

In the Beginning was the Crime: Arendt on the Criminalization of Reality and the Destruction of Factual Truth

Peg Birmingham

Professor of Philosophy DePaul University, USA

Ten months into Trump's first term in office, the New York Times published a list of his "public lies" from January 21 to November 11, 2017. They numbered in the thousands.¹ During the first 100 days alone, he made 492 false claims. By the end of his first term, the Washington Post's fact checker reported that he made 30, 573 false or misleading claims.² In September 2025, coinciding with his visit to Buckingham Palace, Britain's Channel 4 broadcast "Trump v the Truth," which the network describes in advance would be the "longest uninterrupted reel of untruths running over several hours."³ The tape ran nearly three hours. Strikingly, not only does the pace of Trump's lies increase in the first nine months of his second term, they differ in kind, reflecting the increasing authoritarianism in which the destruction of factual truth is in the service of committing crimes. In other words, the import of Trump's lies in the second term is not simply his replacing factual reality with a web of lies; instead, they go further, establishing what Arendt calls "the criminalization of reality" in which the distinction between the legal and the illegal is destroyed giving rise to the "lawless lawfulness" that for her is the hallmark of fascist regimes.

At the same time, she claims this criminality begins to destroy the citizens' capacity to recognize what she calls "the manifestly unlawful."

This last makes Arendt's thought so urgent in our present moment. In her essay, "Understanding and Politics," Arendt argues that the citizens' guarantee of a framework of laws is to the public space what habits and customs are to individual moral behavior. She points out that "laws govern the actions of the citizen and customs govern the actions of man."⁴ She continues, "laws establish the realm of public political life and customs establish the realm of society." Arendt argues that nations begin to collapse when law is undermined and the only barriers against the destruction of the political are patterns of moral behavior which are no more than customs and habits. Tradition, she argues, "can be trusted to prevent the worst only for a limited time. Every incident can destroy customs and morality which no longer have their foundation in lawfulness; every

1 [Opinion | President Trump's Lies, the Definitive List - The New York Times](#)

2 [Trump's false or misleading claims total 30,573 over 4 years - The Washington Post](#)

3 [British TV Station to Air Marathon of Trump's Lies](#)

4 Hannah Arendt, "Understanding and Politics" in *Essays in Understanding*, p. 315

contingency must threaten a society which is no longer guaranteed by citizens.”⁵ To put a fine point on it, citizens alone guarantee a sense of lawfulness, What happened in Nazi Germany, she argues, is that the political space framed by laws and guaranteed by the citizens was replaced by a regime “based on complicity in crime and ruled by a bureaucracy of gangsters.”⁶

In these brief remarks, I first examine Arendt’s analysis of fascism’s criminalization of reality with its accompanying destruction of factual truths. In this context, I take up her report of the Eichmann trial, arguing that running like a red thread through her trial report is Eichmann’s increasing inability the longer he participates in the Nazi regime to recognize the “manifestly unlawful” which, I submit, is a fundamental condition of his banal thoughtlessness. I then turn to the Trump administration’s criminalization of reality with its continued destruction of factual truth in the first year of its second term.

Fascism’s “Lawless Lawfulness”

At the conclusion of *Origins of Totalitarianism*, Arendt points out that fascist regimes are not lawless but instead follow the iron-clad laws of Nature and History. According to the law of Nature, which is reduced to the law of biology, not only are some classified as superior to others, but its law of natural selection demands that the inferior should die. The law of History legitimizes this section by claiming that all singular events, even the most violent, are part of the inevitable process of historical destiny. In fascist regimes the two laws work in tandem, Moreover, Arendt points out that both laws are written on individual bodies such that biology is destiny. It is not a coincidence that those arriving at the death camps were met upon disembarking with the violent process of selection. Once again, for Arendt, the lawlessness of fascism is carried out in the name of the law.

Bookending its conclusion, *Origins* begins with a discussion of the destruction of factual reality, which Arendt claims is inseparable from fascism’s lawless lawfulness. At the very outset, prior to her analysis of the birth of the nation-state, anti-Semitism, and global imperialism, Arendt argues that fascism replaces reality with a lie, the latter something other than telling a falsehood such as telling my partner that I was at the library when I was in fact at a bar. Instead, she argues fascism produces the *phenomenon* of the lie that replaces the entire fabric of factual reality with a web of lies. She argues that the production of this phenomenon of the lie is accomplished through the criminalization of reality whose seeds give rise to a “lying world order.”⁷

Arendt elaborates on this in an essay written just after her break with Zionism, a break inaugurated by the refusal of the Zionists to recognize the factual truth of the long history of Arabs living in Palestine. Citing Judah Magnes’ letter to the editor of *Commentary* in which he refers to the massacre at Deir Yassin “where the Jewish

5 Ibid.

6 Hannah Arendt, “Approaches to the German Problem,” in *Essays in Understanding*, p. 112

7 Arendt, “The Seeds of a Fascist International,” in *Essays in Understanding*, pp. 146-147.

authorities were unable or unwilling to prevent the act or punish the guilty,” she points out that the “truth” of the Zionist position, namely there were relatively few Arabs in Palestine and those few left “voluntarily” was actually created by the crime of illegally expelling thousands of Palestinian Arabs from the newly declared state of Israel. She ends the essay with a reflection on the ethical-political task in a “world like ours that has ...long outgrown sinfulness and entered a new stage of criminality.”⁸ Reflecting on what can be clung to when “reality” is now created by criminality, she writes:

...uncompromising morality has suddenly changed its old function of merely keeping the world together and has become the only medium through which true reality, as opposed to the distorted and essentially ephemeral factual situations created by crimes, can be perceived and planned. Only those who are still able to disregard the mountains of dust which emerge out of and disappear into the nothingness of sterile violence can be trusted with anything so serious as the permanent interests and political survival of a nation.⁹

Arendt points out that the *uncompromising* ethical-political task in this situation is to insist “that the only permanent reality in the whole constellation was the presence of Arabs in Palestine.”¹⁰

Keeping in mind Arendt’s claim that citizens are the only guarantee of the framework of laws constituting a political space, I turn to her report of Eichmann’s trial which, I submit, is a reflection on what happens to citizens in a regime marked by criminality. While much attention has been paid to Arendt’s claim that evil in the Nazi regime is marked by its banal thoughtlessness, much less attention has been paid to the connection between this thoughtlessness and the regime’s criminalization of reality. To be sure, Arendt concludes her trial report by underscoring Eichmann’s banal thoughtlessness with his use of clichés right up to the time of his hanging; however, a closer examination of her report suggests that the key condition for Eichmann’s thoughtlessness is that the entire fabric of reality has been criminalized which, Arendt points out, required that clichés operated differently, no longer merely a way to *avoid* engaging with factual reality, but also as a means to *replace* factual reality. She writes:

Furthermore, all correspondence referring to the matter [the death camps] was subject to rigid ‘language rules,’ and...it is rare to find documents in which such bald words as “extermination,” “liquidation” or “killing” occur. The prescribed code names for killing were “final solution,’ ‘evacuation,’ (*Aussiedlung*) and ‘special treatment’ (*Sonderbehandlung*); deportation...was called ‘change of residence,’ ‘resettlement’ or ‘labor in the East.’”¹¹

When Arendt claims that “cliches, stock phrases, adherence to conventional standardized codes of expression and conduct have the socially recognized function of protecting us against reality,” and then continues, “Eichmann, differed from the rest of us

8 Arendt, “Peace or Armistice in the Near East?” in *Jewish Writings*, p. 445.

9 Ibid..

10 Ibid.

11 Arendt. Eichmann in Jerusalem, p.

only in that he clearly knew of no such claim at all,” it is important to note that her own account claims that the fascist use of clichés did not operate in the conventional way, but instead were in the service of covering over crimes.. Responding to a colleague with the cliché “everything is fine” as I dash to a meeting is the conventional way of protecting myself from engaging with the reality that not all is well in my life, which I do not deny even as I respond with a cliché. By contrast, Eichmann’s clichés are part of a criminal reality which relies on various fictions and language rules at once to ensure his engagement in this reality and to protect him from it. This by no means excuses Eichmann’s refusal to face up to the reality of what was happening, but only to note the unconventional way that clichés operate in a criminal regime and the role this plays in his thoughtlessness..

Following from this, when Arendt examines the reversal of Eichmann’s conscience from “thou shalt not commit murder” to “thou shalt commit murder,” she is pointing to a reversal in his sense of lawfulness the longer he participates in the Nazi regime. From the outset of the trial, Eichmann’s response to the charges against him—“Not guilty in the sense of the indictment”—points to this transformation of his *legal* conscience. Arendt writes, “The indictment implied not only that he had acted on purpose, which he did not deny, but out of base motives and in full knowledge of the criminal nature of his acts.”¹² Arendt continues, “as for his conscience, he remembered perfectly well that he would have had a bad conscience only if he not done what he had been ordered to do—to ship millions of men, women, and children to their death with great zeal and the most meticulous care.”¹³ While she admits that his claim of a good conscience was “hard to take,” Arendt laments that no one believed him, preferring to conclude that he was a liar, rather than take up what for her is the fundamental legal and political problem emerging from his defense, namely, the assumption that all “normal persons’ must have been aware of the criminal nature of his acts.”¹⁴ For Arendt, the problem is that Eichmann, judged to be a perfectly normal person, was *not* aware of the criminal nature of his acts. In other words, a transformation had occurred in his sense of what she calls “the manifestly unlawful.”

Significantly, in discussing the “sense of the criminal nature of his [Eichmann’s] acts,” Arendt points to an important distinction between positive laws and the principles of these laws, claiming that Eichmann retained a minimal sense of this distinction in his invocation of Kant’s categorical imperative: “The first indication of Eichmann’s vague notion that there was more involved in this whole business than the question of the soldier’s carrying out orders that are clearly criminal in nature and intent appeared with his great emphasis that he had lived his entire life according to Kant’s moral precepts, and especially according to a Kantian definition of duty.”¹⁵ In other words, Eichmann understood the difference between obedience and duty, significantly invoking his duty to

¹² Arendt, *Eichmann in Jerusalem*, p. 25

¹³ .Ibid.

¹⁴ Ibid. p. 26

¹⁵ Ibid., pp. 135-136

the principle of lawfulness which is something other than obedience. As Arendt points out, when in “this ‘period of crimes legalized by the state,’ as he now called it, he had not simply dismissed the Kantian formula as no longer applicable, he had distorted it to read: “Act as if the principle of your actions were the same as that...of the law of the land.”¹⁶ In other words, the Kantian duty to act in accordance with practical reason is transformed to act in accordance to the Fuhrer whose words have the force of law. This last marks the reversal of his ¹⁷legal conscience. Rather than a sense of lawfulness in which “orders that are manifestly unlawful must be disobeyed...and unlawfulness must fly like a black flag above them as a warning reading ‘Prohibited,’” Arendt claims that in the Nazi regime’s criminalization of reality this black flag is shredded. It has ceased to fly. Thus, she claims one of the key lessons of the Eichmann trial is that citizens’ ability to recognize the “manifestly unlawful” can be destroyed by the criminalization of reality and, further, to refuse to recognize this destruction is “a deliberate refusal to take notice of the central moral, legal, and political phenomenon of our century.”¹⁸

Executive Orders and the Criminalization of Reality

I am writing from Chicago where “Operation Midway Blitz” has been underway since early September 2025. Masked ICE and Border Control agents, heavily armed, wearing battle fatigues and carrying no identification, are roaming Chicago streets, forcibly throwing thousands of Chicago residents into unmarked vehicles and taking them to undisclosed detention centers where many will be deported to unknown destinations. Residents have been snatched off ladders while painting houses, taken from front yards while mowing the grass, seized at car washes and the parking lots of supply stores. No search warrants are shown, no arrest charges given, no deportation locations disclosed. One example stands out in its brutality and terror. On September 30th at 3:00 AM, hundreds of masked and heavily armed federal agents, wearing military camouflage and ballistic helmets, attacked a South Side Chicago apartment building, some rope repelling from a Blackhawk helicopter and breaking down apartment doors. Hundreds of residents, including children, were zip tied and made to wait for hours outside in the cold. Many apartments were vandalized, their contents strewn about and electronic equipment taken. The Trump administration justifies these criminal acts by the lie that these Chicago residents are dangerous criminals and terrorist illegal aliens who pose a threat to the American public. In actual fact, those with criminal convictions are only 26% of those detained, most of which are misdemeanors such as traffic tickets. More significantly still, whether criminals or not, it is illegal under US law to detain and deport those residing in

¹⁶ Ibid., p. 136. The difference between obedience to positive laws and duty to the principle of law underwrites Arendt’s claim that citizens have a duty to withdraw their support from positive laws when they violent the principles of law such as the democratic principles of freedom and equality. This duty is the basis of her argument for civil disobedience which she argues must be written into the very constitution of a democratic political space.

¹⁷ Arendt, *Eichmann in Jerusalem*, p. 148.

¹⁸ Ibid., p. 148.

the United States without an immigration hearing and due process of law. From an Arendtian perspective, the debate on whether or not these residents are criminals points to an increased failure of citizens to recognize the manifestly illegality of these acts.

While it is beyond the confines of these brief remarks to give a full account of the many ways in which the Trump administration is involved in the criminalization of reality, one further criminal act must be noted for its violation of several national and international laws. Since August 2025, 22 fishing boats in the Caribbean have been destroyed by 21 United States military strikes and 83 individuals killed. Ordering the first strike, Peter Hegseith, US Secretary of Defense in the Trump Administration, told military personnel “to kill everyone.” A second strike was then ordered to kill survivors clinging to the burning wreckage. In dispute is the ordering of the second strike, Hegseth claiming he did not see survivors and, in addition, had already left the room when the second strike was ordered. From an Arendtian perspective, the dispute, occupying most of the media coverage, which has devolved into discussing who ordered what and when, points to the shredding of the black flag waving “Prohibited” in our present moment. In other words, lost in the dispute is that both strikes are illegal according to a number of international and US laws including the Geneva Convention protecting civilians from military force, including those at sea, the International Humanitarian Law (IHL) prohibiting the killing of survivors, the United Nations Convention of the Law at Sea (NCLS) and US Navy laws requiring boarding, identification, and surrender options before the use of force.

Still further, these criminal acts (and they are not limited to the illegal rounding up deporting of residents and the blowing up of the fishing boats) are carried out in accordance with executive orders whereby Trump’s signature, like the word of the Fuhrer, purports to have the force of law, which constitutionally it does not. Most worrisome is that many US citizens recognize neither the criminality of these orders nor that his signature carries no force of law.

In sum, for Arendt, this “lawless lawfulness” of the Trump administration which, more generally is characteristic of the global rise of authoritarianism, has planted the seeds of a fascist order with its criminalization of reality and its destruction of factual truth. This last makes Arendt’s thought extremely urgent for our present moment, especially her claim that with the emergence of a criminalized reality, citizens lose the capacity to recognize the “manifestly unlawful” which, again, for her is the central moral, legal, and political phenomenon of our century.

REFERENCES

- Arendt, Hannah, “Approaches to the German Problem,” in *Essays in Understanding*, edited by Jerome Kohn, New York: HBJ, 1994.
- Arendt, Hannah, “The Seeds of a Fascist International” in *Essays in Understanding*, edited by Jerome Kohn. New York: New York: HBJ, 1994.
- Arendt, Hannah, “Peace or Armistice in the Near East?” in *Jewish Writings*, edited by Jerome Kohn and Ron L. Feldman, New York: Schocken Books, 2007.
- Arendt, Hannah, *Eichmann in Jerusalem*, New York: Penguin, 2006 [1963].

Birmingham | In the Beginning was the Crime: Arendt on the Criminalization of Reality and the
Destruction of Factual Truth |
<https://www.hannaharendt.net>

Arendt, Hannah, *Life of the Mind, Thinking*, edited by Mary McCarthy, New York, HBJ,
1978 [1971].

Arendt, Hannah, "On Civil Disobedience," in *Crises of the Republic*. Houghton Mifflin
Harcourt, 1972.