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A house haunted by justice: Eichmann in Jerusalem

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Abstract

Hannah Arendt's account of the trial of Adolf Eichmann has haunted commentators since it was first published in 1963. The meaning of the trial, as a foundational event for the State of Israel, and the meaning of the trial as a point of visibility for the hundreds of witnesses, is endlessly examined in the literature on Eichmann in Jerusalem. The ghosts of the people lost to the Nazi regime haunt the trial, as do the voices of the witnesses, and the desires and efforts of the prosecutor, the judges, and Eichmann himself. Like all texts, Eichmann in Jerusalem is haunted as a matter of course, is made up of invisible and inaudible participants among the words that can be read and re-read. This essay is a meditation on the hauntings within this text, from within the genre of haunted literature. It reads Eichmann in Jerusalem as, finally, a ghost story.

A house haunted by justice: Eichmann in Jerusalem

Tatiana Flessas*

‘Every angel is terrifying’ R M Rilke ‘The First Elegy’ in *The Duino Elegies*

1 Introduction

Hannah Arendt’s account of the trial of Adolf Eichmann has haunted commentators since it was first published in 1963. The meaning of the trial, as a foundational event for the State of Israel, and the meaning of the trial as a point of visibility for the hundreds of witnesses, is endlessly examined in the literature on *Eichmann in Jerusalem*. The ghosts of the people lost to the Nazi regime haunt the trial, as do the voices of the witnesses, and the desires and efforts of the prosecutor, the judges, and Eichmann himself. Like all texts, *Eichmann in Jerusalem* is haunted as a matter of course, is made up of invisible and inaudible participants among the words that can be read and re-read. This essay is a meditation on the hauntings within this text, from within the genre of haunted literature. It reads *Eichmann in Jerusalem* as, finally, a ghost story.

The purpose of this reading is to consider the question of justice in the context of Arendt’s critique of the trial. Where does justice appear among the shifting figures that Arendt sifts and considers in her text? The structure of the trial almost precludes justice, threatens to turn it into a figure as spectral and uncanny as that which Eichmann himself becomes (Arendt 1994: 8). If one reads Arendt’s account of the trial as a ghost story, and in particular, as a haunted house story, however, one

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can begin to locate the figure of justice. It becomes apparent that Arendt's argument is that the trial was enacted *in fundamentally the wrong scale*. Specifically, Arendt identifies errors in scale in two areas: the trial should be taking place in the 'house' of justice, not on the 'stage' created for it by the prosecution. In addition, judgment is also a smaller matter than the prosecution suggests; it must be done in regard to, and by, the individual actually on trial. If these two adjustments in scale are made, however, the uncanniness of the 'House of Justice' in this trial becomes evident and the linkages between the figure of justice, and those of Eichmann, evil, and the space of the trial also become evident. The house does not fit the events enacted within it; the participants cannot be at home within its walls. This is the crux of the point that Arendt makes, and the pivotal point in understanding what she means by the 'banality of evil'. The complicated relation between the figure of Adolf Eichmann and the development of Arendt's notion of the 'banality of evil' has been an ongoing topic of scholarship since *Eichmann in Jerusalem* was first published. It requires that we understand evil in a domestic space, where 'domestic space' has many meanings, among them 'chez soi', or one's own self.

To engage with Arendt's critique, we must take the notion of 'House' seriously, and look at other houses where precision is all-important, and where, if precision is lacking, it is evidence of a haunting. Therefore, the analysis turns to the genre of ghost stories and occult fiction in order to extract the interpretive tools to understand what Arendt means by this (immediately-famous) phrase. It draws on literary theory developed by commentators on literature of the occult, and social theory of the Victorian constitution of the domestic in order to contemplate the questions of scale, uncanniness, and evil that arise from Arendt's text. Reading *Eichmann in Jerusalem* against this background, and in particular against M R James's 'The Haunted Doll's House', results in a clear understanding of the 'banality of evil' and a new understanding of which ghost, among all the various possibilities, has truly taken up residence in the House of Justice.

2 Haunted houses

A Beth Hamishpath

The first words of *Eichmann in Jerusalem* are “‘Beth Hamishpath” — the House of Justice’, which the court usher shouts to announce the entrance of the three judges in the case (Arendt 1994 [1963]: 3). Arendt scrupulously describes this house: the judges sit on the highest tier of a raised platform. They have a long table in front of them, flanked at each end by court stenographers. Directly below them are the translators. Then come the accused and the witnesses: ‘One tier below the translators, facing each other and hence with their profiles turned to the audience, we see the glass booth of the accused and the witness box.’ ‘Finally,’ writes Arendt, ‘on the bottom tier, with their backs to the audience, is the prosecutor with staff of four assistant attorneys, and counsel for the defence, who during first weeks is accompanied by an assistant’ (Arendt 1994: 3). The three judges, the stenographers, translators, accused, witness(es), prosecutor, defending counsel, journalists, and spectators: each are in their proper place, the whole organised as a theatre (Arendt 1994: 4).

However, throughout *Eichmann in Jerusalem*, Arendt argues that a theatre is the wrong structure for the enactment of legal justice. The amphitheatre created by the State of Israel is read by Arendt in *Eichmann in Jerusalem* as a flawed iteration of a space that should be less dramatic. Throughout the analysis, Arendt sets the demands of theatre squarely against the demands of justice, disapproving or approving of the various figures in the House according to whether they behave as if they were on a stage or not. For example, there is nothing wrong (theatrical) about the conduct of the judges: they are unstudied, they pay ‘sober and intense attention’, they are impatient with the attempts of the prosecutor to drag the hearings out, and their manner to the accused is ‘always beyond reproach’. Regardless, Arendt acknowledges that Judge Landau, the Chief Justice, cannot control the degeneration of the proceedings into a show trial (Arendt 1994: 4). As Shoshana Felman writes, in Arendt’s account, ‘It is as though the courtroom were itself

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claimed simultaneously by two competing masters: justice on one side and, on the other side, the incarnation of political power' (2000).

In contradistinction to politics and theatricality, 'justice' for Arendt 'demands seclusion, it permits sorrow rather than anger, and it prescribes the most careful abstention from all the nice pleasures of putting oneself in the limelight' (Arendt 1994: 6). Her criticism of the trial, therefore, begins as a question of genre: trials are not plays, and all the narration, the witnesses, the interlocutions, the examinations, the rulings, the cross-examinations, *ad infinitum*, must be in service of something which itself *cannot* be displayed on a stage. Justice must inhabit and inhibit the participants, sober them, result from the space their architects and their actions create. When the space that should be occupied by justice is instead already occupied by politics and drama, the result is failure.

In sum, the failure of the Jerusalem court consisted in its not coming to grips with three fundamental issues, all of which have been sufficiently well known and widely discussed since the establishment of the Nuremberg Tribunal: the problem of impaired justice in the court of the victors; a valid definition of the "crime against humanity"; and a clear recognition of the new criminal who commits these crimes (Arendt 1994: 274).

Quite possibly, Arendt demands impossible standards for the space of justice — her analysis may ignore the reality that all trials are from the beginning spaces of politics and drama. Nonetheless, the gist of her critique is that the trial constituted as a show trial, as legal *theatre*, did not properly judge Adolf Eichmann. The question of location, of the constitution and meaning of the space (legal and physical) that Eichmann inhabits in the courtroom, is at the core of Arendt's critique: only a dramatic hero could occupy that stage.

Perhaps, therefore, in order to engage with Arendt's critique we should think about *Beth Hamishpath* not so much as the house of *justice* but as the *house* of justice. For Arendt, the courtroom becomes a space that can be analogised to a malign doll's house, a house opened into a theatre and displaying fantastical tales not directly related to the case at hand. Indeed, the courtroom considered as a house rather than a world-historical stage easily exposes the main concern of the book,

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which is the problem of judgment, and more specifically, the problem of judgment as a problem of *scale*. Arendt placed the *personal faculty* of judgment against the *legal requirement* of judgment, and contemplated both against the backdrop of what she identified as the modern discomfort with judging others (Arendt 2003: 26-30). In her analysis, she removed Eichmann from the stage that the prosecution had made for him, in order to consider him as a single individual judged by the law at a difficult moment for the millions of other people also implicated by the Nazi regime. Certainly, this was not the position of a dramatic hero: 'Eichmann was not Iago and not Macbeth, and nothing would have been further from his mind than to determine with Richard III "to prove a villain"' (Arendt 1994: 287). If one takes Arendt's adjustment in scale seriously — if one does not relocate Eichmann's, or the otherwise necessary, 'heroism' to the Third Reich, to the bureaucracy that implemented its directives, or to the State of Israel in bringing the trial — then Adolf Eichmann and the trial mounted by the State of Israel met only tangentially, although they shared the same physical location.¹ The result of her re-positioning of Eichmann was her cool assertion that the evil exposed in the proceedings of the trial was factually 'banal' rather than dramatic.

Arendt's argument was that the link between justice and judgment demands an assessment of human capacity and obligation in choosing between right and wrong, and in distinguishing between compulsion and temptation.² The issue Arendt noted was the failure to exercise one's judgment when tempted — an event that is, without question, factually banal, regardless of the tragic and world-historical *results* of this failure in Eichmann's case.³ As Tim Murphy writes, 'Arendt sought to link the possibility of judgment to the presupposition of the individual as the appropriate object of judgment, by contrast, e.g., with the idea of collective guilt and responsibility ...' (Murphy 1997: 159). Judgment is essentially a task of personal responsibility — of houses and not amphitheatres — and therefore the law, a realm 'where all justifications of a nonspecific, abstract nature — from the *Zeitgeist* down to the Oedipus complex — break down' *must maintain this scale*, must keep

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its focus on the individual in passing judgment (Arendt 2003: 21). Therefore, if one follows Arendt's analysis, the great world is outside the house of justice, and the law and personal judgment within. The places from which we make our entrances onto the stage of this great world, and to which we exit, are our *own* houses, which we must keep in order so that we can exercise proper moral judgment.⁴

Hannah Arendt has written that 'the book's subtitle, *A Report on the Banality of Evil*, seemed to me so glaringly borne out by the facts of the case that I felt it needed no further explanation' (Arendt 2003: 18). And yet, *Eichmann in Jerusalem* caused a storm of controversy when it was published in 1963. This refinement in scale of the evil on trial was seen not as a necessary correction, but as an incomprehensible trivialisation of Eichmann's crimes. However, as argued above, the delicate problematics of scale in Arendt's account of the trial, turning on domestic space and personal judgment, work differently than this reduction of 'evil' to 'effect'. Unfortunately, this simple reduction was exactly the argument being made by the prosecutor during Eichmann's trial. The correspondence between Eichmann's 'evil' and his actions was the very foundation of the trial brought against him, and of the structures — spatial, legal, moral — that the prosecution constructed in order to put Eichmann on display. Arendt writes that 'The Eichmann trial ... was in actual fact no more, *but also no less*, than the last of the numerous Successor trials which followed the Nuremberg Trials' (Arendt 1994: 263 emphasis added). A house in which the structures that construct it are essentially wrong is an uncanny place (Royle 2003). The disjunctions that Arendt identifies coalesce, in *Eichmann in Jerusalem*, in the appearance of Eichmann, at the end, as 'terribly and terrifyingly normal', appearing as such against the backdrop of an architecture that heralded and required a monster.

In Arendt's analysis, justice imposes itself because the execution of Eichmann is just, not because the trial was properly formulated. The fact that justice is done at all is because, in the end, the theatricality of the trial was defeated. 'Thus, the trial never became a play ...' (Arendt 1994: 9). In the shadowy space between the courtroom as theatre and the courtroom as house, a space of slippage and anxiety, Arendt finds

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in Eichmann's execution the materialisation of a justice that had been, until then, spectral. In order to understand this justice, and to further consider the meaning of the 'banality of evil', we must look for another story about spaces that slip between the domestic and the theatrical, exposing the actions (and crimes) therein. In order to answer the question asked in this essay, we must consider the characteristics of haunted houses.

B The haunted house

In 'The Haunted Doll's House' (James 1992: 258–67),⁵ a collector is shown an amazing doll's house by an antiques dealer that he frequents. At first sight, the collector knows that it is a rarity, if not unique, a large house in the 'Strawberry Hill Gothic' style,⁶ absolutely perfect in condition and amazingly completely furnished. The dealer knows that the collector is interested in the house, and asks a correspondingly high price. The collector haggles, and although the dealer puts up a good front, in fact he is relieved to see it go.

The collector has the doll's house carefully driven to his home, where he sets it up on a large table in his bedroom, and immediately begins to put it in order. As he begins to unwrap the myriad objects in the house, the collector finds, to his delight, that the furnishings are as detailed and as intact as they would be in a full-sized house. He spends some happy time putting everything in place. The front of the doll's house opens to show four rooms, drawing room, bedroom, kitchen, and dining room, and each room has the appropriate cabinets, linens, bedclothes, pots and pans, curtains, etc. The population of dolls the collector finds in the house are a gentleman and lady, two children (boy and girl), a cook, a nurse, a footman, two postilions, a coachman and two grooms. The collector then looks further:

The curtains of the four-poster in the bedroom were closely drawn round all four sides of it, and he put his finger in between them and felt in the bed. He drew the finger back hastily, for it almost seemed to him as if something had — not stirred, perhaps, but yielded — in an odd live way as he pressed it. Then he put back the curtains, which ran on rods in the proper manner,

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and extracted from the bed a white haired old gentleman in a long linen night-dress and cap, and laid him down by the rest (James 1992: 260–1).

Before going to dinner, he also arranges the dolls in their proper places. The mother and children go in the drawing room, the father in the dining room, and the grandfather in the curtained bed where the collector first found him.

Later that night, the collector is woken by the toll of a bell striking one. He sees the doll's house much expanded and clearly lit, as if by the harvest moon. On his table there is now a large house, with many rooms, and figures moving through it, seemingly a quarter of a mile away, 'a real house, but seen as if through the wrong end of a telescope'. "You mean to show me something," he muttered to himself, and he gazed earnestly on the lighted window' (James 1992: 261). As he watches, able to see through the house through the uncurtained windows (a sign to him that it is not 'in real life'), he sees the enactment of a series of events, shown him in scenes, with the house becoming dark between 'acts'. In the first scene, the lady and gentleman are shown plotting the murder of the old man. The lady (his daughter) is shown carrying an uncorked wine bottle to the room where the old man is lying, attended by the nurse. The old man is anxious and is evidently awaiting some visitor. The nurse makes a posset from the wine, which his daughter affectionately urges him to drink. The drink is poisoned, as the old man dies in surprise and pain moments before his lawyer arrives with a new will. In the second scene, the coffin of the grandfather is in the chapel, into which, again, somehow the collector can see. The two parents are dressed in mourning, but are boisterously playing with their children in the nursery. In the middle of their play, the father leaves the room and comes back dressed as a ghost. The children are terrified and can barely be comforted by the parents showing them that the white cloth of the 'ghost' is empty. In the third scene, 'A new sort of light — not of lamp or candle — a pale ugly light, began to dawn around the door-case at the back of the room.' The old man, in the shape of a froglike, horrible creature, leaves his coffin (which is still in the chapel), and is seen being 'busy about the truckle-beds' of the children (James 1992: 264). In the last scene, two small coffins are being carried out of the house.

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The collector cannot sleep for the rest of the night. He sees his doctor the next day and is prescribed a trip to the seaside to calm his nerves. When he arrives at the coast, he meets the man who sold him the doll's house. He and his wife were also witnesses to the haunting of and by the doll's house; it seems that this story is re-enacted every night. The doll's house repeatedly unfolds itself and presents the crime — and the revenge — committed within it to any viewer. The story concludes with the collector searching for the house, and finding a record of it and of the deaths of the characters he had seen in a (fictional) parish intended to be in East Anglia (Pardoe 1993).

i Building genres (all houses are haunted)

Houses, including haunted houses, are places of normalisation and applied ethics. In *The Victorian House*, Judith Flanders makes several observations about the rise of domesticity, the burdens on women in maintaining the proper form(s) of this domesticity, and the confluence of certain political, religious, and economic factors to create the modern middle-class notion of 'home' that remains with us today (Flanders 2003). These factors included the rise of the Evangelical movement, in which the home was meant to represent, in microcosm, an ideal society; advances in technology and the phasing out of the apprenticeship system for middle-class professions — thus allowing a longer childhood and resulting in the rise of the child-centred home; and the increasing movement of money-earning work to outside the house (Flanders 2003: xxii-iii). The separation of home and work led to the rise of suburbia, and to the new social structures, ideals and expectations that suburbia incorporated. The Victorian ghost story portrays not only maladjustment in the new regimes of compartmentalised 'normality' within the house, but the constant policing of class and economic mobility (upward and downward) in the new suburbs (Whelan 2002). The most important principle to come out of this complex of factors was segregation: segregation within the house of objects, spaces, and people; and segregation between public and private more generally. People had to be kept separate according to gender, age, and status (male from female,

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children from adults, masters from servants), and this separation was enforced through each room of the house. Segregation *itself* was ‘advantageous in its moral effects’ (Flanders 2003: xxvi).

Therefore, in the emerging modern notion of the ‘the house as home’, ‘privacy and segregation of function, especially as the latter defined social status, were the keynotes to the terraced house. Nothing was to be allowed to escape from its own particular container’ (Flanders 2003: xlvii). A glimpse of inappropriate furniture through a doorway, or inappropriate (for the particular room) sounds or smells were profoundly disturbing. They called the morality of the house and its inhabitants into question and forced them into inappropriate relationships with each other. ‘The well-kept house directed men as well as women towards the path of virtue, while the opposite led them irretrievably astray’ (Flanders 2003: xxxiii). The discomfort was a result of the anxiety about enforcing the class and familial social taboos that determined propriety, sobriety, and both spiritual and worldly success. This identity was so easily threatened that it could be undermined by the ‘wrong’ action in, or object for, a given place. The work of the housewife was to maintain these distinctions at the cost of great labour and great social conformity. To extend the quote above, ‘Nothing [*and no one*] was to be allowed to escape from its [*and their*] own particular container.’

Of course, the emphasis on ‘privacy’ was to some lesser or greater extent fictional. Houses were (and are) expressive of, and open to, judgment: ‘In theory, home was the private sphere of families. In practice — unacknowledged — houses were another aspect of public life’ (Flanders 2003: xxxvi). The virtue produced within them was therefore also an extremely public virtue, defined primarily by its adherence to public values. For the middle classes, the house reflected and represented virtue and morality through order, regulation, and obedience to received taste:

The attractive, tastefully appointed house was a sign of respectability. Taste was not something personal; instead it was something sanctioned by society. Taste, as agreed by society, had moral values, and therefore adherence to what was considered at any one time to be good taste was a virtue, while ignoring the taste of the period was a sign of something very wrong indeed (Flanders 2003: xxxiv).

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The links between judgment, taste and virtue in philosophy are meaningful. These concepts are naturally linked, as they share in the valorised exercise of the faculty of discrimination. In the Victorian notion of 'home', the 'true self' was the 'real man, on view only at home' (Flanders 2003: xxiv). It seems therefore that the 'true man' was a matter of, literally, (the location of) smoke and (the size of) mirrors, the placement of a chair or the colour of the wallpaper.

In asking what haunts the House of Justice in the Eichmann trial, therefore, it is worth emphasising that ghost fiction, especially haunted house stories, are one of the ways in which the Victorians — and the Edwardians — addressed the lapses in taste, judgment, and virtue that signified 'something very wrong indeed'. Ghost stories became increasingly popular, and were increasingly produced, especially by women, during this era. If the 'Gothic' genre had to do with high drama, castles, and the dastardly deeds of decadent aristocrats, the ghost stories produced in the late 19th century had to do with contested or lost wills, dispossessed owners, terraced houses and suburban villas, and the dastardly deeds of the aspirational middle classes. The 'haunted house' and the concept of 'the home' were popularised and produced in tandem, and as each family became propertied and anxious about its adherence to compulsory public civic virtue and judgment, so each house became vulnerable to the spectres of inadequacy that might take up residence within its walls.

The problematics of scale and judgment, which occupy Arendt in reference to the Eichmann trial, are exactly those at work in the Victorian 'home'. Indeed, these problematics, and the concomitant requirements of specificity, precision and order are also the hallmarks of the properly conducted trial. This is true not only in regard to the substantive legal claims or arguments being made, but also to the conduct of the trial as an event which derives its authority and reality from its adherence to narrative models (Jackson 1988: 76–84). Adherence to the structure of the narrative gives meaning and definition to the processes of the trial, and allows witnesses and other actors to recollect and communicate the information that the law requires. Therefore, what of a house, which, by a lapse of taste, judgment, furnishings or management fails to be

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homely? In which the inhabitants are either too much or too little their 'true' selves? This is one definition of the uncanny, and it resonates quite profoundly with the critique that Arendt makes of the Eichmann trial.

ii Literary genres: all texts are haunted

The literary genre that includes the haunted house or ghost story is a genre that relies on many overlapping terms to describe its subject-matter (the supernatural, the uncanny, the marvellous, the mysterious, the fantastic, and the macabre, are only a few examples). Peter Messent suggests that it

Operates in that area where ... two worlds clash head on — [giving the reader] that sense of radical disjunction, that *thrill*, the sensation of numbing dislocation which arises at the point of intersection between two separate worlds, the material and the supernatural. It is this sense of fracture which provides the real power of this type of literature (Messent 1981: 4, emphasis in original).

He goes on to emphasise that in occult fiction, these two worlds remain irreconcilable, and that this 'distinction between natural and supernatural remains absolutely apparent — indeed, becomes the very *point* of the genre' (Messent 1981: 5). In what he calls 'Literature of the Occult', Messent insists on separate laws of reality which are then conflated and fractured into each other in order to give the reader the 'thrill' that comes from this transgression. The genre depends upon that phrase beloved of modern critical studies: 'reconciling the irreconcilable', if only by insisting that impossibly-related concepts *share the same space*. This, he writes, is particularly the case in the majority of ghost stories. The relevance of the following theories to Arendt's critique lies in their ability to shed some light on the problematics of spaces and texts that give rise to the uncanny. More generally, as will become clear, the genre concerns itself with, and is defined by, *law*. In the clash of different possible laws and realities, the semiotics of haunted texts identify the struggle at the heart of every trial, and indeed, of every legal text or commentary.

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In ‘The Uncanny and the Marvelous’, an excerpt from *The Fantastic: A Structural Approach to a Literary Genre*, Tzvetan Todorov locates this genre on the border of two others, the marvelous and the uncanny. The definition of the genre of any particular piece of text depends not upon what actually happens, but rather whether it is explained (or explainable) at the end of the piece. The genre becomes identifiable only at the end of the story, as it depends upon the author’s (and reader’s) final decision about the validity of the everyday laws of nature:

The fantastic ... lasts only as long as a certain hesitation ... common to reader and character, who must decide whether or not what they perceive derives from “reality” as it exists in the common opinion. At the story’s end, the reader makes a decision even if the character does not; he opts for one solution or the other, and thereby emerges from the fantastic. If he decides that the laws of reality remain intact and permit an explanation of the phenomena described, we say that the work belongs to ... the uncanny. If, on the contrary, he decides that new laws of nature must be entertained to account for the phenomena, we enter the genre of the marvellous (1981: 17).

Todorov then goes on to refine his distinctions, giving an example in which he separates the literary Gothic into the supernatural explained (‘the uncanny’) and the supernatural accepted (‘the marvelous’). Thinking of the fantastic as an ‘evanescent’ genre, changing on the turn of a simple sentence (he gives the example of “‘At this moment he awakened ...’”), is not troubling, as it shares this quality with other definitions. In particular, Todorov sees this shared quality between definitions of time and the fantastic. The hesitation that characterises the fantastic locates it in the present; whereas ‘the marvelous corresponds to an unknown phenomenon, never seen as yet, still to come — hence to a future; in the uncanny ... we refer the inexplicable to known facts, to a previous experience, and thereby to the past’ (1981: 18). The fluidity of the genre leads Todorov to characterise it as ‘the uncanny, the fantastic-uncanny, the fantastic-marvelous, and the marvelous’, where the existence of the fantastic depends upon maintaining the *hesitation* as to an ‘answer’ or ‘explanation’ of the story’s unusual events. The uncanny is the realm in which the law —

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natural law, and in some cases, narrative law — is not yet certain, in which strange things happen because we don't know why they are happening, or if they should or can be happening, rather than because the events are in themselves strange.

The genres of the uncanny and the marvelous in their pure states are somewhat different. There, there is no question about which law, or whether law.

In works that belong to [the pure uncanny], events are related which may be readily accounted for by the laws of reason, in one way or another, incredible, extraordinary, shocking, singular, disturbing or unexpected, and which thereby provoke in the character and the reader a reaction similar to that which works of the fantastic have made familiar (1981: 21).

He points out that this is a different definition than the 'uncanny' in the Freudian or psychoanalytic senses. However, of course it turns on the same moment of emotion: the uncanny 'is uniquely linked to the sentiments of the characters [especially fear] and not to a material event defying reason' (1981: 22). Todorov finds the links between the literary uncanny and the Freudian notion only in the origin of the sentiment of the uncanny itself, which arises in 'certain themes linked to more or less ancient taboos' (1981: 23). As regards the pure marvelous, by contrast, the relation with the law does not provoke any particular sentiment, as the condition of the marvelous is that different laws from the everyday apply. 'It is not an attitude toward the events described which characterizes the marvelous, but the nature of these events' (1981: 28).

Julian Wolfreys also discusses the question of identification and genre of textual haunting — of what defines a text as haunted — in *Victorian Hauntings: Spectrality, Gothic, the Uncanny and Literature* (2002). Like Todorov, Wolfreys makes this type of hesitation, this 'experience of the undecidable' the hallmark of the definition of the haunted and haunting text (2002: xiv emphasis in original). Wolfreys begins by looking to the work of Jacques Derrida in *Spectres of Marx*. He sets out the problem of defining spectrality according to Derrida: 'Epistemological modes of enquiry implicitly or explicitly dependent in their trajectories and procedures on the apparent finality and closure of

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identification cannot account for the idea of the spectral' (Wolfreys 2002: x). Yet, Wolfreys points out, Derrida comes up with an answer to this problem, a definition that preserves the experience of the undecidable: the spectral is 'that which is *neither* alive *nor* dead'. As the third term between two negations,

To speak of the spectral, the ghostly, or haunting in general is to come face to face with that which plays on the very question of interpretation and identification, which appears ... at the very limit to which interpretation can go (2002: x-xi).

Wolfreys argues that this defines not only 'the spectral', but to some extent *all texts*. He points out that readers import voices into texts; the voice of the author, of other readers, and of the characters. Our critical responses to writings are acts of 'uncanny revivification'. The result of the relation of reading is to bring the reader into contact and communication with something that is alive only insofar as it partakes of the reader's attention; and yet, not wholly dead to the reader when it is no longer being read. In this sense, the text bears witness to the existence of something other, which is neither 'read into' the text nor of the text itself in any simple fashion (Wolfreys 2002: xiii). Once a text is read, it is haunted and haunts. Ghost stories, haunted house stories, legal narratives: they each occupy the space between living and dead, between neither/nor, and they constitute, for each reader at each time, the limit of interpretation.

In such a taxonomy, it is difficult to classify haunted house or ghost stories, and in particular those of M R James. The fantastic-uncanny and the fantastic-marvelous coexist, at the limit of what can be decided by the reader and by the characters in the story. In describing the requirements of these kinds of stories, M R James wrote:

Let us, then, be introduced to the actors in a placid way; let us see them going about their ordinary business, undisturbed by forebodings, pleased with their surroundings; and into this calm environment let the ominous thing put out its head, unobtrusively at first, and then more insistently, until it holds the stage. It is not amiss sometimes to leave a loophole for a natural explanation; but, I would say, let the loophole be so narrow as not to be quite practicable (James 1998: 339, 266).⁷

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The ghost story requires that the laws exist, that the house is properly ordered. Simultaneously, it requires the appearance of an element from a realm that does not share in this order — from a different law — to enter the house and re-order the ‘laws of nature’ as the inhabitants have believed them to be. This is the source of the ‘thrill’ for the reader that Messent describes, the appearance of the transgressive entity or event that is irreconcilable with the domestic order, yet is nonetheless present. The classic haunted house or ghost stories differ from Freudian dramas or mysteries in that what is revealed cannot be neutral — not good or bad, just other, for example — it must, according to James, be *evil*.

Another requisite, in my opinion, is that the ghost should be malevolent or odious: amiable and helpful apparitions are all very well in fairy tales or in local legends, but I have no use for them in a fictitious ghost story (1998: 339).

This is the other part of Messent’s ‘thrill’. Hauntings cannot be in themselves morally uneventful.⁸ The intrusion into the well-ordered world of house and family must occasion fear beyond the mere fact of haunting. In ‘The Haunted Doll’s House’, for example, the observer was personally entirely unconnected with the events in the house — any one who was in the presence of the doll’s house at night would see them. Yet, both he and the dealer who sold it to him were dismayed to the point that they went to the doctor and were prescribed a trip to the sea to calm their nerves. At the core of the story is an implosion of ‘natural’ law: the law of inanimate objects, the law of family relationships, the law of life and death, and the law of what may and may not be observed within houses — in this sense, the law(s) of perspective and visibility. As these laws break down, something else becomes ‘reality’, and within the ghost story, that reality must be (according to M R James) *evil*.

This genre exposes the differences between what is normal in a house and what is not, and also exposes what is ‘evil’ and where it comes from.⁹ It exposes what is true of all texts and all reading: a narrative is created in some liminal space between author, characters and reader.

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Each narrative is an invitation to, and negotiation with, the spectres that one brings to it. The genre valorises witnesses; in fact, it makes *witnessing of the law possible* — witnessing of a trial, and witnessing within a trial. It also valorises telling: the moment of transmission becomes apprehended not only intellectually but physically, with the sensations that reference the appearance of the ‘uncanny’ and herald the meaning of what is being told. The links between seeing and speaking, feeling and meaning, are particularly acute in ghost stories, as, possibly, they are within trials and within accounts of trials.

The two elements crucial to a textual haunting are a particular architecture and an act of telling. First, the architecture must be that of an essentially-regular or -predictable space, as that of a house, a space in which the haunting can be recognised as disorderly, and can be maximally disruptive. ‘Haunting cannot take place without the possibility of its internal eruption and interruption within and as a condition of a familiar, everyday place and space’ (Wolfreys 2002: 5). As a result, each structure will generate its own ghost, as the ghost appears *as a result of* the structure that allows it visibility. Secondly, if the appearance of the ghost is a haunting, the act of telling the story is what matters:

What is uncanny is the act of telling, the narrative act of bringing the ghost back in a temporally disjunctive manner, which destabilizes the cognition of temporal order as a perceived sequence of events (Wolfreys 2002: 5).

It is the telling that makes a haunting into an uncanny event. Shoshana Felman makes this point as the crux of her critique of Arendt’s account of the Eichmann trial. Witnesses may exist without knowing that they are ‘witnesses’; by creating the victim’s story for the first time, the trial gives the witnesses the consciousness that they were in fact *witnesses*. Arguing against Arendt’s dismissal of the trial’s emphasis on the *stories of the victims*, rather than the *crimes of the defendant*, Felman argues that this is what makes the trial a ‘groundbreaking narrative event that is itself historically and legally unprecedented’, and how it ‘strives precisely to expand the space available for moral deliberation through law’ (Felman 2000). In an orderly house, legal or physical, the axes of visible/invisible, and homely/uncanny come into

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focus and intersect. The relation of exteriority, witnessing, and of interiority, judgment, signify and expose each other. In the ghost and haunted house stories produced by M R James, as in the Eichmann trial, the intersection of these axes expose something other than what the inhabitants of the house expect.

3 Haunted laws

Ghost-speak has been fashionable throughout the 20th century — in law it descends most notably from Heidegger, Freud, and Marx and Engels. Heidegger and Freud identified the sensation of ‘the uncanny’ as a condition of human life in the world, a sense of being ‘not-at-home’ which is *constitutive of*, rather than the *exception to*, human experience. The work of Marx and Engels opened the discussion of ‘spectres’ in legal realism. Jacques Derrida has since instantiated the trope of ghosts and hauntings in contemporary legal scholarship. The idea that the law and its manifestations constitute themselves by tracing *space(s)* through the structures of the modern world (different from failing to appear at all) is prevalent in legal scholarship generally. In the field of law and literature, Peter Goodrich has theorised the appearances and disappearances of doctrine and structure as requiring a study of ghostly trails (1999, 1996). In the field of law and psychoanalysis, the uncanny has generated an enormous amount of scholarship. Ghost as image, as metaphor, as repression, as memory: ghost-speech is not controversial in legal discourse. Furthermore, the trope of ‘a haunting’ is a useful rhetoric device to access the ineffable components of active law and ongoing interpretation: the cultural and common intelligences that can be glimpsed through the promulgation and reportage of statutes, rules and cases.

The easy ‘fit’ between legal commentary and the metaphor of ghosts and hauntings is because law is, even in its most scholarly moments, an active and purposive discipline. Within and against the stated public identity and intention of the legal texts produced, there is always an unseen but *sensed* element that is also in play —often domestic, specialised, uncanny — based on the great mass of common practices,

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public policies, norms, assumptions and expectations which haunt the texts, exchanges and actors that are more clearly visible. This element is itself fluid, and it acts to keep the law, itself spectral until enacted in specific cases, *undecidable* until the very end of the trial. The sense of anticipation that imbues all trials arises from the same elements as those which give rise to the sense of the uncanny: one does not know, until the very end, if one is witnessing a tragedy or a comedy; if the law(s) will remain the same or will reform to encompass a new set of possibilities; if the house of law will remain homely or will somehow shift on its foundations, allowing new structures and figures to appear within its walls. In addition, the conflict that law faces is the same as that faced by the literary genre of the ghost story: that of symbolising and acknowledging the interpenetration of elements and events that are more comfortably defined as irreconcilable: the law and the holocaust; the language of the ‘witch’ and that of the ‘inquisitor’ (Ginzburg 1992); the Victorian court and the sensational literature of a middle-class woman’s love letters (Kennedy 2002). At the moment of the actors’ attempts to place order and accountability on these events, the place becomes ‘haunted’. In this place, two orders of reality and of narrativity coexist and serve as ruptures to and of each other. Messent’s ‘thrill’, the explosion/implosion of the lawful order, occurs properly within the realm of law. Legal writing exactly follows the requirements that Todorov sets out for fantastic literature.

Yet simply postulating a direct correspondence between the two houses in this essay, the House of Justice and the haunted doll’s house, would be an error. M R James himself warned against a particular kind of wishful thinking in comparative analyses. Jacqueline Simpson writes in ‘The Rules of Folklore in the Ghost Stories of M R James’ that M R James was not ‘in sympathy with the dominant group among folklorists of his time, the comparative anthropologists and mythologists, with their sweeping theories and universalist explanations’.¹⁰ Simpson describes James’ criticism of the eminent comparative mythologist and historian Jane Harrison for precisely this kind of analysis.

After countering Harrison’s arguments, James commented: ‘... I believe it [comparative mythology] to be a science, but only in the making. ... I have

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often viewed with very grave suspicion the way in which comparative mythologists treat their evidence ... Loose thinking, exaggeration of resemblances, ignoring of differences, and downright falsification of evidence, are only a few of the evils which a premature handling of it fosters in its votaries...' (Simpson 1997).

If M R James would argue against a too-simple correlation between a 'ghost' and 'justice', or a 'ghost story' and a 'trial', Arendt would join in his protest. She emphatically would not agree with any endeavour that would exacerbate the potentially dangerous slippages inherent in any 'law as ...' discipline, and in particular, against 'law as narrative'. Arendt does not imagine that law is 'merely a story, one subjective rendering among many; or that it would be better for us all if law were more like narrative literature and less like itself' (Binder & Weisberg 2000).

Therefore, can *Eichmann in Jerusalem* be read productively as a story about a haunted house, drawing on the interlinking materials of law and literary theory, if one is seeking to read with rather than contra Arendt? A trial and its reports form a text, and in order to understand what the text means, one cannot have recourse merely to the rules set by law. This is the point that Shoshana Felman makes in 'A Ghost in the House of Justice' (2003). Felman reads *Eichmann in Jerusalem* in order to provide an alternative interpretation of the events that Arendt recounts. In its reliance on witness testimony, Felman points out, the Eichmann trial was intended to fill the House of Justice with the flawed and ineffable sounds of the voices of victims (rather than, as in the Nuremburg trials, with the certainties of documentary evidence). The sensation which the present analysis points to as the hallmark of the uncanny, the thrill or chill of an unexpected (and unexpectable) transmission, was, according to Felman, the *purpose* of the trial.

The Eichmann trial sought ... not only to establish facts but to transmit (transmit truth as event and as the shock of an *encounter* with events, transmit history as an experience). The tool of law was used not only as a tool of *proof* of unimaginable facts but, above all, as a compelling *medium of transmission* ... of these thought-defying facts (Felman 2003:261, emphasis in original).

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This transmission reached its apogee, its furthest point from the expectations of the courtroom, in the event that Felman makes the centre of her analysis: the moment at which the witness Yehiel Dinor fainted on the stand. Dinor, a writer who had survived Auschwitz, was asked why he had taken the pen-name 'K-Zetnik', a name derived from the German letters KZ, which stood for concentration camps. Instead of answering in the logical, unemotional form which the law expects, the witness attempted to describe his experience on the 'planet of Auschwitz'. The prosecutor tried to steer him to answering other questions, but the witness kept telling his story. When Judge Landau intervened to stop him, K-Zetnik fainted.

Felman focuses on this event, which Arendt also recounts (in the mode of a 'sarcastically positivistic vision of K-Zetnik's failure') in order to argue, from the perspective of psychoanalytically- and jurisprudentially-informed trauma theory, that the witness faints because the 'trial reenacts the trauma' that he suffered at Auschwitz (Felman 2003:272). In the authoritarian intervention of the judge, which is a demand that K-Zetnik engage in a legal mode of discourse, 'K-Zetnik undergoes severe traumatic shock in re-experiencing the same terror and panic that dumbfounded him each time when, as an inmate, he was suddenly confronted by the inexorable Nazi authorities of Auschwitz.' (Felman 2003: 273). In Arendt's analysis of this event in *Eichmann in Jerusalem*, by contrast, Arendt satirises K-Zetnik's appearance in the courtroom, and his testimony, robbing it of the authority that other commentators assign to it. Rather than a poet, K-Zetnik is a performer, a grandstander, an embarrassing bit-player in the theatre of the absurd that was the trial overall (Arendt 1994: 223-24). In this, Felman finds that Arendt is rejecting any definition or use of law that might undermine the rigid categories that maintain the law as a tool against events of such horrible magnitude.

Arendt disqualifies K-Zetnik as a witness because his testimony fails to meet legal criteria and fails to be contained by the authority of the restrictive safeguards of the legal rules. ... [She] excludes K-Zetnik's discourse because it stands for the *contamination between facts and fiction* — for the confusion

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and the interpenetration between law and literature — that the law in principle cannot accept and has to resolutely, rigidly rule out (Felman 2003: 272).

And yet, it would be wrong to consider that the difference between Felman and Arendt's readings is merely one of interpretive boundaries: law as law as opposed to law as literature. They are *both, necessarily*, engaged in the interpretation of the *trial as literature*. The difference lies within Arendt's and Felman's assessments of what kind of literature the trial is: tragedy or comedy? Morality play or theatre of the absurd? World-historical or domestic? For Felman, the importance of the Eichmann text is that it instantiated the voices of the victims — and, in K-Zetnik's case, of impossible voices, or silent victims — in the totalising language of the law.

I would argue differently from Arendt ... that (unpredictably, unwittingly) it was the *inadvertent legal essence* and legal innovation and uniqueness of the Eichmann trial, and not its testimonial accident, to voice the muteness generated by the Holocaust and to *articulate the difficulty of articulation* of the catastrophic story ... The impossibility of telling is not external to this story: it is the story's heart (Felman 2003: 284 emphasis in original).

Art ruptured law, trauma became visible in the courtroom, and the result of this was the appearance of a ghost: 'within the courtroom, in the figure of K-Zetnik, the Holocaust returned as a ghost or as an incarnated, living present' (Felman 2003: 279). Later, Felman considers the other ghosts that appear in *Eichmann in Jerusalem*. She questions whether *Eichmann in Jerusalem* is in fact 'Arendt's book of mourning', a story about death and mourning that Arendt cannot otherwise articulate (2003: 283). This story may contain many of Arendt's ghosts, including Walter Benjamin and Martin Heidegger (Felman 2003: 283). Within this narration, the moments that Arendt defined as failures, Felman defines as *necessary* failures, locating them within the law and its purpose(s) as opportunities and indicators of 'legal and conceptual breakthrough' (2003: 290).

It is fair to say that Arendt's account of the trial generates different ghosts. In Arendt's account, the construction of the house of justice is

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flawed, rather than uniquely suited to the task at hand. The structure of the house, the allocation of the rooms and the figures within them, must be productive of justice for *one* person, the person on the stand, for *Eichmann*. Arendt understands the limitations of law vis-à-vis the demands of justice: the victims of this enormous event cannot be appeased by law, but a wrongdoer can indeed be separated out from the herd of humanity. The only thing the court can do is judge the person before it. Anything else must happen in a different realm than that of law. In this sense, Arendt's sarcasm or cynicism is turned on herself and on all the survivors of Nazi Germany within the courtroom, as well as on K-Zetnik. They are all — the people listening to and watching the trial — trapped in the ongoing impossibility of justice. Thus, where Felman sees the ghost of the Holocaust in the House of Justice, Arendt only sees Eichmann caught, as if by accident, in the House of Law. As each house generates its own ghost, we must ask what happens within this house? What haunts Arendt's account of the Eichmann trial?

Arendt's narration of Eichmann's trial, and the philosophical claims that arise from it, in particular, the notion of 'the banality of evil', constitute a meditation on the line between precision and imprecision, in which the consequences of imprecision are deeply troubling. The capacity to judge, whether in the realm of personal action, or in the courtroom, depends on the capacity to be simultaneously 'at home' and 'not at home' in the environment in which one is being required to judge. To make a link between Arendt and Heidegger here is merely to acknowledge that the discomfort with judging, the inability to exercise the faculty of judging in a world that privileges only personal experience — and yet does not have the language for that experience — is one of the definitions of the uncanniness that Heidegger finds in the human experience of 'being in the world'.

There are a number of reasons why the discussion of the right or the ability to judge touches on the most important moral issue. Two things are involved here: First, how can I tell right from wrong, if the majority or my whole environment has prejudged the issue? Who am I to judge? And second, to what extent, if at all, can we judge past events or occurrences at which we were not present? (Arendt 2003: 18–9)

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Arendt is expressing the idea that we refuse judgment not out of (Biblical) forbearance, but out of fear that we have not enough freedom to be held responsible for our actions. The worst consequence of this, for Arendt, is the muddling of personal responsibility: both those who *were* factually guilty and those who *could not have been*, (later generations) all feel guilty, and ‘where all are guilty, no one is’ (Arendt 2003: 22). This sensation, which is part of the moral sense, thus becomes warped or disabled, and the concomitant ability to reason, to engage in the delicate balance that makes up personal and political responsibility, vanishes. Any action becomes personally possible, and in the courtroom the law itself may not be able to distinguish between guilty and not guilty.

Eichmann was not capable of judgment during his years as the administrator of the ‘Final Solution’. The analysis of the trial as a *domestic* story shows us that as a man who was, both in and out of ‘his house’, ‘at home’, a functionary of the Nazis, Eichmann could only partially haunt the trial set up by the State of Israel. He was the precondition and the spectre within the ‘House of Justice’, thrown up by and also not at home in the architecture provided for him. Arendt makes this point herself:

the more “the calamity of the Jewish people in this generation” unfolded and the more grandiose Mr. Hausner’s rhetoric became, the paler and more ghostlike became the figure in the glass booth ... (Arendt 1994: 8).

As in ‘The Haunted Doll’s House’, the architecture of the house makes this ghostlike figure visible. However, it is here that recourse to the ‘Haunted Doll’s House’ takes us a crucial step further towards Arendt’s meaning in *Eichmann in Jerusalem*. The laws of family, of the human ability to choose not to aggress against one’s own kind, are broken in both cases. The M R James story shows, in the house that is also a stage, or the story that is also the story of a trial, that the wrongdoers have the choice not to act as they do, regardless of the exigencies of their position. The old man is changing his will; the parents are desperate; they take matters into their own hands. As Mary McCarthy would say, they are tempted, not compelled, and they act as if they ‘had any right to determine who should and who should not inhabit the

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world' (Arendt 1994: 279). The result is evil as well, from within the very heart of the family, or, as Arendt might write, 'hostis generis humani', an enemy against humankind. Therefore, if at first impression, Eichmann fits nicely into M R James' requirement that the 'ghost' at the centre of the ghost story be 'evil', the story itself shows that the spectre is other than the criminal 'on trial'. Eichmann and the parents in the story are *factually evil* — no more, and certainly no less. This is what Arendt means by the 'banality of evil'.

If Eichmann, spectral though he becomes, can be understood as the embodiment of a banal evil, he remains, nonetheless, embodied. What does 'The Haunted Doll's House' tell us about what might be the real spectre walking 'The House of Justice'? Arendt tells the story of a haunted house from the perspective of a philosopher implicated in this and other hauntings. Crucially, the presence that Arendt sees is the presence structurally excluded from its own home. Arendt determines that the spectre that walks the House of Justice is disenfranchised, repeatedly so in each statement by the prosecutor and in most witness narratives. The errors, the speeches, the poor translations, all deny the enactment of *justice* rather than Eichmann or law; the house is built for politics not for comprehension. Arendt's critique shows that justice haunts the Eichmann trial, and in the end, in the best tradition of the genre, *justice enacts itself* despite the errors and the follies of the legal establishment in this case, moving spectrally and hauntingly through the House of Law that Israel built. Does it also fulfil M R James' requirement that the spectre be evil? Certainly Arendt's commentary suggests that justice would not have been a welcome visitor in its own house during the trial. The answer proposed by this essay, in broad terms, is that when justice haunts, as it always must within a courtroom, it is indeed terrifying. It appears through and despite ellipses, failures, missed opportunities, irrecoverable losses. It brings discomfort, helplessness, and anxiety to the householders that find it among them. The ghost in Arendt's account is not the Holocaust, nor is it composed of the many victims of the camps. It is not Eichmann, ghostly though he is. The ghost in Arendt's telling of this tale is *justice itself*: Indeed, justice may always be the ghost in the house of law.

4 Conclusion

Eichmann in Jerusalem is the story of a trial, which is also a ghost story, or a story of a haunted house. The foregoing analysis suggests the position that every trial may be haunted; that as event or text, the purpose of legal narrative is to do business with ghosts. In Arendt's analysis, the house of law and the house of justice coexisted in a fragmentary, conflicted sense during the Eichmann trial, becoming fully merged only at the execution of Adolf Eichmann. The disjunction between the natures of these two houses constitute the set of imprecisions to which Arendt draws our attention. In this trial justice inhabited the wrong law (the crime in the indictment), the wrong defendant (Eichmann), and thus the wrong purpose (a show trial). As a result, Justice was unable to *judge* within the Eichmann trial, as it was not at home in the architecture provided for it. Arendt's description of the proceedings is structured to show the result of the trial overall as a kind of strangeness or uncanniness: justice is done as a result of the human agencies of law and procedure that lead Eichmann to his proper execution — but as a human event, it is not done *justly*. As a ghost, however, justice succeeds in inhabiting its house.

Notes

- * I would like to thank Desmond Manderson and the other organisers of the 1995 International Roundtables for the Semiotics of Law at McGill University Faculty of Law for giving me the space in which thinking and writing this essay became possible. I would also like to thank Desmond, Jackie Adcock and Alain Pottage for their support and comments during the writing process. Finally, I would like to acknowledge the work of Peter Goodrich, who did not read a draft of this essay, but who haunts all stories of haunted law.
- 1 'To each count Eichmann pleaded: "Not guilty in the sense of the indictment"' (Arendt 1994: 21). For a similar engagement between defendant and court, see Ginzburg 1992: 15. At the end of the trial, Ginzburg assesses the 'witch' Chiara Signorini's negotiated confession by remarking 'The witch has been vanquished, but even now, the response is not the desired one.'

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- 2 Hannah Arendt distinguishes between compulsion and temptation in choosing to do wrong; and she concludes that to give in to temptation is quite normal: 'There was a widespread conviction that it is impossible to withstand temptation of any kind ... that to be tempted and to be forced are almost the same, whereas in the words of Mary McCarthy, who first spotted this fallacy: "If somebody points a gun at you and says, 'Kill your friend or I will kill you,' he is tempting you, that is all"' (Arendt 2003: 18). To resist temptation might be heroic — but Eichmann is no hero, he is, as most of us, 'terrifyingly normal'.
- 3 In the 'Epilogue' of *Eichmann in Jerusalem*, Arendt passes her own judgment on Eichmann. She acknowledges that, 'You told your story in terms of a hard-luck story, and, knowing the circumstances, we are, up to a point, willing to grant you that under more favorable circumstances it is highly unlikely that you would ever have come before us or before any other criminal court' (Arendt 1994: 278–9).
- 4 The problem of judgment does not arise vis-à-vis the 'true culprits' in the Nazi regime, at whose actions one can be outraged but not morally disturbed, but rather the reactions of the general populace: 'The moral issue arose only with the phenomenon of "coordination," that is, not with fear-inspired hypocrisy, but with this very early eagerness not to miss the train of History, with this, as it were, honest overnight change of opinion that befell a great majority of public figures in all walks of life and all ramifications of culture, accompanied, as it was, by an incredible ease with which lifelong friendships were broken and discarded. In brief, what disturbed us was the behavior not of our enemies but of our friends, who had done nothing to bring this situation about. They were not responsible for the Nazis, they were only impressed by the Nazi success and unable to pit their own judgment against the verdict of History, as they read it. Without taking into account the almost universal breakdown, not of personal responsibility, but of personal judgment in the early stages of the Nazi regime, it is impossible to understand what actually happened' (Arendt 2003: 24).
- 5 'The Haunted Doll's House' was commissioned for the library of Queen Mary's Doll House, which was made between 1921 and 1924 for the consort of George V and is on display at Windsor Castle. Many of the notable authors of the day were invited to produce something for the doll's house's library, and, although M R James accepted the invitation, he did not (unlike many of the authors of the other original works contributed) make a gift of the copyright to the Queen. (Pardoe 1993).

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- 6 ‘The form of gloriously pastiche Gothic ... which thrived for about a century from 1720, and which was especially associated with Horace Walpole’s Strawberry Hill in Twickenham. ... Walpole...is also noted for his early and influential gothic novel, *The Castle of Otranto* (1765)’ (Pardoe 1993).
- 7 In ‘The Haunted Doll’s House’, the loophole was James referring to the collector’s experience, in passing, as a ‘nightmare’.
- 8 This is true of ghost stories that may also properly belong in the genre of comedy, that is, ‘The Canterville Ghost’ by Oscar Wilde.
- 9 In the ‘Introduction’ to *Casting the Runes, and Other Ghost Stories*, the editor (and biographer of M R James) Michael Cox writes: ‘His characters move in an unthreatened world — until, that is, ‘the ominous thing’ puts out its head. Order and custom prevail, with social distinctions, expressed through standard and non-standard language, quietly taken for granted’ (1998: xxiv).
- 10 ‘They are lampooned in the person of the sinister Mr Karswell in “Casting the Runes,” who is author of a History of Witchcraft and a paper on “The Truth of Alchemy” about whom one of the other characters in the story comments: “There was nothing that the man didn’t swallow: mixing up classical myths, and stories out of the Golden Legend with reports of savage customs today—all very proper, no doubt, if you know how to use them, but he didn’t; he seemed to put the Golden Legend and the Golden Bough exactly on a par, and to believe both: a pitiable exhibition, in short” [James 1970: 258–9]’ (Simpson 1997).

References

- Arendt H 1994 *Eichmann in Jerusalem: A Report on the Banality of Evil* Penguin Group New York (first published in 1963)
- 2003 ‘Personal Responsibility Under Dictatorship’ in Kohn 2003: 17–48 (first published in 1964)
- Binder G and Weisberg R 2000 *Literary Criticisms of Law* Princeton University Press Princeton
- Cox M 1998 ‘Introduction’ in James 1998: xi–xxxv
- Derrida J 1994 *Spectres of Marx: The State of the Debt, the Work of Mourning, and the New International* Trans P Kamuf Routledge London

A house haunted by justice

- *Archive Fever: A Freudian Impression* 1995 Trans E Prenowitz Chicago University Press Chicago
- Douzinas C and Nead L eds 1999 *Law and the Image: The Authority of Art and the Aesthetics of Law* Chicago University Press Chicago
- Felman S 2000 'Theatres of justice: Arendt in Jerusalem, the Eichmann trial, and the redefinition of legal meaning in the wake of the holocaust' *Theoretical Inquiries in Law (Online Edition)* 1/2: <http://www.bepress.com/cgi/viewcontent.cgi?article=1014&context=til>
- 2003 'A Ghost in the House of Justice: Death and the Language of the Law' in Sarat and Simon 2003: 259–303
- Flanders J 2003 *The Victorian House: Domestic Life from Childbirth to Deathbed* HarperCollins London
- Freud S 1997 'The Uncanny' in Freud 1997:193–233
- 1997 *Writings on Art and Literature* Stanford University Press Stanford
- Ginzburg C 1992 'Witchcraft and Popular Piety: Notes on a Modenese Trial of 1519' in Ginzburg 1992: 1–16
- 1992 *Clues, Myths, and the Historical Method* Trans J Tedeschi and A Tedeschi The Johns Hopkins University Press Baltimore
- Goodrich P 1999 'The Iconography of Nothing: Representation and Law in Edward VI and the Pope' in Douzinas and Neal 1999
- 1996 *Law in the Courts of Love: Literature and Other Minor Jurisprudences* Routledge London and New York
- 1996 'Salem and Byzance: a short history of the two laws' in Goodrich 1996: 9–28
- Heidegger M 1967 *Being and Time* Trans J Macquarrie and E Robinson Blackwell Oxford
- Jackson B S 1998 *Law, Fact and Narrative Coherence* Deborah Charles Publications Merseyside
- James M R 1992 'The Haunted Doll's House' in James 1992: 258–267
- 1992 *Collected Ghost Stories* Wordsworth Editions Limited Hertfordshire
- 1998 *Casting the Runes, and Other Ghost Stories* Oxford University Press Oxford
- Kennedy R 2002 'Legal Sensations' in Thornton 2002: 69–86
- Kohn J ed 2003 *Responsibility and Judgment / Hannah Arendt* Schocken New York

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- Messent P 1981 'Introduction' in Messent 1981:1–16
- ed 1981 *Literature of the Occult: A Collection of Critical Essays* Prentice-Hall Inc New Jersey
- Motz M 1998 'The Practice of Belief' *The Journal of American Folklore* 111/441: 339–55
- Murphy W T 1997 *The Oldest Social Science? Configurations of Law and Modernity* Oxford University Press Oxford
- Pardoe R 1993 *Ghosts and Scholars* 16
- Royle N 2003 *The Uncanny* Routledge New York
- Sarat A and Simon J eds 2003 *Cultural Analysis, Cultural Studies, and the Law* Duke University Press Durham and London
- Simpson J 1997 'The Rules of Folklore in the Ghost Stories of M. R. James' *Folklore* 108: 9–18
- Thornton M ed 2002 *Romancing the Tomes: Popular Culture, Law and Feminism* Cavendish Publishing London
- Todorov T 1981 'The Uncanny and the Marvelous' in Messent 1981: 17–30
- Whelan L B 2002 'Between Worlds: Class Identity and Suburban Ghost Stories, 1850 to 1880' *Mosaic* 35/1: 133
- Wilde O 1906 *The Canterville Ghost*: <http://www.gutenberg.org/etext/14522>
- Wolfreys J 2002 *Victorian Hauntings: Spectrality, Gothic, the Uncanny and Literature* Palgrave Hampshire and New York