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Title: Political Judgment beyond Paralysis and Heroism

Subtitle: Deliberation, Decision, and the Crisis in Darfur

Abstract:

This paper seeks to contribute to the literature on political judgment by proposing that the faculty of judgment is essential for responsibly coping with the undeniable fact of distant suffering and the controversial duty of humanitarian intervention. To achieve this end, Mahmood Mamdani's text 'The Politics of Naming: Genocide, Civil War, Insurgency' will be mobilized for a constructive dialogue about which specific conception of political judgment is at stake when we debate a situation like Darfur today. The main claim is that political judgment in times of acute crisis requires the members of the public sphere to strike a precarious balance between two contradictory impulses: the deliberative impulse to enlarge the pool of particular standpoints, and the decisionist impulse to finally bring the conversation to a halt and adopt a normative stance. The theoretical framework for this balanced view of the faculty of judgment will be articulated through a hybridization of Hannah Arendt's notion of an 'enlarged mentality' and Jacques Derrida's concept of an 'aporetic decision'.

Keywords: Arendt, Darfur, Derrida, decision, deliberation, genocide, Mamdani, political judgment;

I. Introduction

For almost a generation of scholarly research, the notion of judgment has been scoring high in political theory's economy of attention. Starting with Ronald Beiner's groundbreaking work, and, for the time being, culminating in Alessandro Ferrara's grand récit of the force of the example, the notion of judgment transformed itself into a magnifying glass through which fundamental problems for contemporary political theory, from citizenship to racism and the nature of evil, could be thrown in sharp relief.¹

Against any attempt to safeguard the legitimacy of political action by referring to uniform principles of justice or to ideal conditions of communication, the notion of judgment pays special tribute to the singularity of the situation. If anything can be said to be uniting the diverse approaches to judgment in terms of a common denominator, it is a deep-seated aversion to theories and ideologies that engage norms as abstract and context-insensitive.²

The legitimacy of political action must, according to the defenders of judgment, necessarily be understood as emerging from agonistic encounters between particular standpoints.

Following Kant's 'Critique of Judgment', influentially reinterpreted by Hannah Arendt, political judgment triggers a 'reflective', as opposed to a 'determinant', activity, rising from the singularity of the situation to a general claim that is categorically dissimilar from abstract and context-insensitive norms.

This paper aims to contribute to the already vast corpus of scholarly research by proposing that the faculty of judgment is essential for responsibly coping with the undeniable fact of distant suffering and the controversial duty of humanitarian intervention. 'La question humanitaire'³, as Luc Boltanski has dubbed it, cannot be silenced by today's most affluent and powerful societies. Nowhere has this challenge become more ferocious than on the African continent. For the past five years, the conflict in the Sudanese province Darfur has

been the object of debates about the appropriateness of humanitarian intervention.⁴ There seems to be a broad consensus in the Western hemisphere that something needs to be done to stop the blood-shed.

Yet, there is far less agreement on the scope, the means, and the agents of a possible humanitarian intervention.⁵ At the root of this sharp disagreement lies clearly that no accord has been reached on the most basic question: Which term is appropriate to characterize the conflict in Darfur? Since different labels obviously result in different obligations and entitlements to act—an ongoing genocide puts much more pressure on the global community to disregard the equal sovereignty of a state than an insurgency or a civil war—it is of paramount importance to examine the manifold registers through which the representation of violence is played out.⁶

While it is uncontested that any representation of violence remains implicated in processes of judgment, I shall, moreover, submit that we need to trade off the twin requirements that political judgment imposes on us: enlargement (or deliberation), and closure (or decision). The main claim of this paper is that political judgment in times of acute crisis forces the members of the public sphere to strike a precarious balance between two contradictory impulses: the deliberative impulse to increase the pool of particular standpoints, and the decisionist impulse to bring the conversation to a halt and adopt a normative stance. When distant suffering is witnessed and humanitarian intervention pondered, weighing the deliberative impulse against the decisionist one becomes crucial, because, if advocated in isolation of each other, both the plea for enlargement and the plea for closure reveal grave disadvantages. Should the deliberative impulse prevail completely over the decisionist one, the danger of paralysis looms: due to an unconditional endorsement of the merits of deliberating, the capacity to stop the discussion so as to finally take a stand is undermined.

Should, on the other hand, the decisionist impulse prevail completely over the deliberative one, the danger of heroism looms: due to an unconditional endorsement of the merits of deciding, the distinction between productive and unproductive paths of decision-making gets blurred.

On the conceptual level, these impulses are in fact irreconcilable, for the notion of judgment contains, as I shall indicate in more detail below, two layers of meaning that point in rival directions. The first layer defines judging as an activity that is best performed by the backward-looking, detached role of the ‘spectator’; the second layer defines judgment as an activity that is best performed by the forward-looking, engaged role of the ‘actor’. We may call this the ‘dual core’ of the notion of political judgment. The bulk of the paper aims at unraveling this dual core, by demonstrating that any account of political judgment that puts too much interpretive weight on one layer of meaning, without acknowledging the countervailing force of the other, ultimately does not succeed in delivering a plausible analysis of the faculty of judgment.

However, since the article wishes to go beyond scrutinizing political judgment on the conceptual level alone, I shall provisionally devise an institutional solution to the dilemma of these irreconcilable impulses. This solution, which will only be hinted at, draws on the idea that, in times of acute crisis like Darfur today, an imperfect compromise about what to perceive (the performance of the spectator) and what to do (the performance of the actor) can, and indeed must, be crafted. Such a compromise might come into being provided that the public sphere transforms itself into a space for agonistic encounters between citizens who mutually recognize each other as equal participants in the same process of exercising reflective judgment.

In what follows, I begin by focusing on an assessment of the situation in the Sudanese province that effectively calls into question the ambitions, claims, and motives of many Western commentators and practitioners. Mahmood Mamdani's article 'The Politics of Naming: Genocide, Civil War, Insurgency'⁷ can be read as a piece of civic engagement, geared towards the general public. My ultimate interest in reviewing this account of judgment is to make sense of a wider set of concerns about the cosmopolitan disposition of contemporary liberalism.⁸ This backdrop is the reason why I treat the above-mentioned article symptomatically, as indicative of a larger class of skeptical reservations about moralizing and depoliticizing responses to 'la question humanitaire'.

The paper has the following structure: I will start (II) by summarizing Mamdani's argument and uncovering some consequences that remain largely hidden in the text itself. The next step (III) shall lead me to distinguish between valuable and less valuable lessons that Mamdani's critique might offer to a theory of political judgment. In the following section (IV), I will introduce Hannah Arendt's notion of an 'enlarged mentality' and Jacques Derrida's concept of an 'aporetic decision' in an attempt to redeem the faculty of judgment in times of acute crisis. Finally (V), I shall put forth the claim that a hybridization of Arendt's and Derrida's insights into the nature of political judgment can help us establish a theoretically satisfactory link between empirical knowledge and normative stance.⁹

II. Against Interventionism

The article's title already foreshadows the general line of the argument. Mamdani submits that it is vital for the proponents of an intervention to attach the label 'genocide' to the atrocities in Darfur. The ideology-critical questions Mamdani asks with regard to this nominal distinction determine the further progress of his investigation: 'Who does the naming? Who is being named? What difference does it make?' (1) In Mamdani's view, answers to these questions

are essential for understanding the true character of the campaign for Darfur. The widespread use of words like ‘genocide’ or ‘African holocaust’ is motivated by the desire to portray the conflict in such a way that any judgment as to what reaction on behalf of the Western world would be necessary becomes unambiguous. If the reports are correct and the conflict identifiable as genocidal, there will be no place for a reasonable discussion about what means should be employed—a humanitarian intervention is then imperative. Mamdani, however, suspects that the link between empirical knowledge and normative stance in the case of Darfur is severely defective.

Mamdani’s search for the agents behind the process of naming aims at disclosing the power structures behind the seemingly disinterested appeal to moral obligations in times of emergency. Consequently, he turns to the American media to analyze their illustration of the situation in Darfur. By carefully combing through the various death tolls that the New York Times has assembled—the estimations range between 10 000 and 100 0000 dead people every month, apparently without any change in evidence—Mamdani suggests that journalists are at best guessing numbers, at worst they skillfully adjust their estimations to the mood of the readership. A longer quotation sums up Mamdani’s standpoint:

This voyeuristic approach accompanies a moralistic discourse whose effect is both to obscure the politics of the violence and position the reader as a virtuous, not just a concerned observer. [...] Even when newspapers highlight violence as a social phenomenon, they fail to understand the forces that shape the agency of the perpetrator. Instead, they look for a clear and uncomplicated moral that describes the victim as untainted and the perpetrator as simply evil. Where yesterday’s victims are today’s perpetrators, where victims have turned perpetrators, this attempt to find an African replay of the Holocaust not only does not work but also has perverse

consequences. Whatever its analytical weaknesses, the depoliticisation of violence has given its proponents distinct political advantages. (5)

Mamdani accuses the campaign for Darfur of obfuscating its political background by presenting the conflict in a Manichean manner. Consequently, the outrage of the public can be channeled at limited group of perpetrators: the distorted image of the conflict makes it appear as if the violence were exclusively committed by ‘Arabs’ against ‘Africans.’ This one-sided attribution of blame unduly simplifies the complexity of a situation in which perpetrators and victims are not always easy to hold apart. Mamdani argues that this tactics of moralization is intentional to the effect that it serves the purpose of certain agents who pursue an agenda framed by the global ‘war on terror.’ In the end, Mamdani contends that the imperialism of the US is the driving factor behind the campaign for Darfur.

Moreover, Mamdani notes that ‘[i]t seems that genocide has become a label to be stuck on your worst enemy, a perverse version of the Nobel Prize, part of a rhetorical arsenal that helps you vilify your adversaries while ensuring impunity for your allies.’ (6) Sometimes the situation in Darfur is also compared to the case of Rwanda where the failure to take steps on the part of the West eventually triggered a catastrophe.¹⁰ But Mamdani again repudiates the lesson that some interventionists seek to set up in likening Darfur today to Rwanda in 1994 by replying that it would be myopic to forget about the military involvement of the US through proxies in the civil war in Rwanda.¹¹ In contrast to foreign interference, Mamdani proposes internal ‘power-sharing arrangements’ (8) through which the dynamic of peace-building can slowly take off. While contemporary interventionism under the banner of the ‘responsibility to protect’ repeats the history of colonial domination, fostering solidarity discloses a more promising route to pacify the warring parties.¹² Analytically, Mamdani endorses an approach to the conflict that remains sensitive to contextual conditions. The high-pitched rhetoric of

those who push for a 'genocide case' in Darfur obstructs any attempt to capture the specificity of the aggression. The language of moral blame forces upon us a dichotomy of pure victims vs. pure perpetrators that is, in Mamdani's view, too impoverished to help us describe and evaluate the situation. As a remedy against the populist yearning, Mamdani proposes the political language of differentiated types of victimhood and perpetration.

However, these observations are not only relevant for the particular event of Darfur. They also raise key issues connected to the problem of political judgment in general because Mamdani grapples with the campaign for Darfur on two levels: First and explicitly, he speculates about the agents behind it, the media and lobby groups that allegedly have a stake in making the case for a military operation credible. In this respect, Mamdani employs the usual instruments of a hermeneutics of suspicion to unveil the vested interests of certain elites caught up in the global 'war on terror'.¹³ Yet, on a second, more latent plane Mamdani concentrates on the effect on the public at the receiving end of the campaign's actions. It is with respect to this public that Mamdani's remarks are most disconcerting since they touch upon a pattern of reaction that can pose a serious threat to democratic societies. While consuming the extensive news coverage about the conflict in Darfur many citizens of Western countries are, following Mamdani's account, being manipulated. But this is not the end of the story. We can discover in Mamdani's text an insinuation at the necessity of, and even the longing for, such a manipulation. Citizens of Western societies who consider themselves connected to the world beyond the territorial boundaries of their nation states actually want to be dealing with a one-sided depiction of catastrophes.

One reason for this desire to be deceived is simply that citizens normally do not have the means to verify, let alone gather, the information on which their standpoints vis-à-vis distant suffering is based. With regard to this reliance on information that cannot be confirmed

directly, we are not merely passive objects of manipulation by some dark forces; for it is undoubtedly the case that we sometimes find comfort in the fact that there are clear-cut and uncontroversial distinctions between perpetrators and victims. It is this comfort that Mamdani has in mind when he talks about the ‘virtuous reader’ who tries to develop an opinion on Darfur, while steering clear of any deep-reaching interrogation of the conflict’s background. To know right from wrong, to separate good from evil deeds, to pinpoint the perpetrators and to sympathize with the victims—all these forms of judgment seem like natural dispositions; yet in the case of distant suffering they do also conveniently feed into the self-perception of Western citizens as being aware of, and sensitive to, the horrible disasters around them.¹⁴ The really troubling issue in Mamdani’s text is, therefore, that the longing for clarity might paradoxically impede or corrupt the representation of facts. Only polar and schematic categories such as the opposition between ‘good Africans’ and ‘evil Arabs’ allow for an interpretation of the conflict in which the reader can cultivate the peculiar sentiment of virtuosity, by feeling at the same time connected to the world and secure from the horror of distant suffering.¹⁵

III. Lacking a Certain Sense of Tragedy

The less we know, the stronger our convictions: obviously, this should not be a desirable model for the relation between empirical knowledge and normative stance. What I have called a paradoxical feature of many debates about humanitarian intervention—the intertwining of a longing for clarity with a misrepresentation of facts—clearly demands correction. But the question remains open whether Mamdani’s text can bring such a correction about, beyond the deconstructive undertaking of a hermeneutics of suspicion. I do not mean to attach little value to the enterprise of casting doubt on the campaign for Darfur. For the argument’s sake, I will assume that the manner in which the discussion is orchestrated at the moment is problematic.

However, I suggest scrutinizing in detail Mamdani's antidote against the predominant discourse of moralizing and depoliticizing.

I believe that Mamdani's more complex and differentiated conception of victimhood and perpetration appears, in the present form of the article, underdetermined for the following reason: It does not take into account that any representation of facts upon which a particular normative stance builds is constrained by the action-based aspect of judgment. Generally speaking, when the faculty of judgment is exercised in moments such as Darfur today, a twofold process is set in motion: We need to (i) describe and evaluate a situation at a given time and (ii) act upon the outcome of this description and evaluation. Mamdani dedicates a lot of polemical energy to the first element of judgment, by stipulating that the dichotomy between pure victims and pure perpetrators is inept to conceive of the specificity of the conflict. Since he does not qualify his call for more complexity and differentiation, however, he fails to properly address the second element.¹⁶

It is easy to see why this failure might jeopardize political judgment. If the need to act upon choices is neglected or ignored, the faculty of political judgment can become fatally paralyzed. By paralysis I mean the state of mind we find ourselves in when we are under the ongoing impression of overlooking something essential. We might then be tempted to permanently say to ourselves that it is still too early to come to a conclusion and thus postpone adopting a normative stance in a discussion. The unqualified proposal that there is more to know, more to understand, more to include in our perspectives on the conflict in Darfur can lead to precisely such a paralyzing condition.

To properly diagnose this kind of paralysis, we need to highlight again the dual core of political judgment. Judging involves the backward-looking, detached role of the spectator as well as the forward-looking, engaged role of the actor. Accordingly, we might add that

decreeing a verdict can only be done after the deed; yet taking a stand in social affairs requires from us the readiness to decide now. These semantic layers pull the concept in rival directions. The faculty of judgment, thus, instigates two operations that are at once reliant on, and in conflict with, each other.¹⁷

To distinguish between description/evaluation and action does not imply that we can easily separate these activities. Political judgment cannot always be neatly split up in a binary opposition between detachment and engagement.¹⁸ The politics of naming during an acute crisis, brilliantly unmasked by Mamdani, is emblematic of how the spectator and the actor are intimately tied up with each other. As the syndrome of the virtuous reader epitomizes, being a spectator of distant suffering often means being complicit in a scheme for imperial control. But this insight into the interconnectedness of spectator and actor in reality still allows for an instructive splitting into ideal types. Hence, the spectator and the actor are introduced here as heuristic devices whose purpose is to accentuate the intricate character of political judgment; they are enlisted in this context as conceptual catalysts through which the competing forces within the faculty of judgment can be unpacked.¹⁹

This reflection gives rise to the problem of how a holistic understanding of political judgment should conceive of the antagonistic relation between spectator and actor.²⁰ While both elements culminate in the faculty of judgment, it appears that, in his reply to the Save Darfur campaign, Mamdani burdens the spectator with so much responsibility to represent the situation correctly that the actor's ability to choose what to do is thereby undermined. The virtue of detachment is celebrated to the extent that engagement, apart from the (certainly important, yet ultimately insufficient) gesture of deconstruction, becomes almost inconceivable.

A poignant phrase by Ronald Beiner elucidates what is missing in Mamdani's critique: a certain sense of tragedy. Beiner writes that '[tragic judgment] continually confronts a reality it can never fully master but to which it must nonetheless reconcile itself'²¹. It is the tension between 'never fully mastering' and 'nonetheless reconciling' that I would locate at the heart of judgment. Mamdani convincingly exposes the obstacles we face while trying to make sense of the situation in Darfur, yet he downplays the impact of accommodating our ever so imperfect accounts of this very situation. That is why the action-based aspect of judgment remains in limbo until its tragic dimension is brought to the fore.

At this stage, a caveat seems necessary. It might be demurred that Mamdani does not at all underestimate or deny the relevance of political action in Darfur. What he instead advocates is that political action must not always be equated with humanitarian intervention. This objection is valid to a certain degree, but it misses the issue I would like to raise, namely that Mamdani does not properly account for the tragic dimension inherent in political judgment. I wish to maintain that this dimension remains unacknowledged by any theory that opposes, without further qualifications, simplistic representations of violence with more complex and differentiated approaches. As I shall expound in the last section of the paper regarding the use of the word 'genocide', this opposition is itself treacherous, because it misconstrues the structure of deciding. Whereas Mamdani's analysis exhibits a flaw, it is, however, not irreparable. Instead of rejecting his suggestions altogether, I will in the next section attempt to redeem his lopsided view of political judgment by reading together Hannah Arendt's notion of an 'enlarged mentality' and Jacques Derrida's concept of an 'aporetic decision'.²²

IV. Arendt and Derrida: The Dialectic between Enlargement and Closure

Before we go into the details of this comparison, I have to further clarify my approach to these authors. As will soon become clear, neither Arendt nor Derrida envisage the faculty of

judgment exactly the way I suggest it should be seen. The rationale for selecting Arendt and Derrida as the pillars of my argument is that, nevertheless, each thinker reveals one crucial quality of political judgment.²³ Thus, I use these authors with a view to create an illustrative contrast between the two layers of meaning inherent in political judgment. The notion of an ‘enlarged mentality’ will be enlisted to highlight the force of the deliberative impulse, whereas the concept of an ‘aporetic decision’ will be enlisted to highlight the force of the decisionist impulse. I undoubtedly take some liberty in interpreting Arendt and Derrida against the grain. Yet, this method can be instrumentally justified by considering the initial question from which this essay has taken off: what kind of political judgment should we employ while witnessing distant suffering and pondering humanitarian intervention?

Hannah Arendt’s reflections on judgment are valuable to this debate, because they enable us to think about an enlargement of singular viewpoints. Jacques Derrida’s ideas about decision, on the other hand, are equally seminal because they remind us why it is impossible to eliminate the injustice, and even violence, involved in every decision. Still, and this explains why I would insist on cross-pollinating their insights, not only Arendt, but also Derrida adhere to somewhat extreme positions, which call for moderation. Exploiting the metaphor of political judgment’s dual core, I shall propose that combining the respective advantages in Arendt’s and Derrida’s accounts allows us to pay the same amount of attention to the spectator and to the actor. The aim of this exegetic exercise is not to proffer a deceptively flat response to ‘la question humanitaire’, as if the Janus-faced disposition of political judgment could ever be smoothly synthesized. Rather, I seek to contemplate how the call for more complexity and differentiation can be complemented with an account of closure that does not automatically fall back on simplistic representations of violence.

How Far Does an Enlarged Mentality Reach?

To start with our primary source of inspiration, Arendt famously turned to Kant's 'Critique of Judgment' when developing her own theory of political judgment.²⁴ In bringing the individual faculty of taste and the collective nature of politics in conjunction, she anchored her theory in the relation between the subject's particularity and its judgment's appeal to universality.²⁵ The Kantian notion of taste is essential to Arendt's endeavor because it denies what is ordinarily perceived as the idiosyncratic character of judgments of beauty. Kant, to be sure, holds the view that judgments of beauty are based on personal feelings of pleasure or displeasure; yet they are not subjective in the normal sense of 'incommensurable' for they always strive for broad validity. If I maintain that object X is beautiful, as opposed to merely agreeable, I cannot but demand consent from other people. Therefore, judgments of beauty always entail an assumption about their potential generalizability.

This feature, at first sight, draws them nearer to the sphere of morals where potential generalizability functions as a test for assessing the permissibility of specific actions.²⁶ What distinguishes aesthetic judgments not only from verdicts about what is good but also from logical reasoning, however, is that we do not possess a concept under which object X could be subsumed. The 'Critique of Judgment' introduces a distinction between 'reflective' and 'determinant' modes of judgment that is crucial for Arendt's project. In Kantian terminology, aesthetic (but also teleological) judgments are based on reflection: what is given is the particular from which the universal must be inferred. In contradistinction to reflective judgments, determinant judgments subsume the particular under a universal which is already given.²⁷ The *differentia specifica* of aesthetic judgments, hence, lies in an appeal to universality that is not based on a pre-established rule or principle. We do not have a rule or a principle at our disposal, from which we could simply deduce the beauty of object X. Determinant judgments, on the other hand, refer to a pre-established rule or principle so as to confirm or refute its applicability in a special instance.²⁸

The lack of a concept, under which a particular could be subsumed, separates aesthetic judgments even more from logical reasoning where the argument is compelling by way of referring to truth. Judgments of beauty do not compel others to agree, as Kant emphasizes, for the claim to universality implicated in aesthetic judgment is made possible by common sense, not by pure reason.²⁹ In addition, taste is a matter of discussion: it must be communicable and open to debate. The best way to achieve this is to employ an ‘enlarged mentality’ (erweiterte Denkungsart). Kant’s definition of an enlarged mentality is ‘putting ourselves in the position of everyone else’. For judgments of beauty to be both subjective—as opposed to the objective knowledge generated by pure reason—and impartial—in contrast to the relativism of De gustibus non est disputandum—it is indispensable to endow the judging person with this ability to think representatively. The validity of a proposition regarding beautiful objects can be secured because it has an exemplary status. For Arendt, thinking representatively has massive relevance for politics:

That the capacity to judge is a specifically political ability in exactly the sense denoted by Kant, namely the ability to see things not only from one’s own point of view but in the perspective of all those who happen to be present; even that judgment may be one of the fundamental abilities of man as a political being insofar as it enables him to orient himself in the public realm, in the common world—these are insights that are virtually as old as articulated political experience. [...] The difference between this judging insight and speculative thought lies in that the former has its roots in what we usually call common sense, which the latter transcends. Common sense [...] discloses to us the world insofar as it is a common world. [...] Judging is one, if not the most, important activity in which this sharing-the-world-with-others comes to pass. What, however, is quite new in Kant’s propositions in the Critique of Judgment is that he discovered this phenomenon precisely when he was examining the phenomenon of

taste and hence the only kind of judgments which, since they concern merely aesthetic matters, have always been supposed to lie outside the political realm as well as the domain of reason.³⁰

The fact that we share the world with others is a condition of possibility of political judgment. To train our imaginative prowess in the public realm will only work if we acknowledge the world as a common one. The enlarged mentality of the subject needs to be linked to the (imagined or real) presence of others from whom agreement to particular judgments can be elicited. We can rise above idiosyncrasies only if we place ourselves in the position of those who inhabit and negotiate a common world with us. The goal of this endeavor is to reach a point where impartiality is not imposed as a rule- or principle-governed directive, but rather emerges out of civic deliberations and practices of freedom. Thinking representatively will, therefore, generate political judgments that are, strictly speaking, neither subjective nor objective. Their validity will be guaranteed by the ‘incessant talk’³¹ among the members of the public sphere.

Another idea that Arendt imports from Kant’s aesthetic writings concerns the cognitive status of the speech acts circulating in the public sphere. The faculty of judgment is, on Arendt’s account, not predicated on truth claims. To assert that opinions constitute the fabric of politics is clearly a departure from the Platonic mainstream in Western political thought. In a well-known passage, she notes:

I form an opinion by considering a given issue from different viewpoints, by making present to my mind the standpoints of those who are absent, that is, I represent them. This process of representation does not blindly adopt the actual views of those who stand somewhere else, and hence look upon the world from a different perspective; this is a question neither of empathy, as though I tried to be or feel like somebody else,

nor of counting noses and joining a majority but of being and thinking in my own identity where actually I am not. The more people's standpoints I have present in my mind while I am pondering a given issue, and the better I can imagine how I would feel and think if I were in their place, the stronger will be my capacity for representative thinking and the more valid my final conclusion, my opinion.³²

The tension between Arendt's repudiation of truth claims and her insistence on the broad validity of political judgments has evoked harsh disapproval from otherwise sympathetic readers. Perhaps most famous among them, Jürgen Habermas rejected Arendt's model on the grounds that the faculty of judgment cannot provide a 'cognitive fundament' for settling controversies, for it abstains from providing us with a measure to distinguish between legitimate and illegitimate standpoints in the public realm.³³

Though I will not enter into this protracted debate, suffice it to say that these critics sometimes misunderstand the pivotal role Arendt assigns to pluralism and disagreement in her theory of politics.³⁴ To emancipate politics from the grip of truth claims has, in her view, not the effect of idealizing decisionism, quite on the contrary. This means that opinions must remain open to contestation in exactly the same manner that judgments of beauty need to satisfy the criterion of being communicable. Putting the formation and exchange of opinions at the centre of attention does, consequently, not comprise the assumption that 'anything goes'.³⁵ Rather, Arendt submits that truth claims would, due to their compelling nature, stifle civic deliberations and practices of freedom. Dissent would be rendered impossible once politics fell under the reign of truth.³⁶ Arendt's motive for shifting away from the monological authority of truth claims to the broad validity of opinions derives from the concern, as Linda Zerilli puts it, 'how to save freedom in the face of our deep sense of necessity in human affairs'.³⁷

If these ideas resonate, to the inclined reader, with Mamdani's call for more complexity and differentiation, the following reflections hope to show that a blind spot in Arendt's model actually correlates with Mamdani's overemphasis on the spectator. Arendt's original contribution to the discussion of political judgment is to be found in her appropriation of the Kantian vision of an 'enlarged mentality'. What she, however, does not register is the risk of an enlarged mentality effectively crippling our capacity to adopt a normative stance.³⁸

Arendt's proposal contains no guidelines as to what commitment the imperative of enlargement actually demands of the judging subject: In case she is obliged to hypothetically include all the standpoints before a judgment is made, it is hard to see how any sense of individuality could be retained during this process. Affirming all the available standpoints would render political judgment tame, diffuse, and aimless. The individual perspective would probably dissolve in a neutral 'view from nowhere'³⁹, and this is undoubtedly not an outcome Arendt welcomes.

With an eye on the dispute over Darfur, Arendt's focus on the public sphere as the space where opinions are formed and exchanged is attractive, because it envisages plurality not as an eliminable threat, but as a necessary condition of the faculty of judgment. Besides, her insistence on the reflective, as opposed to determinant, nature of political judgment, permits us to recognize the importance of paying close attention to the background of the erupted violence: if judging is essentially an activity that always begins with the particular, without relying on a pre-established rule or principle, it follows that context-sensitivity with regard to the situation under scrutiny becomes paramount.

While I believe that Arendt's concept of an enlarged mentality hits advocates of a cognitivist fundament for politics where it hurts most, I want to maintain that one can, and indeed should, be skeptical of the prerogatives of 'incessant talk', without affirmatively reinstating the

monological authority of truth claims. When we witness distant suffering and ponder humanitarian intervention, the public sphere cannot only pride itself on being the arena in which various representations of violence are discussed; it must also become the forum where the responsibility is assumed to finally bring the conversation to a halt and adopt a normative stance. Paul Ricœur formulated this critical reservation in the following manner:

We must not therefore hypostasize the judgment of the spectator, even if it is given to the spectator to embrace the scene as a whole, as does, after all, the philosophy of universal history. All that we can suggest is that reflection, in bearing on past events, reveals its prospective dimension thanks to a critical distancing.⁴⁰

If we subscribe to the notion that political judgment entails both the backward-looking, detached role of the spectator and the forward-looking, engaged role of the actor, it follows that the principle of ‘putting ourselves in the position of everyone else’ needs to be constrained by the requisite of finally taking a stand. Put negatively, enlargement without closure will result in the permanent suspension of the faculty of judgment. The question, then, is how we should moderate and weigh the twin requirements of enlargement and closure in such a way that the scope of political judgment is neither overstretched nor too narrow.

How Much Heroism Is Involved in an Aporetic Decision?

In this part of the paper, I will endeavor to argue that Jacques Derrida’s idea of an ‘aporetic decision’ allows us to continue our path towards a balanced view of political judgment.⁴¹ This is the case because Derrida proposes an approach to closure that exhibits great sensitivity to the injustice, and even violence, of any decision.

Before I carry on, I must at least minimally spell out my standing vis-à-vis the controversy over Derrida’s work. Many a criticism has been leveled against deconstruction’s somewhat

confusing relation with ethics and politics: from nihilist impotence to fascist endorsement, the spectrum of accusations is wide.⁴² Contrary to these polemical attacks, my starting point will be that Derrida's work is driven and structured by an ethico-political agenda.⁴³ Such a reading gains evidentiary momentum once we turn our attention to those writings that explicitly grapple with pressing social issues of our times such as contemporary Europe, cosmopolitanism, forgiveness, and friendship.⁴⁴ While I am not interested in proffering a full-fledged justification of the claim that ethics and politics occupy a prominent place in deconstruction, I will invoke Derrida's analysis of decision as an exemplar to substantiate this claim indirectly.

The most promising reference text for our purpose is 'Force of Law'.⁴⁵ Indeed, it has been suggested that this article should be interpreted in analogy to a Socratic apologia of deconstruction—as a reply to, and perhaps a rebuttal of, the above-mentioned allegation against Derrida's reckless views on ethics and politics.⁴⁶ The overarching theme of 'Force of Law' lies in the tension between law and justice. After some preliminary remarks about the extraordinary occasion of addressing an audience in a language other than one's mother tongue, Derrida moves on to identify three aporias within the concept of decision.⁴⁷ The first aporia articulates the difference between the faculty of judgment and rule-following.

To be just, the decision, for example, must not only follow a rule of law or a general law but must also assume it, approve it, confirm its value, by a reinstating act of interpretation, as if ultimately nothing previously existed of the law, as if the judge himself invented the law in every case. [...] In short, for a decision to be just and responsible, it must, in its proper moment if there is one, be both regulated and without regulation: it must conserve the law and also destroy it or suspend it enough to have to reinvent it in each case, rejustify it, at least reinvent it in the reaffirmation and the new

and free confirmation of its principle. Each case is other, each decision is different and requires an absolutely unique interpretation, which no existing, coded rule can or ought to guarantee absolutely.⁴⁸

This passage demonstrates that there are major areas of contact between Derrida and Arendt, because both theorists attempt to dissociate the faculty of judgment as strongly as possible from rule-following. Yet, Arendt and Derrida differ in their respective kinds of dissociation. For Arendt, the reflective nature of political judgment reveals a sharp rift between logical reasoning, where the argument is compelling by way of referring to truth, and an enlarged mentality, where the universal appeal is inferred from the exploration of a special instance. Derrida, on the other side, does not construe decision and rule as dichotomous. If a judgment were absolutely immune against rule-following, we would, on his account, not deem it just, either. The relation between judgment and rule is, rather,aporetic in the sense that it can never be sufficiently stabilized. Somehow, deciding must be tied back to the realm of rules, but we can never define precisely how this should be done.

The second aporia concerns the relation between decision and undecidability.⁴⁹ Here, Derrida stresses that no decision can be issued unless one acknowledges its contingency and groundlessness. The faculty of judgment remains pervaded by what Derrida calls, inheriting a phrase from Pascal, the ‘mystical foundation of authority’. The paradox ventilated by Derrida is that undecidability determines decision-making without undermining it. Any situation awaiting a decision is undecidable, because the responsibility owed to the other is unlimited and irreducible. Ethical demands are truly unconditional—they cannot, under any circumstances, be calculated by a utilitarian or deontological maxim.⁵⁰

Now, we might be seduced to think of these ethical demands as some remote goals that can still be realized, if only we try hard enough to fulfill our duties towards the other. Derrida

objects to this train of thoughts that justice does not function as a ‘regulative ideal’, but rather as an ‘impossible real’.⁵¹ Derrida overturns a central presupposition of Kant’s moral philosophy when he maintains that ‘ought implies cannot’.⁵² At first sight, these two aporias appear like the fancy reveries of an escapist mind. How should we ever reach a decision when our attempts to judge are persistently frustrated by the fear of inflicting injustice and violence? The third aporia offers a response to, but certainly no consolation for, this worry. Deciding is a temporal practice, as Derrida makes clear:

But justice, however, unrepresentable it may be, doesn’t wait. It is that which must not wait. To be direct, simple and brief, let us say this: a just decision is always required immediately, ‘right away’. It cannot furnish itself with infinite information and the unlimited conditions of knowledge, rules or hypothetical imperatives that could justify it. And even if it did have all that at its disposal, even if it did give itself the time, all the time and all the necessary facts about the matter, the moment of decision, as such, always remains a finite moment of urgency and precipitation, since it must not be the consequence or the effect of this theoretical or historical knowledge, of this reflection or this deliberation, since it always marks the interruption of the juridico- or ethico- or politico-cognitive deliberation that precedes it, that must precede it.⁵³

The central notion in this quotation is ‘interruption’. To decide is to cut short the potentially infinite process of information gathering and opinion formation and exchange. A decision puts an end to civic deliberations animated by the search for better arguments. It is essential to see that Derrida does not raise an empirical claim about human fallibility and epistemic indeterminacy when he talks about the way in which urgency and precipitation constrain the faculty of judgment. For Derrida, there is a qualitative hiatus separating the events leading to a decision and the decision itself.

While some critics read this chasm as testimony to Derrida's flirting with decisionism, it must be emphasized that no indication of a politics of pure will can be traced in the text.

Uncovering insecurities at the heart of decision neither debilitates nor unleashes the faculty of judgment.⁵⁴ Being aware of those three aporias rather heightens our alertness to the ineluctable injustice and violence we cause whenever we decide, no matter how well equipped we are. Thus, Derrida complements the disenchanting observation that all decisions are contingent and groundless with a constructive piece of advice.⁵⁵

Even if the accusations of nihilist impotence and fascist endorsement seem exaggerated, it cannot be denied that something like a streak of heroism permeates the 'Force of Law'.

Derrida certainly dramatizes the act for decision, in distancing it categorically from any form of 'theoretical or historical knowledge'. The danger intrinsic to this move is that all the considerations in preparation of a decision fade into oblivion once the singular moment of deciding has arrived. The blind spot in Derrida, therefore, mirrors Arendt's hyperbolic image of enlargement. Derrida's idea of an 'aporetic decision' lets the forward-looking, engaged role of the actor obliterate the spectator's accomplishments. Whereas this account of closure is receptive to the inevitable risk and reality of exclusion, it does not provide us with any orientation mark to evaluate different trajectories of decision-making.

From Derrida's perspective, it is futile to establish a meaningful distinction between the public product of representative thinking and the private outcome of eccentric conjecturing, for we finally face the same, insoluble quandary of acting in accordance with ethical demands. Richard Bernstein, in an essay on forgiveness, outlines this problem succinctly:

Derrida makes us acutely aware that decisions and responsibility cannot be justified— if by justification we mean that we have necessary and sufficient reasons for doing what we decide to do. In this sense knowledge does not justify decisions. [...] But it is

one thing to say that there is and can be no rule, no algorithm to which we can appeal in making decisions, and it is something very different to say that we simply have to face the abyss of impossibility to making a decision. [...] Even if we acknowledge the ‘in-between’ of decision as a space defined by ‘contradictory injunctions’, we struggle to negotiate this space in order to come up with the best possible decision in concrete circumstances. At times Derrida seems to acknowledge this. But this negotiation means that we are required to make careful discriminating judgments—to evaluate pros and cons to consider what is relevant to this particular situation. This is a deliberative process.⁵⁶

The suggestion that there are substantively disparate ways of grappling with the aporias of deciding is indeed difficult to defend if we solely rely on Derrida’s ideas. But it is vital to realize that Bernstein’s objection must not be mistaken for the far more common, and less refined, accusation of Derrida’s espousal of decisionism and a politics of pure will. Despite the understandable urge to collapse these two strands of criticism, I would surmise that it is feasible to abrogate the heroic streak in Derrida’s attack on reflection and deliberation and still benefit from his concept of decision.

V. Beyond Paralysis and Heroism

The design of my presentation naturally suggests an adjustment of the advantages in Arendt and Derrida. My argument is, hence, that combining the Arendtian imperative of enlargement with the Derridian approach to closure puts us in a position to tentatively speak of a balanced view of political judgment. Arendt helps us to conceive of the deliberative negotiations that validate subjective opinions. Derrida allows us to be vigilant of the injustice, and even violence, on which any decision rests. This is, of course, not to declare that we could ever integrate the twin requirements of deliberation and decision into a harmonious picture. The

tension between enlargement and closure remains a persistent facet of the faculty of judgment that cannot simply be erased or overcome. As claimed earlier, I believe that the deliberative impulse and the decisionist one are, on the conceptual level, irreconcilable.

But this fact should not be seen as license to let the plea for enlargement prevail over the plea for closure (or the other way around). Rather, the centrifugal relation between deliberation and decision provides a strong motivator to seek an equilibrium point where an imperfect compromise between the spectator and the actor can be crafted. Arendt and Derrida present us with tools so as to transform this tension into a state close to such an equilibrium point. That is the reason why my strategy of hybridization hopes to boost a balanced, but not remainder-free, view of political judgment.⁵⁷

In the last section, I would like to analyze which effects such an equilibrated link between deliberation and decision could have on the case of Darfur. My plan is not to provide grounds for or against humanitarian intervention.⁵⁸ Instead, I want to investigate under what circumstances such grounds can be advanced without falling prey to Mamdani's hermeneutics of suspicion. Arendt and Derrida will serve as philosophical guides in this investigation.

The indulgence of the 'virtuous reader' is certainly going to be shattered by the imperative of enlargement. Feeling at the same time connected to the world and secure from the horror of distant suffering becomes an option only if political judgment is caught up in parochial self-complacency. Mamdani is absolutely correct in steering our attention to the vicious circle that binds together the media manipulation and the longing for a clear-cut separation between perpetrators and victims. The schematic confrontation between 'evil Arabs' and 'good Africans' fails the test of a multilayered and nuanced appraisal. Representative thinking produces a remedy to the syndrome of moralizing and depoliticizing that Mamdani sees at

work behind the campaign for Darfur, because it obliges each subject to expose itself imaginatively to a plurality of standpoints before a judgment is issued.⁵⁹

Now, the difficulty arises whether Arendt's repudiation of truth claims holds with regard to the widely varying numbers of dead Sudanese that circulate in the newspapers. If we abstain from truth claims in the public sphere, do we not frivolously sacrifice the cognitive fundament on which debates about the appropriateness of a humanitarian intervention can take place? Assessing casualties seems to challenge the deliberative impetus profoundly. Our initial impulse is probably to insist that we cannot afford to abandon truth claims in moments of utmost exigency such as genocide. Whenever we seek to adopt a normative stance, we desperately need more than some unreliable guesses as to how many people have died in a conflict.

Although these reaction patterns are intuitively plausible, it is indispensable to comprehend that striving for exemplary validity is, in Arendt's view, not at all decoupled from getting the facts right. To abstain from truth claims in the public sphere does not give the subject carte blanche to fantasize about the facts on which judgments build.⁶⁰ Opinions constitute the fabric of politics for a specific reason: They render dissent possible. The crux of Arendt's plea is that, despite all the facts being fully visible on the table, there will be no assurance that members of the common world actually agree about their interpretation.⁶¹

This twist has repercussions for the skepticism towards the notion 'genocide'. It is hard not to be in concord with Mamdani's observation that marking a conflict as genocide can yield symbolic as well as material benefits for the interveners. It is, for instance, timely to study to what extent racist prejudice has been playing a role in the designation of almost all recent outbursts of aggression in Africa as genocides. The suspicion that some Western commentators perpetuate the colonial discourse on the continent as the 'heart of darkness'

must not be dismissed without serious consideration. If we honestly want to vindicate the notion of genocide against the charge that it is exclusively used to occupy the high ground, double standards in the application of the label 'genocide' must be vigorously unveiled.⁶²

There is, however, a deeper predicament that cannot be tackled through a hermeneutics of suspicion alone. The so called 'numbers problem'⁶³ refers to the fact that any definition of genocide involves, among other things such as clarifying the identity of the victims and reconstructing the intention of the perpetrators, a counting of the dead. In order to label a conflict as genocide, a certain threshold needs to be passed. Therefore, the beginning of Article 2 of the 'Convention on the Prevention and Punishment of the Crime of Genocide' reads: '[G]enocide means [...] to destroy, in whole or in part, a national, ethnical, racial or religious group [...].'⁶⁴

Whereas there are several questions to be asked about this definition, I would like to focus solely on the phrase 'in whole or in part'.⁶⁵ It strikes me that, to pronounce in a concrete moment whether systematic killings amount to the destruction of a community 'in whole or in part', necessitates a decision that is simultaneously impossible and real. Does not the very thought of organizing the victims into a hierarchy appall our conscience? How dare we to set a minimum death toll above which the label 'genocide' is justified and below which it is not? Are we not left with an arbitrary and unacceptable choice when classifying massacres in terms of 'war crimes', 'ethnic cleansings', or 'genocidal assaults'?'⁶⁶

Such doubts lend credence to the speculation that the specter of undecidability haunts any decision. One upshot of the numbers problem could be to shy away from political judgment as the context of choice seems too diminished. We might, due to the constricted field of vision, find ourselves under the ongoing impression of overlooking something essential. But as

Derrida has taught us, deciding is a temporal practice that cannot be postponed forever, by maintaining that we do not yet know enough to adopt a normative stance.

In order to unpack the predicament of the ‘numbers problem’, we can draw on yet another insight from the ‘Force of Law’. Remember that Derrida insists that any decision must in some way break with ‘theoretical or historical knowledge’ to be truly responsible. This remark is of paramount importance for the debate about Darfur, because, even if we acquired absolute certainty about the death toll, we would still have to deal with the scandalous task of quantifying and categorizing casualties. Derrida’s assertion that the temporal practice of deciding is contingent, groundless, and unable to furnish itself with necessary and sufficient reasons, eminently informs various attempt to define genocide.⁶⁷

Although it seems accurate to assume that every concrete designation of genocide contains elements, such as stipulating a minimum death toll, that defy full vindication, it does not follow that all designations are defensible in equal measure. The tragic dimension inherent in political judgment does not assimilate all attempts to cope with the undeniable fact of distant suffering and the controversial duty of humanitarian intervention. But the very point of bringing in political judgment to address ‘la question humanitaire’ is that no rule or principle can be established in advance that would permit us to tell which representations of violence offer the best possible solutions in a given situation.

In this respect, the imperative of enlargement can assist us in tailoring our standpoints to the specificity of a given situation. The conceptual apparatus sketched by Arendt mitigates the excesses of moralization and depoliticization as it stresses the reflective nature of the faculty of judgment, running from the particular to the universal. The lack of a concept, under which the particular could be subsumed, is one of the characteristic features of aesthetic judgments in Kant. Political judgment, in Arendt’s view, is reflective in the sense that it always initiates

an examination of the special instance, from which conclusions are drawn that strive for exemplary validity.

In claiming that the definition of genocide requires reflective judgment, I reject the other potential option available to us: One could also maintain that checking on the applicability of Art. 2 of the ‘Convention on the Prevention and Punishment of the Crime of Genocide’ is unavoidably couched in terms of determinant judgment. Thus, my embrace of reflective judgment as the mode through which a definition of genocide should be achieved might be criticized for approaching the problem from the wrong side, because only a rule or principle could reliably guide our inquiry into different degrees of violence. The desire behind this counterargument is far from obscure. Determinant judgment exerts an overwhelming appeal to many theorists and practitioners as it assures a certain type of normative validity that flows from the authority of the law. The unquestionable identification of victims, objective knowledge about the intention of the perpetrators, and a context-transcendent solution for the conflict are great promises upon which determinant judgment hopes to deliver.

However, this hope appears ill-founded and elusive to me. As I believe to have shown, even though the duty of humanitarian intervention is already codified in some areas of international law, exercising determinant judgment is not an option at all when we witness distant suffering, for we simply do not have the universal at our disposal, from which the particular could be deduced. The numbers problem attests to the inaccessibility of a pre-established rule or principle according to which instances of genocide could be isolated, and it would be much more productive for the discussion about Darfur if we focused our energy on striving for exemplary validity. For the controversy around the politics of naming this implies shifting away from an ‘obsessive legalism’⁶⁸ about genocide that remains under the spell of

determinant judgment. Alessandro Ferrara teases out both the modesty and the allure of reflective judgment (or what he calls the ‘new model’):

If we harness the capacity to free us from the particularity of context to the inspiringness of the example rather than the compellingness of the law, we instantly lose the ‘objectivity’, reliability, and transmissibility of the older way of conceiving of normative validity. [...] Therefore there won’t be any guarantee, rather only a weaker ‘expectation’, that everyone will agree to the labeling of a certain type as the best one for that purpose [...]. The promise of the new model [...] is that of freeing us from the twin dangers [...] of either trivializing difference, by postulating perfect commensuration and translatability in a neutral language, or of jeopardizing universalism by failing to reunify the plurality of local contexts and ultimately remain hostage to it.⁶⁹

Evidently, some will object that this train of thought dangerously opens the door to decisionism and a politics of pure will. Perhaps, these skeptics will tenaciously point out the official justification of the US-led war against Iraq in 2003: Could my argument not be applied in support of Colin Powell’s infamous speech in front of the UN Security Council where he sought to convince the global community that disarming Iraq from its weapons of mass destruction was imminent? Could my argument not be invoked to completely exonerate the Bush administration of the false pretense it manufactured, by putting so much weight on the ‘tragic dimension’ of judgment? Some champions of the current ‘war on terror’ have indeed portrayed the invasion of Iraq as a heavy burden that only a superpower would manage to shoulder.⁷⁰

I think I am capable of recovering my proposal from these challenges, for I have already underscored the significance of moderating and weighing the twin requirements—deliberation

and decision—political judgment imposes on us. Again, Derrida’s error consists of glorifying the act of deciding. His approach to closure underrates the importance of distinguishing between productive and unproductive paths of decision-making. That is why we depend on the imperative of enlargement to prevent Derrida’s ideas about decision from imprinting too much voluntarism on our concept of political judgment. To be sure, awareness of the tragic dimension of political judgment will not remove all the qualms about the numbers problem, or about the attribution of blame. But it will let the spectator and the actor declare truce, at least until the dialectic between enlargement and closure commences again.

Up until now, I have celebrated the virtue of balancing the two contradictory impulses of political judgment, but I have said little about who exactly should be guided by this virtue. Although I will not be able to exhaustively elaborate on this issue, I still have to say more about the subjects who are supposed to engage in the task of balancing. The argument I want to propose bears some resemblance to Habermas’s double-tiered vision of the public sphere.⁷¹ However, whereas I am convinced that the distinction between the informal, weak public sphere of opinion-formation and the formal, arranged public sphere of will-formation can beneficially inform my proposal, I do not intend to inscribe my argument into Habermas’s system of thought. The main reason for this reluctance is that I am advocating an interpretation of the informal, weak public sphere that is noticeably more conflictual than Habermas would allow.

In the case under scrutiny, political judgment is concerned with the appropriateness of a humanitarian intervention in Darfur. While politicians are eventually responsible for making the call, the general public must become the space where deliberation and decision are equilibrated. We have to bear in mind that trading off enlargement and closure should not be envisioned as a technical difficulty that experts fix in the name of the citizenry. Outsourcing

political judgment to a small circle of specialized pundits only exacerbates the syndrome of the virtuous reader. Including a plurality of viewpoints, especially from those regions that are immediately affected by the conflict, in the discussion about a humanitarian intervention will keep crude narratives about perpetrators and victims in check. If room is made for the expression of nonconformist and counterhegemonic positions in the public sphere, the emphatic campaigners for an intervention in Darfur will have to address the grievances of dissenters, who do not deserve to be denounced as ‘genocide deniers’ from the outset.⁷²

By firmly staging the dialectic between deliberation and decision within the informal public sphere, I do not mean to hypostasize the degree of mandatory consensus. Since closure is inescapable, some standpoints will not approve of the chosen course of action. That is why it is enlightening to speak of the public sphere as a ‘theatrical’ setting of agonistic encounters.⁷³ Encounters of this variety are stabilized by the mutual recognition of those citizens who together constitute the public sphere. In other words, only if I acknowledge my opponent as a legitimate contender in the process of opinion-formation and decision-making shared by all citizens, will I be able to admit defeat and to honor victory.⁷⁴ A balanced, but not remainder-free, view of political judgment might, consequently, foster the good of social cohesion by promoting two goals:

On the one hand, to decide, to put an end to uncertainty, to separate the parties; on the other, to make each party recognize the share the other has in the same society, thanks to which the winner and the loser of any trial can be said to have their fair share in that model of cooperation that is society.⁷⁵

This essay cannot end with a direct, substantial advice as to what should be done about Darfur. However, the conditions under which an imperfect compromise can be crafted have been identified: To responsibly cope with the undeniable fact of distant suffering and the

controversial duty of humanitarian intervention a number of complex operations need to take place. I have suggested that these operations can be optimally carried out if we let ourselves be guided by a balanced, but not remainder-free, view of political judgment. Starting with the most obvious condition that needs to be satisfied to render political judgment in this case viable, a deep-reaching investigation of the conflict's background must inform the public debate. It would be a mistake, as Mamdani has reminded us, if the public debate got hijacked by partisan campaigners and ideological entrepreneurs whose sole interest lies in attributing blame unilaterally. For the public debate to be maximally inclusive, the label of 'genocide' must under no circumstances be utilized as a perceptual template confining the interpretation of reality.

Yet, approving of a context-sensitive approach to the violence in the Sudanese province does not necessarily involve that we give in to the temptation of a hermeneutics of suspicion. When issues of global justice are concerned, supporters of a hermeneutics of suspicion deny the very possibility of situations where humanitarian interventions could ever be legitimately mandated. Resisting this generalized skepticism becomes crucial due to a rather simple reason: instances of distant suffering cannot be reasonably denied. This means that the appropriateness of humanitarian intervention constitutes indeed a valid, if highly controversial, topic for public debate. Conceiving of opinion-formation and decision-making through the lens of a conception of political judgment that moves the 'spectator' and the 'actor' towards an equilibrium point provides the most suitable framework for structuring this debate.

This brings me to a final note regarding a lacuna in my argument. One of the questions that this paper has not sought to answer is the following: what type of institutional arrangements would be necessary to secure a democratically legitimate balancing of deliberation and

decision? This is, without any doubt, a relevant issue that demands further clarification. However, the goal of this essay has consisted of arguing that the need for such a precarious balance must be recognized in the first place. I presume, therefore, that an array of institutional arrangements shall be compatible with the overall claim I have ventured to defend here.

¹ See: Ronald Beiner (1983) *Political Judgment*. Chicago: University of Chicago Press; Peter J. Steinberger (1993) *The Concept of Political Judgment*. Chicago: University of Chicago Press; Alessandro Ferrara (1999) *Justice and Judgment: The Rise and the Prospect of the Judgment Model in Contemporary Political Philosophy*. London: Sage; Alessandro Ferrara (2008) *The Force of the Example. Explorations in the Paradigm of Judgment*. New York: Columbia University Press; Kennan Ferguson (2007) *The Politics of Judgment: Aesthetics, Identity, and Political Theory*. London: Lexington Books; María Pía Lara (2007) *Narrating Evil: A Post-Metaphysical Theory of Reflective Judgment*. New York: Columbia University Press; for a far-reaching engagement with the ‘uses of judgment’ see: the various contributions in (2008) *Philosophy & Social Criticism*, 34 (1–2) by, among others Ronald Beiner, María Pía Lara, and Christoph Menke.

² The reverse conclusion would obviously be wrong, because not every criticism of uniform principles of justice or ideal conditions of communication puts the category of political judgment in the spotlight. For a recent ‘manifesto’ towards a historically informed contextualism that only peripherally thematizes the faculty of judgment see: Raymond Geuss (2008) *Philosophy and Real Politics*. Princeton: Princeton University Press.

³ Luc Boltanski (2007) *La Souffrance à Distance*, Paris: Gallimard: 13.

⁴ The academic disputes on Darfur promote the controversial discourse on the ‘responsibility to protect’ as the emerging paradigm of international justice. The phrase ‘responsibility to protect’ (R2P) was first introduced to the debate about international justice by the Canada-based *International Commission on Intervention and State Sovereignty*. This consultancy and research institution published in 2001 a report in which the contours of the right of humanitarian intervention are outlined. For further information see: the Commission’s website at <http://www.iciss.ca/report-en.asp>; see: also Mary Ellen O’Connell and Ramesh Thakur (2008) ‘The R2P Controversy’, *Development & Cooperation*, 49 (3): 117–9.

⁵ For strong pleas pro humanitarian intervention see: Nsongurua J. Udombana (2005) ‘When Neutrality is a Sin: The Darfur Crisis and the Crisis of Humanitarian Intervention in Sudan’, *Human Rights Quarterly*, 27: 1149–99; Eric Reeves (2008) ‘Failure to Protect: International Response to Darfur Genocide’, *Harvard International Review*, 29 (4): 83–4; for a more pessimistic view see: Alex de Waal (2007) ‘No Such Thing as Humanitarian Intervention: Why We Need to Rethink How to Realize the “Responsibility to Protect” in Wartime’, *Harvard International Review* (<http://www.harvardir.org/articles/1482/>).

⁶ The main reason why the politics of naming a conflict ‘genocide’ is contentious to such an extent is, of course, that in our days the ‘Convention on the Prevention and Punishment of the Crime of Genocide’ (1948) commands an authority that exceeds mere exhortation; it effectively anchors the duty of humanitarian intervention in international law, thereby granting considerable legitimacy to the actions of interveners. Hence, deploying military means to end an ongoing genocide or to stop a genocide from breaking out does not count as aggressive warfare prohibited by international law, but rather constitutes a duty for all members of the global community covered by the ‘responsibility to protect’.

⁷ Mahmood Mamdani (2007) 'The Politics of Naming', *London Review of Books*, 29; an online version of the paper can be found at: http://www.lrb.co.uk/v29/n05/mamd01_.html (August 27, 2007). Passages from this online version will be indicated by the page number after the quotation.

⁸ The dismissive posture towards the military option is neither unique nor exceptional. During and after the Kosovo war in 1999, to pick just one example, critics of NATO's 'legal pacifism' have asserted that the virtually unanimous consent in the West to mount an illegal attack on Serbia was based on fabricated or distorted images of the humanitarian situation in Kosovo. See: Danilo Zolo (2002) *Invoking Humanity: War, Law and Global Order*. London/New York: Continuum: 40–1: '[W]hat makes the Western powers' humanitarian rhetoric sound false is their unreliability in representing the horrors of 'ethnic cleansing'. [...] While one should not underestimate the gravity of the massacres that the Serbs are responsible for, the accusation of genocide brought against them should be seen as an instrument of war, just like the humanitarian justification for the war. [...] Thus one cannot speak of genocide.'

⁹ Before I embark on my reading, I have to attach a proviso to the counterfactual nature of my inquiry. I will not concentrate on the veracity or falsity of Mamdani's actual statements—experts on African history and culture will be much more competent to engage in this task—but rather on the conceptual challenge that his explanation of the crisis in Darfur poses to students of political judgment. In shifting the focus from the polemical to a more abstract plane, I do not mean to delegitimize debates about the empirical claims in Mamdani's article. In a sense, the most crucial issue surely revolves around the question which representation of facts is correct. However, I am convinced that, even if we acknowledge the exigency of these

practically oriented debates, we should also be conscious of the deeper predicament underlying the criticism. In other words, it might well be that Mamdani's assertions concerning the agents behind the campaign for Darfur are proven wrong; but this proof would not necessarily tackle the conceptual challenge I am interested in this paper.

¹⁰ Mamdani himself has produced a widely acclaimed analysis of the Rwanda conflict that pays particular attention to the political, cultural, and economic contexts of the 1994 genocide. See: Mahmood Mamdani (2002) *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*. Princeton: Princeton University Press.

¹¹ Pieter Tesch (2008) 'Abusing "Genocide": Why Comparisons with the Holocaust Mislead', *Making Sense of Darfur: SSRC Blog* (<http://www.ssrc.org/blogs/darfur/2008/06/13/abusing-genocide-why-comparisons-with-the-holocaust-mislead/>); the connection with the Holocaust might be further elaborated by the controversial reading in Norman G. Finkelstein (2000) *The Holocaust Industry*. London: Verso.

¹² In a more recent article, Mamdani has spelled out his vision of how an intervention could be undertaken. See: Mahmood Mamdani (2007) 'Blue-Hatting Darfur', *London Review of Books*, 29 (17).

¹³ Some commentators have harshly disagreed with Mamdani's ruminations. The main point of contention has been that Mamdani himself misrepresents the facts and thereby becomes a 'genocide denier'. Mamdani's opponents have either attacked his explanation of the historical and cultural setting of the conflict or they have called into question his suggestion that Sudan would figure as an important step in the American Empire's quest for world hegemony. See: Kwesi Kwaa Prah (2007) 'The Politics of Apologetics: Genocide Denial, Darfur Version',

Pambazuka News: Weekly Forum for Social Justice in Africa

(<http://www.pambazuka.org/en/category/features/41564>); see also the replies to Mamdani by, amongst others, Gérard Prunier and Alex de Waal in the *London Review of Books*' letters section from 22 March 2007, 5 April 2007, and 24 April 2007.

¹⁴ This view has also been forcefully advanced by Alain Badiou, whose critique of humanitarianism and of the decline of radical politics puts special emphasis on the contempt that intervening forces secretly harbor for those whom they wish to save. See: Alain Badiou (2001) *Ethics: An Essay on the Understanding of Evil*. London: Verso.

¹⁵ Recently, there has been an attempt to substantiate Mamdani's ruminations by analyzing the political activism of religious groups in the US. See: Jodi Eichler-Levine and Rosemary R. Hicks (2007) 'As Americans Against Genocide: The Crisis in Darfur and Interreligious Political Activism', *American Quarterly*, 59 (3): 711–35.

¹⁶ This generic account of the two-fold process initiated by political judgment pushes an important question aside. I do not define what I mean by 'acting upon choices'. This omission is no accident. During any public debate about a contentious issue such as humanitarian intervention, it becomes clear that acting encompasses a variety of possibilities for citizens: from giving money to a campaign like 'Save Darfur' to participating in discussions and rallies, etc. Since my interest lies exclusively with the *balance* between describing/evaluating and acting, I believe I do not have to commit myself to a particular understanding of description/evaluation and action.

¹⁷ This tension is nicely illustrated in Beiner (Fn. 1). My entire discussion of the interplay between spectator and actor is heavily indebted to Beiner's work. It is, however, essential to

underline that my use of the spectator-actor distinction does *not* fully map on Hannah Arendt's understanding of the spectator's and actor's role in the public realm. I rather call upon this distinction to bring to the fore the tension between opinion-formation and decision-making that permeates the faculty of judgment. For an insightful discussion of this distinction from a perspective internal to Arendt, pointing to the antinomy between action and reflection, see: Majid Yar (2000) 'From Actor to Spectator: Hannah Arendt's "Two Theories" of Political Judgment', *Philosophy & Social Criticism*, 26 (2): 1–27.

¹⁸ For the view that a focus on the legal sphere in general, and the Eichmann trial in particular, might be conducive to developing an integrated vision of actor and spectator see: Leora Y. Bilsky (1996) 'When Actor and Spectator meet in the Courtroom: Reflections on Hannah Arendt's Concept of Judgment', *History and Memory*, 8 (2): 137–73.

¹⁹ The idea to use categories like 'the spectator' and 'the actor' as heuristic devices, rather than fixed reference points, can also be found in: Lawrence J. Biskowski (1993) 'Practical Foundations for Political Judgment: Arendt on Action and World', *The Journal of Politics*, 55 (4): 867–87. Biskowski sets out to defend the claim that Arendt's work lends itself to a reintegration of the two elements of political judgment. My argument, however, is that the tension between description/evaluation and action is a persistent facet of the faculty of judgment that cannot be dissolved on the conceptual level.

²⁰ This problem is also the main topic of Richard Bernstein's essay on the spectator and the actor: Richard Bernstein (1986) 'Judging—the Actor and the Spectator', in *Philosophical Profiles: Essays in a Pragmatic Mode*. Philadelphia: University of Pennsylvania Press: 221–38.

²¹ Ronald Beiner (1992) ‘Hannah Arendt on Judging’, in Hannah Arendt, *Lectures on Kant’s Political Philosophy* (ed. Ronald Beiner). Chicago: University of Chicago Press: 89–156; here: 143.

²² In reading Arendt and Derrida together, I build on the existing literature addressing the questions of foundational moments, forgiveness, and lying. See: Bonnie Honig (1991) ‘Declarations of Independence: Arendt and Derrida on the Problem of Founding a Republic’, *American Political Science Review*, 85 (1): 97–113; Michael Janover (2005) ‘The Limits of Forgiveness and the Ends of Politics’, *Journal of Intercultural Studies*, 26 (3): 221–35; Martin Jay (2006) ‘Pseudology: Derrida on Arendt and Lying in Politics’, Working Paper (www.sfu.ca/humanities-institute/pdf/Pseudology.pdf).

²³ Of course, other historical antagonists might come to one’s mind, dealing with similar issues. Illuminating comparisons have, for instance, been drawn between Hans Kelsen and Carl Schmitt, or Machiavelli and Kant. See: David Dyzenhaus (1997) *Legality and Legitimacy: Carl Schmitt, Hans Kelsen and Hermann Heller in Weimar*. Oxford: Oxford University Press; Georg Cavallar (1992) *Pax Kantiana. Systematisch-historische Untersuchung des Entwurfs ‘Zum Ewigen Frieden’ (1795) von Immanuel Kant*. Vienna/Köln/Weimar: Böhlau. In the contemporary debate, however, Arendt and Derrida exemplify the rivalry between the spectator and the actor most starkly. This is another, more pragmatic reason why I focus on these two authors.

²⁴ In the following three paragraphs I summarize some of the main arguments in the ‘Critique of Judgment’, always with an eye on Arendt’s interpretation. For this purpose, I use the following edition: Immanuel Kant (1974) *Kritik der Urteilskraft. Werkausgabe X* (ed. Wilhelm Weischedel). Frankfurt/Main: Suhrkamp; see: also: Henry E. Allison (2001) *Kant’s*

Theory of Taste: A Reading of the Critique of Aesthetic Judgment. Cambridge: Cambridge University Press.

²⁵ Linda Zerilli forcefully underlines that Arendt's theory of judgment can only be understood in the context of the 'problem of the new'. This argument is particularly pertinent for our case because it connects the quest for meaning and understanding to Arendt's discussion of the novelty of totalitarianism. To properly judge the particularity of totalitarianism we, thus, have to rely on categories that have been made obsolete. See: Linda M. G. Zerilli (2002) 'Castoriadis, Arendt, and the Problem of the New', *Constellations*, 9 (4): 540–53. For a similar point concerning the debate about globalization see: Oliver Marchart (2005) *Neu beginnen*. Vienna: Turia & Kant.

²⁶ This is, of course, an allusion to one version of Kant's categorical imperative. See: Immanuel Kant (1974) 'Grundlegung zur Metaphysik der Sitten', in *Kritik der praktischen Vernunft/Grundlegung zur Metaphysik der Sitten. Werkausgabe VII* (ed. Wilhelm Weischedel). Frankfurt/Main: Suhrkamp: 61 (BA 66–7): 'Handle so, daß du die Menschheit, sowohl in deiner Person als in der Person eines jeden anderen, jederzeit zugleich als Zweck, niemals bloß als Mittel brauchst.' See: also Herbert James Paton (1971) *The Categorical Imperative. A Study in Kant's Moral Philosophy*. Philadelphia: University of Pennsylvania Press.

²⁷ Kant (Fn. 24): 87 (B XXV).

²⁸ For an exhaustive introduction to Kant's theory of aesthetic judgments see: Paul Guyer (1997) *Kant and the Claims of Taste*. Cambridge: Cambridge University Press; Hannah Ginsborg (2008) 'Kant's Aesthetics and Teleology', *The Stanford Encyclopedia*

of *Philosophy*, (ed. Edward N. Zalta), URL =

<<http://plato.stanford.edu/archives/fall2008/entries/kant-aesthetics/>>; Hannah Ginsborg

(1990) 'Reflective Judgment and Taste' *Noûs* 24 (1): 63–78.

²⁹ Kant (Fn. 24): 156–7 (B 63–4).

³⁰ Hannah Arendt (1993a) 'The Crisis in Culture', in *Between Past and Future: Eight Exercises in Political Thought*. New York: Penguin: 197–226; here: 221–2.

³¹ Hannah Arendt (1993b) 'The Concept of History', in *Between Past and Future: Eight Exercises in Political Thought*. New York: Penguin: 41–90; here: 51.

³² Hannah Arendt (1993c) 'Truth and Politics: Its Social and its Political Significance', in *Between Past and Future: Eight Exercises in Political Thought*. New York: Penguin: 227–64; here: 241.

³³ Jürgen Habermas (1987) 'Hannah Arendts Begriff der Macht', in *Philosophisch-politische Profile*. Frankfurt/Main: Suhrkamp: 228–48.

³⁴ For a discussion of this problem see: Linda M. G. Zerilli (2005) "'We Feel Our Freedom": Imagination and Judgment in the Thought of Hannah Arendt', *Political Theory*, 33 (2): 158–77.

³⁵ Maurizio Passerin d'Entrèves (1994) *The Political Philosophy of Hannah Arendt*. London/New York: Routledge: 101–38.

³⁶ An instructive comparison could at this point be drawn between Arendt's rejection of truth and her critique of technological 'automatism'. See: Mary G. Dietz (1994) "'The Slow Boring

of Hard Boards”: Methodical Thinking and the Works of Politics’, *American Political Science Review*, 88 (4): 873–86.

³⁷ Linda M. G. Zerilli (2005) ‘Feminists Make Judgment: Hannah Arendt’s *Lectures on Kant’s Political Philosophy* and the Affirmation of Freedom’, in *Feminism and the Abyss of Freedom*. Chicago: University of Chicago Press: 125–64; here: 137.

³⁸ On this aspect see: Leonard C. Feldman (1999) ‘Political Judgment with a Difference: Agonistic Democracy and the Limits of “Enlarged Mentality”’, *Polity*, 32 (1): 1–24.

³⁹ This is a reference to Thomas Nagel’s book on the relationship between internal, subjective views and external, objective views of the world. See: Thomas Nagel (1989) *The View from Nowhere*. Oxford: Oxford University Press.

⁴⁰ Paul Ricœur (2000a) ‘Aesthetic Judgment and Political Judgment According to Hannah Arendt’, in *The Just*. Chicago: University of Chicago Press: 94–108; here: 108.

⁴¹ My assumption that Derrida can be mobilized to respond to a blind spot in Arendt’s thinking goes back to a lead I have discovered in Andreas Kalyvas (2004) ‘From the Act to the Decision: Hannah Arendt and the Question of Decisionism’, *Political Theory*, 32 (3): 320–46.

⁴² Nancy Fraser (1991) ‘The Force of Law: Metaphysical or Political?’, *Cardozo Law Review* 13 (4): 1325–331; Mark Lilla (1998) ‘The Politics of Jacques Derrida’, *The New York Review of Books*, 45 (11): 36–41.

⁴³ One of the first commentators who has underlined the existence of such an agenda was Richard Bernstein (1992) ‘Serious Play: The Ethical-Political Horizon of Derrida’, in *The*

New Constellation: The Ethical-Political Horizon of Modernity/Postmodernity.

Cambridge/MA: MIT Press: 172–98.

⁴⁴ Out of the many publications of Derrida, I will only select three: Jacques Derrida (1992) *The Other Heading*. Bloomington: Indiana University Press; Jacques Derrida (2001) *On Cosmopolitanism and Forgiveness*. London/New York: Routledge; Jacques Derrida (2006) *Politics of Friendship*. London: Verso; for an early introduction to Derrida's relation with political philosophy see: Ric Beardworth (1996) *Derrida and the Political*. London/New York: Routledge.

⁴⁵ Jacques Derrida (1990) 'Force of Law: The 'Mystical Foundation of Authority'', *Cardozo Law Review*, 11 (5): 920–1045.

⁴⁶ John P. McCormick (2001) 'Derrida on Law: Or, Poststructuralism Gets Serious', *Political Theory*, 29 (3): 395–423.

⁴⁷ For an insightful analysis of this text see: Christoph Menke (2004) *Spiegelungen der Gleichheit: Politische Philosophie nach Adorno und Derrida*. Frankfurt/Main: Suhrkamp: 123–36.

⁴⁸ Derrida (Fn. 45): 961.

⁴⁹ For a genealogical discussion of the origins of Derrida's notion of 'undecidability' in the interwar period see: David Bates (2005) 'Crisis between the Wars: Derrida and the Origins of Undecidability', *Representations*, 90: 1–27.

⁵⁰ For a reconstruction of the Heideggerian roots of Derrida's reading of the impossible see: François Raffoul (2008) 'Derrida and the Ethics of the Im-possible', *Research in Phenomenology*, 38: 270–90.

⁵¹ Giovanna Borradori (2003) *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: University of Chicago Press: 134.

⁵² Marguerite La Caze (2007) 'At the Intersection: Kant, Derrida, and the Relation between Ethics and Politics', *Political Theory*, 35 (6): 781–805.

⁵³ Derrida (Fn. 45): 967.

⁵⁴ For a recent defense of Derrida against the charge of endorsing decisionism see: Camil Ungureanu (2008) 'Derrida on Free Decision: Between Habermas' Discursivism and Schmitt's Decisionism', *The Journal of Political Philosophy*, 16 (3): 293–325. Ungureanu persuasively argues that Derrida can be enlisted in the larger project of deliberative democracy because his deconstructive approach skillfully navigates between 'ideologies of reconciliation' (Habermas) and 'ideologies of conflicts' (Schmitt). What I call 'heroism', however, is precisely connected to the *contempt* for reconciliation that can be felt in many passages of Derrida's work.

⁵⁵ On this and related points see: William W. Sokoloff (2005) 'Between Justice and Legality: Derrida on Decision', *Political Research Quarterly*, 58 (2): 341–52.

⁵⁶ Richard Bernstein (2006) 'Derrida: The Aporia of Forgiveness?', *Constellations*, 13 (3): 394–406; here: 402–3.

⁵⁷ The very idea of balancing aims at exploding the binary opposition between decision and deliberation, advocated both by theorists of deliberative and of agonistic democracy. In this sense, my approach is consonant with Bonnie Honig's recent attempt to recast the tension—or what she calls the chicken-and-egg problem—by looking into Rousseau's paradox of politics. See: Bonnie Honig (2007) 'Between Decision and Deliberation: Political Paradox in Democratic Theory', *American Political Science Review*, 101 (1): 1–17.

⁵⁸ For one of the most recent opinion pieces see: Alex de Waal (2008) 'Why Darfur Intervention is a Mistake', *BBC News*, 21 May 2008 (<http://news.bbc.co.uk/2/hi/africa/7411087.stm>); for the most elaborate books on the background information of the conflict see: Julie Flint and Alex de Waal (2006) *Darfur: A Short History of a Long War*. London: Zed Books; Gérard Prunier (2007) *Darfur: The Ambiguous Genocide*. Ithaca: Cornell University Press.

⁵⁹ For a more skeptical position regarding the relation between (extreme) distance and action see: Carlo Ginzburg (1994) 'Killing a Chinese Mandarin: The Moral Implications of Distance', *Critical Inquiry*, 21 (1): 46–60.

⁶⁰ Some readers, however, have claimed that Arendt's theory of judgment would benefit from a more charitable reading of 'truth'. See: Ronald Beiner (2008) 'Rereading "Truth and Politics"', *Philosophy & Social Criticism* 34 (1–2): 123–36.

⁶¹ As Richard Bernstein has recently shown, in politics we have no objective moral certainty at our disposal; instead, what keeps us going is subjective moral certitude. The difference between certainty and certitude is precisely that the former compels by way of referring to

truth while the latter always remains open to contestation. See: Richard Bernstein (2003) *The Abuse of Evil: The Corruption of Politics and Religion since 9/11*. New York: Polity Press.

⁶² Brendan O'Neill (2007) 'Genocide: A Codeword for "Wog Violence"', *The Guardian*, 13 April 2007

(<http://www.guardian.co.uk/commentisfree/2007/apr/13/genocidewordforwogviol>).

⁶³ Samantha Power (2003) *A Problem from Hell: America and the Age of Genocide*. New York: HarperCollins: 65.

⁶⁴ Article 2, *Convention on the Prevention and Punishment of the Crime of Genocide*, adopted 9 December 1948) entered into force 12 January 1951 (UNTS 277).

⁶⁵ For some approaches to the definition of genocide from a legal point of view see: William A. Schabas (2000) *Genocide in International Law: The Crime of Crimes*. Cambridge: Cambridge University Press; Antonio Cassese (2007) 'On the Use of Criminal Law Notions in Determining State Responsibility for Genocide', *Journal of International Criminal Justice* 5 (4): 875–87.

⁶⁶ It might be objected that the purpose of defining genocide as destruction 'in whole or in part' is precisely to avoid the numbers problem. Genocide, one might add, takes place even if only a small part of the population is (under the menace of being) destroyed. However, this objection seems to miss the challenge we have to confront whenever we explore whether genocidal conditions occur or not. Let us consider the case of a population that is threatened of being extinguished 'in part' only. Now, it appears in this case as well that we simply cannot evade the question how many members of the population collectively comprise a 'part' whose destruction would qualify as genocidal. Inhuman as it sounds: there must be

some answer to this question, which would throw us back to establishing a minimum death toll. Giving an answer in the context of an impending destruction of a population ‘in part’, thus, requires adopting a normative stance—a necessity that resembles the impossible and real decision we have to take when a population is under attack ‘in whole’.

⁶⁷ I am not suggesting in this passage that the numbers problem marks the only point where the aporetic structure of decision comes to the surface. A similar argument about the real impossibility of deciding could be advanced with regard to other elements of the definition of ‘genocide’. Clarifying the identity of the victims and reconstructing the intention of the perpetrators might demand a comparable willingness to accept the ‘tragic dimension’ in these operations.

⁶⁸ Martin Shaw (2007) ‘Genocide: Rethinking the Concept’, *openDemocracy*, URL = http://www.opendemocracy.net/globalization-vision_reflections/genocide_4309.jsp

⁶⁹ Ferrara (Fn. 1): 21.

⁷⁰ Robert Kagan, for example, has accused ‘old’ Europe of piggybacking on the military guarantees provided by the US. According to this realist interpretation, multilateral policies and pacifist inclinations are options only for those actors in international relations that, first, manage to transfer security tasks to a hegemonic protector—the US—and, then, keep for themselves the prestigious role of a ‘soft power’. See: Robert Kagan (2003) *Of Paradise and Power: America and Europe in the New World Order*. New York: Vintage.

⁷¹ Jürgen Habermas (1996) *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge, Mass: MIT Press: 304–9.

⁷² Here, I cannot elaborate what specific type of involvement by the public sphere would be desirable. For an interesting discussion of the ‘publicity principle’ see: Simone Chambers (2004) ‘Behind Closed Doors: Publicity, Secrecy, and the Quality of Deliberation’, *The Journal of Political Philosophy*, 12 (4): 389–410.

⁷³ See: Dana R. Villa (1992) ‘Postmodernism and the Public Sphere’, *American Political Science Review*, 86 (3): 712–21.

⁷⁴ This rendering of the relation between citizens is influenced by Chantal Mouffe’s figure of the adversary. In her democratic theory, Mouffe conceptualizes the adversary as a political subjectivity that manages to navigate between the twin dangers of liberal consensus on the one hand, and violent enmity on the other. See: Chantal Mouffe (2000) *The Democratic Paradox*. London/New York: Verso.

⁷⁵ Paul Ricœur (2000b) ‘The Act of Judging’, in *The Just*. Chicago: University of Chicago Press: 127–32; here: 132.