

## Episode 5. Privacy: Anita Allen

Samantha Hill Rose: (00:59)

This is Hannah Arendt: *Between Worlds*, a podcast produced by the Goethe-Institut and the Brooklyn Institute for Social Research. I'm your host, Samantha Rose Hill.

What do you consider to be a part of your private life? What about your public life? Are there certain things that you'd rather keep to yourself? What about intimacy? How do you decide what goes in the private column and what goes in the public column? Much of our contemporary era is defined by the collapse between public and private life today with the rise of social media in digital technology, which is always within arm's reach

Anita Allen: (01:37)

The cultural tendencies of the last 20 years, 25 years towards disclosure, whether it's on television and traditional media or on, on, on new media, it has led to a kind of coarsening of our society. And also it's led to just plain old invasions of dignity and loss of freedom.

Samantha Hill Rose: (01:57)

When I wrote to Anita Allen, a professor of law and philosophy to talk about digital technology and privacy today, she wrote back immediately. She said, "I have very major objections to Arendt's Little Rock essay, it's awful, but her account of the origin of the public and private distinction greatly influences how I teach and write about policy." So Anita and I talk about Hannah Arendt's essay "Reflections on Little Rock" and the public private distinction, and the relationship between the two. For those of you who aren't familiar with Hannah Arendt's essay "Reflections on Little Rock," it remains her most controversial essay.

Samantha Hill Rose: (02:46)

The journal *Commentary* refused to publish it in 1957. And it was only published two years later by *Dissent Magazine*, *after* the critical responses had already been published. In the essay Arendt rejects the *Brown v. Board* decision, which overturned *Plessy versus Ferguson*, and the doctrine of Separate but Equal. She argues that the federal government cannot enforce social equality because for Arendt social equality isn't a political question. She doesn't put it in her public column. Instead equality is something that has to be won person to person. And she also argues that school children should not be mobilized to fight the political battles of adults. But Anita was one of those school children. And in this episode, she talks about her experience of being a child integrating an all-white school. And I take off my Arendt hat in this episode and talk with her about Arendt's failures of imagination and judgment, and her refusal to visit the American South.

Anita Allen: (04:02)

Gay people have been severely punished for appearing, Black people for appearing, Hispanics for appearing, Chinese Americans for appearing. So many groups in the United States and elsewhere around the world are being punished for, for seeking to appear. And Arendt, she was so brilliant, could have said a lot more about the price of those appearances.

Samantha Hill Rose: (04:22)

Anita L Allen is the Henry R. Silverman professor of law and professor of philosophy. Allen is internationally renowned as an expert on philosophical dimensions of privacy and data protection law. [Music] Welcome Anita Allen. It's a pleasure to have you on Between Worlds!

Anita Allen: (04:58)

And it's great to be with you. Thank you.

Samantha Hill Rose: (05:01)

Thank you. Thank you so much for joining me today. So maybe just to start, I immediately thought of your work on privacy when I was putting together this podcast, because I wanted to dedicate an entire episode to talking about the public private distinction. And I love the response that you sent me, which was, "oh, I love Arendt but oh, she gets so much stuff wrong, too." And could you just maybe talk to us a little bit about how you came to know Arendt's work in your own relationship with her thinking?

Anita Allen: (05:34)

I started to wonder about the public private distinction in the 1980s. So many American scholars were deconstructing the public private distinction, arguing that it's not a distinction, that is a distinction that, in fact, the, the realm of public and private are blurred and that talking about the private sphere as if it's separate from the public sphere has just facilitated private violence in families, facilitated the neglect of people with legitimate claims or basic needs made against their government, and that we need to move beyond the public private distinction. So, I went looking for philosophical sources to illuminate me on this topic. And as you know, in the 1980s, there were still not yet a lot of things written about the public private distinction or about the right to privacy. So I found Hannah Arendt and I found her book, *The Human Condition*, and I found her quite interesting and excellent analysis of the public private distinction as we inherited it from the ancient, uh, Greeks and Romans.

Samantha Hill Rose: (06:37)

For those who maybe haven't read *The Human Condition*, Arendt draws this distinction between private life and public life. And then she also talks about the rise of the social and the private realm. The word she uses in German is *raum*, which means space. The private space is a space of the *oikos*, of the home and the public realm is, uh, where we appear before others out in the world. And we kind of don our persona, our mask of appearance. I'm curious, how do you approach this distinction in Arendt's work, if you read it as something kind of hard and fixed or something porous? And how you think about this distinction between private and public today and in light of the technological revolution that we're living through?

Anita Allen: (07:28)

As you say, she distinguished between the public realm, which was for her a political realm, *the polis* and the home or the household, *the oikos*, the *oikos* being the realm, as she called it, of necessity. Whereas the political realm or, *the polis*, a realm of, of freedom or, or action. And the

assumption in the Greek and Roman times, of course, is that there be a male head of household who would rule over wife, children, and, uh, servants, slaves even. And that the really great men, the men who were successful in their, in their private lives could become citizens and would be a part of the ruling of the entire society. And then she felt that that distinction was not adequate to capture modern life. So she added that the modern times have added a social realm. A realm which is similar to the private realm and that it, it addresses necessities, but it's governmental in its nature.

Anita Allen: (08:20)

And she was quite critical of the government entering the private realm. So what was useful to, to me about her work when I first encountered it was that it kind of suggested that it's not arbitrary that we consider sex and childrearing and marriage as private, because that's been a deep part of our, of our Western heritage and one that can be explained and even justified to some extent by our history. The thing which troubled me though, ultimately about her analysis is that she seems to disparage the idea that the government has a role in helping people to address their needs. So, you know, we need food and water and clothing, etcetera. We need a lot of things that we can't get all by ourselves, uh, based on our own private ingenuity and private resources. And so a liberal like me, you know, would find her, her disparagement of the social to be a, it's it's a conservative move. Right. You know, so there's a, there's a book that came out, think about 2012 called Hannah Arendt a radical conservative. [laughter from Samantha and Anita] And you know, this is this, this aspect of her work, I think earns her that title.

Samantha Hill Rose: (09:30)

Oh dear. Yeah. I mean, so this is, this is definitely one of the more controversial aspects of Arendt's work. There's an interview panel that she does in 1972. It's at a conference on Hannah Arendt that she was invited to attend as the guest of honor and she insisted on participating instead. And at some point during the conversation, Hans Morgenthau says to her, "Right Hannah the social question, you don't really mean this, do you?" And she says, "Yes, of course I mean it. Let me give you an example, housing. Everybody has a right to housing. This isn't a political question." But that's where she stops. And so she talks about rights and, and the way that, you know, the right to clean water or the right to housing, or the right to education. But for Arendt, these are not political questions, education, housing, these are not part of the political. How do you, how do you think about this when you're reading Arendt?

Anita Allen: (10:32)

I went to Arendt in part because I was interested in how to explain why abortion and birth control should be deemed private, right? Cause we've always considered childrearing and childrearing to be, to be matters of *the oikos*, but it turns out that her list of what's private is not my list of what's private. Her list of what's private is not John Stuart Mill's list of what's private. In fact, John Stuart Mill would've said the government has a big role to play in child rearing and childbearing rights that we would be appalled by in most liberal democracies in the 21st century. So lesson learned, people who make the public private distinction won't necessarily classify the same things as public and private. And that means we're always gonna be having these

debates about what the proper boundaries of self and other, government and citizen actually are. We're still having those debates today. And we, they recur, you know, in different iterations.

Samantha Hill Rose: (11:27)

So what is private for you? What would you put in that space of privacy?

Anita Allen: (11:32)

In the digital age? I would regard it as subjects of privacy into information that's identifying. You know, could be a person's name, their, their street address, their, um, religion, their, their trade union membership if they're in the EU. So aspects of our lives that are traditionally intimate along with information that identifies us are among the things that I think are deserving of private treatment. And we should have, I believe, good law that protects important types of privacy. And generically that would mean things like obviously healthcare privacy, health information privacy, Google records, maybe our driver's license records should be, should be private, financial records. Like that's a big one, right? For me, the bank banking records, cuz for me, actually, financial privacy is even more important than medical privacy. So those kinds of things. So, so in, in the information age, what we're seeing is that because of "big data" and algorithm use and automated decision making, things that we used to be able to hide quite easily or to hide from some people quite easily are harder and harder to maintain any kind of control over or ability to conceal at will. And so we're struggling right now to find what balance of law, self-regulation, culture, norms, what kinds of laws, privacy laws, antitrust laws, intellectual property laws can help us to, to maintain a sense of privacy. Because I think for me, and for many people, privacy does go deep into the basis of human dignity and autonomy. And these are threatened when we live in a world that's overly panoptic that sees everything, knows everything and therefore controls our lives.

Samantha Hill Rose: (13:12)

I'm wondering, you said at the beginning of our conversation that you started getting interested in the public private distinction in the 1980s, and it's the end of the seventies and the early 1980s, when antitrust laws are relaxed in this country, kind of enabling corporations to grow in certain ways. And I'm wondering if there's a relationship between those moves and the loss of privacy in part that we are experiencing today in the ways that you just talked about?

Anita Allen: (13:42)

Well, it's a common point. Uh, not one I invented, a common point, that the size of some of our big tech companies, some of our Silicon Valley companies is enormous. And some people think that only by breaking up your Facebooks of the world, right, can we begin to recover our privacy. Not so clear to me that breaking up would be the solution to privacy, but even if breaking up is a solution to other things, which is to say sort of monopolistic control over a mechanism of communication, for example.

Samantha Hill Rose: (14:14)

Do you think that people still want, want to hide things today? I mean, so on, on the one hand, you're talking about the legal side of this and certain protections or, you know, I go to my

doctor's office and I'm handed 10 forms about signing over my medical information to all of these kind of technological aggregates that want to collect data or track my health, but at the same, there's this deeply human, I think, aspect of this that we're constantly giving ourselves away on social media, on forums. Is there still a desire for privacy in our world today, to hide things, to have intimate lives?

Anita Allen: (14:56)

I think, I think the answer is yes. I don't think it's as, um, global as it once was. I think that we are much more willing to talk about our personal lives and our personal selves today, which I think is ultimately, mostly a good thing. But on the other hand, it does seem to me that the cultural tendencies of the last 20 years, 25 years towards disclosure, whether it's on television and traditional media or on, on, on new media, it has led to a kind of, um, coarsening of our society. And also it's led to just plain old invasions of dignity and loss of freedom for a lot of people that our privacy is being taken away. The African Americans who suffer so greatly from over surveillance, this is a, a problem. And I think that we, we as African Americans do want to, to hide certain parts of ourselves because we are over surveilled and our information is used against us to exclude us from access to services and goods. And our information is

Anita Allen: (15:53)

used to target us for predation. And so absolutely I think people do want privacy. They still need privacy. Not everybody needs it the same ways, to the same extent, but a lot of us need a lot of it. And I'm glad that we have not only existing privacy law to protect us, but it looks like there's some amazing new privacy regulation on the horizon. Now, as you know, California, Virginia, and Colorado have new state level privacy statutes, and many bills have been introduced in Congress in the last couple of years to create new privacy laws nationally.

Samantha Hill Rose: (16:27)

Maybe this is a good place to shift into talking about federal protections, which is something that I wanted to talk about. And maybe just to start with a general question, is there a relationship between privacy and the importance of privacy and federal protections or mandates?

Anita Allen: (16:45)

Yes. You know, and this is also a good moment maybe to, to talk a little bit about Hannah Arendt more because by the way, I, I wanna tell you how much I admire Hannah Arendt. I mean her bravery, oh my gosh. Reading her biography, her bravery, and first escaping from Nazi Germany in 1933, after being briefly jailed for trying to do some research on antisemitism and then, you know, moving on to other European countries and then ending up having to flee, I think it was Paris because she was arrested there and coming United States in 1941, what a brave, brave woman she was. And although I admire her bravery, I don't admire her views about government intervention. [Laughter] So for years I was, I cited her, her *Human Condition* book and, and her public private distinction analysis in I wanna say almost everything I wrote, every article, every book I was always citing. And then I came across her "Reflections on Little Rock" and I was appalled and suddenly I was less comfortable, citing Hannah Arendt in everything that I wrote. And, uh, we can talk about why. It had to do with, uh, what she says in

her "Reflections on Little Rock" about African American mothers and children. Uh, shall I continue?

Samantha Hill Rose: (17:59)

You can, I'm curious for you when you, you say mothers and children. And so that's actually not the point most people, most people make to me is not the education point first. For those of you who have not read Hannah Arendt's "Reflections on Little Rock," it remains one of her most contentious, if not the most contentious essay that she ever wrote. And she begins from a point of departure, kind of trying to imagine herself in the position of a Black mother being asked to send her child into an integrated school. Can you talk a little bit about how you read those lines when you encountered this essay and why that part in particular resonated so deeply with you?

Anita Allen: (18:44)

So she starts on page one saying, my first question was, what would I do if I were, were a Negro mother? And she says, under no circumstances would I expose my child to conditions, which made it appear as though I wanted to push its way into a group where it was not wanted. And then she asked the question, what would I do if I were a white mother in the South? And she says again, I would try to prevent my child's being dragged into a political battle in the schoolyard. Well, I had a Black mother and the very same year that Hannah Arendt wrote this paper, arguing against federal intervention to desegregate the schools of Little Rock, Arkansas, I was actually sent to a all-Black kindergarten in Anniston, Alabama in the basement of a Presbyterian church. It was a one-room schoolhouse. Because of segregation

Anita Allen: (19:41)

I wasn't able to go to the same school that the other children who were white on the military base, where my father was stationed, Port McLellan, Alabama, attended I had to go to a special Black school, which meant getting on a government, federal government bus, being bused to a street corner in Anniston, Alabama, where the teacher picked me up and took me to her house. And then at school time, she drove me to the church and then after school, she would drive me back to her house and back to the school bus stop. I'd get on the bus and go back to the army base. So why did my parents want so badly for me and my, my five siblings to attend integrated public schools? Answer, because there was not a system of adequate schools in the South for Black children. They were inferior schools, schools with inferior facilities, inferior textbooks, inferior sports programs, great teachers, because of course, African American teachers pretty much had to teach in the Black school. So the problem wasn't the teachers, the problem was the other resources. And so my parents were among those who put us on the front line. So as soon as they could, we were integrating school. So when I was in the seventh grade, my father dropped me off one day at a school called Forest Park Junior High School in, uh, outside of Atlanta. And I integrated the seventh grade. [Laughter]

Anita Allen: (21:04)

I think it actually was maybe the eighth grade, but I integrated the eighth grade, let's say at Forest Park Junior High School in, uh, in Forest Park, Georgia. And did my parents do

something bad to me? Did my Black mother make a mistake in putting me on the front lines? I would say, absolutely not because my parents had the wisdom to know that over time, these private sacrifices and risk taken by Black families were going to reap benefits. And I would not be a graduate of Harvard Law School, of the University of Michigan's philosophy department with a PhD, had my parents not had the wisdom to be part of the Civil Rights movement and to yes, force integration on Black Southerners and white Southerners alike.

Samantha Hill Rose: (21:50)

And you use the phrase, private sacrifice, and here, maybe we see Hannah Arendt's distinction falling apart a little bit in the way that you're reading this essay the private sacrifice for a political cause. But Arendt makes it very clear in this article that it was wrong for Black mothers to put their children on the front lines of racial integration, because for her education is not a space for politics. The schools are not a space for political battles. And we see this argument come back in her writing on civil disobedience and on violence in 1968, 1969, when she argues against the creation of Black studies programs and against the Black Civil Rights movement. And I'm wondering how this public private distinction that she wants to draw. There's two sides to it I think in, in the way that I've always read this essay. One is the kind of social, very personal side that you are talking about. And then the other side, which is the political argument that the federal government is overreaching into the private lives of citizens and that the decision in *Brown v. Board* is trying to force a social question that has to be won person to person.

Anita Allen: (23:17)

Yeah. So, so Hannah Arendt believed that education is an extension of family life, right? [Samantha: Yes.] And that to force a parent to send their child to a integrated school is to interfere with the family. You're, you're entering that private realm in a, in a completely unjustifiable way. And she had that view, even though the schools in question were public schools paid for by the tax dollars of Black and white citizens alike. And yet the Black citizens were unable to attend those schools. So the characterization of public schools as a private realm just doesn't make any sense. At least not to me, I sort of get the idea that education and family are deeply connected, which is why we allow for homeschooling, right? And we allow some groups like the Amish to take their children out of school at age 13 in Wisconsin, Supreme Court case held that, held that but publicly supported, publicly funded schools, North or South, are not social realms that should be left to family discretion.

Anita Allen: (24:32)

Arendt, ah, interestingly analogizes forcing your way into a public school if you're Black to her as a Jewish woman, forcing herself into a white country club. But what a telling analogy, I mean, it's sad in a way, because here's a woman who left Nazi Germany because she was Jewish and her very life was, was threatened. She comes to America and she doesn't understand that discrimination based on one's race isn't just a matter of the social and the private, that these are fundamentally important, public matters. It was odd to me that she, of all people would reach that conclusion. But putting that aside, I just think she's, you know, was sort of blind to this, the significance of first of all, education as part of preparation for democratic participation. And, and

secondly, she was just mistaken about the, the hurt, the pain, the suffering that Black people endured because of segregated schools.

Anita Allen: (25:33)

She thinks it's all about, you know, oh, the, the ego, the pride, the, of a person being where they're not wanted. No, you know what, um, Samantha, when I was forced to go to, to white schools by my parents who wanted to integrate, I was, I would say welcomed by the white children, I'd say 98% of the children were extremely welcoming. I had no trouble whatsoever after a week two or three or four, making friends, being accepted on sports teams, being everyone wanted me on their soccer team. Everyone wanted me to be on part of the school newspaper. I was admired for my academic abilities. I was never, um, disparaged by my teacher. The white teachers were always very supportive of me. And so there were, yeah, there were incidents. I could cite you incidents of being called names and so forth, but that happened in the North as well. And that's okay. I mean, being called a name once in a while is okay, you can deal with that. I think that that Hannah's assumption that, that the white children, because of their upbringing would be extremely resistant to Black children or would be incapable of kindness is just, I think it's extraordinary.

Samantha Hill Rose: (26:40)

I think it's actually, I mean, I think it's a little bit, the word I was gonna use is permanent. Okay. I'm gonna, I, I, I've been wearing my Arendt hat and I, I tend to, I tend to always wear my Arendt hat. I'm gonna take it off for a second. The word I wanted to use was pernicious. I think it's, you know, you use the lovely phrase of, you know, education is, is necessary for democratic participation. And this is a wonderful, almost philosophic ideal that I think about a lot. And for Arendt, the space for education doesn't have anything to do with discrimination. She says that the classroom is like *the polis* in the sense that it's a place where people can appear before equals as one another. And so she understands the classroom space is this wonderful, uh, uh, *tabula rasa* blank slate, where people can, you know, appear as who they are and not be judged for what they are. So it's this vision of what our educational institutions are and what it is that they should do. You know, right now we're living in a political moment where our educational institutions are being incredibly politicized. It seems almost impossible to even get into this mindset about studying or education that Arendt is assuming here in making this argument.

Anita Allen: (28:09)

So having lost the battle to keep Blacks out of classrooms, some people want to win the battle to keep Critical Race Theory out.

Samantha Hill Rose: (28:39)

So that passage that, uh, we, we both had flagged in the "Reflections on Little Rock" essay. The part that has always, I guess, jumped out to me is at the beginning where she says that I should like to remind the reader that I'm writing as an outsider. And then she says, I have never lived in the South and have even avoided, I've even avoided occasional trips to Southern states because they would've brought me into a situation that I would've found unbearable. That word "avoided." It just hangs there for me. And the argument for those of you who have not studied

philosophy for a living, the argument in part that Arendt is making is very Kantian. And she's making an argument for an enlarged imagination. This idea that we can imagine the world from the perspective of another, by exposing ourselves to other people, to other ways of life, to arguments, to texts, to music and so on.

Samantha Hill Rose: (29:43)

And this idea of having an expansive imagination for Arendt is central to her understanding of the banality of evil. She says what Adolf Eichmann lacks was the ability to imagine the world from the perspective of another. And here we have Arendt not just kind of exhibiting an absence of imagination, but we have her saying that she avoided that she avoided actually interacting with the American South. And I'm just wondering if you can maybe talk to our listeners a bit about the kind of philosophical argument that Arendt's making in her public private distinction here, but also in the way that she's approaching the Brown v. Board decision in particular.

Anita Allen: (30:29)

She's approaching the Brown versus Board decision. And then the decision of, uh, president Dwight Eisenhower to, uh, send in the guard as forms of public intrusion into private life and private disputes. As if the president had sent the army into someone's living room to help decide which television station to watch, or, you know, whether to, you know, read the Bible to the children tonight, right? It's that kind of thing. And so, so she's making, I think a, a fundamental mistake about the nature of the legitimate boundaries on the use of public power. Now, I, I totally get that there's dangers in using public power and there's dangers in public intervention. We don't want the, the government to be having its nose stuck into all of our, all of our affairs, but this particular affair, which is to say the education of Black children is something which I think the government and the Supreme Court, not, not, not just the legislative branch, but the Supreme, or the executive branch, but the Supreme Court, the judicial branch decided, in fact, all, all parts of the federal government were aligned here, right? Rare, right. Aligned that something needed to be done in response to Martin Luther King's request, the NAACP's request. And these nine children, the Little Rock nine children who integrate. Something needs to be done to protect these children and those who came after them. So it's quite appropriate. She used the word avoid the way I read that, the way I hear that is her saying that I have a choice and I made a choice to not go to the South. Well, guess what, Hannah Arendt? I would say if she were here today.

Anita Allen: (32:14)

My great, great grandparents were enslaved people who were brought over from Africa against their will. They didn't have a choice to avoid the South and then guess what their children and their grandchildren and their great, great grandchildren did not have the ability to avoid the South. Both my parents were born and raised in Atlanta, Georgia. I am one of the few people in my family, one of the first and few to actually leave Georgia [laughter] and go to the North. My family was not part of the great migration of African Americans that moved to Chicago and other cities, Detroit and so forth during the 1930s and 1940s. So we stayed behind and a part because we were too poor to move. So not everybody had a choice, has choice about avoiding

the South. The South is our home for, and some Southern cities are majority Black cities who still, you know, lived under the yoke of segregation, despite being majority Black.

Anita Allen: (33:11)

It's a luxury if you can avoid. And she was fortunate to be able to flee Germany because many Jewish women were not able to flee Germany. And she was lucky to be able to flee France because many Jewish women were not able to flee France. So this is the ugly head of privilege, right? That sometimes our socioeconomic status and our educational status actually prevent us from seeing how people who are at the bottom of the, of the heap, what they're stuck with and what they need to do in order to fix their lives from where they are stuck, where they are. Right. And she was lucky to be able to move on, to get to a place of freedom in her life, which she did beautifully. But some of us were not able to escape so easily and we're not able to avoid so easily. And so my response to your question is, you know, partly philosophical, but also partly, uh, psychological experiential.

Samantha Hill Rose: (34:07)

So Arendt draws this distinction between social equality and political equality. And in *On Revolution*, she writes about it as the social question. So she, she argues that there's a distinction between socioeconomic equality and political equality, which is the rights of citizens, which are afforded to them by a state. Is it possible to think social equality with political equality while still kind of safeguarding the need for privacy, see the need for a public life? And how can we think about social equality and political equality?

Anita Allen: (34:50)

As I indicated earlier, the, the problem seems to be what things are theorists like Hannah Arendt or people like me going to include in the private and what things are gonna include in the public or the social? And, um, some of the things to worry about are of course, voting rights, access to public accommodations, like hotels and restaurants, use of buses and trains and airplanes, right to marry who you wanna marry, and control over one's own body. It's implicated in issues like abortion and, and birth control. She chose to put in the social realm and in the private realm, some things that many others would say don't belong there. And from based on those premises, we move on. What was her philosophical argument for construing education as private and for construing access to whatever seat you choose on the bus as political or social, but justifiably regulated by the government.

Anita Allen: (36:04)

It seems a little bit arbitrary to me. It actually undermines her entire distinction between the private, the public and the social that I don't always see arguments good argu-, not just arguments or any argument for her placing things where she places them. She asserts and then she almost premises of assertions, she, she makes other assertions and then gets to conclusions that sometimes to me are, are very much the wrong conclusions. So, so marriage, for example, she thinks it's obvious that marriage would've been a great place to begin with the Civil Rights movement, because clearly, uh, the right to marry the person of your own choice is a decision which should be left to, uh, the individual and the government has a role there in

enforcing that. But yet the Southern states say, we don't wanna associate with interracial couples. We don't wanna associate with the mongrel children who are produced by interracial couples. What's Arendt's response to that gonna be? Because the same kinds of reasons that white people didn't want to allow their kids to attend integrated schools were the same reasons they didn't wanna approve interracial marriage. In fact, it was because interracial marriage involved close association between whites and Blacks, that the Southerners didn't want that. So Arendt's characterization of marriage is somehow more suitable for public regulation than education. Again, I kind of get it if I put myself in her head space, but yet it's, it's kind of an arbitrary head space.

Samantha Hill Rose: (37:37)

In a way this brings us back to the question of federal regulations and mandates. And one of the thoughts that I've been turning over for the past few weeks in light of the recent Supreme Court decision around Roe has been that Arendt would have kind of resisted for the same reason that she resisted *Brown v. Board*. She would have argued in favor of Roe. And I don't know if that's right, kind of moving in her head space as it were, but there seems to be a marriage, gay rights abortion, which she, of course she was alive when *Roe v. Wade* was decided. There is a nice letter from Gloria Steinem in the archive asking her to sign, uh, a petition supporting women's right to choice and she doesn't respond. But there seems to be a kind of consistency in her thinking about the overreach of the federal government, having an impact on democracy. And there's this idea that she's, you know, kind of always moving us toward, you know, almost towards even the Jeffersonian ward system, town councils, politics at the most local level possible. So I was wondering about you read her on local politics and then her kind of anxiety about the overreach of the federal government that we see throughout her work.

Anita Allen: (39:06)

She does defend states' rights explicitly in her work. Doesn't she? And she argues that if we give up on the regional, and the local, we're gonna undermine the very basis of our, of our society and of our, our country. So for that she's suspicious of efforts by the states to limit certain kinds of rights like the right to marry. And perhaps if you suggest the right to, uh, reproductive autonomy. But again, I think that her defense of states' rights, especially using the discourse of states' rights, puts her in bed with some of the most, you know,

Anita Allen: (39:45)

scary, dangerous moments in American history and some of the most, uh, right wing divisions in, in our country. So I don't know why a, uh, a recent immigrant to the United States would choose so soon after arrival to conclude that the regional and the local are critical to our nation's future. And that all this emphasis on using governmental power, federal power is dangerous, limited to certain things. And what are those certain things gonna be? Why abortion, why not school? Why not abortion? Why not schools? Why not voting? Why not marriage? Why not? All of it, you know, public accommodations, all of it. Cause all of it seems to my family to be critical to, to having a, a, just an equitable society and a just and equitable life for people who happen to be Brown. And Hannah Arendt doesn't talk about justice as much as some people who are

political theorists do. She talks a lot about equality, cuz she has to, she talks about power and authority. And I think that maybe a more justice focused perspective,

Samantha Hill Rose: (40:52)

She would, she would have, I can feel her in my head kicking and screaming, "That's not, that's not political."

Anita Allen: (40:58)

That's not political. Exactly. Just as it's some sort of private ideal or some, some utopian ideal. Great if you can get it, but it's not a a a, yeah, it's not something which government is, is, has the, has the, um, authority to impose upon people who don't, who prefer to be prejudiced and narrow minded and unjust.

Samantha Hill Rose: (41:20)

And this has always struck me as a contradiction in her conception of the political. And I think that this gets read in different ways when people are reading *The Human Condition*. So some people read this part of Arendt's work as wanting to defend discrimination, as wanting to defend almost a right to prejudice, or others read her as a kind of Millian, which she, she hated Mill. I think she would've protested that. But she makes the argument on, on page two of *The Human Condition*. She says that, "every part of life is touched by the political." And then she draws this distinction between the private and the public to talk about the need for a private life and the need for a public life of appearance, where we can be seen in speech and action. And she says that courage is the political virtue, par excellence, and that to appear in public and to speak and to act requires courage because you have to be willing to risk yourself. But what she doesn't say is that not everybody feels equally comfortable stepping into the public because of certain forms of, uh, socioeconomic privilege, or uh, social inequality. On one hand, she gives us this ethical imperative that we all have a right to appear and to exist. But on the other hand, she doesn't, she doesn't help us get there. She gives us the kind of ideal for it

Anita Allen: (42:47)

When the price of appearing is lynching. Right. You know, I, I talked a lot about African Americans, but you know, gay people have been severely punished for appearing, Black people for appearing, Hispanics for appearing, Chinese Americans for appearing. So many groups in the United States and elsewhere around the world, the Uyghurs in China are being punished for, for seeking to appear and Arendt could have said a lot, she was so brilliant, could have said a lot more about the price of those appearances. Uh, there's a discussion she has about freedom of expression, where she argues that, well, the purpose of freedom of expression is for us to be able to persuade other people. And I thought that's an interesting take on freedom of expression, because I think that freedom of expression can be used to persuade people, but it can also be used for simply for expression [laughter] or to, you know, to, to, uh, to comment without, to want to debate or persuade anybody just to share an idea or a viewpoint.

Anita Allen: (43:49)

But that, that notion that, that these political rights we have are about ultimately about persuasion, which is, you know, this political activity is an, is an interesting take. It's almost as if she over politicizes freedom and over politicizes, uh, the choices that we make as, as human beings, as artists, etcetera. Cuz it's all tied to this marketplace of ideas and not, cuz you know, she did hate Mill, I agree with that, but this idea that, that at the public sphere is where we can come to persuade others of our viewpoints and we may or may not win, but that's, what's all about persuasion as opposed to expression, sharing, challenging without persuading, you know, eh, and making people think harder, right? Those are some of the other things that we use our free expression for.

Samantha Hill Rose: (44:36)

I like the idea of over politicized freedom. I mean, because she has a very idiosyncratic conception of what political freedom is and her concept of political freedom doesn't have anything to do with those other forms of expression, artistic creation that we engage in. She's imagining this kind of public space where we can appear before others. And we can engage in these vigorous conversations where speaking as a form of political action and we can debate. But I think it's also a reflection of how deeply the idea of conversation was to her thinking.

Anita Allen: (45:20)

That's actually one of the more interesting things about her work that I, I find quite appealing actually, her interest in conversation, which is different from persuasion, right. But it's, you know, it can, they can be related. And her interest also in love, you know, so you know, her, her doctoral dissertation was this amazing, um, book about St. Augustine and love. I mean, that was an amazing project early in her career that in some ways did not predict the direction of her scholarship all together. She was able to reflect about love at a time when maybe she didn't foresee quite how horrible things would turn in Germany or, um, or elsewhere in the world.

Samantha Hill Rose: (46:04)

No, but we, we, we get her secular conception of love as *amor mundi* in the dissertation on *Love St. Augustine* as a way of, of caring for one another, caring for the earth that we inhabit in the world around us.

Anita Allen: (46:19)

I'm a law professor, as you know, and I, I teach, uh, personal injury law, Tort law. And this idea of a duty to others duty to one's neighbor is core to Anglo American common law of torts, and I thought, boy, I, I need to think about Hannah Arendt more in connection with my teaching about tort law, because it's not only is there this sort of phenomenon of duties to others, but some of those, there's also the sense that, that, that loving others is a sort of a challenge, maybe a paradox, but a challenge of modern life.

Samantha Hill Rose: (46:49)

I wanna circle back a little bit to dignity, which is, is a word you brought up a couple of moments ago. So when we think about privacy and the need for privacy to live a fully human life, to ensure that we have a space of solitude where we can think and nourish our intimacies and

relationships and retreat from the world, there is a very political side to the right to privacy. And I'm thinking of prisons and the number of incarcerated peoples in the country who are forced to live a life outside the public. Can you maybe talk a little bit about the political dimensions of privacy and how we can kind of complicate Arendt's distinction even further?

Anita Allen: (47:40)

Before I directly answer your question, I wanted to mention that the first state Supreme Court case to recognize a right to privacy was around 1906, a case called Pavesich versus New England Life Insurance Company. And it was about a man, white man who, uh, woke up one morning and found his photograph had been used in an advertisement in the, uh, Atlanta newspaper without his permission. And the judge who heard his case invented the right to privacy and said that when a person's privacy is invaded, he is to that extent, like a slave bound to a merciless master. And I love the thought that there's a connection between privacy and slavery. And I've tried in, in recent times to do stuff with that idea in my own work. So when you raise issues about prisons and jail, and I think about African Americans and the, uh, incredible over incarceration of Black people, especially Black men, I think about this idea of privacy and slavery because Angela Davis has written brilliantly about the ways in which the current prison system is simply a continuation of slavery.

Anita Allen: (48:46)

She's, she's made that historical line between slavery to private prison systems and to the modern prison where it's all about social control of Black people, social control of people, social control of Black people. The loss of privacy that goes with prison life, the panoptic implications of prison being observed all the time, having no ability to seclude oneself and not be observed. All of that to me is like slavery. And when you think about the analogy that, uh, judge Andrew Jackson Cobb, uh, who is a white Georgia, judge, who's actually the son of, of slave holders and the nephew of key members of the Confederacy, he understood it. He saw that taking away people's privacy is like making them slaves and making people live in conditions of unprivacy like prisons is keeping people and forcing people into conditions which resemble the horrors of chattel slavery.

Anita Allen: (49:42)

So, um, that may not be quite what you were looking for, but that is one way in which I think about the connection with privacy. I've actually argued that the eighth amendment, which is our in the United States, the eighth amendment is, is a amendment, which, um, prohibits cruel and unusual punishment. I have argued that the eighth amendment should be used much more than it is to attack the unnecessary losses of privacy that go with prison life. Obviously when you're in prison, you can't have that kind of privacy you have in the, in the outside world. But I think that some prison systems and procedures unnecessarily deprive people of privacy. There's no reason why a person has to, um, you know, have, uh, as many body cavity searches and cell searches and, and phone call, uh, listen ins as they, as they do in the modern prison. On the other hand, in some ways, people in prison have too much privacy, right? The whole super max phenomenon where people are put in small cells and kept there 20, 23 hours a day, let out only one hour for a little bit of walk in a cage. That's also cruel unusual punishment. So both the

isolation that goes with prison can be cruel and unusual, and the deprivations of privacy and private choice and go with prison life can be deprivations of privacy can be cruel and unusual.

Samantha Hill Rose: (50:53)

In thinking with Arendt's public private distinction I hear you really complicating what is private, what gets put in the, the private box and what gets put in the public box. And part of that complication are the very things that aren't excluded from the political. Uh, social status, race, sex, gender, and thinking about the ways in which privacy is deeply affected by one's socioeconomic racial subjectivity within the society that we live in. So for people who are reading Arendt today, where would you point them? How are you thinking with, and or against Arendt today in your work?

Anita Allen: (51:39)

I do believe that the current time, may be the perfect moment for all of us to revisit Hannah Arendt's substantial body of scholarship and public writings. And that's because she deeply explored democratic institutions and their opposites. And we're experiencing today a profound breakdown in democratic institutions across the world, in the United States and across the, the rest of the, uh, the so-called free world. So it's a good time to visit her, uh, thoughts about totalitarianism, her thoughts about the role of government, her thoughts about the, um, the vulnerabilities of, of, um, of people who are, um, uh, left out and her lack of thought about the, the people who are vulnerable and left out. You know, if you look at some, just some of the titles of her books, you know, *Men in Dark Times*, well, these are kind of dark times. And I think that we could, we could definitely benefit from revisiting some of her thinking. So I would recommend *Origins of Totalitarianism*, *The Human Condition*, *Eichmann in Jerusalem*, and then some of her collected, um, essays as well as her dissertation, because I do think there's lots of insights in there for our times. And it's a shame that more women philosophers don't get read anyway. And I think that she's one of the more prolific and interesting and deserves more attention from scholars.

Samantha Hill Rose: (53:05)

Anita Allen, thank you for joining us today. It's been a pleasure.

Anita Allen: (53:09)

It's been a pleasure

Samantha Hill Rose: (53:24)

Hannah Arendt: *Between Worlds* is a co-production of the Goethe-Institut and the Brooklyn Institute for Social Research. It was produced and edited by Lisa Bartfai. Music by Dylan Mattingly. And it was hosted by me, Samantha Rose Hill. We have more episodes for you on thinking with Hannah Arendt now. Until next time!