that slavery was justified was insufficiently examined by those who held it. But there is no convincing evidence that the blame for this should be traced to anything other than affected ignorance.’⁸⁷ Affected ignorance is Aquinas’s phrase; that is choosing not to know what one can and should know. ‘First, because the act of the will is brought to bear on the ignorance: as when a man wishes not to know, that he may have an excuse for sin, or that he may not be withheld from sin;

⁸⁵ French, Peter A., ‘Unchosen Evil and Moral Responsibility’, in Jokic Aleksandar (ed.), *War Crimes and Collective Wrongdoing*, p. 43.

⁸⁶ Moody-Adams, Michele M. ‘Culture, Responsibility and Affected Ignorance’, *Ethics*, 104, p. 293.

⁸⁷ *Ibid.*, p. 296.

according to Job 21:14: “We desire not the knowledge of Thy ways.” And this is called “affected ignorance”.⁸⁸ This line of investigation that centres on capacity is unable to add any clarity to the notion of *political responsibility* by being unable to reach any definitive conclusion about who is able to be responsible. The claims and counter-claims concerning the psychological competencies of individuals to make choices or even that the ability to make choices is a necessary criteria, demonstrates how contested this issue is.

The alternative route is to consider cause. Although there are many different accounts of the way in which an individual may be held responsible because of cause, the discussion of individual responsibility and causation throws up another problem, namely the contingency of the world. Kutz attempts to clarify the problems of causation by differentiating them into the following principles; the *Individual Difference Principle*, the *Control Principle* and the *Autonomy Principle*. The *Individual Difference Principle* holds that I am only accountable for “a harm” if something I did made a difference to its occurrence. If substantially the same harm would have occurred regardless of what I have done, I cannot be held responsible for it. The *Control Principle* holds that I am only responsible for events over which I have control, and whose occurrence I could have prevented. The *Autonomy Principle* holds that I am not responsible for the harm another agent causes, unless I have induced or coerced that agent into performing an act.⁸⁹ It becomes immediately obvious from the *Individual Difference Principle* that there is going to be a difficulty between the “I” and the “We”. Kutz uses the bombing of Dresden as an example. There were 1,000 bomber aircraft involved in the raid on Dresden, each had approximately 8 crew members, added to these numbers there were also planners, ground crew, technicians etc. From this it is clear that a

⁸⁸ Aquinas, Thomas, *Political Writings*, edited and translated by Dyson, Robert W., (Cambridge, Cambridge University Press, 2002), *Summa Theologica*, Articulus 8 ‘Utrum ignorantia causet involuntarium’.

⁸⁹ Kutz, *Complicity*, pp. 3-4.

great many people were involved. The *Individual Difference Principle*, says that I am only responsible for a “harm” if something I did made a difference to its occurrence, if substantially the same harm would have occurred regardless of what I have done, I cannot be held responsible for it, that “I in fact did not cause it to happen”. Using this principle seems to imply that none of the people taking part in the Dresden bombing could be held responsible. It is, however, clear that many of them, especially some crewmembers, felt extremely responsible. That there is no one person to whom responsibility can be ascribed also seems to be true of both the *Control* and the *Autonomy Principles*. The individual crewmembers, for example, could certainly argue that they had no control over the events, and also that they could not be held responsible for the harms caused by the other agents involved.

Fischer and Ravizza attempt to overcome problems created by contingency that question the amount of control that it is possible for an agent to exert. They attempt to address the problems created by the *Control Principle* by arguing that in order to be held responsible, it requires an agent to have much less ability to be in control than is usually claimed by other commentators. Although they agree that to be morally responsible, control over ones actions is essential, they claim that control can be divided into two types, regulative and guidance. ‘Regulative control involves alternative possibilities: it is a kind of dual power of free action. In contrast, guidance control does not, by its nature, involve alternative possibilities.’⁹⁰ Whilst it is assumed in other accounts that the sort of control required to render one morally responsible is regulative, Fischer and Ravizza argue that it simply requires guidance control. This is a very complex technical argument, which addresses only

⁹⁰ Fischer, John Martin, & Ravizza, Mark, *Responsibility and Control*, (Cambridge, Cambridge University Press, 1998), p. 240.

this one very narrow area of criticism. Fischer and Ravizza are using their arguments to challenge claims, such as those of Thomas Nagel, about the “paradox of moral luck”, that although we want to hold an agent to be responsible for his actions, nevertheless, there is a large role played by ‘external determinants’. Nagel claims, therefore, that ‘a person can be morally responsible only for what he does; but what he does results from a great deal that he does not do; therefore he is not morally responsible for what he is and is not responsible for.’⁹¹ Nagel suggests that there is no real solution to this paradox and despite Fischer and Ravizza’s work, one is inclined to have sympathy with this point. What has become clear is that both the arguments for capacity and causation remain contested and are therefore unhelpful in establishing who could be held to be politically responsible. Both these approaches have been criticised as being too “individualistic”, suggesting an awareness that something is missing in the discussions. This has led philosophers to move from an individualistic model to a collective model. This will become the next area for examination.

Although, as we have established, for some commentators responsibility is a matter for individuals, for other commentators it is a matter for collectives that ‘it is only within the context of relationships between persons that the responses of [responsibility] have meaning and value.’⁹² Kutz includes Kant in his criticism, claiming that Kant reduces cases of shared responsibility to individual choice and action. Kutz’s critique of solipsism is his answer to the seemingly insoluble problems posed by the “individualistic” approach that has surrounded notions of responsibility from Aristotle onwards. The bombing of Dresden illustrates clearly the I/We problem, ‘I participate in a harm caused by something we do, but am not personally [responsible] for that harm, because of the insignificance of my

⁹¹ Scarre, ‘Understanding the Moral Phenomenology of the Third Reich’, p. 438.

⁹² Kutz, *Complicity*, p. 64.

contribution.’⁹³ Kutz postulates a technical and detailed theory of individual responsibility, and how that can become applicable to collective responsibility. He seeks, however, to avoid any charges of communitarianism. His strategy is ‘not [about] modifying the fundamental bearer of [responsibility], but in expanding the scope of individual [responsibility] by including an assessment of what an individual does with others.’⁹⁴

Although Kutz in his theory of responsibility divides discussions into three areas, social, moral and legal, he offers no indication in which of these areas *political responsibility* is located, even though he analyses in depth the problems created by the Dresden bombing.⁹⁵ Kutz is not alone in criticising the individualistic nature of most theories of responsibility, Baier also claims that such theories have a fatal flaw. ‘It [supplies] no account of really shared responsibility but only pooled or passed-along individual autonomy and responsibility.’⁹⁶ Unlike Kutz, her arguments are unashamedly communitarian. She asserts that we should all be willing to take our share of responsibility, since we have all caused the problems, sometimes by our actions but mostly by our inaction. These arguments form one view of collective responsibility, that is, they enable us to assign responsibility to collectives as long as we are able to evaluate individual differences in the scale and scope of their complicity.

Since the contingency of the world seems necessarily to exempt the individual from responsibility yet justice demands that someone be responsible, an alternative approach is to ascribe responsibility irrespective of individual action. Another alternative, therefore, is to

⁹³ Kutz, *Complicit*, p. 5.

⁹⁴ *Ibid.*, p. 7.

⁹⁵ *Ibid.*, pp. 1-3.

⁹⁶ Baier Annette C., ‘How Can Individualists Share Responsibility?’, *Political Theory*, Vol.21, No.2, 1993, p. 245.

claim that *political responsibility* can be ascribed to the collective itself, irrespective of the blame, if any, attaching to individual members. Carl Jaspers is perhaps the philosopher who most powerfully argued for the acceptance of collective *political responsibility* by members of a polity. He argued that rather than *political responsibility* being the remit of the individual it could be ascribed to the collective as a whole. It was irrelevant to Jaspers whether or not a citizen had been able to exert any direct influence over the actions of his or her government, they were all still collectively politically responsible. Jaspers is uncompromising in his ascription of *political responsibility*, as ‘each human being is responsible, for how he is ruled, *political responsibility* is a direct consequence of political decisions undertaken in the name of the members of a polity whether or not they consent tacitly or explicitly.’⁹⁷

Again, however, this inflation of responsibility also leads to the evaporation of responsibility. Arendt, for example, who is usually supportive of Jaspers’ views, dismissed this collective model when discussing the alleged culpability of the German population. Arendt consistently refuted such arguments. She asserted that if one is to make the claim that ‘everyone is guilty, then [in essence] no one is guilty’, and she completely dismissed such a claim saying that ‘this is simply not true.’⁹⁸ Moreover, Jaspers’ strategy seems to violate the moral principle that people should not be held responsible for actions they have not taken. Since Jaspers made these claims others have followed with similar claims. The most recent highly contested claims are Goldhagen’s claims that the German population as a whole was collectively guilty, and therefore responsible. Strategies similar to those formulated by Jaspers and Goldhagen are strongly rebutted in *Collective Responsibility*, a

⁹⁷ Karl Jaspers, *Die geistige Situation der Zeit*, (Berlin, W.de Gruyter, 1931), pp. 142f, quoted in Rabinbach, Anson, ‘The German as pariah’, *Radical Philosophy*, No.75, 1996, p. 21.

⁹⁸ Cited in Dan Diner, ‘Hannah Arendt Reconsidered: On the Banal and Evil in her Holocaust Narrative’, *New German Critique*, No.72, Part 2, 1997, p. 190.

collection of essays from five decades, edited by May and Hoffman. Lewis who opposes claims of collective responsibility, states that claims of collective or group responsibility are non-moral and are used for purely pragmatic purposes. He claims that 'value belongs to the individual and that it is the individual who is the sole bearer of moral responsibility.'⁹⁹ Downie supports Lewis by asserting that collectives cannot be morally responsible since they do not make moral choices. He asserts that there is no way that it could conceivably be argued that the German population as a whole made a collective decision, in contrast to the way in which it could be argued that it is possible that the Cabinet could make a collective decision.¹⁰⁰ As it is not possible, therefore, to show that a morally faulty decision was made then it is not possible to hold all the German population responsible.

Other attempts to resolve this problem with collectives refer less to actions than to character traits or interests. At the opposite end of the spectrum, Cooper claims that it is perfectly possible to assign responsibility to groups without thinking that each member of the collective bears responsibility. To achieve this, however, it is necessary to adopt Brandt's definition of responsibility. 'To say 'X' is morally accountable on account of 'Z' means: "Some trait (or set of traits) of X's character was responsible for Z in the sense that some trait (or set of traits) was below standard, and all other traits of his personality having been the same, Z would not have occurred but for this fact;'.¹⁰¹ Cooper claims that it is easy to amend this to fit collective groups of people. However, we seem to be back to the claims made by Goldhagen, who criticised the German population for having sub-standard personal traits, in lacking tolerance and being anti-Semitic. Feinberg in contrast argues that it is

⁹⁹ Lewis, H. D., 'Collective Responsibility' in May, Larry & Hoffman, Stacey, *Collective Responsibility*, (Maryland, Rowman & Littlefield, Savage, 1991), p. 31.

¹⁰⁰ Lewis, 'Collective Responsibility', pp. 22-30. Although Lewis and Downie clearly discuss the political arena because they do not afford sufficient attention to the "political" they are also forced to revert to moral responsibility in order to support the practical ascription of responsibility.

¹⁰¹ Cooper, David E., 'Collective Responsibility', in May & Hoffman, *Collective Responsibility*, p. 45.

possible to hold groups responsible by focusing on the common interests that a group may have rather than on their decision-making strategy. Although the cases will be rare, he thinks that it is possible that in some cases, where groups show a high level of solidarity, criminal liability might be assigned to a whole group for actions of only some of its members.¹⁰² McGary agrees with Feinberg's basic tenets, but he does not agree that the group needs to show a high level of solidarity. McGary identifies racial or groups where members identify with each other without necessarily seeing themselves as being interested in one another's interests. The fact that they derive benefits from being a member of the group also gives them responsibilities, which include preventing other members of that group from doing harm. The only way that this responsibility can be avoided is to totally break with and disassociate oneself from the group.¹⁰³ Arendt made a similar claim concerning members of the German population who post-war wished to claim non-involvement. She insisted, however, that this was possible only for the non-participants. 'The non-participants in the public life under a dictatorship are those who have refused to support it by shunning those places of "responsibility" where such support, under the name of obedience, is required.'¹⁰⁴

These arguments may be open to the objection raised above about the inflationary use of the concept of responsibility, but they do point to an important dimension of *political responsibility* - namely that it has some relationship to the continuing identity of groups, including political communities. In other words, a viable concept of *political responsibility* has to deal not only with the issues of past actions but also the future of the community. Groups, including political communities, may pose structural problems even to those

¹⁰² Feinberg Joel, 'Collective Responsibility', (1970) in May & Hoffman, *Collective Responsibility*, pp. 61-67.

¹⁰³ McGary, Howard, 'Morality and Collective Liability', in May & Hoffman, *Collective Responsibility*, pp. 84-85.

¹⁰⁴ Arendt, Hannah, 'Personal Responsibility under Dictatorship', *The Listener*, 6 August 1964, p. 205.

concerned to fulfil their responsibilities. For instance, Held discusses the possibility of holding random groups of people responsible, for example bathers on a beach who do not rescue someone who is drowning. She admits however, that this is fraught with difficulties that mostly consist of those outlined by Kutz of *Control and Individual Difference Principles*.¹⁰⁵ Thompson argues that because no one person's contribution can be distinguished from the contribution of any other individual, the ascription of responsibility is just not possible. He uses an example from Feinberg's *Doing and Deserving*, in which Feinberg gives an example of a train robber, who holds up the train and escapes with all the valuables. If the passengers had banded together, all, or even a few of them could have prevented the robber escaping with his loot. Thompson claims that:

in this way the passengers are collectively responsible for their own losses, but since no passenger was obligated to resist the bandit, none was individually responsible. The fault lay not in individual actions or omissions, but in the continuing identity and structure of the group. Similarly, a political system may suffer from structural faults that block the efforts of all but the heroic bureaucrat and politician to accomplish morally respectable ends.¹⁰⁶

These examples again illustrate that without a clear understanding of the nature of the "political", commentators, even whilst discussing the possibility of collective responsibility, are still forced to rely on criminal and moral responsibility. The outcome of these discussions is that it is fruitless to rely on establishing who it is that can be responsible and expect that this will illuminate the notion of *political responsibility*. Instead a more effective procedure would be to reach a definition of *political responsibility* which relies on the

¹⁰⁵ Held, Virginia, 'Can a Random Collection of Individuals Be Morally Responsible', in May & Hoffman, *Collective Responsibility*, pp. 93-98.

¹⁰⁶ Thompson, Dennis F., 'Moral Responsibility of Public Officials', *The American Political Science Review*, Vol.74, 1980, p. 908.

“political”. This will establish a definition that will circumscribe both the meaning and scope of *political responsibility* and thereby establish who can have *political responsibility* ascribed to them.

As if the difficulties illustrated and the resultant contested nature of both individual responsibility, whether based on cause or capacity, and collective responsibility were not enough, claims concerning the complexity and contingent nature of the world have permitted artificially created divisions to be manufactured in the political realm. These divisions are between policy making and operational matters, which has resulted in a blurring of the lines of procedural responsibility. In an attempt to resist further the diminution of governmental responsibility and accountability, commentators, such as Woodhouse have resorted to re-introducing the idea of “role” responsibility. In addressing these issues, however, rather than undertaking a discussion of *political responsibility* as a concept in its own right, Woodhouse chooses instead to ‘re-orientate’ the concept of ministerial responsibility, that, it is often claimed, has a long history in British politics. Her discussions, therefore, are based on “role” responsibility rather than “causal” responsibility.

The concept of role or task responsibility is not of course new (see footnote 19.) Role responsibility as a concept has been utilised on other occasions in an attempt to assign responsibility. This has especially been the case on those occasions that have aroused great controversy and concern. Kurt Baier, for example, made similar claims for “role” responsibility concerning the massacre at My Lai in the Vietnam War. He took the view that it was ridiculous to blame only the troops on the ground, those who were the actual perpetrators of the crimes. He, like Woodhouse, wished to distinguish causal-responsibility, that is, the soldiers who actually did the killing, from the “role-responsibility” of senior

officers. He argues that by measuring and evaluating if the agents who had a particular role/task to fulfil, fulfilled their roles/tasks properly, it is possible to determine which, if any, of the soldiers or commanding officers may be held responsible for the massacre. Not by their causal-responsibility, which was alas all too clear, but by their role/task responsibility.¹⁰⁷ For example, did officers who were responsible for training young inexperienced conscript soldiers carry out their role/task properly or did lack of training contribute to the tragedy? Fatić, following the same route almost 30 years later, whilst examining the International War Crimes Tribunal formed under UN Security Council Resolution No.808 to examine war crimes in the former Yugoslavia, is intensely critical of the ‘international community’ who cherry-pick who they want to prosecute. Fatić claims that the West has concentrated too much on cause, that is, on the actual perpetrators of crimes at the ground level and, therefore, not enough attention has been paid to the “role responsibility” of the old ruling elite, who systematically and deliberately incited nationalistic and racist violence.¹⁰⁸ Although Woodhouse is appealing to “role responsibility” in exactly the same way as Baier and Fatić, in this instance it is only in one particular circumstance, that of ministerial responsibility.

Ministerial responsibility had once, it is claimed, been an important doctrine, for example, ‘in Dicey’s day, liability to loss of office was seen as “the kernel of the doctrine”; [and] the individual responsibility of ministers was extended to all official acts...’¹⁰⁹ Although this would appear to be an unambiguous expression of ministerial responsibility we can still legitimately ask the following questions; was this individual responsibility, *political*

¹⁰⁷ Baier, Kurt, ‘Guilt and Responsibility’, in May and Hoffman, *Collective Responsibility*, pp. 205-210.

¹⁰⁸ Fatić, Aleksander, *Reconciliation via the War Crimes Tribunal?*, (Ashgate, Aldershot, 2000), p.1 & pp. 71-80.

¹⁰⁹ Lewis, Norman & Longley, Diane, ‘Ministerial Responsibility: The Next Steps’, *Public Law*, 1996, p. 490.

responsibility or some other type of responsibility, for example, moral or legal, and exactly how far do official acts extend?

It may well have been the case that in Dicey's day the responsibility of ministers extended to all official acts, but if this was ever the case, it is now highly contested. A minister can in fact choose from a range of different strategies in order to avoid/evade responsibility for her political actions. These are some of the possibilities. She may announce an inquiry, making the matter *sub judice* and/or delay the matter. She may claim that the legal advice that she received made no alternative action possible. Or she may claim that she was herself misled or not given enough information, or that such information that she did possess had "security implications" and therefore could not be revealed. Any inquiry subsequently instigated may concentrate only on the detail, that is, what exactly in this circumstance went wrong, and not concentrate at all on the policy that brought it about. Alternatively, she may claim that she is only politically responsible for "high" policy and therefore any blame for the delivery of such policies should be directed at the civil servants who carried them out.¹¹⁰ This division between high policy (the responsibility of the Minister) and the administration of that policy (civil servants), was first applied by James Prior in 1983 after the Maze prison breakout. However, it reached its nadir when the then-Home Secretary, Michael Howard, refused to accept any *political responsibility* for the prison breakouts at Whitemoor and Parkhurst in 1995.¹¹¹ Howard claimed that there was a separation between the policy that he made and

¹¹⁰ Woodhouse, Diana, 'Ministerial responsibility: The abdication of responsibility through the receipt of legal advice', *British Journal of Administrative Law*, p. 412.

¹¹¹ This was an unedifying affair in which the Director General of Prisons Derek Lewis was blamed and then sacked by Michael Howard, the then-Home Secretary. Howard claimed that there was a separation between policy and operations and consequently because he was only responsible for policy could not in any way be to blame for the prison breakouts that had occurred. This was repeatedly challenged most spectacularly by Jeremy Paxman in an interview on BBC2 "Newsnight", 13/05/1997. This incident led, however, to Howard losing the Conservative Party Leadership Election in 1997 when he was again challenged over this matter, this time by Conservative MP Ann Widdecombe who had been Prisons Minister at the time that the incident had occurred.

the operations that were the concern of the Director General of Prisons, Mr. Derek Lewis. Howard blamed the Director General of the Prison Service for the breakouts even though Lewis maintained that 'the Home Secretary had intervened directly and regularly in the running of the agency and thus could not abdicate [political] responsibility for it.'¹¹² Nevertheless, this was exactly what Howard did, and Lewis was subsequently sacked.

By invoking Hart's distinctions between "role" and "causal" responsibility, Woodhouse hopes to undermine this problem, claiming that 'role responsibility arises from the minister's distinctive place or office....and implies that ministers are constitutionally responsible for their departments, not because of their detailed involvement in departmental affairs, but because of the positions of public trust they hold as politicians.'¹¹³ The examples that Woodhouse provides, however, do little to clarify how this "role responsibility" actually functions. She cites Edwina Currie, Tim Smith, Neil Hamilton, Jonathan Aitken, Cecil Parkinson, David Mellor, Ron Davis and Peter Mandelson as examples of politicians who were all required to resign for various misdemeanours.¹¹⁴ In fact only Currie had resigned over a political matter, the other resignations appear rather, to be based on moral, legal or criminal responsibility within the private realm. The adoption by Woodhouse of the Hart "role" distinction might work if it were to be systematically and consistently applied, albeit that it is onerous, appearing to require a resignation for almost any type of misdemeanour. This is not, however, the case. Woodhouse herself draws our attention to the case of Robin Cook, who although criticised for his private life, nevertheless, unlike Cecil Parkinson, did not have to resign. The intense debate over the well-publicised love affair between David Blunkett, the then-Home Secretary and a married

¹¹² Woodhouse, 'Ministerial Responsibility', p. 270.

¹¹³ Woodhouse, Diana, 'The Reconstruction of Constitutional Accountability', *Newcastle Law School Working Papers*, p. 5.

¹¹⁴ *Ibid.*, pp. 3-4.

woman, in which questions had arisen not only over his conduct but also concerning the fast-tracking of a visa for his lover's nanny again illustrates the conflation of the public and private.

Thompson cautions us that conversely, appearing to accept responsibility because of their position of trust, can, instead of leading to a full disclosure, degenerate into 'a kind of political ritual' designed to hide the truth. He cites two examples from the American government of the inadequacies of this role responsibility, naming Presidents John F. Kennedy and Richard Nixon. Kennedy, he claims, publicly accepted 'sole responsibility' for the Bay of Pigs invasion and thus forestalled all debate or disclosure about it, whilst privately blaming 'just about everyone who knew about the invasion in advance.' Nixon also went to great lengths to 'invoke the ritualistic formula of responsibility,' stating in a broadcast on CBS that 'in any organisation, the man at the top must bear the responsibility. That responsibility, therefore, belongs here in this office. I accept it.'¹¹⁵ Woodhouse also gives an example of what could be construed as this type of behaviour in the British political arena, citing the behaviour of Lord Carrington. Carrington resigned over the invasion of the Falkland Islands in 1982, his resignation could be 'seen as a device to remove pressure from the government, ...his assumption of responsibility was intended to distract attention from the full extent of government's failures.'¹¹⁶

It is also far from clear how "role" responsibility circumvents any attempt to artificially divide policy from operation. Woodhouse refers to the example of Cave Creek in New Zealand, a tragedy that caused fourteen deaths. Although the Minister for Conservation

¹¹⁵ Thompson, 'Moral Responsibility of Public Officials: The Problem of Many Hands', p. 907.

¹¹⁶ Woodhouse, Diana, *Ministers and Parliament: Accountability in Theory and Practice*, (Oxford, Clarendon Press, 1994), pp. 96-97.

accepted that his “role” was head of the organisation he certainly did not accept any *political responsibility*. Indeed Woodhouse is clear that she is not suggesting that a minister should accept ‘vicarious or consequential responsibility for errors made at a distance, both geographically and hierarchically.’¹¹⁷ That the politician concerned resigned from his role as minister many months later, was, he claimed, not because he accepted *political responsibility*, which he always firmly attributed to the operational side, but rather as an indication of his ‘sorrow’. Nevertheless, Woodhouse claims that this illustrates the ‘fundamental difference’ between role and causal responsibility. ‘Causal responsibility requires a direct link between a minister and what happened. Role responsibility requires a recognition that the nature of a minister’s responsibilities, the power he exercises and his position of public trust, lay certain duties upon him...,’¹¹⁸ although it appears that in this case the minister felt these duties were fulfilled by an expression of his ‘profound sorrow’.¹¹⁹ Woodhouse obviously appreciates that there is something different about the role of a minister and the responsibilities that are commensurate with such a position. She fails however to understand that what is unique in ministerial responsibility is not the generic characteristics of “role” as it refers to the minister but the nature of the political and the public world within which the minister operates.

From the discussions so far undertaken it is possible to identify the problems concerning *political responsibility* as a concept, namely the lack of a clear understanding of the meaning, the scope of its application and to whom it is applicable. This review has repeatedly revealed the failure by commentators to appreciate and examine the significance of “political” in *political responsibility*. Even where there has been an understanding that

¹¹⁷ Woodhouse, ‘The Reconstruction of Constitutional Accountability’ p. 9.

¹¹⁸ Ibid.

¹¹⁹ Gregory, ‘Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek’, p. 523.

this is a problem instead of confronting the significance of “political” commentators have adopted various strategies to circumvent the problem. This review has emphasised the need to address this failure. Rather than seeking to move forward by escaping from discussion of principles, by revisiting the different generic types, or by seeking to compensate individualistic approaches by consideration of collective and role responsibility, it is time to confront the political directly.

Even though the existing literature does not help specifically with the concept of *political responsibility*, nevertheless, consideration of this literature has been illuminating because it has indicated some of the other themes that may be central to the task of understanding the concept. The lack of an explicit definition and the inability to define the scope of *political responsibility* that has often resulted in the conflation of the political, with moral and legal responsibility, although problematic are not the most intractable problems. The problems revealed concerning agency and the disagreements over cause and capacity has demonstrated not only that these areas are contested, but has also revealed the importance of contingency to the discussions of *political responsibility*. Moreover, not only capacity and cause but also role responsibility is revealed to be reliant on external factors, many of which are, in any real sense, beyond our control. One area for discussion, therefore, will be *political responsibility* in the contingent world.

The evidence in the literature detailing the search for a means of ascribing *political responsibility* not just to the individual, but also to the collective, reveals the vital importance of justice in any exploration of *political responsibility*. This is essential because *political responsibility*, although usually concerned with issues from the past, also has a profound bearing on the future of the community. Judt reminds us just how important it is

for justice not only to be done but also to be “seen to be done”, and the lasting consequences if this does not occur. *The Politics of Retribution in Europe* charts the experiences in countries across Europe in the aftermath of the Second World War. It attempts to begin to address the problems that can occur when injustices from the past are not acknowledged and societies have to rebuild themselves using narratives which are at best incomplete or at worst a fabrication. Judt claims that ‘the ways in which the memory of the experience was distorted, sublimated, and appropriated, bequeathed to the post-war era an identity that was fundamentally false.’¹²⁰ Finally, there is also no doubt that commentators have recognised that to be politically responsible requires “giving an account”. The Truth and Reconciliation Commission is just one example where perpetrators involved in atrocities in South Africa have been encouraged to give an account and thereby facilitate the discovery of “the truth”. Issues of truth, therefore, also have a central role in any discussions of *political responsibility*.

The first task, therefore, is to confront “the political” directly. This will be undertaken by examining the work of three thinkers who have attempted to evaluate *political responsibility* as a concept either directly, for example Max Weber in ‘Politics as a Vocation’, or indirectly, for example in the work of Hannah Arendt and Jürgen Habermas. By examining the work of all three thinkers it will be demonstrated that there is a direct correlation between their individual perception of the nature of the political and their subsequent claims concerning *political responsibility*. This examination will reveal that *political responsibility* is a discrete concept with inherent normative values that should not be confused or conflated with other types of responsibility. This important initial exploration of the nature of the

¹²⁰ Deak Istvan, Gross Jan T. & Judt Tony, *The Politics of Retribution in Europe*, (Princeton University Press, Princeton, 2000), p. 293.

political as it relates to *political responsibility* will confirm that the contingent world has a profound bearing on the possibility of *political responsibility*. Subsequent chapters will therefore also examine issues of contingency, justice and truth.

Chapter Two

The Nature of the Political and Political Responsibility

What has already become clear is that despite its frequent usage in almost every type of discourse, *political responsibility* remains little discussed in any meaningful or organised way, even by some of the greatest political theorists. Three notable exceptions to this lack of systematic discussion are Max Weber, Hannah Arendt and Jürgen Habermas. It has also been identified that the failure to confront the “political” in *political responsibility* leads to discussions based on general or generic types of responsibility. By examining each of these three thinkers in turn, it will be demonstrated that not only does their understanding of the nature of the political have a profound bearing on their understanding of *political responsibility*, but rather that their understanding of the nature of the political ultimately *circumscribes* their notion of *political responsibility*. This conclusion illustrates not only the futility of discussing *political responsibility* without first establishing the nature of the political upon which it is dependent, but also for that very reason, that *political responsibility* is different in kind from other types of responsibility.

This course of action is not, however, without its problems. What this examination also demonstrates is the diversity of view concerning the nature of the political. This diversity is on many levels, caused by the theorists’ differing responses to the contingency and complexity of the world, and thus the meaning of *political responsibility* and who can be a politically responsible agent. It would seem that the nature of the political will remain a contested concept. To think that this is an unproductive exercise, because it does not produce

a precise meaning of *political responsibility* would, however, be a mistake. What it does illuminate are some vital areas of concern. As well as contingency and complexity, there are the matters of choice and risk, accountability, truthful communication, promising, forgiving, and justice that will all be subjected to further considerations in the following chapters.

What also became clear from the literature review was that discussions of *political responsibility* were rare and that any discussion that did take place failed to address the areas of meaning, scope and applicability. To begin this examination of the nature of the political and how this relates to subsequent notions of *political responsibility* we first examine the work of Max Weber, a theorist who does discuss *political responsibility* in detail and addresses all three areas. Although Weber's ideas change and develop over time, the links between the political and *political responsibility* are evident. These links are most clearly articulated in his later political writings including 'The Profession and Vocation of Politics'.¹ In this text Weber indelibly links the political and *political responsibility* but concludes that *political responsibility* only resides with the political leadership. This would not in itself be strikingly significant if it were not for the fact that he makes the even stronger claim that *political responsibility* cannot be applied to the province of citizens or bureaucrats, but the sole politically responsible agent is the charismatic leader. Weber is important because *political responsibility* is built into his concept of political action. Political action is about making choices in a morally indeterminate world. These choices are those to which one is committed and for which one accepts public responsibility. The outcome of this acceptance of *political responsibility* typically (but not necessarily purely) means the loss of the power which one sought in the name of one's cause. The choices that

¹ This was originally a lecture delivered to the *Freistudentische Bund* in Munich in January 1919.

the charismatic leader makes also have implications for the political community, affecting its fate in some vital areas, but with severe implications for the leader.

To be able to understand Weber's notion of the political and therefore his notion of *political responsibility* it is essential to track the development of his thought. Although Weber is celebrated for his sociological writings and there can also be no doubt that he was profoundly affected by the political landscape in which he found himself, nevertheless, his concept of *political responsibility* is still relevant and emphasises recurring problems. Although it can be argued that his 'political thought constitutes a set of responses to the antiquated nature of the German political system of the Wilhelmine period', nevertheless, it is also the case that his complex theory of modernisation has a wider resonance than just the emergent German state.² His theory of modernisation reflected his concern with the growing complexity of government divided into administration and economy. This awareness of the growing complexity was also compounded by his acute awareness of the contingency of the world. 'Weber ceaselessly pointed to what he referred to as the "irrationality of the world" and was preoccupied with understanding how human beings construct patterns of meaning within this condition of senselessness.'³

Understanding Weber's political thought is not straightforward but for this exercise its utility is that it illustrates an idea of the political which not only explores the meaning of, but also the scope and the applicability of *political responsibility*. It is inevitable that in a writing career that spanned twenty-five years there would undoubtedly be changes and

² Thornhill, Chris, *Political Theory in Modern Germany*, (Cambridge, Polity Press, 2000), p.18.

³ Titinuk, Regina F., 'Max Weber on the Advent of the New Aristocracy', *The Journal of Politics*, Vol.59, No.3, 1997, p.688.

developments in his ideas, nevertheless, it is possible to identify key areas of thinking which elucidate his notion of the political. Even from his earliest writings there are some consistent threads, the 'inescapability of conflict (*Kampf*), for example, remained a constant theme in his work.'⁴ This insistence on the inescapability of conflict when combined with his theory of modernity and theory of legitimation, moved inexorably to his ultimate reliance on the "charismatic leader" as the source of both legitimacy and power and, therefore, *political responsibility*.

The problem as perceived by Weber was with the corporate model of political and economic government in which parliamentary representation was often outweighed by 'the importance of personal connections between interest-groups and politicians.'⁵ This transfer of power to corporate associations and interest groups was at odds with Weber's notions of politics as the 'striving for a share of power or for influence on the distribution of power, whether it be between states or between the groups of people contained within a single state.'⁶ Not only is conflict inescapable,⁷ but it also has the ability to produce positive benefits. It is the lack of conflict in the modern bureaucratic state that was one of Weber's major criticisms. Weber blamed this corporate model with its lack of conflict for the failure to create a responsible political leadership and the subsequent inability to identify responsible political agents. His concern is about the type of leader that emerges from such an unsatisfactory parliamentary system created under the corporate model. He is less than complimentary about the type of

⁴ Weber, Max, *Political Writings*, (ed.) Peter Lassman & Ronald Speirs, (Cambridge, Cambridge University Press, 1994), p. xi.

⁵ Thornhill, *Political Theory in Modern Germany*, p.19. In an attempt to weaken the fledgling parliamentary system Bismarck had 'cemented the development of a corporate model of political and economic government.'

⁶ Weber, *Political Writings*, 'The Profession and Vocation of Politics', p. 311.

⁷ Weber, *Political Writings*, p. xi. When discussing conflict Weber utilised terms that are Darwinian in origin, for example the idea of the 'inescapability and necessity of conflict and selection between states, peoples and classes, (unlike Marx) he does not believe in the possibility of a future utopia free from conflict, but imbues it with positive benefits'.

leader and the inherent personal ethical qualities associated with such a type. 'The only choice lies between a leadership democracy with a "machine" and democracy without a leader, which means rule by the "professional politician" who has no vocation, the type of man who lacks precisely those inner, charismatic qualities which make a leader.'⁸ The corollary of Weber's claims is that politics should be directed by a political leader who has a "calling" and is not just a "professional" politician.

That Weber accepted the contingencies inherent within modern industrial capitalist societies is not in question, there is no yearning for a lost past, 'in which political order is seen to be legitimate because of its time-honoured nature'.⁹ It is instead that he insists that the sphere of politics is autonomous and must not simply be reduced to economics.¹⁰ Weber's notion of the political at this point may be summarised as follows. Politics for Weber was separate and different to economic imperatives. He fervently believed that there must be a sphere of political activity that was not circumscribed by technical, bureaucratic practice. It is his concern with what he called "negative politics", that leads Thornhill to claim that 'Weber's personal objective is therefore to explain how "parliament, damned by its present internal structure to purely negative politics", can be "transformed into a bearer of *political responsibility*".'¹¹ (my italics)

Weber asks, '*How is parliament to be made capable of assuming power?*'¹² He considered the German parliament as then constituted was traditionally a 'place full of bustling

⁸ Weber, *Political Writings*, 'The Profession and Vocation of Politics', p. 351.

⁹ Thornhill, *Political Theory in Modern Germany*, p. 32.

¹⁰ Weber, *Political Writings*, p. xiv.

¹¹ Weber, 'Die Lehren der deutschen Kanzlerkrise' in *Gesammelte politische Schriften*, p. 221. Quoted in Thornhill, *Political Theory in Modern Germany*, p. 29.

¹² Weber, *Political Writings*, 'Parliament and Government in Germany under a New Political Order', p. 190.

parvenus and job-seekers', without real political influence.'¹³ Thus, parliament 'cannot accommodate "those with qualities of leadership – who do not seek sinecures, status and salary, but something completely different: power and *political responsibility*'.¹⁴ (my italics) Weber was also pessimistic about the credentials of the representatives, believing that they would be those 'whose actions are in fact subject to the "imperative" mandate of vested economic interests, *a parliament of closed, philistine minds*, in no sense capable of serving as a place where political leaders are selected'.¹⁵ He claimed that because the corporate model '... inevitably puts a limit on the purely political importance of parliament as such, ...[it is therefore] absolutely essential to have a counterweight resting on the democratic will of the people.'¹⁶ This was Weber's attempt to integrate the citizen into the political life.¹⁷

Weber had now come to believe that there were only two benefits accruing from parliamentary democracy, namely, the rise of political elites and the production of charismatic leaders. Within his theory of legitimation, the validity of any claims to legitimacy might be based on rational-legal grounds, traditional grounds or charismatic grounds.¹⁸ Weber, however, invoked the charismatic claim to legitimacy,¹⁹ believing that it cut across the more traditional types of legitimacy and thereby overcame the sterility of modern economic existence. The role of parliamentary democracy was, therefore, no longer a "good" in its own right but instead valued by Weber only as an instrument which would

¹³ Weber, 'Bismarcks Erbe in der Reichsverfassung' in *Gesammelte politische Schriften*, p. 242. Quoted in Thornhill, *Political Theory in Modern Germany*, p. 36.

¹⁴ Ibid.

¹⁵ Weber, *Political Writings*, 'The Profession and Vocation of Politics', p. 381.

¹⁶ Weber *Political Writings*, 'The President of the Reich', p. 306.

¹⁷ Since the citizen is responsible for the election of the charismatic leader, through whom legitimacy is conferred, ultimately the citizen is integrated into the political.

¹⁸ Wolin, Sheldon S., 'Max Weber, Legitimation, Method and the Politics of Theory', *Political Theory*, Vol.9, No.3. 1981, p. 406.

¹⁹ This third, and most controversial, ground is anti-economic and engenders legitimacy through the charisma of the 'chosen warlord, the plebiscitary ruler and the political party-leader'. Weber, 'Politik als Beruf', in *Gesammelte politische Schriften* p. 507. Quoted in Thornhill, *Political Theory in Modern Germany*, p. 32.

produce political elites. Thus, he had become less concerned that the parliamentary system would function as the institute to mediate the will of the people than its ability to produce a charismatic leader.

By 1919, however, when Weber wrote 'The President of the Reich', he had developed grave doubts concerning the ability of parliament, thus arranged, to produce the kind of leader he felt was imperative.²⁰ He had also lost his earlier enthusiastic belief that any such parliamentary leader produced in this milieu would not merely seek 'an official post with its salary and rank but [would also seek] *power* and the *political responsibility* it entails'.²¹ (my italics) Weber now also does not have any confidence that either the electorate in general or their representatives would be motivated by anything other than selfish, class, factional or party interests. Weber did not, however, share the principled contempt for professional politicians expressed by Oswald Spengler's 'Preussentum und Sozialismus' also of 1919, whose recommendations for reform included: 'no organised parties, no professional politicians, no periodic elections.'²²

In these wartime writings, he again defines the struggle for power as the crucial trait of both international and domestic politics. Nor is this conflict a matter for lamentation, but instead is the external process through which national cultures are also refined and strengthened. 'There was an air of exaltation at the prospect of participating in "the eternal struggle for the preservation and improvement of our national type".'²³ Weber's charismatic leader is to

²⁰ The complicated proportional representation system that came into force on 14 August 1919 had caused him great anxiety that resulted in his change of emphasis.

²¹ Weber, *Political Writings*, 'Parliament and Government in Germany under a New Political Order', p. 169.

²² Spengler, Oswald, 'Preussentum und Sozialismus' (1919), in Oswald Spengler, *Politische Schriften*, (Munich, Beck, 1933), p. 64.

²³ Wolin 'Max Weber, Legitimation, Method and the Politics of Theory', p. 411.

emerge from this struggle. From his earlier criticism of the structure of parliament that condemned it to purely “negative politics,” Weber has little interest in parliament functioning to mediate the will of the people, but instead its role is as a training ground for political elites. He journeyed inexorably to a narrow notion of the political that merely facilitates the inescapable struggle for power, and from this struggle the emergence of the charismatic leader. This is essential, even though the character and status of the charismatic leader at the head of the party machine ‘means a “loss of soul” (*Entseelung*) for the followers, what one might call their spiritual proletarianisation.’²⁴ Thus, for the charismatic leader power and *political responsibility* are axiomatic. The nature and, therefore, the limitation of the political is that political elites, but the plebiscitary leader in particular, should be allowed to take political action and practice political decision-making free from bureaucratic and financial constraints. It is in this context that they can then become the bearers of *political responsibility*.

Weber, unlike most commentators is explicit about the scope, applicability and meaning of *political responsibility*. He clearly articulates the limits of *political responsibility*, separating it from “legal responsibility”. He rejected any claim that those who were involved in the administration as bureaucrats could be bearers of *political responsibility*. Weber argued that ‘the political manifestation of the radicalisation of modern society is the production of bureaucracy, in which each political task is accomplished by a system of appointed executives.’²⁵ The rise of the bureaucracy, although ensuring effective rule was also limiting

²⁴ Weber, *Political Writings*, ‘The Profession and Vocation of Politics’, pp. 350-351.

²⁵ Thonhill, *Political Theory in Modern Germany*, p. 31.

and stultifying. Instead of being fired by religious, ethical and political ideals, 'action has become simply a response to "economic compulsion" or to "purely mundane passions"'.²⁶

The bureaucratic machinery was already

at work, producing the cage of bondage of times to come, with which someday people, powerless like the fellahin of ancient Egypt, will be forced to comply, when a purely technical benefit – namely, a rational administration and provision – is the final and sole thing of value to determine the conduct of their affairs.²⁷

Bureaucracy, Weber claimed, was characterised by its lack of conflict, and, therefore, could not be political, because the necessary conflict is impossible in a modern rationalised bureaucratic society. Weber believed that the bureaucrat '...is a man accustomed to performing his work dutifully and honourably in accordance with regulations and orders.'²⁸ The role of the bureaucrat was 'being able to carry out that instruction, on the responsibility of the man issuing it, conscientiously and precisely in the same way as if it corresponded to his own convictions.'²⁹ This can best be summed up by the description of 'task-responsibility'.³⁰ Bureaucrats are those who: -

serve narrowly defined administrative tasks and functions by developing and plying their technical knowledge about specialised subjects. Their claim to power and legitimacy is in fact based primarily on their technical expertise, in particular on their

²⁶ Wolin, 'Max Weber, Legitimation, Method and the Politics of Theory', pp. 414-415.

²⁷ Rune Slagstad, 'Liberal Constitutionalism and its Critics, Carl Schmitt and Max Weber' in Jon Elster and Rune Slagstad, (eds.) *Constitutionalism and Democracy*, (Cambridge, Cambridge University Press, 1988), p. 119. (Weber, *Gesammelte politische Schriften*, p. 322)

²⁸ Weber, *Political Writings*, 'Parliament and Government in Germany under a New Political Order', p. 160.

²⁹ Weber, *Political Writings* 'The Profession and Vocation of Politics', pp. 330-331.

³⁰ Responsibility as role/task fulfilment. When we have a perceived role in society or in an organisation that it is our duty to fulfil this is called a role or task responsibility.

skills at developing, and practically securing, rational solutions to politically defined problems and rational means to politically determined ends.³¹

That is, the bureaucrat's responsibility is to perform the task he is assigned. He is accountable to the people who have entrusted him with the task, and is held to be responsible by them only if he fails to complete the task he was assigned, but he does not have *political responsibility* for the nature of that task. The inability of bureaucrats to be politically responsible led Weber to claim that it would be impossible for bureaucrats to become responsible political leaders. He claimed that 'the civil service had failed completely whenever it was confronted with political issues'³² Bureaucrats are, of course, like every other citizen responsible for their own personal conduct in their own lives, however, when it comes to *political responsibility* it is another matter. Indeed, Weber categorically denies that it is possible to hold bureaucrats politically responsible. Unlike other commentators, Weber does not conflate different types of responsibility, and also limits the scope of *political responsibility*, therefore, the bureaucracy can only be accountable for their tasks to the politicians who made the decisions and instigated the political action.

Political responsibility also cannot be assigned to citizens, even though in 'The President of the Reich' Weber insists that the President must be elected directly by the people. He states that '*the head of state must rest unquestionably on the will of the whole people*, without the intervention of intermediaries.'³³ It is clear that all citizens are to be included in choosing

³¹ Daniel R. Sabia Jr. 'Weber's political ethics and the problem of dirty hands', *Journal of Management History*, Vol.2, No.1, 1996, p. 7.

³² Weber, 'Parlament und Regierung im neugeordneten Deutschland, in *Gesammelte politische Schriften* p. 351. Quoted in Thornhill, *Political Theory in Modern Germany*, p. 32.

³³ Weber *Political Writings*, 'The President of the Reich', p. 306

the president, although they can have little or no influence on the choice of candidates. Once chosen however, the position of the political leader is that of one ‘who would be responsive to the *presumed* needs of the populace, but not responsible directly to it.’³⁴ (my italics). Weber reminds citizens that they too have a responsibility (not political but personal) not to allow themselves to descend into the ‘impotent self-abandonment to cliques.’ Instead their role is to subordinate themselves to the president who is their safeguard of democracy.³⁵ The role of the citizen is thus reduced to the selection (and perhaps removal) of the leader, but the citizen plays no meaningful role in influencing him whilst in office.

A major omission from Weber’s concept of *political responsibility* is that it does not really concern the community, despite the fact that the risks inherent within the political choices made by the charismatic leader do affect the community. Weber does not really see the function of *political responsibility* “within” the community, but at most only the significance of it “for” the community. ‘According to Georg Picht, [political] responsibility has two dimensions. People are responsible *for* something, but they are also responsible *to* someone.’³⁶ We can see that in Weber’s description of the scope and applicability of *political responsibility*, the charismatic leader is certainly politically responsible *for* something but not politically responsible *to* anyone. We will see in our discussion of the character, qualities and status of the charismatic leader that there is no concept of overt accountability to the citizen electorate.

³⁴ Stirk, Peter M.R., *Critical Theory, Politics and Society*, (London, Pinter, 2000), p. 95.

³⁵ Weber *Political Writings*, ‘The President of the Reich’, p. 308.

³⁶ Picht, Georg, ‘The Concepts of Responsibility’, translated and introduced by Davis, Winston, *Religion*, 28, 1998, pp. 185-203, quoted in Davis, Winston, ‘Max Weber on Religion and Political Responsibility’, p. 47.

Weber's concept of *political responsibility* is, therefore, limited by his tendency to restrict political action and hence *political responsibility* to his charismatic leader. Having thus reduced *political responsibility* to the province only of the charismatic leader, in 'The Profession and Vocation of Politics' (1919) Weber finally offers us what appears to be a comprehensive account of the meaning of *political responsibility* and how it is possible. In doing so his arguments revolve around two different ethical stances which he thinks are an essential part of the motivation of the charismatic leader. Thus, he contrasts the ethic of responsibility with the ethic of conviction and draws the conclusion that 'the ethics of conviction and the ethics of responsibility are not absolute opposites'. They are, he claims, 'complementary to one another, and only in combination do they produce the true human being who is *capable* of having a "vocation for politics"'.³⁷

Weber's description of a genuine ethic of conviction is contrasted with mere sterile excitement, and he warns us not to be fooled by the latter. He asserts that, 'it is my impression that, in nine cases out of ten, I am dealing with windbags, people who are intoxicated with romantic sensations but who do not truly feel what they are taking upon themselves.'³⁸ Weber does not, however, give us any guidance on how we are to differentiate between genuine conviction and sterile excitement, except that the ethic of conviction arises from his definition of passion as the 'passionate commitment to a "cause"'.³⁹ Weber himself acknowledges that simply holding an ethic of conviction is

³⁷ Weber, *Political Writings*, 'The Profession and Vocation of Politics', p. 368.

³⁸ *Ibid.*, p. 367.

³⁹ Sabia describes the reality of the behaviour of those who operate from an ethic of conviction. 'What adherents to these ethics have in common...is their willingness to dismiss as irrelevant or as inconsequential the consequences of their behaviour.' There are two different motivations that cause this response; either their convictions hold them to a deontological moral principle in which consequences have no place, as in Kantian ethics, or they are aware of the consequences but ignore them because they must not impinge on the ultimate good they seek to achieve.

insufficient to ensure *political responsibility*. ‘Simply to feel passion, however genuinely, is not sufficient to make a politician unless, in form of service to a “cause”, *responsibility* for that cause becomes the decisive lode-star of all action.’⁴⁰ To become a politician, therefore, one has not only to feel genuine passion but also to accept the responsibility for all the choices and outcomes relating to that cause. Weber was ‘particularly concerned with the undeserved and paradoxical results of intentions. The ideal politician...acts with an ethic of responsibility and thus soberly understands that evil often results from good intentions and that good intentions are not sufficient to bring about favourable results.’⁴¹ Weber claimed, therefore, that in order to become a responsible political agent the politician also requires a decisive quality of judgement, because only that allows the politician to balance the risks and realities of the contingent world with the passionate commitment to the cause, ‘in other words *distance* from things and people’. ‘Only if one accustoms oneself to distance, in every sense of the word, can one achieve that powerful control over the soul which distinguishes the passionate politician from the mere “sterile excitement” of the political amateur.’⁴²

What type of person will exhibit these qualities? Weber articulates the problem succinctly, ‘For the problem is precisely this: how are hot passion and cool judgement to be forced together in a single soul?’⁴³ Walzer’s analysis of the type of political leader that Weber is describing is that he is a tragic hero,⁴⁴ ‘[the] mature, superbly trained, relentless, objective,

⁴⁰ Weber, *Political Writings* ‘The Profession and Vocation of Politics’, p. 353.

⁴¹ Titunik, ‘Max Weber on the Advent of the New Aristocracy’, p. 688.

⁴² Weber, *Political Writings*, ‘The Profession and Vocation of Politics’, p. 367.

⁴³ *Ibid.*

⁴⁴ This idea of a “tragic hero” is not original. Walzer’s description is identical to that used by Søren Kierkegaard in *Fear and Trembling*, (Penguin, London, 1985). What differentiates the tragic hero from others is that he acts in the public realm and is thus subjected to the approbation and critical judgement of others.

responsible, and disciplined political leader [who] is also a suffering servant.’⁴⁵ Walzer claims that :

For Weber, the good man with dirty hands is a hero still, but he is a tragic hero. ... Weber’s hero is alone in the world that seems to belong to Satan, and his vocation is entirely his own choice...The politician takes the sword himself, and only by doing so does he measure up to his vocation. With full consciousness of what he is doing, he does bad in order to do good, and surrenders his soul. Here is a man who lies, intrigues, sends other men to their death – and suffers. He does what he must do with a heavy heart. None of us can know he tells us, how much it costs him to do his duty.⁴⁶

There is an alternative analysis of the type of political leader that Weber is describing which appears even more burdensome. In Walzer’s language, the tragic hero is a good man with dirty hands. The tragic hero can, according to Kierkegaard, nevertheless *disclose* and explain his actions.⁴⁷ He can make his actions intelligible to others. In other words, the responsible agent can give an account of his actions. He does not need to keep his actions secret. When his actions are explained it is possible for others to understand them even if one does not agree with them or would have acted differently oneself. The tragic hero is, therefore, one who does not act on the ethic of conviction (that is a passionate commitment to a cause) because it is perfectly possible to explain, that is, give an account of, how the decisions were made by cool judgement.

⁴⁵ Walzer, Michael, ‘Political Action: The Problem of Dirty Hands’, *Philosophy and Public Affairs*, Vol. 2, No.2, 1973, p.177.

⁴⁶ Walzer, ‘Political Action: The Problem of Dirty Hands’, p. 176.

⁴⁷ Kierkegaard, *Fear and Trembling*, p. 117. ‘The outcome will be as understandable to anyone as to the [tragic] hero, and there is no secret writing that only the [tragic] hero can read.’

The alternative and even more burdensome analysis is that Weber appears to be describing someone who Kierkegaard dubs the 'knight of faith'. This is because Weber goes beyond the claim that politics is an activity solely conducted with the head, which is precisely the road that the 'tragic hero' takes. He claims that 'if politics is to be a genuinely human action, rather than some frivolous intellectual game, dedication to it can only be generated and sustained by passion' to a cause.⁴⁸ Weber seems to be suggesting that there is an element of "heart" or "faith" that goes beyond the cool judgement, distance and the *political responsibility* that he describes.⁴⁹ What differentiates the 'knight of faith' from the tragic hero' is the 'knight of faith's' willingness to go beyond the universal, and involve faith.⁵⁰ The implication of this is that the source of the 'knight of faith's' actions cannot be either explained or disclosed, except to those who have the same "faith" (passion for a cause). In Kierkegaard's concept the 'knight of faith' is answerable only to God, therefore '...the knight of faith who, in cosmic isolation, hears never a voice but walks alone with his dreadful responsibility',⁵¹ is echoed completely in Weber's description; that 'in the ethic of conviction... the Christian does what is right and places the outcomes in God's hands...'⁵² Thus, according to Weber, the leader must not only be a hero, 'but must put on the armour of that steadfastness of heart which can withstand even the defeat of all hopes'.⁵³

It is clear that Weber sets very high and heroic hurdles for those who pursue politics as a vocation. These hurdles are primarily, but not solely, internal. The internal sanction is guilt,

⁴⁸ Weber, *Political Writings* 'The Profession and Vocation of Politics', p. 353.

⁴⁹ Ibid., pp. 359-360. For 'acting by the maxim of the ethic of responsibility, ... means that one must answer for the *consequences* of one's actions.' Whereas, acting out of an ethic of conviction becomes a matter of personal faith, which is above the ethical, therefore *political responsibility* cannot exist.

⁵⁰ Kierkegaard, *Fear and Trembling*, p. 107 'For faith is just this paradox, that the single individual is higher than the universal.'

⁵¹ Ibid.

⁵² Weber, *Political Writings*, 'The Profession and Vocation of Politics', pp. 359-360.

⁵³ Ibid., p. 369.

that the politician's 'willingness to acknowledge and bear (and perhaps repent and do penance for his guilt) is evidence, and it is the only evidence he can offer us, both that he is not too good for politics, and that he is good enough.'⁵⁴ That is consistent with Weber's interest in the 'inner justification of power', and its meaning for those who were in a position of power. The politician, according to Weber, is confronted with a series of ethical conflicts and he is 'responsible for what may become of *himself* under pressure from them.'⁵⁵ This means balancing an ethic of conviction, embodied in the politician's commitment to a cause he has chosen, and an ethic of responsibility, which obliges the politician to attend to the consequences of his actions, in full knowledge that some of those consequences at least will be unknown to him at the time he acts.

It can be seen that each new decision made by the charismatic leader generates enormous risks for himself and also for us. Unfortunately there is no alleviation of these risks for either us or the charismatic leader. Weber knew, however, that most political leaders would fail to fulfil the vocation of politics thus understood. The combination of 'passion, a sense of responsibility, judgement' that Weber required were too often absent. In their place the 'mere "power politician"' parades his strength but this, Weber assured his audience, is pretence: 'The sudden inner collapse of typical representatives of this outlook (*Gesinnung*) has shown us just how much inner weakness and ineffectuality are concealed behind this grandiose but empty pose.'⁵⁶ One of the few external sanctions issued by Weber was a dire warning to any erstwhile political leader, 'Let us ensure that the president of the Reich sees

⁵⁴ Dovi, Sazanne, 'Guilt and the Problem of Dirty Hands', *Constellations*, Vol.12, No.1, 2005, p. 130.

⁵⁵ Weber, *Political Writings*, 'The Profession and Vocation of Politics', p. 365.

⁵⁶ *Ibid.*, p. 354. It is not difficult here to recognise the representatives of the monarchic principle and the German military leaders who sought to hide their responsibility for defeat behind the assertion that the German army was stabbed in the back by the collapse of the home front as these 'typical representatives'.

the prospect of the gallows as the reward awaiting any attempt to interfere with the laws or to govern autocratically.⁵⁷ This was not just empty rhetoric. Weber confronted Ludendorff at the end of hostilities in World War One with the recommendation that Ludendorff should just not lose power but should hand himself over to the victorious Allied powers for trial.

We can see clearly that our claim that the concept of *political responsibility* is dependent on a developed concept of the political is evidenced in Weber's notion of *political responsibility*. He distinguishes between different types of responsibility and ultimately limits the ascription of *political responsibility* to the charismatic leader. Weber's concern with the effects of contingency and the impact of modernity lead him to invest all his aspirations for *political responsibility* within the character of the charismatic leader. This demands an ethical stance that obliges the politician to attend to the consequences of his actions in the full knowledge that some of those consequences at least will be unknown to him at the time he acts. This is such a heroic standard that most will never meet and which would undoubtedly lead to the evasion of *political responsibility*. This has implications for both the politician and for the political community for which he acts. Weber's concept does not really concern the community, despite the fact that the political choices made by the charismatic leader effect the community. There can be no idea that the charismatic leader should account to the community in any formal way for his actions, hence there is no place for the "truth" but only for conviction. There is also no place for forgiveness nor the redress of injustice. There is only torment (or self-sacrifice) which the leader should experience if he fails, and to some extent even if he succeeds, for he risks corrupting himself in succeeding.

⁵⁷ Weber, *Political Writings*, 'The President of the Reich', p. 305.

In other words, Weber does not really see the function of *political responsibility within* the community but at most only the significance of it *for* the community.

Although this investigation illustrates the direct link between the concept of the political and *political responsibility*, the concept of *political responsibility* espoused by Weber has set the bar so high for the political actor that it will always invite evasion. There is no way back, no redemption, nor mechanism for a new beginning for Weber's politician. At the very least he would have to resign. It is the blunt truth that under parliamentary systems both here and in other western countries the consequences of giving an account when a situation has had undesirable outcomes almost inevitably attracts the most severe sanctions. The evasion of or refusal to give an account is hardly surprising if the only remedy is resignation as advocated by the Select Committee 'The resolution lays on Ministers the duty to give accurate and truthful information to the House. Any inadvertent error should be corrected at the earliest opportunity. If Ministers knowingly mislead the House, they should resign forthwith.'⁵⁸ In Weber's case, at its most extreme, 'the shadow of the gallows' is all that awaits his heroic/tragic leader which would hardly induce, except in the most heroic of leaders, the impetus for accepting *political responsibility*. Perhaps more importantly the evasion of political responsibility for Weber's politician however tragic however heroic will cause lasting damage to the polity, and often creates conditions where new beginnings rely on false and corrosive narratives. This discussion has revealed other problems that require further investigation namely, contingency, justice and truth.

⁵⁸ *Hansard*, 12/02/97, Col 274-275.

The second thinker to be discussed is Hannah Arendt. We will again begin by attempting to establish whether or not the nature of the political relates to her subsequent notions of *political responsibility*. What is immediately clear is that the nature of the political is of paramount concern to Arendt. It will emerge from these discussions of the nature of the political and *political responsibility* that the areas of meaning, scope and applicability become self-evident as we uncover what amounts to a “theory” of *political responsibility*. Like Weber, a central theme that emerges from her writing and crucial to an understanding of her notion of the political, is her theory of action. Unlike Weber, her theory of action, given her acute awareness of the contingency and complexity of the world, is only intelligible when it is considered alongside her claims concerning new beginnings, plurality, forgiveness and promising. These claims are not only important to Arendt’s theory of action, but, as will emerge during this discussion, will also be of paramount importance to a framework for *political responsibility*. By disentangling Arendt’s understanding of the political from within this complicated structure it is also possible to identify how this circumscribes her understanding of *political responsibility*, which although not expressed directly, can also be disentangled from her writing. Thus, an examination of Arendt’s re-evaluation of the political and its implications reveals that *political responsibility* is so embedded within her theory of action that they are interdependent.

Arendt was not a sequential writer,⁵⁹ and like Weber, she did not engage in writing a systematic political philosophy. The motivations for her investigations into the nature of the political were to understand and explain the tragedy that had occurred in Europe. These investigations led her to critically evaluate the political stance taken by the various disparate

⁵⁹ Canovan, Margaret, *Hannah Arendt*, (Cambridge, Cambridge University Press, 1992), p. 2. As with all of Arendt’s ‘thought trains’ it is hard to plot the course of *political responsibility* through her writing.

Jewish populations, and led her to the painful and deeply controversial conclusion that Jewish political inaction had contributed to their marginal position in many countries. They had either denied their Jewish origins and become 'parvenus',⁶⁰ or had retreated from the world into a state she calls 'worldlessness'.⁶¹ 'By making dissociation the basis for their survival, the Jews came to conceive of their existence as almost totally separate and independent from the rest of the world.'⁶² Their failure to be part of any political community, their 'worldlessness', when confronted by a ruthless, self-serving regime, had facilitated firstly their marginalisation, then their exclusion and finally their destruction.

In 'We Refugees' ⁶³ Arendt muses on the plight of those forced to flee from Europe. She articulates the peril in which one finds oneself if one has the great misfortune to be declared stateless. Her observations, that unlike the usual refugees, the Jews had not been guilty of any political activity against the states to which they belonged, are the beginnings of her further exploration of the consequences of this traditional lack of Jewish political action. 'A refugee used to be a person driven to seek refuge because of some act committed or some political opinion held. Well, it is true we have had to seek refuge; but we committed no acts and most of us never dreamt of having any radical political opinion.'⁶⁴ From her examination of the plight of the Jewish population in Europe, she developed a critique of

⁶⁰ Young-Bruehl, Elizabeth, *Hannah Arendt, For love of the world*, (New Haven, Yale University Press, 1982), pp. 121-122. Young-Bruehl gives a clear description of the differences between parvenus and pariahs. Arendt, follows the thinking of Bernard Lazare in his comments on the Dreyfus case. Arendt similarly makes the distinction 'between pariah resisters and politically malleable parvenus'.

⁶¹ Feldman, Ron H., (ed.) *Hannah Arendt: The Jew as Pariah*, (New York, Grove Press), p. 42. Arendt claims that 'the rootlessness of "the wandering Jew" antedates the rootlessness of the modern age, and more than any other factor was responsible for the worldless, unrealistic and unpolitical perception Jews had of the world.'

⁶² Ibid., p. 22.

⁶³ Arendt, Hannah, 'We Refugees', *The Menorah Journal*, January 1943, in Feldman, (ed.), *The Jew as Pariah* pp. 55-66.

⁶⁴ Arendt, 'We Refugees', p. 55.

modern society and a theory of action that is the basis of her notion of the nature of the political.

Her critique of modern society begins with claims concerning the failure to act. In *The Origins of Totalitarianism*, Arendt offers the following insight:-

Jewish history offers the extraordinary spectacle of a people, unique in this respect, which began its history with a well-defined concept of history and an almost conscious resolution to achieve a well-circumscribed plan on earth and then, without giving up this concept, avoided all political action for two thousand years. The result was that the political history of the Jewish people became even more dependent upon the unforeseen, accidental factors than the history of other nations, so that the Jews stumbled from one role to the other and accepted responsibility for none.⁶⁵

When she generalised this perceived lack of political action by individuals to western society as a whole, she traced its cause to the capitalist system that had thrust the concerns of the household into the public sphere: 'an ever increasing tendency for human beings to conceive of themselves in terms of their desire to consume,' our retreat from the public political world into the private household world has rendered us impotent to instigate new beginnings.'⁶⁶ In *The Human Condition*, using the Greek *polis* as her model she demonstrated how the private and the public sphere had existed separately. She warns us that 'we therefore find it difficult to realise that according to ancient thought on these matters, the very term "political economy" would have been a contradiction in terms: whatever was "economic," related to the life of the individual and the survival of the species,

⁶⁵ Arendt, Hannah, *The Origins of Totalitarianism*, (New York, Harcourt Brace & Co, 1951), 'Anti-semitism', p. 8. Quoted in Feldman, Ron H., (ed.) *Hannah Arendt: The Jew as Pariah*, p. 22.

⁶⁶ Arendt, Hannah, *The Human Condition*, (Chicago, Chicago University Press, 1958), p. xvi.

was a non-political, household affair by definition.⁶⁷ In modern society in contrast, the private (matters of the household) has been elevated to become the political. The public sphere was, in contrast in the *polis*, a legally institutionalised space (the Assembly and the Agora) in which citizens would meet as equals to deliberate, debate and ultimately to make decisions on matters of common concern. Thus every citizen had in effect two separate existences, one that centred on the home and family (*oikia*), and the other the public life, the *bios politicos*.⁶⁸

Claims that Arendt had an overly utopian view of Athenian life are unfair, she was fully aware of its shortcomings. It is rather the damaging nature of the false analogies, which she claimed began with Plato, concerning the similarity between the hierarchical nature of the private household and the public political life that concerned her. Her concern was that the more we accept the truth of such analogies the less likely we are to insist on public equality and autonomy.⁶⁹

Arendt's critique of modern society is thus based on the retreat, as she perceives it, into the isolation and darkness of household matters. Politics for Arendt takes place between equal individuals. It is only when people come together to communicate in the public realm that truth is possible, politics takes place in the light by men revealing themselves. It is through speech and action that one *reveals* who one *is*, in contrast to whom one appears to *be*, simply by existing in the world. It is through speech and action that 'men show who they are.' 'It is through the constitution of such a space of public freedom that human life gains a meaning

⁶⁷ Arendt, *The Human Condition*, p. 29.

⁶⁸ *Ibid.*, pp. 25-26.

⁶⁹ Arendt, Hannah, *Between Past and Future: Six Exercises in Political Thought*, (New York, Penguin, 1961), pp. 104-114.

beyond the contingency and fragility of its creaturely existence'.⁷⁰ These abilities that distinguish a being as human are the capacity for speech (*lexis*) and action (*praxis*), these most important qualities are essential for the *bios politicos*.⁷¹ As is often the case with Arendt, she uses these particular terms in a technical way. By 'speech', she does not of course mean the sounds that are made merely to ask for wants and desires, and what counts as 'action' is not anything that could be undertaken by performing robots. Rather it is through speech and action that 'men distinguish themselves instead of being merely distinct; they are modes in which human beings appear to each other, not indeed as physical objects, but *qua* men.'⁷²

It is in the nature of the political that Arendt's claims are so striking. Within her theory of action and her notion of the political there is inherent a "theory" of *political responsibility*. Firstly, unlike Weber, Arendt does not believe that *political responsibility* is confined to the political leader or even to political elites. As the political for Arendt exists only between people, then inherent within this claim is that individuals can, in specific circumstances, accept *political responsibility* and also have it attributed to them. This is to draw a firm distinction between the public and private world. The scope of *political responsibility* can only be within the public political realm. Arendt did not believe that it was possible or even desirable to lead an entirely political life. This is despite the criticisms that she had levelled at the Jewish community where an entire people shunned the political world and were lost. Like Weber, Arendt also does not conflate different types of responsibility, there is a very

⁷⁰ Wellmer, Albrecht, 'Arendt on Revolution', in Dana Villa (ed), *Hannah Arendt*, (Cambridge, Cambridge University Press, 2000), p. 226.

⁷¹ Arendt, *The Human Condition*, p. 25.

⁷² *Ibid.*, p. 176.

clear distinction in her thought between what she considers to be personal responsibility (private) and *political responsibility* (public).

When and why would people choose to leave the safety of the private world and enter onto the public stage? Arendt is acutely aware of 'the courage that is necessary for one to leave the private realm ("one's private hiding place") and step onto the political stage ("showing who one is, ...exposing one's self") To accept this public exposure, this nakedness, is to become a political actor – a man who...initiates, who creates as it were something new in the political world.'⁷³ This instigation of political action draws to the political actor risk, and also the ascription of, and demands for, the acceptance of *political responsibility*.

It is possible to identify a second tenet of *political responsibility* that arises from her theory of action; that *political responsibility* involves making choices. There are times when choices are made by the private individual which cause him to leave the private world, to locate him firmly in the public realm and hence subject to some form of *political responsibility* even though that individual may well deny that this is the case. In both *Eichmann in Jerusalem*⁷⁴ and 'Personal Responsibility under Dictatorship', Arendt makes her view clear that no matter what governments decide, decisions, i.e. choices about behaviour, are always ultimately to be laid at the door of the individual. 'The non-participants in the public life under a dictatorship are those who have refused to support it by shunning those places of 'responsibility' where such support, under the name of

⁷³ Smith, Roger W., 'Redemption and Politics', *Political Science Quarterly*, Vol.86, No.2, 1971, p. 230.

⁷⁴ Arendt, Hannah, *Eichmann in Jerusalem: A Report on the Banality of Evil*, (New York, Viking Press, 1961). This is the report of the trial of Adolf Eichmann for crimes against humanity which he had allegedly perpetrated as a bureaucrat in the Nazi regime. Eichmann was responsible for organising the transportation of millions of Jews to their deaths in concentration camps.

obedience, is required.’⁷⁵ She challenges the claims made by Eichmann at his trial, that he could not be held responsible for his actions because he was simply a “cog in a wheel” (and therefore interchangeable with every other bureaucrat). Arendt would not countenance such claims for uniformity, that it is indeed possible to be interchangeable. ‘This sameness is far from being uniformity; just as men and women can be the same, namely human, only by being absolutely different from each other.’⁷⁶ So the sameness in men is only in their uniqueness. To the “cog in the wheel” argument Arendt countered with ‘For to answer “Not I but the system did it in which I was a wheel”, the court immediately raises the question: “And why did you become a cog or continue to be a wheel in such circumstances?”’⁷⁷

Arendt insisted that no matter how difficult the circumstances some action was always possible, but this would of course require that individuals make choices. Criticising just such claims that she made in *Eichmann in Jerusalem* concerning the behaviour of the Jewish Councils, *Judenräte*, her critics accused her of being unrealistic, that she was simply demanding that the Jews should have become martyrs or heroes. Arendt admitted that by the time the Final Solution began it was much too late for any concentrated action against the regime. Some action was, however, still possible. Even in situations that appear hopeless individuals can act; they can do something. There are choices to be made. Arendt was critical of claims that members of the *Judenräte* were simply continuing to give their support to members of their community that they had been providing right from the start, ‘as though there were no difference between helping the Jews to emigrate and helping the Nazis to

⁷⁵ Arendt, Hannah, ‘Personal Responsibility Under Dictatorship’, *The Listener*, 6th August 1964, p. 205.

⁷⁶ Arendt, *Men in Dark times*, p. 89.

⁷⁷ Arendt, ‘Personal Responsibility Under Dictatorship’, p. 186.

deport them.’⁷⁸ It was, therefore, impossible in Arendt’s terms to deny being politically responsible.⁷⁹

The first two tenets of the “theory” of *political responsibility*, that is “*political responsibility* is the concern of everyone” and “*political responsibility* involves choices”, are clearly discernible from her discussions of the possibility of, and the positive nature of, action. Her example of Eichmann and his choice to be, and remain, a “cog in the wheel” despite the appalling consequences of his actions is very significant because it means that the bureaucrat is not automatically immune from *political responsibility*, because every individual always has choices. It is evident from Arendt’s attempt to understand and explain the tragedy that had occurred in Europe (and here we include the Eichmann trial report) that the narratives which formed the basis of the histories of these tragedies have long ago deviated from the truth. Similarly, the sense of injustice emanating from these tragic times still engendered enormous hostility towards Arendt the truth seeker. The denial of truth and justice troubled Arendt deeply as without both the whole premise of the potential for political action is lost.

⁷⁸ Arendt *Eichmann in Jerusalem*, (Second Edition, 1965), p. 284.

⁷⁹ Jonathan Glover describes an incident in which Henriette, the wife of Gauleiter von Schirach, saw Jews being rounded up one night in Amsterdam. She was “distressed” by the terrible screams of the women. ‘She made representation about this to Hitler and everyone found the episode “very embarrassing”.’ (Glover, *Humanity*, (London, Jonathan Cape, 1999), p. 354.) Had the *Judenräte* refused to co-operate and had not, for example given lists, and employed Jewish policemen to quietly round up victims for the scheduled transport, many more members of the non-Jewish population may have been similarly “distressed” by such sights and similarly made representation. This is the crux of Arendt’s criticisms of the *Judenräte*. Rather than, in her terms doing nothing, that is, in this instance, meekly complying with the regime, they could and should have made a decision not to participate. ‘There certainly was a moment when the Jewish leaders could have said: We shall no longer co-operate, we shall try to disappear. This moment might have come when they, already informed of what deportation meant, were asked to prepare lists for the Nazis for deportation.’ (Seyla Benhabib, ‘Arendt’s Eichmann in Jerusalem’, in Dana Villa, (ed.), *Hannah Arendt*, (Cambridge, Cambridge University Press, 2000), p. 70. Arendt quotes the calculation made by other observers that at least 40-50% of those who had escaped the *Judenräte* and gone underground had survived. (Arendt, *Eichmann in Jerusalem* (Second Edition, 1965), p. 125. Arendt stated bluntly, ‘The whole truth was that if the Jewish people had been unorganised and leaderless, there would have been chaos and plenty of misery but the total number of victims would hardly have been between four and a half and six million people.’ (Arendt, *Eichmann in Jerusalem*, p. 111.)

A second circumstance that arises to draw people out of the private into the public realm, is described by Arendt as when ‘things fall apart’ and men are ‘drawn out of hiding’. *Political responsibility* is then forced upon them – though such events are indeed ‘rare moments’. Bound up with such ‘rare moments’ are the abilities to both think and judge, which are closely bound to the sphere of action, and are, therefore, facilities to which Arendt paid much attention. In ‘Thinking and Moral Consideration’, using Socrates as her model, Arendt claimed that judging is the prerogative of everyone and emphasised its importance at times of great danger. She claimed that thinking involves examining and challenging accepted views, ‘thinking liberates the faculty of judgement...the most political of men’s mental abilities.’⁸⁰ This thinking and judging is ‘not the prerogative of the few but an ever-present faculty of everybody’. In her *a laudatio* to Karl Jaspers, Arendt comments on the uniqueness of Jaspers insight that both philosophy and politics concern everyone, they both ‘belong in the human realm where the human person and his ability to prove himself are what count.’⁸¹ She notes wryly that Jaspers was aware that the political along with the responsibilities which that entailed was too important to be left to politicians.⁸² The crucial importance of this mechanism becomes clear in what Arendt calls:

...those rare moments in history when “Things fall apart; the centre cannot hold;/Mere anarchy is loosed upon the world,” when “The best lack all conviction, while the worst/Are full of passionate intensity.” At these moments, thinking ceases to be a marginal affair in political matters. When everybody is swept away unthinkingly by

⁸⁰ Arendt, Hannah, ‘Thinking and Moral Considerations: A Lecture’, *Social Research*, Vol.38, No.3, 1971, p. 445.

⁸¹ Arendt, *Men in Dark Times*, p. 74

⁸² *Ibid.*, pp. 74-75.

what everybody else does and believes in, those who think are drawn out of hiding because their refusal to join is conspicuous and therefore becomes a kind of action.⁸³

Arendt described two exceptional circumstances when men are drawn from the private into the public realm, but by far the greater experience is when men choose to leave the private realm and enter the political stage in order to make choices for themselves and others. This is the most important circumstance, for these choices are what the stateless are denied, the possibility of a place in the world 'which makes opinions effective and actions significant.'⁸⁴ The negative effects of action became plain to Arendt when she examined modern society. Her critique of modernity was based on the imperative, intrinsic within modern society, to make everything possible. She was not blind to the dangers inherent within action and was all too well aware of the irreversibility and the unpredictability of action once set in motion. 'The limitations of the law are never entirely reliable safeguards against action from within the body politic, just as the boundaries of the territory are never entirely reliable safeguards against action from without. The boundlessness of action is only the other side of its tremendous capacity for establishing relationships.' The problem with action in the contingent world is that the 'various limitations and boundaries we find in every body politic' are unable to offset 'its inherent unpredictability'.⁸⁵

Despite her concern with the boundlessness and unpredictability of action, nevertheless, Arendt is 'pre-eminently the theorist of beginnings.'⁸⁶ 'With the creation of man, the

⁸³ Arendt, 'Thinking and Moral Considerations: A Lecture', p. 445.

⁸⁴ Arendt, *The Origins of Totalitarianism*, p. 296.

⁸⁵ Arendt, *The Human Condition*, p. 191.

⁸⁶ *Ibid.*, p. vii.

principle of beginning came into the world.’⁸⁷ Although Arendt’s theory of action is based on this endless possibility of new beginnings, she is also aware of the inherent contingency of such new beginnings. Action is a double-edged sword. Thus, there are two separate but interconnected sets of claims concerning action. Firstly, her negative view expressing the inherent dangers in ‘action into nature’: ‘Promethean powers – releasing processes with unfathomable consequences – are being exercised in a society of beings too absorbed in consumption to take any responsibility for the human world or to understand their political capacities.’⁸⁸ Secondly, there is her positive view of action developed from her examination of the problems she attributed to the lack of action by Jewish communities in Europe. So, although Arendt has this positive view of action she is aware that there is always a risk in beginning something new. ‘It is the nature of beginning that something new is started which cannot be expected....This character of startling unexpectedness is inherent in all beginnings and in all origins.’⁸⁹ The problem with new beginnings, as Arendt so graphically illustrates, is that their outcomes are always unpredictable and uncertain. Thus, completely cognisant of the contingency and complexity of the world, Arendt was fully aware that once chains of action are set in motion their outcomes are always unpredictable and irreversible. Arendt claimed that the only way to break these chains was through forgiving and promising. This is because the political actor inevitably incurs guilt and needs to be relieved of it. ‘Paradoxically, the man who creates a new beginning for others must himself, through the process of redemption, be allowed a new beginning.’⁹⁰

⁸⁷ Arendt, *The Human Condition*, p.177.

⁸⁸ *Ibid.*, p. xv.

⁸⁹ *Ibid.*, pp. 177-178.

⁹⁰ Smith, ‘Redemption and Politics’, p. 230.

Just as her “theory” of *political responsibility* acknowledges that new beginnings are not possible without the acceptance of *political responsibility* and new beginnings are not possible without forgiveness and redemption, then the act of promising also has within it the acceptance of *political responsibility*. Arendt recognised that if the facility did not exist to release individuals from the consequences of their actions then we would be ‘confined to one single deed from which we could never recover; we would remain the victims of its consequences forever...’⁹¹ Plurality is essential for forgiving and promising to take place, forgiving and promising are only possible between people. Arendt understands fully the implications of accepting *political responsibility*, for without the possibility of redemption the leader is ‘condemned to wander helplessly and without direction in the darkness of [his] lonely heart.’⁹² It is for this reason that she introduces the notion of forgiveness into her theory of action. The unpredictability of action is at least ‘partially dispelled’ by ‘the twofold nature’ of promising:

...it arises simultaneously out of the “darkness of the human heart,” that is, the basic unreliability of men who can never guarantee today who they will be tomorrow, and out of the impossibility of foretelling the consequences of an act within a community of equals where everybody has the same capacity to act.⁹³

Thus, through forgiving and promising there is the possibility of redemption and for new beginnings. The contingency that confronts those who enter the political realm is ameliorated by the possibility of forgiveness and new beginnings, but there can be no guarantee of this without the full acceptance of all the premises of *political responsibility*. Even then, there will be cases like Eichmann, when the possibility of forgiveness even with

⁹¹ Arendt, *The Human Condition*, p. 237.

⁹² Ibid.

⁹³ Ibid., p. 244.

the acceptance of all the criteria we have outlined for *political responsibility*, will not be appropriate. Despite this caveat it is in marked contrast to the shadow of the gallows that is all that is offered by Weber. Arendt provides us with an alternative to Weber's tragic vision of *political responsibility*, but the very emphasis on new beginnings as well as 'those rare moments' still have traces of the tragic in them. Even so, Arendt gives us through forgiving and promising the means for a less heroic/tragic understanding of *political responsibility*. Arendt understands that there is a psychological impediment to the acceptance of *political responsibility* by political actors, that is fear of the consequences associated with the acceptance of *political responsibility*. To ameliorate this, she incorporates into her theory of action, forgiveness and promising. By this mechanism she demonstrates that she recognises that without the possibility of redemption all that remains is the risk of draconian sanctions. In the absence of mechanisms for redemption, the response of individuals is overwhelmingly to resist stridently having *political responsibility* ascribed to them, and to refuse resolutely to accept *political responsibility*. In Arendtian terms the significance of the tendency to evade *political responsibility* is that new beginnings cannot be embarked upon. As with Weber, Arendt's recognition of contingency and the importance of truth and justice require further investigation.

The third thinker to be considered is Jürgen Habermas. Whilst it was the tragedy that had occurred in Europe that had motivated Arendt to reassess the nature of the political and *political responsibility*, Habermas was provoked into a debate about *political responsibility* by the publication in 1953 by Heidegger of the *Introduction to Metaphysics*. Habermas, a great admirer of Heidegger's philosophical writings, was 'shocked' at the tone of these lectures, written in 1935. He was 'shocked' not only by the content which was 'fascist right

down to their stylistic details...especially the sentence about the “inner truth and greatness of the Nazi movement”, but also that Heidegger had allowed them to be published in 1953, ‘without explanation or comment’.⁹⁴ Thus, one of Habermas’ earliest published essays addressed the refusal by Heidegger, as a prominent intellectual, to accept that he had either personal or *political responsibility* for his political actions and the choices that he had made,⁹⁵ ‘...the Nazi philosopher’s denial of moral-political responsibility for the consequences of mass criminality.’⁹⁶

It is evident that the acceptance of *political responsibility* was a guiding principle in Habermas’ early thought and a direct reflection of his development of the notion of the political. We can see that even from this early stage in his career that Habermas has concerns about the acceptance of *political responsibility* for the political regime that had not only been countenanced by German citizens but had also been allowed to grow and flourish. This was the case not only for the direct perpetrators of the dreadful crimes committed by the regime, but also the responsibility, in his view, of an entire nation who were tainted even by their indirect association with such criminals. ‘We made Karl Jaspers’ distinction between collective guilt and collective liability our own and took very seriously the responsibility for the consequences of a regime that had been supported by the mass of the population.’⁹⁷

Thus, Habermas begins from the point that ‘Insofar as we share a life-context and a history

⁹⁴ Habermas, Jürgen ‘Work and Weltanschauung: The Heidegger Controversy from a German Perspective’, in *The New Conservatism: Cultural Criticism and the Historians’ Debate*, (Cambridge, Mass., The MIT Press, 1989), p. 161.

⁹⁵ Ibid., pp. 160-161. ‘Habermas addressed this pertinent question to Heidegger:- Can even the planned mass murder of millions of people, about which all of us know today, be made understandable in terms of the history of Being, as a fateful error? Is it not the factual crime of those who were responsible for carrying it out – and the bad conscience of an entire people?’ (‘Zur Veröffentlichung von Vorlesungen aus dem Jahre 1935’ in the *Frankfurter Allgemeine Zeitung*, 25 June 1953)

⁹⁶ Habermas, Jürgen, ‘Public Space and Political Public Sphere – the biographical roots of two motifs in my thought’, (Commemorative Lecture, Kyoto, 11 Nov. 2004), p. 8.

⁹⁷ Ibid., pp. 6-7.

with others, we have the right to call one another to account.' Only by holding one another to account can justice be secured and only in this way would true discourse be possible. This emphasis on discourse is clearly articulated in his 1965 inaugural lecture: 'What raises us out of nature is the only thing whose nature we can know, language. Through its structure, autonomy and responsibility are posited for us. Our first sentence expresses unequivocally the intention of universal and unconstrained consensus.'⁹⁸

How to be able to hold one another to account for our actions and the processes by which this could be realised, encapsulates both the problems and perceived solutions that have been the focus of Habermas' writings for the last 40 years. This has led him to consider the position of the citizen in relation to government and law, and also the means by which citizens communicate with each other. This has involved him in discussions of political action and the choices and risks that are involved with this action, forming eventually the context to his theory of communicative action. His developed notion of the political starkly illustrates exactly who and why political actors have *political responsibility*. He concluded that *political responsibility* was the province of everyone and that it was individual and not collective. This *political responsibility* was predicated on citizens having both individual rights and the right to political participation and thus becoming both the authors and addressees of law. The key to authentic political participation is his theory of communicative action.

Habermas is acutely aware that political action of necessity involves making choices and that these choices inevitably involve risk. Habermas' response to choice and risk contrasts

⁹⁸ Habermas, Jürgen, *Knowledge and Human Interests*, p. 314. Quoted in Pusey Michael, *Jürgen Habermas*, (Chichester, Ellis Horwood Ltd., 1987), p. 69.

sharply with that of Weber. Weber adopted a teleological model of action, and like others was concerned about the complex nature of modern society with its reliance on rationalisation for its legitimacy. Modern society, dominated and controlled as it is by the growth and expansion of bureaucracy, caused Weber to privilege instrumental and strategic action. The contingency of the world and the risks involved in starting something new results in strategic action having the ability to invoke risks for those who have had no involvement in the decision-making process. As we have already discovered, the decisions which only the charismatic leader can make may involve us in substantial risk without any discourse or our acquiescence or even our ability to hold him to account or to assign to him *political responsibility*. Habermas approaches the problem of contingency differently. The problem with Weber's teleological model and strategic action is that it 'provides only for actors who are oriented to their own success and not in reaching agreement.'⁹⁹ The contingency of the world dictates that of necessity strategic action always carries risk. Habermas, however, specifies that faced with 'risky decisions of strategic action' only those 'who know what the risks they are willing to undergo' can decide whether to embark on the action.

The sole possible justification [for strategic action] at this level is consensus, aimed at in practical discourse, among the participants, who, in the consciousness of their common interests and their knowledge of the circumstances, of the predictable consequences and secondary consequences, are the only ones who can know what risks they are willing to undergo, and with what expectations.¹⁰⁰

⁹⁹ Habermas, Jürgen, 'Hannah Arendt's Communications Concept of Power', *Social Research*, Vol.44, 1977, p. 4.

¹⁰⁰ Habermas, Jürgen, *Theory and Practice*, (London, Heineman, 1974), p. 33.

The corollary of this is that the participants who are unaware of the consequences, either primary or secondary, of the risks that will be involved in strategic action, are unable to make authentic choices about embarking on that action. This in turn means that it is impossible to assign to them *political responsibility* for the outcomes of that action. In order to be able to hold one another to account, and, therefore, politically responsible, Habermas developed a theory of political action based on his notion of the nature of the political. Thus, Habermas also has a theory of action but he divides action into two distinct types, strategic and communicative.

Although Habermas was starting from a different position than either Weber or Arendt, he also saw an explicit link between *political responsibility* and the nature of the political. Habermas' project was to restore political participation through communicative action. His first task, therefore, was to reclaim the political. Habermas was critical that 'since the end of the eighteenth century, the newly emerging social sciences and the disciplines of jurisprudence have drawn off the waters of classical politics.'¹⁰¹ He acknowledged his indebtedness to Arendt for her re-evaluation of the role of the ancient Greeks and the life of the *polis*. This re-evaluation had succeeded in both reclaiming the role of the constitution and the re-amalgamation of theory and practice. For Habermas, it was essential to reclaim the role of the constitution from its normally perceived role of securing the climate for economic activity to that of providing social justice. 'If we read our constitution...as texts about receiving social justice, then the idea of citizens prescribing laws for themselves – according to which those subject to the law should regard themselves as the ones who make the law – takes on a political dimension: that of a society which deliberately acts upon

¹⁰¹ Habermas, *Theory and Practice*, p. 41.

itself.’¹⁰² The separation of theory and practice is the problem that has a direct bearing on *political responsibility*. Relying heavily on Arendt’s work, Habermas charts the change in the *perception* of the political from the ancients to the present day and thus, is able to offer an explanation of how it was possible for the dislocation between theory and practice to have occurred.

Theory and practice are embodied within the role of the citizen, through consultation (communicative action) and the enactment of goals through administration, legislation and justice (strategic action). Thus, the citizens of the *polis* were the source of all power, and through their law-making they embodied both the role of *lawgiver* and *addressee*. There was no doubt about what it was they were responsible for, and that this dialogue of responsibility took place in the full glare of the public gaze. Thus, *political responsibility* was not perceived as a problem for the ancient Greeks, because in the minds of the ancients the separation of theory and practice was incoherent. In this view, therefore, it is impossible to separate their decision-making from their *political responsibility*; the citizen cannot resign his judgement and his responsibility. ‘Public autonomy of citizens has priority over the pre-political liberties of private persons,’¹⁰³ and it is in the realm of this public life that *political responsibility* occurs. *Political responsibility* is, therefore, an axiom of political participation and public autonomy. It would have been impossible for citizens of the *polis* to alienate themselves from the outcomes of their political actions. Thus, political and responsibility are synonymous, to be a political animal was at the same time to be a politically-responsible animal. This public life has, however, to be clearly separated from the citizen’s private

¹⁰² Habermas, Jürgen, ‘Crossing Globalisation’s Valley of Tears’, *New Perspectives Quarterly*, Vol.17, No.4, 2000, p. 51.

¹⁰³ Habermas, Jürgen, ‘On the Internal Relation between the Rule of Law and Democracy’, *European Journal of Philosophy*, Vol.3, No.1, 1995, p. 16.

existence. In fact it is only in *one* of these two existences, namely the public sphere, in which *political responsibility* can occur. In the Athenian state, therefore, we have a clear notion of the political; it is the ability of all citizens who are all equally qualified to meet, discuss and ultimately make decisions on matters of common concern in public. Since the citizens were the law-makers, any attempt to deny their *political responsibility* for their actions would have been incoherent. Further, any citizen holding office was also required to give an account to his fellow citizens, in full and in public, for all the actions that he had carried out on behalf of the rest of the citizenry. The Athenian citizen¹⁰⁴ was, therefore, politically responsible for his actions and for the risks that those actions invoked.

Continuing the work of Arendt, Habermas charts the change in perception from Man as a *zoon politikon* to the claim by St. Thomas, that Man is instead *homo naturaliter est animal sociale*.¹⁰⁵ In St. Thomas's attempt to restore the political life from its largely negative role as recounted by St. Augustine, Habermas claims that the freedom of the citizen assured through public participation is sacrificed by Thomas for 'tranquillity and peace....The central question of the old Politics, concerning the *quality* of governance, has been dropped.'¹⁰⁶ With this change in emphasis to peace and the social, rather than the political nature of man, also came the rehabilitation of labour in the *ordo civitas*. The outcome of this change, according to Habermas, can be seen in the work of Hobbes. Man was no longer characterised as a communicative, political animal. Instead Hobbes, puts into the hand of the sovereign the exercise of all power, as the only infallible means to remedy 'the war of all

¹⁰⁴ Of course, "citizens" in this sense does not mean everyone. We know that Athenian society was segregated by both sex and status, it was delineated between men and women and those who were free and those who were enslaved. As well as all women and slaves, *metics* - non-Athenian Greeks and other free aliens were also excluded from citizenship.

¹⁰⁵ Habermas, *Theory and Practice*, p. 48.

¹⁰⁶ Ibid.

against all'. Locke, rejecting the authoritarianism of Hobbes, 'postulated the priority of human rights'.¹⁰⁷ Habermas cites this change to explain that it had eventually led to the valuing of individual rights more than the rights of democratic citizens to political participation.

The legitimacy of political action is, therefore, predicated on political participation. The legacy of strategic action leads Habermas to claim that for Weber 'the constitutional state does not ...draw its legitimation from the democratic form of the political will-formation of citizens. Rather, legitimation is premised solely on the aspects of the legal medium through which political power is exercised.'¹⁰⁸ Habermas contrasts Weber's claims unfavourably with the Arendtian view that 'in contrast to Weber, who sees the fundamental phenomenon of power as the probability that in a social relationship one can assert one's own will against the opposition, Arendt views power as the potential of a *common will* formed in non-coercive communication.'¹⁰⁹ For Arendt legitimacy is predicated on the 'power [that] springs up between men when they act together, and it vanishes the moment they disperse.' Thornhill argues that Habermas outlines a consensual theory of legitimacy, according to which genuinely legitimate government is secured only when private needs are mediated through the discursive channels of the public sphere, and in which public opinion plays a regulatory role in the legislature'.¹¹⁰

The prescription that Habermas delivers concerning the nature of the political is designed to reconcile strategic and communicative action, public and private autonomy, as a way to

¹⁰⁷ Habermas, *Theory and Practice*, pp. 92-94.

¹⁰⁸ Habermas, Jürgen, *Between Facts and Norms*, (Cambridge, Mass., MIT Press, 1996), p. 73.

¹⁰⁹ *Ibid.*, p. 147.

¹¹⁰ Thornhill, Chris, *Political Theory in Modern Germany*, (Cambridge, Polity Press, 2000), pp. 133-134.

establish the legitimacy of law and hence both the ascription and acceptance of *political responsibility*. Habermas claims that ‘if the sources of justice from which the law itself draws its legitimacy are not to run dry, then a jurisgenerative communicative power must underlie the administrative power of the government.’¹¹¹ Thus he describes the incorporation of both strategic and communicative action. This is to be achieved by ensuring that the *addressees* and *lawgivers* are one and the same and hence can be politically responsible.

The problem with modern western democratic governments is that the state legitimises itself ‘on the basis of its ability to reach into the private sphere to settle conflicts, not because it represents a public consensus’. The bureaucratisation described by Weber severs the political link between state and society.¹¹² This becomes a serious problem when citizens perceive that they have no institutional links to the centres of power. ‘Citizens, noting the irrelevance of parliaments to decision-making ..form extra-parliamentary citizen initiative groups to confront’ the decision-makers directly.¹¹³ The citizens know that they are being excluded from political participation.

The idea that the addressees of the law must also be able to understand themselves as its authors does not, [however], give the united citizens of a democratic polity a voluntaristic, carte blanche permission to make whatever decisions they like. The legal guarantee to behave as one pleases within the bounds of the law is the core of private, not public autonomy. Rather on the basis of this freedom of choice, citizens are accorded autonomy in the sense of a reasonable will-formation, even if this autonomy

¹¹¹ Habermas, *Between Facts and Norms*, p. 147.

¹¹² Hager, Carol, ‘Citizen Movements and Technological Policymaking in Germany’, *The Annals of the American Academy*, No. 528, July 1993, p. 44.

¹¹³ Ibid.

can only be enjoined and not legally required of them. They should bind their wills to just those laws they give themselves after achieving a common will through discourse.¹¹⁴

A discussion of Habermas' qualified defence of 'civil disobedience' as a last resort in the absence of discourse will illustrate how he thought that 'extra-parliamentary citizen initiative groups [formed] to confront' the decision makers directly, could reclaim the political legitimacy of the addressees as lawmakers.

In the albeit different if still tense, climate of the mid-1980s Habermas sought to defend the idea of 'civil disobedience'. A brief examination of his writing reveals that he considers it to be both 'the guardian of legitimacy' in democratic societies and also a response to inadequacies in deliberative democratic procedures. Habermas defines civil disobedience as 'a non-violent, symbolic and illegal form of protest, undertaken with the intention of appealing to the formal institutions of the state on the one hand and the sense of justice of the wider political community on the other.'¹¹⁵ He does this against approaches that insisted that 'law is law' with all the vigour of what he presented as a legal positivism discredited by its complicity in the Third Reich.¹¹⁶ 'Caught between legal positivism and power fetishism, many of our jurists are so fixated on the State's monopoly of legitimate violence that they put the conceptual and institutional division between Right and Violence in the wrong place.'¹¹⁷ Habermas insists that 'the modern constitutional state can only expect of its

¹¹⁴ Habermas, Jürgen, 'Constitutional Democracy, A Paradoxical Union of Contradictory Principles?', *Political Theory*, Vol.29, No.6, December 2001, p. 767.

¹¹⁵ Smith, William, 'Civil Disobedience and Social Power: Reflections on Habermas', *Contemporary Political Theory*, Vol.7, 2008, p. 75.

¹¹⁶ Habermas, Jürgen 'Zivil Ungehorsam – Testfall für den demokratischen Rechtsstaat', [1983] in Habermas, *Die neue Unübersichtlichkeit*, (Frankfurt, Suhrkamp, 1985), p. 97.

¹¹⁷ Habermas, Jürgen and Calhoun, Martha, 'Right and Violence: A German Trauma', *Cultural Critique*, No. 1, Autumn 1985, p. 126.

citizens obedience to the laws if and in so far as it rests on principles worthy of recognition, in light of which that which is legal can be justified as legitimate – and, if necessary, can be rejected as illegitimate.’¹¹⁸

All attention falls on defending non-violent civil disobedience as the last vestige of extra-parliamentary legitimate opposition within constitutional democracy. Under the “shadow” of the big chill, with one’s “back to the wall,” when “even non-violent civil disobedience is illegal,” Habermas’ robust response to this one-sidedness understandably becomes one-sided. He defends both the unforced force of the better argument and the “unconventional means of influencing the formation of political will.”¹¹⁹

For Habermas, as for other political theorists, civil disobedience raises moral dilemmas because of its illegality.¹²⁰ He insists, however, that civil disobedience has to remain in a state of suspense between legality and legitimacy. More precisely he argued that civil disobedience has to be a ‘morally *based* protest’. Personal interest or privately-held convictions do not suffice. Second, it has to be a ‘*public act*’ which is normally announced in advance in order to allow the authorities to take appropriate action. ‘Therefore, civilly disobedient citizens at least have some kind of obligation to publicly explain their illegal actions to other members of the democratic community. They are, as it were, subject to the demanding requirements of *communicative freedom*, in that through the give and take of reasons in the public sphere they must be prepared to *justify* their resort to civil disobedience.’¹²¹ Third, it should involve only the ‘*provisional violation*’ of specific laws and should not challenge the legal order as a whole. ‘The legal procedure as a whole must

¹¹⁸ Habermas and Calhoun, ‘Right and Violence: A German Trauma’, p. 126.

¹¹⁹ Matušík, Martin Beck, *Jürgen Habermas*, (Maryland, Rowman & Littlefield, 2001), p. 112.

¹²⁰ Smith, ‘Civil Disobedience and Social Power: Reflections on Habermas’, p. 76.

¹²¹ Ibid.

remain intact; what Johan Galtung calls "functional" resistance is not justified.'¹²² Fourth, those engaged in civil disobedience should be prepared to bear the legal consequences that follow from their acts 'the disobedient must accept responsibility for the consequences of his actions.'¹²³ Indeed, Habermas presented this element of risk as some kind of surety for the moral basis of the disobedience. Those who wish to instigate civil disobedience 'must have acquired the sensibility, judgement, and readiness to take risks necessary to recognise continuing legal infractions of legitimacy'. He is adamant that civil disobedience 'is not a blank check for politically motivated disobedience of the law.'¹²⁴ Finally, disobedience must be of a purely '*symbolic character*', that is, it must not involve any form of violence.¹²⁵

We have a choice of course, and normally we do not have to do anything as challenging as this. We can choose to remain within the private world and decline to take up the responsibility that is involved in *political responsibility*, even where it involves us in no violation of the law at all.

These dimensions of communicative freedom must be institutionalised through a constitutional system of rights that incorporates both the 'liberties of the ancients', political rights guaranteeing free and equal participation in democratic law-making, and the 'liberties of the moderns,' private rights guaranteeing a sphere of personal freedom to pursue individual life-plans. These rights, then, allow for our exercise of

¹²² Habermas and Calhoun, 'Right and Violence: A German Trauma', p. 137. (in Vierteljahresschrift für Sicherheit und Frieden [Heft 1, 1983])

¹²³ Habermas and Calhoun, 'Right and Violence: A German Trauma', p. 137.

¹²⁴ Ibid., p. 136.

¹²⁵ Habermas, 'Zivil Ungehorsam – Testfall für den demokratischen Rechtsstaat', [1985] in Habermas, *Die neue Unübersichtlichkeit* pp. 83-84, and p. 90.

communicative freedom on the one hand and our retreat from communicative freedom
on the other.¹²⁶

Habermas' claim that it is only in the political public sphere that citizens can be normatively held together explains why his later work is motivated by the idea that the kind of consensus embodied in the life-world can only be challenged at the expense of a risk. Habermas is concerned that when consensus and truth have gone from political discourse they are incredibly difficult to restore.

What troubles Habermas is that there is no guarantee that having challenged/disrupted one consensus we will be able to re-establish a new one. This can happen not just in those 'rare moments', identified by Arendt, but when communicative freedom is violated, however, these circumstances may not be sufficient to 'draw us all out of hiding.' This is the major danger of embarking upon the 'new beginnings' privileged in Arendt's work. These risks led Arendt to also reject strategic action in favour of communicative action, 'to the human ability not just to act but to act in concert.'¹²⁷ Arendt favours action in concert because she is so aware that new beginnings always involve risk. Arendt takes into account that political actors make decisions for others, exposing these others to the risks incurred by these decisions. The contingency of the world means that when political actions are instigated there is never any guarantee or certainty concerning their outcome. She offers forgiving and redemption as a way of mitigating against this contingency and uncertainty, and avers that new beginnings and the acceptance and/or ascription of *political responsibility* are not possible without forgiveness and redemption. Arendt states that 'forgiving is the only reaction which does not merely react but acts anew and unexpectedly, unconditioned by the

¹²⁶ Habermas and Calhoun, 'Right and Violence: A German Trauma', p. 136.

¹²⁷ Arendt, Hannah, *On Violence*, (New York, Harcourt, Brace & World, 1970), p. 44.



act that provoked it and therefore, freeing from its consequences both the one who forgives and the one who is forgiven.’¹²⁸

This statement by Arendt finds no parallel in either Weber’s or Habermas’ writing. Rather than Arendt’s forgiving and redemption, Habermas proposes a process routed in development of his theory of communicative action wherein practical discourse is understood as the process towards consensus in decision making. Hence, rather than relying on forgiveness and redemption for each party at risk, he assumes that his formula arising through practical discourse will ensure that it ‘can be understood in the long run as a self-correcting learning process’.¹²⁹ New beginnings expose us to the risk that a consensus cannot be newly established. Decisions and actions are taken that do not take into any account the opinions of all effected parties: ‘less powerful citizens cannot submit arguments in the public sphere in the hope of receiving a response from others.’¹³⁰ Rather than the retrospective forgiving and redemption advocated by Arendt, Habermas’ solution is pre-emptive. His idea is that only if all affected can follow through the procedure outlined in the theory of communicative action, can we reach a legitimate, i.e. real, consensus.

Communicative action involves essential qualities of intelligibility, authenticity, truthfulness and moral appropriateness. Habermas, therefore, gives us a fuller version of what is involved in giving an account. The most infamous example in British politics of the lack of these qualities was the account of his conduct when he was accused of impropriety given by

¹²⁸ Arendt, *The Human Condition*, p. 241.

¹²⁹ Habermas, ‘Constitutional Democracy, A Paradoxical Union of Contradictory Principles?’, p. 774.

¹³⁰ Smith, ‘Civil Disobedience and Social Power: Reflections on Habermas’ p. 80.

John (Jack) Profumo to Parliament.¹³¹ Profumo lied, i.e. he violated the presumptions of truth (and authenticity) without which we cannot found/justify new beginnings, a new consensus, or even more prosaic decisions. Indeed, it was his *political responsibility* not just to abide by such presumptions, but where they appear wanting or damaged, to reassert them or to provide the institutional framework within which they could be re-established. That is, what defines the political sphere provides, in part the criteria for *political responsibility* within it, and it is the politician's duty to restore the challenged or disrupted consensus and establish a new one through authentic discourse. It should be noted that it is the continuation of inauthenticity during the Blair government (Blair's spin), that is so debilitating because of the difficulties of the restoration of consensus once "truth and consensus has gone". These essential qualities of communicative action, especially truthfulness, will be utilised in discussions in a later chapter.

Habermas emphasises that communication between individuals expands the 'inner life' of the person and expands the 'fragile network of relationships of reciprocal recognition. At the same time, she exposes herself to the risks of denied reciprocity. The morality of equal respect for all and for each one is intended to absorb such risks and is designed for the inclusion of the marginalised in the network of reciprocal recognition.'¹³² Habermas echoes

¹³¹ Profumo who was forced to resign after he confessed that he had lied in a personal statement made in the House of Commons on 22nd March 1963. Profumo who was then the Secretary of State for War in the Macmillan government, had a brief affair with Christine Keeler who earned her living as a "show-girl". Keeler was at the same time also having a relationship with the Soviet naval attaché Captain Eugene Ivanov. Although no evidence was ever produced that this had any real security implications it was Profumo's fear that the exposure of his sexual misdemeanour would force him out of office that induced him to try to evade disclosure and, therefore, to lie. Profumo claimed that there had been 'no impropriety whatsoever in my acquaintanceship with Miss Keeler'. 'He had lied to his colleagues, his wife and to the Law Officers of the Crown. He had lied on the floor of the House of Commons...He had taken legal action and recovered damages [through the courts] on the basis of those lies.' Irving, Clive, *Scandal '63*, p. 107. When it was discovered that this was a lie, Profumo had to resign. This was the end of what had been a glittering political career. Although Profumo and his wife then became involved with charity work even this failed ever, even to the end of his life, to lead to his rehabilitation.

¹³² Habermas 'Public Space and Political Public Sphere', pp. 5-6.

Arendt in her concern that property and wealth that normally ensure security within the state, have proved to be no substitute for the communicative network of relationships of reciprocal recognition. A stark example (other than that of the catastrophe of European Jewry) was the expulsion of the Asian community from Uganda. Without establishing a place for oneself in the world through discourse, the excluded, marginalised, risk having no place in the world at all.

This examination, albeit brief, of the juxtaposition of the thought of Weber, Arendt and Habermas has confirmed that their respective understandings of the nature of the political have circumscribed their respective understandings of *political responsibility*. Weber differentiates the public and private realm, although he is clear that the political resides solely in the public realm. However, he reduces the political to the struggle between political elites for authority, in order to effect events, to command and wield power over others. Political action is not the prerogative of the community, but something done on behalf of the community in which they have only marginal participation. So constrained is his notion of the political that political action and, therefore, *political responsibility* becomes only the prerogative of the charismatic leader and is thus dependent on his character. Despite the tenor of 'The Profession and Vocation of Politics' it is possible to believe that Weber recognised the impossibility of finding a 'theory of *political responsibility*' that did not depend entirely on the inherent "integrity" of his 'charismatic leader'.

Within Arendt's writing is embedded a strong "theory" of *political responsibility* that is circumscribed by her notion of the political. For Arendt, therefore, *political responsibility* is, in certain circumstances, the prerogative of every individual and involves choices, made in

the public realm by men revealing themselves. If we are to be allowed to take action to instigate new beginnings, and not be forever condemned by past actions, then there must also be the facilities of forgiving and promising. Habermas' notions of the nature of the political and *political responsibility* are co-dependent. For Habermas, like Arendt, *political responsibility* is also the prerogative of every individual, and is dependent on public discourse to involve consensual action. He bases this claim on the role that he assigns citizens as co-legislators who are therefore both the lawgivers and addressees of law.

What does this examination tell us about *political responsibility*? It establishes that the nature of the political and *political responsibility* are inextricably linked. Rather than any general or generic connotations, *political responsibility* is a completely separate discrete idea not to be confused with legal, moral, criminal or any other type of responsibility. This may confirm that *political responsibility* is indeed a concept. What has also been revealed, however, is that *political responsibility*, can only be attributed to political actors who have left (or have been forced to leave) the private world and are operating in the public realm. For Weber this is restricted to one person, whereas for Arendt and Habermas it can potentially be many. This provides the first of the normative values towards the construction the concept of *political responsibility*; that *political responsibility* can only be ascribed to those who are operating in the public political realm.

Each thinker has been concerned with issues of contingency and unpredictable consequences, that compound both the risks of action and the possibilities of *political responsibility*, therefore, the contingency of the world will be the subject of discussion in the next chapter. The discussion of the contingent world and the possibility of *political*

responsibility will reveal further important normative values. For unlike Weber, Arendt and Habermas privilege giving an account through public discourse as an essential component of *political responsibility*. Arendt and Habermas in particular have also emphasised the importance of truth in that account. They have also discussed the necessity to ameliorate the revealed problems of choice and risk in the contingent world in order to deal with the future through new beginnings as well as dealing with the past. Justice and truth are essential to this process.

Chapter Three

Contingency and Political Responsibility

The disagreements identified addressing cause and capacity demonstrated not only that these areas are contested but has illustrated the importance of contingency to this debate. Further, the problems revealed in the literature review associated with agency and the implications that this has for *political responsibility* ensures that this is an essential area for investigation. Commentators are not in any doubt that contingency is a real problem, especially to concepts of responsibility. Agreement on how or if this contingency can be addressed is a different matter, for in many cases it is claimed that the ascription of *political responsibility* relies on external factors, many of which are, in any real sense, beyond our control. This chapter will review some of the efforts that have been made to overcome the problems of contingency but also address some of the subsequent claims made concerning the impossibility of *political responsibility* in the contingent world. It will also examine the claims made by those who believe that despite the contingency of the world *political responsibility* is possible. The outcome of this discussion will be that notwithstanding the difficulties that contingency creates, *political responsibility* is a concept that is essential to the political process, and more specifically, to representative democracy. Despite our efforts we are, however, unable to discover a strategy that will offset the inherent unpredictability and irreversibility of the contingent world. Whilst acknowledging this contingency these discussions lead to speculation on strategies that might make the ascription and acceptance of *political responsibility* possible.

Recognising and attempting to understand the contingent nature of the world is not a modern phenomenon; even for the ancients it had never really been in any doubt. Homer, for example, in order to make seemingly unintelligible events intelligible to men, made the gods who were held responsible for such events, human, and thus intelligible. Nevertheless, even ascribing to the gods human characteristics thus making their actions and the world more predictable, did not prevent events happening ‘by chance, at random, for no particular reason’.¹ This contingency was categorised by Aristotle as ‘all matters that may be or may not be, that have happened but may not have happened, are by chance *kata symbēbekos* or accidental or contingent as distinguished from what necessarily is as it is, what *is* and cannot not be.’² As unpredictable as the natural world is, the most unpredictable animals that exist within it are human beings. As Arendt succinctly expresses it, ‘everything that appears to human eyes, everything that occurs to the human mind, everything that happens to mortals for better or worse is “contingent,” including their own existence.’³ Arendt quotes approvingly, Duns Scotus, a Franciscan friar, who in the thirteenth century pinpointed how this contingency occurs, “I do not mean something that is not necessary or which was not in existence, but something whose opposite could have occurred at the time that this actually did. That is why I do not say that something is contingent, but that something is caused contingently.” In other words, it is precisely the causative element in human affairs that condemns them to contingency and unpredictability.’⁴ Indeed for Arendt ‘for better or worse man is “the dwelling place of the contingent”’.⁵

¹ Irwin, Terence, *Classical Thought*, (Oxford, Oxford University Press, 1989), pp. 14-15.

² Arendt, Hannah, *The Life of the Mind*, Two: *Willing*, (San Diego, Harcourt Brace & Co., 1971), p. 14.

³ Arendt, Hannah, *The Life of the Mind*, One: *Thinking*, p. 60.

⁴ Arendt, *The Life of the Mind*, Two: *Willing*, p. 138.

⁵ Kohn, Jerome ‘Freedom: the priority of the political’, in *Companion to Hannah Arendt*, ed. Dana Villa (Cambridge, Cambridge University Press, 2000), p. 114.

When this contingency is associated with the political realm the causative element becomes particularly problematic. Arendt in *The Life of the Mind* charts some of the attempts that have been made to overcome it. Beginning with Plato, she describes how he manifests his disquiet in a search for “absolute truths” with pure knowledge, with things that are eternal and therefore unchangeable. In the *Republic*, Plato claims that it is only through the acquisition of knowledge that the answers to all problems is to be found, in the world of ideas, the Theory of Forms, and knowledge of the Form of the “Good” in particular. These Forms are not merely ideas ‘but objective realities displaying their character to perfection and eternally’.⁶ To achieve this Plato had to deliberately exclude ‘all matters concerning human affairs, because they were contingent; they could always be different from what they actually were.’⁷ Plato’s attempts to overcome the contingent nature of the world, however, relies completely on his entire vision, including irrefutable ideas of absolute truths and the authoritarianism that accompanied them in this vision. Arendt speculates on why the philosophical challenge of contingency ‘which was for classical philosophy the ultimate of meaningless... burst as a reality upon the early centuries of the common era’. She concludes that it may have been the Biblical doctrine that ‘pitted contingency against necessity’ or it may have been the ‘shattering political experiences of these early centuries’ that caused the ‘truism and plausibilities of ancient thinking’ to be open to doubt.⁸ The rejection of the certainties of the ancients meant that the only other escape available from this contingency was not an alternative to Plato’s political realm but the Christian idea of ‘divine Providence. There was now no pretence that there was any way to overcome contingency in this world,

⁶ Guthrie, W.K.C., *A History of Greek Philosophy*, Vol. V, (Cambridge, Cambridge University Press, 1962), p. 378.

⁷ Arendt, *The Life of the Mind*, One: *Thinking*, p. 139.

⁸ Arendt, *The Life of the Mind*, Two: *Willing*, pp. 31-32.

but instead the expectation of an after-life when what had seemed contingent and meaningless in this world would become crystal clear' in the next one.⁹

It is clear that not only is there no way of overcoming the contingency of the world, but also that there is little dissent when it comes to acknowledging that the modern world has become increasingly more uncertain and unpredictable. The implications, however, of this uncertainty and unpredictability on causation and human agency are matters on which there is little consensus. There are two distinct methods of dealing with the problems posed by contingency as it relates to *political responsibility*. The first are narratives that describe the nature of the political which are designed to overcome and/or mitigate against this contingency. Two of the three thinkers already discussed, Weber and Arendt, are good examples of this strategy. The second strategy is to deny that *political responsibility* is possible precisely because the world is so complex and contingent.

Although Weber recognises the contingent nature of the world, nevertheless, he builds *political responsibility* into his concept of political action. Despite his understanding of contingency and the importance he places on *political responsibility*, political action is of course about making choices. Weber, concerned that the emergence of the centralised bureaucratic state had undermined the role of politics, tends, therefore, to restrict political action, and hence *political responsibility*, to the charismatic leader.¹⁰ The charismatic leader is compelled, however, to make choices in a morally indeterminate world exacerbated by the complexities and contingencies of modern society. In an attempt to overcome these

⁹ Arendt, *The Life of the Mind*, Two: *Willing*, p. 27.

¹⁰ Weber is intensely critical of a bureaucracy that is merely dedicated to the expansion of a centralised economy and which had, therefore, essentially separated the political into two distinct unconnected areas, one the sphere of private interest and the other, the sphere of administrative operations.

problems Weber is inevitably led to set heroic standards for his charismatic leader that will almost never be met. This gives the impression that ‘Weber’s hero is alone in the world that seems to belong to Satan.’ Walzer sums up the problem in his analysis of Weber’s political leader when he describes him as a “tragic hero” even though his vocation is entirely his own choice. ‘The politician takes the sword himself, and only by doing so does he measure up to his vocation.’¹¹ ‘[The] mature, superbly trained, relentless, objective, responsible, and disciplined political leader [who] is also a suffering servant.’¹² Thus, for Weber *political responsibility* will only be possible for the charismatic political leader, and then only for the political leader who has a true vocation in politics. How unlikely that would be, Weber had explained so well in ‘Politics as a Vocation’.

Arendt, of course, also accepts regretfully the changed nature of human existence and that ‘human nature is itself contingent and fragile’.¹³ She reminds us that although we are causally responsible for every political event that occurs, it is the unpredictable nature of human beings that is problematic because we never really know definitively how people will act or react to any given situation. In *The Human Condition*, Arendt (echoing Heidegger), expresses the belief that the scientific developments that have occurred over a number of centuries have sucked human beings ‘into an accelerating process of production and consumption’ which have made the world appear even more contingent.¹⁴ She notes that unlike the ancient thinkers, for us there is no escape into the realms of absolutes, or even into the *vita contemplative* in which a world seemingly contingent and meaningless could be

¹¹ Walzer, Michael, ‘Political Action: The Problem of Dirty Hands’, *Philosophy and Public Affairs*, Vol. 2, No.2, 1973, p. 176.

¹² Ibid., p. 177.

¹³ Canovan, Margaret, ‘Arendt’s theory of totalitarianism: a reassessment’, *The Cambridge Companion to Hannah Arendt*, (ed.) Dana Villa, (Cambridge, Cambridge University Press, 2000), p. 34.

¹⁴ Arendt, Hannah, *The Human Condition*, (Chicago, University of Chicago Press, 1958), p. xiv.

explained by the ‘consoling thought of divine Providence.’¹⁵ It is in her analysis of totalitarianism that Arendt solidifies this disquiet. She deplores what she views as the increasing dominance of technology, and the increase of human penetration into, and exploitation of, nature. She believes that this reflects a marked shift in human thinking. This phenomenon demonstrates ‘modern man’s deep-rooted suspicion of everything he did not make himself.’ He now believes that ‘everything is possible’.¹⁶ The one thing that ‘totalitarianism and its antecedents’ have shown above all else is ‘that we can perversely *choose* to embrace necessity and make ourselves and others the slaves of supposedly necessary processes.’(my italics)¹⁷ In her lengthy and repeated discussions of the conduct of Adolf Eichmann, Arendt forcefully draws to our attention the dreadful outcomes that can result from such choices. She believed that Eichmann had chosen to abdicate his personal political responsibilities and that this choice had led him to participate in great evil. She categorically rejected the claims made by Eichmann that there had been no other course of action open to him - that in fact, he had been powerless to act differently. The willingness to be politically responsible is crucial in such “dark times” when people are drawn out of hiding. She came to the controversial conclusion (especially as it was seen to be a direct challenge to the behaviour of beleaguered European Jewry), that despite the contingent nature of the world, *political responsibility* is always possible, but regrettably not always either chosen, ascribed or accepted.

Many of those who claim that *political responsibility* is impossible (one exponent is Foucault) claim that, given the contingency of political action, it is not always possible to attribute responsibility to a particular agent for the effects of the power that is exercised by

¹⁵ Arendt, *The Life of the Mind*, Two: *Willing*, p. 27.

¹⁶ Canovan, ‘Arendt’s theory of totalitarianism: a reassessment’, p. 27.

¹⁷ *Ibid.*, p. 35.

that agent. Indeed, Arendt's claim that it is the people who inhabit this already contingent world who are themselves the 'dwelling place of the contingent', seems to lend support to those who claim that as the world *is* irredeemably contingent, it is neither reasonable nor feasible to maintain that the ascription or acceptance of *political responsibility* is possible. Further, those who question the very concept of human responsibility suggest that the most generous interpretation that can be made is that those who claim that *political responsibility* is possible are merely expressing an aspirational goal. A less sympathetic view is that they are at best self-deluding, or, an even more cynical interpretation is that they are perpetuating a myth that could be seen as fulfilling the role of another Noble Fallacy.

The concept of "moral luck" is also often cited as an objection to the ascription of responsibility. The expression was introduced by Thomas Nagel and Bernard Williams about 20 years ago and describes the problem caused where a significant aspect of what someone does depends on factors beyond his/her control.¹⁸ Nagel and Williams claim that despite the fact people are not in control of many of the circumstances of their lives, and the results and consequences of their actions, we still continue to treat him/her as an object of moral judgement.¹⁹ They argue that it is profoundly irrational to rush to condemn those who have acted (as we judge), wrongly simply because of the circumstances in which they found themselves. If we concede that 'there but for the grace of God and the chances of history we all go', whilst still condemning the actions of those whom 'grace and chance did not favour', then we are acting irrationally. Although Arendt categorically rejected this argument when it was used by Eichmann to excuse his actions, this argument has been cited effectively in the case

¹⁸ Cooper, David, 'Collective Responsibility, "Moral Luck," and Reconciliation', in *War Crimes and Collective Wrongdoing*, ed. Aleksandar Jokić, (Oxford, Blackwells, 2001), p. 207.

¹⁹ Jacobs, Jonathan, 'Luck and Retribution', *Philosophy*, Vol. 74, 1999, p. 539. Jacobs alerts us to the fact that 'it is very easy for human beings to exaggerate their autonomy and to think that they have control, when in fact they are only considering a very narrow "slice" of the usually untidy and complex realities.'

of “ordinary citizens” of Nazi Germany. These citizens ‘had an opportunity to behave heroically...and most of them are culpable for having failed this test. But it is a test to which the citizens of other countries were not subjected, with the result that even if they...would have behaved badly...they simply did not and therefore are not similarly culpable.’²⁰

It is obvious how this could easily be transferred to politicians who could and do claim that they are at the mercy of forces over which they have no control and therefore can in no way be held responsible. For example, David Blunkett, when he was Home Secretary, claimed that:-

Who we hold to account and for what is a key question in the modern era that we must address. At the moment we have the worst of all worlds. Ministers are felt, believed and presented as having [political] responsibility for aspects of our life, our well being and our public services over which they do not have direct control... The power of the executive has changed through devolution, decentralisation and membership of the EU, while the decisions of global financial institutions and businesses have a major impact on our society.²¹

Thus, any claims that are made concerning the necessity of the acceptance of *political responsibility* by both politicians and individuals are contentious. Those who oppose such claims accuse supporters of wanting and demanding that *political responsibility* be possible without offering any evidence that it is any more than their aspirational goal. Part of the detractor’s claim is that it is impossible to identify an agent as having the capacity to effect

²⁰ Nagel, Thomas. “Moral Luck”, in his *Mortal Questions* (Cambridge, Cambridge University Press, 1979), p. 34. Quoted by David Cooper, in ‘Collective Responsibility, “Moral Luck,” and Reconciliation’, p. 207.

²¹ Blunkett, David, Speech to Labour local government and women’s conference, Cardiff,

01/02/ 2002. Accessed on 16/04/2003

[<http://society.guardian.co.uk/futureforpublicservices/story/0%2C8>] 1 February 2002.

outcomes, and that this would have to be possible in order to establish that an agent was politically responsible for an action or inaction. Whether *political responsibility* is possible, therefore, is dependent on whether or not one has a particular anthropocentric view of the world. Those who do not share this anthropocentric view claim that *political responsibility* is impossible. One example of a complex and highly developed alternative to the anthropocentric view of society is the autopoietic system²² described by Niklas Luhmann.²³ Thornhill claims that it is possible to extract from his work a theory that ‘deliberately and consistently questions the anthropocentric foundations of action theory and liberal or humanistic postulations of individual and collective agency’, based on ‘Gehlen’s theory that social institutions obviate the need for individual political response’.²⁴ Lee argues that from Luhmann’s perspective, humanist theories of society are examples of metaphysical speculation and wishful thinking.²⁵ This, of course, has profound implications for any notions of *political responsibility*. What King and Thornhill claim, however, is that Luhmann does acknowledge that an essential element to the operation of the systems is that the fiction is maintained: that it is possible to assign *political responsibility* to an agent, even though the contingency and complexity of the world makes this impossible in practice.²⁶

Arnoldi explains that Luhmann argues that in order to make an unintelligible world more intelligible, unlike the ancients who imputed to the gods human characteristics, we now prefer to rely on science and technology to provide answers and certainties. Luhmann, he

²² Lee, Daniel, ‘The Society of Society: The Grand Finale of Niklas Luhmann’, *Sociological Theory*, Vol. 18, No. 2, (July 2000), p. 320. Luhmann borrows the principles of self-reference and autopoiesis from the cognitive biologists Humberto Maturana and Francesco Varela. A system is no longer thought to depend on its environment. Rather, a “closed” social system creates itself and its environment.

²³ Thornhill Chris, *Political Theory in Modern Germany*, (Cambridge, Polity Press, 2000). Thornhill claims that Luhmann has written extensively on many subjects, his work is both complex and interdependent. He has been influenced by many thinkers, including Carl Schmitt and Hans Kelsen.

²⁴ Ibid.

²⁵ Lee, ‘The Society of Society: The Grand Finale of Niklas Luhmann’, p. 323.

²⁶ King Michael, & Thornhill, Chris, ‘Will the real Niklas Luhmann stand up, please. A reply to John Mingers’, *The Sociological Review*, Vol.51, No. 2, 2003, p. 284.

asserts, believes that rather than the increasing complexity of scientific and technological developments making the world more understandable, it has instead created an environment in which the world appears even more contingent. That ‘during the last 300 years, the general perception of “the world” has changed from being grounded on a notion of *universitas rerum* or *aggregatio corporum* to being simply an indeterminate horizon of further possibilities. More recently, this indeterminate horizon has grown to such a degree of complexity that the future most often is conceived of in terms of risks and contingency.’²⁷ Luhmann’s theory of modern society is, therefore, a theory of differentiation and complexity. Modern society is unlike pre-modern societies that were organised by class or estates and instead consists of discrete individual systems and sub-systems.²⁸ Thornhill asserts that ‘His ideas represent a movement away from humanistic conceptions of political action, liability and responsibility. [He] suggest[s] a vision of a de-centred society, in which actions cannot be imputed (or can only be symbolically imputed) to specific agents. Like Kelsen and Schmitt before him, Luhmann argues that systems revolve around the maintenance of fictions, or paradoxes, and that the imputation of personal agency to roles within the system is just one fiction upon which systems reside.’²⁹ The corollary of this is that if it is impossible to impute agency then it is impossible to ascribe or accept responsibility for actions.

These claims were graphically illustrated in the British parliamentary system, when issues concerning the possibility of ministerial *political responsibility* had surfaced publicly during the Scott Enquiry set up in November 1992 following the collapse of the Matrix Churchill

²⁷ Arnoldi, Jakob, ‘Luhmann: An Introduction’, *Theory, Culture & Society*, Vol.18 No.1, p. 7. Extracts are from Luhmann, 1982 *The Differentiation of Society* and 1998, *Observations on Modernity*.

²⁸ Thornhill, *Political Theory in Modern Germany*, pp. 175-176.

²⁹ *Ibid.*, pp. 178-179.

trial.³⁰ Sir Richard Scott, its author, supported the views expressed by Sir Robin Butler, the head of the Civil Service, concerning *political responsibility*. Sir Robin's views are succinctly outlined here in the aftermath of the Scott Report, by Elizabeth Symons, the then-General Secretary of the Association of First Division Civil Servants,

...the argument is that the conduct of Government has become so complex and the need for Ministerial delegation of responsibility to, and reliance on the advice of, officials has become so inevitable as to render unreal the attachment of blame to a Minister simply because something has gone wrong in the department of which he or she is in charge. [This] responsibility-free zone is not linked to mistakes about operations, but to any mistakes – policy or operational – where the Minister has no personal involvement.³¹

Further, as Lee explains, modern societies according to Luhmann are differentiated into individual systems.

Every societal system grows out of that system's own operations and history (82-83).
Social systems construct themselves as they function. They have no objective essence-they have no metaphysical predisposition to be this way and not that way (60; 868-79).
Systems are also not subjects - they cannot be reduced to some transcendent consciousness.³²

These systems fulfil specific social functions. They include the political system, the legal system, the economic system, the administrative system and so on. 'As the environment becomes increasingly complex ... [yet] more systems - and more functionally specific systems - are required to organise this complexity.'³³ According to Strydom, Luhmann

³⁰ The senior executives of the Matrix Churchill Company had been accused of deliberately deceiving government ministers about the nature of export licences for machine tools to Iraq. The subsequent report was published on 15 February 1996.

³¹ Symons, Elizabeth, *Government Accountability: Beyond the Scott Report*, (London, CIPFA, 1996), p. 17.

³² Lee, Daniel, 'The Society of Society: The Grand Finale of Niklas Luhmann', p. 323. The page numbers within the quotation are from *The Society of the Society* (Die Gesellschaft der Gesellschaft), Luhmann, Niklas (Frankfurt am Main, Suhrkamp, 1997).

³³ Thornhill, *Political Theory in Modern Germany*, pp. 175-176.

named the principle by which systems create themselves 'double contingency'.³⁴ As Thornhill explains, 'This means that systems create a code through which the components of the system order their operations, both functionally and temporally.'³⁵ For example, modern political systems are concerned with elections, power, and what is required for them to stay in office; they are dominated by the relationship between political parties, thus the code is government/opposition. 'Parties articulating promises and policies as "reform/no-reform", now constitute the binary scheme by which the exercise of power is formalised and limited.'³⁶ This double contingency means that the government has an expectation of what the opposition will do if the government carries out a particular action, and the opposition has an expectation of what the government will do in response. Thus the actions of the opposition are contingent on those of the government, as are those of the government on the opposition. 'The systems thus stabilise themselves by creating an internal self-referential code which must be ceaselessly extended as the complexity of both the system and the environment increases.'³⁷ These subsystems create their own environment and are, therefore, self-referential.

A clear example of this formalised and limited structure occurred in the confrontation in the House of Commons between the Blair government and the main opposition party then led by Howard, in February 2004, over the war in Iraq. This confrontation was described and discussed by some areas of the press as if it were merely a struggle between government and opposition. This was in sharp contrast to what many had hoped would be an opportunity to

³⁴ Strydom, Piet, 'The Problem of Triple Contingency in Habermas', *Sociological Theory*, Vol. 19, No. 2, (Jul., 2001), pp. 167-170. Luhmann like Habermas 'borrows the neo-classical concept of double contingency from Talcott Parsons, who in turn extrapolated the concept from the classical contributions of symbolic interactionism and social phenomenology. Parsons was the first to name and to give precise formulation to what he called "the fundamental proposition of double contingency of interaction" (Parsons 1977:167).'

³⁵ Thornhill, *Political Theory in Modern German*, p.176.

³⁶ King, & Thornhill, 'Will the real Niklas Luhmann stand up, please', p. 282.

³⁷ Thornhill, *Political Theory in Modern Germany*, p. 176.

air the problems and criticisms that had been levelled at the government by those who were opposed to the war. It was hoped that this confrontation would be a means through which to explore the grave underlying structural problems with intelligence and the decision-making process that had been present before the war. These matters had become issues for increasing public debate and hostility during its first months. Although this confrontation was ostensibly to challenge the findings of the Butler enquiry and the intelligence, or lack of intelligence, which had precipitated the Iraq “war”, the confrontation degenerated into a simple binary for/against between the leaders. The performance given by Blair resulted in the government being judged by back-bench members of parliament and the press as having triumphed in this encounter. As this encounter occurred in the political system, and each system, according to Luhmann, creates its own environment and means of dealing with its problems, based on the operation of this system Blair and the government were able to claim victory in this particular encounter. The net result was that the substantive issues over intelligence, security and government accountability remain unresolved.

Unlike Weber, Thornhill claims that Luhmann assigns a key role in responsibility to the bureaucracy. According to Thornhill, Luhmann claims that modern democracies are divided into two separate but connected systems – government and administration and that it is the administration that has primacy in the relations between these systems. In fact it is in the bureaucracy that real political power is located. ‘The function of the political system – government – is merely to set the premises for the decisions made within the administration.... The government is itself not directly responsible for political decisions.’ Thus, he claims, it is merely a fiction to pretend that the ‘political sphere has measurable control over the administration.’³⁸ The political sphere is reduced ‘to its precise function,

³⁸ Thornhill, *Political Theory in Modern Germany*, p. 179.

[that is] to the satisfaction of the need for collectively binding decisions.’³⁹ This argument is precisely the one infamously used by Michael Howard, the then-Home Secretary, to abrogate any responsibility he may have had over prison breakouts. Instead, it was the then-Director General of Prisons, Derek Lewis, to whom Howard alone assigned the blame, and who was subsequently sacked. Howard claimed that there was a clear separation between policy and operations. Consequently because he, Howard, was only responsible for “high” policy, he could not in any way be to blame for the prison breakouts that had occurred. He claimed that the actual security in prisons was a matter solely for the administration and therefore an entirely different system, over which he claimed he could not have, and did not have, any control.

Arnoldi describes how in *The Society of the Society (Die Gesellschaft der Gesellschaft)*, Luhmann argues that the functional differentiation of society results in there being no point from within society from which society as a whole can be viewed. Thus there does not exist a central position from which universal observations can be made, therefore it will always be impossible to take an overview of society.⁴⁰ Arnoldi concludes that it will be, in Luhmann’s view, therefore, impossible to engage in any co-ordinated steering of society. This is because the meaningful world of the economic system is not the meaningful world of the political system and so on.’⁴¹ These claims made by Arnoldi, if correct, mean that Luhmann reduces the parameters of political action not only to a framework in which formalised decision making takes place, but also confines it to its own discrete sub-system, which has profound implications. In his terms, the political system cannot claim influence over areas of operation that fall outside of its own system. This, of course, impacts directly on claims

³⁹ Ibid., p. 192.

⁴⁰ Arnoldi, ‘Niklas Luhmann, An Introduction’, p. 2.

⁴¹ Ibid., p. 7.

concerning the ability of politicians to make co-ordinated policies on economics, education or environment, or to even have any ability to engage in “joined-up” government. An example of this denial was clearly illustrated in what could be considered disingenuous claims made by the then-Home Secretary David Blunkett. He rightly claimed that the police officially have operational independence and are therefore an alternative system outside of the political system. Blunkett, however, conveniently ignored the fact that the government not only controls the finances allocated to the police services (both directly and indirectly by capping spending in local authorities) but also signals to the police service through the legislative system which areas the government considers to be its priorities. Strategies such as Operation Trident, for example, were instigated to stop gun crime after it had received much press coverage and had a high political profile, especially in London.

As King and Thornhill describe Luhmann’s theory, people do not exist as autonomous beings independently of society’s communicative subsystems. They claim that he rejects absolutely ‘human agency as a basis for accounts of social reality and systemic legitimacy.’⁴² The significance of these ideas should not be underestimated. We can see how these notions of closed and self-referential systems reflect the thinking of modern western governments. The implications of restricting political action to its own discrete subsystem not only concern the ease with which the concept of ascribing *political responsibility* to politicians can be negated, but also that this in turn impacts on the expectations of the electorate. It is not merely the contingent and complex nature of the modern world that renders governments powerless in many areas. If the “people” ascribe to the government *political responsibility* for all areas of their lives then they are simply mistaken in that belief,

⁴² King, & Thornhill, ‘Will the real Niklas Luhmann stand up, please’, p. 279.

although Luhmann acknowledges that it is a necessary fiction upon which the systems reside.

Most politicians are of course eager to accept any suggestion that they may not necessarily be held to be politically responsible for their actions. Politicians of all colours exhort citizens to accept their political responsibilities, whilst there has been simultaneously the increasing trend in most western democracies to place the bureaucracy/administration/management of all areas of civil society outside the political arena, making the identification of politically responsible agents impossible. This separation of political decision making from the administration has also perversely allowed politicians to claim that this will somehow make the politically responsible agent more, rather than less, easily identifiable and therefore produce more *political responsibility*. Nowhere is this phenomenon more clearly demonstrated than in the Cave Creek disaster that occurred in New Zealand. Far-reaching state sector reforms had been instigated in New Zealand in the late 1980s, and were supposed to enhance and make transparent both *political responsibility* and administrative accountability. Instead, because they had separated policy and administration into two different and incompatible systems, when the new system was tested in practice, it merely demonstrated Luhmann's claims concerning the ability to deny agency.

The disaster at Cave Creek on 28th April 1995 serves as an illustration that despite what had been heralded as "truly remarkable" public management reforms, the functionalist view of society and the accompanying inability to identify politically responsible agents is prevalent. This accident at Cave Creek was an unprecedented tragedy in New Zealand's history in which 14 young people died, and 4 were injured, when a viewing platform, on which they

were standing, collapsed in Paparoa National Park.⁴³ A commission of inquiry was convened and was conducted by G.S. Noble, a district court judge. Unfortunately the commissions findings published late in 1995 did little to illuminate the “enveloping haze” that the tragedy had uncovered in the public service reforms. Until the Cave Creek disaster tested them, reforms such as the State Sector Act of 1988 and the Public Finance Act of 1989 had been heralded as ‘seminal pieces of legislation’, and had generated world-wide interest. It was claimed that they had been designed to deliver ‘among other things, a much clearer delineation of the respective roles of ministers and chief executives in the public services.’⁴⁴ At the heart of these reforms, it was claimed, had ‘been the “rediscovery” of the distinction between “policy” and “administration. ...[This] renders departments [of government] responsible for the production of “outputs,” which are in turn purchased by ministers so that they (the ministers) may fulfil their responsibility for achieving policy “outcomes”’. The experience of Cave Creek shows that this can be a stilted, legalistic, structure of separate responsibilities, one that is out of kilter with the flow and nuance of real politics.’⁴⁵

The Cave Creek disaster caused much public controversy, and there were calls for the resignations of the minister responsible for, and the chief executive of, the Department of Conservation whose employees had built the viewing platform. When the disaster was investigated, however, the new language of “outputs” and “outcomes” offered no more help in assigning *political responsibility* for the tragedy than the ‘old language of policy and administration’. As Gregory points out, the “outcome” in this instance was horribly visible

⁴³ See Gregory, Robert, for a full account of the tragedy. ‘Political Responsibility For Bureaucratic Incompetence: Tragedy at Cave Creek’, *Public Administration*, Vol.76, Autumn 1998, pp. 519-538.

⁴⁴ Gregory, Robert ‘Country Report, A New Zealand Tragedy: Problems of Political Responsibility’, *Governance*, Vol. 11 No. 2. April 1998, p. 234.

⁴⁵ *Ibid.*, pp. 235-236.

and precisely measurable, 14 people dead and 4 injured. Given that the minister was responsible for “outcomes”, and the chief executive for “outputs,” then it seemed clear that the minister should be held politically responsible. But is not the building of a viewing platform a matter for the administration and an “output” in this case? Does this mean then that it is the chief executive and not the minister who is politically responsible? In fact neither man accepted *political responsibility*. Although the day after the tragedy the department had acknowledged its responsibility for the faulty design and construction of the platform, and although there were calls for their resignations, neither man resigned over this issue. There is no doubt that what was revealed was that the policy and administrative systems were separate, discrete and incompatible. The minister was clearly politically responsible for policy that also included the safety of visitors. The chief executive, however, operated (in the words of the judge), within a culture that had been developed to do more with less money.⁴⁶ This was a culture in which financial considerations were the most important issue, and in which a duty of care of all those using the facilities was not part of the chief executives contract. As Simon Upton, who eventually took over this portfolio stated, ‘There is a pretty fierce wall between politicians and the management of the operation. We simply can’t interfere.’⁴⁷

The outcome from this separation of the political and administrative systems, is, if we refer to Luhmann’s theory, all too predictable: ‘actions cannot be imputed (or can only be symbolically imputed) to specific agents... Luhmann argues that systems revolve around the maintenance of fictions, or paradoxes, and that the imputation of personal agency to roles within the system is just one fiction upon which systems reside.’⁴⁸ This was precisely the

⁴⁶ Gregory, ‘Country Report, A New Zealand Tragedy: Problems of Political Responsibility’, p. 232.

⁴⁷ Ibid., p. 237.

⁴⁸ Thornhill, *Political Theory in Modern Germany*, pp 178-179.

findings of the Cave Creek Inquiry. Gregory reports that in his view ‘the judge concluded, *controversially* that “no individual or particular collections of individuals was singly or jointly [politically] responsible for the Cave Creek tragedy”’ (my italics). Although Gregory claims that the judge’s statement was controversial, in line with Luhmann’s theory, it was alas all too predictable. As Gregory states, ‘under the new regime ministers and chief executives now have *statutory* grounds for playing the game of passing the buck....There remains a strong public perception that justice has not been done, let alone seen to have been done.’⁴⁹ This problem of justice, or rather injustice, is a serious one that has the potential to undermine the democratic political system and will be investigated in the next chapter.

Although Luhmann appears to make a compelling case, there are of course many that reject his theory. Those who dismiss Luhmann’s claims maintain that notwithstanding the contingency and complexity of the world, *political responsibility* is a viable concept. They go even further in their claims, suggesting that the very nature of the contingent and complex world means that being able to identify a politically responsible agent is essential. The paradox for the supporters of *political responsibility* is that far from negating its possibility, ‘the contingent nature of politics points to the urgency of assuming responsibility for the society we create and the norms by which we live.’⁵⁰ This becomes increasingly more important because developments of science and technology have ‘enhanced human power beyond anything known or even dreamed of before’. Dangers such as nuclear energy; such ‘Promethean powers – releasing processes with unfathomable consequences – are being exercised in a society of beings too absorbed in consumption to take any responsibility

⁴⁹ Gregory, ‘Country Report, A New Zealand Tragedy: Problems of Political Responsibility’, p. 239.

⁵⁰ Schaap, Andrew, ‘Power and Responsibility; Should we Spare the King’s Head?’ *Politics*, Vol. 20, No.3, p. 134.

for the human world or to understand their political capacities.⁵¹ Added to the nuclear threat and the increasingly widespread deployment of nuclear weapons are other weapons of mass destruction which render the defence of state borders ineffectual and nullify the ability of governments to protect the society within. The unprecedented growth in consumption has precipitated 'a world economic regime that ignores borders in the movement of capital investment to a degree that effectively curtails states in the management of their economic affairs.'⁵² Other phenomena include 'the proliferation of global and transnational threats that transcend state borders, such as those that damage the environment, or threaten states through migration, population expansion, disease, or famine; and the creation of a global communication network that penetrates borders electronically'.⁵³ 'It is a power over matter, over life on earth, and over man himself; and it keeps growing at an accelerating pace.'⁵⁴ The rise of new superpowers that threaten both old economies and the world environment have further fuelled the calls from those who believe that *political responsibility* is essential.

There is no doubt that those who advocate the concept of *political responsibility* appreciate the contingent nature of politics. Even Hans Jonas, for example, who is described as an 'old conservative' and who is defined by his advocacy of 'a return to positions *prior* to modernity',⁵⁵ clearly acknowledges the altered nature of human existence, which has 'lengthened the reach of our deeds'. Nevertheless, he also challenges the conclusions that the contingent nature of the world negates the possibility of *political responsibility*. He

⁵¹ Arendt, *The Human Condition*, p. xv. Arendt believed that this new phenomena had become even more challenging because it was coupled with 'the advancing secularisation, or rather, de-Christianisation, of the modern world, [this] entirely new emphasis on the future, on progress, and therefore on things neither necessary nor sempiternal, would expose men of thought to the contingency of all things human more radically and more mercilessly than ever before.'

⁵² Bobbitt, Philip, *The Shield of Achilles: war, peace and the course of history*, (London, Penguin, 2003), p. xxii.

⁵³ Ibid.

⁵⁴ Jonas, Hans, *The Imperative of Responsibility*, (Chicago, University of Chicago Press, 1984), p. ix.

⁵⁵ Stirk, Peter M.R., *Critical Theory, Politics and Society*, (London, Pinter, 2000), p. 56.

argues that rather than contingency diminishing the role of *political responsibility*, as claimed by some, the contingent nature of the world does in fact move '[political] responsibility, into the centre of the ethical stage.'⁵⁶ Those, like Jonas, who support this view that *political responsibility* is not only possible but essential are fulsome in their claims for its importance to the democratic process. In fact according to this view, *political responsibility* is the very cornerstone of democracy; that the value of being able to both ascribe *political responsibility* to those engaged in the political process, and the acceptance of *political responsibility* by the electorate, cannot be overestimated. They claim that it is the only way in which the contingency of human behaviour can in any way be negated.

This is just one example of such a claim made by President Ernesto Zedillo, when he made his third State of the Nation address to both chambers of the Mexican Congress in September 1997. In his address, Zedillo claims that an ethic of *political responsibility* is indispensable:

I have always been confident that free and open competition ...would enable each of us to shoulder our commitment to democracy in the practice of a genuine ethic of *political responsibility*.... [This] ethic of responsibility serves the interests of us all because, within the framework of the law, it must govern our civic life; it must govern the treatment given and received by each of us in our democratic life. We are all going to need that ethic of responsibility, because enormous tasks lie before us that can only be completed through respectful collaboration among the branches of the government.⁵⁷

⁵⁶ Jonas, *The Imperative of Responsibility*, pp. ix-x.

⁵⁷ Zedillo, Ernesto, 'The Nation: Progress and Challenges', Text of the Third State of the Nation Address, delivered by President Ernesto Zedillo to both chambers of the Mexican Congress, 01/09/1997, my italics. [<http://www.embamex.co.uk/press/1997/gbr 01397.html>] Accessed on 16/04/2003.

Further claims were made for the importance of *political responsibility* by President Leonid Kuchma of the Ukraine in his New Year Speech (December 31st 2002). Kuchma claimed that he saw agency and *political responsibility* as the panacea to overcome his country's social and economic problems. He hoped there would be an end to the 'eternal Ukrainian political ping pong' because of the ascription of the long awaited *political responsibility* and transparency instigated after the general elections in March 2002. He continued: -

Everyone is doing something, but nobody is responsible for anything. From now on, those whom you have elected and who have formed the government will no longer be able to say: we have nothing to do with the government....The president will indeed interfere when a political need for this arises. But the main responsibility rests with the majority and its government.⁵⁸

These are amongst many other similar claims made about the possibility and necessity of *political responsibility*. Is this just one more leap of faith, as Luhmann claims? These arguments appear insoluble and have been the subject of acrimonious debates between many political thinkers including Habermas, Ulrich Beck and Luhmann. Luhmann and Beck are in agreement over the lack of legitimacy in modern political systems and the resulting diffuseness of power. However, Thornhill claims that whereas for Luhmann the bureaucracy is the last location for politics, for Beck political action is located in the sphere of civil-social action. Nevertheless, he argues that both thinkers agree that society is without 'structured modes of agency and volition,' and that for both Beck and Luhmann, 'the spaces of human authority and decisiveness are located only in those areas which no longer really matter, from which power has already departed.'⁵⁹ In contrast, Thornhill argues, that 'Habermas' own political nightmare is a society in which all traces of human value-

⁵⁸ Kuchma, Leonid, 'New Year Speech', (Ukrainian Television via BBC Monitoring Service) [<http://www.uanews.tv/archives/eposhta/ep045.htm>] (1 January 2003). Accessed on 16/04/2003.

⁵⁹ Thornhill, *Political Theory in Modern Germany*, pp. 202-203.

orientations have been eroded by the functional operations of administrative systems, and in which the political system acts as an organ of technical-scientific dictatorship, run by bureaucratic elites.’⁶⁰ Thus, Arnoldi argues that ‘Where Habermas’s work seeks universal principles, Luhmann’s theory only sees principles that are self-referential, that is principles that, paradoxically, are based on themselves.’⁶¹ Thus, Habermas believes that society exists beyond the boundaries of its subsystems; his notion of the “life-world”⁶² is one of communicative interaction, from which political legitimacy arises.

King and Thornhill warn us that despite Luhmann’s best endeavours and the sophistication of his arguments there are many others (including Habermas) who argue that there is no validity to his claims that the systems are in fact self-referential and self-reproducing. As the systems Luhmann describes have no boundaries that are physically identifiable then, ‘Ultimately, since nobody can prove or disprove the existence of a closed system, you either accept the possibility that Luhmann’s scheme will offer a valuable way of observing society or you do not.’⁶³ The alternative view that dismisses Luhmann’s theory of closed differentiated systems does not, however, automatically open the door to the acceptance that *political responsibility* is possible. If, as King and Thornhill claim, his theory of closed differentiated systems needs a leap of faith to be accepted, then so according to Luhmann do the alternatives. ‘Sociologies based on human agency (whether “the individual” “organisations of people” or “social groups”) also demands a leap of interpretive faith and counterfactual assertions of rational influence and control.’⁶⁴ Perhaps King and Thornhill ask the wrong question when they seek to find whether the anthropomorphic or autopoietic

⁶⁰ Thornhill, *Political Theory in Modern Germany*, p. 157.

⁶¹ Arnoldi, ‘Niklas Luhmann, An Introduction’, p. 2.

⁶² Life-world, ‘a term borrowed from Husserl’s phenomenology, is the sphere in which the inner nature of social being is socialised, the sphere of human interaction’. Thornhill, p. 153.

⁶³ King, & Thornhill, ‘Will the real Niklas Luhmann stand up, please’, p. 279.

⁶⁴ Ibid.

system offers the most 'useful and critical insights into the nature of society and its operations.'⁶⁵ Perhaps we do not need to come to any decision based on the supposed theoretical superiority of one theory over the other. What does need to be taken into account, however, is that although Luhmann denies that it is possible to identify an agent who can be held to be politically responsible, nevertheless he acknowledges that this is an essential fiction upon which the system resides.

Commentators such as Thompson appear to support Luhmann's claims for the impossibility of being able to assign *political responsibility* because of the complex and contingent world. Thompson calls this the "problem of many hands". Modern government, it is claimed, is complex and diverse with officials from often different (and sometimes competing) departments being involved in decision-making.⁶⁶ This results, therefore, in the impossibility of any clear and direct line of *political responsibility*. Woodhouse also understands this problem, and whilst discussing the convention of ministerial responsibility, claims that the adoption of Hart's terminology which centres on "role" rather than "causal" responsibility, might be a way to reformulate the convention in order to ensure ministers cannot avoid *political responsibility*. She claims that 'the focus on role, rather than causal, responsibility means that the need to find some ministerial involvement, however, slight, in departmental fault is diminished.' This, she claims, therefore, undermines the difficulties that occur when ministers seek to invoke the distinction between operations and policy already identified, in order to avoid responsibility.⁶⁷ Whilst agreeing that it is essential to clarify the situation, Gray and Jenkins scathingly dismiss such policy/operational

⁶⁵ King, & Thornhill, 'Will the real Niklas Luhmann stand up, please', p. 279.

⁶⁶ Thompson, Dennis F., 'Moral Responsibility of Public Officials: The Problem of Many Hands', *American Political Science Review*, Vol.74, 1980, pp. 906-907.

⁶⁷ Woodhouse, Diana, 'The Reconstruction of Constitutional Accountability,' *Newcastle Law School Working Papers*, 2000/10, p. 5.

distinctions as the 'construction of a blame-free zone into which ministers can retreat at ease.'⁶⁸ Thus, according to Luhmann, this leaves us with the apparent dilemma of the implausibility of *political responsibility* and yet the inevitability of maintaining the "fiction" of responsibility.⁶⁹ Luhmann's assertion does seem to be an all too plausible account of contemporary political life. Indeed Pitkin claims that 'our governors have become a self-perpetuating elite that rules – or rather, administers - passive or privatised masses of people. The representatives act not as agents of the people but simply instead of them.'⁷⁰ Luhmann's account, however, as illustrated in the Cave Creek disaster, can ultimately lead to cynicism and a sense of impotence by the electorate. Indeed, Shklar claims that any failure to identify those who are politically responsible 'enfeebles representative government and encourages political cynicism and passivity'.⁷¹

Despite its plausibility, however, Luhmann's model is ultimately self-destructive. It ascribes a function to the political sphere, the generation of generalised legitimacy, which its own account of the co-existence of contingency and a fictive responsibility must undermine. Politics will become impossible because of the technical expansion of political objectives within the administrative system. Lee reports that Luhmann claims that modern democracies have the political system divided into two separate but interconnected systems: government

⁶⁸ Polidano, Charles, 'The Bureaucrat Who Almost Fell Under a Bus: A Reassertion of Ministerial Responsibility?' *Political Quarterly*, 2000, p. 177.

⁶⁹ Dunn, Delmer D., 'Mixing Elected and None elected Officials in Democratic Policy Making: Fundamentals of Accountability and Responsibility', in *Democracy, Accountability and Representation*, (ed). Przeworski, Adam, Stokes, Susan C. and Manin, Bernard, et al, (Oxford, Oxford University Press, 1999), p. 298. Luhmann's claims that it is a "fiction" are bolstered by facile accounts such as Dunn's where no proper analysis of the possibility of the ascription of *political responsibility* has taken place. Dunn states confidently that 'accountability focuses on the obligation owed by all public officials to the public, the ultimate sovereign in a democracy for explanation and justification of their use of public office.' Dunn does at least acknowledge that this may be problematic by admitting that sanctions are required 'to sustain responsiveness'. Dunn ignores the real impediment to the acceptance of *political responsibility*, that is the complex and contingent world, where his naïve line of *political responsibility* does not exist.

⁷⁰ Pitkin, Hanna Fenichel, 'Representation and Democracy: Uneasy Alliance', *Scandinavian Political Studies*, Vol.27, No.3, 2004, p. 339.

⁷¹ Shklar, Judith, *The Faces of Injustice*, (New Haven, Yale University Press, 1990), p. 83.

and administration. Lee claims that as Luhmann gives primacy to the administrative system, his description of the influence of the government sphere about decision-making and planning is that they are slowly subsumed into the functions of the administrative system. Thus, political legitimacy is transferred from the political to the administrative system.⁷² 'His autopoietic theory of social systems rejects normative proposals that state and society are bound together by contractual or reasoned motivations. Politics, he argues operates by a code that has no correspondence with the social sphere.'⁷³ Thus, each separate sphere operates on decisions made to regulate the activities within that sphere, to give order to the system or sub-system by self-regulation which makes it impervious to influence from outside the system. 'This, in Luhmann's account, represents the supreme paradox of modern society as it gives rise to an abundance of self-descriptions, self-deceptions and self-justifications to which the system itself is blind and which can be seen only by external observers of the system.'⁷⁴ We, the external observers of the system (in this case the political system), believe that we can influence it because we believe that we are also part of the system. However, in Luhmann's analysis it is obvious that this is just another fiction created to maintain the system. When it becomes apparent that those who thought they were part of the system are not part of the system and are not able to influence it, this gives rise to the cynicism already mentioned. It is, however, exactly this belief, that society can effect the political system, on which the political system depends for its legitimacy. After all, the political system (at least in most western countries) is believed by society to be a democratic representative government. If, as Thornhill asserts, Luhmann claims it is impossible to

⁷² Lee, Daniel 'The Society of Society: The Grand Finale of Niklas Luhmann', p. 329. Luhmann rejects the importance ascribed to the political system as being a residue from the old dominance of "super-codes", Deism, Historicism, Marxism, Positivism, and Relativism etc. He claims that they are unable to give meaning to all reality and are inherently flawed because, despite what they do observe, they are blind to everything else.

⁷³ Thornhill, *Political Theory in Modern Germany*, p. 178.

⁷⁴ King, & Thornhill, 'Will the real Niklas Luhmann stand up, please', p. 283.

establish causal relationships because it is impossible to impute agency, then rather than merely being 'just one fiction on which systems reside' this nullifies any idea of the ascription of *political responsibility*.

Luhmann's model must be rejected because it fails to provide legitimacy and is ultimately self-defeating. Therefore, the aspiration for the ascription of *political responsibility* must be pursued in a more direct and practical way. The democratic idea of representative government may offer a different way of ameliorating the problem of contingency and the ascription of *political responsibility* through an exploration of the concept of representation. There are many expositions concerning representation but by far the most comprehensive and authoritative discussion is in the seminal work of Hanna Pitkin, *The Concept of Representation*. Pitkin's discussion is wide-ranging and involves the exploration of two alternative theories of representation, the authorisation view and the accountability view. It is worth examining these theories in detail because it may be possible to identify how *political responsibility* might become a reality.

Authorisation theorists assume that those operating within the "political system" are representatives with a formal contractual relationship⁷⁵ with those represented, and that this 'agent has been authorised in advance to obligate the principal'.⁷⁶ Luhmann's model of autopoietic systems, although appearing radical (and despite his claims that society and the political system have no correspondence with each other), nevertheless falls within a tradition that understands politics and *political responsibility* in terms of authorisation. The

⁷⁵ Of course Luhmann rejects any notion of a formal contractual relationship whilst maintaining that such a contractual relationship is a paradoxical fiction on which the system resides and from which it gains its legitimacy.

⁷⁶ Pitkin, Hanna Fenichel, *The Concept of Representation*, (Berkeley, University of California Press, 1967), pp. 38-39.

authorisation view is convincingly dismissed by Pitkin but despite the shortcomings she identifies, the authorisation theory nevertheless has a long history and many proponents.⁷⁷ The problem with the theory is that ‘such formalistic conceptions are unsatisfying because they are indifferent to “what goes on *during* representation”’. Pitkin’s unorthodox argument is that if scholars persist in that indifference, then representation “as a substantive activity” will [indeed] be *irreconcilable* with the realities of political life.⁷⁸ It may be as well to remind ourselves what are the “realities of the political life” of a representative in a representational democracy. As Disch quoting Pitkin reminds us,

He or she “is a professional politician in a framework of political institutions, a member of a political party who wants to get re-elected, and a member of a legislature along with other representatives”. He or she must take into account multiple and competing factors: bargains with his or her colleagues in the legislature; the agenda and interests of the party; the ideals of the nation as a whole; not to mention his or her own “views and opinions”. All this operates in addition to the diffuse and conflicting interests of the plurality that is his or her constituency. In short, “in legislative behaviour a great complexity and plurality of determinants are at work, any number of which may enter into a legislative decision”.⁷⁹

The authorisation theory has, however, been so influential that Pitkin, whilst dismissing it, describes no less than three different versions. She starts with Hobbes’ account in *Leviathan*. Hobbes understood the need for social action: that a society can only exist as a society when it has representatives to act for it. The problem Pitkin identifies with Hobbes’ understanding

⁷⁷ ‘Writers from Edward Sait to Avery Leiserson, from Sir Ernest Barker to Karl Loewenstein, from John Plamenatz to Joseph Tussman’ and Eric Voegelin. Pitkin, *The Concept of Representation*, pp. 42-44.

⁷⁸ Disch, Lisa, ‘Representation “Do’s and Don’ts”: Hanna Pitkin’s *The Concept of Representation*, p. 220 Professor of Political Science, University of Minnesota, p. 11. www.univ-paris8.fr/scpo/lisadisch.pdf - Accessed on 30/03/2008

⁷⁹ Ibid., pp. 12-13. The quotations are from Pitkin, *The Concept of Representation*, p. 220.

of representation is that it is incomplete. In Hobbes' terms 'a representative is someone who has been authorised to act. This means that he has been given a right to act which he did not have before, while the *represented* has become *responsible* for the consequences of that action as if he had done it himself.'⁸⁰

Whilst both Weber and Luhmann subscribe to the authorisation theory, the outcomes are different. For Weber, as we have already noted, to be engaged in the political is to be engaged in a struggle, striving for a share of power or for influence over the distribution of power. Weber had categorically denied that the bureaucracy, because of its characteristic lack of conflict, could be the source of political decision-making and therefore of any *political responsibility*. He reasoned that the election of the President by the whole electorate would ensure that the President would be able to stand outside mere party politics.⁸¹ There is no doubt here that the President is authorised by the electorate, however, there is no mechanism in place by which the electorate can hold him to account. The position of the political leader is of one 'who would be responsive to the *presumed* needs of the populace, but not responsible directly to it'.⁸² Nevertheless, Weber did issue a dire warning to any erstwhile political leader that we would 'ensure that the president of the Reich sees the prospect of the gallows as the reward awaiting any attempt to interfere with the laws or to govern autocratically.'⁸³ Unlike Weber, for Luhmann we authorise our political representatives to 'merely set the premises for the decisions made within the administration,' over which the elected representatives have no measurable control.⁸⁴

⁸⁰ Pitkin, *The Concept of Representation*, p. 39. My italics.

⁸¹ Weber insists that a popularly elected President authorised by the electorate 'is the palladium of genuine democracy...', Weber, *Political Writings*, Lassman, Peter & Speirs, Ronald (eds.) (Cambridge, Cambridge University Press, 1995), 'The President of the Reich', p. 305.

⁸² Stirk, *Critical Theory, Politics and Society*, p. 95.

⁸³ Weber, *Political Writings*, 'The President of the Reich', p.305.

⁸⁴ Thornhill, *Political Theory in Modern Germany*, p.178.

The authorisation view of representative government is misleading, according to Pitkin, because it mistakes part of the concept of representation for the whole.

It defines representing in terms of a transaction that takes place at the outset, before the actual representing begins. To the extent that he has been authorized, within the limits of his authority, anything that a man does is representing. . . There is no such thing as representing well or badly; either he represents or he does not. There is no such thing as the activity of representing or the duties of a representative; anything done after the right kind of authorization and with its limits is by definition representing.⁸⁵

Another major flaw with the authorisation theory is, as Disch rightly observes, 'the habit of defining political representation by analogy to the various forms of private representation assuming that the political representative—like the legal advocate, the deputy, the guardian, or the specialist— stands in a "one-to-one, person-to-person" relationship to a principal'.⁸⁶

The inadequacy of this assumed one-to-one relationship, which is inherent within the authorisation view, is demonstrated by Griffiths.⁸⁷ He points out that if authorised consent were sufficient for political representation, then the representation of a citizen's interest would not even be necessary!⁸⁸

⁸⁵ Pitkin, *The Concept of Representation*, p. 39.

⁸⁶ Disch, 'Representation "Do's and Don'ts": Hanna Pitkin's *The Concept of Representation*', p. 11.

⁸⁷ Fein, Haskell 'Hanna Pitkin's The Concept of Representation' *Noûs*, Vol. 14, No. 1, 1980, A. P. A. Western Division Meetings. (Mar., 1980), p. 112. Fein claims that Pitkin is much indebted to Griffiths and his article "How Can One Person Represent Another?" Griffiths is one of the few philosophers who has been interested in the concept of political representation, but his examination of the concept, unlike Pitkin's, takes place against that background question "Why government?". He distinguishes four distinct senses of representation, which he labels "descriptive representation," "symbolic representation," "ascriptive representation," and a kind of representation which he calls "representation of interests." It is the representation of interests that Pitkin believes to be the key in representation.

⁸⁸ *Ibid.*

Griffiths makes plain the embarrassing similarity between the governance of lunatics by their agents... and the governance of citizens by their representatives in parliament. In neither case is representative government by consent, for neither lunatic nor citizen has a choice over whether to be represented or not. Nor is the difference a matter of the representation of interests. In fact, it is more reasonable to demand, both for lunatics and of citizens,... that their respective governments be representative by virtue of representing interest, than be representative in any other way.⁸⁹

What we expect as the represented is that in some way our representatives will be responsible to us. Thus, we assume that in essence, 'what differentiates the governing relationship between a lunatic and his ascriptive representative, from the governing relationship between citizen and his ascriptive representative in a parliament, ...is that the parliamentary representative must in some manner be responsible to the citizen in a way that the agent of a lunatic need not.'⁹⁰ Thus, in terms of the possibility of *political responsibility* we must, as Pitkin also does, reject the authorisation view. The possibility of *political responsibility* being assigned to the representative is impossible because the authorisation theorist believes that to act as a representative is to be given the right to act in such a way that the person represented bears all the responsibility for the actions of the representative. The consequence of this results in the acts of the representative being treated solely as acts of the represented. This in effect passes all *political responsibility* for the actions of the representative to the represented.

⁸⁹ Fein, 'Hanna Pitkin's The Concept of Representation', p. 112.

⁹⁰ Griffiths, A. Phillips, "How Can One Person Represent Another?" *The Aristotelian Society*, Supplementary Vol. XXXIV(1960), p. 200.

The alternative to the authorisation theory is the accountability theory. This initially appears to offer more opportunities for the representative to be assigned *political responsibility*. In the accountability theory 'the agent will be held accountable after the fact to defend what he or she has done in the principal's name.'⁹¹ As 'Carl Friedrich claims if A represents B, he is presumed to be responsible *to* B, that is to say, he is answerable to B for what he says or does.'⁹² The accountability theory as it is usually constituted is, however, equally flawed. This is despite the claims by its supporters that this theory is perceived to be 'a response and a corrective to the authorisation view.'⁹³ Supporters of the accountability theory claim that theorists such as Weber have 'simply and inexplicably missed the meaning of representation.'⁹⁴ The problem is that authorisation theorists have simply viewed a representative as a person who has been elected and is therefore, authorised. Although agreeing in principle with the idea of holding a representative to account Pitkin argues, however, that the claims postulated by the accountability theorists that it is essential to hold a representative to account, is merely a 'device'. 'That the point of holding him to account after he acts is to make him act in a certain way'.⁹⁵ She claims that this strategy also misses the point because despite the claims of the authorisation theorists to the contrary, this strategy is less about accountability and more about control. Although it is indeed the case that a representative who knows that he will be held to account may well 'act responsibly and respond to the desires of those to whom he must account'. Nevertheless, it is also equally true that 'a representative who acted in a completely selfish and irresponsible manner could not be criticised as long as he let himself be removed from office at the end of his term.'⁹⁶ This is starkly illustrated in the response by Tony Blair when he was asked to give an account of his

⁹¹ Disch, 'Representation "Do's and Don'ts": Hanna Pitkin's *The Concept of Representation*', p. 3.

⁹² Pitkin, *The Concept of Representation* p. 55.

⁹³ Ibid., p. 57.

⁹⁴ Ibid., p. 58.

⁹⁵ Ibid.

⁹⁶ Pitkin, *The Concept of Representation*, p. 58.

reasons for going to war with Iraq. In an interview with Peter Stothard, Blair stated that ‘he was prepared to be held to account [only] by God for “those who have died or have been horribly maimed as a result of my decisions”⁹⁷, whilst also acknowledging that it was the electorate’s right to remove him from office at the next election. This illustrates how this formalised accountability theory is also flawed with the “accountability” amounting to no more than the representative being subject to election.

There is, however, an alternative account that overcomes the objections levelled at both the authorisation and accountability theory. In terms of its contents it is also an accountability theory, but it differs from the formalistic accountability theory that Pitkin rejected. To illustrate how it differs, Pitkin asks us to consider, what exactly is going on during representation? The answer to this question that demonstrates Pitkin’s alternative view has two requirements. The first is that it:

..conceives of representation as an *activity* rather than as a relationship... When an agent represents a principal, the agent makes decisions and commitments that the principal is bound to honour, and acts in ways that the principal must own. It follows that a concept of representation must make it possible to pass judgement on the *content* of those decisions, commitments and acts. Thus the second requirement is that a concept of representation be substantive. If the consequences of the decisions and commitments that a representative makes are to be binding on a constituency, it is not enough to say that the representative had the *right* to act for that constituency regardless of *what* he or she did and notwithstanding the *manner* in which he or she conducted himself or herself. The

⁹⁷ Stothard, Peter, http://news.bbc.co.uk/2/hi/uk_news/politics/2998165.stm Accessed on 09/03/2004. The full text of this report was published in the Times Magazine, May 2003.

constituency must recognise itself in what the representative has done and in the way he or she went about doing it.⁹⁸

In other words, what is the *substance* of the activity of representation and how does this activity differ from others in which one person is understood to act in the place of another? The answer is that political representation is not like private representation. Political representation differs from private representation because 'political representation is intrinsically and inevitably transformative... it creates for a dispersed and diffuse constituency an interest or principle that did not pre-exist the act of representation, thereby drawing them together in a way that they would not be *without* the act of representation.'⁹⁹ That is the creation and maintenance of community that is constituted through political action.

Unlike the authorisation and accountability theories, Pitkin's claims, in her alternative theory, that political representation must be able to attribute a capacity for action and judgement to *both* the principal *and* the agent. 'The representative must act independently; his action must involve discretion and judgement; he must be the one who acts'.¹⁰⁰ But, 'the represented must also be (conceived as) capable of independent action and judgement, not merely being taken care of.' This is because we only need representation where interest is involved (activity rather than relationship), that is, neither where decisions are 'merely arbitrary choices,' nor where we are 'content to leave matters to the expert'.¹⁰¹ There is however, 'always the potential for conflict,...if it occurs an explanation is called for. [The

⁹⁸ Disch, 'Representation "Do's and Don'ts": Hanna Pitkin's *The Concept of Representation*', p. 3.

⁹⁹ Ibid., p. 12.

¹⁰⁰ Pitkin, *The Concept of Representation*, p. 209. Yet this is not the agency of a specialist or guardian because political questions are not reducible to matters of fact or expertise.

¹⁰¹ Ibid., p. 212.

representative] must not be found persistently at odds with the wishes of the represented without good reason in terms of *their* interest, without a good *explanation* [an account in public] of why *their* wishes are not in accord with *their* interest'.¹⁰² (my italics)

More precisely [the representative] should be prepared to give that account in public under the full glare of the public gaze. More fundamentally, when he *acts* in the political realm he should always be mindful that should he ever be required to do so, he should always be *able* to account for his actions. Thus he ought to have reasons for what he does, and be prepared to justify his actions to those he acts for, even if this accounting or justification never actually takes place.¹⁰³

Thus, whilst Luhmann's (putative) authorisation model is oriented to issues of control and causation, the alternative accountability model is oriented to the relationship between people, politicians and electorate, representatives and represented, understood in terms of shared (and disputed) interests. Above all, this accountability model described by Pitkin must be viewed in terms of the creation and maintenance of a community that is constituted through political action. Thus, although the alternative accountability model appears to offer more prospects of redeeming the concept of *political responsibility*, by giving an account in public, contingency is still a major problem. Notwithstanding the benefits of the alternative accountability model, contingency nevertheless still threatens to undermine the community that is thus constituted through political action. Accountability does not and cannot solve the contingency problem because contingency is a problem for acting/beginning, starting something anew/the future. Accountability deals only with the past. For by giving an account, one is giving an account of what one has already done.

¹⁰² Pitkin, *The Concept of Representation*, p. 209.

¹⁰³ *Ibid.*, p. 119.

Accountability therefore anchors us firmly to the past without necessarily instigating a new beginning.

To reiterate, we had hoped that identifying how *political responsibility* was possible within a representational democracy would help us to overcome the problem of contingency. What we have discovered is that although this discussion has helped us to develop a core attribute within the concept of *political responsibility*, i.e. giving an account in public, this cannot overcome the contingency of the world. The corollary of this seems to suggest that Luhmann is right and that the possibility of political action is reduced to one of his necessary fictions. An alternative explanation is, however, that rather than it undermining political action, the contingency of the world is the catalyst that makes new beginnings possible. Arendt, for example claims that it is only by taking political action that is, acting to deliberately change our world, which releases us from being merely labouring animals interested only in our own survival. Thus viewed, political action transforms us into human beings confronting each other as human beings, and starting something new. Politics and political action for Arendt takes place between equal individuals. Thus, it is only when people come together to communicate in the public realm that truth is possible; politics takes place in the light by men revealing themselves. It is through speech and action that 'men show who they are.' 'It is through the constitution of such a space of public freedom that human life gains a meaning beyond the contingency and fragility of its creaturely existence'.¹⁰⁴

¹⁰⁴ Albrecht Wellmer, 'Arendt on Revolution', in Dana Villa (ed), *Hannah Arendt*, (Cambridge University Press, Cambridge, 200), p. 226.

The risks as well as the positive attributes associated with political action are, however, also summed up concisely by Arendt. The problem with all action, which includes political action, is that once taken it is an irreversible and unpredictable process. This means that one can never know the outcomes of one's actions, and one's actions despite whatever one intends, can go disastrously wrong.¹⁰⁵ The risks involved in political action are, however, particularly acute. It is also the case that 'new beginnings or action in concert carries no necessary moral charge and can be undertaken in the name of evil as well as good.'¹⁰⁶ The twentieth century in particular was littered with examples of such action.

Action takes place in the public realm where, falling into an "already existing web of human relationships," it is affected by "innumerable conflicting wills and intentions." Consequently, "action almost never achieves its purpose." Action does have consequences, however, "boundless" consequences that, again, we are unable to control. Indeed, "one deed, and sometimes one word, suffices to change every constellation" and "the process of a single deed can quite literally endure throughout time." Action, more over, is in a predicament, the "predicament of irreversibility."¹⁰⁷

The acute risks that are involved in political action suggest that to be a political actor requires courage. Arendt, for example, believed that moderation and courage were intrinsically linked to politics and that courage was an essential ingredient of action. The contingent nature of the world means that to act with others is to initiate and to incur responsibilities for processes one cannot control. She refers to the courage that is necessary for one to leave the private realm ("one's private hiding place") and step onto the political

¹⁰⁵ Arendt, *The Human Condition*, pp. 236-237.

¹⁰⁶ King, Richard H., 'Endings and Beginnings: Politics in Arendt's Early Thought', *Political Theory*, Vol. 12, No. 2. (May 1984), p. 248.

¹⁰⁷ Honig, B., 'Arendt, Identity, and Difference', *Political Theory*, Vol. 16, No. 1. (Feb., 1988), p. 83. Quotations are from *The Human Condition*, pp. 184, 190, 233.

stage (“showing who one is ...exposing one’s self”). Nevertheless one has to ‘accept this public exposure, this nakedness, [in order] to become a political actor – a man who...initiates, who creates as it were something new in the political world.’¹⁰⁸ To act, therefore, requires the ‘courage to stick one’s neck out, to emerge from the anonymity and security of private life and risk unknown consequences.’¹⁰⁹ There are two serious outcomes to this predicament caused by action. One is that ‘without being forgiven, released from the consequences of what we have done, our capacity to act would, as it were, be confined to one single deed from which we could never recover: we would remain victims of its consequences forever.’¹¹⁰ As Smith states, ‘paradoxically, the man who creates a new beginning for others must himself, through the process of redemption, be allowed a new beginning.’¹¹¹ The second outcome is that others will be unwilling to step out of the private realm into the unforgiving light of the public sphere. Paradoxically, under circumstances where there is no possibility of redemption, those willing to step out of the private realm are only those who are prepared to accept the ‘self-descriptions, self-deceptions and self-justifications’ that Luhmann ascribes to the political system.

In *The Human Condition* Arendt addresses these problems directly. The problem with action in the contingent world is that the various limitations and boundaries that we find in every body politic are unable to offset its inherent unpredictability. It is because of this unpredictability and irreversibility that Arendt advocates forgiving and promising the purpose of which is not to deny contingency but to cope with the inevitability of it. The notion of forgiveness in the political realm is, however, a controversial concept. Smith, for

¹⁰⁸ Smith, Roger, W., ‘Redemption and Politics’, *Political Science Quarterly*, Vol.86, No.2, 1971 p. 230. Smith notes that ‘the political actor inevitably incurs guilt and needs to be relieved of it’.

¹⁰⁹ Jacobitti, Suzanne Duvall, ‘The Public, the Private, the Moral: Hannah Arendt and Political Morality’, *International Political Science Review*, Vol. 12, No. 4, p. 287.

¹¹⁰ Arendt, *The Human Condition*, pp. 236-237.

¹¹¹ Smith, ‘Redemption and Politics’, p. 230.

example, claims that Arendt's solution, 'political forgiveness is not a genuine possibility in modern society and perhaps it never has been available to society as a whole.'¹¹² Similarly Digeser, claims that 'at first blush, forgiveness appears to be a rather soft-headed, unrealistic way to respond to anything political, let alone governmental wrongs.'¹¹³ Arendt, however, argues that because of the unpredictability of human affairs forgiveness releases us from an otherwise endless chain reaction of revenge and hatred.¹¹⁴ In fact, she is critical of the 'ancient Greek politics - the model, in other respects, for her image of the political - for remaining "untouched by the predicament of unpredictability" and for lacking a concept of forgiveness.'¹¹⁵

Arendt is of course aware that forgiveness has religious overtones, and has always seemed to be 'unrealistic and inadmissible' in the public realm. Arendt is, however, 'neither bestowing religious attributes on forgiveness nor proposing a political theology (as defined by Carl Schmitt) according to which all terms of the political are eminent religious terms.'¹¹⁶ Instead, despite its religious overtones, Arendt rejects completely any suggestion that it cannot be transferred to the secular, even though forgiveness is usually in the private realm and is often thought to be dependent on the Christian concept of love. She insists that forgiveness in the public sphere is not dependent on love but instead is dependent on respect, 'what love is in its own, narrowly circumscribed sphere, *respect* is in the larger

¹¹² Smith's argument, p. 220, is, however, one dimensional and fails to reflect the multi-layered interdependent nature of Arendt's argument.

¹¹³ Digeser, Peter, 'Forgiveness and Politics: Dirty Hands and Imperfect Procedures', *Political Theory*, Vol.26, No.5, 1998, p. 700.

¹¹⁴ Forgiveness in Arendt's terms must not be confused with condoning or excusing.

¹¹⁵ Jacobitti, 'The Public, the Private, the Moral: Hannah Arendt and Political Morality', p. 239. *The Human Condition*, p. 194.

¹¹⁶ Weigel, Sigrid, 'Secularization and Sacralization, Normalization and Rupture: Kristeva and Arendt on Forgiveness', *PMLA*, Vol. 117, No. 2. (Mar., 2002), p. 322.

domain of public affairs.’¹¹⁷ Respect in this sense is not based on admiration or esteem, ‘it is regard for the person from the distance which the space of the world puts between us.’¹¹⁸ There is no doubt, however, that in modern democracies there appears to be little respect for political actors. As Pitkin observes we are ‘cynical and sulky, deeply alienated from what is done in our name and from those who do it.’¹¹⁹ This is a double bind, we fail to respect political actors because they fail to give an account of their actions and accept their political responsibilities, and they fail to give the necessary accounts and take *political responsibility* because there is no redemption.¹²⁰

Does forgiveness help to resolve this dilemma, and if so, what activities are involved in the act of forgiving?¹²¹ It is the fact that the person was prepared to step, with courage, out of hiding into the “space-between” and instigate action, that commands our respect and, therefore, in this instance, also our forgiveness. By being asked to forgive we are not here being asked to act selflessly, for as Arendt points out, ‘forgiving serves to undo the deeds of the past, whose “sins” hang like Damocles’ sword over every new generation.’¹²² Like punishment, forgiveness seeks to put an end to something that without interference would go on endlessly. Of course, on a literal level, forgiveness cannot undo the deeds of the past,

¹¹⁷ Arendt, *The Human Condition*, p. 243. My italics.

¹¹⁸ Arendt, *The Human Condition*, p. 243.

¹¹⁹ Pitkin, ‘Representation and Democracy: Uneasy Alliance’, p. 339.

¹²⁰ Honig, ‘Arendt, Identity, and Difference’, p. 94, Ftn 49. Honig claims quite rightly that ‘nowhere in Arendt’s discussion of forgiveness in *The Human Condition* does the term responsibility appear’. Honig however, claims that ‘its absence is problematic, for the attribution of some form of responsibility is a postulate of forgiveness.’ Puzzlingly she then claims that ‘Arendt would have done better to avoid the term forgiveness altogether and to substitute “dismissing” for “forgiving” instead of treating the two as synonyms.’ In the light of Arendt’s continual emphasis on responsibility, it seems perverse to suggest that she had deliberately chosen to omit notions of responsibility from forgiveness. It seems more likely that Arendt understood that the very idea of responsibility for action to be inherent within and axiomatic to (as Honig herself suggests) the concept of forgiveness.

¹²¹ Digeser, for example states that ‘to get a handle on the viability of forgiveness as a political concept, we need to consider the meaning and character of forgiveness, our ability to address political wrongs fully, and the appropriateness of other options.’ He is yet another commentator who whilst addressing the political sphere makes no attempt to differentiate between different types of responsibility. Digeser, ‘Forgiveness and Politics’, p. 700.

¹²² Arendt, *The Human Condition*, p. 237.

in fact undoing the deeds of the past is the most obvious thing that it cannot do; once a deed is done it is done. In fact 'the transgression cannot be removed from the realm of social facts. Even "God cannot make the past not to have been". The unalterability of the past is constitutive of physical reality, but not of meaning and interpretation.'¹²³ Indeed, the very act of forgiveness itself necessarily presupposes the transgression. Each time forgiveness is offered a transgression is invoked, is remembered. Without the transgression there would be nothing to forgive, so forgiveness cannot eliminate the transgression.'¹²⁴

There are claims (such as those of Honig) that Arendt overestimates the power of forgiveness.¹²⁵ Pettigrove reminds us, however, that 'the distinctiveness of forgiving rests on the fact that it cannot be seen as a consequence of the initial transgression. Forgiveness, unlike revenge, is not merely a reaction to the misdeed.'¹²⁶

[T]he act of forgiving . . . is the only reaction that acts in an unexpected way and thus retains, though being a reaction, something of the original character of action. Forgiving, in other words, is the only reaction which does not merely re-act but acts anew and unexpectedly, unconditioned by the act which provoked it and therefore freeing from its consequences both the one who forgives and the one who is forgiven.¹²⁷

¹²³ Aquinas, *Summa contra Gentiles* II. 25. 1023: (Deus non protest facere quod praeteritum non fuerit), quoted in Glover, Jonathan, *Responsibility*, (London, Harmondsworth, 1970), p. 96.

¹²⁴ Pettigrove, Glen, 'Hannah Arendt and Collective Forgiving', *Journal of Social Philosophy*, Vol. 37, No. 4, Winter, 2006, p. 484.

¹²⁵ Honig, 'Arendt, Identity, and Difference', p 94. Honig claims that 'Even if we accept her [Arendt's] claim that forgiving frees both parties from the consequences of the original trespass, the act of forgiving has consequences of its own which Arendt does not consider. The parties involved become, respectively, "the one who forgives" and "the one who is forgiven." As such, the former has cause to feel virtuous or generous, and the latter grateful and indebted. Thus relations of equality, crucial to Arendt's account of politics, are undermined by forgiveness, just as, in Kant's view, they are by philanthropy.' This of course presupposes that the relationships were equal in the first instance, which in terms of elected representatives and the represented they clearly are not.

¹²⁶ Pettigrove, 'Hannah Arendt and Collective Forgiving', p. 484.

¹²⁷ Arendt, *The Human Condition*, p. 241.

Pettigrove highlights the centrality of forgiving to overcoming the problem of contingency. He states that 'our discussions suggest that forgiving is even more like what Arendt identifies as the faculty necessary for [continuing] political life.' He enumerates three ways in which forgivingness can undo the deeds of the past and can invite us into a new future:

The deed is now a thing of the past rather than something continually present. Second, setting the deed aside in this way reinterprets its importance in the present and reinterprets the perpetrator in the light of present and future possibilities rather than exclusively in terms of past actions. Third, by so doing it creates the opportunity for new actions and new relations not determined (or at least not wholly determined) by the transgression and invites the transgressor into this new future.¹²⁸

Thus, the power of forgiveness is that it has the ability to stop the transgressor from forever being seen in the light of her transgression. 'To say "I forgive you", is to let the other know that you shall not define her as wrongdoer, reducing the scope of who she is to this transgression.'¹²⁹ This perhaps explains the plight and tragedy of Jack Profumo, who, because he did not give an account of his transgression and ask for forgiveness, was always known, despite a subsequent life of "good work", as the man who lied to Parliament over a sex scandal. He was always reduced to his transgression. As a result of not being forgiven one's ability to begin something new, especially in the aftermath of wrongdoing, is limited. 'I cannot, for example, reconcile myself to another if they see my show of repentance as another insincere strategy in the selfish pursuit of my own goals.'¹³⁰ This is exactly what Parliament saw in the eventual statement that Profumo was forced to make to the House.

¹²⁸ Pettigrove, 'Hannah Arendt and Collective Forgiving', pp. 484-485.

¹²⁹ Ibid., p. 485.

¹³⁰ Ibid., p. 482.

Forgiveness is normally seen as a personal private act. Forgiveness, in terms of political action, however, cannot be undertaken in solitude, 'forgiving enacted in solitude or isolation remains without reality and can signify no more than a role played before one's self.'¹³¹ Indeed plurality is specifically the condition of political life, on the presence and acting with others. Thus forgiving must be a public affair. To illustrate the impossibility of such action Smith cites the case of Jack F. Kennedy and the disastrous invasion at the Bay of Pigs in Cuba. It is true that Kennedy did become 'a depressed lonely man, [who] felt personally responsible for the many lives lost,' and that he was 'contrite, repentant [and] aware of the need for reconciliation'.¹³² Although he did all of this in private and also in private blamed everyone else for the disaster, he, nevertheless, formally accepted sole *political responsibility* in public. Kennedy, however, never gave an account of his actions. To be forgiven requires giving an account, of speaking and acting together, which is the only possible means of redemption from the predicament of irreversibility. This Kennedy never did.

No matter how persuasive this strategy may be in theory, the cynicism surrounding political actors may give rise to grave doubts about their motivation and intent. A primary limitation, however, must be the substance of the transgression for which the political actor seeks forgiveness. Unless this action is restricted to "high policy" then the process is reduced to the symbolic imputation described by Luhmann, a device for the maintenance of the fictions upon which the systems allegedly reside. For example taking *political responsibility* for past events for which the political actor could not and did not have any direct association is exactly the sort of symbolic attribution that Luhmann describes.¹³³ Even a restriction to

¹³¹ Arendt, *The Human Condition*, p. 237.

¹³² Smith, 'Redemption and Politics', p. 222.

¹³³ For example apologies made by politicians for the slave trade and the massacres of indigenous peoples.

“high policy” can attract this criticism that this is a hollow device that will be reduced to a ritualistic process of confessing transgressions and receiving an automatic absolution. Such circumstances, which deal only with past events, would, however, offer no solutions to the contingency of the world. Giving an account and accepting *political responsibility* cannot be done in return for forgiveness: on the condition that forgiveness should follow. There can be no guarantee in advance of forgiveness. Further, forgiveness also does not and cannot imply the remission of punishment. By its nature, forgiveness requires that an injury is acknowledged and the offender is held accountable for his or her actions. In fact forgiveness ‘may require stern treatment of (the offender) with exposure and investigation of (the offender’s) weakness’.¹³⁴ This is the contingency that the politician must face, but it must be possible to believe that short of criminality, even where accepting *political responsibility* rightly entails loss of office, forgiveness is a possibility. The tragedy of Jack Profumo was not that he lost his office, but that because of his behaviour the possibility of forgiveness never existed.

Forgiveness, is not, however, an exoneration of the politician’s actions but an acceptance of the reality of those actions, but being forgiven for past deeds is only the first step. To allow engagement in further future action, to overcome the uncertainties of the future, requires the faculty of making and keeping promises, the possibility that through forgiving and promising the political process can move forward into the future. In fact forgiving and promising are inextricably linked. ‘Both of them make possible a shared future, reducing the uncertainties of that future by letting others know what they can expect from us’.¹³⁵ By

¹³⁴ Downie, R. S., ‘Forgiveness’, *Philosophical Quarterly* Vol., 15, 1965, p. 130. Quoted by M. J. Kurzynski in ‘The Virtue of Forgiveness as a Human Resource Management Strategy’, *Journal of Business Ethics*, Vol. 17, 1998, p. 81.

¹³⁵ Pettigrove, Hannah Arendt and Collective Forgiving’, p. 485.

forgiving someone their transgression we are in effect promising them that we will no longer simply see them in the light of their transgression. That we are prepared to 'invite them into a new future' on an expectation that they will act differently.¹³⁶ The transgressor by accepting our forgiveness in effect promises to act differently from the actions of the past. Arendt emphasises the unique role of forgiving and promising in a contingent world. She agrees that human beings cannot live in a completely contingent world, and she understands that sources of stability must be sought. She insists that promising is the source of stability in the human world because 'the function of the faculty of promising is the only alternative to a mastery which relies on domination of one's self and rule over others.' As Arendt says, these two faculties, forgiving and promising belong together because 'binding oneself through promises, serves to set up in the ocean of uncertainty, which the future is by definition, islands of security without which not even continuity, let alone durability of any kind, would be possible in the relationships between men.'¹³⁷

In the case of Jack Kennedy we can see that the distrust and cynicism felt about politicians hangs on his failure to be an authentic actor in the terms of representational democracy. As we have seen, integral to the concepts within representational democracy is the giving of an account of his activities by the political actor. The adoption of the mechanisms suggested by Arendt, and the giving of a true public account by Kennedy of the disastrous invasion of Cuba, may have allowed political relationships between the Cuban and the US administrations to move on from the forty years legacy of hostility and mistrust. Like all action, forgiving and promising involves risk. The risk to the politician is of giving an account with the possibility of forgiveness but no guarantee in advance that forgiveness for

¹³⁶ Ibid.

¹³⁷ Arendt, *The Human Condition*, p. 237.

the transgression will be forthcoming. The risk to society is that we have to enter into a shared future through the facility of promising with only the politician's assurances that he will not transgress in the same way in the future.

The second normative value of a concept of political responsibility is that to be politically responsible the political actor,

should be prepared to give that account in public under the full glare of the public gaze. More fundamentally, when he *acts* in the political realm he should always be mindful that should he ever be required to do so, he should always be *able* to account for his actions. Thus he ought to have reasons for what he does, and be prepared to justify his actions to those he acts for, even if this accounting or justification never actually takes place.¹³⁸

The nature and integrity of this account will be discussed later under truth and *political responsibility*. What the work of Arendt offers us that is so important is, as we have shown, that forgiving and promising offers the possibility that the political process can move forward despite the impediments of a contingent world. This discussion has outlined a workable concept of *political responsibility* within a contingent world; however, there are consequences to these conclusions of which we need to be aware. This is not a straightforward prescriptive strategy but the proffering of a concept of forgiveness and promising along with all the pitfalls and consequences that this entails. It generates, like all innovative concepts, many unpleasant risks and necessary compromises that may, for instance, push us in the direction of forgiving some things that we would not be inclined to forgive.

¹³⁸ Pitkin, *The Concept of Representation*, p. 119

Chapter Four

Justice, Injustice, Reconciliation and Political Responsibility

It became apparent from the outset that if *political responsibility* was to become a useful concept, some of the seemingly intransigent problems identified in the literature review would have to be addressed. One of these intransigent problems is the issue of justice, or more precisely, the issue of injustice. This consideration of injustice might initially appear to be a diversion because injustice is an outcome or consequence of the lack of *political responsibility*, rather than necessarily part of the process. Rather than being a diversion, however, the discussion in this chapter will demonstrate how essential it is that injustice and the effects of injustice are understood. This understanding is crucial because the sense of injustice that is generated by a lack of *political responsibility* has a damaging effect on the political process.

The strategy needed to investigate injustice is not, however, straightforward. It had quickly become apparent in earlier discussions that attempts to understand *political responsibility* by addressing agency and cause created more problems than they solved, yet this is the route that is invariably undertaken in discussions of injustice. It is equally true that the same conflation of different types of responsibility that has already been encountered in previous discussions is also prevalent in any discussion of injustice. This conflation arises because in most examples, the responses to demands for *political responsibility* have involved only the perpetrator and punishment of one form or another (usually the loss of office), or the avoidance of punishment. There has rarely been any other response than the loss of office, and in Bagehot's view this loss of office 'may not be a remedy at all; it may only be a

punishment.’¹ The remedy that Bagehot refers to is that required by both the victims of the injustice, and in the case of *political responsibility*, to the damage done to the political process itself. With this in mind, if we are to understand the true significance of injustice to both *political responsibility* and the political process it is clear that a different strategy will need to be employed. This strategy will involve firstly examining injustice as a concept, in order to reveal how it is constituted, how it is engendered and how different types of responsibility are conflated. It will then be possible to speculate on strategies that may be able to overcome the effects of injustice as it relates to *political responsibility* that in turn have a direct bearing on the political process.

Before examining injustice as a concept, however, there are several issues that need to be acknowledged both as a background and rationale to further discussion. Even the most cursory review of literature reveals that the inability to assign and/or the failure to accept responsibility of almost any kind is a real and persistent problem. That the problem of injustice, and how it relates specifically to *political responsibility*, is a serious one was illustrated in the Cave Creek tragedy. Gregory at the end of his detailed account and analysis of the tragedy articulated why the concept of *political responsibility* cannot be ignored, no matter how difficult it is conceptually. He asserts that the failure to identify those who were politically responsible for the disaster is the direct cause of the sense of injustice which is felt not only by those immediately involved and their relatives and friends but even more disturbingly by the population as a whole. It is then, potentially, a very serious problem because it damages the entire political process. Gregory claims that it is the persistent failure to acknowledge, understand or address the sense of injustice that is

¹ Gregory, Robert, ‘Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek’, *Public Administration*, Vol.76, Autumn, 1998, p. 534.

generated by the failure to explicitly identify those politically responsible that is so damaging to the political process. As he observes in the Cave Creek tragedy, even after a public enquiry 'there remains a strong public perception that justice has not been done, let alone seen to have been done.'² Gregory is not alone in delivering dire warnings concerning the effect that the lack of *political responsibility* and the sense of injustice that this engenders has on the political process. Shklar reinforces this view, as she points out that 'individual anger may become public distrust ...and its eventual consequences are not insignificant.' She understands that any failure to identify those politically responsible 'enfeebles representative government and encourages political cynicism and passivity.'³

The belief that one has been the victim of injustice is not, in many instances, transitory. Although instances of injustice abound, there should be no underestimation of the persistence and the power that is exerted by them. The type of cases that arouse these powerful and persistent feelings of injustice are regrettably, many and widespread. For example, questions concerning how and to whom *political responsibility* can be allocated are still relevant and emotive topics of discussion and debate over such issues as the enslavement of Africans by Europeans, or the ruthless eradication by settlers of indigenous native peoples in both the Americas and Australasia. To attempt to address such issues may appear in one sense to be an indulgence, for surely the passage of time will rectify or nullify this sense of injustice. If it is ignored it must surely eventually be able to be assigned to the past. McCall Smith warns us, however, that conversely, in such cases 'the passage of time seems to play little role: the requirements that justice be done is not defeated by the historical distance separating events from its final resolution. Indeed, in some cases,

² Gregory, Robert, 'A New Zealand Tragedy: Problems of Political Responsibility', *Governance: An International Journal of Political Administration*, Vol.11, No.2, p. 239.

³ Shklar Judith N., *The Faces of Injustice*, (Yale University Press, New Haven, 1990), p. 83.

historical distance seems to sharpen the sense of anger which the victims, or their descendants feel.⁴ Thus the sense of injustice felt by individuals does not appear to lessen with the passage of time instead they are merely condemned to live with it. The sense of injustice is so persistent and pervasive that both British and Australian Prime Ministers have recently offered apologies for injustices in the past carried out against indigenous Africans and Australians, even though in some cases the injustice had occurred centuries earlier.

Also in the more recent past, whilst the House of Lords deliberated over the nature of his crimes (criminal or political) and determined the fate of General Pinochet of Chile, who had been arrested whilst visiting Britain, the injustice felt by his victims was once again thrust into the public arena.⁵ The 'grief of his victims regained its voice and showed the world a Chile whose transition to democracy remains precarious'⁶ precisely because this matter remains unresolved. When such tragic incidences of injustice are, however, undisclosed and therefore publicly unacknowledged, rather than ameliorating the problem a different problem is created, but the sense of injustice is just as intense. In Spain, for example, after years of enforced silence, forensic archaeologists have only just begun to excavate mass graves from the Civil War, dating from as early as 1936. No one knows the exact total of the dead killed in the Civil War and just "tossed" into these mass graves, but as many as 30,000 is a frequently quoted figure. The Civil War and its aftermath have not been discussed in Spain until now. It is claimed that as a result of this lack of discussion, there is a sense in

⁴ Mc Call Smith, Alexander, 'Time, Guilt and Forgiveness', in *Lethe's Law: Justice, Law and Ethics in Reconciliation*, (eds.) Christodoulidis, Emiliós & Veitch, Scott, (Hart, Oxford, 2001), pp. 47-48.

⁵ In 1978 the military junta led by Augusto Pinochet Ugarte had passed a self-amnesty to protect themselves from prosecution for the murders, torture and "disappearances" that had been instigated after the overthrow of Chile's elected President Salvador Allende. Pinochet was arrested in London on 16th October 1998 at the request of a Spanish judge. On 24th march 1999, the Law Lords decided that Pinochet was extraditable to Spain for crimes against humanity. This was subsequently halted by the Home Secretary Jack Straw on 2nd March 2000.

⁶ Schäfer, Burkhard, "'Sometimes You Must be Kind to be Cruel'", in *Lethe's Law*, p. 18.

Spain that it is a 'country without a memory' and therefore, 'without a history'.⁷ Muldoon claims that this is 'particularly true where the "new history" casts a shadow over the moral foundation of the political order.'⁸ This lack of discussion does not mean that these events have been forgotten, it is rather that these memories have had to be suppressed. In Spain, this suppression was imposed initially to maintain the Fascist dictatorship but subsequently encouraged to facilitate democratic stability. At this distance in time, however, finding perpetrators would be impossible. It is not this that the Association for the Recovery of Historical Memory, in Spain, seeks. Rather, they claim that only the excavation of the graves and being able to assign *political responsibility* for the mass killings will give families the chance to move on from the horror of the events.

Merely assigning and/or accepting *political responsibility* does not of itself, however, solve the problem. The strategy sometimes adopted by politicians, in which an individual politician declares that he/she is prepared to accept *political responsibility* for a particular incident or matter, does nothing to assuage this sense of injustice. We have already identified examples of this practice, in the actions of Richard Nixon, John F. Kennedy and John Nott. There are two more recent examples of this behaviour. Firstly Tony Blair's response whilst giving evidence to the Hutton inquiry into the death of the scientist David Kelly. Baldwin claims that Blair 'was not going to make the same mistake' as the Defence Secretary Geoff Hoon had done whilst he was giving evidence to the enquiry when he [Hoon] appeared to be passing the buck. Instead Blair 'repeatedly emphasised that he took

⁷ Transcript from 'Crossing Continents', BBC Radio 4 (Broadcast), 15 July 2003, p.5. The broadcast included harrowing descriptions by surviving family members of other family members being taken away. They presumed that they were dead but had no access to records or to graves of the deceased. They expressed the wish not for retribution but for an account of what had taken place and why it had happened.

⁸ Muldoon, Paul, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa', *Australian Journal of Politics and History*, Vol.49 No.2, p.185.

full responsibility for the actions of his Government.’⁹ Unfortunately this responsibility did not amount to giving a full account of the events that led to Kelly allegedly committing suicide. The second example is the resignation of Beverley Hughes from her ministerial post in charge of immigration at the Home office. The issue concerned her denial of any knowledge of the practice of relaxing passport checks on immigrants from Romania and Bulgaria. She resigned when it was later revealed that she had been warned a year earlier about the related abuses in the issuing of passports in these two countries. ‘This inconsistency meant that she had failed her duty of personal accountability and responsibility’.¹⁰ Her resignation and acceptance of responsibility did nothing, however, to illuminate the position of David Blunkett the then-Home Secretary in this affair, and left many questions unanswered leaving ‘an impression of incompetence and deviousness’. Peter Riddell observes that ‘no wonder Tony Blair looked so uneasy at his press conference yesterday. In order to fulfil the doctrines of accountability and responsibility, the Government has a lot more explaining to do.’¹¹ A Minister simply accepting *political responsibility* without giving a full account does nothing to assuage the sense of injustice that has been generated.

In all of these instances, and there are, alas, numerous others from around the world, the sense of injustice felt by the victims is palpable and the divisions this causes in the societies effected is damaging. Similarly to the aftermath of the Spanish Civil War, Ratner and Abrams, whilst discussing atrocities committed in more recent wars bemoan the fact that so little has changed in the intervening years since the Nuremberg Tribunal. Understanding injustice, and the necessity for the identification of those to whom *political responsibility*

⁹ Baldwin, Tom, ‘Buck stops here for leader with keen eye on his image’, *The Times*, 29 August 2003.

¹⁰ Riddell, Peter, ‘The three tests of ministerial responsibility’, *The Times*, (London, 2 April 2004), p. 9. Thompson Gale Document Number CJ114875537

¹¹ Ibid.

can be ascribed, is not, however, just an exercise designed to assuage the grief and anger of individuals nor is it simply a matter of academic concern. Although these are indeed serious and pressing concerns, what is also a major pressing concern is that this ‘continued failure to address the crimes of the past through *some mechanism* leaves open the wounds in society.’¹² (my italics)

Prior to an examination of any mechanisms that may be created in order to address injustices from the past, it is necessary to understand the nature of injustice and its aetiology. Understanding what this sense of injustice is, how it is generated and how it can be overcome, is not at all straightforward. In Gregory’s discussions of the Cave Creek tragedy, his assertion that justice was not done let alone seen to be done strikes a sympathetic chord. However, it is not immediately clear what this injustice consists of. There was certainly no doubt that the park employees who built the viewing platform that collapsed did not build it to acceptable safety standards. Nevertheless, it seems that the prosecution and punishment of these individuals would not negate the sense of injustice that Gregory refers to. It is not difficult to understand why the survivors and the relatives and friends of the dead and injured should feel that they have been treated unjustly. No one resigned or was prosecuted for their part in the deaths and injuries; that indeed, as Gregory states, justice was not done let alone “seen to be done”. Why this tragedy generated such a sense of injustice amongst the population in general, who had not been directly affected is, however, rather more difficult to explain. In order to understand why the general population also has a sense of injustice it is necessary to understand the process that produces this sense of injustice that will apparently generalise into the population as a whole.

¹² Ratner, Steven R., & Abrams, Jason S., *Accountability for Human Rights Atrocities in International Law*, (Oxford University Press, Oxford, 2001), p. 336.

In order to understand these feelings of injustice, how they relate to *political responsibility* and to suggest strategies that may allow them to be overcome, it will be necessary to look at injustice in a general sense and then to relate it specifically to the political realm. However, whilst it is true that the nature of justice has been the subject of wide ranging speculations from the ancient Greeks onwards, this has not been the case for injustice. The centrality of justice to any discussion of the state, and therefore critical to the very nature of the political, was already apparent in the writings of Plato. Nevertheless, claims concerning the nature of justice have always been contentious. For example even in Plato's writings Callicles in the *Gorgias* claims that the imposition of justice is merely a conspiracy of the weak against the strong. Whilst in *Republic ii*, Glaucon and Adeimantus claim that it is an agreement to a set of rules that is to everyone's advantage whereas, Thrasymachus in *Republic i* claims that justice merely reflects the interests of the strong.¹³ This preoccupation with justice that so exercised ancient Greek thinkers has continued to be true of philosophers in general.

The continual search for a theory of justice and how it relates to the political realm does not, however, command universal approval. Richard Rorty, for example, claims that even some of the 'most original theorists of recent times [do not give us] any useful new tools'.¹⁴ Indeed he claims that if we abandon a God's-eye point of view then we had also better abandon any notion of trying to charge the idea of justice with normative meaning.¹⁵ Rorty asserts that we need no more "theories" but instead should adopt a pragmatic model. 'We should think of politics as one of the experimental rather than of the theoretical

¹³ Plato, *Georgias*, 482E-483D; *Republic ii*, 357A-359C; *Republic I*, 343B-344A, all in Irwin, Terence, (ed.), *Classical Philosophy*, (Oxford, Oxford University Press, 1999), pp. 303-306.

¹⁴ Rorty, Richard, 'An Exchange on Truth, Freedom and Politics, *Critical Inquiry*, 16, 1990, p. 641

¹⁵ *Ibid.*, pp. 633-634.

disciplines.’¹⁶ Nevertheless, despite such caveats there have been prodigious amounts written about justice by philosophers and non-philosophers alike. It is the case, however, that writers ‘have not always observed the distinction between questions of analysis and questions of criteria, i.e., the distinction between what justice is and how to determine instances or non-instances of it.’¹⁷ Thus, whilst discussions of examples of injustice abound, indeed they are present on a daily basis in both the broadcast media and also in print, there is little discussion of what injustice *is*. That this is the prevailing attitude to injustice is demonstrated by the lack of literature that deals with injustice theoretically. As Shklar claims ‘the sense of injustice, the difficulties of identifying the victims of injustice, and the many ways in which we all learn to live with each other’s injustices tend to be ignored, as is the relation of private injustice to the public order.’¹⁸ Shklar notes that although ‘every volume of moral philosophy contains at least one chapter on justice’, she asks, where are the similar discussion concerning injustice? She claims that discussions of injustice would ‘at the very least ... begin to shorten the distance between theory and practice when one looks at our actual wickedness, rather than only at pictures of what we ought to be and do.’¹⁹ It is also the case that even when injustice is discussed in most of these volumes ‘it is taken for granted that injustice is simply the absence of justice, and that once we know what is just, we will know all we need to know’ concerning injustice.²⁰ Why, Shklar asks, ‘do most philosophers refuse to think about injustice as deeply or as subtly as they do about justice?’²¹

¹⁶ Rorty, Richard, ‘From Logic to Language to Play: A Plenary Address to the Inter-American Congress’, *Proceedings and Addresses of the American Philosophical Association*, 58 (1986), pp. 752-753. Quoted in Rorty, ‘An Exchange on Truth, Freedom and Politics’, p.641

¹⁷ Woozley, A.D., ‘Injustice’, *American Philosophical Quarterly*, Monograph Series No.7, 1973, p. 109.

¹⁸ Shklar, Judith N., *The Faces of Injustice*, (New Haven, Yale University Press, 1990), p. 15.

¹⁹ Shklar, Judith, ‘Giving Injustice Its Due’, *The Yale Law Journal*, Vol. 98, No. 6, (Apr., 1989), p. 1136.

²⁰ Shklar, *The Faces of Injustice*, p. 15.

²¹ *Ibid.*, p.16.

This lack of discussion and lack of clarity concerning discussions of injustice initially seems somewhat inexplicable. As we have seen, the sense of injustice is powerful and persistent indeed perhaps it is the prevalence of injustice that is the problem. Shklar states that Rousseau clearly articulates that, 'the sense of injustice [is] a universal human disposition, an ineradicable social emotion and a politically significant phenomenon.'²² She correctly points out that injustice has always been with us 'in the voices of Job and Jonah and Hesiod at the dawn of literary history', and asks what would Dickens have 'had to write about without the sense of injustice.'²³ The political significance of injustice was not, however, uppermost in the mind of great thinkers like Socrates whose investigations were based on discovering what justice is. Whilst each of us would have difficulties if confronted by a Socratic figure demanding to be instructed on the nature of justice, we do not seem to have the same difficulty with injustice; we know it when we see it, - or do we? Shklar cautions us that it is important that we distinguish between injustice and misfortune. When, for example, do the misfortunes caused by a hurricane then become matters of injustice? Perhaps if the local authorities (as in New Orleans) have failed to maintain the levies that should have kept the flood water out? She warns us that, human nature being what it is, we are likely to see injustice if we identify with the plight of the victim but if in any way we could be even remotely implicated in the responsibility for the disaster then we are likely to claim that it is caused by misfortune. Whilst the difference between misfortune and injustice can be a troublesome distinction in many cases of responsibility, Shklar claims that in terms of *political responsibility* it is less problematic. Indeed she claims that political theory seems to be the ideal place to discuss injustice, rather than leaving discussions of *political responsibility* to philosophers. She notes that 'In politics, the difference between misfortune

²² Shklar, *The Faces of Injustice*, p. 86.

²³ *Ibid.*, p. 83.

and injustice clearly makes sense and can serve our interests - if we use it intelligently'²⁴ because 'injustice is not a politically insignificant notion.'²⁵ Shklar, however, alerts us to the difficulties. For although 'the sense of injustice is eminently political,'²⁶ the problem with injustice is that it is the 'speciality of losers', so that although the sense of injustice has not been altogether ignored, it has not really played an important part in political thought.²⁷

There is one notable exception to this lack of scrutiny of injustice. Shklar draws our attention to a monograph by A.D. Woozley.²⁸ This monograph on 'Injustice' provides a clear insight into how a sense of injustice can occur. Woozley begins his argument by outlining the usual way in which injustice is viewed. He claims that 'from Aristotle on it has seemed natural to think of injustice within the context of distribution of advantages or disadvantages'.²⁹ We can see a specific example of this in Rawls' *Theory of Justice* in which Rawls challenges how primary goods are distributed amongst individuals and explains how the failure to distribute primary goods justly can result in some individuals being endlessly discriminated against. Thus, Rawls claims, we tend to view injustice as discrimination between individuals or groups of people or certain classes of people. Woozley challenges this notion that defines justice, and therefore injustice, in terms of distribution and discrimination, not because he has any doubts 'that the most conspicuous cases of injustice are those involving discrimination, but [that] I am inclined to think there is something more fundamental, that it is not so much the discrimination itself that is offensive as what is *involved* in the discrimination.'³⁰

²⁴ Shklar, *The Faces of Injustice*, p. 56.

²⁵ Ibid., p. 16.

²⁶ Ibid., p. 83.

²⁷ Ibid., p. 84.

²⁸ Woozley, A.D., 'Injustice' *American Philosophical Quarterly*, Monograph 7 Oxford, 1973.

²⁹ Ibid., p. 113.

³⁰ Ibid. (my italics)

The very basis of injustice, he claims, is that it can only occur between agents. In fact, it is Woozley's contention that 'in every case the person to be treated justly or unjustly, has a claim on the agent, and the agent in not meeting the claim is guilty of injustice.'³¹ Woozley designates the nature of these claims that can be made on the agent as 'justicising factors'. These include such things as need, desert, and transaction, but the two that are of most interest to us and to our discussions of injustice are those he calls 'special relations' and 'conformity to rule'. The significance of 'special relations' becomes apparent if we return to the definition of a representative and the duties that this imposes as outlined in the previous chapter from the work of Pitkin. It is clear that there is a special relationship that exists between politicians and the electorate, and that this special relationship produces special rights, i.e. that the representative must be accountable to his constituents. As Pitkin describes it, the representative 'must not be found persistently at odds with the wishes of the represented without good reason, in terms of their interest, without a good explanation of why their wishes are not in accord with their interest.' Thus, we could legitimately claim that when our interests are not met and no explanation, or no adequate explanation, is given concerning why this has occurred then it is possible, by Woozley's designation, to claim that we have been treated unjustly.

Turning to the second justicising factor, 'conformity to rule', Woozley reminds us that in order for society to be able to function it is essential that it is perceived that the general rules of society 'should both be fair and be fairly operated'. More importantly, he claims that each one of us also 'has a claim that the general rules of society should be observed.'³² The impetus to conform to these rules, he claims, is not dependent on either the legality or

³¹ Woozley, 'Injustice', p. 114.

³² Ibid., p. 119.

morality of the rules, but instead ‘depends on those being the rules by which the game is being played.’³³ For as Kant claimed, unless a rule is a universal law and generally observed then it has no value.

This of course leaves us open to the problem of what exactly constitutes a rule. Woozley does admit that ‘it is not easy to be precise about what constitutes something being such a rule’, however, he does not think that this is really a problem. It can be something that is laid down by statute, conversely, ‘it can be as little as it being a matter of reasonable expectation, which is enough to create a rule, and [thus] to open the way for just and unjust treatment of others’.³⁴

When comparing the democracies of ancient Greece and modern representational democracy, we have already identified that in both we have a right to expect an account to be given should we require it. It would then appear that in Woozley’s terms that this would be a “reasonable expectation” and, therefore, the lack of such an account to be perceived as a matter of injustice. In fact Woozley’s definition of injustice confirms just that. His definition of injustice is that injustice ‘consists of treating people differently – more accurately, worse – than they have a right to expect’.³⁵

Woozley is of course a realist and acknowledges that there is a considerable difference between expectations and actual behaviours, between expecting *that* someone will behave in a certain way and expecting someone *to* behave in a certain way. We might, for example, expect, because that is what we believe the essence of political representation to be, that a

³³ Woozley, ‘Injustice’, p. 119.

³⁴ Ibid.

³⁵ Ibid.

politician will give us an account of his actions. We might also not expect that he will *actually* behave in this way because it has been our experience that politicians are usually evasive, tell us only half truths or attempt to obfuscate the situation, or in some cases, just plain lie. This, however, must not dictate the veracity of our expectation. As Woozley explains, 'a demand on a person does not fail to be reasonable just because the expectation that he will meet it fails to be reasonable.'³⁶ In order to illustrate this clearly Woozley offers the example provided by Kant and his habit of taking a walk everyday at so precisely the same time that his neighbours could set their watches by him. Woozley explains that the neighbours will have no reason to complain that Kant would be letting them down, as a regulator of time, if one day he failed to walk at the particular time. 'For them to be entitled to complain, not only would Kant have to know that they were relying on him as their watch-regulator, but they would have to know that he knew, and he would have to know that they knew that he knew.'³⁷

When we extrapolate from this example of the behaviour of Kant to our politician in a representational democracy, it is clear that our elected representative does know that we are relying on him, because that is why we elected him. There can be no doubt in our minds that he knows this (ie. we are relying on him) and he certainly knows that we know that he knows this, otherwise we would have no grounds to dismiss him. In this relationship between the represented and the representative, as Woozley points out, 'the claim to justice within the context of rules is the claim to reasonable expectation of conformity to rule should not be disappointed.' In fact, 'injustice consists of failing to treat victims of it in the way in which they can expect to be treated.'³⁸ In representational democracies we expect

³⁶ Woozley, 'Injustice', p. 121.

³⁷ Ibid.

³⁸ Ibid.

that our elected representatives will be politically responsible, in fact the representatives' 'accountability focuses on the obligation owed by all public officials to the public, the ultimate sovereign in a democracy for explanation and justification of their use of public office.'³⁹ When representatives fail to do this, according to Woозley, they behave unjustly. He claims that injustice is 'somehow an affront or an insult to the promisee as a human being.' 'In this case the insult is first conferring a right on him, [the right to be given an account which is inherent within representational democracy] and then behaving as if you had not'. Thus injustice fundamentally is 'the affront done to a man as a human being by not treating him in the way that he can expect to be treated.' Thus, 'it is not the absence of justice that we get excited about, but the absence of justice where it should be present.'⁴⁰ Woозley points out that it is 'no accident that it is indignation rather than merely anger that we feel at injustice, whether we or others are its victims.'⁴¹ We can see that this fits with Pitkin's account of representation, that we should be able to be given an account if we ask for it, and are rightly affronted when what we believe to be our right is not respected.

This explanation of injustice perhaps makes sense of the claims made by Gregory concerning the Cave Creek disaster. This had been the first significant test for the State sector reforms of 1988 and 1989, which had been described at the time as "truly remarkable". They had been instigated because there had been several occasions where ministers had actively sought to distance themselves from *political responsibility* when things had gone wrong in their departments. It had been hoped that instigating these reforms would overcome the concerns over the "enveloping haze" of ministerial responsibility. It

³⁹ Dunn, Delmer D., 'Mixing Elected and Nonelected Officials in Democratic Policy Making: Fundamentals of Accountability and Responsibility', in *Democracy, Accountability and Representation*, (ed). Przeworski, Adam, Stokes, Susan C. and Manin, Bernard, (Oxford University Press, Oxford, 1999), p. 298.

⁴⁰ Woозley, 'Injustice', pp. 109-110.

⁴¹ *Ibid.*, pp. 121-122.

was claimed that ‘the reforms were designed to ensure that the respective responsibilities of ministers and their officials were clarified, and that the performances of senior officials could be more rigorously assessed, and rewarded or sanctioned accordingly.’⁴² We can see from Woozley’s account of injustice why the outcome of the Cave Creek disaster caused such anger, resentment and consternation amongst the general population in New Zealand. The public had firstly been assured that they did indeed have a right to ascribe *political responsibility* to politicians and that the reason that reforms were necessary was that the current convention was inadequate. They were led to believe that the problem with the current convention of “ministerial responsibility,” was that it ‘placed too much emphasis on its supposed requirement that ministers accept liability for actions performed.’⁴³ The reforms would, it was claimed, ensure that there was a much clearer delineation of the respective roles of ministers and their chief executives so that the pathways of responsibility were much clearer. Thus, having been assured that they had a right to expect to be able to hold ministers politically responsible, and the reassurance that these reforms would ensure that this would be delivered, the public were outraged when the new system not only did not deliver the promised clarification which they expected but also led to more obfuscation than the original system. In Woozley’s parlance, the public believed that they had had a right conferred on them, but when the delivery of that right was demanded by the public in the Cave Creek disaster, politicians behaved as if that right had not been conferred. Thus, if promises are made that heighten expectations when these expectations are frustrated the disappointment generated will be intensified.

⁴² Gregory, ‘A New Zealand Tragedy: Problems of Political Responsibility’, p. 234.

⁴³ Ibid.

The department responsible for building the viewing platform that had collapsed with such disastrous consequences immediately admitted that this was directly attributable to the faulty design and construction, for which they were solely responsible. Thus, the public and those bereaved had, they believed, the right to expect that the Minister of Conservation and the Chief Executive of the Department of Conservation responsible for the national park would give a full and frank account of the tragedy. When it was discovered in the enquiry that budgets had been cut, the public wished to know, amongst other details, why the decisions to reduce budgets had been made, and who had decided to allow the unskilled, unsupervised workers to construct the viewing platform. The Minister of Conservation, as a member of the government, was politically responsible for both the reforms intended to increase clarity, and also the budgetary constraints under which the Chief Executive acted. The public had a right to demand that they be given an account of not only what happened at Cave Creek but also why the heralded reforms failed to work and why the budgetary constraints had been made.

There is no doubt that in such cases there is a great public demand for retribution. Under the terms of the state sector reforms, the public and the bereaved had been led to believe that they had a right to hold politicians and bureaucrats to account. When this supposedly new responsive system was tested by the Cave Creek tragedy those rights, which had appeared to be enshrined within the legislation, were nevertheless negated. Gregory is right to conclude that it is only by officials, elected or appointed, fulfilling these obligations that the integrity of the governmental systems can be maintained.⁴⁴ He claims that it was 'the failure on the part of the Cave Creek principals to say sorry in a way that was unmistakably sincere,

⁴⁴ Gregory, 'Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek', p. 533.

because they did not believe that their (in)actions directly caused the tragedy, [that] in a real sense enhanced rather than diminished their responsibility for it.’⁴⁵

What was actually required was a remedy that not only restored public faith in the competence of the government but also their trust in its fairness, compassion and, therefore, its legitimacy. ‘Reinvesting legitimacy in the state has become inseparable from managing the legacies of the past’.⁴⁶ Although this is of course all perfectly correct, what is missing from this list, and at the heart of Woosley’s claims of injustice, is that the public in general and the bereaved and maimed were not given the consideration that they had a right to expect. That having allegedly re-organised the state sector to make the lines of accountability and responsibility more transparent, the government then refused by their actions, after the Cave Creek tragedy, to fulfil this obligation. There is little wonder that Gregory reports that ‘the failure of *political responsibility* over Cave Creek has done nothing to reduce the high levels of public cynicism that already existed in New Zealand towards, politics, politicians and political institutions.’⁴⁷ What is so damaging is that these failures create within citizens the feeling of being alienated from the institutions of state, in this case the representational democratic process, and results in these processes being perceived as ‘foreign, bifurcating, and hostile or indifferent to their needs’.⁴⁸ As Woosley reminds us it is the affront or insult that results in the victims of the injustice becoming alienated from the social world in which they find themselves located, and Shklar is in no doubt that ‘normal human beings can tell when they are being affronted.’⁴⁹

⁴⁵ Gregory, ‘Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek’, p. 534.

⁴⁶ Muldoon, Paul, ‘Reconciliation and Political Legitimacy: The Old Australia and the New South Africa, *Australian Journal of Politics and History*, Vol. 49, No.2, 2003, p.186.

⁴⁷ Gregory, ‘Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek’, p.535.

⁴⁸ Hardimon, Michael O., *Hegel’s Social Philosophy*, (Cambridge, Cambridge University Press, 1994), p.1.

⁴⁹ Shklar, *The Faces of Injustice* p 90.

The resignation or dismissal of the minister responsible is not of itself the only (or complete) solution. In this case when the minister did eventually resign (4 months later), it did little to assuage the anger and sense of outrage that had been generated. Gregory cautions us that whilst 'dismissal may have satisfied retributive instincts it may also have denied the opportunity for the sort of genuine responsible action necessary to reaffirm symbolically the integrity of governmental institutions.'⁵⁰ Dismissal or resignation even where it might be right and necessary is not in itself sufficient. Not only is it insufficient to exhaust all the requirements of the content of what it is to accept *political responsibility*, in fact dismissal or resignation is not the only thing that people actually want. There is no doubt that they frequently want retribution, and that they might not be able to disentangle this desire for retribution from these other "things". Despite this, it is possible to discern a desire for something other than retribution. The requirement to give an account is central to the possibility of meeting the desire for these "things" other than retribution. Giving an account of past action serves two purposes. Firstly it fulfils the role required of a representative in a representational democracy and more importantly, it identifies and explains what went wrong. Secondly, within the explanation of what went wrong in the past is the remedy to prevent a re-occurrence in the future. It is, therefore, possible to extrapolate from Gregory's suggestion that 'the opportunity for the sort of genuine responsible action necessary to reaffirm symbolically the integrity of governmental institutions' has within it the possibility that this reaffirmation could take the form of a plausible promise concerning future government action. It is possible that a credible account from a minister may lead to promises of government action in the future, which is often all that the aggrieved actually want.

⁵⁰ Gregory, 'Political responsibility for Bureaucratic Incompetence: Tragedy at Cave Creek', p. 533.

Having established what injustice is and how it relates to the political realm, it is now necessary to investigate the effects that injustice has on the perceptions of individuals of their place within the political process. As Hardimon states, those who are dealt with unjustly perceive the political process as 'foreign, bifurcating, and hostile or indifferent to their needs'.⁵¹ Injustice and the effects of injustice are so pervasive because of the complexity of its manifestations; for example, criminal, moral, legal and political. The complexity of these manifestations of injustice results in there being a complexity of remedies that purport to overcome its effects.

The review of available literature revealed that attempts to assign responsibility often become enmeshed in the difficulties of attempting to separate different types of responsibility, for example separating responsibility for criminal acts from responsibility for political acts, of which there are many examples. When the difficulties of separating different types of responsibility are addressed, however, this can produce its own problems.⁵²

The experience in France is a case in point. As well as the problems of collaboration and co-operation with the Nazi regime, which has never been resolved and still remains a matter of deep controversy, there is also a more poignant example of where criminal, moral, legal and political responsibilities have become conflated. In a moving account of the massacre that occurred in Oradour-sur-Glane in the Limousin region of west central France, Sarah Farmer

⁵¹ Hardimon, *Hegel's Social Philosophy*, p.1.

⁵² This is exemplified by the sharp contrast between the subsequent response and recriminations against the perpetrators of crimes after the fall of the German Democratic Republic, and the far from satisfactory process that took place at the end of the Second World War. 'In Germany the debate over the legal response to the crimes of the former GDR opened old wounds when the ...comparison to the abject failure of the criminal justice system to deal with the atrocities of the Nazi dictatorship entered into the public debate.' Schäfer, Burkhard, 'Sometimes You Must be Kind to be Cruel', in Christodoulidis, Emilios & Veitch, Scott, (eds.), *Lethal's Law*, p18.

describes first the trauma of the massacre and then the betrayal by French politicians of their vow to bring the perpetrators to justice. SS troops had encircled the town and rounded up all the inhabitants dividing the men from the women and children. They marched the men to nearby barns and shot them all. They then locked the women and children into the church where they also were shot. The soldiers then set fire to the church and the rest of the village. In all, 642 inhabitants were massacred and the village devastated.

The trial of some of the perpetrators that took place in Bordeaux in 1953 illustrated the conflict between the two sides. On one side there were those who argued for moderation and conciliation, and others who, like Camus, argued that 'forgiving collaborators meant sacrificing the ideals for which the resisters had died, as well as betraying the dead by allowing their executioners to go free.'⁵³ The lack of justice felt by the families of the victims of this Nazi atrocity brought with it lasting bitterness. The village returned the Cross of the Legion of Honour it had been awarded after the war in recognition of the suffering. Thus, added to the 'sentiment of very great pain and of survival there was added a sentiment of injustice, abandonment, and, at times, revolt.'⁵⁴ The sense of injustice and anger still remains unresolved although the massacre took place on 10th June 1944.⁵⁵ It is not at all clear, however, how this sense of injustice can be overcome. At a point that is over 60 years from when the event took place, retributive justice would be impossible.

One attempt to overcome the effects of injustice and balance the demands for criminal retribution with the needs of the victims and society as a whole has been the Truth and Reconciliation Commission (TRC) in South Africa. The TRC was constituted to overcome

⁵³ Farmer, Sarah, 'Post war Justice in France: Bordeaux 1953', in Deák, István, Gross, Jan T., & Judt, Tony, (eds.), *The Politics of Retribution in Europe*, (Princeton, Princeton University Press, 2000), p. 195

⁵⁴ Ibid., p. 205.

⁵⁵ Ibid., pp. 194-211.

deep divisions caused in a society in which there was institutionalised discrimination. This resulted in often large sections (if not the majority) of the population being treated unjustly because their rights as citizens had been arbitrarily removed from them. The TRC is a useful example because it highlights the importance of reconciliation. It also reveals, however, that the failure to differentiate between different types of responsibility, and in particular the conflation of criminal, moral and *political responsibility* often thwarted the desired outcomes of reconciliation it sought to achieve. The strategies that were adopted in South Africa, which privileged truth telling and the process of reconciliation between the victim and perpetrator above everything else, was seen by many to ignore the very real sense of indignation experienced by those aggrieved.

The experiments in both South Africa and Australia have invoked 'a state sponsored discourse of reconciliation' in an attempt to help to 'restore legitimacy to liberal states confronted with a "broken moral order"'.⁵⁶ Although there has been much praise for the experiment in South Africa that culminated in the work of the Truth and Reconciliation Commission (TRC) there have also been criticisms. These criticisms have mostly centred on how learning the truth facilitates the process of reconciliation with the perpetrators of crimes. There have also been concerns about the morality and constitutionality of the subsequent amnesty provisions.⁵⁷ Thus, the 'initial enthusiasm has been replaced by an increasing sense of disillusion, and a feeling that the TRC has left the country as divided as

⁵⁶ Muldoon, Paul, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa', *Australian Journal of Politics and History*, Vol. 49, No. 2. 2003, p. 182.

⁵⁷ Amnesty is another difficult problem. Whilst it is obvious that self-amnesty of the type that Pinochet awarded himself on leaving office is designed solely to protect him from any criminal proceedings this is not necessarily always the case. To be given amnesty one has first to acknowledge that one did in fact commit the crime. See discussions by Günther, Klaus, "'Guilt" and the Politics of Remembrance', pp. 3-16; Schäfer, Burkhard, 'Sometimes You Must Be Kind to Be Cruel', pp. 17-31 and Veitch, Scott, 'The Legal Politics of Amnesty', pp. 32-46 all in Christodoulidis, Emilios & Veitch, Scott, (eds.), *Lethé's Law*.

before.’⁵⁸ This is particularly true if the perpetrating and victimised community are forced to co-exist, and are obliged to live together in full knowledge of the past. It is the case that it may well be in the interests of the perpetrators to admit to their crimes, Arendt reminds us of the words of Socrates when he claims that ‘it is better to be wronged than to do wrong’. That ‘it would be better for me that my lyre or a chorus I directed should be out of tune and loud with discord, and that multitudes of men should disagree with me rather than that I, being one should be out of harmony with myself and contradict me.’⁵⁹ Being one with oneself, means of course that I, as a perpetrator of a crime or a wrong, have to live with myself as a criminal or a wrongdoer. Thus, confessing one’s faults and asking forgiveness of those who have been wronged or their relatives, as did many who appeared before the TRC may, if Socrates is right, have a beneficial effect on the perpetrators. It is less clear how this process benefits the victims and/or their families.

There is no doubt, however, that in some cases this process has also been very beneficial to the victims and/or their families.⁶⁰ Nevertheless, that many victims or their families have benefited by or from this process may be because of a quality peculiar to Africa.⁶¹ It is this quality that Tutu claims made so many victims choose forgiveness rather than retribution or revenge. This process, it is claimed, has the ability to re-empower victims or their families by giving them the opportunity and choice to forgive the perpetrators. It is claimed that this

⁵⁸ Schäfer, Burkhard, ‘Sometimes You Must Be Kind to Be Cruel’, in *Lethe’s Law: Justice, Law and Ethics in Reconciliation*, p. 18.

⁵⁹ Arendt, Hannah, ‘Thinking and Moral Considerations: a Lecture’, *Social Research* Vol.38, No.3, 1971, p. 445.

⁶⁰ The daughter of one of the Cradock Four stated that ‘we want to forgive, but whom should we forgive.’ The Cradock Four were four men who were abducted and assassinated outside of Port Elizabeth on 27 June 1985. Roermund, Bert Van, ‘Rubbing Off and Rubbing On: The Grammar of Reconciliation’ in *Lethe’s Law*, p. 177.

⁶¹ Tutu, Desmond, *No Future Without Forgiveness*, (London, 1999), p. 34. Tutu claims that there is a particular quality which is a central feature of the African world-view, that of ubuntu (Nguni) or botho (Sotho). This concept has no direct translation into English. It seems to mean belonging, participating, sharing, that my humanity is bound up inextricably with yours. For a person to have ubuntu, or botho which is considered to be high praise, means that they are generous, hospitable, friendly, caring and compassionate.

allows them to move on with their lives, 'a burying of the past'. This process is not, however, universal and is clearly insufficient for some. Steve Biko's family is only the most prominent among many who question the morality and constitutionality of the amnesty provisions, which allow perpetrators to go free in exchange for full disclosure of their crimes.⁶² The problem is that the truth about the past that is revealed by the discourse of truth and reconciliation 'is not a dead past, but a past that continues to shadow and stalk the present – whether as "sleeping wound", "repressed memory" or "haunting ghost"'.⁶³ For some, including the family of Biko, rather than healing wounds 'the tendency of the TRC to "dictate forgiveness" amounted to a further assault upon the dignity of those who had suffered under the apartheid regime.'⁶⁴

It is the case that the 'South African TRC hardly focused on the apartheid system per se but [instead] on the atrocities committed to keep minority rule in power.'⁶⁵ It is not the uncovering of the truth that is the problem, however, rather it is the insistence that there should be forgiveness by the individuals or their families of the perpetrators. Digeser warns us that 'political forgiveness should not be performed unless the government has publicly acknowledged the wrong that it has done: victims and transgressors must agree on a history of what has happened. This acknowledgement is reasonable because some common understanding of who did what to whom is a minimal demand for justice.'⁶⁶ Muldoon points out that 'unless survivors were willing to embrace the kind of unconditional forgiveness that Jacques Derrida has recently elaborated, a forgiveness that works

⁶² Veitch, Scott, 'The Legal Politics of Amnesty', in Christodoulidis, Emilios & Veitch, Scott, (eds.), *Lethe's Law: Justice, Law and Ethics in Reconciliation*, p. 44.

⁶³ Muldoon, Paul, 'Reconciliation and Political Legitimacy', p. 188.

⁶⁴ Villa-Vicencio, C., 'Getting on with life: A Move Towards Reconciliation', in Villa-Vicencio, C. and Verwoerd, W. (eds), *Looking Back, Reaching Forward*, (Cape Town, Cape Town University Press, 2000), p. 201.

⁶⁵ Muldoon, 'Reconciliation and Political Legitimacy', p. 193.

⁶⁶ Digeser, Peter, 'Forgiveness and Politics: Dirty Hands and Imperfect Procedures, *Political Theory*, Vol.26, No.5, 1998, p. 707.

independently of any admissions of guilt or contractual obligation for penance, the process of reconciliation inevitably 'ground to a halt.'⁶⁷ It would seem that without strategies to address the deep sense of indignation and affront that characterises a feeling of injustice, the project of reconciliation demands special qualities of faith, forgiveness and goodwill which are only rarely characteristics displayed by those who have been affronted.

The conventional notion of forgiveness argues that the injured party must have a change of heart towards his or her victimiser...arguing that forgiveness requires either the actual elimination of resentment to a commitment to the process of eliminating it. Because resentment is such a powerful emotion forgiveness is difficult. If forgiveness does indeed require this kind of deep transformation then it may not be a reasonable or relevant response to political injustices.⁶⁸

Indeed, after the suffering that they have already endured, why should we even think that those who have been the subject of such injustice should also be required to forgive.

If injustice is to be overcome and reconciliation achieved then there must be an alternative route. The TRC attempted to address grievances that for the most part were the result of criminal acts. Many of these acts were perpetrated by personnel employed by the state or by its agencies. Despite attempts to investigate the means by which a philosophy of apartheid had penetrated institutions such as the legal, media, health etc. there was no attempt to attribute *political responsibility* in any meaningful way. In fact, the TRC 'encountered an "overarching sense of denial" among apartheid leaders and beneficiaries of their [political] responsibility for the past.'⁶⁹ Similarly, the Cave Creek disaster highlighted the problems associated with attempts to discover cause and agency and the subsequent reluctance to

⁶⁷ Muldoon, 'Reconciliation and Political Legitimacy', pp. 192-193.

⁶⁸ Digeser, 'Forgiveness and Politics: Dirty Hands and Imperfect Procedures', p. 702.

⁶⁹ Nagy, Rosemary, 'The Ambiguities of Reconciliation and Responsibility in South Africa', *Political Studies*, Vol.52, 2004, p. 715. Quotation from the Commission report Vol.5. p.198. Nagy points out that despite F.W.

ascribe responsibility to political actors and to administer punishment. As Gregory points out, even the public enquiry did little to illuminate the “enveloping haze”.

Unfortunately, this phenomenon is a recurring pattern. A recent example in Britain, the Hutton inquiry into the death of the scientist David Kelly, established that everyone was to blame but that no one was responsible. However, the sense of injustice that is felt when such tragic events are not satisfactorily resolved is not only extremely distressing for those directly involved, but also, as Gregory claims, damaging to the entire political process. If the remedy for this sense of injustice is not the identification of agency and cause and subsequent punishment, as it would be in a criminal matter, then an understanding of how this sense of injustice develops will help us to comprehend the distinctiveness of *political responsibility*.

Although it has already been established that *political responsibility* is a completely different type of responsibility with its own normative values, what it has in common with other types of responsibility is that the absence of *political responsibility* also engenders feelings of injustice. Thus, the response to injustice, the sense of being affronted, is not differentiated by the absence of any particular type of responsibility, but just by the absence of responsibility in general. We have shown how in the case of *political responsibility* we are dealing with a completely different and discrete concept that is often wrongly equated with other types of responsibility. However, the sense of injustice is the common element that we feel and is not affected by what type of responsibility has been denied to us. It is the affront, ‘the special kind of anger that we feel when we are denied promised benefits and

de Klerk’s seemingly fulsome apology for the apartheid system (TRC, 1998, Vol.5, p. 197) he always denied political responsibility for the gross human rights violation. Instead he ‘insisted that murder and torture were the result of over-zealousness, misinterpretation or *mala fides* intentions.’ Nagy, p. 716.

when we do not get what we believe to be our due'.⁷⁰ As there is no differentiation between feelings of injustice generated by different types of responsibility (although these might well differ considerably in intensity) in this instance, despite earlier criticisms of this process, it is possible to examine one type of responsibility to shed light on another.⁷¹ We are therefore able to examine criminal responsibility and discover and understand the aetiology of what is involved in engendering a sense of injustice. Once this has been established it will then be possible to see if this can be generalised to reflect a similar process in *political responsibility*.

Despite the consistent nature of the feeling of affront, 'the affront done to a man as a human being by not treating him in the way that he can expect to be treated,'⁷² the path to overcoming this affront is dependent upon different remedies appropriate to differing types of responsibility. Bearing this in mind, criminal responsibility is being used in order to illustrate the process involved in engendering the feeling of being affronted. In criminal responsibility, the first step is to understand the mechanisms that result in the sense of injustice that is felt when the person who is responsible for a crime is not identified and punished. The process may be described in these stages:-

1. crimes that have been committed are not acknowledged/sufficiently acknowledged by the state and/or other members of society; therefore,
2. the perpetrators are not prosecuted (or revealed) or only a insignificant/representative number are, e.g. the former Nazis in Germany post-1945 and the

⁷⁰ Shklar, *The Faces of Injustice*, p. 83.

⁷¹ One problem that has already been identified and subjected to criticism in the literature review, is the conflation of different types of responsibility for example moral, legal and criminal and the use made by Hans Jonas of parental responsibility to shed light on *political responsibility*.

⁷² Woosley, 'Injustice', pp. 109-110

subsequent Nuremberg Tribunal or the Truth and Reconciliation Commission; therefore,

3. the perpetrators (apart from a very small number of them) are not punished in a legal/judicial sense, or revealed as criminals to the wider population (they may of course personally suffer from feelings of guilt), justice is not “seen to be done” both by the victims and the wider community; the victims are perceived by themselves and others in the community to have been treated unjustly; therefore,
4. reconciliation cannot take place between victims and perpetrators, or even more crucially between *victims and their social world*; therefore wounds remain unhealed in society.

The meaning of “social world” that is being utilised here is Hegel’s definition. Hardimon explains that Hegel understands the social world as something more than “society”. His notion of a social world ‘refers to the framework of the central institutions and practices of social and political life of society or a society of a certain type.’ It gives a more complete picture than “society”, however, because it ‘conveys the idea that society forms a “world – the world of social institutions and practices’ into which we are born, live out our lives and die.’⁷³ Hardimon states that Hegel requires that every member of civil society should ask themselves the same question; can I be reconciled to the social world? Hardimon’s interpretation of Hegel’s answer to this question is illuminating. He claims that ‘modern people are fully at home in the social world if and only:

1. the social world is a home,
2. they grasp that the social world is a home,
3. they feel at home in the social world, and

⁷³ Hardimon, Michael O., *Hegel’s Social Philosophy*, (Cambridge, Cambridge University Press, 1994), pp. 16-17.

4. they accept and affirm the social world.’⁷⁴

The concept of being at home in the social world, as Hardimon reminds us, is for Hegel ‘both an objective *and* subjective matter. It is not wholly subjective [however], since there is an objective condition the social world must meet – that of being a home – if people are to be at home there.’⁷⁵ Firstly, we must discover what is it that objectively makes the social world a home. Hardimon clearly elucidates Hegel’s complex arguments, which when they are so distilled, become concepts which are both familiar and to some extent commonplace. Similarly to the ancient Greeks, Browning claims that for Hegel modern people have two personas.⁷⁶ Unlike the ancients, however, one persona is as an individual and one is as a social member of the community.⁷⁷ Thus, Hardimon claims that ‘the social world is a home if and only if it makes it possible for people to actualise themselves as individuals (to actualise their individuality) *and* as social members (to actualise their social membership).’⁷⁸ In order that this may be possible, the social world must have the necessary framework and contain the necessary institutions to not only permit but to positively encourage this actualisation to occur, both as an individual and as a social member. Part of this actualisation is that individuals must be able to ‘participate in central social institutions’, and this must occur ‘in the normal course of things’ as who they are.⁷⁹

Secondly, what is it that subjectively makes the social world a home? For this to happen it is necessary that the central institutions promote subjective freedom. Hardimon states that in

⁷⁴ Hardimon, *Hegel’s Social Philosophy*, p. 95

⁷⁵ Ibid.

⁷⁶ For the Greeks the two personas were the private and the public. There is no doubt that the Greeks privileged the public over the private.

⁷⁷ Browning, G.K., ‘Plato and Hegel: Reason, Redemption and Political Theory’, *History of Political Thought*, Vol. VIII, No.3, 1987, p. 387. ‘Hegel is critical of Plato’s neglect of individual freedom, he is at pains to emphasise that a rational state must integrate individual freedom with the universal claims of the community.’

⁷⁸ Hardimon, *Hegel’s Social Philosophy*, p. 102. (my italics)

⁷⁹ Ibid., pp. 102-106

Hegelian terms this ‘involves the freedom of individuals to pursue their own separate and particular interests, and actualise their own freely chosen life plans, to act in accordance with their own private consciences, and to assess their social roles and institutions from their own subjective standpoint.’ This is to be achieved not only through negative freedoms, but also positive ones, including the state, ‘within which people can find political community.’⁸⁰ Thus, for the social world to be a home, people must be simultaneously recognised not only as individuals but also as members of the political community.

Hegel, of course, divides the modern social world into three components: the family, civil society and the state. It is the state that we are most concerned with here, because it is the state with its “monopoly of violence” that is charged with ensuring the prevention and detection of crime and the bringing to trial and punishment of wrongdoers. Hardimon claims that Hegel

contends that the administration of justice provides people with one sort of recognition – legal recognition – by protecting their legal rights. The fact that it does so is important, since it means that there is an official body that provides formal recognition of the individuality of society’s members (of their legal status as bearers of individual rights).⁸¹

Hardimon claims that Hegel believes that this confers on members what he dubs “positive social rights” that is ‘rights that members of civil society hold *as* members of civil society *against* civil society.’⁸² That ‘what is recognised...is not just the moral dignity of the inviolable individual, but also the individual qua citizen, as members of a political community whose purpose is to promote the freedom of all from tyranny and

⁸⁰ Hardimon, *Hegel’s Social Philosophy*, pp. 111-112.

⁸¹ *Ibid.*, p. 196.

⁸² *Ibid.*, pp. 196-197.

subordination.’⁸³ If this interpretation of the process is correct then we can begin to gain some insight into the sense of injustice and alienation felt by victims of state perpetrated and/or condoned crime.⁸⁴

The most devastating example of this failure to promote the freedom of the individual and protect them from tyranny and subordination occurred in Germany in the 1930s. The Nuremberg laws introduced in 1933 separated the Jewish population in Germany from the rest of the German population. We can see that the whole scale negation of the rights of the Jewish population by the Nazi regime resulted in the Jewish population becoming alienated from their social world. The way that Hegel deals with this negation of rights and subsequent alienation is to advocate that the perpetrators are punished.

The concept of punishment is, however, itself contentious. There are two main types of theories of punishment - the utilitarian and the retributive. The utilitarians rely on outcomes and the retributive (of which there are different versions) claim that punishment is justified because the offender has voluntarily committed a wrong act. Hardimon claims that Hegel’s theory, although of course incorporating elements of both of these is relevant because of its restorative element. Nevertheless, Hegel, like Hobbes, considers punishment to be a ‘political obligation’.⁸⁵ We can therefore speculate that the punishment of perpetrators, that Hegel believes to be so vital, will allow victims to be reconciled again to their social world.

Whilst Hobbes believed that punishment was necessary for the ‘protective function of the

⁸³ Bohman, ‘Punishment as a Political Obligation’, p. 569. We can see how this view is in sharp contrast to Plato’s ideas of the place of the individual. *The Republic* describes a state whose purpose is to curtail the anti-social desires and preferences of the individual that could undermine and destabilise the common good. When states refuse to acknowledge the wrong done to citizen they are treating their citizens in the same way as Plato in *The Republic*, the citizens are being treated “as things” that can be ignored rather than as they are entitled to be treated, as people.

⁸⁴ Ibid., p. 568. Crimes that are committed against members of the community by, or condoned by, the state in essence results in the members being excluded from the whole human community.

⁸⁵ Ibid., p. 552.

state', Hegel argues that punishment 'is to "restore the right" rather than to be a preventative threat.'⁸⁶ Cooper claims that Hegel's theory of punishment can be 'mostly neatly encapsulated in the claim that punishment "annuls" crime.'⁸⁷ This is not an easy concept to understand, however, 'Benn and Peters, for example, say "it is not easy to see how a wrong can be annulled: what is done cannot, in a literal sense, be undone.'⁸⁸ This is of course a valid criticism but by utilising David Cooper's interpretation of Hegel's theory of punishment we will be able to further understand Hegel's argument and thus further illuminate the problem.⁸⁹

Hegel's theory of punishment is based on this theory of rights. Cooper explains Hegel's theory by asserting that 'legal rights are performatees.' So that 'the right to do *x* is logically dependent upon some rule or convention by reference to which such a right may be ascribed.'⁹⁰ This right may exist in various ways, for example, statutes, precedents etc. This is not, however, the whole story. The validity of an individual's rights can only really be assessed by the response that occurs when that individual is prevented from exercising that right. Has there at least been an attempt made to punish and/or censure the person/people who are responsible for preventing such an exercise of the individual's rights? Cooper refers to Kelsen's claims, that 'attempting to apprehend and punish men is a form of procedure necessary to establish that rights of a certain kind exist in any paradigmatic manner. If a man is not liable to punishment for an action that is strong reason for supposing he

⁸⁶ Bohman, 'Punishment as a Political Obligation', p. 552. See Hegel, *Philosophy of Right*, (translated by T.M. Knox), (Oxford, Oxford University Press, 1942), §99(A), p. 69.

⁸⁷ Cooper, David E., 'Hegel's Theory of Punishment', in *Hegel's Political Philosophy: Problems and Perspectives*, Pelczynski, Z.A. (ed.), (Cambridge, Cambridge University Press, 1971), p. 151.

⁸⁸ *Ibid.*, p160.

⁸⁹ Cooper has been used as an interpretive source for Hegel's theory because 'Cooper's treatment of punishment...is especially valuable because it discusses the question of the "general justifying aim" of the institution of punishment.' Stillman, Peter G., 'Hegel's Idea of Punishment', *Journal of the History of Philosophy*, Vol. 14, No.2, 1976, p. 169.

⁹⁰ Cooper., 'Hegel's Theory of Punishment', p. 160.

committed no crime, that he infringed no rights.’⁹¹ Cooper warns us that this is not the usual means-ends argument familiar to utilitarians, but instead is the logical conclusion one would have to draw. Thus, we can draw the conclusion that ‘unless people are generally apprehended and punished for preventing others doing x , there is reason to suppose that the latter do not have the right to do x – certainly not a “felicitous” right’.⁹²

Cooper claims that the justification of punishment by Hegel then becomes clear. My rights are dependent on there being punishment for those that infringe my rights, not as a means/ends argument or as a deterrent, but because without punishment, it is illogical to claim that I have rights at all. ‘If it is important that men have legal rights, it is important that there is punishment – for without the latter, there could not logically, be the former.’⁹³ In fact, ‘rights are performatees which logically depend for their felicitous existence upon the punishment of those who infringe them.’⁹⁴

Punishment is also important because Hegel claims that punishment has the ability to annul crimes.⁹⁵ This is a difficult concept, in fact Cooper claims that Hegel uses the term annulment in two ways, one familiar and one not. The first is the familiar way that we would equate with the balancing nature of justice, that is, when an infringement occurs, restitution is forthcoming, and that re-balances the situation, in fact it annuls the wrong that has occurred. Thus in this sense ‘a crime is an “injury to a possession or to something which exists externally” and the compensation in a metaphorical sense annuls the wrong’.⁹⁶ Although appealing to a sense of fair play, this idea of re-balancing is by no means an

⁹¹ Cooper., ‘Hegel’s Theory of Punishment’, p. 162.

⁹² Ibid., pp. 162-163.

⁹³ Ibid., 163.

⁹⁴ Ibid..

⁹⁵ Hegel, *Philosophy of Right*, (translated by T.M. Knox), § 99(A), p.69

⁹⁶ Cooper., ‘Hegel’s Theory of Punishment’, p. 163

uncontroversial view,⁹⁷ but it is not this first notion of annulment that is of primary interest to us. It is the second usage that is illuminating.

Cooper rightly points out that for Hegel a crime is “an injury which has befallen the implicit will”, the criminal is ‘implicitly denying that his victim has certain rights. ...Rights, that is, belong to persons as free agents – in virtue of their “wills”’.⁹⁸ His argument is subtle. It is that although the criminal *intended* to do an injury to the “implicit will” of the victim, i.e. the criminal intended to demonstrate that the victim had no rights, this denial of rights is in fact impossible. It is impossible because the victim did have these rights ‘and so there was never such a thing as the demonstration that the victim did not have them.’⁹⁹ We can immediately see what sort of objections would be made to this claim, that most criminals are not consciously thinking about the rights of the person against whom they are committing a crime, that his intentions are indeed otherwise, e.g. theft, murder, or rape. Cooper argues that this in no way detracts from Hegel’s claim. The fact that the criminal is not thinking about the rights of the person is irrelevant. The fact that he is attempting to infringe them is all that is significant. What in fact occurred was that the criminal behaved *as if* the victim did not have the right, that is, the criminal acted *as if* the right of the victim had been negated. In these terms ‘to speak of annulling the crime is to speak of whatever it is that establishes that the victim did have those rights which were implicitly denied by the criminal.’¹⁰⁰ That is the ‘negation of the negation’. The means to this end is punishment.

⁹⁷ Günther, Klaus, ‘The Criminal Law of “Guilt” as Subject of a Politics of Remembrance in Democracies’, in *Lethe’s Law: Justice, Law and Ethics in Reconciliation* p. 5. Günther whilst discussing ‘the problem of punishment’ dismisses the ‘mystical constructions of a re-balancing, from the concrete “an eye for an eye”, to the abstract “negation of negation” of injustice.... Harm does not “re-balance” anything, nor does it replace a loss, or re-establish violated law.’ But this view expressed by Günther seriously misunderstands Hegel’s view. Günther conflates the two ways in which Hegel employs the term annulment.

⁹⁸ Cooper., ‘Hegel’s Theory of Punishment’, p. 164, *Philosophy of Right*, §93, p. 67.

⁹⁹ Ibid., p. 164.

¹⁰⁰ Ibid, pp. 163-164.

The nullity [of crime] is that crime has set aside right as such. That is to say, right as something absolute cannot be set aside, and so committing a crime is in principle a nullity: and this nullity is the essence of what a crime effects. A nullity, however, must reveal itself to be such: i.e. manifest itself as vulnerable. A crime, as an act, is not something positive, not a first thing on which punishment would supervene as a negation. It is something negative, so that its punishment is only negation of the negation. Right in its actuality, then, annuls what infringes it and therein displays its validity, and proves itself to be a necessary, mediated reality.¹⁰¹

Hegel establishes that it is punishment that annuls the crime in the following way. Punishment of the attempted negation of the person's rights 'serves to demonstrate that the victim did have rights despite the criminal's implicit denial of them'. Hegel thus claims that we must punish the crime, for otherwise the crime would have been held valid. Unless punishment follows, society will be seen as condoning the crime.

If he sees the man who cared nothing for [his rights] go scot-free, he is given to understand that society cares nothing for him either. But if the wrongdoer is made to see the error of his ways, the man to whom the wrong was done sees his rights vindicated and is assured that society cares for him, even if one of its members does not, and will hold his rights in the face of assault and injury.¹⁰²

There are of course some serious philosophical objections concerning punishment. Do we necessarily want to punish someone who attempts to negate the rights of another, might this not seem too harsh? Hegel himself is in no doubt about the value of punishment but he understands why to inflict punishment can appear to be a superficial response. If

¹⁰¹ Hegel, *Philosophy of Right*, trans. T.M. Knox (Oxford, 1942), §97. Addition, p. 246, in Cooper, pp. 165-166.

¹⁰² Glover, Jonathan, *Responsibility*, (London, Harmondsworth, 1970), p. 104.

punishment is viewed solely as 'a preventive, a deterrent, a threat, as reformative'¹⁰³ then it is solely concerned with crime and criminality. Hegel argues that if 'crime and its annulment' i.e. punishment are treated just as 'unqualified evils', it would seem totally unreasonable 'to will one evil merely because "another evil is there already"'.¹⁰⁴ It is clear, however, that punishment is crucial because the crime must be annulled not because it is an evil (although of course it is) but because it is an infringement of rights: the rights that the wronged person holds by dint of being a recognised free human being.

Hegel makes it clear that not only must we punish the criminal to reaffirm the rights of those who have suffered but that the criminal him/herself has a *right* to be punished. By punishing the criminal we also reaffirm him 'as a person, a subject a rational being with worth and dignity'.¹⁰⁵ 'The injury [the penalty] which falls on the criminal is not merely *implicitly* just – as just, it is *eo ipso* his implicit will, an embodiment of his freedom, his right; on the contrary, it is also a right *established* within the criminal himself, i.e. in his objectively embodied will...'¹⁰⁶ This may appear counter-intuitive, but is of course a direct correlation of Hegel's claims concerning rights. For Hegel values punishment not for its retributive or deterrent properties, although he would not deny these, but because by punishing the criminal we acknowledge him also as a bearer of rights. 'By being punished, he – as well as all other persons- is re-established as a person with rights; only if the criminal has the right to his own punishment does he have the right of a person.'¹⁰⁷

¹⁰³ Hegel's *Philosophy of Right*, (Translated by T.M. Knox), (Oxford, Oxford University Press, 1942), §99, pp. 69-70.

¹⁰⁴ Ibid.

¹⁰⁵ Stillman, 'Hegel's Idea of Punishment', p. 176.

¹⁰⁶ Hegel's *Philosophy of Right*, §100, p. 70.

¹⁰⁷ Stillman, 'Hegel's Idea of Punishment', p. 174.

Hinchman claims that by punishing a criminal we are in essence refusing to allow him to 'exempt himself from the rules' which 'express something essential about what it means to be human'.¹⁰⁸ By flouting these rules or "abstract rights" the criminal is putting himself outside of the class of right-bearing subjects, he alienates himself. This may be a matter of no concern to the criminal, but it is a matter of grave concern to the rest of us. For if we allow 'the criminal to remove himself from the class of right-possessing beings' then we call our own status into question. By punishing the criminal we not only reaffirm the status of the victim of his crime as a right-possessing being whose rights the criminal attempted to negate, but also confirm the criminal's status as a right-possessing being and thus also reconcile him to his social world.

Cooper argues that although in some cases punishment may seem harsh this will very much depend on what punishment amounts to. Punishment may not necessarily be imprisonment or fines, but might instead be public exposure or revelation. This idea of public exposure would seem to add weight to the claims of the Truth and Reconciliation Commission, for is not this exactly what is happening there? Although it appears to be the same, in fact it is not. Despite the fact that the outcomes may look the same, the "mechanism" or process is very different. The catalyst for the revelations and public exposure via the TRC is not the state qua the state demanding the truth from the perpetrators of crime. The state is not demanding that the perpetrators admit that their actions negated the rights that the victims had as citizens. Rather, it is the perpetrator's conscience and/or the fear of criminal proceedings against them if they do not tell the full story that may well be the reason for their revelation.

¹⁰⁸ Hinchman, Lewis P., 'Hegel's Theory of Crime and Punishment', *The Review of Politics*, Vol.44, No.4, 1982, p. 542.

That is, the motive for the revelation is selfish. It is not motivated by a desire to address the alienation of the victim from the social world.

If, as Hardimon claims, 'in order to actualise oneself as a bearer of rights one must be recognised by others as the bearer of rights,'¹⁰⁹ then what is required is that the state qua the state demands the public exposure and punishment of the perpetrators of crime. Thus refusal by the state to address the wrongs that the state is designed to uphold, that is to punish perpetrators of crimes, negates the rights of both the victims and the perpetrators as members of the legal community and also as members of civil society. The outcomes if this were pursued by the state could still be the same, that is, the revelation of truth, but there would be an acknowledgement, by the perpetrators, the wider community and the state, that an attempt had been made by the perpetrators to negate the rights of the victim.

To briefly reiterate Hegel's complex arguments, we can see the following process:-

1. I have a place in the social world
2. Having a place in the social world gives me rights
3. I become alienated from the social world if my rights are negated,
or if I perpetrate a crime against another
4. To overcome this alienation the perpetrator who negated my rights must be punished, or I have the right to be punished if I perpetrate a crime against another
5. This punishment annuls the crime that was committed when my rights were negated, or when I attempted to negate another's right
6. This negation of the negation reconciles me to the social world.

¹⁰⁹ Hardimon, *Hegel's Social Philosophy*, p. 100.

Finally we now turn to the term “reconciliation,” which appears as the final stage in the process. As we have already discovered by examining the criticisms of the Truth and Reconciliation Commission in South Africa, it is a near impossibility to ensure or even engender reconciliation between victims and perpetrators if the victims are not willing to forgive. ‘Moralising approaches may give victims a monopoly over the past or, alternatively, reconciliation can become overly dependent upon the moral generosity of victims. In other words, it is not self-evident that morally transformative approaches are suitable, or politically workable.’¹¹⁰ What is possible, however, is to reconcile victims with their social world. It is the lack of this process that is the real cause of the problems in society, the victims have become alienated from the social world in which they find themselves located. The Chairperson of the Truth and Reconciliation Commission claimed that reconciliation means ‘at its core the restoration of relationships, the rebuilding of trust, and the overcoming of animosity.’¹¹¹ These attributes of reconciliation are correct as far as they go. Hardimon reminds us that reconciliation ‘is systematically ambiguous as between the *process* of reconciliation and the *state* that is its result. The process may be variously described as a process of overcoming conflict, division, enmity, alienation, or estrangement; the result, as the restoration of harmony, unity, peace, friendship, or love.’¹¹² However, the problem with the state of reconciliation is exacerbated by the term itself, because the English term “reconciliation” has within it negative connotations that are unacceptable to victims. The idea that is often present in English is one of resignation or submission: for example, I am reconciled to the loss of my husband, or he is reconciled to the company take-over. To be able to overcome this problem will require an understanding of the more complete notion of “reconciliation” provided by Hegel. Hardimon explains the difference

¹¹⁰ Nagy, ‘The Ambiguities of Reconciliation and Responsibility in South Africa’, p. 712.

¹¹¹ Balint, Jennifer, Law’s Constitutive Possibilities: Reconstruction and Reconciliation in the Wake of Genocide’, in *Lethe’s Law: Justice, Law and Ethics in Reconciliation*, p. 144.

¹¹² Hardimon, *Hegel’s Social Philosophy*, p. 85.

between the English term “reconciliation” and the German term “*Versöhnung*” which is a more profound concept and is far more complex than its English equivalent.

Versöhnung strongly connotes a process of transformation. When two parties become genuinely *versöhnt*, they do not resume their old relationship unchanged...Parties who have attained *Versöhnung* do not have to decide to get along together, their getting along together is, instead, the natural result of their being in a new, transformed state. Although the word “reconciliation” does not deny that a transformative process of this sort takes place, it does not convey *Versöhnung*’s positive suggestion that it *does* take place.¹¹³

The problem with the operation of the Truth and Reconciliation Commission is that reconciliation in this case often has within it the English notion of resignation and submission.

If by bringing perpetrators of crime to justice, that process negates the perpetrators attempted negation of the rights of the individual, then we begin to have the restoration of the social world as a home for the victim. Not in a way that the victim has to be resigned to the fact that these injustices occurred, but by the acknowledgement in the public sphere that what happened was an attempt to negate their rights (but that these rights were in fact impossible to negate). It is possible to extrapolate this process to *political responsibility* and still recognise its distinctiveness from criminal responsibility. My place in the social world as a member of the political community, representative democracy, gives me rights. These rights are that the elected political representative will give me an account. It has already been established that in order to fulfil the requirements of *political responsibility* it is necessary that the representative should give an account of his actions should he be asked to

¹¹³ Hardimon, *Hegel’s Social Philosophy*, p. 85.

do so. More precisely he should be prepared to give that account in public under the full glare of the public gaze. More fundamentally, when he *acts* in the political realm he should always be mindful that should he ever be required to do so, he should always be *able* to account for his actions. Thus he ought to have reasons for what he does, and be prepared to justify his actions to those he acts for, even if this accounting or justification never actually takes place.¹¹⁴ I become alienated from the social world and feel that I have been treated unjustly if my rights are negated, that is, when the elected representative refuses to give me such an account. Rather than bringing perpetrators of crimes to justice as are the demands of criminal responsibility to negate the negation, the demands of *political responsibility* only require the political actor to give an account of his actions. Only when this account is given by the perpetrator is there a negation of the negation, which reconciles me to the social world as a member of the political community.

This limitation on the extent of the political actor's responsibility is extremely important because there is a temptation demonstrated by many commentators to slip seamlessly from *political responsibility* to criminal responsibility or vice versa. These are just two of many examples. Andrew Schaap, whilst discussing the Truth and Reconciliation Commission in South Africa and the amnesty provision for perpetrators of crimes carried out in the apartheid era, states that 'of course, amnesty is even more likely to obscure *political responsibility* for past wrongs.'¹¹⁵ Another example is that of Violaine Roussel who, whilst discussing Variant Creutzfeldt-Jakob disease, moves from *political responsibility* to criminal responsibility in the same sentence. She claims that, 'the discourses about new risks and political responsibility underlined how accidents should be addressed through the

¹¹⁴ Pitkin, *The Concept of Representation*, p. 119.

¹¹⁵ Schaap, Andrew, 'Forgiveness, Reconciliation and Transitional Justice, in Lang, Anthony F. & Williams, John (eds.), *Hannah Arendt and International Relations*, (Basingstoke, Palgrave, 2005), p. 80.

criminal responsibility of local political actors.’¹¹⁶ What both commentators go on to discuss is punishment. In Schaap’s case he states that ‘punishment, at least symbolises a collective condemnation of past wrongs’, whilst Roussel emphasises the subsequent prosecution and punishment of ministers for criminal offences. What these commentators really want to advocate is punishment for those who have been involved in political action because they feel that they deserve to be punished, but if they are to be punished they have to have committed a “crime”. This desire to see political actors punished makes commentators conflate criminal and *political responsibility* by suggesting that the politician’s action should be seen as a crime. What they need to be able to establish, however, is a causal link, and as we have already seen agency and cause are not compatible with *political responsibility*. They are not compatible because *political responsibility* exists even when causal or criminal responsibility does not. *Political responsibility* may involve some “punishment” i.e. loss of office, but this does not make it a matter of criminal responsibility simply by virtue of that “punishment”. Further, the distinctive nature of *political responsibility* can mean that it is not exhausted by, for example, resignation because, within that distinctive nature, giving an account can be a more onerous burden than a straightforward resignation. Resignation might well amount to, or be considered to be, retirement from the public world. John Profumo is again an example. His *political responsibility* in the sense of his resignation and subsequent withdrawal from the public world could only have ended after a full and satisfactory account had been given, which Profumo never gave.

¹¹⁶ Roussel, Violaine, ‘Changing Definitions of Risk and Responsibility in French Political Scandals’, *Journal of Law and Society*, Vol.29 No.3, 2002, p. 462.

As we have already established, the conflation between criminal, moral and *political responsibility* demands careful attention, but it is possible to make these distinctions and illustrate a viable, if limited, concept of *political responsibility*. Different concepts can be discerned in a consideration of justice. For instance, amongst these complex problems are the feelings of injustice generated from historical wrongs within a nation where the perpetrators can no longer be indicted or even identified because any conceivable perpetrator is long deceased. The fact that the sense of injustice persists compels us to consider how can such wrongs be righted when the generation aggrieved is so remote from actual events? Those who now accept responsibility, for example Blair and the slave trade, cannot conceivably be criminals. It is also possible to see, in the case of South Africa, that some individuals (such as the Cradock Four, see footnote 49) are prepared to forego retribution but still insist on being given an account, or something analogous to an account. This is despite the fact that those for whom they are prepared to forego retribution are, nevertheless, criminally responsible. *Political responsibility*, properly understood, would take the form of an account by representatives of the community from which the perpetrators were drawn. The account would have to include an explanation of how such criminal acts came to be part of the society or government that tolerated or encouraged them. We have already alluded to the failure to give such an account and the denial of *political responsibility* in the testimony of de Klerk, for example, who always denied *political responsibility* for the gross human rights violations that had occurred. Similarly, other organisations also ‘made great efforts to distance themselves from the injustices of apartheid.’¹¹⁷ In this instance all that matters is that those representatives could in some sense be plausible representatives of that community – even if it is in the tenuous sense in

¹¹⁷ Nagy, Rosemary, ‘The Ambiguities of Reconciliation and Responsibility in South Africa’, pp. 715-716.

which, for example, Britain represents the state which tolerated and/or encouraged the slave trade.

Representational democracy has within it normative values which include political responsibility and giving an account in public should one be required to do so. The failure on the part of our political representatives to deliver these requirements produces a sense of injustice, because one experiences feelings of affront by being denied ones rights. This is not only an affront to the individuals directly concerned, but this negation of our rights also damages the political process as a whole. Yet giving an account is not the end of the matter for if we accept this premise it immediately requires us to answer another substantive question, what is the substance of this account that he has to give? This question is a crucially important and the nature and integrity of this account will be discussed in the next chapter: truth and *political responsibility*.

Chapter Five

Truth and Political Responsibility

“Fiat veritas, et pereat mundus” (Let truth prevail though the world may perish)¹

It was quickly identified in the review of literature that the consideration of contingency, justice and truth was essential when investigating *political responsibility*. Whilst each requires a separate discussion, what also became apparent was that they are nevertheless all inextricably linked. The problems concerning truth are similar to those concerning justice in that they are vulnerable to the contingency of the world. During the examination of contingency, justice/injustice and *political responsibility* the primacy of giving an account was established. The victims of injustice suffer from exclusion and alienation from their social world; for this to be overcome it is necessary to give an account, and for this account to be given in public. It is this acknowledgement in public that a wrong has been committed and an account given that reconciles the aggrieved to their social world and therefore overcomes both the sense of alienation and exclusion. When this is applied to the political realm, it is by giving such a public account that the politician actively demonstrates that he accepts *political responsibility* for his actions. It is necessary to investigate the nature of this account because it is obviously not the sort of account that the British government is prepared to give: that ‘accountability is discharged by giving information to Parliament, even if this information is misleading, and the Minister knows that it is misleading.’² Although this is an account of sorts, it is not an acceptance of *political responsibility*, therefore, this

¹ Arendt, Hannah, *Between Past and Future*, (New York, Penguin, 1961) p. 228.

² Mather, Graham, ‘Clarifying Responsibility and Accountability’, in *Government Accountability: Beyond the Scott Report*, (London, CIPFA, 1996), p. 21. The view expounded by the British government and which still persists is that no liability attaches itself to a minister unless the information is not given in good faith.

sort of account will do nothing to overcome the sense of exclusion and alienation caused when an injustice has occurred. This is not only unacceptable on moral grounds but it is also unacceptable on practical grounds because in terms of *political responsibility* and truth, truth takes the form of a narrative on the basis of which further actions are taken.

It is evident that on moral grounds the sort of account advocated by the British Government is lacking in truthfulness and integrity and on practical grounds unless the account that is given is truthful then the narratives that are created are fundamentally false. False narratives mean that the future is based on a collective lie, delusion and the politics of selective memory. This ultimately creates fragility within the polity that will render it unable to withstand any challenges. It can also encourage a climate of mendacity that ensures that other historical events are also part of a continuing false narrative that must be employed in order to confirm the original deceit and thereby resist challenge. False narratives are a corrupting force within the polity, but above all they corrupt the notion of *political responsibility*. False narratives ensure that the initial alienation and sense of injustice are re-enforced and compounded in the memories of the victims/aggrieved and their successors rather than fading with the passage of time. Without the truth, narratives are fundamentally false and they do not allow victims to move on. The discourse needed between those who perpetrated actions leading to a sense of injustice and alienation, and their victims, requires a basis of mutually agreed negotiated truths to form a narrative of integrity. Again, like contingency and injustice, truth links the past and the present because the truth deals with the past. Giving a truthful account of what has happened in the past means that if the past can be remembered in a way that means that new beginnings are possible, the past can be laid to rest and the cycle of alienation and exclusion can be halted. Thus, 'a discursive model of truth-

telling presupposes a political conversation (a dialectic of telling and listening) grounded in two central pre-requisites: reciprocity and openness.’³ Without such a discourse new beginnings are not possible. As Arendt perceptively notes the truth fills the gap between the past and the future.

The problem with discussions of truth is that like discussions of responsibility they also get involved with different types of truth and whether truth is indeed possible. They do this rather than concentrate on the damage done by the absence of truth which is not only morally corrupting but is especially damaging when it relates to the political process *and political responsibility*. The first task therefore is to establish that the truth does matter and has the force claimed for it by commentators such as Arendt. The next task is to examine the rejection of other strategies in favour of truth-telling as a remedy when faced with a broken political order. Arising from this, discussions centre around the importance of truth-telling and claims concerning the qualities of truth and the enduring damage caused by its absence. We have then to answer a further and much more complex question about what exactly is meant by truth and are there different orders of truth? If there are different orders of truth then which order of truth has primacy; and finally how does the nature of the discourse of truth serve the purposes of the political and therefore *political responsibility*? What is central is the rejection of strategic action in favour of something like Habermas’ understanding of truth as a form of communicative action. In terms of *political responsibility* truth appears in the form of a narrative, a truthful account.

³ Muldoon, Paul, ‘Reconciliation and Political Legitimacy: The Old Australia and the New South Africa’, *Australian Journal of Politics and History*, Vol.49, No.2, 2003, p. 194.

In discussing truth and *political responsibility* it is not possible or desirable in this instance to undertake an epistemological examination of truth since such discussions abound in philosophical literature. As Rorty observes, it is simply the case that all modern philosophy has been centred round discussions of truth.⁴ To such detailed and extensive discussions there is nothing that this discussion could add. Rather this discussion is undertaken for the same reason that the entire project of examining *political responsibility* has been, as an attempt to understand how truth figures in the nature of the political, and how the lack of truth damages the political process. The function of truth in this context is not, therefore, about achieving the kind of certainty that obsessed someone like Descartes. The kind of epistemological arguments that arise from that scepticism are not central to the nature of truth in the context of *political responsibility*. Nor do we need to address the claims made by relativists that truth is always subject to factors that are culturally and historically contingent, that we 'had better give up on the idea of true sentences as representations of reality, and give up trying to charge the idea of "truth" with what [we] call "normative" meaning.'⁵ Thus, it is not intended in this instance to subject "truth" to a philosophical debate on its nature or indeed its possibility, but rather it is to demonstrate the importance of the search for truth when cleavages have been created within the polity. It is, after all, when there is division leading to conflict that the question is asked; what is the truth in this situation and who is politically responsible?

The nature and possibility of truth are, of course, contested issues. Rorty, for example, claims that whilst he does not say that 'the idea of truth is "invalid" or "untenable," not that it "deconstructs itself", but simply that...there are more useful ideas such as freedom.' In a

⁴ Rorty, Richard, 'Truth and Freedom: A Reply to Thomas McCarthy', *Critical Inquiry*, Vol.16, No.3, 1990, p. 633.

⁵ Ibid., p. 634.

discussion with Jonathan Freedland, Bernard Williams argues that claims such as these have resulted in deconstructionists and postmodernists having stripped away all the previously received wisdoms concerning truth. In fact, they assert that what the truth amounts to 'actually is all versions of different people's biases and propaganda.'⁶ Despite these doubts raised by post-modernists and deconstructionists concerning the possibility of discovering the truth there are those of us who want to affirm that the truth can be discovered and that the truth does indeed matter. Williams argues that 'the concept of truth just in itself as opposed to philosophical theories of truth, just the plain notion of the truth, is probably the most basic notion in the meaning realm that we have got. We cannot explain it in terms of anything more complicated.'⁷ What the truth is, if we utilise Arendt's definition, is 'conceptually, we may call truth what we cannot change; metaphorically, it is the ground on which we stand and the sky that stretches above us.'⁸ She bases this claim on the existential notion that it is through truth that one is revealed and although this exposes one to risk, nevertheless, survival, 'the perseverance into existence', is impossible without the truth. 'Without men willing to do what Herodotus was the first to undertake consciously – namely, *to say what is*,⁹ truth is impossible. Saying "what is" in this context, 'stabilises the futile and perishable and fabricates [constructs] a memory'.¹⁰ In other words it creates a past that can be remembered in a way that means that new beginnings are possible. Discovering the truth can be a challenging and threatening experience for all those concerned and one that many would like to reject. Despite the problems associated with discovering the truth, rejection of this process although possible is ultimately counter-productive, our difficulty is that no matter

⁶ Williams, Bernard, in 'Jonathan Freedland interviews Bernard Williams about truth', *The Talk Show*, (BBC4, 18 November 2002), transcript p. 1.

⁷ Ibid., p. 4.

⁸ Arendt, *Between Past and Future*, 'Truth and Politics', p.264.

⁹ Ibid., p.229. My italics.

¹⁰ Arendt, *Between Past and Future*, 'The Concepts of History', p. 64.

how much we try to repress it, the truth repeatedly comes back to haunt us. In the words of Desmond Tutu 'unless we look the beast in the eye we will find that it returns to hold us hostage.'¹¹

The first task is, therefore, to establish that truth does indeed have the force so graphically described by Arendt, and also to establish why it is so important to the political process and *political responsibility*. The centrality of these ideas can be demonstrated with reference to the discussion of, and about, the Truth and Reconciliation Commission (TRC) in South Africa. The clearest indication of how seriously the new multi-racial South African regime took the issue of discovering the truth was demonstrated by their decision to establish the TRC at the end of the apartheid era, rather than resort to more traditional strategies. In fact "reconciliation through truth" was the lodestar of the South African vision'.¹² There is some evidence for the success of this strategy's ability to produce reconciliation. One example provided by Gibson claims that his research demonstrates that 'truth in many instances *does* contribute to reconciliation in South Africa, [but that] the process is not always simple or direct.'¹³ Despite this emphasis by the TRC on truth and reconciliation, nevertheless the discovery of the truth was not only to be about reconciliation or understood to be an end in its own right. Rather the discovery of the truth had assigned to it the very exacting and onerous task to be able to 'mediate between the demise of the old moral order and the birth of the new'.¹⁴ It was seen, therefore, not only as a tool to reconcile old enemies and past

¹¹ Tutu, Desmond, *No Future Without Forgiveness*, (London, Rider, 1999), p. 31.

¹² Du Bois, François, "Nothing but the Truth": the South African Alternative to Corrective Justice in Transition to Democracy,' in *Lethe's Law, Justice Law and Ethics in Reconciliation*, Christodoulidis, Emilios and Veitch, Scott (eds.), (Oxford, Hart Publishing, 2001), p. 92.

¹³ Gibson, James L. 'Does Truth Lead to Reconciliation?: Testing the Causal Assumptions of South African Truth and Reconciliation Process', *American Journal of Political Science*, Vol.48, No. 2, April 2004, p. 202. Gibson speculates, however, that this ability to embrace reconciliation might be rooted in the religious beliefs of black South Africans, and is therefore partial.

¹⁴ Du Bois, "Nothing but the Truth": the South African Alternative to Corrective Justice in Transition to Democracy,' in *Lethe's Law*, p. 92.

division but also as having the ability to create the conditions necessary for the foundations for the reconstruction of South Africa.¹⁵ Thus, the South Africans understood that there were many from amongst the black, white and coloured populations as a whole, but some members in particular, who felt alienated and excluded from their social world. The remedy instigated by the TRC was to promote reconciliation between victims and perpetrators by truth telling about the past. Implicit within this process was the hope that the victims (and also the perpetrators) would also be reconciled with their social world and that this would facilitate a new social order.

Despite this optimism about the power of such truth-telling, other commentators are sceptical. They claim that revealing the truth no matter how well intentioned can, in fact, be a double-edged sword. Crocker for example, claims that the need to reveal the truth has to be weighed against other priorities, since the truth can harm people as well as benefit them. Indeed too much truth can itself cause harm by fuelling ethnic divisions and hostilities which in turn can impede and inhibit democratisation and reconciliation. He claims that there is a need to balance the desire for the truth by victims against other goals, and that sometimes revealing the truth to victims can incite violence.¹⁶ Such pragmatic considerations are, however, questioned by others, such as Habermas who noted in the context of the post-war German debate, that 'where the overriding concern is national cohesion, "the crass demand for reconciliation" necessitates "the promotion of forgetfulness". Instead of reconciliation providing the means by which a perpetrating community can come to terms with its past, it

¹⁵ The Commission was convened after much deliberation. In fact, Du Bois claims that the terms of the Commission were born out of compromise because 'neither the representatives of the past nor those of the future' were prepared to accept the others preferred options. "Nothing but the Truth": the South African Alternative to Corrective Justice in Transition to Democracy,' in *Lethe's Law*, pp. 92-93.

¹⁶ Crocker, David, A. 'Reckoning with Past Wrongs: A Normative Framework,' *Ethics and International Affairs*, Vol.13, 1999, pp. 50-51.

encourages a politics of selective memory'.¹⁷ For instance, if these narratives are not based on the truth, but are instead based on a selective memory instigated by the need to create national cohesion, then 'although ostensibly objective, these historical narratives have served to constitute, rather than simply describe, the national identity.' Although they have apparently been successful in that they appear to create 'the sense of a unified nation grounded in a shared past. The critical feature of all of these histories is, the fact that there is frequently little to hold them together except the territory that they narrativise.'¹⁸

The South Africans chose a Truth and Reconciliation Commission because they understood the inevitability of the creation of false narratives should they have chosen one of the three alternative pathways that had historically been adopted by political communities when faced with a broken political and moral order. Thus, because they had an understanding of the primacy of truth-telling the South Africans rejected the historical pathways to corrective justice in favour of restorative justice. Both sides in the debate rejected as fundamentally flawed the type of undertaking characterised by the Nuremberg trials where alleged perpetrators of crimes were brought before courts. They rejected this strategy not only because of the inevitability of the charge that it is "victor's justice", but also because they recognised that by bringing to justice a limited and representative number of perpetrators the rest are seen to have escaped.¹⁹ From the rest of the population there is a metaphorical sigh of relief, that those identified and prosecuted "are the guilty ones", they are the ones responsible. Thus the majority do not have to answer for their role in past events, the truth has not been heard. This outcome allows most of the population to remain aloof and

¹⁷ Muldoon, Paul, *Reconciliation and Political Legitimacy: The Old Australia and the New South Africa*, p. 187.

¹⁸ *Ibid.*, p. 185.

¹⁹ There were also pragmatic reasons that centred on the cost and the damaging effects of huge show type trials.

insulated not only from any criminal proceedings, but also and even more importantly in terms of *political responsibility* from self-examination of their action or inaction and thus the complete avoidance of having to accept any responsibility. This process is referred to scathingly by Arendt in 'Truth and Politics'. Here she castigates Adenauer for this claim from his war memoirs 'that the barbarism of National Socialism had affected only a relatively small percentage of the country.'²⁰

The second alternative is to indict everyone who participated; however, this is also a very unsatisfactory strategy. It leads inevitably to claims such as those made by Adolf Eichmann and reported by Arendt in *Eichmann in Jerusalem*. Eichmann claimed that if indeed he had committed crimes then so had many others because he had simply participated in and carried out the orders legislated by the regime. Arendt points out that if this line is adopted then potentially almost all Germans are guilty. She dismisses Eichmann's claims because the outcome of 'what you [Eichmann] meant to say was that where all or almost all, are guilty, nobody is.'²¹ If this is the case then it is pointless to try to pursue anyone who committed crimes because if all are guilty, no one can be judged or punished,²² which 'means that the particular is again lost in the disorder of the general.'²³ There is no one to whom either criminal or *political responsibility* can be attributed. A general amnesty is then required for the whole population and with this the adoption of a sort of mental amnesia or self-deception. The problem with this strategy is that in Hegelian terms not punishing perpetrators doubly injures the victims. In the case of criminal responsibility not only have wrongs been

²⁰ Arendt, *Between Past and Future*, 'Truth and Politics', p. 252.

²¹ Arendt, Hannah, *Eichmann in Jerusalem: a Report on the Banality of Evil*, (London, Faber & Faber, 1963), p. 255.

²² Alweiss, Lilian, 'Collective Guilt and Responsibility', *European Journal of Political Theory*, Vol.2, No.3, 2003, p. 307.

²³ Diner, Dan, 'Hannah Arendt reconsidered: on the banal and the evil in her holocaust narrative', *New German Critique*, No.70, 1997, p.190.

committed against victims that caused them injury, but also the failure to indict the perpetrators injures them yet again because the state condones the actions of the perpetrators by refusing to censor or indict them. This is equally true of *political responsibility*. By equating all Germans with the political decisions made by the Nazis this promotes the idea of “collective responsibility”, and fails to identify those whose political decisions instigated and facilitated a climate in which such criminal acts could be perpetrated. The failure to thus identify those who were politically responsible also further injures the victims and indicts the whole population including those who did attempt to take political action against the Nazi regime. Thus there is no chance that the victims can be reconciled to their social world and the truth is totally absent. This facilitates the creation of false narratives which have to be continually reinforced and maintained in the future. In fact in Germany when in November 1988, Phillip Jenniger challenged the narrative that portrayed German citizens as victims rather than perpetrators, he had to resign from his office as the President of the Bundestag. In a speech on the occasion of the fiftieth anniversary of the Jewish pogrom, Reichskristallnacht, he ‘tried to break through the status of victimhood, which many Germans had long adopted for reasons of self-protection’. Jenniger regretted that the ‘Germans had not hitherto had the courage to come to face up to their past. That we can only apologise for our history, but not come to terms with it,’ and accept responsibility.²⁴

The third alternative rejected by the South Africans is any notion that the past can be buried. The ‘advocates of due process, [who are] sceptical that victor’s justice can be avoided, contend that the only ethically justified way to reckon with past political wrongs is to bury the past and move on to a better future.’²⁵ The TRC was convened because it rejected the

²⁴ Jenniger, Phillip, ‘Not Embittered but Reflective’, *Das Parlament*, 14 June 2002.

²⁵ Crocker, ‘Reckoning with Past Wrongs: A Normative Framework,’ p. 56.

recourse to victor's justice but also recognised the futility of attempting to bury the past. Instead, as Desmond Tutu illustrates graphically, to bury the past also means that the victims are forced into the position of having to 'let bygones be bygones'. Tutu claims that this sort of mental amnesia is far from being constructive. In fact 'the past, far from disappearing or lying down and being quiet, is embarrassingly persistent, and will return and haunt us unless it has been dealt with adequately.'²⁶

This is true not only in South Africa but also across Europe where failure to reveal the truth causes persistent and re-occurring problems. In France the continuing debate about collaboration and resistance regularly reappears. 'There is a never-ending conflict between the desire to forget and the desire to remember, between the need for repression and the unpredictable return of the repressed, between the inexorability of ignorance, and the aspiration to truth.'²⁷ The massacre at Oradour-sur-Glane highlights the problem for the survivors and families. The decision not to confront the status of the perpetrators of the massacre, many of whom were French *malgré-nous* (those who claimed they had been forced to serve in German units), was what one deputy considered to be an act of "omission". It looks, however, 'remarkably like political repression ...although eventually the repressed material tragically resurfaced in the course of the judicial process.'²⁸ When those convicted of the massacre were pardoned in 1953 the 'constant calls to forgive, to reconcile, even to forget the past clashed with an urgent need to deal with the spontaneous return of repressed material...old wounds were reopened and the dead were hauled into court. Official symbols could not make shattered memories whole.'²⁹

²⁶ Tutu, *No Future Without Forgiveness*, p. 31.

²⁷ Rousso, Henry, *The Vichy Syndrome*, (Cambridge, Mass., Harvard University Press, 1991), p. 304.

²⁸ *Ibid.*, p. 56.

²⁹ *Ibid.*, p. 58

The importance of truth-telling is again illustrated by discussions of the aftermath of the war in Germany. Habermas asks the question; 'In which way is the Nazi period to be processed in public consciousness?'³⁰ The fact that he was asking this question in 1987 and that the questions which arise concerning the period 1933-1945 are still 'entwined with sensibilities and reactions', illustrates how important truth-telling is. Habermas states that 'the authors of the series *The Germans in the Second World War* ...detected a need in their older viewers which is certainly unmistakable: the desire to release the subjective experience of wartime from the frame of reference which in retrospect had to provide everything with meaning.'³¹ Tony Judt summarising the politics of retribution in post-war Europe paints a depressing scenario for future development. He claims that '...the ways in which the memory of that experience was distorted, sublimated, and appropriated, bequeathed to the post-war era an identity that was fundamentally false, dependent upon the erection of an unnatural and unsustainable frontier between past and present in European public memory.'³² From these commentators alone it can be seen that a truthful narrative concerning the past is considered to be essential in order to repair the rupture of the past to give a foundation of reality to the rebuilding of the future. The failure to deal with the past is all too potent a catalyst to troubles in the future. Attwood cites the example of the way in which the British settlers mistreated Aboriginal peoples. This has 'for much of the last 200 years or more been elided in the Australian national consciousness, but since the mid-1960s this past has increasingly become a troubling presence, casting a shadow, some believe, over Australia's future.'³³ In Jersey the failure to deal with issues of collaboration under Nazi occupation can perhaps

³⁰ Habermas, Jürgen, 'Concerning the Public use of History', *New German Critique*, Vol.15, No.44, 1988, p. 40.

³¹ Ibid., p. 43.

³² Judt, Tony, 'The Past is Another Country: Myth and Memory in Postwar Europe', in *The Politics of Retribution in Europe*, Deák, István, Gross, Jan T., Judt, Tony (eds.), (Princeton, Princeton University Press, 2000), p. 293.

³³ Muldoon, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa', p. 188.

explain the paradigm of official secrecy and non-transparency that allowed issues of child abuse to be concealed and remain unexamined for 40 years.³⁴ Although the truth is always about the past, nevertheless it is the link between past and future: without a truthful account and the ascription and acceptance of *political responsibility* no new beginnings are possible. The future is forever tainted by the past.

It is not possible or intended to conduct a detailed examination of the workings of the Truth and Reconciliation Commission or its comprehensive reports. It is the case, however, that although the TRC was convened to overcome the severe problems that were the legacy of a broken moral and political order, its remit and philosophy illustrates problems that can be generalised to other times and places. In order to overcome the dilemma caused by the choice between victor's justice and impunity, the TRC had shifted the focus to restorative justice. Thus, it was believed that the emphasis had to change 'from a concern with corrective justice to reconciliation, from a paradigm in which justice determined what was to count as the relevant truth, to one in which justice was to be the product of truth'.³⁵ An examination of some of the workings of the TRC confirms that the truth has the power claimed for it by Arendt, but also demonstrates that there are three important qualities attributable to truth that makes it essential for it to be revealed. The first is that it can assist in the healing process and secondly that there is a moral imperative to reveal the truth. Thirdly, and for our purposes the most important reason, is that without the establishment of the truth and the identification of those who are politically responsible the polity is permanently and enduringly damaged. Unless those who have been wronged and who are alienated and excluded from their social

³⁴ 'No collaboration choice says book', BBC News 06/05/2005, <http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/europe/jersey/4521451.stm>

³⁵ Du Bois, "Nothing but the Truth": The South African Alternative to Corrective Justice in Transitions to Democracy', in *Lethe's Law*, p. 93.

world, are given a truthful account by political actors, they remain excluded and unreconciled.³⁶

The first issue is the claim that truth has the power to heal. There are examples that demonstrate that the revelation of truth can assist this healing process. The regimes that perpetrated violence, murder and oppression relied on secrecy and intimidation to make the creation of false narratives possible, therefore the public nature of these revelations of truth is essential. When victims are permitted to tell their stories in public and are told the truth by the perpetrators they are being treated with 'dignity rather than as-before treated with contempt. This respect enables those once humiliated as victims to become empowered as citizens. Those once reduced to screams of paralyzing fear now may share a personal narrative.'³⁷ Van Roermund offers this powerful example from the Truth and Reconciliation Commission's Interim Report of June 1996, from a statement by the daughter of one of the victims of apartheid known as the "Cradock Four".³⁸

"We want to forgive, but whom should we forgive?" The revelation of the "who" implies the disclosure of names, agents and acts. In the eyes of the survivors of oppression, obliterating the past is tantamount to killing the victims twice. For them revealing the truth is a form of burying the victims with dignity, and thus burying the past. *Burying* the past, rather than forgetting or obliterating it. Burying is for sure a way of covering. But it

³⁶ There may of course be some, as Gibson claims, who will be personally reconciled with the perpetrators.

³⁷ Crocker, 'Reckoning with Past Wrongs: A Normative Framework,' p. 52.

³⁸ The group known as the "Cradock Four" were a group of UDF activists who were abducted and murdered by the security forces. Their bodies were then mutilated and burnt and dumped unceremoniously at Bluewater Bay outside of Port Elizabeth. In 1993 the re-opened inquest found that the security forces were responsible for their deaths, although no individual was named as responsible. The members of the security forces who had committed this atrocity subsequently applied for amnesty for their crimes. Roermund, Bert van, 'Rubbing Off and Rubbing On: The Grammar of Reconciliation', in *Lethe's Law*, p. 178.

is a way of covering that uncovers the **meaning** of what has happened and that one *wants* to remember or *wants* to forget.³⁹

We must be clear, however, that this is taking place between victim and perpetrator. So despite Crocker's claims about the 'empowerment as a citizen' this truth-telling does not involve the state or political actors or *political responsibility*.

Secondly, the truth about the past is important in itself. This is illustrated by the quotation which introduces this chapter in which Arendt, deliberately misquoting Ferdinand the First, claims that 'the sacrifice of truth for the survival of the world would be more futile than the sacrifice of any other principle or virtue.'⁴⁰ One way to make this point is to say that 'victims and their descendants have a moral right to know the truth....without reasonably complete truth, none of the other goals [including reconciliation]...are likely to be realised...Former enemies are unlikely to be reconciled if what counts as lies for one side are verities for the other.'⁴¹ It is axiomatic that the search for the truth recognises that moral and ethical dimensions must already underpin the work of a body such as the TRC. This is essential because 'policies and strategies that are designed and implemented solely under pressure of immediate circumstances and without proper attention to the relevant ethical questions are likely to be ad hoc, ineffective, inconsistent and unstable. Moral questions have a habit of not going away.'⁴²

Crocker for example suggests that there is an implicit normative framework inherent within the attempts to connect the frameworks for transitional justice. Although the revelation of the

³⁹ Roermund, 'Rubbing Off and Rubbing On: The Grammar of Reconciliation', pp. 177-178. My emboldening.

⁴⁰ Arendt, *Between Past and Future*, 'Truth and Politics' p. 229.

⁴¹ Crocker, 'Reckoning with Past Wrongs: A Normative Framework,' p. 50.

⁴² Ibid., p. 63.

truth has its own moral imperative, it does not necessarily serve the goal of giving a public account which is necessary to establish a process leading to *political responsibility* and reconciliation. Of far greater importance is the exposition of the truth through communicative action as part of the process of re-establishing the integrity of the polity.

Thirdly, without the establishment of the truth the polity is permanently and enduringly damaged because victims remain alienated and excluded from their social world. Narratives concerning the past enable us to move forward. Desmond Tutu remembers that 'there was in fact hardly any controversy about whether we should deal effectively with our past if we are going to be making the transition to a new dispensation. No the debate was not on whether but on how we might deal with the only too real past.'⁴³

There was also little dissent concerning the need to re-legitimise the state, and that 'reinvesting legitimacy in the state has become inseparable from managing the legacies of the past.'⁴⁴ It is through discourses that seek to confront the past that it is possible for the state to be re-legitimised and to move forward. Without the truth, however, the narratives that are created are false which is very damaging not only to victims and/or their families but also to the polity itself. As soon as any testing events occur, then the past will come back to haunt us.⁴⁵ Only the truth, a truthful account, fills the gap between the past and the future and allows for new beginnings. The processes involved in confronting the past have, however, often resulted in outcomes that fall short of the required expectations of re-

⁴³ Muldoon Paul, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa', p. 186, Ft.20, from Tutu, Desmond, *No Future Without Forgiveness*, (London, Rider, 1999), p. 24.

⁴⁴ Ibid.

⁴⁵ One only has to see the rapidity with which charges against a father for imprisonment and sexual abuse of his daughter in Austria was linked by commentators to the "unmastered" Nazi past. Martha Carney interview, World at One, BBC Radio 4, 06/05/2008.

legitimation. The problem, as perceived by Muldoon, echoing Habermas, has been that although narratives about the past are intended to move us forward, because, all too often, the state believed that it was sponsoring a discourse of reconciliation, the state 'has tended to encourage a politics of selective memory.'⁴⁶ This fails to re-legitimise the state on two counts. Firstly it fails because it does not sufficiently acknowledge and punish those who have perpetrated crimes, that is those who are criminally responsible. Secondly it fails to give an account of how such criminal acts came to be part of society and why the government instigated and/or tolerated them, and so fails to identify those who are politically responsible. Thus telling the truth is not, as Muldoon points out, about telling the truth 'for the sake of the past' but about reconciling the victims to their social world.⁴⁷ This can only be accomplished, as we have already established, by an account being given in public by representatives of the community from which the perpetrators were drawn; this account must be truthful.

If we accept that the truth plays a vital role in the health of a polity, our next question is, what is truth-telling? The answer to this question is by no means as straightforward as it might appear; truth-telling is a complex issue. As Muldoon correctly points out, even the most cursory examination of the literature reveals that there are a 'variety of different conceptions of truth-telling' which are simultaneously at work.⁴⁸ For example, from the Australian and South African experience alone there has emerged claims concerning different modes of truth-telling. 'Firstly, an historical/juridical mode, where truth is constituted through certain academic or forensic standards; secondly, a confessional mode, where truth is constituted through a Christian "wrestle of conscience"; and finally a

⁴⁶ Muldoon, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa, p.182.

⁴⁷ Ibid., p. 188.

⁴⁸ Ibid.

discursive mode, where truth is constituted through public discussion and debate.⁴⁹ If we accept the working hypothesis that not only does truth matter but that it is essential for the health of a polity then the next question is, given that there are different orders of truth, which order of truth has primacy? The problem that we encounter with some types of truth-telling, however, is exactly the same problem that we have encountered so often in discussions of *political responsibility*: that is the problem caused by the conflation of 'private and public moralities [which] thereby misconstrues the nature of the political community.'⁵⁰

The notion of what counts as truth is of course a contested one, as the many volumes of literature testify, and leads to the difficulties in establishing the primacy of any one order of truth. Conflicts arise between those for example who champion, rational and 'factual or forensic truth and personal or narrative truth and social or "dialogue" truth and healing and restorative truth'. This difficulty and confusion is more than sufficient to allow the evasion of responsibility, political or otherwise, by those who wish to escape from the consequences of their actions.⁵¹ These difficulties lead those who undertake the pursuit of truth to describe and champion different types. Alex Boraine, for example, a member of the TRC, is unequivocal when he claims that 'a society should investigate, establish, and publicly disseminate the truth about the crimes that have been committed, through "forensic truth" or "hard facts"'.⁵² Similarly, when considering orders of truth, Judge Albie Sachs, a member of the South African Constitutional Court, identifies two types of truth he considers to be the most important. The first is factual or forensic truth: truth which can be verified and is documented. The second is 'social truth, the truth of experience that is established through

⁴⁹ Muldoon, 'Reconciliation and Political Legitimacy: The Old Australia and the New South Africa, p.188.

⁵⁰ Ibid., p. 193.

⁵¹ Du Bois, "Nothing but the Truth": The South African Alternative to Corrective Justice in Transitions to Democracy', in *Lethe's Law*, p. 97.

⁵² Crocker, 'Reckoning with Past Wrongs: A Normative Framework', p. 49.

interaction, discussion and debate.’ Furthermore these ‘different orders of truth, ... [do] not necessarily mutually exclude one another.’⁵³ Arendt similarly claims that the nature of truth has taken on two divergent strands, but she identifies these as rational truth and factual truth. Arendt, also like Sachs, does not believe these different orders of truth to be mutually exclusive. It is these two distinctive strands of truth that are emphasised by Arendt, rational truth and factual truth, which will be the focus of this discussion. It can be demonstrated that the implication of Arendt’s detailed discussion of the primacy of factual truth is that a further and more profound notion of truth emerges, a type of truth similar to Sachs ‘social truth’. Arendt attributes this understanding of truth to Karl Jaspers when she claims that for him ‘truth and communication are conceived to be the same.’⁵⁴ This order of truth which Sachs calls ‘social truth’ and which could be called communicative or negotiated truth, is reliant on factual truth, and emerges only through speech when people communicate and act together. The importance of this insight will be discussed later in relationship to the qualities necessary for communicative or negotiated truth.

In order to begin to understand the nature of truth and how *political responsibility* and truth are linked there is no better place to start than the thought experiment created by Arendt in ‘Truth and Politics’.⁵⁵ To illuminate this problem Arendt invites us to accompany her on a thought experiment, which although challenging, nevertheless, manages to carve a secure niche for truth, albeit a very limited kind of truth. When this notion of truth is linked to the political, it allows both for the ascription of, and also demands the acceptance of *political responsibility*. Arendt, however, embarks on her thought experiment by examining the nature of truth, and how this accounts for the apparent conflict between truth and politics. This

⁵³ Tutu, *No Future Without Forgiveness*, p. 33.

⁵⁴ Arendt, Hannah, *Men in Dark Times*, (San Diego, Harcourt Brace, 1955), p. 87.

⁵⁵ Arendt, *Between Past and Future*, ‘Truth and Politics’, pp. 227-264.

starts from the seemingly rather unpromising assertion by Arendt that 'No one has ever doubted that truth and politics are on rather bad terms with each other, and no one, as far as I know, has ever counted truthfulness among the political virtues. Lies have always been regarded as necessary and justifiable tools not only of the politician's or the demagogue's but also of the statesman's trade.' Arendt follows this uncompromising assertion by asking uncomfortable questions about what this could 'mean for the nature and the dignity of the political realm, on the one side, and for the nature and the dignity of truth and truthfulness, on the other?'⁵⁶

Arendt describes how the conflict between truth and politics has arisen from two different and seemingly incompatible definitions of "truth". She observes that "truth", since Leibniz, has been used in two different ways, 'truths of reasoning and truths of fact.' Truths of reasoning include such things as mathematical, scientific and philosophical truths. This 'initial dichotomy of factual and logical truth'⁵⁷ adopted by Arendt is of course problematic and has attracted much criticism. Nelson, for example, claims that both her conceptions of the truth, the rational and the factual, are 'incompatible with politics.'⁵⁸ This is because Nelson does not take into consideration what exactly Arendt means by the contents of 'political life'. Politics for Arendt takes place between equal individuals. It is only when people come together to communicate in the public realm that truth is possible, politics takes place in the light by men revealing themselves. Arendt is also clear that it is neither possible nor desirable to lead a completely political life, and draws clear distinctions between the

⁵⁶ Arendt, *Between Past and Future*, 'Truth and Politics', p. 227.

⁵⁷ Nelson, John S., 'Politics and Truth: Arendt's Problematic', *American Journal of Political Science*, Vol.22, No. 2 May 1978, p. 281. Although Nelson recognises that Arendt is 'trying desperately to think against the tradition while using its own conceptual tools,' he fails to appreciate what Arendt's real motive is. She is challenging us to ask 'adequate, meaningful questions' in a modern world circumscribed by the deformation of factual truth and divorced from the political. A world so circumscribed that she despairs of our ability to even ask such questions 'let alone of giving answers'.

⁵⁸ *Ibid.*, p. 278.

private and the public. It is clear from this, therefore, that in Arendtian terms, truth and politics only clash if one thinks of the political realm as merely the 'battlefield of partial, conflicting interests,' and that in fact 'factual truth clashes with the political only on [the] lowest level of human affairs.'⁵⁹ We can safely ignore these criticisms because her critics fail to recognise that Arendt accepts this definition for convenience rather than for its 'intrinsic legitimacy.' Like us, Arendt is attempting to understand 'what injury political power is capable of inflicting upon truth'. As we are investigating this for political rather than for philosophical reasons, we can 'afford to disregard the question of what truth is'.⁶⁰ We can also disregard claims that to discover the truth we must be able to take a 'God's eye point of view' and that our claims 'reflect a nostalgia for the logocentrist's unveiling- reality model of inquiry.'⁶¹ Like Arendt, we can 'be content to take the word in the sense in which men commonly understand it.'⁶²

Although the Truth and Reconciliation Commission is clear about the centrality of truth to its deliberations, what is problematic in its situation is the deformation of truth that emerges as a problem in any examination of conflict situations. The deformation of truth is also a major concern when attempting to argue for the veracity of *political responsibility* and as such needs a more thorough examination because of its implication for the perceived conflict between truth and politics. Returning to Arendt and her thought experiment, it is clear that although she is concerned with orders of truth she is much more concerned with the deformation of truth and the deformation of factual truth in particular. In order to understand the processes involved in the deformation of truth, it is enlightening to follow Arendt's

⁵⁹ Arendt, *Between Past and Future*, 'Truth and Politics', p. 263.

⁶⁰ Ibid., p. 231.

⁶¹ Rorty, 'Truth and Freedom: A reply to Thomas McCarthy', p. 643.

⁶² Arendt, *Between Past and Future*, 'Truth and Politics', p. 231.

thought trains when she traces the history of the deformation of factual truth back to Plato. It was Plato who sublimated factual truth to rational truth and she asserts that from Plato onwards, rational truth has claimed primacy. Plato was attempting to overcome the contingency of the world by discovering unchanging everlasting truths. He was fundamentally opposed to the validity of opinion (*doxa*), and contrasted it unfavourably with knowledge (*episteme*). His thought experiments, as exemplified par excellence in the 'Allegory of the Cave', furnishes us with the defining example of the superior being who leaves the world of appearances for the 'sky of everlasting ideas'.⁶³ Here the truth-seeker is selflessly engaged in rational thought to reveal to those in the inferior worldly existence, rational, absolute truths. It is the truth-seeker's misfortune that on his return to the cave where he reveals himself to the ordinary beings who inhabit it, and tries to communicate to them his rational truths, these rational truths are debased by the inhabitants, into mere opinion. Thus, 'philosophical truth, when it enters the market place, changes its nature and becomes opinion.'⁶⁴ Our truth-seeker suffers because he returned to the inferior world of appearance where his "truths" are debased into opinion, that is, they have become nothing more than 'it seems to me'.⁶⁵ Thus, rational truths suffer from being deformed into mere opinion.

Through the allegory of the cave it is possible to see how easily rational truth can be deformed into opinion. Arendt alerts us to the fact that although this can indeed be the fate of rational truth it is much more likely to be the fate of factual truth. 'It is, of course, factual truth that we are most concerned with here, since facts and events – the invariable outcome

⁶³ Arendt, *Between Past and Future*, 'Truth and Politics', p. 237.

⁶⁴ *Ibid.*, p. 238.

⁶⁵ *Ibid.*

of men living and acting together – constitute the very texture of the political realm.’⁶⁶ This deformation of factual truth has profound implications. The outcome that so perturbs Arendt is that whereas the opposite of rational truth is ‘either error or ignorance as in science, or illusion and opinion as in philosophy,’⁶⁷ factual truth differs from rational truth because the opposite of factual truth is ‘neither error nor illusion nor opinion but the deliberate falsehood, or lie.’⁶⁸ Thus, it is not the ‘deformation’ of rational truths that really disturbs Arendt, because ‘the need of reason is not inspired by the quest for truth but by the quest for meaning, and truth and meaning are not the same’. Rather, what so disturbs her is the ‘deformation’ of factual truth also into mere opinion. Factual truth is characterised by being witnessed, by being reported, being spoken about, it is reliant on people and communication, therefore in Arendt’s terms factual truth is by nature, political. It only ‘acquires political implications by being put in an *interpretative* context.’⁶⁹

Arendt highlights this problem when she explains how it becomes possible for factual truths to be reduced to mere opinion. This she asserts is the result of the conflicting claims of differing world stories that are inherent within ideologies. This results in factual truth being debased by the needs of different factions and groups. The outcome of this is the inability of men to communicate freely and publicly with each other, and also following Kant, that it also ‘deprives [man] at the same time of his freedom to think.’⁷⁰ She claims that this ‘deformation’ is so insidious because it is the chief tool of oppression in totalitarian states. This deformation of truth is such an important theme because the manipulation of truth is used in order to exert control and maintain power. Arendt of course details this process

⁶⁶ Arendt, *Between Past and Future*, ‘Truth and Politics’, p. 231.

⁶⁷ Arendt, Hannah, *The Life of the Mind: One Thinking*, (San Diego, Harcourt Brace, 1971), p. 15.

⁶⁸ Arendt, *Between Past and Future*, ‘Truth and Politics’, p. 249.

⁶⁹ Ibid. My italics.

⁷⁰ Ibid., p. 234.

thoroughly in *On Totalitarianism*. It is not this problem, however, that is Arendt's concern here. It is the modern method of deforming factual truth that has for Arendt a much more sinister and devastating outcome.

Arendt freely acknowledges that there have always been times when lies have been used by the state, for example in times of great danger. Nevertheless, in these instances, these lies were always recognised by their perpetrators for what they were, deliberate misinformation. These lies were not supposed to be believed by everyone but only by the enemy. She claims that perversely, factual truths were actually safeguarded by the very *process* that politicians and statesmen were *manufacturing* lies. 'They [the politicians and statesmen] were not likely to fall victim to their own falsehoods; they could deceive others without deceiving themselves.'⁷¹ Arendt identifies a modern trend that treats 'cold blooded lying' very harshly, 'whereas the often highly developed art of self-deception is usually regarded with great tolerance and permissiveness.'⁷² This claim is vividly illustrated by two very different responses by the House of Commons to deceit and lies. Firstly, the response made by the House to John Profumo who was discovered to have told a 'cold blooded lie' to the House in order to protect himself from accusations of impropriety. Once it was discovered that Profumo had lied to the House of Commons he was compelled to resign. Although he and his wife devoted the rest of their lives to charity work, he would never be forgiven. This contrasts with Blair and his Cabinet who waged war on Iraq largely on the pretext of information in the falsely fabricated "dodgy dossier". Although Blair subsequently resigned his seat in Parliament, it was not over this issue and after this incident he was still able to lead the Labour Party to its third successive victory. The deformation of factual truth is so

⁷¹ Arendt, *Between Past and Future*, 'Truth and Politics', p. 253.

⁷² Ibid., p. 254.

devastating because it involves the perpetrators of the falsehoods believing their own lies and deceits. This amounts to self-deception and is similar to 'affected ignorance' as described by Aquinas, 'choosing not to know what one can and should know,'⁷³ and for Arendt is the most serious development, namely that, 'even whole nations, may take their bearings from a web of deceptions to which their leaders wished to subject their opponents.'⁷⁴ Arendt uses de Gaulle as a prime example of a leader who was able to re-build a nation and a power base on an 'evident non-fact that France belongs among the victors of the last war'.⁷⁵ Similarly, there is the creation of the convenient fiction that the Austrians were the victims of Nazi occupiers, promoted by American advocates of the post-war Marshall plan.

Following the Eichmann controversy,⁷⁶ Arendt had become certain that the only safeguard for factual truth was from those who were dedicated to the 'disinterested pursuit of truth.'⁷⁷ Those who are outside of the political arena notably the judiciary and institutes of higher learning are those identified by Arendt. Only in these areas have 'truth and truthfulness always constituted the highest criterion of speech and endeavour.' For the judiciary this could be perhaps characterised by judicial review. The role attributed to the historical sciences and the humanities is that they are supposed 'to find out, stand guard over, and interpret factual truth and human documents'.⁷⁸ Arendt characterised the truth-teller by her isolation, her dislocation from the political milieu. This very isolation and dislocation, can

⁷³ Moody-Adams, Michele M., 'Culture, Responsibility, and Affected Ignorance', *Ethics*, Vol.104, 1994, p. 296.

⁷⁴ Arendt, *Between Past and Future*, 'Truth and Politics', p. 255.

⁷⁵ *Ibid.*, p. 252.

⁷⁶ This controversy arose after the publication of *Eichmann in Jerusalem* following the Eichmann trial. It concerned many misinterpretations concerning Arendt's intentions and Arendt's challenge to the *raison d'être* for the trial and for the what she considered to be the lies presented at the trial about Jewish involvement in the Holocaust and especially the conduct of Jewish leaders.

⁷⁷ Young-Bruehl, Elizabeth, *Hannah Arendt, For Love of the World*, (New Haven, Yale University Press, 1982), p. 397.

⁷⁸ Arendt, *Between Past and Future*, 'Truth and Politics', p. 261. The current position in academia is now more troublesome, and Arendt would undoubtedly have been unhappy with the increasing emphasis on the role of universities to provide technical innovation and to undertake research that only has end-users in mind.

however, lead to the truth-teller being categorised by the state as the “enemy within”. The truth-teller’s importance becomes clear in times of great danger to the polity, when truth telling becomes a kind of action. The truths that Arendt has in mind are those that are uncontested ‘beyond agreement, dispute opinion or consent.’⁷⁹ She gives the example of the Germans invading Belgium in August 1914. She states that ‘Considerably more than the whims of historians would be needed to eliminate from the record the fact that on the night of August 4, 1914, German troops crossed the frontier of Belgium; it would require no less than a power monopoly over the entire civilised world.’⁸⁰ Perhaps more recent examples of non-disputable facts could be that Israel invaded Jordan and Syria in June 1967, or that it was dissident republicans the Real IRA who planted the bomb at Omagh.

The problem with the deformation and manipulation of truth is that this manipulated truth has to be continually changed and upgraded to match changing circumstances. This deformation of facts is all the more dangerous because ‘the truths of “Reasoning are necessary and their opposite is impossible” while “those of Fact are contingent and their opposite is possible”’.⁸¹ Unlike Plato, Arendt claims that facts and opinions are not inimical to each other and that factual truths unlike rational truths always relate to other people. ‘Factual truth concerns events and circumstances in which many are involved; it is established by witnesses and depends upon testimony; it exists only to the extent that it is spoken about, even if it occurs in the domain of privacy.’ Facts inform opinions, and opinions, inspired by different interests and passions, can differ widely and still be legitimate as long as they respect factual truth: ‘freedom of opinion is a farce unless factual information is guaranteed and the facts themselves are not in dispute. In other words, factual truth

⁷⁹ Arendt, *Between Past and Future*, ‘Truth and Politics’, p. 240.

⁸⁰ Ibid., p. 239.

⁸¹ Arendt, *The Life of the Mind* : One Thinking, p. 59.

informs political thought just as rational truth informs philosophical speculation.’⁸² The problem with the continual public utterances of lies concerning the factual world is that this induces a certain kind of cynicism in the population. ‘The result of a consistent and total substitution of lies for factual truth is not that the lies will now be accepted as truth, and the truth be defamed as lies, but that the sense by which we take our bearings in the real world ...is being destroyed.’⁸³

How this deformation of truth relates directly to the political realm is illustrated by the observations of Sir Richard Scott, at the end of his enquiry into the ‘Arms for Iraq’ affair. Sir Richard is concerned about the effect that this deformation of truth has on the political system. He notes that the House of Commons were not given the true facts or information by Ministers concerning the fundamental change in *policy* that they, the Ministers, had adopted concerning the supply of arms to Iraq. Although he admitted that Ministers did not engage often in out and out falsehoods, still they were less than frank about the true nature of Britain’s dealings with Iraq. Sir Richard thinks, like Arendt, that this has profound implications.

The denial of this information [factual truths] to the public denies the public the ability to make informed judgement on the government’s record. A failure by ministers to meet the obligations of ministerial accountability by providing information about the activities of their department engenders cynicism about government and undermines, in my opinion the democratic process.⁸⁴

⁸² Arendt, *Between Past and Future*, ‘Truth and Politics’, p. 238.

⁸³ Ibid., p. 257.

⁸⁴ Scott, Sir Richard, ‘Ministerial Accountability’, *Public Law*, Autumn 1996, p. 425.

Scott also believed that the 'failure by ministers to discharge the obligations of accountability will damage the democratic character of our political institutions.'⁸⁵ Being lied to, or at least not being told the factual truth, subverts and therefore subsequently undermines the decision-making process. This results in inauthentic decision-making which in turn damages the political process. Following on from Scott, it is evident that this sort of communication is precisely the type of communication described by Habermas as "distorted communication". His description of "distorted communication" is that it is often unintelligible, also often manifestly factually incorrect, it is also often morally inappropriate or it is simply untruthful in the sense of not being authentic. This can be contrasted with authentic communication that Habermas claims should contain the qualities of comprehensibility, truth, intention and legitimacy.⁸⁶ This is the reason for our agitation about people who lie to the House of Commons, precisely because it undermines the basis of communicative action. The ability to elicit factual truth that could subsequently facilitate authentic decision-making arising from that truth is therefore essential, but how can this become a reality?

The cynicism of the electorate is completely understandable when one considers this example highlighted by Scott. The mendacity inherent within speech/communication from members of the government resulted in a distorted decision-making process which in turn resulted in inauthentic action; that is action based not on the truth but on deception. This fits the pattern of strategic action described by Habermas and results in the teleologically driven action of which both Arendt and Habermas are so critical.⁸⁷ Strategic action is contrasted

⁸⁵ Scott, 'Ministerial Accountability', p. 425

⁸⁶ Habermas, Jürgen, "A Reply to My Critics," in *Habermas: Critical Debates*, edited by John B. Thompson and David Held (Cambridge: MIT Press, 1982), pp. 288-289.

⁸⁷ There is no doubt that Habermas does not support, and is in fact critical of, Arendt's complete rejection of strategic action. There are also commentators, for example, Johnson who claim that Habermas in his 'description of strategic action distorts it as a concept'. Johnson claims that Habermas' assessment is that 'strategic action is assessed solely in terms of efficiency or effectiveness. Johnson, James, 'Habermas on Strategic and Communicative Action', *Political Theory*, Vol. 19, No. 2, May, 1991, p. 189

unfavourably with communicative action.⁸⁸ The theory of communicative competence is an attempt to restructure the normative basis of a speech system of

“universal and necessary” validity claims... [where] ...understanding is the immanent telos or function of speech...Habermas regards “strategic” forms of communication (such as lying, misleading, deceiving, manipulating, etc) as derivative; since they involve the suspension of certain validity claims (especially truthfulness), they are parasitic on speech oriented to genuine understanding.⁸⁹

In the case highlighted by Scott, therefore, the communication from government ministers was oriented not at understanding, but at misleading and deceiving, in order that the government could achieve its own strategic goals or ends which concealed a covert strategy of arms sales.

It is necessary to understand the contrast between strategic and communicative action in order to appreciate the major role that Habermas assigns to communicative action. Although both theories of strategic and communicative action assume that human action is potentially rational in its attempts to

realise specific intentions... to actors [engaged in strategic action] other people are just external, objective facts of reality, ...only with the distinctive quality that they carry out actions too. [Whereas], the communicative concept of rationality...operates with *dialogical* actors who co-ordinate their plans through argumentation aimed at reaching mutual agreement.⁹⁰

⁸⁸ Habermas does however, ‘himself insist that strategic action and communicative action are equally fundamental forms of social action’. Johnson, p. 191.

⁸⁹ McCarthy, Thomas, *The Critical Theory of Jürgen Habermas*, (London, Hutchinson & Co., 1978), p.287.

⁹⁰ Eriksen, Eric Oddvar & Weigård, Jarle, ‘Conceptualizing Politics: Strategic or Communicative Action?’, *Scandinavian Political Studies*, Vol.20, No.3, 1997, p. 221.

Thus,

Strategic and communicative action constitute two different concepts of rational action and two different approaches to the study of politics. The former denotes how individuals calculate other people into their plans to reach subjective goals, that is to maximize a function; the latter imply that individuals have to reach a mutual understanding in order to get things done. Hence,... [the question arises:] is an observed pattern of political behaviour due to strategic actors estimating the best way to further their self-interest, or is it due to the reasonable argument between socially situated participants in a political discourse? ⁹¹

Thus, strategic action is categorised by Kihlström and Israel as when 'one isolated person relates to different dimensions in the world (mostly the objective) just to reach his/her own calculated success. He does not need to involve the others interest in this. This self-interested social action is first of all oriented on consequences instead of reaching understanding and can appear as an open strategy or a concealed one.'⁹²

Whilst it is the case that strategic action must be oriented to success, and whilst it is possible that strategic actors are 'atomistic or egoistic' it need not necessarily be the case that strategic actors are concerned solely with their own narrow motives or self-interest.⁹³ What is the case, however, is that they are orientated to compromise and not consensus.

⁹¹ Eriksen, & Weigård, 'Conceptualizing Politics: Strategic or Communicative Action?', pp. 221-222.

⁹² Kihlström, Anita and Israel, Joakim, 'Communicative or strategic action – an examination of fundamental issues in the theory of communicative action', *International Journal of Social Welfare*, Vol.11, 2002, p. 212.

⁹³ Johnson, 'Habermas on Strategic and Communicative Action', p. 191.

The qualities of strategic action that Kihlström and Israel identify and which are of interest to us are:

strategic action co-ordinates interaction by force or influence; the effort to reach consensus is unilateral manipulation; the actors manipulate the issue because it benefits their final solution; the nature of the argument is legitimised only to the extent that benefit unilateral final solutions; competence to reach a goal is unilaterally defined by one of the actor's open or hidden goals; one partner blocks the other's experience and does not allow it to be dialogically integrated as a competence act; consensus is only coincidentally connected to the situation; if consensus occurs it is co-incidental in relation to one actor's strategy.⁹⁴

Strategic action does not necessarily entail deception but even where it involves telling the truth, at least as far as the strategic actor understands it, it does so coincidentally. The strategic actor might be responsible to others for the success or failure of his strategy but he cannot be politically responsible in the sense in which *political responsibility* is being developed here. For reasons which will be given below the perspective of strategic action has to be abandoned for *political responsibility* to be a possibility. This strategy hardly appears conducive to ameliorating cleavages in society by overcoming alienation and exclusion, nor is it a strategy that purports to re-legitimise the state. We can see, however, how this would benefit those who are resisting truth-telling by allowing them to dominate and manipulate the communicative process.

⁹⁴ Kihlström, and Israel, 'Communicative or strategic action – an examination of fundamental issues in the theory of communicative action', p. 212.

The alternative solution to exclusive strategic action is communicative action. This is a difficult and contested concept, but it is worth rehearsing because the outcome of communicative action is consensus rather than compromise and converts politics from entrenchment into a transformative undertaking. The most comprehensive and articulated proponent of communicative action is Habermas who, echoing Aristotle, stresses that man is a *zoon politikon* or as paraphrased by Habermas ‘an animal that exists in a polity, a public space’. He asserts that the nature of human beings is that we learn from one another and our socialisation and development as people is only possible ‘in the public space of a culturally stimulating milieu’.⁹⁵ It is entering this public space and the social interactions that exist within it that enable the transformation of the human organism that is a human being, into a person. It is this “lifeworld” that creates us as people, that is, it makes us who we are, but simultaneously we, through our actions and communications, create the “lifeworld”.⁹⁶ Habermas identifies ‘one particular social space, namely the political public sphere of a democratic community’ as playing an ‘especially important role in the integration of citizens’.⁹⁷

This political public space contrasts sharply and is in no way similar to lives lived in public that we see increasingly in today’s media society and which is about self-presentation. Public discourse, which is categorised as

reaching agreement on a particular subject or clarifying reasonable dissent takes priority over the self-presentation of the author. Here, the public is not a domain made up of viewers or listeners, but instead a space for the contributions of speakers and addressees,

⁹⁵ Habermas, ‘Public space and political public sphere- the biographical roots of two motifs in my thought’, *Commemorative lecture*, (Kyoto, Nov 11 2004), p. 3.

⁹⁶ This is “double contingency”.

⁹⁷ Habermas, ‘Public space and political public sphere’, p. 9. Habermas complains that the technocratic forms of political practice has deprived the public sphere of its unique qualities.

who confront one another with questions and answers... The line between public and private spheres does not become blurred; the two complement each other instead.⁹⁸

It is hardly surprising therefore, that Habermas views communication as the core of any action and that the way that one communicates with others and the nature of that communication should also be of vital importance.⁹⁹ Thus, being human is bound up with the use of language. The human species is able to maintain itself by the social co-ordinated activities of its members, and these co-ordinated activities are possible only by the use of language and communication, this communication is aimed at achieving a shared agreement.¹⁰⁰ "Understanding a language" and "being able to speak" refers, then, to skills that one has acquired, to the activities that one has learned to carry out in common with others.¹⁰¹ Habermas claims that it is only through language that social actors can co-ordinate their actions in a way that may orient them towards mutual understanding.

If we examine Habermas's theory of communicative action¹⁰² we may be able to understand what the account we have a right to be given should consist of. The most successful way of understanding the properties of communicative action is to contrast them with those of strategic action whose purpose is to exert 'an influence *upon* others instead of understanding *with* them'.¹⁰³ The qualities of communicative action of interest to us are: that actors strive

⁹⁸ Habermas, 'Public space and political public sphere', p. 1. 'Rather than everyone else's gaze being focused on the actor, there is an exchange of reasons and opinions. In discourses that focus on a shared subject, participants turn their backs on their private lives. They do not need to talk about themselves.'

⁹⁹ Mc Carthy, *The Critical Theory of Jürgen Habermas*, p. 272. It is then essential to Habermas' project that he gives a coherent account of this communication, in fact McCarthy claims that Habermas' project is no less than '...the possibility of providing an account of communication that is both theoretical and normative...'

¹⁰⁰ Brand, Arie, *The Force of Reason*, (Sydney, Allen & Unwin, 1990), p. 11. Habermas is critical of other philosophers who have attempted to analyse language only as a 'medium of representation, not of communication'.

¹⁰¹ McCarthy, *The Critical Theory of Jürgen Habermas*, p. 163.

¹⁰² Habermas, Jürgen., *The Theory of Communicative Action*, Vol.1, (London, 1984), p. 286. 'Agents involved are co-ordinated not through egocentric calculation of success but through acts of reaching understanding'.

¹⁰³ Ibid., p. 286.

to understand one another's perspectives; efforts to reach consensus are mutual; actors make their arguments based on intersubjective evaluation of the issue; actors can dismiss or accept arguments without such conflict causing a breakdown in the dialogue; consensus is connected to the specific situation to which the problem is related; the partner's interest can be realised through dialogue; asymmetry is legitimised by the partner during the dialogue.¹⁰⁴ What this illustrates is that politicians invariably adopt strategic action as a way of allowing one actor (themselves) to prevail through influencing the other via the arbitrary exercise of power or manipulation. This sort of action 'is first of all oriented on consequences instead of reaching understanding and can appear as an open strategy or a concealed one'.¹⁰⁵ This concealed strategy means that 'at least one of the parties behaves with an orientation to success, but leaves others to believe that all the presuppositions of communicative action are satisfied.'¹⁰⁶ Our discussions concerning the sometimes draconian outcomes that can befall a politician attempting to give such an account, make it clear why they seek to adopt a strategic strategy oriented to consequences rather than a communicative one oriented to understanding: 'to the degree that interactions cannot be co-ordinated through achieving understanding, the only alternative that remains is force exercised by one against others (in a more or less refined, more or less latent manner). The typological distinction between communicative and strategic action says nothing else than this.'¹⁰⁷

There are four different dimensions to communicative action: comprehensibility, truth, intentions and legitimacy. Thus to be able to engage in communicative action that meets the

¹⁰⁴ Kihlström and Israel, 'Communicative or strategic Action- an examination of fundamental issues in the theory of communicative action', p. 212.

¹⁰⁵ Ibid., p. 210.

¹⁰⁶ Habermas, *The Theory of Communicative Action*, Vol.1, p. 332. Quoted in Kihlström and Israel, 'Communicative or strategic Action', p. 211.

¹⁰⁷ Habermas, Jürgen, 'A Reply to My Critics', p. 269.

criteria of comprehensibility, the speaker has to select a *comprehensible* expression in order that the speaker and hearer can understand one another, *that is the actors strive to understand one another's perspective*. To meet the criteria of *truth* the speaker has to have the *intention* of communicating a true propositional content in order that the hearer can share the knowledge of the speaker, *that is a narrative of factual truth*. The speaker has to *want* to express his intentions *truthfully* in order that the hearer can believe in the speaker's utterance, that is that the hearer can trust him. To ensure that the communication is *legitimate* the speaker has to select an utterance that is right in the light of existing norms and values. This ensures the hearer can accept the utterance, so that both speaker and hearer can agree with one another in the utterance concerning a recognised normative background.¹⁰⁸

The act of utterance, situates the sentence in relation to external reality ("the" world of objects and events about which one can make true or false statements), inner reality (the speaker's "own" world of intentional experiences that can be expressed truthfully or untruthfully) and the normative reality of society ("our" social life-world of shared values and norms, roles and rules that an act can "fit" or "misfit" and that themselves are either "right" – legitimate, justifiable – or "wrong")....Thus the pragmatic infrastructure of speech situations consists of general rules for arranging the elements of speech situations within a co-ordinate system formed by "the" world, one's "own" world, and "our" shared life-world.¹⁰⁹

This is an impressive theoretical model, which if it were possible in practice, delineates an intelligible, factually correct, appropriate and truthful account that fulfils the criteria for the ascription and acceptance of *political responsibility*. This theory of communicative action is,

¹⁰⁸ Habermas, 'A Reply to My Critics', paraphrased, pp. 288-289.

¹⁰⁹ McCarthy, *The Critical Theory of Jürgen Habermas*, pp. 279-280. First function (truth claim implicit in speech) is the ability to make a 'distinction between a public world (Sein: being, that which really is) and a private world (Schein: illusion, that which merely seems to be).' Second function, (claim to truthfulness or veracity). Third function, (claim to rightness or appropriateness).

however, more than just a model. The case for its significance, for ideas of truth in the context of *political responsibility*, is very clear. It is significant because at its broadest it focuses on situations where consensus has broken down or has been challenged. These are precisely the kinds of circumstances where questions of *political responsibility* arise, as we have already demonstrated through the workings of the Truth and Reconciliation Commission in the post-apartheid South Africa or in the discussion of civil disobedience.

These circumstances of broken consensus and subsequent challenge most often result from the consequences of strategic action. The problem with acquiring power by means of strategic action is that it 'implies an asymmetrical relation between the citizens where those in office have the right to impose their will on subjects, by force if necessary.'¹¹⁰ In contrast the significance of communicative action lies in its multidimensional character. This allows us to see the different ways in which the account given by a putatively responsible political actor might, or might not, be accepted as persuasive. Hence, this may or may not facilitate a new consensus that allows for both the redemption of the actor and the reintegration of the addressee(s) into their social world.

It does this because it incorporates the need for the kind of factual truth that Arendt refers to concerning events and circumstances established by witnesses and dependent on testimony. This kind of truth is notably missing from the narratives and accounts given in explanation at Oradour-sur-Glane or in the Spanish Civil war, the Cave Creek disaster and those reported by Scott over the arms to Iraq affair. These are at best incomplete, selective or partial narratives and stand in contrast to narratives of factual truths, truth that is uncontested

¹¹⁰ Eriksen, Eric Oddvar & Weigård, Jarle, 'Conceptualizing Politics: Strategic or Communicative Action?', *Scandinavian Political Studies*, Vol.20, No.3, 1997, p. 236.

‘beyond agreement, dispute, opinion or consent’. Not only does this facilitate the identification of politically responsible actors, it is such factual uncontested truth about past events that provides the link between these past events and future possibilities.

Habermas also incorporates the requirement for moral appropriateness which in this context means that being a member of the polity entitles one to a truthful factual account. Any failure to render this truthful account thereby fails to recognise the moral status of those who might have suffered as the result of political action, i.e. those who experience a sense of injustice. It has already been established that the failure to identify politically responsible agents generates this sense of injustice. This is manifested through violated expectations, such as those at Cave Creek, which generate feelings of affront and alienation resulting in exclusion from the polity. The cynicism that this engenders undermines its legitimacy and is deeply damaging to the political process as a whole.

Habermas has in mind and clearly delineates lying, misleading, deception or manipulation on the part of strategic actors as being incompatible with the need for authenticity.¹¹¹ This is undoubtedly true and Arendt obviously agrees that they are incompatible. To overcome this Habermas, therefore, incorporates the need for authenticity based on truthfulness and oriented to genuine understanding. Habermas’ ideas concerning authenticity, however, need to be supplemented and augmented by those ideas of forgiving and promising promulgated by Arendt. For, politicians immersed in the political sub-system pursue their own strategic goals constrained within their own self-referential system. Goal-driven strategic action permits politicians to fulfil their own exclusive agendas subject to the contingency of the

¹¹¹ Habermas, “A Reply to My Critics,” in *Habermas: Critical Debates*, edited by John B. Thompson and David Held, pp. 288-289.

world. Asking them to give a truthful factual account for their actions in public is rightly perceived by politicians as containing risks; risks that include censure and/or their removal from office or power. Thus, as has already been discussed the desired level of authenticity by political actors is unlikely without the possibility of forgiving and promising. The inherent dichotomy of this is that as soon as the possibility of forgiving and promising is required then the kind of authenticity involved in *political responsibility* is not only much more demanding but involves greater risks both for the political actor and the community. For example, lies told in giving an account will typically involve lies about what has happened in the past and such lies clearly obstruct *political responsibility*. Such lies can, however, be challenged or exposed by, for example, reference to documents that disclose another narrative. However, lies told in acts of forgiving and promising are not subject to such exposure, or at least not in such a manner. Their presence would, however, undermine the possibility of new beginnings by forming a false and/or incomplete narrative as a basis of new actions. Further, because promising and forgiving contain reference to the future, they involve greater reliance upon the authenticity of those promising (that they will do x in the future) and forgiving (that they do, and will continue to, forgive rather than seek retribution).

Finally, Habermas' theory of communicative action as it relates to *political responsibility* is in direct contrast to Weber's claims concerning *political responsibility* which rely on the conscience of his tragic hero. Unlike the tragic hero for whom there can be no escape from his *political responsibility*, Habermas makes no pretence that the outcome of communicative action is guaranteed, i.e. that communicative action will succeed. The problem with *political responsibility* contra Weber is, however, that in reality it is so onerous for the political actor that it will always invite evasion. Although this has some implications for the politician the

major implication is the effect on the political community for which he acts. As there is no place for an account to the community there can be no place for truth or to redress injustice. The crucial difference between strategic and communicative action is that *political responsibility* is seen to have dire consequences for the political actor and this consideration takes precedence in strategic action. In contrast, in communicative action the considerations concerning the consequences of the evasion of *political responsibility* for the community take precedence. The process by which we attempt to reach consensus can be as important as the consensus itself. There will always be serious, vitally important issues, for example global warming, where the considerations of conflicting views may never lead to consensus, but where the stating of these apparently conflicting considerations can form a basis for the negotiation of practical amelioration of perceived problems. Thus, whilst 'a conversation like this may not lead to consensus at all, but is nevertheless the only way to deal with these sorts of conflicts, providing the members want to go on living peacefully together and not resort to bare coercion, force, violence (or pure negligence).'¹¹² Thus, Habermas' model although offering no guarantees for success is sited firmly within the community that it effects.

A truthful factual account will help to overcome the alienation and exclusion felt by those who have suffered from wrongs, and it will, therefore, re-legitimise the polity. It will ensure that the foundation of the future of the polity is not based on a false narrative or profound cynicism. To be politically responsible requires giving an account but before we can expect political actors to be prepared to take the risk of giving this sort of truthful account in public we must ensure that forgiveness is possible. We have already acknowledged that this strategy of giving a truthful account involves risks for all those involved in communicative action. The risks are clear for the political actor, the speaker, for us the addressees the risk is that we

¹¹² Eriksen & Weigård 'Conceptualizing Politics: Strategic or Communicative Action?' pp. 237-238.

might be pushed in the direction of forgiving some actions that we would not be inclined to forgive. This is a risk that we must take. 'If forgiveness is to be worth its name Derrida insists, it must be unconditional: we must forgive what cannot be forgiven.'¹¹³ We must do this because forgiving and promising offers the possibility that the political process can move forward despite the impediments of a contingent world. A truthful account is, therefore, the link between past and future. Forgiving can restore political actors because the power that forgiveness has is the ability to stop the transgressor from forever being seen in the light of her transgression. For although the truth is always about the past, a truthful account of past transgressions that underpins the requirements for the ascription and acceptance of *political responsibility* has a restorative effect which will allow the possibility of new beginnings. The risk to society is that we have to enter into a shared future through the facility of promising with only the politician's assurances that he will not transgress in the same way in the future.

¹¹³ Derrida, Jacques, *On Cosmopolitanism and Forgiveness*, (London and New York, Routledge, 2001), pp. 34-35. Quoted by Schaap, Andrew, 'Forgiveness, Reconciliation, and Transitional Justice', in Lang, Anthony F., & Williams, John, (eds.), *Hannah Arendt and International Relations*, (New York, Palgrave, 2005), p. 75.

Conclusion

As Marx so clearly expresses it ‘Men make their own history but they do not make it just as they please; they do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past.’¹ The implications of this are that we would necessarily need to scale down our expectations of what *political responsibility* can deliver. Nevertheless, lest this project appears so fraught with difficulties that it can be ignored, the consequences of not being able to assign *political responsibility* and not being given an account are that the feelings of injustice that this generates can ultimately undermine the political process as a whole. This investigation was an attempt to establish whether *political responsibility* was a coherent concept, and secondly to evaluate its usefulness in the lexicon of political terms.

In drawing the boundaries of a possible concept of *political responsibility* the following salient features have emerged. *Political responsibility* is a narrow concept that can only be attributed to politicians, so only those actively involved in the political process as decision-makers can be politically responsible. Representative democracy has the elements of responsibility and consequently “giving an account” of action inherent within it. To avoid the “tragic hero” scenario (Weber) there must be incorporated within the concept of *political responsibility*, forgiving and promising. Forgiving and promising offer the potential for new beginnings but these new beginnings are only possible by the revelation of the truth.

¹ Karl Marx & Friedrich Engels, ‘The Eighteenth Brumaire of Louis Bonaparte’, in Marx, K. and Engels, F., *Selected Works*, Vol. 1., (Moscow, Foreign Languages Publishing House, 1962), p. 247. Quoted in Lukes, Stephen, *Power; A Radical View*, (Basingstoke, Palgrave Macmillan, 2005), p. 26.

Saying that someone is responsible is a way of apportioning blame for outcomes which has failed at least to meet expectations and may have caused, distress, pain and suffering. Saying that someone is politically responsible, therefore, one would assume seeks to apportion blame for actions undertaken in the political realm which have not only failed to meet expectations but have often caused consequences which have reverberated throughout the community. We have seen, however, that these charges of *political responsibility* can range from a war of ethnic cleansing as in the case of Milosovic, to the death of a child whilst being supervised by a local authority (Climbié), to the making of a propaganda film for a repugnant regime (Reifenstahl). It is often not apparent that the context forms any part of a political realm and it appears that *political responsibility* is pressed into service in realms of both the private and commercial worlds. Further, the range of issues in which blame is labelled as *political responsibility*, are so extensive and disparate, being without any apparent consistency of severity, content, or consequence that it is difficult to discern whether it is an idea that forms a concept or merely a rhetorical response, a “Sunday concept”.

The review of scholarly work confirmed this wide and disparate application and interpretation of what is meant by *political responsibility*. Moreover, it revealed that unlike “responsibility” the term *political responsibility* had never received any serious and systematic consideration. This is not because its importance is not acknowledged. It is perhaps because on examination the complexity of the term *political responsibility* is such that it renders two polar opposite responses. The first is that expressed by Jonas, for example, that *political responsibility* is all encompassing: ‘the statesman has political responsibility for the total life of the community’². This is a conceptual problem by Jonas

² Jonas, *The Imperative of Responsibility*, pp. 101-102.

which results in *political responsibility* being perceived as being extremely and unreasonably onerous. The second position perceives political responsibility as being very narrow. This is manifest by ministers who nominally accept *political responsibility* but who refuse to give an account of their actions they have often done so in the knowledge that without their full account they reduce *political responsibility* to mere rhetoric. They have also invariably evaded the draconian institutional consequences of telling the truth because their acceptance of *political responsibility* was merely a nod to convention. The significance is that the outcome of both of these positions is the evasion of *political responsibility* by political actors. Mechanisms which encourage the acceptance of *political responsibility* where a truthful factual account can be given without impossible or destructive risks for the political actors will help to overcome the alienation and exclusion felt by those who have suffered from wrongs and will therefore re-legitimise the polity. Non-evasion of *political responsibility* will allow new beginnings and will ensure that these have a foundation which is not based on a false narrative or profound cynicism.

This review underlined this confusion about where such application is to be located and to whom such application can be made. It did however reveal some issues for further consideration. The most obvious difficulty was the way in which commentators failed to differentiate between *political responsibility* and other types of responsibility, showing a propensity to conflate and confuse *political responsibility* with criminal, legal or moral responsibility. This failure was a direct result of not examining what the term “political” in *political responsibility* represented and the implications of this. The next major difficulty was contingency. The contingent nature of the world and the ramifications of its complexity raised serious questions regarding agency, cause and capacity, which questioned the possibility of the ascription and/or acceptance of *political responsibility*.

Despite these impediments there is a fundamental reason to pursue the idea of *political responsibility* because what the literature review also revealed was that the first casualties of the absence of *political responsibility* are justice and truth. The serious corollary of this is at worst the political system can break down or at the very least it becomes an object of cynicism and apathy amongst the members of the polity it is supposed to represent. This damage to the political system if not remedied can have long lasting consequences, where the feelings of injustice lead to alienation of those members of the polity who are affected.

This study has sought to disentangle the conflation between different types of responsibility and firmly locate the idea of *political responsibility* by an exploration of the significance of the political. The result of this has been that *political responsibility* has been established as a real concept and further exploration of contingency, justice and truth has facilitated the emergence of a set of normative values. The first normative value to be established forming a concept of *political responsibility* was that *political responsibility* can only be attributed to political actors who have voluntarily left (or have been forced to leave), the private world and are operating in the public realm: *political responsibility* can only be ascribed to those who are political actors in the public political realm.

From the examination of representative democracy during the discussion of contingency, a further normative value was established. The concept of representation as it refers to representational democracy contains the element of accountability, "of giving an account". This second normative value, is that to be politically responsible the political actor 'should be prepared to give that account in public under the full glare of the public gaze. More fundamentally, when he *acts* in the political realm he should always be mindful that should he ever be required to do so, he should always be *able* to account for his actions. Thus he

ought to have reasons for what he does, and be prepared to justify his actions to those he acts for, even if this accounting or justification never actually takes place.’³ The third normative value to be established directly relates to the second. The account of action that must be given by the political actor refers solely to decisions of “high policy”; this overcomes any obfuscation concerning the split between the political and administrative systems to safeguard and re-legitimise the polity.

Giving an account is however, always about the past. Unless this account is truthful then the narratives that are created are fundamentally false. False narratives mean that the future is inevitably based on a collective lie, delusion and a politics of selective memory. This will create fragility within the polity that will render it unable to withstand any challenges. The truth is the link between the past and the future. The discourse of truth will be something like Habermas’ understanding of truth as a form of communicative action. In terms of *political responsibility*, the fourth normative value is, therefore, that the account given by the political actor appears in the form of a narrative, a truthful factual account.

At present the greatest impediment to giving a truthful factual account for political actors in most western democracies is that they inevitably risk severe sanctions. On this basis one can understand the propensity of politicians to deny their *political responsibility*. The decisions they have made involving political action have involved them in the risks of action taken in the contingent world where the full consequences incurred as a result of that action may not have been apparent. We the addressees, however, are also subject to risk. In order to mitigate against the risks inherent in communicative action within a contingent world and allow the political system to be re-legitimised and new beginnings undertaken further

³ Pitkin, *The Concept of Representation*, p. 119.

safeguards need to be incorporated into a concept of *political responsibility*. These are forgiving and promising. There can be no question that giving the factual truthful account that is required by political actors will automatically attract forgiveness. The account cannot be given on the condition that forgiveness will follow and also cannot imply the remission of sanctions or punishment.

These discussions of *political responsibility*, as well as being able to offer the potential for progress, also include pitfalls. We the addressees face the risks and necessary compromises that may for instance push us in the direction of forgiving some things that we would not be inclined to forgive. These compromises may, for instance, require us to accept the accounts of political actors that we find morally repugnant and where our outrage would have lead us to draconian retribution. Given the evidence we have found of the damaging effect of failure to ascribe and/or accept *political responsibility*, the primary aim of this exercise is to restore confidence in, and re-legitimise, the political system. If this involves acknowledgement of his transgression by the political actor in his acceptance of the addressees' forgiveness, and his promise to act differently in the future from his past actions, then the imperfections and doubts within the process may be tolerated for the health of the polity.

It is as well to stress and reiterate that our investigations have discovered that rather than a "Sunday concept," *political responsibility* has within it some substantive and very valuable properties, but that the concept also has some severe limitations. It is not the catch-all concept which people would like it to be to enable the automatic condemnation and punishment of political actors, nor is it akin to giving a moral framework for government. The value within it is that it may allow political actors to make mistakes, and by accounting for these set up new beginnings with real plausible promises in the Arendtian sense, for

better government. That the lessons learnt through the examination of past mistakes allows for the possibility that the political process can move forward despite the impediments of a contingent world.

To those who would suggest that there is no mechanism or precedent for such a process, we would ask them to consider how the systems for dealing with criminal and legal responsibility have been established. There are many precedents in judicial enquiries, Royal Commissions and select committees that suggest that a rational forum for communicative action within the political system but representing political actors and addressees within the polity could be easily formulated. For those who would argue that we are in a period of parliamentary decline which would make scrutiny of the executive increasingly problematic, they should refer to the analysis by Matthew Flinders of reform that have been instigated by the government within the House of Commons from 2001 to 2005. Flinders claims that 'scrutiny reforms implemented during 2001-05 should not be dismissed... A number of significant "cracks and wedges" have been achieved and these may expand over time through a gradual process of extension, accretion and spillover.'⁴

Limiting *political responsibility* to political actors within the public sphere could be construed as a contrivance to protect individuals in the private sphere from the ascription of *political responsibility*. Jaspers is the philosopher most critical of this process. Although we would want to agree with Jaspers that those involved in taking political action also share responsibility, this is not *political responsibility* but moral responsibility. Without this

⁴ Flinders, Matthew, 'Analysing Reform: The House of Commons, 2001-5', *Political Studies*, Vol.55, No.1, 2007, p. 174.

separation we can see, as Arendt claimed, that it is impossible to distinguish those who are really guilty from those who are not, and the individual is lost in the collective.

This view of *political responsibility*, however, raises some further serious objections. The first and most obvious is that of the relationship that the politicians that we wish to hold politically responsible have to power. As C. Wright Mills states:

As the means of information and of power are centralised some men come to occupy positions in ...society from which they can look down upon ...the everyday worlds of ordinary men and women....They are in command of the major hierarchies and organisations of modern society...They run the machinery of state and claim its prerogatives...They occupy the strategic command posts of the social structure in which are now centred the effective means of the power and the wealth and the celebrity which they enjoy.⁵

The argument is that the domination by elite groups is so complete that it is impossible to hold them to account, that their power allows them to further their own and/or their group or parties interests at the expense of the interests of the electorate in general. This is of course perfectly true, but ultimately is self-defeating, as they will eventually undermine the legitimacy with which they hold their power. Lukes also claims that the concept of power that he has developed also contains an inherent element of responsibility: 'it is "realistic, morally fair and politically imperative to make demands upon the men of power and to hold them responsible for specific courses of action....those who have the power to advance or harm others interests but fail to realise or attend to this"'.⁶ Lukes maintains that 'this

⁵ Lukes, *Power A Radical View*, p. 2.

⁶ Mills, C. Wright, *The Causes of World War Three*, (London, Secker & Warburg, 1959), 100. Quoted in Lukes, pp. 66-67 & 77.

incidentally shows that the question of responsibility is not only moral but also and mainly political.⁷

The second objection is that of domination and false consciousness. This follows Marx's conception and challenges the ability of those subordinate groups who are subjects of power relationships having the ability to challenge the normative values underlying the social order.

The thick version [of false consciousness] claims that a dominant ideology works its magic by persuading subordinate groups to believe actively in the values that explain and justify their own subordination....The thin theory of false consciousness, on the other hand maintains only that the dominant ideology achieves compliance by convincing subordinate groups that the social order in which they live is natural and inevitable. The thick theory claims consent; the thin theory settles for resignation.⁸

If this is indeed the case then any claim that these subordinate groups would either understand that they needed to or would be able to hold elite groups to account are mistaken. An example of this process was seen in the run-up to the Iraq war when the government claimed that it had intelligence and knowledge far superior to anything that the informed man in the street could envisage. Although this even convinced Cabinet Ministers nevertheless this turned out to be a complete fiction which two million street protesters had already acknowledged.

This exercise to establish the concept of *political responsibility* has identified other directions for possible further research involving the normative values that have been

⁷ Lukes, *Power A Radical View*, p. 67.

⁸ Ibid. p. 126.

identified for the concept of *political responsibility*. These areas include; *political responsibility* and amnesty, *political responsibility* and collaboration, *political responsibility* and apology and reparations, and *political responsibility* and restorative justice.

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