

Another Report on Banality

Andrea Gadberry

Abstract: ‘Another Report on Banality’ inquires into the relationship of banality and comedy by juxtaposing a political-theoretical and philosophical history of the ‘ban’ and ‘banality’ with the theory of comedy outlined in Beaumarchais’ preface to revolutionary *Marriage of Figaro*. It examines the omission of feudal and modern banality from philosophies of the ‘ban’ and ‘abandonment’ (Agamben and Nancy, respectively), the absence of banality’s linguistic history in its most famous invocation (Arendt), and a definition of comedy as representative of social inconvenience, unsuitability, or incongruity, in contrast to tragedy’s admissions of fundamental crimes (Beaumarchais). This essay ultimately argues that banality’s absorption both into a language of the merely mundane and into the comic itself conceals the compulsions of domination found in the feudal banal, on the one hand, and in Beaumarchais’ own play, on the other, where Figaro’s simultaneous mimicry of primal sexuality and the origin of property points to an original, ‘banal’ ban. Banality’s linguistic evolution and comic deployment share a common destiny: historical and juridical subjugations are rendered as beyond, or beneath, both history and the law, in spite of their repetitions.

Keywords: ban, banality, comedy, feudalism, law

My topic is banality in general and its usefulness for, and alongside, an interpretation of one comedy in particular: Beaumarchais’ *The Marriage of Figaro*. Comedy, however, is quite fairly not the first association to come to mind when it comes to banality. Anyone who has thought even a little about banality has had to confront its infamous invocation in Hannah Arendt’s characterization of the ‘banality of evil’ on grim display in the trial of Adolf Eichmann. Many readers will know about the disappointment, horror, and contempt her assessment provoked; her critics would hasten to point out the chasms between the evils of genocide and any thought of ‘banality’: bureaucratization dulled no horrors and hardly lessened a world-historical tragedy. When he wrote to Arendt in 1963, Gershom Scholem, for instance, had ‘nothing positive to say’ about his friend’s most recent work:

I am not in the least convinced by the notion of the ‘banality of evil.’...This banality seems rather more of a slogan than the result of the kind of in-depth analysis you presented far more convincingly... in your book on totalitarianism....If this is to be more than a slogan, it must be taken to a deeper plane of political morality and moral philosophy. I regret that, given my sincere and friendly feelings toward you, I have nothing positive to say about your thesis in this work.¹

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¹ Arendt and Scholem 2017, pp. 204-205.

Though far from the only person to object to Arendt's invocation of the 'banal,' Scholem actually does offer a 'positive' contribution in his savvy classification of the phrase itself as slogan.² That is certainly how the phrase often came to circulate in the half century that followed Arendt's work. But in addition to the call for a more probing 'political morality and moral philosophy,' one might also have reasonably asked for more consideration for 'a deeper plane' of language, one that peered into the concept and language of the 'banal.' While hardly explanatory of histories of political or moral evils, banality's lexical past is not banal at all: its etymology is expressive of a history of domination and of that domination's apparent lapse into historical amnesia.

For as Arendt invokes 'banality,' the 'deeper plane' to which one might refer an inquiry into banality in fact exists not so far from the surface of the word: politics and philosophy, if not morality, are already the livewire questions that lurk within it. Even so, 'banality' eludes the attention even of those philosophers most attuned to its cognates and its etymon, that is, the very 'ban' from which Jean-Luc Nancy locates a primal 'abandonment,' spanning the 'Greek and tragic (that of Oedipus), [the] Jewish and exiled (that of Moses)³ and the one that Giorgio Agamben deems so central to sovereignty that it trumps the contract. For all the care to the awesome and awful ban, tragic and exilic abandonment, to bandits and banishment, banality seems to be of interest only for its utility in naming a kind of tedium or designating received ideas.⁴ There is a surprising disinterest in banality's roots, however frequently it is invoked for the sake of diagnosis. But in its earliest appearances, 'banality' did not look at all 'banal' in its current sense; it instead announced the blunt exercise of power: the *banalité* named 'compulsory feudal service' and marked that which 'belong[ed] to the lord's manor.'⁵ Showing how 'banality' might better be understood in light of this history, I argue that 'banality' as we use it today might be better understood as the logical outcome of an historical process in which the tired appeals to the trite named by the 'banal' are the residue of a form of sovereign force characterized by everydayness, drudgery, and only occasionally a spectacularly destructive humiliation. In this light, 'banality' might be understood apart from a bland evaluative vocabulary of greatest use in controversial slogans and instead as containing the unresolved drama of the 'commonplace' that its linguistic history offers to us.

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2 On Lenin and the renewal of slogans, see Hamza, forthcoming.

3 Nancy 1993, p. 40.

4 This is not to say that tedium is without its interest; consider Sullivan's argument that, under capitalism, '[t]he banal also refers to the inauthenticity that derives from replication and simulation.' Sullivan 2002, p. 136.

5 *OED Online*, s.v. 'banal.' On debates about the origin of 'bannum,' see Lupi 2022, pp. 9-12.

I begin, then, with an examination of the linguistic history of the 'banal' in and against the twentieth-century political philosophy of the 'ban' and 'banality.' Considering the centuries of feudal 'banality' unimportant to a political philosophy of the 'ban' and to modern 'banality' alike, I argue that this apparently innocent omission in fact exposes an unacknowledged complaint better understood as an unresolved history of domination. In contrast to a linguistic domestication of the feudal banal, however, is the imaginative engagement with feudal myth to be found in Pierre-Augustin Caron de Beaumarchais' eighteenth-century comedy, *The Marriage of Figaro*. There, the legend of the feudal privilege of the *droit du seigneur* arrives in tandem with Beaumarchais' theory of comedy as '*disconvenance sociale*.' What comedic '*disconvenance sociale*' tames and conceals is the pantomime of banal (in both senses) domination rehearsed by *Figaro's* title character. 'Banality' might not be especially funny, but the word's development and the play's share a destiny: historical and juridical subjugations are rendered as beyond, or beneath, both history and the law. *Figaro* puts at the heart of a comedy famous for its revolutionary character a counter-revolutionary solution: the forced retirement of a social contradiction into something more like social inconvenience, a better term for which might be 'banality.'

Banality: A Brief History

Just about no one thinks that, of all things, *banality* ought to 'weig[h] like a nightmare on the brains of the living,'⁶ but more people should. For one, 'banality' seems to induce a peculiar cerebral effect: its triteness seems so hypnotic as to arrest nearly any inquiry into its historicity.⁷ In its evasion of attention, banality is at once too obvious and not obvious enough. In its association with mere tedium, banality seems somehow too common to merit the place in theories of the 'ban' of sovereignty accorded to its downstream derivatives, though the 'ban' in 'banality' is no less visible than, say, the 'ban' in 'abandonment.' But banality presents a particularly interesting case in which the word's usage and meaning have come to make an open secret of its history, both its relationship to the historical conditions the word once named and to its current usage to identify an ordinariness or a triteness so unremarkable that it eludes history altogether. While it is no crime to let etymons rot, 'banality' holds on to the 'class cleavage in language'⁸ with which it violently began

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6 Marx 1996, 32.

7 Noteworthy exceptions include Kohl 2018, where the depth of 'banality' pertains to an inquiry into Dmitrij Prigov's late novels, and Majumdar 2013, where the politics and aesthetics of banality appear as the matter of global modernism under empire.

8 As Lecerclé notes, 'the division of society into classes, groups, and occupations also impresses its mark on a language.' Lecerclé 2006, p. 16.

with particular tenacity. After all, the ‘commonplace’ designated by the ‘banal’ comes with a generous hint of the pejorative and says aloud what the feudal banal once forcibly defined: a common place, complete with the accompanying sneer with which the ‘common’ is still, quite often, pronounced.⁹ ‘Banality’ in its current sense would seem to bore rather than to compel, but inhering in the word’s history is the sense that this need not be a contradiction: in fact, both things can and do often happen at once.¹⁰

When it comes to ‘banality,’ then, few seem to have time to take up this grist for the lord’s mill, and fair enough: there is a lot to think about in the ‘ban’ alone.¹¹ Unlike the tepid ‘banal,’ the ban exposes exclusions constituting the most awesome and awful force: it is at the heart of the exception central to a political philosophy from Schmitt onward. It is, indeed, so very important that Agamben claims that ‘the relation of ban has constituted the essential structure of sovereign power *from the beginning*.’¹² Agamben accordingly ‘tak[es] up Jean Luc-Nancy’s suggestion... [and] give[s] the name ban (from the old Germanic term that designates both exclusion from the community and the command and insignia of the sovereign) to this potentiality... of the law to maintain itself in its own privation, to apply in no longer applying. The relation of exception is a relation of ban.’¹³ A self-regulating power, the law’s capacity ‘to maintain itself’ in its absence or in ‘no longer applying,’ the ‘ban’ not only speaks to what Nancy identifies as ‘a world that...abandon[s] us,’¹⁴ it also sets itself up as a self-maintaining force identifiable in the present: ‘We must learn to recognize this structure of the ban in the political relations and public spaces in which we still live.’¹⁵ A ‘structure’ evading recognition even as it undergirds ‘political relations and public spaces’ – those very ones we all inhabit – the ‘ban,’ for Agamben, trumps the contract as the determining social structure. But the short of it is this: if a certain theoretical tradition is to be entertained,

9 Majumdar shows a rare attention to banality’s etymology: ‘[T]he semantic duality contained in the word—that which pertains to everybody and that which is unoriginal—indicates a significant relation between the political and the aesthetic.’ Majumdar 2013, p. 18. Meanwhile, on the grounds of language, etymology, and the problem of ‘imagined natural qualities of language,’ see Wolff 2022.

10 On bureaucracy’s relationship to banality, see Majumdar 2013, p. 10.)

11 In the context of literary modernism and colonial banality, Majumdar calls the banality ‘a form of negative aesthetic,’ a kind of ‘aesthetic failure,’ and one important instance of the “noncathartic” affects [which] gain centrality in the literature of the modern or post-Enlightenment period.’ Majumdar 2013, pp. 4-5.

12 Agamben 1988, p. 68. Italics mine.

13 Agamben 1998, p. 23.

14 Nancy 1993, p. 42.

15 Agamben 1998, p. 68.

then banality is the lighthearted derivative, the utterly forgettable cousin, of sovereign power.

Banality is indeed so trivial it apparently does not need to be acknowledged; instead, it seems to emerge in a political no man's land unimportant to accounts of the 'ban' – or, for that matter, 'abandonment' – that link antiquity to modernity. Though Agamben urges his readers 'to recognize this structure of the ban' in present 'political relations and public spaces,' although he, like Nancy, models a sensitivity to the language of the ban, including its remarkable capacity to adumbrate almost opposite meanings,¹⁶ his directive to try to recognize the ban neither brings him so much as to glance at the banal nor to investigate the epoch that brings 'banality' into language. He therefore does not extend the injunction to recognition to observe a continuity of the ban into the medieval banal, let alone the old banal into the new. In *Homo Sacer*, a brief nod to 'the old subject of feudal relations'¹⁷ is the closest the reader gets even to the epoch of the medieval banal. But what is overlooked in so rapid a shorthand is both the apparently primal political relationship or non-relationship of the 'ban,' in no way concealed in the 'banal,' and the strange feudal history that is no less significant either for thinking about the sovereign and its organization or for grasping the ordinary degradations of the banal – from its subjugating 'common' places to the vapid commonplaces now associated with present-day banalities. In spite of banality's overt relationship to sovereignty, these major theories of the 'ban' neither acknowledge 'banality' in their accounting of the ban's history nor pause as they invoke 'banality' in its current sense.¹⁸

For Arendt, meanwhile, 'banality' accrues synonyms without ever encountering its etymology, which is also to say, without ever encountering its history in language. In spite of the controversy of the 'banality of evil,' the term appears with much greater frequency in *The Origins of Totalitarianism* than in *Eichmann in Jerusalem: A Report on the Banality of Evil* where, in spite of the controversy its usage provokes, it hardly appears in the text.¹⁹ But as for Agamben, so for Arendt: 'banality' remains banal, which is to say, it has no history. In *The Origins of Totalitarianism*, banality seems markedly less 'of a slogan' and more 'the

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16 Freud 1957.

17 Agamben 1998, p. 72.

18 'What confronts us today is a life that as such is exposed to a violence without precedent precisely in the most profane and banal ways.' Agamben 1998, p. 68.

19 A postscript of the revised and enlarged edition discusses the controversy around the 'banality of evil' at somewhat greater length. But before this addition, 'banality' only appeared in the book's subtitle and its closing sentence: 'It was as though in those last minutes [Eichmann] was summing up the lesson that this long course in human wickedness had taught us—the lesson of the fearsome, word-and-thought-defying *banality of evil!*' Arendt 1976, p. 252.

result of...in-depth analysis,' to borrow Scholem's criticisms of Arendt's infamous banality, but 'banality' remains nebulous, its qualities more or less assumed to be self-evident. In *The Origins of Totalitarianism*, in contrast, we see banality elaborated as the near-synonym of or worthy parallel to the 'uninteresting,' the 'superficial,' and 'frivolity and triteness.'²⁰ Banality's acceptance, meanwhile, is strongly associated with a cynical or merely dull 'nihilism'; in some cases, too, 'pious banalities' stand in as 'the old truths' inhering in 'liberal hypocrisy.'²¹ On the one hand, Arendt really does not stray so far from a standard definition of the term, meaning the trite or the unoriginal.²² On the other, banality seems to elude her: we know – as she does, too – it's vapid and bad; we know it arises out of intellectual and moral sloth; we know it's an affect, an evaluation, a position prompted by fatigue, and itself often indistinguishable from the cliché. 'Banality' occupies the place of a 'common sense' no longer sanctioned for its sensibleness but, precisely because of its mundaneness, detested as viciously ideological in its tedious courting of the obvious.

In all its forgettable, tension-sapping obviousness, then, banality has been weirdly resistant to theorization and historicization even in the hands of Arendt who is acutely sensitive to its operations. And so it is in an almost offhand and certainly abstract way that she offers an instructive reading of banality and a classed history. Citing the warped reception of Brecht's *Threepenny Opera* and its slogan, 'Erst kommt das Fressen, dann die Moral' ('First comes the food (grub), then comes morals'), Arendt comes very close to thinking historically about banality: 'The mob applauded because it took the statement literally; the bourgeoisie applauded because it had been fooled by its own hypocrisy for so long that it had grown tired of the tension and found deep wisdom in the expression of the banality by which it lived.'²³ While the mob and the bourgeoisie clap simultaneously, banality wears many faces: it is linked to an over-literalism; it is tied to an easy, even stupid, hypocrisy, and it is something that can be 'express[ed]' in an ethos, or in the very absence of one, an open-mouthed and dumb way of 'living.' As with its close relationship to nihilism, banality indexes the facility of defeat: it emerges, apparently, when one 'grow[s] tired of the tension' and settles in, instead, for some facile obviousness. But 'banality' seems, too, to

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20 Arendt 1968, p. 85, p. 246, p. 246.

21 Arendt 1968, p. 334, p. 334, p. 331.

22 *OED Online*, s.v. 'banal.'

23 Arendt 1968, p. 335. In contrast, consider the Brechtian paradigm in Nancy: 'A statement of Brecht's has the importance of a paradigm for our whole history, for the whole West: If it is said that the theater came forth from the realm of ritual, what is meant is that it became theater when it left that realm.' Nancy 1993, p. 42.

have a starring role as the residue, ‘the expression of’ an historical process that Arendt might have easily called class consciousness (or class unconsciousness): the clapping bourgeoisie ‘grow[s] tired,’ ‘f[inds] deep wisdom,’ and ‘lives’ ‘in the expression of ...banality.’ But the ‘so long’ time in which ‘tension’ cedes to the facsimile of ‘wisdom’ seems to happen outside of history; however concrete and loud the ‘simultaneous clap[ping],’ this is a frustratingly abstract way of describing the expressions and affects of a class.

While its twentieth-century appearances might demonstrate a reasonable indifference to etymology, the feudal ‘banality’ ought to be of interest to accounts either of sovereignty or of the unoriginal and trite: ‘banality’ lapses into the ordinary and the tedious in spite of having once been the topic of fervent complaint, a persistent indignity and a routine subjugation that endured for hundreds of years. Recall how ‘banality’ named an instantiation of a feudal *bannum*, where the one-time power to compel military service (consistent with the force of the ‘ban’ above) instead came to name a restriction and subjection central to village life. The ‘banalité’ designated explicitly a ‘relation’ that, in its compulsion, foregrounded sovereign questions; it included, for instance, an obligation to use the lord’s stove to bake bread and his wine press to make wine.²⁴ In the grand stories of sovereignty and constitutive exclusion, it makes sense that the local mill might play a lesser role and that the earlier ‘ban,’ rather than a downstream effect of such power, would come to the fore. But the appearance of the *banal* is worth remarking alongside that grander story, too.²⁵ This apparent ‘devolution of regalian rights’²⁶ has been seen by medievalists as, variously, “a new form of economic exploitation based not on ownership of the land but on the domination of people”... “a kind of legitimised and organised pillage.”²⁷ In his fascinating history of feudal France, Charles West suggests that a distinctly new form of domination arose, one that happened to inhere in a conceptual vocabulary, nascent in mid-eleventh-century legal texts in both a revival of and departure from Roman precedents, that, incidentally, also included such words as *justitia* (justice)²⁸:

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24 ‘Bannal terminology also began to take a pronounced spatial sense, too, giving rise to the *bannleuga*, meaning a zone with particular judicial significance, from which comes modern French *banlieu*.’ West 2013, p. 17.

25 In the only reference to the banalité in his magnum opus, Bloch readily appeals to banality’s linkage with the ban and states: “The very name of these exactions was significant. They were normally called *banalités*.” Bloch 1961, p. 251.

26 West 2013, p. 178.

27 Qtd. in West 2013, p. 179n21.

28 West 2013, p. 184.

The rise of *bannum* was not actually a shift from power over land to power over people....Rather, instead of using the idiom of landed property as the primary means, alongside court-based ideas of office, of expressing durable rights over people...people in the eleventh century separated out a new layer. Now, property was fabricated directly out of social relations, anchored not in Roman-inspired notions of owning land, but in characteristically medieval ideas of jurisdiction. Social hierarchies were so fixed, so classified, so stable and so self-evidently real, that they were treated as if they actually were separate from the people who made them. Social relations were disembedded, becoming, consciously, the subject of exchanges and interactions: society began to perform operations on itself....Even in cases where rights of *bannum* or *justitia* were being contested, it might seem that we are merely observing arguments over words. Yet it is in fact easy to identify eminently concrete consequences of the new social and political regime. For example, a mid-twelfth-century charter from Gorze recorded what happened when villagers decided to build their own ovens in spite of the monastery's claim to own a *bannal* oven, in other words one which had a local monopoly. An inquiry was held, and the outcome was both predictable and down-to-earth: 'Since many of the men of St-Gorgon confessed that they had unjustly built their own ovens in this village, these very builders destroyed them, in our presence, as justice demanded.' Other similar examples could be given, for instance from St-Martin-des-Champs, showing how real mills and ovens really were demolished in the name of bannal power.²⁹

'[S]o fixed, so classified, so stable and so self-evidently real': add a dash of boredom or some clapping bourgeoisie, and it is not so far from the banal mill late-modern banality, likewise so taken for granted, so trite, that it is not worth inquiring further. But in this description of the 'bannal' prior to the 'banal,' one sees the anxiety inherent in the Janus-faced 'ban,' in 'arguments over words' that have 'down-to-earth' and 'concrete consequences.' Is the destruction of village ovens, authorized by law, the preeminent example of 'the essential structure of sovereign power'? Is there any difference, other than scale and suffix, between the broad ban that announces an awful sovereign power and the small scuffles around bannal compulsion? As far as I can tell, for her report on 'banality,' Hannah Arendt did not care about mid-twelfth-century charters from Gorze. I would speculate that many to most of us, in fact, do not. But midway between the ban and the banal is the *bannal* mill, the wine press, the tedium of a subjugated daily life, the repetitions of its labors, a creation and destruction emergent 'as justice demanded.'

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29 West 2013, pp. 190-191.

Surely the scattered references in a medieval legal corpus about mills and stoves and things amount to a far less exciting theory of political life than, say, an appeal to either a foundational political structure or a politico-existential state like cosmic 'abandonment.' But though 'it might seem that we are merely observing arguments over words,' 'banality' seems to me to be as interesting a contronym as the very ban, with its status ambiguously 'outside or inside the juridical order,' to which Agamben awards this parenthetical: '(This is why in Romance languages, to be 'banned' originally means both to be 'at the mercy of' and 'at one's own will, freely,' to be 'excluded' and also 'open to all, free.')³⁰ The feudal banal achieves this uneasy ambiguity on its own with the banal oven, mill, or winepress being at once inclusive and exclusive: one imagines the men of St. Gorgon destroying the stoves they'd made for themselves in accordance with the law, 'freeing' themselves to enjoy the one that belongs to the lord, the one shared in a common subjection. It wouldn't be fair to foist an early modern idea of the 'public sphere' onto this sorry scene, but mills, ovens, and winepresses certainly limited what could be strictly domestic and for whom: 'Only the largest households had their own ovens. Some baking could be done directly on the hearth, but generally...meat or fish pies...were taken out to a communal oven.'³¹ It likewise showed how one need not be banned or banished to be subject to sovereign force: its power was exerted daily in perfectly trite, utterly ordinary ways. Still, there is no grand political theory regarding where 'meat or fish pies' ought to be baked, and it is no spoiler to say that the *loup garou* of *Homo Sacer* neither sniffs nor gobbles up the pastries of the medieval village.³² It is too bad that this intimate – and, yes, tedious – relative of the ban is overlooked: a sovereign power that turns each bite bitter, that parodies the 'commons' in a common subjugation, that was the object of hundreds of years of complaint is, apparently, better passed over since it bears a name eventually reserved to describe shopping malls or the clapping masses.

More embarrassing than banality's transformation, though, is the dirty secret of its consignment to oblivion: the abolition of aristocratic rights and privileges did not exactly extinguish the banality for good. This wasn't because village peasants were suddenly happy about it. They were not: 'The *cahiers*, in which [peasants] registered their grievances in 1789 are full of complaints about the cost and inconvenience of the banalities. Yet in the eighteenth century, no commentator on feudal

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30 Agamben 1998, p. 23.

31 Hieatt 1995, p. 497.

32 '[T]he life of the bandit,' writes Agamben, 'is the life of the *loup garou*, the werewolf who is precisely *neither man nor beast*, and who dwells paradoxically within both while belonging to neither.' Agamben 1998, p. 105.

law appears to have advocated for their abolition.³³ Another way of writing this might be to say that for hundreds of years, countless people complained about banalities: how annoying they were, what they cost – a price that had to do with labor, indignity, and the humiliations incurred by ‘demoli[tion] in the name of bannal power.’ And even after formal abolition, like many feudal dues, banalities ‘were given a new lease of life through being transformed into property rights.’³⁴ Banalities formed under ‘contract’ survived the abolition of ‘feudal’ banality.³⁵ When feudal dues were abolished in full, many of ‘the rights themselves often continued in force under other names.’³⁶ To be fair, technology – and time – have effaced the varied local histories illustrative of this feudal compulsion and the fury it provoked. It makes sense that the feudal banality could be overlooked more easily in theories of sovereign power or accounts of a modern banality where the ‘ordinary’ would seem to have less to do with the complaints of many centuries of peasants.³⁷ If nothing else, we can comfortably assume that the now-citizens of St-Gorgon have their own stoves if no longer the entirety of their pensions. Were our object simply the vagaries of the language of the political, the fate of the old banality (forgettable in accounts of ‘sovereign power,’ dismissible amid legal revolution) would be curious enough. But Beaumarchais’ eighteenth-century drama about an imaginary feudal privilege reflects and refracts one banality’s transformation into another, this time in comedy.

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33 Mackrell 1973, p. 58.

34 Mackrell 1973, p. 183.

35 On the endurance of litigation over banalities into the nineteenth century, see Blaufarb 2012. On attempts to prove the ‘feudal’ or contractual basis of individual banalities, and the endurance of specific banalities through the Napoleonic era, see esp. Blaufarb 2012, pp. 229-242.

36 Mackrell 1973, p. 175.

37 See Root 1985 on peasant litigation and the question of seigniorial authority in the eighteenth century. And consider Mackrell’s blistering verdict: ‘The peasants benefited from the Revolution more in the short than in the long term. In 1789 there was a vogue for engravings in which peasants were depicted bent under the weight of the other two orders. It was the achievement of the upper classes that the peasants continued to bear their weight upon their backs, while there were no longer engravings to tell the tale.’ Mackrell 1973, p. 192.

Banal Play: *Figaro's Beginnings*

Beaumarchais' *The Marriage of Figaro* invigorates a feudal myth, namely, the practice referred to variously as the *droit du seigneur*, the *droit du cuissage*, or *ius primae noctis*, all of which meant that the feudal lord's privileges included, to forgo euphemism, raping the bride of anyone in his vassalage on her wedding night.³⁸ Famous for its anticipation of nobles soon-to-be-toppled, the play's irreverent representation of Count Almaviva brought the feudal past into the eighteenth-century present: Almaviva unambiguously resembled an eighteenth-century type (the libertine), but his seduction was far less à la mode; within the play itself, Almaviva's attempts on the sexual honor of Figaro's fiancée involved the aristocrat reviving a lapsed feudal right.³⁹ The appearance of the feudal legend of the *droit du seigneur* in *Figaro* is – on its own – an interesting counterpoint to the real banal compulsions I have described above, but the more intriguing parallel is to be found in the quiet theory of comedy found in Beaumarchais' preface to *Figaro*. There, comedy – that which depicts a '*disconvenance sociale*' in contrast to tragedy's portrayal of primal 'crime' – names a form that just so happens to describe the fate of 'banality,' too. For the wrongs of 'disconvenance sociale,' a full recognition arrives from neither history nor the law, yet in *Figaro* itself, the comedy can only begin in and after a pantomime of the origin of both family and property that make the farce and force of law simultaneous.

The theory of comedy found in the preface to *The Marriage of Figaro* is a shrewd defense of the modest ambitions of comedy in contrast to those of tragedy. There, Beaumarchais insists upon the propriety of his play and its adherence to the old Horatian mandate to bestow entertainment and instruction in equal measure. As the preface counters ostensible critics, Beaumarchais positions comedy as the less 'audacious' alternative to tragedy's bold confessions:

I have always believed that one cannot achieve great pathos nor profound morality nor good and honest comedy [*ni grand pathétique, ni profonde moralité, ni bon et vrai comique*] in the theatre without strong situations [*situations fortes*], which always arise from a social incongruity [*qui naissent toujours d'une disconvenance sociale*] in the subject one wishes to treat. The

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38 See Boureau 1998 for history of the development of the myth of the *droit de cuissage* and the myth's absorption of histories of misogyny and sexual harassment. Boureau credits Beaumarchais for the legend's popularization: 'It was in fact with Beaumarchais that the theme became truly public and popular.' p. 40.

39 In this regard, *The Marriage of Figaro* (1778) arrived right on time: the epoch-forming term 'feudalism,' as Kathleen Davis writes, only appeared 'on the eve of the French Revolution'— punctually enough 'to adjudicate between nobility, parliament, and crown, particularly in matters of property, and ultimately to embody the superstitious and fettered past being dragged to the guillotine.' Davis 2008, p. 7.

tragic dramatist, audacious in his methods, dares to admit the atrocious crime [*admettre le crime atroce*] - conspiracies, the usurpation of thrones, murder, poisoning, incest (in *Oedipe* and *Phèdre*,) fratricide (in *Vendome*,) parricide (in *Mahomet*,) regicide (in *Macbeth*), etc., etc. Comedy, less audacious [*moins audacieuse*], does not go beyond simple incongruities [*n'excède pas les disconvenances*], because its scenes are drawn from our manners, its subjects from our society.⁴⁰

Tragedy confesses: it 'dares to admit' every taboo. Comedy, by contrast, does not so much 'admit' to 'crimes' as 'treat' 'subject[s]' in which 'social incongruity' (*disconvenance sociale*) produces 'strong situations.' Beaumarchais stresses the general moral purpose of theatre, spanning tragedy and comedy, namely, to 'corriger sans blesser' (to correct without wounding), but the contrast with tragedy here is instructive: compared to tragedy, comedy is ever so slightly flaccid. In its most active form, comedy distinguishes itself by its restraint: 'it does not exceed incongruities.' This is not to say that the author of comedy has absolutely no audacity. On occasion, he, too, dares: of his *Eugénie*, Beaumarchais says, 'whatever the work contains that is good and useful, was born of the author's courage in daring to carry social inequality to the highest degree of freedom (*tout ce que l'ouvrage a d'utile et de bon naît du courage qu'eut l'auteur d'oser porter la disconvenance sociale au plus haut point de liberté*).'⁴¹ As the bearer of 'disconvenance sociale,' the courageous author of comedy does some heavy lifting as he 'dares to carry' the contradiction to 'the highest point of freedom.' But this locution is telling: in contrast to the audacious confession native to the tragic mode, comedy dares not even to 'admit.'

The difference between an 'atrocious crime' (the subject of tragedy) and 'disconvenance sociale' (social incongruity) is a distinction between an identifiable event – one that can be identified, confessed to, and depicted to spectacular effect – and something harder to grasp and harder still to unravel and identify who is at fault. For the 'legal expert' Beaumarchais,⁴² this seems to mean that tragedy is for the courts and church and that comedy is for contradiction: for mere complaints, for a laughter and dread that may take the place of recognition or redress. There is already something in the category of 'disconvenance sociale' that makes it harder to locate than a 'crime,' that has the strange effect, too, of making comedy seem to appear almost prior to the tragedy. For one, it echoes the category of 'convenance,' which, for Montesquieu

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40 Beaumarchais 1958, pp. 4-5; Beaumarchais 1867b, pp. 104-105.

41 Beaumarchais 1958, p. 7; Beaumarchais 1867b, p. 105.

42 Morton 1966.

and Barbeyrac, among others, described the order of natural law. For Barbeyrac, 'ideas of congruity (idées de Convenances)' were 'founded on the nature of things (fondées sur la nature des choses).'⁴³ In Montesquieu's *Persian Letters*, justice itself organized and amounted to a 'rapport de Convenance.'⁴⁴ The 'disconvenance sociale' names a social 'incongruity' or 'inequality.' It gestures to a natural law tradition of 'convenance,' and in doing so seems to place the comic contradiction far away from the state of nature but also perilously close to it: a threat of disorder at the edges of natural law before and somehow beyond positive law and its instantiation.

The 'disconvenance sociale' within *Figaro* holds the comedy in a tense relationship to the tragic. While the preface frames comedy's 'disconvenance sociale' as the digestible alternative to 'crime atroce,' we soon learn that the play's early preoccupation with the *droit du seigneur*⁴⁵ is far from the work's only legal drama. Consider the lobster: the mock trial in the play's third act narrowly spares Figaro from the tragedy of an incest plot, thanks to his unmistakable homarine birthmark, which permits the reunion, rather than the wedding, of mother and her now-adult son Figaro. With tragedy's incestuous marriage eliminated as a threat, Suzanne and Figaro celebrate their own nuptials followed by a final act where Almaviva becomes dupe of a double mischief when Suzanne teams up with Almaviva's wife. But while, for Beaumarchais, a comedy is plainly less daring ('moins audacieuse'), it hardly abrogates a theatrical mandate to examine a 'profonde moralité.' In the crimes that do *not* come to pass in *The Marriage of Figaro*, we evade 'the atrocious crime' of historical or legendary horrors but witness the contradictions inherent in the everyday: 'our manners...our society.' One might also call this a spectacle of 'the banality by which' a society 'lives.' In her study of parodies of Shakespeare, Beate Müller argues that '[b]anality prepares the ground for comic effects in so far as it allows us to abandon a serious perspective, because banal, mundane, everyday matters are not existential.'⁴⁶ I understand Müller's 'banality' here to refer to the unoriginal and the quotidian, but her formulation here is nonetheless more widely suggestive. In indicating that 'banality prepares the ground for the comic,' Müller seems to describe in slow motion the potentiality for comic effects: the sidewalk in front of a fruit stand (banal) is but one person, one banana peel, away from comedy. This is different from saying the banal *is* comic, but for Müller, the banal is also not 'serious...

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43 Barbeyrac qtd. in Korkman 2003, p. 224.

44 Montesquieu 2004, Letter 81, p. 359.

45 In Act I, scene i, Suzanne tells Figaro about Almaviva's plan 'à obtenir de moi...un ancien droit du seigneur.' Beaumarchais 1867a, p. 114.

46 Müller 1997, p. 150.

because not existential.' This is far from the heart of Müller's argument, but she crystallizes the problem of the banal. The 'not existential' seems like an updated way of naming the 'disconvenance sociale' that does not rise to the level of emergency. But in her own formulation, 'Banality...allows us to abandon a serious perspective,' Müller seems to assume the comic is 'not serious,' on the one hand, and to inadvertently, indeed symptomatically, produce banality's snag: banality goes with 'abandon[ment]'; and once again its strange etymological past resounds, an unintended polyptoton made possible only because of the apparent consensus that neither banality nor comedy need be taken 'seriously.'⁴⁷

The opening of the play offers its preparatory banalities with an astonishing displacement: Figaro unconsciously mimes the origins of the family and society. In this, the play's famous opening is surely a 'beginning' worthy of Agamben's argument that 'the relation of ban has constituted the essential structure of sovereign power from the beginning.'⁴⁸ In *Figaro*, the opening scene, then, gestures toward 'the banality' *before* 'a society' begins; an explicit nod to the anxieties around the *droit du seigneur*, the opening surpasses its own comic frame. For what is the beginning of *Figaro* if not a fantasy of *the beginning*? The construction project that opens the play (and the opera) – Figaro's 'eighteen by twenty six!' (and Mozart's Figaro's 'Cinque!') – announces the dimensions of Figaro's marital bed, positioned between the lord's and lady's chambers. This is an opening onto a banal *lieu* in multiple senses: it is a bedroom, it is in between sovereign powers of a kind, it is both included and excluded (private and absolutely not). It is an empirical, measurable reality, on the one hand, and it is also hopelessly 'between.' On the one hand, it exposes the phantasmatic site of everyone's origins: the first bed is the one imagined and measured in the air in a kind of practical miming: the closest anyone can get to one's primal origins is in mimicry.⁴⁹ On the other, it demonstrates the very absence of origins: we all begin *in medias res*, subject to structures we never authored, with the attempt to build anew subject to prior orders – the ones we don't see (the imitative parental bed), the ones whose powers order what within or without (the political order). The 'banal' bed in *Figaro* is, in a mundane sense, the play's alternative to a court of law: it is the ordinary domestic,

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47 On comedy, misogyny, and the problem of the 'unserious,' see Simon 2022.

48 Nancy, too, considers abandonment and the problem of 'beginning.' 'Weren't we born in abandonment, Greek and tragic (that of Oedipus), Jewish and exiled (that of Moses), both of them defined or fated by abandonment, to the point where we do not know where either figure begins or ends, or to what degree the one is Jewish and the other Greek? They are abandoned at birth: that is, from the beginning, in their beginnings, and doomed indefinitely to be born. To be born means precisely never to cease being born, never to have done with never fully attaining to being, to its status, to its stance or to its standing, and to its autonomy. Birth abandons Oedipus and Moses up to the hour of their death.' Nancy 1993, p. 40.

49 On the role of games and play in *Figaro*, see Rex 1974.

a marriage plot spared the tragic aristocratic onus of succession and whose right ordering the play achieves in spite of hilarious near-misses. Yet it also a phantasmatic kernel of possible crimes whose very nature depends on antecedent relations: there is no incest if one is unrelated or unborn; there is no parricide if one is spontaneously generated and has no parents; there is no *droit du seigneur* if there are no *seigneurs*.

Let us take this stupid syllogism of mine further and say: There can be no '*disconvenance sociale*' if there is no '*convenance sociale*.' This might invite a second look at the problem of the beginning, for the play seems to show us the ban and the banal 'from the beginning,' too: the measurement of the bed is not just a fantasy about sex and marriage but also the wish, spoken from the banal *lieu* of Almaviva's house, for property of one's own. From the 'banal' lieu of Almaviva's house is a reenactment of not one but two primal, mythic origins, replayed to bathetic effect. Figaro measures a space in the lord's house for a marital bed, lining up all the jokes on cuckoldry, to be sure, but also pantomiming the unknowable dimensions of a conception that is his own beginning. But this also plainly acts out a 'This is mine' that collapses the precursors to both social and sexual contracts, that repeats a primal crime that can neither be confessed to nor counted as a 'crime atroce' because it precedes the law. It echoes the vicious claim to 'property' inherent in Count Almaviva's *droit du seigneur*, but it likewise points to a beginning that is indeed *the beginning*, if we agree with Rousseau, of inequality. The opening of *Figaro* reworks for comedy the mythic speech that Beaumarchais's contemporary, one Jean-Jacques Rousseau, exposed with horror. 'The first man who, having enclosed a piece of ground, to whom it occurred to say *This is mine*,' Rousseau famously wrote in his Second Discourse (1755), 'and found people simple enough to believe him, was the true founder of civil society.'⁵⁰ In the impersonal language of measurement, *Figaro's* opening would seem to be an uncanny fantasy of this original will to private property were it not so horny a parody. This 'disconvenance' both precedes and exceeds the play that unfurls after it.

Figaro starts with a blithe enactment of a terrible, unspeakable confession, then, one that is so mundane in its presentation that it goes unnoticed. For if the measurement of an imagined bed is a bit of nubile festivity (surely it is this), if it is a repetition of the impossible measure and mimicry of one's origins (and it is also this), it is also a sad rehearsal of a first ban, visible only in glimpses as distorted as, say, those provided by the myth of the *droit du seigneur*. The 'ban' conjured here is neither the tragic and Greek one nor the Jewish and exilic one. It is the ban 'in which we still live' that becomes comic in, and possibly because of, its repetitions – and because of its sometimes-abandonment into the banality of comedy. Agamben's injunction seems

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50 Rousseau 2018, p. 164.

worth repeating: 'We must learn to recognize this structure of the ban in the political relations and public spaces in which we still live.'⁵¹ If we are to recognize the structure of the banal, we will notice the irresolution in its history, the realm of everyday, unrepaired, and unremembered indignities: the drudgeries of exploitation, the practices of power we can recall, for instance, among the people of St-Gorgon, going to bake their fish pies in the oven their feudal lord compelled them, by banal law, to use. It is unfathomable to think of demanding restitution for the humiliations of the St.-Gorgon rogues, whose insurrections are now as distant historically as their kitchens are technologically. Yet the cipher for aristocratic excess and the stand-in for ordinary sexual abuse and misogyny, the fictionalized banal law, the mythic *droit du seigneur*, in *Figaro* was enough, in its moment, to provoke an ire that would lead to the abolition of aristocracy even if the banal compulsions I have mentioned above were left intact. For, however much 'disconvenance sociale' might offer a palatable name for social wrongs prior to positive law, *The Marriage of Figaro* nonetheless shows how less 'audacious' comedy might be productive of real-life, world-historical effects. While Beaumarchais' apologia ought to be understood as a canny defense of his work, replete with ironies, his argument that his comedy depicted *only* 'les disconvenances' and admitted to no crime (in contrast to tragedy) seems all the more interesting when we follow the comedy into the world. At one moment, the mere depiction of 'disconvenances' – the tidy comic resolution of such incongruities – was perhaps enough to incite, and possibly even to help cause, revolution.

Today, though, *Figaro* tends to end in applause while 'banality' simply describes or dismisses the trite. With the feudal 'banality' a forgettable chapter in most theories of sovereignty, at best a faint echo of a civilizational Act I better grasped by the 'ban,' it is easier to excise the law altogether from a language that might make the tedious forms of its might audible and identifiable. And so the banal remains the banal, with only the occasional fuss about its unlikely trajectory. And so perhaps the last word on this topic should go to Arendt, not for the 'slogan' she coined but for the one she quoted. Recall how, upon hearing 'First comes the food (grub), then comes morals' from Brecht's *Threepenny Opera*, 'The mob applauded because it took the statement literally; the bourgeoisie applauded because it had been fooled by its own hypocrisy for so long that it had grown tired of the tension and found deep wisdom in the expression of the banality by which it lived.'⁵² In retrospect, one

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51 Agamben 1988, p. 68.

52 Arendt 1968, p. 335. In contrast, consider the Brechtian paradigm in Nancy: 'A statement of Brecht's has the importance of a paradigm for our whole history, for the whole West: If it is said that the theater came forth from the realm of ritual, what is meant is that it became theater when it left that realm.' Nancy 1993, p. 42.

achievement of *Figaro* may have been simply to reveal what Arendt's clapping masses seem eager to forget or never to know: the same hands that clap might also seize power. In 1791, banalities had been formally abolished, and those that endured did so wrapped up in tedious litigation or under new names like 'contracts.' In one village where this was the case, 'pikearmed women...seized the ovens.' They seem somehow to have heard Brecht centuries before he spoke. 'Ça ira,'⁵³ they shouted, 'It'll be okay.' One almost has to laugh at so banal a slogan.

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53 In late 1791, 'a crowd of pikearmed women chanting "Ça ira" [an anthem of the French Revolution] seized the ovens.' Blaufarb 2012, p. 232.

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