To "congregate for the purpose of associating with each other": Race, Leisure, and Distinction in the Arendtian Social

Abstract: *I argue that Hannah Arendt's essay, "Reflections on Little Rock" contains a robust defense of the realm of "the social" which she introduced in* The Human Condition*. Against critics and supporters who argue that "Reflections on Little Rock" merely represents a misapplication of Arendtian categories, I argue that reading the essay provides an important critical framing for understanding* The Human Condition*. I argue that leisure and consent are the primary characteristics of the Arendtian social, and I demonstrate that the realms of the private, social, and public are not discrete realms but overlap in physical places. I apply Arendt's argument about the practice of social distinction to a more clearly leisurely pursuit, swimming, to argue that the definition of activities as "social" in fact* creates *life-threatening problems.*

> "One looks in vain for a definition of 'the social' in *The Human Condition*; Arendt never defines her terms."
> -Hannah Pitkin 1995, 53.

Introduction: Swimming into the color line

In the summer of 1919, three Black teenagers set off on a raft from one of Lake Michigan's beaches on the South Side of Chicago. As the raft approached 29th street, an unofficially White beach, two of the teenagers leaped off the raft and swam to shore. The third, who could not swim, clung to the raft as it floated across the color line. White beach goers angrily shouted at him, then threw stones. One of the stones struck the teen in the head, knocking him off the raft into the lake, where he drowned. Outrage over the teen's death spilled over into violent clashes, and the response from the White community was merciless: while 15 White Chicagoans were killed and over 100 injured in the ensuing riots, 23 Black Chicagoans were killed, more than 300 injured, and hundreds more were left homeless by a widespread arson and

looting campaign led by White Chicagoans.[1] The "Red Summer" of 1919 saw race riots across the country, but none was more lethal or destructive than Chicago's race riot.

In contrast to the American South, Chicago did not have Jim Crow laws; there was no black-letter law barring Blacks from public spaces throughout the city. Yet the violent enforcement of racial boundaries was as effective as it was vicious – White citizens patrolled these socially designated boundaries, and police came to their aid whenever they were challenged. This was true in housing as much as in leisure. While some of downtown Chicago's commercial district was host to both Black and White businesses and services, the history of both housing and leisure in Chicago – and many other American major cities – is a history of White Chicagoans employing violent social mechanisms to bar Black (and later, Hispanic) Chicagoans from White spaces. This history of racially exclusive leisure spaces, I contend, is necessary for understanding how discrimination and popular racial violence survived the legal challenges of the mid-century Civil Rights movement.

40 years after Red Summer, Hannah Arendt published 'Reflections on Little Rock' [hereafter, 'Reflections'] about the military-enforced integration of Central High School. The piece came under significant criticism at the time, and remains a source of controversy for Arendt's advocates and critics. Most criticism centered on Arendt's apparent insensitivity and misunderstanding of the dynamics of school integration in the South. Indeed, in a private letter to Ralph Ellison, Arendt wrote that she had failed to understand the situation of the Negro in America, and that caused her to go in the 'wrong direction' with the essay. More recently, several

[1] https://www.chicagohistory.org/chi1919/

sympathetic scholars (e.g., Benhabib 1996, Bohman 1997, McClure 1997) argued that while the essay allowed Arendt to apply the opaque categories she articulated in *The Human Condition* and later in *On Revolution* to the contemporary world, her concern with "social climbing" among assimilated European Jewry caused her to misperceive the case of racial integration in the United States.

But Arendt's admission she failed to understand the 'spirit of sacrifice' among Black Americans does not mean that her argument in "Reflections" represents a failed *revision* of her broader theoretical vision. By contrast, I hold that a more pertinent critique of her essay focuses on her defense of "distinction," and brings it into conversation with *The Human Condition*. Scholars have generally read the relationship between "Reflections" and *The Human Condition* or *On Revolution* as unidirectional – 'Reflections' can be explained by reference to *The Human Condition* (or *On Revolution*), but the latter cannot be explained with reference to the former. I contend that examining the roles of the public, social and private realms as defended by Arendt in 'Reflections,' allows us both to better understand and to articulate a broader critique of Arendt's thought. A close reading of 'Reflections' reveals that the realms she outlines in *The Human Condition* – the private, the public, and the social – are not discrete but overlap in physical places.[2] Importantly, the rights of the private and social realms make demands against the public (and thus the political[3]) circumscribing the latter's power significantly. Further,

2 Markell (2011) argues persuasively that Arendt's private, public, and social realms overlap in theory; however, I take the further step in this essay to identify where in the real world they overlap, and *how* Arendt adjudicates claims made in these overlapping spaces.

3 While "the public" and "the political" are not synonymous in Arendt's thought, the political happens in public. Thus, in *The Human Condition* part of Arendt's concern about the "rise of the social" is that it displaces the properly political. See, among many, Gines 2014, Markell 2011.

because the social is held in poor esteem throughout much of *The Human Condition*, many readers take it to be a universally negative category for Arendt. This essay also explores the ways in which 'Reflections' is a defense of certain social claims or rights based on mutual consent.

Importantly, if Arendt was concerned with “social climbing,” then we should inquire as to why this concern lead her astray and whether other 'social' activities could have been more 'accurately' perceived by Arendt as 'social climbing.' I argue that leisure is the category through which we can make sense of Arendt's critique of social climbing. The Arendtian social is the realm in which we choose with whom we associate; it is where we exercise 'distinction.' Thus, forced integration of those spaces defeats the *purpose* of those spaces. To understand Arendt's critique of social climbing, we have to understand her idea of leisure, and specifically the place of *children* within that category of leisure. To bring this into sharper relief, I examine the parallel history of segregated swimming spaces and attempts to integrate them. Through this, I demonstrate that Arendt's attempt to distinguish between a right of social distinction and a right to interracial marriage is illusory, and that by defining certain spaces and activities as “social” we *create* life-threatening problems, rather than simply fail to address such problems.

Roger Berkowitz describes Arendt as 'a brilliant associational thinker,' so 'perhaps the best way to pursue what Arendt means…is to inquire more deeply of the examples she gives' (Berkowitz 2010, 240). It is in this spirit that we should approach the continuity between Arendt’s thought in *The Human Condition* and 'Reflections.' Her essay should be read as a test case for thinking about the real-world consequences of the approach to political theory she develops in *The Human Condition*.

This essay pursues a critique of Arendt along three lines. First, I will reconstruct Arendt's argument in 'Reflections,' and introduce a unique reading centering on the importance of mutual consent, legitimate agency and overlapping realms. Second, I take this new understanding of consent as a way to clarify Arendt's notion of public and private in *The Human Condition*. Finally, I argue that this re-reading of Arendt eliminates her thought as a source of radical democratic possibility, and legitimates recent efforts to circumscribe the public realm.

Going Down to Little Rock

'Reflections' was published two years after the Little Rock 9 integrated Central High School in Arkansas. The school superintendent arranged their enrollment, and a number of the students enrolled over their parents' objections. Governor Faubus vowed to block integration, sending National Guard troops to prevent any Black students from entering the high school on the first day. The superintendent, wary of the possibility of mob violence, arranged for all 9 students to be driven to the school without their parents, but protected (Allen 2004, 32). One student, Elizabeth, did not get the message and went to the school by herself, where she was met by an angry mob and by armed national guard troops who did not permit her to enter the school. Arendt's inspiration for 'Reflections' was (likely) a news photograph of Elizabeth walking to Central High School in Little Rock while onlookers jeered.

Scholarly responses to 'Reflections' since the 1990s can be divided into three primary camps: first, Arendt's personal racism is clearly on display and should inform our analysis of her larger corpus (e.g. Norton 1995, Gines 2009, Gines 2014). Second, the essay is a misapplication of Arendt's theoretical framework developed contemporaneously in *The Human Condition*, and

her experience of antisemitism in Europe and/or her analysis of the Jew as pariah caused her to misperceive the existential situation of the American Negro[4] (e.g. Benhabib 1996, Locke 2013, Locke 2017). Jill Locke specifically revisits 'Reflections' to argue that a better understanding of "the social question" allows for criticizing the essay on *Arendtian* terms, in part by "de-naturalizing" segregation (Locke 2013, 567). Third, Arendt's analysis is counter-intuitively insightful, and the experience of school integration and/or the battles for marriage equality bear out her analysis (e.g. Rosenblum 1998, Sullivan 1996, J. Kohn 2003, Myers 2013). In this essay I pursue an alternate approach: rather than viewing "Reflections" as a misapplication of the theoretical framework developed in *The Human Condition* (and later revised in *On Revolution*), I argue that "Reflections" gives us insight into Arendt's framework by providing a concrete modern example of not only the Arendtian social, but how the three realms overlap and make claims against each other.

Arendt's critiques in 'Reflections' centered around two main points: the treatment of children as political means, and confusing a social desire for a fundamental political right, abrogating the private rights of others. By way of the latter, she argued that anti-miscegenation laws should be the primary goal of the Civil Rights movement at that time, rather than school integration, as integration made demands on the private lives of others whereas marriage for all did not. This distinction, between the (supposedly) social goal of school integration and the human right of marriage, invokes the categories she introduced in *The Human Condition*.

[4] Though see Gines 2014 for a devastating critique of this interpretation: Gines demonstrates convincingly that Arendt treats "the Negro question" as a *social* question, whereas she treats "the Jewish question" as a *political* question. Thus, her analysis and recommendations are radically different.

It is helpful to break down these points further, as the substance of her critiques rely heavily on four theoretical moves: first, I situate Arendt's arguments within the context of contemporary Civil Rights legal arguments, especially their relationship to private property. Next, I argue that Arendt dismisses childhood agency by focusing on mutual consent between adults. I then use mutual consent to shed light on Arendt's realm of the social, arguing that Arendt's claim that distinction is central to, and legitimate within, the social is primarily an argument about mutual consent. Finally, I return to Arendt's suggestion of equal marriage as the proper goal for civil rights advocates and I explore how mutual consent plays a role in thinking about marriage as *the* primary concern, as well as Arendt's failure to understand the origins of Southern backlash politics. I draw on the examples of segregated, then privatized, swimming pools, beaches, and vacation resorts, as well as anti-miscegenation laws in America to help illuminate my reading of Arendt's essay.

The category of “the social” in Arendt's framework was a perplexing puzzle for an earlier generation of scholars (e.g. Pitkin 1995, Benhabib 1996, Pitkin 1999). Hannah Pitkin in particular viewed the social as vague and treacherous – initially she wrote that “one looks in vain for a definition” of the social (Pitkin 1995), and ultimately described the social as a “blob” that was formless but swallowed the possibility and space of politics (Pitkin 1999). In the past decade, however, a spate of authors sought to illuminate “the social” and “the social question” in more concrete terms than Pitkin did (e.g. Markell 2011, Klein 2013, Locke 2013, Locke 2017). The focal text for Markell's (2011) explorations is *The Human Condition*, whereas Jill Locke and Steven Klein turn their attentions to “the social” and “the social question” as laid out in *On Revolution*. In the present essay I aim to closely examine the relationship between 'Reflections'

and *The Human Condition* only. I allow for the possibility that "the social" and "the social question" as laid out by Arendt in *On Revolution* (1963) may reflect revisions in Arendt's thought which would not be captured in 'Reflections.'[5]

A Political, Not a Legal, Theory

It is worth clarifying what Arendt is *not* arguing. It is tempting to read history backwards, and with *Loving v. Virginia* (1967) in mind, conclude that Arendt argues for a judicial reckoning about the Constitutional rights of citizenship – with 'Reflections' as Constitutional critique or legal theory. This temptation is compounded by the acceptance of the 'private discrimination' argument in *Dale v. Boy Scouts of America* (*BSA*) almost 25 years after Arendt's death. But *BSA* turns heavily on the problem of 'expressive speech,' as well as *a priori* assumptions of speaking for pariah populations.[6] Richard King notes that while 'idiosyncratic, [Arendt] was not alone in being troubled by the constitutional issues raised by the desgregation order of the Supreme Court' (King 2018, 172). Nancy Rosenblum cites Arendt's 'Reflections' approvingly while critiquing Supreme Court decisions regarding freedom of association. But Rosenblum's account of a right of association effectively repeats the defense's argument in the 'White Primary' cases of 1948 without ever examining why the Court's majority dismissed it out of hand (Rosenblum 1998, 92). Jerome Kohn refers to Arendt's "constitutional argument against enforced school desegregation" (J. Kohn 2003, xxi).

5 Based on archival material, we know that Arendt was already drafting what would become *The Human Condition* in the early 1950s. It is not my claim that she composed that book at the same time she was writing "Reflections," and thus "Reflections" informed *The Human Condition*. My interpretive claim is about the clarifying and illuminating role "Reflections" can play.

6 I will address below how these concerns complicate, but do not motivate, Arendt's arguments in "Reflections."

Arendt’s appeal, however, is to a source of political authority *prior* (both temporally and figuratively) to the Constitution. After a few brief comments about the Constitution, she invokes the Declaration of Independence: “Even political rights, like the right to vote, and nearly all other rights enumerated in the Constitution, are secondary to the inalienable human rights to 'life, liberty and the pursuit of happiness' proclaimed in the Declaration of Independence; and to this category the right to home and marriage unquestionably belongs” (Arendt 2003, 203). She expands this further by asserting that the very nature of any democratic founding is evidence of the embrace of distinction and willed association. Ironically, she echoes Carl Schmitt’s argument in *Political Theology* – the political order is *prior to* the Constitutional order, the latter unable to circumscribe the former. Recent scholarship (e.g. Kalyvas 2009) has illuminated Arendt's hidden arguments with Schmitt, but “Reflections” has not previously been brought into this research program. It is important that in searching for a grounding for her position she reaches for an *essence prior to* founding and governing documents – demonstrating an affinity with Schmitt's critique of constitutionalism.

Arendt’s arguments about the right of social discrimination were dead letter to the Supreme Court well before 1959 – several challenges proclaiming a right of association (as opposed to assembly) had been dismissed since 1940. After the ‘White Primary’ cases, 'the freedom of association argument against anti-discrimination law was dead in the courts. But it remained alive in the popular culture' (Koppelman and Wolf 2009, 16). Arendt is picking up on this popular argument, *not* a legal argument, to make her case. Contemporary legal arguments about the constitutionality of discrimination and segregation relied on the sacred right of private property – that to enforce a mandate of integration and equality would contravene the rights of

property owners, *not* the rights of private individuals. There are strong reasons Arendt shies away from embracing the private property argument (discussed below), however, while her argument for a right of social discrimination might be seen as part of a broader critique of constitutional arguments, it is not *itself* a constitutional argument or an exercise in legal theory.[7] In arguing to amend the Constitution in this later essay, she makes a Constitutional argument. Arguing based on political authority prior to the Constitution, as she does in "Reflections", is not a Constitutional argument – though it is an intensely *political* argument.

Her proposed alternative method of school integration – establishing a pilot school where parents could choose to integrate if they wished – relies on essentially the same logic that the Supreme Court rejected several years earlier in regard to higher education. Rather than integrating its prestigious law school, the University of Texas established a new law school open to Blacks. "In *Sweatt v. Painter* (1950), the Court held...that a new school for black law students in Texas was certainly not 'equal' to the University of Texas," with the court enumerating such differences as faculty quality, lack of a law review, and administrative capacity (Friedman 1997, 58). Similarly, Ernest Green (one of the Little Rock 9) noted that textbooks used at the high school for Black students were discards from the prestigious Central High. Establishing new alternative schools, even if Arendt's idea was more cosmopolitan than simply a "new school for black students," still reserved *existing* quality public institutions for Whites only, a position rejected again and again by the post-WWII Court.

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7 Indeed, it seems that Arendt herself became aware of this – a decade later, she closes her essay 'Civil Disobedience' with an acknowledgment that the First Amendment does not cover freedom of association 'as it is practiced in this country,' and calls for a Constitutional amendment to rectify this.

It is tempting to say that Arendt's defense of association and distinction simply regurgitates the logic of *Plessy v. Ferguson* (1896). In situating segregation within the context of the reaction against Reconstruction, Jill Locke argues that Arendt ultimately reiterates *Plessy's* fundamentals by treating desegregation as a freedom of association argument (Locke 2013, 545). But Arendt's attempt to distinguish between forms of association (resorts, hotels, business districts, all of which are important to her distinctions and which I discuss in more detail below) mirrors the form of Justice Harlan's *dissent* from the *Plessy* opinion – which is a withering deconstruction of the majority opinion. While it is not accurate to simply say that Arendt is using the logic of (the majority opinion in) *Plessy,* she does echo numerous other segregationist arguments.

Taken together there is nothing in Arendt's essay that presented a novel *legal* approach. To hold that Arendt presents a legal or Constitutional theory in 'Reflections' is simply to say she recycled segregationist arguments already defeated in the courts. Her essay, however, can still tell us much about Arendt's *theoretical* approach.

Mutual Consent Between Adults

James Bohman (1997) uses 'Reflections' to argue that the public realm in Arendt's theoretical schema is the realm of consent. However, I find Bohman's conception of Arendt's public realm to be overly indebted to the Habermasian public sphere, in which consent plays a defining role. In the next two sections I aim to show that for Arendt, consent defines the *social* realm; the private realm consists of that which we would not consent to share, and in the public realm our consent is largely irrelevant, since we *appear* to all others who have entered the public. Only in the social realm are we evaluating and consenting to interactions.

At first glance, 'Reflections' appears to argue that children and education are part of the private realm, full stop. In addition to condemning the use of children as political means to achieve (supposedly misguided) civil rights goals, she defends education as a private right that must be protected from the interference of government and activists. 'The right of parents to bring up their children as they see fit is a right of privacy, belonging to home and family' (Arendt 2003, 211). Arendt writes that a more acceptable alternative would be 'to organize a new school for white and colored children and to run it…as a means to persuade other white parents to change their attitudes.' She admits that this seems to violate the principle against using children as means that she laid out earlier: 'there, too, I would use the children in what is essentially a political battle, but at least I would have made sure that the children in school are all there with the consent and the help of their parents' (Arendt 2003, 195). Suddenly, the terrain of the argument shifts significantly: children, it turns out, *can* be a means – in both the political and social realms. The issue, Arendt admits, is not one of means but of mutual consent. Children can be used as means when there is mutual consent between the parents involved – the pilot school as a way of avoiding a direct challenge to the mores and prejudices of parents who would not consent to racially mixed schools.

The private can thus be reframed in terms of what we would not consent to be seen, rather than simply an actor or geographic framing. Children remain deprived of any legitimate political agency, since the consent rests with adults – thus reinforcing the parental authority she deems challenged by school integration. And yet, the rhetoric of protecting children from the demands of the public realm, of not using their private lives as political means, remains. The

norm of mutual consent masquerading as a protection of children is a dangerous potential, one taken up by many activists in the late 20th and early 21st centuries.

Arendt, like many political thinkers before her, does not define children as political actors (though they can be used as a means). The exclusion of children raises another question: the issues of consent and the public realm in Arendt's formulation are exclusive to adults, but the Little Rock 9 were high school students. Is Arendt infantilizing these students? Indeed, given Arendt's sureness that the students were asked to be heroes, it certainly seems that she sees their actions not only as violating the private rights of White parents, but not even their own. When Elizabeth, the student whose photo inspired Arendt, disembarked from the bus, a mob approached her. Facing the mob was *not* what anyone had asked of her (regardless of whether she was 'asked' by adults to enroll – after all, the other students arrived in a private car arranged by the superintendent.) In that moment, she could have turned and retreated, but she kept on. Ironically, Elizabeth's decision to continue walking is perhaps *the* modern example of Arendtian action *par excellence*, yet Arendt could not recognize it as such. "The true purpose of the public realm (to be a platform to display one's excellence, individuation, and action) becomes eclipsed by the social – a mass of undifferentiated people. Society normalizes everyone's behavior and imposes rules and regulations. According to Arendt this regulation of behavior makes political action virtually impossible" (Gines 2014, 53). Elizabeth's walk to school is action surrounded by the undifferentiated mass of society's prejudice. But instead of seeing it as spontaneous, Arendt insists it is contrived: "obviously, she was asked to be a hero."

Arendt further fails also to recognize the *worldliness* of Elizabeth's actions – for this girl, the 'shelter' of the private was never truly a reality given the regular terror that invaded Black

homes. Though Ellison alerts Arendt to the 'ideal of sacrifice' in Black politics, had Arendt further recognized that the Black 'child' was always already 'politicized' by precisely the deprivation of such a private shelter, she might have understood Elizabeth's actions quite differently.

Jean Elshtain sharpens the question of how we think of agency amongst children. Adopting a 'neither/nor' position towards Arendt's dismissal, she first notes, 'Childhood is not a political condition from which children must be (misguidedly) liberated. It is a necessary form or container for human being in its most fragile stage, a time of concealment and preparation. We abandon and betray children if we deprive them of this protection' (Elshtain 1995, 270). However, she is uneasy about outright denying the legitimacy of childhood political protest. She examines three moments of children protesting, saying she might be hesitant to allow her own children to protest but could not condemn these actions: Mother Jones' child protests against child labor at the turn of the century, youth civil rights protesters in the 1960s, and children involved in pro-life demonstrations in the late 20th century. Her final example points to the potential limits of childhood agency in a different way than the rest of her argument.

What is different between child civil rights or labor protesters and the child pro-life protesters she cites? In the cases of labor and civil rights, these children are protesting treatment they receive – child laborers are clearly relevant protesters because it is the abuse of their bodies which they protest. In this case, Elshtain notes a particular irony: 'children are politicized, drawn into protests, strikes, marches and potential danger *in order that* they may return to schools, neighborhoods, and playgrounds where they belong' (Elshtain 1995, 273-4). This is related to the denial of the sheltering private realm described above, though rather than terror invading the

home it is the child thrust out of the home and into labor. (Minority) civil rights protesters are protesting their own exclusion – reformulating Elshtain's point, we might say they engage in marches and protests *in order that* they may attend a quality school. Child protesters of abortion are told or claim that they are protesting the murder of children *just like them*. They are made to feel that they escaped victimhood, thus they are protesting 'in solidarity' with aborted fetuses (or, 'dead babies'). The pro-choice position, however, views their protests as for the control of women's bodies (not exclusively adult – abortion is a procedure utilized by females of reproductive capability, which begins before adulthood.) The question becomes rephrased as: this is an issue focused on others' bodies, do we trust that uninvolved children understand the issue, rather than are simply parroting the opinions of a parent or another adult? Or, put in Arendtian terms: is it a violation to assert a role for others to regulate or enforce natality and the *initium*? How do we think of childhood agency, and can we take their protests on behalf of others or abstract ideals seriously?

Can children only protest in their own defense, not on behalf of others? Certainly that seems a stretch – there are children who become passionate about issues which do not seem to directly affect them, and an *a priori* assumption that they lack the capacity or it is inappropriate for them to develop such opinions is frighteningly regulative – but there does appear to be a disconnect between Mother Jones's children's crusade, the Little Rock 9, and contemporary children demanding the state regulate women's reproductive health and functions. Conversely, there may be moments in which children's interests are directly involved, yet they are placed into heavily scripted and choreographed roles designed to mimic political engagement or even Arendtian action, but the children are clearly used by adults for political purposes.

Indeed, a particular irony arises in contemporary debates about gay marriage. Gay marriage advocates, most notably Andrew Sullivan (1996), championed Arendt's essay 'Reflections' because of her claim that marriage is a human right prior to the political. Yet gay marriage advocates have also relied heavily on the children of gay couples to gain sympathy from an ambivalent public and political institutions. Ella Myers notes that, while the US Supreme Court was considering hearing an appeal to the California State Supreme Court's decision to overturn a gay marriage ban (Prop. 8), television ads were made featuring children of gay couples pleading, 'Don't divorce my parents' (Myers 2013, 142). Myers reads this as heroic and courageous action by children, while ignoring the role of rhetoric in politics and downplaying the logistics involved in putting together a TV commercial. Aside from a few stray remarks about the cinematography, she elides the roles of directors, consultants, and political strategists, instead writing as if the children are simply choosing to *appear* (in an Arendtian sense) in the world. Most importantly, Myers overlooks the fact that these ads were targeted to create pressure on the US Supreme Court, not the democratic polity. Viewed in this way, the ads (though the children are legitimately self-interested in this cause) are an exercise in elite politics, not democratic politics, and certainly not a dramatic exemplar of political action and courage like Elizabeth's walk to Central High School.

Wherever or whether we draw a line, however, we should certainly recognize the legitimacy of minors to *protest* on their own behalf. And we should also recognize the distinctive problems of assuming to speak for and protect children by circumscribing the public, whether defined in spatial or participatory terms. We should be suspicious that Arendt still treats large swathes of the population as inherently outside the political realm. Though justified differently,

Arendt's classification of minors mirrors the practice of the Greeks (which she notes in *The Human Condition*) which treated all actions and business of slaves and women as of the private.

Consent, Association, Distinction: Understanding the Arendtian Social

Mutual consent is the most important idea introduced in Arendt's essay: in addition to the question of children, it frames the issue of leisure – which is central to my formulation of the Arendtian social realm – and it hobbles her ability to recognize and critique the violently enforced status quo. Others who have recognized 'Reflections' as a defense of the Arendtian social have missed, however, an important binary in her formulation. Thus, King (outlining Sidney Hook's contemporaneous critique) holds that Arendt "never spelled out a way to distinguish between 'justifiable' and 'unjustifiable' social discrimination' (King 2018, 182). But Arendt does have such a way to distinguish. I will use the term 'leisurely association' to refer to those sorts of association and interaction that occur willfully in free time – this picks up on Arendt's invocation of vacation resorts. She identifies this type of association with the social realm, though never explicitly investigating it in *The Human Condition* and only mentioning it in passing in 'Reflections.' She begins examining this issue by talking about 'restricted' vacation resorts: 'If as a Jew I wish to spend my vacations only in the company of Jews, I cannot see how anyone can reasonably prevent my doing so,' but forecloses the possibility of extending this form of discrimination universally by saying that 'This does not apply to theaters and museums, where people obviously do not congregate for the purpose of associating with each other' (Arendt 2003, 206-7). Thus, she inserts a distinction between leisurely pursuits that involve associating with others (vacation resorts) and more observational leisurely pursuits (museums, theaters).

This distinction between leisurely association and leisurely observation is parallel to the 'expressive speech' assumption on which *Dale v. BSA* turned almost a half-century later, and is a way of subsuming associational claims under the banner of free speech. Arendt is assuming that vacationing in a Jewish resort is an expression of a desire to consort with Jews – thus, by the logic of *Dale*, a form of expression protected by the First Amendment (being a Boy Scout is by its very nature an expressed rejection of homosexuality, thus the organization is simply exercising its freedom of speech by barring gays.) The distinction, though, is much less robust than she (or the Supreme Court 40 years later) presents it as being. However we parse the problems which arise from this category of leisure, it most certainly plays a role in clarifying Arendt's understandings of what constitutes public, private and social space. From this perspective, Arendt winds up on the other side of integration battles not only with regard to schools, but also many of the other major integration battles of the 1950s.

The realm of 'distinction' is expanded exponentially because of Arendt's inclusion of leisurely association outside of the home as social. This would not only permit large swathes of discrimination based on association (clubs and resorts being 'restricted') but would also legitimate varying degrees of employment discrimination. Arendt indulges in a fantasy of vacation resorts as hermetically sealed destinations in which 'local' does not exist. Jewish resorts in the Catskills or White resorts on Hilton Head could interpret their guests' implied desire to only associate with those similar to themselves as mandating a Whites or Jewish-only hiring policy.[8] These sorts of restrictions, under Arendt's logic, would stand even if the demographics

8 Or, it could be a policy which only permitted hiring non-Whites or non-Jews for less visible positions, such as cooks, groundskeepers, late-night maids for common areas, while barring them from being waiters, receptionists., etc. A recent example of this logic in action was Abercrombie & Fitch's "look policy" for store

of the region changed – if the Catskills received a large influx of East Africans or if South Carolina received a large influx of Guatemalans, the resorts themselves (despite being local employment opportunities to those who live in the region) would remain restricted because they are geared towards those who do not live in the region and use the area as a location to interact only with those like themselves.

Arendt distinguishes between resorts and business districts: 'It is, however, another matter altogether when we come to…the right to enter hotels and restaurants in business districts – in short, when we are dealing with services which, whether privately or publicly owned, are in fact public services that everyone needs in order to pursue his business and lead his life' (Arendt 2003, 207). Is there a potential dynamism in Arendt's categories – could what was once a resort become recognized as a business district? She doesn't say, but given that the purpose of founding the resort was to engage in distinction, a protected right of the private and social realms, it seems that this would be another case of overlapping realms with multiple demands being made upon it – and like with schools, Arendt would likely privilege claims against the public.

There is a potential for associating with those who are like oneself. But it cannot be more than a statistical likelihood – a guarantee (which is what Arendt is asserting) would be quite invasive. The fact that a resort might cater to vacationing Jews or Whites cannot give those vacationers the privilege of demanding that a Black family be barred or removed from the dining room. This is not to say that Arendt herself wanted to avoid interacting with Blacks (or WASPs, for that matter) – I do not claim that I can divine a personal distaste held by Arendt for various

employees, which was ruled to be a form of employment discrimination: https://www.naacpldf.org/case-issue/abercrombie-fitch-employment-discrimination/

racial groups. Rather, I aim to point out the sorts of distinction and association that would be privileged under her vision of the private and the social.

What is the connection between mutual consent and association? Association for leisure for Arendt implies a mutual desire to associate with specific others. But where does education fall in this schema? For Arendt, schools are curiously an intersection of the social and the private realms: they are private because they are an extension of parents' choices of how to raise children, and they are part of the social because of the possibility of social advancement which may be associated with scholastic success (as Locke 2013 explains very clearly). The latter is clarified when Arendt notes that were she a Negro mother encouraged by activists to send her child to integrate a White high school (as opposed to improving "her own," i.e. a Negro, school), 'I would feel I had become involved in an affair of social climbing' (Arendt 2003, 194). More critically, the freedom of association argument could only work if the *school* were engaging in an expressive statement by not admitting blacks. However, neither the parents' private nor social desires constitute the school's message nor goals – just as parents cannot demand religious instruction in school (*Mocollum v. Board of Education Dis. 71*, 1948), their views of the racial makeup of the classroom must be moot.

What makes Arendt's position so problematic in this instance is that she wants to give private desires the force of law not simply inside the home but in government institutions – Central High School, after all, was a public school. This despite the fact that she says, 'While the government has no right to interfere with the prejudices and discriminatory practices of society, it has not only the right but the duty to make sure that these practices are not legally enforced' (Arendt 2003, 208). Yet, Governor Faubus activated the National Guard to legally enforce these

prejudices over the school board's unanimous adoption of a gradual integration plan.[9] Regardless of Arendt's quibble about the origin of funds, this is hardly a separation of powers issue. Arendt simply treats the state government as compliant with the wishes of the private realm and protecting the private from federal intrusion (the school board's decision goes unmentioned). The restrictions on government enforcement of prejudice and distinction seem to apply only at the federal level – more local governmental power is treated as though it were the extension or manifestation of a localized "general will."

In addition to schools being a point of overlap between the private and the social, Arendt sees a narrow political possibility for school. This is exactly what is at stake in the question of public school integration versus creating a new school that parents could willingly send their students to for integrated education. The school is a government institution, but as an existing institution it is vested with social meaning and private privileges. This is what effectively gives White parents a right to define who will be their children's classmates, while Black parents cannot – as it exists, the school is a White school. Arendt reasons that by offering a new alternative to the existing school, rather than replacing it, parents can legitimately engage in politics, or perhaps Arendtian political action.

In this way, we can also see how Arendt's focus on "the new" as a political act masks (or simply advances) a conservative tendency towards the existing. For Arendt, the pilot school can be political because it is something new, something created by people coming together to act in

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9 It is worth noting that this is what *Shelley vs. Kramer* (1948) turned on – despite the fact that housing covenants were private contracts, in order for those contracts to have effect they needed to be enforced by the law. The court held that the law could not be used to guarantee those ends, even if privately desired.

concert. It is Arendtian action in a way that reforming an existing school is not. The existing school already has a defined social role and Arendt believes it is misguided to force a change in that. Thus, Arendtian action ironically promotes a conservative approach to *existing* institutions.

In effect, Arendt is thinking of mutual consent as required for change, not for legitimation of the status quo. But when the status quo is enforced by violence, looking to mutual consent for change is preposterous. While in *On Revolution* Arendt struggled with the question of violence in founding a democratic polity, she largely elides the role of violence in its *maintenance* – either in the polity's institutionalized form or as a constitutive element of the *demos.* In *The Human Condition* she does note the role of slavery in democratic antiquity, but she simply treats it as a matter of civil necessity. Arendt's missteps and misperceptions in “Reflections,” I argue, raise the question of whether the theoretical framework of *The Human Condition* is equipped to deal with political orders *enforced* by democratic violence – and if not, whether it useful as democratic theory.

Marriage, Consent, and Interracial Taboos

In this section, I tie the role of mutual consent and the misunderstanding of White backlash politics to interracial marriage and the attempts to integrate public swimming spaces. (Modern) marriage is a paradigmatic example of mutual consent, so in addition to its role in the private realm and (sometimes) the event of natality, it is logical that restrictions on marriage would strike Arendt as more galling than other racial restrictions. In making this argument, I consciously make an interpretive leap. Arendt never defends marriage explicitly on the grounds of mutual consent, but the (modern) marriage ceremony which is centered around vows of

mutual promising fits the profile of an event involving mutual consent too well to ignore in this context. When thought of in terms of mutual consent, it is easy to overlook (as Arendt did) the very different sources of backlash against sexualized interracial interactions, and I draw on swimming integration to bring such dynamics into starker relief.

Arendt's arguments about the actual direction of the Civil Rights movement in the 1950s were ill-informed, rather than counter-intuitively insightful. She wrote:

> The present massive resistance throughout the South is an outcome of enforced desegregation, and not of legal enforcement of the Negroes' right to vote…in the case of that part of the Civil Rights bill regarding the right to vote, no Southern state in fact dared to offer strong opposition. Indeed, with respect to unconstitutional legislation, the Civil Rights bill [of 1957] did not go far enough, for it left untouched the most outrageous law of Southern states – the law which makes mixed marriage a criminal offense…It would have been much more important if this violation had been brought to the attention of the Supreme Court; yet had the Court ruled the antimiscengenation laws unconstitutional, it would have hardly have felt compelled to encourage, let alone enforce, mixed marriages (Arendt 2003, 201-203).

This reflects a breathtaking ignorance about the contemporary situation in the South. In a letter several years later to Ralph Ellison, Arendt admitted that she had not 'grasped the element of stark violence, of elementary, bodily fear in the situation' which fueled an 'ideal of sacrifice,' and that ignorance had led her efforts astray.[10] Certainly overlooking the violence directed towards Blacks in the South was egregious, and might have led her to misunderstand the extent of resistance to extending the franchise to Blacks. But there is more that she failed to understand – opposition to interracial marriage did not stem from a concern that the federal government would force people to marry people of another race, but that interracial marriages were an abomination that had to be resisted *in and of themselves*. Equally important, the Civil Rights Act of 1957 was

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10 Though in the letter she remains indignant about her 'liberal non-friends' critiques, which I interpret as signifying that some aspect(s) of the essay remained defensible in her eyes. http://memory.loc.gov/cgi-bin/ampage?collId=mharendt_pub&fileName=02/020340/020340page.db&recNum=6&itemLink=/ammem/arendthtml/mharendtFolderP02.html&linkText=7

emasculated in the Senate, thanks in part to then-Senator Lyndon Johnson, so no 'massive resistance' was necessary because the right of Blacks to vote in the late-1950s was essentially unenforceable by the federal government. These two failures go beyond simply missing the 'ideal of sacrifice' in Black politics.

Arendt argues that the freedom to marry without racial limitations should be a primary civil rights goal, and would not trample on the social prejudices that the political has no rights against. This approach, however, has several problems. First, this ignores the fact that opponents of anti-miscegenation laws had only recently attempted to bring an appeal before the Supreme Court – however, in 1955 the Court refused to hear *Naim v. Naim*, a challenge to Virginia's anti-miscegenation law. While school integration was a more visible struggle in the 50s, freedom to marry movements were neither silent nor without support.

More importantly, however, is that Arendt's idea that miscegenation would be less socially contentious than school integration is absurd – accusations of Black-White rape were a common justification for lynching, but even accusations of whistling at or eyeing white women could lead to beating or lynching (Emmitt Till being only the most memorable victim.) According to public opinion polling, in 1958 only 8% of Americans supported interracial marriage, and a majority of Americans did not support it until 1997 – 30 years after *Loving v. Virginia* (1967) ruled anti-miscegenation laws were unconstitutional.[11] In this light, Arendt's appeal to public opinion concerning integration (Arendt 2003, 201) has no purchase since her favored alternative would not receive majority support until decades after her death. That

[11] https://news.gallup.com/poll/163697/approve-marriage-blacks-whites.aspx

marriage is between two (adult) people is irrelevant to the community taboos enforced violently both legally and extra-legally.

Legalizing interracial marriage would effectively be a state sanctioning of interracial courtship – social prejudice against such courtship would have to be more rigorously enforced in the absence of legal barriers to interracial coupling. The figures of consenting adults quickly become overshadowed by community-enforced violence, and should give us pause in singularly promoting marriage equality as separable from decades of both legal precedent and community values informed by White supremacy.

Locke (2013 and 2017) looks to early attempts to integrate schools during Reconstruction to see how opposition to school integration was driven by revulsion and anxiety surrounding interracial intimacies, while Gines (2014) focuses on how this anxiety was paramount in White opposition to integration in the 1950s. But an alternative integration battle contemporary to Arendt, integration of public beaches and pools, illuminates troublesome aspects of her argument about social distinction more clearly than the case of school integration.[12]

Sexuality was the issue over which the Civil Rights movement stalled out in the early 1970s; attempts to integrate public pools proved even more contentious than busing had been precisely because the fear of Black men and boys ogling White women and girls was too much

[12] True, pools were another *integration* issue (and not clearly a fundamental right as Arendt notes freedom to marry should be considered), but the extent of massive resistance to pool integration even before it first reached the Supreme Court in 1955 should be considered paramount: District Judge Roszel Thomsen referred to pools as being '‘more sensitive than schools’ because of the visual and physical intimacy that accompanied their use' (Wiltse 2010, 156). This intimate nature is likely why the Court, in the early 70s, refused to pursue further attempts to enforce desegregation, whereas schools continued to face battles over how to effectively integrate. Interracial marriage would entail this same question of intimacy.

for many Whites. "It was interracial swimming that inspired the most condemnation and violence. In the water fears of contagion and interracial sexuality made for a treacherous mix" (Wolcott 2014, 23). Riots and violence against would-be integrators of pools were frequent form the 1940s through the 1960s. In contrast with schools, youths as well as adults were the agents and targets of integration. To avoid integration, public pools were often closed or leased (for nominal fees) to private organizations which would determine the eligibility of potential swimmers based on opaque standards (Wiltse 2010, 162).

Importantly, in the first half of the 20th century in America, public swimming pools were not simply places for exercise, but sites of leisure and socializing. "Among the most coveted urban spaces were those that encouraged young men and women to put aside their daily cares, flirt, and play. This potential for romance, and the association of African Americans with dirt and disorder, led to whites' insistence that recreational spaces be racially homogeneous. Owners and managers of amusements constantly reassured their white customers that their facilities were clean and safe places to let loose and mix with the opposite sex. The result was an elaborate system of racial segregation in urban recreation" (Wolcott 2014, 2). As physical spaces, "Recreation had transgressive potential as 'liminal' spaces that represented 'a liberation from the regimes of normative practices and performance codes of mundane life" (Wolcott 2014, 9). Social liberation required the ability to exclude, to exercise "distinction" – ironically, transgression was possible only in rigidly structured (i.e., segregated) contexts.

White popular violence fought to maintain segregated swimming facilities in the face of would-be integrators. But violence meted out at pools by White men and boys was just "violence" and "disorder" – which were phenomena associated with Black Americans. "officials

invoked not the actual violence of white vigilantes but the perceived violence of black criminality that threatened white consumerism…Violence inscribed racial boundaries that were reinforced by local officials to justify their exclusion policies" (Wolcott 2014, 76) Popular violence maintained the social segregation of races; "When whites beat African Americans seeking leisure at amusement parks or swimming pools, white officials and the mainstream media often viewed them as 'hoodlums' causing trouble. But politicians and the courts also routinely used the threat of such incidents as a reason to slow the pace of integration, and owners of recreational facilities invoked the potential for racial conflict as a primary motivation for keeping blacks out" (Wolcott 2014, 7). In the North, in the absence of explicit Jim Crow laws, swimming facilities were also segregated and would-be integrators faced violent backlash. Sometimes the prejudices of non-local Whites were invoked as justification: "The owners of Coney Island Amusement Park in Cincinnati…argued that their park had to be segregated because whites from nearby Kentucky frequented it" (Wolcott 2014, 7). Others, however, just raised the spectre of race riots: "It was the white public's sensitivity to interracial swimming that [the city of Baltimore's] lawyer, Edwin Harlan, pointed to when advocating continued segregation of Baltimore's pools and beaches. 'I think one of the greatest objectives is to keep order and prevent riots…It is better for public safety in any activity involving physical activity that the races be separated'" (Wolcott 2014, 116).

Municipal pools for Blacks were hastily constructed, sometimes in response to integration attempts at municipal pools. Urban planners looked for cheap and quick ways to provide "recreation," and began placing small, above ground pools (with no opportunity for swimming, just splashing) as well as playground equipment under the recently built freeways

that split Black neighborhoods from the rest of the city. "Few features of the 1960s urban landscape better symbolized white liberals' narrow understanding of black discontent and cynical, insulting gestures than the ubiquitous 'mini pool' or the under expressway 'tot lot'… These facilities were…simply 'a means of social control,' a way to 'keep angry and frustrated black youth active' and distracted" (Kahrl 2018, 76).

When cities could no longer rely on popular violence to keep swimming facilities segregated, they were either closed or "privatized" – cities sold or leased municipal pools with opaque membership requirements, and "amusement parks proved difficult to fully integrate. Some owners leased their swimming pools, dance halls and skating rinks to private entities to subvert civil rights laws. Therefore many parks had segregated spaces within formally desegregated landscapes. Even with these steps, meant to reassure white customers, the majority of traditional urban amusement parks closed by the late 1960s and early 1970s as whites increasingly perceived them as locations of danger rather than pleasure. Many urban swimming pools also closed down or privatized after desegregation" (Wolcott 2014, 9).

The strategy of leasing and selling previously public pools to private entities was ultimately affirmed by the Supreme Court in *Palmer v. Thompson* (1971), in which the majority held that, first, pool closures did not specifically disadvantage Blacks (as Whites could not use closed pools either) and second, that lease or sale of public pools to private organizations that might engage in discrimination was not evidence that municipalities encouraged or sought such practices. These strategies (as well as the rise of backyard swimming pools, a related phenomenon) ensured that scantily clad members of different races could not co-mingle on a city-wide scale.

Leisure, one might argue as Arendt did, is neither a fundamental political or human right but rather an opportunity to choose with whom one associates. While these were discriminatory practices, why should they be the concern of a political or legal theorist, let alone the government, rather than community activists who might work to promote uncoerced association? While it is true all of these are social issues, these inequalities actually *create* threats to life, rather than simply failing to address social desires. Andrew Kahrl relates the story of Charter Oak, CT, where many Black youths (unable to access ostensibly public beaches because access was restricted to shoreline residents by neighborhood and municipal regulations, a common tactic of discrimination throughout New England) regularly drowned swimming in a dangerous river that was their only opportunity for swimming. "The city made a vague promise to lower the river's depth and place high fences along its banks," but there were always excuses: "the matter required further study, the excavators had to finish their work downstream before they could remove the dams; the cost was too prohibitive; perhaps the tenants should do a better job watching over their children" (Karhl 2018, 69). Swimming in dangerous waters without life guards was one outcome of this kind of discrimination in leisure. But the problems created were deeper:

> In his 1967 report on 'Recreation and Civil Disorder,' the pioneering urban recreation planner Richard Kraus found that 'in most cases Negro neighborhoods possessed the oldest, most limited and run-down recreation facilities in the city, often 'amounting to little more than a bare blacktop or concrete area.' Another study found that 'as the percentage of blacks [in an area of the city] increases, [the number of] outdoor recreation facilities, park and recreation personnel…and the number of volunteers…decreases.' Recreational inequality, others pointed endangered the lives of inner-city residents, especially youth, not just their quality of life. Kenneth Clark, for instance, tied the inadequacy of inner-city parks and playgrounds to the disproportionate number of pedestrian accidents involving children at play in urban black neighborhoods.' In New York City, persons under the age of 25 were almost twice as likely to die as a result of being hit by an automobile in Harlem than anywhere else in the city. During 1964 alone, the Harlem Hospital Center received 215 children who had sustained injuries from being hit by an automobile, and these included 94

> serious injuries and 5 fatalities.'...City officials seemed to make a priority of safeguarding children in white neighborhoods by providing street lights and crosswalks, well-equipped playgrounds and swimming pools. But not in Harlem, where the streets were the playground and fire hydrants the swimming pool…On a sweltering hot summer day on Chicago's West Side in 1966 violence erupted after police officers turned off a fire hydrant that children were using to cool off. The kids had few other options. The closest public swimming pool was located in an Italian neighborhood where any black person who dared to enter could expect to be assaulted. Public health officials had forced the closing of the nearest beach along Lake Michigan due to overpollution" (Kahrl 2018, 73).

In the 21st century, almost all pools in America are either private (part of homes) or social (restricted to use by members of clubs and facilities – selective and voluntary forms of association). Black children drown at 5 times the rate that White children do, in large part because access to pools – and thus swimming lessons – is dramatically lower in Black communities.[13] By referencing drowning rates, as well as how juvenile pedestrian fatalities are higher in minority neighborhoods with less municipally supported recreation sites including pools, we can also see how framing an act as a social or private practice (swimming at home or at a membership club is not essential to life or politics) has literally life-threatening repercussions. As a social act, this imbalance also feeds the idea that Black children simply *do not belong* at a pool, even if it is public. Defining leisure as social not only creates these problems, but denies that there may be a political solution to such problems.

The Realms of *The Human Condition*

Some theorists in an earlier generation (mis)understood Arendt as adopting a Classical, particularly Hellenistic, political sensibility (e.g. Euben 2006). This extends, in part, from the ways in which she presents the histories of her categories in *The Human Condition* – specifically, she often lays out a Classical political frame without much critique, but then her exposition of

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13 https://www.ymca.net/summer-buzz/highest-risk-for-drowning

early Christian, Enlightenment, 19th or 20th century variants is thoroughly critical. In chapter II of *The Human Condition*, 'The Public and the Private Realm,' describing the division between public and private as the legally mandated space between houses in Athens, she writes: 'The law originally was identified with this boundary line, which in ancient times was still actually a space, a kind of no man's land between the private and the public, sheltering them from each other' (Arendt 1998, 63). It is tempting to read this and presume Arendt is calling for an institution of a geographically oriented private and public which do not overlap; however, as Arendt demonstrates in 'Reflections,' (as well as several footnotes about slavery in *The Human Condition*) this has more to do with 'matters concerning,' rather than physical location – education of children does not take place solely inside the home but it remains part of the private realm. In the *polis* as well as in the *res publica,* slaves appeared outside of the home to engage in economic and cultural activities, respectively, yet these remained matters of the private realm since slaves were *of* the home. Matters concerning 'the household' are private, yes, but those matters extend beyond the walls of the household. From this, we can conclude that it is a misreading of Arendt to assert that she thought of the public realm as an arena such as the *agora* in which people (in ancient Athens, men) gather to discuss politics. The public is made up of matters concerning, rather than deliberations and locations of, the body politic.

It is important to emphasize that the private realm in Arendt is not defined by notions of property – based on a cursory reading of her passages on the household as well as her footnote about Greek slaves engaging in commerce remaining in the private realm one might conclude that these are all private because all are the property of a patriarchal figure: buildings, women, slaves, commerce. Indeed, perhaps the most radical aspect of chapter II is her attempt to

decouple the idea of a private realm from private property. For Arendt, the physical house is useful in that it blocked the public gaze from that which is private – intimacy, natality, and the labor of consuming that which is necessary to live. She argues: 'the word 'private' in connections with property, even in terms of ancient political thought, immediately loses its privative character and much of its opposition to the public realm in general; property apparently possesses certain qualifications which, though lying in the private realm, were always thought to be of utmost importance to the political body' (Arendt 1998, 61). That things could be sheltered from public view, that a distinction could be made, enabled the possibility of public life itself. Thus, property serves as a means, not an end in itself that needs particular protections. She connects notions of private property as *the* good that must be protected with the rise of society: 'Society, when it first entered the public realm, assumed the disguise of an organization of property-owners who, instead of claiming access to the public realm because of their wealth, demanded protection from it for the accumulation of more wealth' (Arendt 1998, 68). This protection from the public realm is at the heart of the privatization of public spaces.

Understanding Arendt's wariness of arguments couched in private property is essential to understanding the importance of her freedom of association argument in 'Reflections:' as noted above, the contemporary legal defense of discrimination was an invocation of the sacred right of private property. Education could be singled out (away from problems such as bus integration, which she made clear she did support) by Arendt using her version of the freedom of association argument (which remains at base a consent issue), whereas the private property argument deployed by most Southern states and municipalities was meant to encompass as broad a range as possible. Viewing property as physical structures like the home (thus as means) and wealth as

economic activity shifts the grounds on which one might think about segregation. Segregated lunch-counters, stores, and the like were not to be thought of as property in the sense that it shielded certain activities from the public gaze, but rather as activity that, though privately owned, served a function 'of utmost importance to the political body.' There are still significant problems with Arendt's defense of distinction and the private, but it is important to not simply subsume Arendt's position inside the broader demands for continued segregation in the South.

We can trace two separate consent related moves in Arendt's delineation of private and social. The private realm exists because there are things that we wish to keep hidden from broad view – we do not consent to the matters of our households being transparent to those outside. The social begins with a withdrawal from the public realm in order to focus on wealth accumulation – merchants withdrawing their consent to participate in the public realm, as it were. The public realm is the space of appearances, but it is importantly the space in which we *appear* to others of the political realm – entering the public implies being seen by others who entered the public realm. As individuals in the public realm our "consent" is irrelevant, as we do not control who else *appears* in public. The social, guided by association, is where we choose to exercise distinction; thus, not consenting to interact with all who might approach, a choice unavailable in the public realm. And the private realm consists of that which, presumably, none would consent to share – intimacy and labor as moments we do not publicize.

Arendt notes, 'The distinction between the private and public realms, seen from the viewpoint of privacy rather than of the body politic, equals the distinction between things that should be shown and things that should be hidden' (Arendt 1998, 72). We do not consent to show that which 'should be hidden.' It is worth noting, too, that the distinction is not between that

which is inside the physical walls of the house and that which exists outside, but those things which should be shown and those which should be hidden – there are elements, such as the education of children, that *generally* should not be shown. Thus, these are neither specific physical locations nor neat alignments with property ownership, and as noted above, education is a space of overlap between Arendt's different realms.

The privacy of the home, and of children, is another moment in which 'Reflections' is instructive about Arendtian realms. Much ink has been spilled about who, precisely, Arendt saw in that photograph in the New York Times. Danielle Allen (2004) notes that Arendt seems to have misidentified the girl, as the photograph she describes corresponds more closely to a different school being integrated. Jennifer Culbert (2016) holds that by not identifying who is in the photograph but simply that it is a photograph in a newspaper, Arendt refuses to be drawn into the specifics of a particular integration case and instead positions her "reflection" as that of an outsider observing from a distance. Jill Locke (2013) says the photograph is a signifier rather than an event, and that Arendt is writing to critique federal action rather than the wrestle with what happened in Little Rock. What these arguments miss, however, is that children are of the private realm – and the private realm is that which we would not consent to be seen. Thus, in *not* naming the girl in the photograph, Arendt is *restoring* a degree of privacy – and safety – to her family. For Arendt, a child needs the sheltering of the private realm and that was stripped first by sending her to integrate a school, but secondly by the newspapers and commentaries that publicize her.

'Reflections' is an important essay because it clarifies Arendt's sense of the proper place of 'the social.' In *The Human Condition*, Arendt takes a rather dim view of the social.

'Reflections,' by contrast, better describes the social as the realm of association and a necessary bulwark against a totalizing political experience. Thus, reading the two together allows us a fuller picture of Arendt's realms.

Conclusion: Swimming and Drowning as Social Distinction

An incident at a public pool in McKinney, Texas in 2015 highlights how even supposedly "public" spaces in America continue to be reserved for White socialization, *especially* when the bodies of young White girls are present. In this predominantly White city, named by Money Magazine as "the best place to live in America," a 14 year old Black girl hosted a birthday party at one of the community's three *public* pools. After White patrons taunted the party to "go back to Section 8!" – a reference to public housing – a police officer arrived, drew his weapon, and violently arrested the 14 year old girl. While the police reaction was extreme, many people in the town still felt the girl and her party were 'the real troublemakers' who did not belong.[14] Examining the continuing racial politics of swimming, we can again see the pitfalls of Arendt's defense of social "distinction" without considering the ways violence is used to enforce White supremacy through the discrimination of (always already sexualized) children.

Looking again at the racial politics of pools and swimming helps us, from a 21st century vantage point, to look back on an "alternative" to integration that respected an absolute right of association. As noted above, the spectre of the Black male gaze upon White girls and women's bodies fueled an even greater popular resistance and a more cautious approach from the courts. And just as segregated schools meant inferior facilities for non-White schools, so too did

14 https://www.theatlantic.com/politics/archive/2018/07/after-the-police-brutality-video-goes-viral/564863/

segregated leisure spaces mean inferior or non-existent facilities for non-Whites. Sometimes the lack of facilities was borne out of sense that non-Whites simply did not *deserve* municipal support for their leisure: “a city proposal for a segregated public housing project in Liberty City, complete with a pool, sparked a white backlash. According to the architectural historian John A. Stuart, ‘For many white citizens, the pool was simply too much of an improvement in the condition of the black residents and threatened to open up too many new opportunities for parities in leisure between black and white residents of the city.’ The city built the Liberty City project with no pool” (Wolcott 2014, 33). White pool-goers in McKinney, Texas, likely had the same attitude towards Black teenagers at “their” public pool on a hot summer day in 2015.

This desire for segregation then literally creates racialized threats to life, whether through drowning or increased deaths on the road. Arendt's refusal to consider “that which is necessary to life” as political[15] leads some commentators to note that Arendt's political cannot deal with intractable, structural, or intergenerational problems like poverty and food scarcity. But what swimming does is highlight the way in which defining something as political or social *creates* this very life threatening problem. Being unable to swim is not an inherited condition, nor is it a distributive problem like poverty; righting poverty and hunger requires consistent redistribution, whereas swimming lessons need only happen at a certain point in time (obviously not a single lesson, but say, a year's worth of lessons). Thus, the risk of drowning because of not being able to swim is a life-threatening risk that is *created anew* with each generation, rather than simply not rectified.

[15] See especially *On Revolution* (1963), in which she argues political movements based in hunger can never be satiated.

School integration underwent many more battles after Little Rock High School, and debates rage today. A recent Supreme Court case, *Parents Involved v. Seattle*, perhaps marks the end of a 50 year attempt to integrate public schools. That campaign has mixed results, at best with a combination of White Flight and selective enrollment schools, the American public school system is effectively segregated. Many scholars and commentators have revisited the *Brown* decision to ask what went wrong. In this light, it is understandable that Arendt, a visible non-Southern contemporary critic of school integration, would be revisited. Jerome Kohn writes that 'The desegregation of schools has not achieved its intended goals; many of Arendt's warnings have been realized, and the entire question remains open to judgment' (J. Kohn 2003, xxxv). But such a broad statement also shows the pitfalls associated with attempting to turn to Arendt in this moment – his invocation of 'warnings' which have been 'realized' does not disaggregate the various sources of problems in the post-*Brown* era. There is a significant difference between the effective resegregation achieved by suburbanization and proliferation of private schools, and enforced legal segregation of public schools; as argued above, a right to social discrimination is different from the legal enforcement of preferences motivated by social discrimination. The post-*Brown* era has been marked by the former, while the pre-*Brown* era was defined by the latter.

More directly, Jerome Kohn's argument is akin to saying that Whites living in almost exclusively White suburbs and Blacks living in almost exclusively Black cities is equivalent to 'sundown towns' in which blacks were barred (either legally or through threat of extra-legal violence) from being within city limits after sundown, or no different than racial covenants restricting the sale of homes to certain races. Indeed, Arendt's logic is arguably consistent with where we find ourselves today: her demand for the protection of social discrimination would

certainly condone whites choosing to live apart and sending their children to schools that are predominantly white, with blacks living apart and sending their children to schools that are predominantly black. If the current state of school diversity is fine, then there is no reason to take issue with Arendt's formula. But for anyone who doesn't believe that effective racial stratification (and the resource stratification that invariably goes with it) across schools is not simply a necessary and acceptable outcome of various actors choosing to associate with their own kind, Arendt's argument is a demonstration of a supposedly neutral position (parents exercising their authority to send their children to schools of their choosing) that simply reinforces existing hierarchies and relationships of power and wealth within society.

'Reflections' must be read as a clarification of Arendt's understandings of the public, private and social realms articulated in *The Human Condition*. The introduction of mutual consent, as well as the importance of leisurely association may go a long way to circumscribe or delegitimize possibilities not only for radical democratic engagement, but even more banal forms of democratic engagement. While Arendt's refusal to ground rights of distinction and discrimination in private property appear a radical overthrow of much capitalist social theory, it is ultimately tempered by new constraints on political space. That the totalitarian elimination of private life may have been on her mind is only tangentially relevant – she did not conceive of history as directly causal (thus leading to much confusion over her title, *The Origins of Totalitarianism*), so it remains unclear why noting that totalitarian regimes made education the province of the state (or, more likely, the party) should have caused her so much concern about Little Rock and enforced integration.

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