

No Space. Nowhere

Refugees and the Problem of Human Rights in Arendt and Ricœur.

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Abstract:

In the wake of the recent global refugee and migration crisis, Hannah Arendt's defense of the right to have political rights has become prominent again. Her work is read as an early reminder that the internationally promoted human rights regime may be merely a rhetorical reference, without the will or international authority for political action. I examine Arendt's analysis in its historical context and then turn to consider Ricœur's understanding of human rights. The capability to respond to and to be held accountable by others marks Ricœur's ethics of responsibility. He agrees with Arendt that legal authority must rest upon power (Macht) and not domination (Herrschaft), but he insists that the undercurrent of common power is the moral capability of an agent. The essay examines the ramifications of Ricœur's ethics for the current crisis of refugees and migration, and it argues that he offers, at the same time, a correction useful for the ethical foundation of human rights.

Keywords: Hannah Arendt, Paul Ricœur, Human Rights, Refugees, Power, Responsibility, Recognition

Résumé:

Suite à la crise récente et globale des réfugiés et des migrations, la défense arendtienne du droit à avoir des droits politiques est devenue centrale. L'œuvre d'Hannah Arendt est lue comme une invitation à nous rappeler que le régime des droits de l'homme promu à l'échelle internationale a toutes les chances de rester une simple référence rhétorique tant qu'il n'existe pas de volonté ou d'autorité internationale en faveur d'une action politique. J'examine l'analyse de Arendt dans son contexte historique pour considérer ensuite la conception ricœurienne des droits de l'homme. La capacité de répondre et d'être tenu responsable par les autres caractérise l'éthique de la responsabilité de Ricœur. Ce dernier s'accorde avec Arendt pour considérer que l'autorité légale doit reposer sur le pouvoir (Macht) et non sur la domination (Herrschaft), mais il insiste sur le fait que le soubassement du pouvoir commun est la capacité morale de l'agent. L'essai examine les conséquences de l'éthique ricœurienne en ce qui concerne la crise des réfugiés et des migrations, et il soutient qu'elle offre en même temps un correctif utile en vue d'une fondation éthique des droits de l'homme.

Mots-clés: Hannah Arendt, Paul Ricœur, Droits de l'homme, Réfugiés, Pouvoir, Responsabilité, Reconnaissance.

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Refugees and the Problem of Human Rights in Arendt and Ricœur.

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1- Citizens Without a State: The Refugees and Migration Crisis

Over recent years, one of the greatest migration crises since World War II emerged from the war in Syria, on the one hand, and from the African exodus to Europe, on the other hand. Furthermore, the *statelessness* of the Rohingya people in Myanmar has resulted in what the UN has declared a case of genocide, with more than half a million people fleeing from Myanmar to Bangladesh in 2017. My paper is meant to help us understand the role of the international community and the human rights regime in the current political discourse on refugees and migration.

Hundreds of thousands of people have been killed in Syria. Half of the population was displaced. Those who stayed are trapped, as the people of Aleppo were in the fall of 2016.

“They don’t want to be refugees,” Ms. Singer said. “It’s their land, they’re very passionate about their houses. They say, ‘This is my house, my land.’”¹

What happens to the almost 250 million people worldwide who flee their countries? What happens to the over 30 million children among these migrants and refugees?

This is what a recent UN Report, from May 2017, says, focusing especially on children:

“Border closures and aggressive pushback measures can leave children and their families stranded in countries where they do not want to stay, are not welcome, or have few prospects. Unable to move on or go back, they are trapped in prolonged limbo that feeds anxiety, despair and self-harm, as documented among children in Greece and in Australian processing facilities in Nauru.”

“Some children avoid authorities for fear of detention, living on the streets under abysmal conditions and sometimes selling sex or resorting to petty crime as they save up to pay smugglers to facilitate their onward journeys.”²

“It is as citizens that we become humans.” (Ricœur)

Refugees and migrants are no recent problem for the international community; far from it, the response to forced migration was a topic throughout the 20th century, and it became a major issue

during the establishment of the United Nations Human Rights Framework after World War II. In my paper, I want to address two approaches to human rights in relation to the problem of refugees, Hannah Arendt's and Paul Ricœur's, and I want to ask whether they can help us to decipher the human rights question as it relates to those people who flee from the political *space* in which they may or may not have *de jure* citizens' rights but certainly have lost them *de facto*.

2-Arendt on Statelessness and the Right to Have Rights

As is well known, like perhaps nobody else with this sharpness of diagnosis, Hannah Arendt pointed to the concrete historical context of statelessness in two major texts, one an essay published in English as *The Rights of Man* and in German as *Es gibt nur ein einziges Menschenrecht*, and the other the famous ninth chapter of the *Origins of Totalitarianism*.³ In these two works, Arendt explains her reservation, if not opposition, to the Human Rights Regime that became the guiding framework of international relations after World War II—and she does so because of loss of rights of refugees and minorities that the world witnessed in the first half of the century.⁴ Her analysis has become prominent again during the more recent refugee crisis in Europe, but it becomes even more important in view of the 2017 Rohingya crisis in Asia. It is therefore instructive to look into Arendt's reasoning that made her so skeptical of the UN Human Rights Declaration. On Arendt's account, the root problem of the 20th century's forced migration is the *statelessness* of the refugees. Providing a historical analysis, Arendt points to the fact that stateless refugees emerged at the end of the 19th century in the context of a new geopolitical order that emerged in Eastern Europe and Russia after World War I. It is this war, Arendt holds, which "shattered the facade of Europe's political system to lay bare the hidden frame."⁵ The 'hidden frame,' Arendt implies, is a rule that resembles the early modern transnational colonialism. However, this transformed colonialism lies *within* European nation-states, leaving millions of people without any civil or *political* rights; but at the same time, it does not affect the facade of what by now has had been coined their inalienable *human* rights. Arendt is outraged to the point of bitterness that even after World War II and the Shoah, the international community has fallen into exactly the same trap as it did after World War I, declaring 'human' rights inalienable, without reconsidering the effects on those who are not protected in their own countries. Arendt's opposition is both theoretical and practical, I would hold: it is theoretical with respect to how we understand human rights and practical insofar as she did not expect the problem of statelessness to disappear. As we know today, she could not have been more correct about the second point, while her theoretical case against the United Nations Declaration of Human Rights is still open to debate.

Arendt makes her case in view of the history of the 20th century, and this context of her argument must not be glossed over. She presupposes that up to the demise of the post-World War I political order, people who migrated or fled from their countries still had the option of relocating somewhere else. While she does not deny the hardship that accompanies every emigration, migration to another country or ‘spot on the earth’ was possible, at least in principle. I leave it to historians to verify her account—for me, what matters right now is the shift that occurred, in Arendt’s view, within the globalized political order after World War I.

During the 1920s, Arendt holds, Eastern European states and Russia, in particular, gained the national right to declare hundreds of thousands of people *stateless*. These stateless people stripped of their citizens’ rights and legal protection, together with the minorities within states, became most vulnerable to discrimination and persecution. Minorities became vulnerable, too, because they fell under so-called laws of exception in their states, but stateless people were ‘denationalized,’ ‘expatriated,’ or ‘deported.’ Wherever they went, it seems they were declared not only by the states but also by civil society: ‘not wanted.’ Slowly, they became the “rightless” people that foreshadowed the victims of the politics of Nazi totalitarianism only a few years later, in the 1930s and 1940s.

The first loss which the rightless suffered was the loss of their homes, and this meant the loss of the entire social texture into which they were born and in which they established for themselves a distinct place in the world. This calamity is far from unprecedented; in the long memory of history, forced migrations of individuals or whole groups of people for political or economic reasons look like everyday occurrences. What is unprecedented is not the loss of a home but the impossibility of finding a new one. Suddenly, there was no place on earth where migrants could go without the severest restrictions, no country where they would be disseminated, no territory where they could found a new community of their own. This, moreover, had next to nothing to do with any material problem of overpopulation; it was a problem not of space but of political organization.

The second loss, which the rightless suffered, was the loss of government protection and this did not imply just the loss of legal status in their own, but in all countries. (Arendt 1968, 293)

After World War I, the *League of Nations*, predecessor of the *United Nations* in many ways, became the institution responsible for stateless people, but it was rendered toothless because of the political structure of international law that was still centered on the sovereignty of nation states. Space, we can see, matters: the practices of denationalization, expulsion, deportation, and detention in *concentration camps* existed long before Hitler’s so-called “*Endlösung*” or “Final solution” began in 1941, i.e. the Shoah as total destruction of the Jewish people. Long before the totalitarian regime was installed, a vicious circle had set off the dynamic of expulsion: politics

echoed the social rejection of certain groups, which in turn was fueled by the laws against these groups. Together, civil society and their political representatives made every effort to avoid having to live alongside certain minorities, political dissidents, or, again and again, “the” Jews.

Arendt reads the reference to inalienable human rights, which the United Nations Universal Declaration of Human Rights of 1948 takes up from the early modern natural law tradition, as ‘merely’ natural rights, namely as unconnected to any right to political membership. Indeed, the concept of human rights could be interpreted in different ways: for example, some interpreters read it from the perspective of the *theological* natural law tradition of medieval Christian theology, which always viewed them as distinct from social or political rights. Others read it from the perspective of secular political philosophy, in light of the early modern reinterpretation of natural law theory.⁶ As Hans Joas has recently shown, this secularized version identifies the human as ‘sacred,’ exempted from any utilitarian reification or, as Ricœur calls it, sacrificization.⁷ Human rights are, in this tradition, primarily natural or ‘subjective’ rights, which render all human beings inviolable and inalienable.

Against this background, Arendt’s interpretation is polemical.⁸ In her account, the modern history of secularization begins with the establishment of Human Law over against Divine Law, the great promise of enlightenment, but it creates a paradox, the separation of political rights and natural rights. The latter do not offer any protection against the violations of rights by states:

“The Declaration of the Rights of Man at the end of the 18th century was a turning point in history. It meant nothing more nor less than that from then on Man, and not god’s command or the customs of history, should be the source of Law. [...] the declaration indicated man’s emancipation from all tutelage and announced that he had now come of age.”⁹

In the beginning, the “rights of Man” promised a protection of the individual against the state:

“Therefore throughout the 19th century, the consensus of opinion was that human rights had to be invoked whenever individuals needed protection against the new sovereignty of the state and the new arbitrariness of society.”¹⁰

Yet, the shift from Divine law to Human law results in a paradox with the political emphasis of the concept of the ‘people’: because the state is regarded as the expression of the sovereignty of the *people* (not the prince or king), those who do not belong to “us,” lose any protection.¹¹ Echoing Edmund Burke’s critique of human rights, an “ironical, bitter, and belated confirmation” of his polemic against natural rights,¹² Arendt acknowledges that, separated from the political sphere, human rights are merely abstract rights that cannot be enforced. While she may disagree

with Burke on national rights, Arendt agrees that rights must be conceived as *political* rights rather than natural rights. Looking at the phenomenon of the loss of citizenship, Arendt holds, for the stateless people the invocation of some abstract “inalienable” rights offers no protection:

“The stateless people were as convinced as the minorities that loss of national rights was identical with loss of human rights, that the former inevitable entailed the latter.”¹³

Faced with the new problem of statelessness, it is clear that Burke’s *national* rights do not offer—either *de jure* or *de facto*—the protection that would have helped refugees: their natural rights do not translate into the right to a space to dwell, a space, a community, and a polity to which they belong. Under the condition of the “one world,” i.e. a world that is divided into different nation states, with no uncovered territory, the loss of citizenship is *de facto* the loss of any right:

“Only with a completely organized humanity could the loss of home and political status become identical with expulsion from humanity altogether.”¹⁴

Arendt’s point is this: when people have nowhere to stay and nowhere to go as *members* of a polity, they become merely persons in the ‘abstract’; stripped of their right to political participation. When they are rendered merely ‘natural persons,’ they become “nothing but a man,” in the “abstract nakedness of being nothing but human,” “mere existence,” thrown back into “a peculiar state of nature”¹⁵—all formulations that show the bitterness Arendt felt that it was exactly this ‘state’ that was declared as a right of the human being: The loss of human rights was not the loss of this ‘natural state’ but the loss of belonging.¹⁶

The great danger arising from the existence of people forced to live outside the common world is that they are thrown back, in the midst of civilization, on the natural givenness, on their mere differentiation. They lack that tremendous equalizing of differences, which comes from being citizens of some Commonwealth, and yet, since they are no longer allowed to partake in the human artifice, they begin to belong to the human race in much the same way as animals belong to a specific animal species. The paradox involved in the loss of human rights is that such loss coincides with the instant when a person becomes a human being in general—without a profession, without a citizenship, without an opinion, without the deed by which to identify and specify himself—and different in general, representing nothing but his own absolutely unique individuality which, deprived of expression within an action upon a common world, loses all significance.¹⁷

The United Nations Universal Declaration of Human Rights, Arendt holds, does not respond to *this* discrepancy between “mere” human rights and political rights; human rights are merely a rhetorical reference to the ‘natural rights’; they are *not* a political-legal concept precisely *because* they are rights that cannot be enforced in a political space. They are remnants of a political order

that does not apply any longer. They presuppose a membership that is no longer defined metaphysically or theologically but strictly politically. Because the political order is organized around the notion of the sovereign state and its interactions with other states based on contracts that very much adhere to the national interests of the contracting states, the human rights regime, Arendt seems to imply, is extra-legal and in this way extra-political: there is no way to hold states accountable. Hence, the 'stateless people' are denied national rights, while the Human Rights Declaration does not make an effort to deal with the necessity of membership in any different way. Moreover, the rhetoric of 'dis-placed' persons that replaced the terminology of statelessness after World War II is a slap in the face for those who are not just displaced but *expelled* from any political order. It misrecognizes the most vulnerable groups, because it cannot, in the legal meaning of the word, regard them as victims of injustice but must consider them, legally, as objects of practices that are legitimate according to the national laws. The structural failure of accountability and the lack of an international (criminal) justice system that holds nations accountable go hand in hand with the appeal to charity on the part of civil society.

We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation. [...]

Not the loss of specific rights, then, but the loss of a community willing and able to guarantee any rights whatsoever, has been the calamity, which has befallen ever-increasing numbers of people. Man, it turns out, can lose all so-called Rights of Man without losing his essential quality as man, his human dignity. Only the loss of polity itself expels him from humanity.¹⁸

Hence, we are faced with two different narratives on human rights. The first narrative is that of the United Nations Declaration of Human Rights; their proponents, grounding human rights in the natural law tradition or its secular version that 'sacralizes' the human person, are the implied addressees of Arendt's polemic because they do not respond to the political nature of rights; hence they have no answer to the break-down of national responsibilities to protect their citizens: in declaring groups as non-eligible, nation-states have established the very problem to which the human rights regime aims to respond, but without having the necessary enforcement measures against the states. Moreover, the UN Declaration presupposes that human beings do in fact belong to a community, thereby ignoring the long-existing problem of stateless people or minorities without rights. The second narrative is Arendt's own. It goes back to Edmund Burke but transforms it to fit the current globalized world: there is "no longer any 'uncivilized' spot on earth, because whether we like it or not we have really started to live in One World."¹⁹ To

respond to this specific political situation, Arendt claims that the only task that the international community has is to secure the literal and symbolic 'space' in which every human being can belong as a member of a community, and this is what she calls the unconditional "right to have rights."

If it is true, however, that Arendt's elaborations are historically situated, we can see from today's perspective, that the UN have in fact embraced at least three of her concerns: first, they have created the International Criminal Court of Justice that does hold perpetrators of crimes against humanity accountable in a legal sense. Second, it has created an international procedure of humanitarian intervention under the title of the "Responsibility to Protect" Doctrine. Whatever the shortcomings of these two strategies may be, they have given the United Nations a legal authority that connects the protection of a 'natural' right with the 'political' right, and they explicitly require nation states to respect and promote the human rights of their constituents. Third, we can observe efforts to take up the issue of statelessness, first in the 1954 *Convention Relating to the Status of Stateless Persons*, which prohibits any discrimination for reasons of nationality. It defines a "stateless person" as someone "who is not considered as a national by any State under operation of its law."²⁰ The 1961 *Convention on the Reduction of Statelessness* specifies further:

Art 1 (1) Discrimination on the basis of race, colour, descent, or national or ethnic origin is often the root cause of statelessness. Moreover stateless populations are particularly vulnerable to further discrimination. It is necessary that States legislate both to prevent such discrimination from happening, and to protect vulnerable people when they are subject of discrimination.²¹

The UN Antidiscrimination Convention of 1965 version addresses discrimination against citizens even though not affecting distinctions states make between citizens and non-citizens.²² Unfortunately, however, current practices still point to the crucial target of Arendt's critique, namely that the human rights regime still does not sufficiently respond to the challenge of stateless people. In an interview given in 2009, Heiner Bielefeld, human rights scholar and then German HR Rapporteur to the UN, accused the European Union of *exteriorizing* their responsibility towards refugees through contracts with neighboring countries such as Turkey or Libya.²³ Today, we can add that refugees and migrants are *kept in transit*, sometimes even in long-term refugee camps that span generations. In both cases, being kept outside the borders or having to live in refugee camps, refugees and/or migrants are *de facto* 'stateless,' rendered without rights, because their rights are not enforced. The situation has become worse both on a social and on a political level: the same reflex that was observable a century ago against denationalized groups

and/or minorities returns today, for example, in some member states of the European Union: socially, migrants and refugees are ‘foreigners,’ ‘illegals,’ ‘not us’; but perhaps more importantly, they have no political rights and often only reduced protection rights. Responsibility is turned over to NGO’s, setting “a dangerous precedent for European states to sidestep fundamental protection responsibilities,” as the commentators of the Institute of Migration Policy has stated.

In a recent article from the summer of 2016, the German philosopher Christoph Menke has urged us to go back to Arendt’s insights in order to better understand the problem of the refugee crisis that is currently shaking up European politics.²⁴ He identifies a mistaken alternative in the current debate: on the one hand, there is the political realism that is based on national interests; it regards the refugee problem as a national political issue only, rendering refugee rights negotiable and subordinate to the interests of the host countries; on the other hand, there is the position that humanitarian aid is a universal obligation, trumping any national interests, in effect ignoring the social consequences of such a politics of hospitality. Critiquing both positions, Menke emphasizes Arendt’s point, namely that human rights are not an endowment of human nature if this means that we ‘have’ them independently of any social or political mediation. Modern natural law theory applies such a naturalized version of rights, resting upon ‘atomistic,’ private, subjective rights. This tradition, Menke explains, is so ingrained in the modern consciousness that its two historical sources are easily overlooked: on the one hand, the liberal position of private property rights — proponents of classical liberalism declared their property, land, and rights their *possession* — and on the other hand, the equal rights position—proponents of the Welfare state declared rights to a fair share and equal access to these possessions. Both approaches leave little room for the interpretation of the *political* nature of the rights, resting on Arendt’s Aristotelian-based insight that humans are primarily political beings. If there is, today, only One World, as Arendt held already before globalization became the defining framework of international relations, this means that nobody can be outside of *this* one political order—we live in a human or globalized “one-world” with no other spatial boundary than the planet itself. Refugees, who are denied the right to membership of this order of the one-world, are not ‘merely’ denied some more or less specific human rights—they have literally nowhere to dwell or belong. Menke holds, with Arendt, that we (still) misunderstand human rights when we interpret them as natural subjective rights, and he therefore calls for a radical reconceptualization of rights in the name of ‘belonging,’ as the well-known political right to membership in the one global political community.

The refugee does not say anymore: “I want or need this or that (as a human being, I have a right to it). Now, the refugee says: I am, merely as human, a member, a social part, a part

of the social. The response that bangs back to him, is well-known; it is loud enough. The response is: Not here, and not now. No member or part of us! But this really only says something about the polity that speaks in this way. In telling the refugee that he is, as human being, no member of our polity, it says that we, as members of our polity, are no human beings: only Germans, no human beings.²⁵

I have said that there is an ongoing debate on Arendt's critique of human rights. As we have seen, however, it is directed against the liberal-naturalizing version of human rights, and it is a critique of the misunderstanding—or denial—of the current globalized world that demands answers for those who are declared stateless or who are not protected by the states they happen to live in. I have also said, however, that the Human Rights regime itself has transformed considerably in establishing the International Criminal Court of Justice, the limitation of national sovereignty in cases of a failure to grant basic protection rights to people who live in a state's territory and the focus on stateless people over the last decades. The major target of Arendt's critique, however, still waits for a response by the international community. With almost 250 million people currently 'in transit,' the human rights practice concerning refugees and migrants clearly calls for the shift Arendt and Menke urge us to make, even though the distinction between 'natural' and 'political' rights requires some further deliberation.

It is here that Paul Ricœur's analyses come in. I will discern where Ricœur stands in relation to Arendt's critique, but I will do that, following his own strategy, by way of a detour through his ethical theory.

3- Ricœur's notion of human rights as recognition and respect for agency

Ricœur, I hold, goes along with Arendt's Aristotelian position that human beings can only thrive together with others; self-constitution and the actualization of human capabilities are indeed dependent on *mediations* in personal relations and in social and political institutions. His theory differs, however, from Arendt's *political* theory, because Ricœur explicitly calls 'aiming at the good life with and for others in just institutions' not a political but an ethical endeavor, which unfolds in his 'little *ethics*.'²⁶ It entails both an ethics of the good life and the morality of normative claims. The capable human being, the phrase Ricœur uses for the concept of moral agency, defines his anthropology, and it is the human capability to respond to others and to be held accountable by others that grounds human dignity as respect for precisely this capability.²⁷ Hence, Ricœur would be opposed to Arendt's claim that all that matters is the right to membership in the polity; the human condition as *zoon politikon*, the political nature of sharing each other's lives in a polity that is today the global polity, is not as decisive for Ricœur's concept

as it is for Arendt's. It errs, if you wish, on the side of the political, rendering the human condition so completely intertwined with the political that the critical force of ethics, entailed in the concept of recognition and responsibility, i.e. the capability to respond and the necessity to be held accountable and hold others accountable, can be easily overlooked.

Ricœur insists on the Kantian philosophy of *respect* together with the Hegelian philosophy of *recognition*. Ricœur, who sometimes called himself a post-Hegelian Kantian, shares with Arendt the concern for the inter-personal, social and political mediations that separate them both from the liberal tradition of early modern natural law theory. Self-esteem and self-respect, Ricœur emphasizes, however, are not just *effects* of political membership; rather, they unfold in the mutual recognition of agents who ascribe to each other reciprocally the capability to act morally, namely the capability to respond to each other and to be held accountable for their actions. Without going into too much detail here, I want to stress that Ricœur's concept illuminates the weak spot in Arendt's own approach: as the English title of one of her famous books betrays, if having a political nature is taken as the 'human condition,' this is still a quasi-natural, anthropological capacity. Arendt brushes over the genuine *moral* dimension of agency that Ricœur emphasizes so much; he insists on Kant's concept of moral autonomy as capability and as a demand to distance oneself from one's own teleological aiming at the good life. There are certainly many topical overlaps and similarities in what Arendt and Ricœur address in their philosophies—but Arendt's *political* theory seems to absorb any *moral* (i.e. normative) theory, and her philosophy of dialogical reflection or judgement absorbs any explicit *ethical* (i.e. value-based) theory. For Ricœur, in contrast, the mutual recognition of agents *as* agents matters as ethical underpinning of the political, i.e. the capability to respond to the other in their aiming for a good life and the accountability for one's actions complement each other, being played out in the different spheres of personal, civil, and political interaction and practices. Political practices or actions therefore cannot be separated from their ethical dimension—ultimately, the point of those practices is that they must secure the possibility of recognition and respect of the inter-agents. Institutional political practices and their inherent rules and norms, institutionalized as laws, are legitimized only insofar as they are grounded in the overall responsibility to mediate the desires and needs for recognition of all while responding with highest priority to the needs of the most vulnerable individuals or groups in particular.

From the point of view of the "capable human," Ricœur holds, self-care, friendships with particular others, the care for these others' well-being, and the concern for the distant others are already intertwined. While friendship is the model of successful mutual recognition in close relationships, hospitality and the practice of welcoming the stranger is a practice of the "gift," a

non-reciprocal giving that is, however, still rooted in the overall pursuit of recognition, aimed at transforming hospitality into mutuality through conversation, interpretation, and translation. Regarding, for example, the ‘culture of welcoming’ that so many actors of the German (and European) civil society practiced in 2015 and 2016, it can be interpreted as exactly such a ‘gift’ that entails non-reciprocal recognition, while aiming at mutuality of recognition and respect. Such a culture of hospitality starkly contrasts with the culture of exclusion, dehumanization and xenophobia that the groups we now call the “populists” continue to express. Ricœur does not reduce hospitality to charity or solidarity without a link to rights or justice, but at the same time, he does not believe that granting refugees membership rights will suffice. Instead, his “little ethics” requires the deontological obligation, acknowledging practical compromises, prudential judgement, and tragic dilemmas in the ‘real life’ of inter-personal actions and political practices and us to go back and forth between the teleological striving. Because Ricœur is sensitive to all three levels of ethical reflection, i.e. teleology, deontology, and *phronesis* or prudence in ethical and practical-political questions, and because he spells it out not only in the sphere of individual ethics but also in the sphere of political-social ethics, his approach provides better conceptual tools for the dialectical relationship between the ethical life, morality, and political practices when compared with Arendt’s theory of political and public power. Furthermore, it also provides a critique of Menke’s approach that regards the right to belong and membership not so much from the perspective of the victims of exclusion, deportation, and expulsion, but primarily as a question of moral integrity for the (hospitality or rights-granting) agents—as if the ‘otherness’ of the other challenged, first and foremost, the self and her moral identity instead of challenging the way they both interact. In contrast, Ricœur insists, with Levinas and against Hegel, that the encounter with the other is not merely the occasion for the self to encounter his/her own alterity but that the other must be attended to starting from their perspective, summoning the self with his/her own needs, desires, and rights. Without the attention to the other (and the other’s otherness), the hermeneutics of understanding through interpretation and translation would be superfluous.

4- Power and (International) Authority

Arendt’s theory of power, like Ricœur’s, is opposed to the tradition of Hobbes’ social contract, on the one hand, and opposed to an ethnic understanding of community as *Volk*, on the other hand; power is, as he states in his analysis of Arendt’s text *On Violence*,²⁸ the public expression of action, which is anchored in the initiative, the new beginning that Arendt had called natality.²⁹ Ricœur explicitly endorses Arendt’s approach, stating: “It is as citizens that we become humans.”³⁰

Power, then, as the public expression of action, creates something new, and it is in the exchange of pluralistic opinions that political action, i.e. praxis emerges.

Ricœur agrees, to put it in Weber's terms, that this concept of power ("Macht") as collective interaction from which something new emerges, as the "legitimate use of violence," is countered by a concept of power that is understood as "domination between the governors and the governed," as in the authoritarian model of command and obedience³¹—in German "Herrschaft," not "Macht." Yet, for Ricœur, Arendt's philosophical turn to the plurality of civic engagement is not enough: quite the contrary, Ricœur urges philosophy not only to *attend* to public opinion but, approvingly quoting Habermas' discourse ethics, to provide a *critical discourse on the public discourse*—a critique that necessarily must have a normative standard.

One might say, with Habermas, that the philosopher should not hold a discourse of citizens— practical discourse— but a discourse on the discourse of citizens—a discourse no longer practical, but critical—and that this critical discourse calls for reference to a regulatory idea which itself lays claim to truth and no longer to opinion. (Ricœur 2010, 29)

Now, taking into account that interaction between agents was framed in line with the "little ethics," which provides a dialectic between the teleological strivings and the deontological demands and resulting in practical compromises when no other resolution is available, how does this agency play out as political ethics? The law or legal order is an important mediation of and for the agents, and it has a particular force and binding power that can easily be mistaken for a merely legal norm in accordance with the model of domination (*Herrschaft*), rather than simultaneously as a moral norm in accordance with the model of power (*Macht*) that ultimately stems from the ethical aims for a good life of individuals, inter-acting with each other, including the establishment of just institutions that enable exactly this 'good life.' Yet, the legitimacy of legal norms rests upon the political task or responsibility to keep legality and morality together. Legal norms, this means, must enable respect and recognition among all agents and not just "command," to be responded with "obedience." The relationship between public discourses and the legal order is so complex, Ricœur holds, because *any* normative order conceals the fact that it originates in the *common action* of people; its origin in "common power" is easily 'forgotten,' transforming what once was the creative power of public action into its residue, the assumedly extrinsic force of the law.

[...] The forgotten—precisely because it is not a past having being, but the force of the being-together that we are without seeing it—is not of a substantial nature. It is in fact our common power.³²

The common action (political inter-action in discourses and political deliberations) and common power links the political to the ethical as the ‘undercurrent’ or other side, invisible or forgotten, of the political. Once it is revealed, the function of institutionalized power is clear: it is to mediate everyone’s desire to aim for the good life with and for others and thereby enable mutual respect and recognition. What legitimizes the norms of institutional power is not an imaginary social contract of the past that *constrains* the power of individuals in the present and future, but exactly the opposite: power is institutionalized ethical and moral agency oriented towards *creating something new*; it thereby reflects the innovative power of any action—Arendt’s ‘natality.’ Why is power institutionalized agency? Because agency is neither ‘natural’ nor ‘atomistic’ but necessarily socially mediated; furthermore, agency already entails a sense of justice (often through experiences of injustice); it *aims for* just institutions that ‘organize’ or ‘structure’ the way social agents or collectives interact.³³

Arendt’s politico-communitarian interpretation of the “human condition” is therefore incomplete, if not insufficient: first, even though it *does* account for the social and political mediation, it does *not* account for the mutuality of recognition and respect as the normative orientation of any interaction, including social interactions and practices of political institutions. This norm of mutual recognition (or maybe more correctly: mutual recognition as a regulative idea), I would hold, is indeed to be ‘globalized’ today exactly because Arendt is right: we live in One World, with multiple interrelations between cultures, societies, states, and last but not least, economies. Second, even though Arendt’s approach *does* account for the legitimizing foundation of the law in public opinion, it does *not* provide the *critical*, i.e. moral criterion of the public discourse. Ricœur, in contrast, holds that public discourse *must* be oriented towards justice; the law cannot do without this orientation, because not plural public opinion as such but justice as an ethical norm legitimizes its sanctioning norms or binding force. Political justice is, as Ricœur makes clear, rooted in the *sense* of justice that is reflected in moral emotions such as outrage, shame, or compassion. This sense of justice—often expressed publicly in demonstrations or by social movements—is transformed into the normative principle of justice, as Ricœur showed in *Oneself as Another*, that in turn guides the necessary institutional mediations of agents’ capabilities.³⁴ Hence, the creative public power of our ‘common actions,’ the public power to create something new *as such* is insufficient for separating political authority from the violence of mere domination. It requires the critical discourse of normative ethics: the political-legal order, reflected in positive law, requires the normative standard of justice as mutual recognition and respect for the “capable self.” This holds true for the international political order as well as for any national or transnational political order, such as the European Union.

With this, we can now go back to the question of human rights. To understand the difference between the moral and the political concept of human rights we need to go back to the shift in the concept of the *ius naturale* that occupied much of the political thought in early modernity.³⁵ The Hobbesian concept of sovereignty, Ricœur argues,³⁶ transforms the moral concept of the natural law tradition into the concept of political agency driven by prudence: it changes the metaphysical, yet moral underpinning of legitimizing power into the political calculation of individuals who aim to overcome their state of fear and instead live in peace: because Hobbes presupposes that the state of nature is based upon violence and the “war of all against all,” the delegation of power to the sovereign—as the one who represents the multitude—is aimed at mitigating the fear of death. The “articles of peace,” otherwise “called laws of nature,” as Hobbes says,³⁷ are not of a metaphysical but of a political nature, paradoxically redefined by him as “laws of nature.” Ricœur demonstrates how Hobbes changes the *moral* concept of the *ius naturale*, no longer a quality attached to a person as such, as it was still understood by Grotius in line with the medieval scholastic tradition, into what Ricœur calls a “para-ethical” concept:³⁸ the Hobbesian ‘law of nature’ that forces persons into the social contract *imitates* rather than expresses “the rules of a morality of obligation.”³⁹ The freedom to agree to the social contract becomes an obligation in Hobbes, but the normative dimension is based upon the prudent calculation of the individual agent who trades a part of his (sic!) freedom for peace *under the condition* that others do this, too. The moral ideal of mutual recognition of “capable agents” is reduced to a condition of reciprocal agreement, culminating in the power of the sovereign who acts as the representative of all:

“I authorize and give up my right of governing myself to this man, or assembly of men, on the condition that thou give up thy right to him, and authorize all his actions in like manner.”⁴⁰

For Hobbes, it is merely a short step from the power (*Macht*) that resembles Arendt’s ‘acting together’ and that legitimizes the authority of institutions, to the domination (*Herrschaft*) of the sovereign;⁴¹ domination departs from its role of responsibility for justice and falls back into the model of “command and obedience.” This, Arendt and Ricœur agree, *converts* the creative power of ‘common action’ into violence, transforming innovative power into coercive power, the constraining, authoritative domination of the state *over* its constituents. Arendt and Ricœur both agree that this concept of ‘sovereignty’ or power as domination is a root problem of modern political philosophy, motivating Ricœur at the end of his life to reexamine the Hegelian ethics (and politics) of recognition as alternative to a political theory of the social contract. This, of course, was also Hegel’s objection to Hobbes.⁴²

In Ricœur's approach, the boundaries of justice are not necessarily linked to those of a national community; I think he would have agreed with Arendt that we do indeed live in a globalized world, the "One world" as she coined it. From our first detour through the 'capable self' as definition of moral agency, we concluded that the distant other is one figuration of the 'other' who may not be my friend, but for whom—and to whom—I am still responsible. Seen from this ethical perspective, responsibility towards the other is not informed or defined by mere self-interest, because that contradicts the very understanding of myself as capable, i.e. responsible agent. Neither is it rooted in our shared membership or sharing of the one world; certainly, as Menke has stressed, my *responsibility* towards the other is a necessary part of my own ethical self-understanding and hence connected to the sense of justice that *motivates me* to 'aim at the good life with and for others.' The responsibility towards the other is, first and foremost, part of the ethics of the good life, actualized, for example, in the hospitality towards refugees who are among those the 'good life' includes, and whom the one who is not in transit welcomes into his or her life.

Yet, I have claimed, Ricœur's ethics does exactly *not* stop there—the image of a harmonic 'good life or, 'buen vivir,' recently taken up in Latin American intercultural philosophy and ethics, ignores the deontological dimension and may also be far too forgetful of the other side, namely the refusal of solidarity and justice, especially on a global scale. Ricœur acknowledges, of course, the plurality of public opinions, which often define the 'good life' in mutually exclusive terms: refugees are not only welcomed by *some*, they are also, by some others, seen as a threat to their identity, standard of life, or their overall way of living. And still others would take a mediating position, such as, in the German controversy, discourse ethicist Konrad Ott has done.⁴³ Reflecting on this public—necessarily plural—discourse, the philosophical critical discourse "calls for reference to a regulatory idea which itself lays claim to truth," to quote Ricœur's critique of Arendt via Habermas again—or, in his own words, philosophy must refer to the moral claim that addresses the agent, as the capable self, in the form of the negative categorical imperative, which Ricœur defined as imperative not to act in a way that will produce or prolong evil: "Because there is evil, the aim of the 'good life' has to be submitted by test of moral obligation."⁴⁴ It is important to note that 'evil' is no empty category in Ricœur's ethics but spelled out as misrecognition, disrespect, and injustice—rooted in the same sense of justice that informs the notion of the good life; evil is inverted justice, expressed in the sense and feeling of indignation. The *sense* of justice and the *principle* of justice critically correlate, but its normative root is the acknowledgment of humans' potential for evil.⁴⁵

While we can understand the moral underpinning of human agency, and we can also understand the intertwining of personal and public action and its legitimizing power of institutional power, especially the law—the question still is whether these reflections help us to better understand what a human rights regime would look like for Ricœur. Let me note here that Ricœur does not give statelessness the same systematic status as Arendt does—although I think he *should* have given the category of space more attention in his ethical writings, especially the space of ‘transit,’ which alongside the category of time entails the ‘transitions’ Ricœur was so interested in. For my context here, however, it is Ricœur’s engagement with Arendt’s concept of authority that I will finally turn to.

The question is this: is the UN human rights regime structurally powerless against the sovereignty of nation states, because it lacks the mechanisms of enforcement and, we might want to add, because it is realized by the same leaders of the states who often represent the power over rather than the power to act in common, dictators or regimes that may have signed the UN Human Rights Declaration but have no intention of implementing it? In other words, does the human rights regime entail an inherent force that may help to transform the factual model of domination into one of power in Weber’s and Arendt’s sense? In other words: does the ethical interpretation of the “capable human” that contrasts with the “fearful human” in the state of nature also require the departure from the prudential Hobbesian model of political theory? Can the human rights regime help to transform the power-as-domination model, so to speak, into a legitimate concept of institutionalized responsibility that “mediates the desires and needs for recognition of all while responding with highest priority to the needs of the most vulnerable individuals or groups,” as I have claimed all institutions must do (cf. above, p. 31 of this paper)? Once we understand human rights as the *moral*-political foundation of human interactions and practices, the Declaration of Universal Human Rights and the accompanying Conventions entail a *conceptual* critique of the political concept of *Herrschaft* or domination; linking human rights to the ‘capable self,’ they clearly point to the concept of *Macht* that is rooted in memories of injustice, the response-ability and accountability of agents, and their ability to establish just institutions—in short, they point to the *ethical* dimension of human agency, defined as “aiming at the good life with and for others, in just institutions.”⁴⁶ It is here that the notion of authority becomes virulent, for Ricœur as much as for Arendt. For, from where would its *political* authority come if *not* from the “people,” contesting the violence of regimes, norms, and practices that contradict the ethical orientation?

Arendt grants that there is, and must be, a hierarchy in any political order – there are persons who are respected and recognized for and in their authority, and every polity needs

institutionalized authority. But this authority needs to be distinguished, even separated conceptually, from the 'sovereign' power of domination; rather, it is strictly bound to the concept of political action that requires *legitimization* as much as *duration*.

[...] politics is expected to provide for action the durability and solidity that it lacks. This is why an aspect of legitimation is always needed, that would at the same time be an aspect of durability.⁴⁷

Ricœur continues:

This is why at the last moment Hannah Arendt, as if grabbing a lifebuoy, catches hold of the American Revolution, the last one to have succeeded, according to her, because [Ricœur quotes Arendt] 'the founding fathers, as, characteristically enough, we still call them, founded a completely new body politic, without violence and with the help of a constitution.'

Paradoxically, power does indeed need 'durability' in its institutional form, but at the same time power is, because it is *creative power*, always necessarily volatile and unpredictable. Hence, at stake is the relation between *innovation* (the creative dimension of the power to) and the durability and continuity of a *foundation*. This relation, Ricœur holds, is as complex as the relationship between power and violence: "In my view, it is in the relation between foundation and innovation that there exists an enigma much larger than that of the relation between power and violence to which we are party."⁴⁸ While Gadamer, among others, praised the authority of tradition, he says, Arendt is not with such a communitarian reading of authority. Almost desperately searching for models of foundation that can secure the power of the common action of citizens, Arendt reverses the hermeneutic turn to the authority of tradition, returning to what Ricœur calls the *tradition of authority*. The model of authority, the foundation that Arendt has in mind is exactly not authoritarian, totalitarian, or the power of the sovereign but stems from those who have pursued real 'innovations' in history, actualizing the power to create something new politically. In other words, the tradition of authority is linked to past revolutions, understood as the overthrow of domination (*Herrschaft*) by the collective power of political agents (*Macht*). But, Ricœur holds, Arendt is far from clear on this, and far more ambiguous than one might want her to be. Obviously perplexed by her simultaneous admiration for the Roman *civitas*, for Machiavelli, and for the Founding Fathers of the American Constitution, Ricœur disagrees with these images or models of foundations that secure the authority that she is looking for.

But today, we may reconsider Arendt's turn to the foundation of power as collective action, and read her against herself. Could the 1948 United Nations' Universal Declaration of Human Rights not be read as the expression of our "common action" and hence as another foundation story? Is

this not a 'founding narrative' similar to Arendt's interpretation of the US Bill of Rights, yet cosmopolitan as much as universal? What keeps us from understanding the *Universal Declaration of Human Rights* as the public expression of *our*, the *citizens'* common action, based upon our common ethical orientation, to live a good life, with and for others, in just institutions? Is the *Declaration* not the concrete historical result of our outrage and horror after the Shoah, yet pointing thereby to *any* human rights violation? Is it not rooted in the sense of justice that stems from the experience of injustice? If the relationship between innovation and foundation, or between power and authority, is guiding us, then a completely different interpretation of the *human rights regime* becomes visible. It is an interpretation that Ricœur linked to the 'forgotten': "A forgetting which is not of the past. In this sense, a forgetting without nostalgia. A forgetting of that which constitutes the present of our living-together."⁴⁹ In this sense, the human rights may be seen as "the closest reality, constitutive at each moment of present living-together, and the most hidden—and in this sense always forgotten";⁵⁰ they are, in this sense, the institutionalized power of our public action, our power to create a new order that responds to the 'one world,' in which the boundaries of nation states do not coincide with the boundaries of rights and responsibilities.

Menke is right: as long as we conceive of human rights as 'possessions' of individual agents that we either want to secure or want to acquire as individuals, we are indeed caught in a struggle for recognition that resembles the Hobbesian imagery more than it resembles Hegel's—and Ricœur's—vision of mutual recognition and social freedom.⁵¹ Human rights, understood in this way, are based upon the vulnerable agency of human beings who are social and political beings. I argue that we can indeed read the Universal Declaration of Human Rights in continuity with the history of innovations, i.e. revolutions that have transformed political normative orders, like "the founding fathers, as characteristically enough, we still call them, founded a completely new body politic, without violence and with the help of a constitution."⁵²

Human rights are the norms that spring from the 'right to have rights'—not because it is this right that is the condition of our belonging to the world, but because it captures exactly what moral agency (Ricœur's "capable self") is about. Human rights are the expression of what it means to be a capable agent—one who is, at the same time, vulnerable to the actions of others, and dependent on all the social and political mediations that are articulated in the different rights. They point to the necessity of living together in the 'One World.'

Because the creative power as public expression of action is so easily 'veiled' and 'forgotten' in the norms that bind us, the public discourse as well as the institutionalized normative orders require the critical discourse of philosophy. Philosophical critique is not detached from 'public

opinion' but is connected to it in the form of critique. Hence, it cannot just mirror the 'facticity' of social values and social norms but rather, it must scrutinize them in view of the regulative idea, articulated as the moral, categorical imperative:

Act solely in accordance with the maxim by which you can wish at the same time that what *ought not to be*, namely evil, will indeed *not exist*."⁵³

If in fact we cannot *wish* that the evil of Aleppo, Lampedusa, the Naaf River between Myanmar and Bangladesh, and the many other places around the world *ought to be*, places that are literally covered with the blood of the violence of dominating power, then we *must act*—together—in accordance with the maxims that at the same time ensure that this violence *will no longer exist*. If the international institutions, together with the nation states, do not reflect this maxim that in fact is the universalized negative categorical imperative, then they lose their legitimacy.

That refugees and migrants, however, are stripped of their rights as moral, yet vulnerable agents; and that they do not find a space to dwell among those who are well able to recognize and respect them, personally, socially, and politically; that instead they are forced to live in transit, sometimes permanently—*this* reality we, the people of the One world, cannot wish to be the maxim of our action. It is a moral maxim, calling for the transformation of the international order and international law to hold states accountable. But it is also a moral maxim that calls for the transformation of our personal sense of justice, the one that informs our concept of the 'good life,' summoning us to recognize, first and foremost, the stranger as one whom we do already inter-act with, either by indifference and rejection, or by solidarity and the call for justice.

At the end of his analysis of Arendt's work, Ricœur takes exactly such an ethical turn, paving the way for an alternative to Arendt's *polity* and the foundation of her vision in the American Revolution that she ultimately traces back to the Roman *civitas*. Ricœur, instead, argues for the authority of the "capable human," as the alternative foundational symbol, correlating to the common power of people inter-acting: this is the refugee Aeneas, the figuration of the responsible human of Troy:

[...] behind Rome there was Troy, represented by Aeneas carrying his father Anchises on his back. And, under Troy, how many buried foundations?⁵⁴

I believe that the human rights regime, of all international regimes we can think of, has exactly the revolutionary innovative power of those who have said "no" to the violence of evil before. They lend their authority to *every* human being who is capable, as a responsible and accountable agent. These 'other' founding persons, men and women alike, call for our common action, call for

another 'augmentation' of a revolution,⁵⁵ the power to create something new from the rubble of Aleppo, from the burning camp of Moria on the island of Lesbos, and perhaps also something new from the rubble of the international politics over the last 70 years. Arendt deserves every credit for having emphasized the political dimension of this responsibility, and this was not lost on Ricœur who re-emphasized its moral foundation.

In reading Arendt, Ricœur calls, with her, for a reversal from violence to creative power; he finds it, against her, in the moral responsibility of all humans who, like Aeneas, carry the burden of others on their shoulders. The foundation that is authority, giving the volatile, innovative and creative power of common action the duration or continuity that it needs, resulting in the institutionalized power of the political order—that foundation is the most vulnerable, singular human person, suffering, yes, but also capable: capable of responding to the immediate needs of the other.

Aeneas, by the way, is one of the many refugees the Greek and Roman mythology remembers in its narrative configurations. Being vulnerable himself, Aeneas, fleeing and having lost all rights, is *still* carrying his father on his back. He, not the Roman *civitas* or the "Founding Fathers" of the American Revolution, is Ricœur's founding figure of human rights—a human being who does not lose his dignity *in transit*, because he does not lose his capability to respond. If this *vulnerable agent* is capable of responding to another's need and aim to live a good life, how much more are others, not in transit, capable of responding? What better foundation for the international institutions could we have? After all, it is Aeneas and his sisters and brothers who keep us from being blinded by the multiple facades of dominating powers who love the sweet rhetoric of human rights but hate to carry the burden of their realization. If Aeneas is the symbol of the authority behind the human rights regime, exactly because he is a vulnerable, yet capable human, it is upon all of us, the inhabitants of the One World, to spell out the actions, practices, and institutions that are in accordance with Ricœur's three levels of agency, namely our plural ethical orientations, our universal normative obligation to fight evil and violence, and the practical and political compromises that are necessary in political life. Ultimately, however, the aim must be to protect the dignity and the rights of individuals, starting with those who are most dependent on our power, the power of innovative common action.

- ¹ New York Times, September 27 2016.
- ² Unicef 2017. The numbers relate to 2016. P. 7, Cf: (<https://data.unicef.org/topic/child-migration-and-displacement/migration/>)
- ³ Hannah Arendt, "Es gibt nur ein einziges Menschenrecht" and *The Origins of Totalitarianism*.
- ⁴ For a recent analysis of Arendt's position cf. Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens*. Since my interest is the relationship between Arendt and Ricœur, I will not examine Benhabib's otherwise important study.
- ⁵ Arendt, *The Origins of Totalitarianism*, 267.
- ⁶ As Sumner Twiss has shown, the normative justification of human rights was, however, never fully articulated so it was open to several different interpretations. In light of this history that is confirmed by Linda Hogan's recent work, Arendt's interpretation follows the natural law theory that was dominant in the Western theories of human rights. Cf. Hogan, *Keeping Faith With Human Rights*, Twiss, "History, Human Rights, and Globalization."
- ⁷ Hans Joas, "The Sacredness of The Person: a New Genealogy of Human Rights."
- ⁸ The US Bill of Rights that applies the rights to a particular political community is explicitly exempted from her critique. In Arendt's view, this constitution echoes how human rights can be established: as political foundations of a particular polity.
- ⁹ Arendt, *The Origins of Totalitarianism*, 290. Arendt was certainly aware of the essay her friend Walter Benjamin had written on political and divine violence; cf. Benjamin, "Critique of Violence."
- ¹⁰ Arendt, *The Origins of Totalitarianism*, 291.
- ¹¹ The ethnic and racial redefinition of the political category of the 'people' in the 19th century interrelates with the rise of the new, evolutionary race theory after Darwin and the population genetic studies over the course of the 19th and early 20th century. I would need another essay to show how indebted current human genetics and population genetics is to this history.
- ¹² Arendt, *The Origins of Totalitarianism*, 299.
- ¹³ Arendt, *The Origins of Totalitarianism*, 292.
- ¹⁴ Arendt, *The Origins of Totalitarianism*, 297.
- ¹⁵ Arendt, *The Origins of Totalitarianism*, 301.
- ¹⁶ Arendt, *The Origins of Totalitarianism*, 300. Arendt addresses the very complex issue of human dignity, human rights, and political recognition of rights far too carelessly in these few pages; she juxtaposes the private life in Greek society, the 'givenness' of 'mere existence' ruled by the "law of difference" with the public sphere, which is ruled by the "law of equality." The latter, she holds, is a political achievement: "We are not born equal; we become equal as members of a group on the strength of

our decision to guarantee ourselves mutually equal rights.”(301). She critiques the Human Rights Declaration for conflating the “law of difference” based on the ‘givenness’ of one’s “single, unique, unchangeable” individuality and the “law of equality” as a principle of political justice, without explaining how exactly the law of equality can incorporate the law of difference. Her underlying critique became the object of multiple studies in the latter half of the 20th century. Charles Taylor, most prominently, provided an important interpretation, claiming that the concept of human dignity entails exactly these two sides, namely the respect for equality *and* difference. Cf. Charles Taylor, *Multiculturalism and the Politics of Recognition: an Essay*.

¹⁷ Arendt, *The Origins of Totalitarianism*, 302.

¹⁸ Arendt, *The Origins of Totalitarianism*, 296-7.

¹⁹ Arendt, *The Origins of Totalitarianism*, 297.

²⁰ United Nations Refugees Agency (UNHCR) 1954, 3.

²¹ Minority Rights Group International 2017.

²² “Art. 1.2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens, United Nations General Assembly 1965/1969.

²³ Heiner Bielefeldt, “Es gibt nur ein einziges Menschenrecht,” 9. He acknowledges that Arendt saw clearer than others the flaws of international law but also points to the developments of the human rights regime over the last decades.

²⁴ Christoph Menke, “Zurück zu Hannah Arendt – die Flüchtlinge und die Krise der Menschenrechte.”

²⁵ Mit dem Recht auf Rechte ändert sich die Situation radikal. Der Flüchtling sagt nicht mehr: Ich will oder brauche das oder jenes (und habe als Mensch ein Recht darauf). Der Flüchtling sagt jetzt: Ich bin (bloß als Mensch) ein Mitglied, ein sozialer Teil, ein Teil des Sozialen. Die Antwort, die ihm entgegenschallt, ist bekannt; sie ist laut genug. Die Antwort lautet: Nicht hier und nicht jetzt; kein Mitglied oder Teil von uns! Aber das sagt in Wahrheit nur etwas über uns, über das Gemeinwesen, das so spricht. Indem unser Gemeinwesen dem Flüchtling sagt, dass er als Mensch kein Mitglied unseres Gemeinwesens ist, sagt es über uns, dass wir als Mitglieder unseres Gemeinwesens keine Menschen sind: bloß Deutsche, keine Menschen,” Menke, “Zurück zu Hannah Arendt – die Flüchtlinge und die Krise der Menschenrechte,” 57.

²⁶ Paul Ricœur, *Oneself as Another*, 172.

²⁷ Ricœur, *The Course of Recognition*.

²⁸ Ricœur “Power and Violence.”

²⁹ Likewise, for Arendt, power “corresponds to the human ability not just to act but to act in concert.” Ricœur, “Power and Violence,” [quoting Arendt] 21.

- ³⁰ Ricœur, *The Just*, XVI.
- ³¹ Ricœur, *The Just*, 21.
- ³² Ricœur, "Power and Violence," 28.
- ³³ This is close to what Iris Marion Young has in mind in her last, unfinished work: *Responsibility for Justice*.
- ³⁴ Cf. Ricœur, *Reflections on The Just* and Ricœur, *The Just*.
- ³⁵ Cf. for a historical account: Brian Tierney, *The Idea of Natural Rights : Studies on Natural Rights, Natural Law, and Church Law, 1150-1625*.
- ³⁶ Ricœur, *The Course of Recognition*, 161-174.
- ³⁷ Ricœur, *The Course of Recognition*, 165, quoting Hobbes' *Leviathan*.
- ³⁸ Ricœur, *The Course of Recognition*, 170.
- ³⁹ Ricœur, *The Course of Recognition*, 170.
- ⁴⁰ Hobbes, *Leviathan*, 109, quoted in Ricœur, *The Course of Recognition*, 169.
- ⁴¹ Cf. Ricœur, "Power and Violence," 21. Here Ricœur discerns Arendt's Weberian distinction that she applies to modern concepts; the French or American Revolution is meant to put an end to domination by re-installing the power as collective action to create something new. For a similar critical analysis of Hobbes cf. Conor Gearty, *Liberty and Security*.
- ⁴² Cf. Ricœur, "Power and Violence," and Hobbes in relation to Hegel's recognition theory as outlined in Ricœur, *The Course of Recognition*, 161-174.
- ⁴³ Unfortunately, Ott analyzes the public opinion with a prejudice for the 'realist' position, which he does not lay open. His text lacks exactly the critical analysis that discourse ethics must add to the plural voices in the public. Konrad Ott, *Zuwanderung und Moral*.
- ⁴⁴ Ricœur, *Oneself as Another*, 218.
- ⁴⁵ Ricœur, *Fallible Man*.
- ⁴⁶ Ricœur, *Oneself as Another*, 172. Not every human being is, at all times, an agent: moral and political agency is therefore rightly considered as the 'inherent' meaning (in German: *Gehalt*) of human dignity, spelled out as rights. Yet, I hold that only the concept of *vulnerable* agency captures the many states of human life that are not strictly defined as 'agency.' One consequence of the social mediations of human life is exactly the vulnerability to and dependency on being acted 'upon' by others: by being addressed, cared for, and recognized. As Ricœur emphasizes: agency and "patience," acting and 'suffering' go hand in hand. Cf. Hille Haker (forthcoming), "Vulnerable Agency: A Conceptual and Contextual Analysis."

⁴⁷ Ricœur, "Power and Violence," 33.

⁴⁸ Ricœur, "Power and Violence," 34f.

⁴⁹ Ricœur, "Power and Violence," 25.

⁵⁰ Ricœur, "Power and Violence," 26.

⁵¹ Cf. for the Hegelian reinterpretation of freedom as social freedom: Axel Honneth, *Freedom's Right. The Social Foundations of Democratic Life* and Frederick Neuhouser, *Foundations of Hegel's Social Theory : Actualizing Freedom*.

⁵² Ricœur, "Power and Violence," 33, quoting Arendt: *Between Past and Future*, 140.

⁵³ Ricœur, *Oneself as Another*, 217.

⁵⁴ Ricœur, "Power and Violence," 35.

⁵⁵ Ricœur, "Power and Violence," 35.