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The 'Right to Have Rights' 65 Years Later: Justice Beyond Humanitarianism, Politics Beyond Sovereignty

Readers of Hannah Arendt's now classic formulation of the statelessness problem in her 1951 book *The Origins of Totalitarianism* abound at a moment when the number of stateless peoples worldwide continues to rise exponentially. Along with statelessness, few concepts in Arendt scholarship have spawned such a volume of literature, and perhaps none have provoked as much interest outside of the field of philosophy, as 'the right to have rights.' Interpreting this enigmatic term exposes the heart of our beliefs about the nature of the political *and* has important consequences for how we practice politics on a global scale because it implicitly takes plural human beings, and not the citizen, as its subjects. Arendt's conceptualization of this problem remains unsurpassed in its diagnosis of the political situation of statelessness, as well as its intimate description of the human cost of what she refers to as 'world loss,' a phenomenon that the prevailing human rights and global justice discourse does not take into account. And yet, as an alternative framework for thinking about global politics, the right to have rights resists easy interpretation, let alone practical application.

Contrary to Arendt's ultimate aims, 'the right to have rights' has largely receded to a position of complicity with the very tradition of politics as state sovereignty whose untenability the refugee crisis exposes. Between the philosophical analysis of 'world loss' and the political-historical descriptions of statelessness, the status of sovereignty, political action, and political community have become confused. This confusion is aided on the one hand by Arendt's apparent characterization of refugee politics as essentially impotent, and on the other, by popular misreadings, in both Arendt scholarship and human rights literature, of 'the right to have rights.'

Arendt herself was a rare thinker capable of reaching great philosophical heights without disregarding political reality. She often experienced this political reality as suffering, and her thinking reflects a fraught relation to the world that she theorizes — a perspective that we might fairly assume was rooted in her own experience as a German-Jewish refugee. Although she didn't always succeed, her work is motivated by a desire to understand and embrace the complexities of the human condition, which makes her thinking impossible to place in traditional

ideological categories. In this spirit of 'thinking without banisters' and in 'dark times,' as she might put it, we ought to search for Arendt in her most radical form, and for her political thought in its most radical incarnation. To do so requires dwelling with those passages that are most troubling, ambiguous, or contradictory, and without losing sight of the real political issues that ground her work.

My aim in the limited context of this paper is to dwell with a passage in *The Origins of Totalitarianism* where Arendt appears to argue that stateless persons are not political — that they are deprived of politics and beyond the reach of power. I focus on Jacques Rancière's excellent exegesis and critique of this moment, but offer caution regarding his ultimate conclusions: if his interpretation is correct, it would suggest that membership within a nation-state is the necessary condition of the political on Arendt's view, ostensibly revealing an attachment to a concept of sovereignty that she disavows elsewhere. In response, I suggest that Rancière's critique relies on a conservative (mis)reading of Arendt's broader theory of action, of which 'the right to have rights' is an important part, and instead propose a different account of what Arendt is up to. In order to re-orient Arendt scholarship on the problem of statelessness I suggest that 'the right to have rights' is best interpreted as a politics of *non-sovereignty* oriented by an account of belonging.

Political belonging, on my view, provides the primary political term for Arendt's broader theory of political action, a view that only becomes plausible if we return to her work on refugees, taking it as seriously as the later philosophical texts. Meanwhile, the theory of statelessness and the 'right to have rights' developed in *The Origins of Totalitarianism* must be considered in light of the philosophical account of political action in *The Human Condition* and elsewhere. Only a comprehensive analysis of both Arendtian modes can prepare us to assess what resources, if any, remain in Arendt studies for refugee politics in the current historical moment and in the most practical of terms. On this view *the 'right to have rights' does not describe a situation of right and rightlessness as much as it develops a theory of political action on the scene of statelessness and diaspora.*

Reorienting 'the right to have rights' and the perplexities of statelessness toward a politics of belonging will not solve the ongoing refugee crisis, but it does propose an important change in the way that we think about it. It also urges a particular way of thinking about political practice on a global scale. While global politics has largely become a depoliticized practice of humanitarianism, returning to 'the right to have rights' shifts the site of political action to center refugees who de facto lack legal status as citizens, emphasizing

the importance of collective self-determination and agency as the basis for our conceptualizations of global justice, while insisting that we still deplore certain uninhabitable modes of belonging specific to refugee populations, especially the camp, and remain committed to alleviating material conditions that make political action more difficult for refugees. Lacking formal political status, refugees nonetheless have political capacities to resist the conditions of their oppression and dehumanization. This is a view that Arendt does hold, despite Rancière's argument to the contrary, and despite Arendt herself at certain crucial moments. Justice for refugees understood in the form of 'the right to have rights' is properly an appeal to the global community, one that ought to refigure our politics beyond sovereignty and collective responsibility beyond humanitarianism, but it is still primarily a *right*: one that is not given, guaranteed, or simply *borne*, but enacted.

'Statelessness' and State of Exception

In *The Origins*, Arendt carefully sketches the emergence of statelessness alongside the closely intertwined fates of the nation-state model of belonging on the one hand and the Rights of Man on the other. As the rights of the citizen became increasingly identified with the nature-inspired Rights of Man in the 18th century, a few developments became decisive for later centuries: first, the situation of those — the stateless — who could not claim citizenship anywhere in the new political organization of nation-states, second, the need for a 'human rights' language that would protect those deprived of nation-state belonging, and third, the rapid realization that human rights were both practically unenforceable and philosophically ungrounded. According to Arendt, the abuse of this situation, most completely by the 20th c. totalitarian regimes, consisted in making use of the 'sovereign right of expulsion'¹ to wield the 'weapon of denationalization'² — once people could no longer be said to belong to any state, no state had to take responsibility for them and anything could be done to them.³ This rightlessness, or 'deprivation of legality,'⁴ was constitutive of the new international political order and designates its most vulnerable populations. So 'The Decline of the Nation-State and the End of the Rights of Man' is the story of how the stateless become rightless and the rightless become the 'merely human,' a prefiguration of what Giorgio Agamben later calls 'bare life.' The 'perplexity' of this situation, as Arendt points out, is that the Rights of Man were supposed to be *inalienable* — the rights themselves were supposed to

1 Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt, 1951), p. 283.

2 *Ibid.*, p. 279.

3 *Ibid.*, p. 291.

4 *Ibid.*, p. 295.

exist independently of any particular state or nationality.⁵ Human rights were invoked everywhere, but not enforceable, especially once statelessness became a mass phenomenon. It was precisely the 'arrival of the stateless people' that brought an end to the illusion of abstract inalienability. Arendt argues that the 'first loss which the rightless suffered was the loss of their homes,' and this 'was a problem not of space but of political organization.' The nation-state model of political organization meant that the loss of one's home — not in itself unprecedented — became the loss of a home in the world.⁶

Sitting with the full weight of this world-loss, Arendt concludes that stateless people were not 'merely human,' but actually beyond the pale: 'Man, it turns out, can lose all the so-called Rights of Man without losing his essential quality as man, his human dignity. Only the loss of a polity itself expels him from humanity.'⁷ On the uncertain ground of this paradox, the merely human and the subhuman, Arendt announces 'the right to have rights.' This complex theoretical concept is Arendt's original contribution to the discussion of universal human rights that preceded her (first by Edmund Burke), and continues to generate questions, both practical and theoretical, that draw the very foundations of her political theory as a whole into fierce criticism. If Arendt's critique of the idea of human rights has any force, then how might 'the right to have rights' suggest a different conceptualization of the political and global justice?

Some of the most important political thinkers of the 20th and 21st centuries have shed light on these questions. Jacques Rancière's compelling critique of Arendt's treatment is particularly instructive and will provide the framework for the discussion that follows. In 'Who is the Subject of the Rights of Man?,' Rancière's principle claim is that Arendt's conceptualization of the political makes use of an exclusionary logic that forecloses stateless people from appearing in the political realm, and therefore, of undertaking political action of their own. By proceeding in this way, Rancière joins many others who criticize Arendt for setting up the political as a space, a 'specific sphere, separated from the realm of necessity.' He takes particular issue with Arendt's remark in *The Origins* that the plight of the rightless 'is not that they are not equal under the law, but that no law exists for them; not that they are oppressed, but that nobody wants to oppress them.' The effect of this view, according to Rancière, is that it places, not only people, but questions of power and oppression beyond

5 *Ibid.*, pp. 291-292. 'The Rights of Man, after all, had been defined as "inalienable" because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them.'

6 *Ibid.*, p. 294.

7 *Ibid.*, p. 297.

political consideration.⁸ Further, and perhaps more troublingly, it ostensibly precludes stateless peoples from participating in any politics at all, marking off a realm of ‘pure politics’ that refugees and other dispossessed groups are always already excluded from. In order to describe the experience of statelessness, it seems, Arendt ends up identifying it with a ‘state of exception’ that effectively denies the reality of power as it circulates among the rightless, as well as the possibility of resistance to power. If Rancière is right, the implications are startling: It would mean that Arendt is guilty of delineating, prior to any real human practices, ‘those who are and those who are not worthy of engaging in politics.’⁹

On Rancière’s reading, this ‘radical suspension of politics in the exception of bare life is actually the ultimate consequence of Arendt’s archi-political position.’¹⁰ And from here, the ‘archi-political,’ by which Rancière means the private-public distinction that separates the biological-material realm from the space of appearance proper to political life, necessarily entails depoliticization. The archi-political position, according to Rancière, becomes an unmovable ‘ontological trap.’¹¹ Judith Butler recently echoed this concern. As she puts it:

If we claim that the destitute are outside of the sphere of politics—reduced to depoliticized forms of being—then we implicitly accept as right the dominant ways of establishing the limits of the political [...] Such a view disregards and devalues those forms of political agency that emerge precisely in those domains deemed prepolitical or extra political and that break into the sphere of appearance as from the outside, as its outside, confounding the distinction between inside and outside.¹²

Though they have different ways of conceiving what constitutes political activity, both Rancière and Butler reject the view that stateless people cannot be oppressed, cannot engage in humanizing modes of activity, including political activity, or that they live beyond the reach of power broadly understood. This intervention entails an important critique of Arendt’s broader political project and demands close consideration. We only understand the refugee as merely human, inhuman, or barely existing within a space of exception outside of

8 [This] position, paradoxically enough, offered a frame of description and line of argument that would prove useful for de-politicizing issues of power and repression. It enabled a way of placing them in a sphere of exceptionality that was no longer political but of an anthropological sacredness situated beyond political dissensus.’ Jacques Rancière, ‘Who is the Subject of the Rights of Man?’, in his *Dissensus: On Politics and Aesthetics* (New York: Bloomsbury, 2013), p. 72.

9 *Ibid.*, p. 79.

10 *Ibid.*, p. 74.

11 *Ibid.*, p. 74.

12 Judith Butler, *Notes Toward a Performative Theory of Assembly* (Cambridge: Harvard University Press, 2015), p. 78.

politics, if we already accept Arendt's contentious view that whatever exists outside the so-called political realm is thereby unpolitical in terms of status, activity, and capacity. This implies that Arendt's is not a pure political theory, as she represents it, but a 'reconfiguration of the political field, of an actual process of de-politicization.'¹³ Whereas Arendt thought that she was pointing out the plight of the stateless as a certain kind of depoliticization or deprivation of the political, she was actually preserving a view of the political which already delineates that depoliticization.¹⁴ For Rancière, 'To escape this ontological trap, the question of the Rights of Man — more precisely, the question of their subject — and therefore of the subject of politics, has to be re-worked and politics placed on an entirely different footing.'¹⁵

So how does Rancière understand his own contribution to an 'entirely different footing'? While Arendt delineates a border between the social and the political, the private and the public, for Rancière, 'Politics *concerns that border*, an activity which continually places it in question' (emphasis added).¹⁶ It is the dispute 'over what is given and about the frame within which we see something as given.' While for Arendt politics is about the 'space of appearance,' she does not directly thematize political action as a struggle over what appears in relation to what is seen. Rancière's conception of politics, on the other hand, as a process of *dissensus*, leads him to theorize the political subject as a 'capacity for staging scenes of dissensus'¹⁷ — not a citizen, not a rights-bearer, but a *capacity* to dispute existing aesthetic regimes. Butler, for her part, offers a theory of political action as 'plural performativity,' which, like dissensus, 'does not simply seek to establish the place of those previously discounted and actively precarious within an existing sphere of appearance. Rather, it seeks to produce a rift within the sphere of appearance, exposing the contradiction by which its claim to universality is posited and nullified.'¹⁸ According to these views, Arendt's mistake is precisely that negotiation is done in advance of political contest, i.e., the line separating the public from the private, for instance, is already rigidly defined prior to any struggle over that delineation.

This is a problem for Arendt, and one that appears to run deep, that is, to the very foundations of her political framework — but perhaps only if we read Arendt as setting up such a framework. To the extent that Arendt is constructing a political architecture, Rancière's is an important and forceful critique. And yet disposed, as Rancière is, to portray Arendt's thought as an 'archi-politics,' and

13 Rancière (2013), p. 79.

14 Rancière calls this a 'theoretical inversion from archi-politics to a stance of de-politicization.' Rancière (2013), p. 72.

15 *Ibid.*, p. 75.

16 *Ibid.*, p. 76.

17 *Ibid.*, p. 77.

18 Butler (2015), p. 50.

therefore to emphasize the various ‘realms’ and ‘spheres’ that Arendt makes use of in her spatialization of politics, he misses the fact that politics is, for Arendt, still not merely a space. Rather, politics is a practice and a process that first constitutes that space and then, in fact, continually disrupts its boundaries.

Beyond the Architecture of Rightlessness

In *The Origins*, Arendt uses an historical lens to make a philosophical point. As we’ve seen, the historicity of the concept of human rights read through their historical failure makes it possible to become convinced that another more primary right exists, namely the right to have rights. But what is ‘the right to have rights’? Rancière’s critique never really gets there, and his assessment of Arendt’s project meets its limit precisely because it doesn’t consider the right to have rights relevant to the discussion when in fact it is essential. Contrary to what Rancière’s analysis implies, the right to have rights does not simply refer to a right to belong to a state that guarantees human rights. The disconnect that I’ll examine in Rancière’s critique is that while the history of statelessness concerns the problem of political status described by rightlessness, the right to have rights is rather an attempt to theorize the possibility of political action beyond state and right. While Rancière is right to alert us to the depoliticizing consequences of the private-public distinction as it concerns legal status, he paints too wide a brush when he dismisses the right to have rights with it. It is this stateless politics — or agency — that I attempt to conceive differently below.

If Arendt’s account of the political is architectural in the sense that it describes a particular account of space — of public political life and private social life — then it must also be understood to describe the birth of the radically new between persons, that which is *boundless*, because it precisely exceeds our constructions of space, and interrupts what is expected and common. This second strain of Arendt interpretation is at least as important as the first. As Butler has recently written on this point:

It is both problematic and interesting that, for Arendt, the space of appearance is not only an architectural given: ‘the space of appearance comes into being,’ she writes, ‘wherever men are together in the manner of speech and action, and therefore predates and precedes all formal constitution of the public realm and the various forms of government, that is, the various forms in which the public realm may be organized.’ In other words, this space of appearance is not a location that can be separated from the plural action that brings it about; it is not there outside of the action that invokes and constitutes it.¹⁹

¹⁹ *Ibid.*, p. 77.

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With Butler, I want to say that this language of 'archi-politics' operative in Rancière's critique suggests a certain inflexibility at odds with Arendt's theorization of action's boundlessness, unpredictability, and world-making potential in *The Human Condition*. Indeed, political agency characteristically confounds political space; it gives rise to and reveals modes of belonging that are not strictly spatial and not necessarily statist. Rancière thus misrepresents the problem: *the right to have rights* is not formulated as a response to statelessness understood as rightlessness. This error is evident when he writes that Arendt equates politicization with having rights²⁰ — a misreading that is only possible by ignoring the crucial work that the right to have rights is introduced to do in Arendt's discussion. Indeed, the structure of Arendt's argument positions the right to have rights at a moment of climax or culmination in the preceding historical discussion of the Rights of Man, making Rancière's omission all the more notable. The right to have rights is the description of a capacity for political action that is itself politicizing precisely in the absence of formal political subjecthood. It is the expression of that second understanding of Arendtian political action which emphasizes boundlessness and the radically new. That is, unlike universal human rights, the right to have rights entails a rights-enacting, and not a rights-bearing subject.²¹

By ignoring the right to have rights, Rancière misses something else crucial. While statelessness *does* describe an intense vulnerability and exposure to the exigencies of rightlessness, the dispossession that Arendt is more keen to account for with the right to have rights is located in the concept of belonging itself, where the experience of being untethered from any community whatsoever suggests vulnerability of an altogether different order. As she writes in *The Origins*,

The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective. Something much more fundamental than freedom and justice, which are rights of citizens, is at stake when belonging to the community into which one is born is no longer a matter of course and not belonging no longer a matter of choice [...]²²

In other words, the 'calamity' of statelessness is not exhausted by rightlessness, and, I would add, cannot be remedied by simply providing protections and

²⁰ Rancière (2013), p. 75. 'Arendt sees the latter [the Rights of Man and Citizen] as being caught in a quandary, which can be expressed as follows: first, the rights of the citizen are the rights of man, but the rights of man are the rights of the non-politicized person, or the rights of those who have no rights — which means they amount to nothing; second, the rights of man are the rights of the citizen, the rights attached to the fact of being a citizen of such or such a constitutional state — which means that they are the rights of those who have rights and we end up in a tautology.'

²¹ In this sense, Arendt articulates something similar to how Rancière imagines 'capacity' in relation to dissensus, although he ultimately wants to hold onto the importance of rights-bearing to some extent.

²² Arendt (1951), p. 296.

services, especially if that humanitarianism takes as its premise the view that refugees themselves are unpolitical or lacking their own agency. When ‘action’ is what is denied, on the other hand, this is vulnerability that implicates our very *being in the world*, our sense of belonging with others, and not just a condition of political rightlessness. It is tempting to conflate statelessness and worldlessness in Arendt’s account, but the mistake here is that *belonging*, and not a particular form of belonging — e.g., the state — is alone essential for political action. If we identify expulsion from the state with expulsion from the world, it is impossible to take seriously the worldliness of other non-state modes of belonging, nonsovereign ways of relating, and therefore the possibility of political action which is stubbornly human in the face of dehumanizing systems. Indeed, such a reading drastically shrinks the world of politics to a pure space of state sovereignty that Arendt in fact frequently resists. Unless the political is detached from sovereign right in the way that I’m suggesting, Arendt is bound to play out a scenario in which the stateless refugee loses not just her *right* to be a political subject — that is, her political status, or citizenship — but her very *capacity* to be political — that is, to be a human being capable of acting in the world with others — and with it, her *right to life*. This is exactly what’s at stake in Rancière’s critique.

So the phenomenon of statelessness is for Arendt not characterized solely by exposure to violence and uncertainty characteristic of rightlessness, but *also* by threat of the total deprivation of any belonging in the world whatsoever. The plurality of political belonging is what makes actions effective so that the conditions of rightlessness can be resisted, and it is certainly true that a relatively stable tradition of belonging is destroyed in the event of statelessness. If the catastrophe of statelessness only had to do with the precariousness of life, then it would indeed seem that simply providing refugees with resources, protections, and land would sufficiently ‘solve’ refugee crises. We know, however, that this is not the case. What is required is much more: While Arendt has been forcefully, and I believe rightly, criticized for ignoring the *material* conditions for political freedom and justice, her reminder that neither freedom nor justice are exhausted by these material concerns remains important. The world that is at stake, for Arendt, is a world of political action constituted by relations between plural others with whom we become who we are. The effect of this ‘love of the world,’ is that it expands what we mean by ‘human need’ in relation to global justice. ‘Need’ is no longer restricted to material need, but involves a broader commitment to substantive ideas about human dignity.

Rancière is rightly critical of Arendt’s suggestion in *The Origins* that refugees exist outside of spheres of power and oppression, but I don’t believe these are

views that Arendt herself consistently holds. It is helpful that Butler directs us, for instance, to Arendt's essay 'We Refugees.'²³ There, Arendt provides an intimate account of how a community of refugees has managed to live or die despite conditions of statelessness that threaten world-loss. But what is world-loss, and how does it signify a different kind of political vulnerability? Arendt's discussion in 'We Refugees'²⁴ demonstrates what I have been arguing until now, that the full 'calamity' of statelessness does not stem from rightlessness and is not exhausted by rightlessness — a point that is more ambiguous in *The Origins*. We can only find this argument in a personal essay like 'We Refugees,' where Arendt's use of the first-person plural deviates significantly from the more impersonal historical mode of *The Origins*. In it, Arendt does not mourn a condition of rightlessness per se, but a condition of worldlessness or 'world alienation' which is the effect of statelessness even if it is not directly related to the formal legal status of refugees. She explains that refugees are not just uprooted from their former political status and rights, but from their cultures, feelings of home and kinship, and the unique web of relations that serves to orient each of us and to nourish a sense of belonging in the world that is essential for life. Consequently, the exile and diaspora of statelessness is experienced as disorientation or alienation, and finally, as world-loss.

For Arendt, when the ties that bind us in a web of relations are cut (e.g. in the event of exile, diaspora, civil war, genocide), the world is threatened — feelings of selfhood, agency, and human 'commonness' become confused and eventually impossible. In 'We Refugees,' she describes three modes in which refugees relate and respond to this process: suicide, assimilation, and what she calls, finally, 'a violent courage of life.' Describing these modes, Arendt presents us with a different picture of the capacity, freedom, and agency of stateless people than the one we initially encounter in *The Origins*. She seems to suggest that the refugee's differentiated proximity to death may also be the aspect of life that enhances feelings of personal and collective agency. Most notably, she credits the realization of her own proximity to death in a Paris internment camp with an impetus to action: 'When some of us remarked that we had been shipped there "pour crever" ["to burst"] in any case, the general mood turned suddenly into a violent courage of life.'²⁵

In situations of rightlessness, stateless people retain resources for political action. The condition of statelessness entails a heightened form of political vulnerability that is distinct from the vulnerability of rightlessness, and that is the constant encroachment of world loss, where, in its final moment the

23 Butler (2015), p. 80.

24 Hannah Arendt, 'We Refugees', in her *The Jewish Writings* (New York: Schocken, 2007).

25 *Ibid.*, p. 268.

capacity for politics is threatened. Does statelessness *always* entail ‘world loss’? If so, is a certain worldliness recuperable? The significance of this question is the possibility of stateless politics that it entails, and therefore of a practice of politics beyond the politics of the state and sovereignty and of alternative world-building out of world-loss. If we think in Rancière or Butler’s terms, this situation presents a primary mode of political struggle — living in the world despite already being dead to the world is a struggle, at once existential and political, that needs no state, and in fact, persists exactly because there is no state. In ‘We Refugees,’ it’s clear that Arendt also has an account of this nonsovereign struggle over the right to life and action. Although she doesn’t directly conceptualize it as a *political* struggle, this is the Arendt that Rancière’s account does not capture.

Rancière limits his reflections to Arendt’s statement that ‘nobody wants to oppress them [the rightless],’ and does not consider the broader outline of the argument. This is crucial. If we read the passage in its entirety, it’s clear that it is only with the last most extreme deprivation — ‘first and above all’ of a place in the world, and not merely a place in the state — that ‘we became aware of the existence of a right to have rights’:

The calamity of the rightless is not that they are deprived of life, liberty, and the pursuit of happiness, or of equality before the law and freedom of opinion — formulas which were designed to solve problems *within* given communities — but that they no longer belong to any community whatsoever. Their plight is not that they are not equal before the law, but that no law exists for them; not that they are oppressed but that nobody wants even to oppress them [...] The prolongation of their lives is due to charity and not to right, for no law exists which could force the nations to feed them [...] The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective.²⁶

So what exactly does ‘the deprivation of a place in the world’ consist in? Is this deprivation synonymous with the deprivation of a state? What is the significance of ‘opinions’ and ‘action’ in relation to having ‘a place in the world?’ And what does the loss of opinion and action signify? The confusion that Arendt produces in *The Origins*, is that she is not only concerned with theorizing rightlessness and exploring its ramifications on a geopolitical level, but theorizing the experience of world-loss as a social and political phenomenon — a phenomenon that culminates in the loss of society and politics. These ramifications are borne out

²⁶ Arendt (1951), p. 296.

in a text like 'We Refugees,' where we get a fuller appreciation of the tragedy of statelessness, as well as an appreciation for the performative theory of political action (a la Butler) that manifests in a 'violent courage of life' despite unlivable realities. In the precarity of these situations, to use Butler's language, we act whenever we have access to a place in the world with others. Thus belonging is itself a political project that results in politics. And our relations with others in their plurality constitute the primary resource for our political capacities, a minimal resource born out from our shared condition of dependency. This is clear in the case of revolution, of state founding, of covenant and alliance, of any action in concert, and it is the meaning of the right to have rights: that they are attained through their enactment.

'The Right to Have Rights' and the Right to Belong

The importance of belonging in the enlarged sense that I suggest above depends upon developing an appreciation for Arendt's nonsovereign theory of political action. Indeed, belonging is the minimal condition for the kind of political action that is most relevant for us here. Not the deprivation of a state, but the deprivation of a place in the world,

This extremity and nothing else, is the situation of people deprived of human rights. They are deprived, not of the right to freedom, but of the right to action; not of the right to think whatever they please, but of the right to opinion.²⁷

Arendt's use of the word 'deprivation' here is a bit difficult: how can 'the right to action' or 'the right to opinion' be deprived? Contrary to Rancière's belief, Arendt does not theorize 'the rights of a single subject.'²⁸ In fact, enigmatic formulations like 'right to action' and 'right to opinion' only make sense if we understand that for Arendt, both action and opinion, two essential components of the political, are specifically plural and intersubjective concepts. From her discussion of action in *The Human Condition*, we know that all acts not only require a particular agent, but a community that 'bears' and completes what we put into motion in order for any action at all to materialize.²⁹ So if we look at the formulation 'right to action' given in *The Origins* in terms of Arendt's broader political theory, then the *deprivation* of the 'right to action' amounts to a deprivation of this community of plural individuals before whom we appear and with whom we act in concert. Again, this is not the deprivation of a particular community — the nation-state — but the deprivation of any community

²⁷ *Ibid.*, pp. 293-294.

²⁸ Rancière (2013), p. 75. And this is what, for Arendt, distinguishes 'human rights' from 'the right to have rights.'

²⁹ Hannah Arendt, *The Human Condition* (Chicago, IL: The University of Chicago Press, 1958), pp. 188-89. '[To] be isolated is to be deprived of the capacity to act.'

whatsoever. For this reason, we ought to take seriously Arendt's claim in 'We Refugees' that subjects of totalitarian states were known to seek refuge in statelessness, precisely to escape that condition of world-loss. Resistance to the vulnerability of rightlessness is still possible in the so-called state of exception that the nation-state opens up, but only if meaningful non- or extra-state communities of belonging can also be said to exist. My argument is that this is clearly the case, though we can't ignore the fact that such communities are also more precarious. The right to have rights is the expression of this basic right to belong (where belonging is not limited to the sovereign state) — to have a place in the world, to be among the living.

By formulating the deprivation of a human right to politics as the deprivation of a 'place in the world,' Arendt actually opens up the theoretical space for thinking extra-state / stateless politics. Action is undertaken *with* and *between* our fellows, and the condition for the possibility of our ability to act is provided most minimally in the existence of this community of others. Political action depends on but also establishes plurality and difference, and this feedback provides the texture of the world's worldliness. But as Butler has shown, we require material and infrastructural conditions that sustain us in our (inter) actions, a material world that sustains us as well as a social worldliness of relations — and it is not always the case that these material conditions exist prior to the actions that demand them.³⁰ As a result, we often find ourselves, in the course of performative politics, making demands for the material conditions to sustain that politics. We therefore develop complex networks of support and care that are extra-state precisely in those instances when abandonment by the state necessitates them. Action and opinion, the stuff of politics, are specifically non-sovereign, because they are only significant or effective, they only appear *at all*, on the condition that a community of plural others exists to set the scene for their appearance.

Arendt's task in *The Origins* was to explain how it came to be that 'a completely organized humanity' destroyed human rights, both in theory and practice — that is, how the organization of humanity into nation-states made it so that when one is cast out of the state one is cast out of humanity. The more implicit tradition of this text however testifies to the fact that a state-less politics capable of interrupting that organization is also possible. Cast out of the world of states, the stateless create parallel worlds in exile, out of conditions of worldlessness. So Arendt is describing a specific historical instantiation of political belonging that is by no means the *only* or *necessary* mode of belonging. The 'calamity' is not rightlessness, but the loss of any community whatsoever induced by the

³⁰ Butler (2015), p. 16.

disorientation of exile, the loneliness of forced assimilation, or the loss of self in the totalitarian mass. The 'essential quality of man' is her belonging in the world, that is, a *right to live* with others before whom I act, before whom I am responsible, and thus become who I am: a unique and irreplaceable individual. The basic experience of political life is this non-sovereignty and dependence, while the 'abstract nakedness of being nothing but human' is what characterizes the lonely one who lacks belonging, who is forced by life's exigencies to assume an impossible autonomy. While Arendt certainly exaggerates this condition, making it seem as if the stateless person does not substantively exist as a form of life, she does not, as Rancière wants to argue, unequivocally *condemn* stateless peoples to this fate. She does theorize a certain state of exception, but that 'space' is neither a vacuum nor a black box.

Rancière's interpretation, despite its many merits, does not get at what Arendt herself most likely intended. On my reading of Arendt's classic formulation, the *right to have rights* refers to a prepolitical right to a place in the world — hence, a *prepolitical right to politics* understood as a mode of belonging. This is a right bestowed by no state or organization, but one enacted insofar as we are community-building creatures. That is, not the right to belong to a state that guarantees rights, but a right to belong period. With the extreme case of genocide in mind, this amounts to a right to exist in the world, a right not to be destroyed. The extreme deprivation of a 'home in the world' in this sense suggests a strange notion of 'home': it is both the feeling and the reality that one is, if not welcome, then at least not banned from the earth. That my singular existence is not already overdetermined by arbitrary doom. That my sense of my own reality is not met with unreality, that my subjective sense of agency is not abandoned or ignored by my fellows — that they meet me halfway.

Confusion about the relation between statelessness and the right to have rights in *The Origins* is both evident and warranted. Although the right to have rights emerges historically and as a result of the failure of a particular mode of belonging, viz. the state, which is revealed by the phenomenon of statelessness, this emphatically does not mean that we are tied to sovereign modes of thinking as we seek to understand and respond to today's refugee crises. Other modes of belonging emerge in and through statelessness, despite statelessness, and frequently engage in non- or anti-statist political action. To insist on sovereign modes of 'managing' refugee populations, including humanitarian modes, is counterproductive and in fact contributes to the problem. Returning to Arendt's philosophy of action in more radical incarnations, offers another way of thinking about refugee politics while at the same time resisting Arendt's own shortsighted tendency to restrict the catastrophe of worldlessness to particular

populations, which became a policy of ignoring other historical instantiations of this phenomenon, including slavery. Attending instead to an enlarged concept of belonging and action opens up the field of concern for an Arendt studies of broader relevance today.

Although this reading stretches, to some extent, aspects of the description that Arendt gives in *The Origins*, it is more consistent with the ultimate aims of her argument in that text, as well as more coherent within Arendt's broader political thought, which extends far beyond *Origins*. It is a reading that attends to another order of vulnerability out of which genuine political action erupts, even state-less political action. So we can agree with both Butler and Rancière that Arendt's descriptions of biological givenness as that which is dark, naked, and associated with bodily necessity, stem from problematic aspects in her broader political theory, while affirming that there is another strain of Arendt's thought rooted in non-sovereign concepts of home, world, and belonging that provide the conditions necessary to transcend and challenge given structures, including those devoted to oppression and dehumanization that Arendt's own formulations may indeed take part in.

Justice Beyond Humanitarianism, Politics Beyond Sovereignty

While it is crucial to affirm the political agency that refugees have for resisting their oppression and exclusion, it is still important to recognize the responsibility of the world to resist the political conditions that render refugees particularly vulnerable. For Arendt it is certainly the case that statelessness is a particularly wretched symptom of what is truly a global imperialist geopolitical system in which we in the global north are not only involved, but for which we are responsible. And yet does this mean that refugees are forced to rely on others who *are* citizens, who *are* fully legible as human under the norms of the prevailing system, to *grant* them their rights? (In which case, they might be waiting a long time.) Should we continue to rely on the mechanisms of the sovereign state when these very sovereign claims not only produce and reproduce statelessness, but exclude the stateless from those norms of humanity designed to protect them?

Rancière remarks critically that Arendt's formalization of 'the right to have rights' yields only two interpretations, 'either a void or a tautology.'³¹ And yet, if we consider, for instance, Linda Zerilli's³² excellent discussion of Arendt in *Feminism and the Abyss of Freedom*, or the work of others, including Bonnie

³¹ Rancière (2013), p. 75.

³² See Linda Zerilli, *Feminism and the Abyss of Freedom* (Chicago: University of Chicago Press, 2005). Especially the book's conclusion: 'Reframing the Freedom Question in Feminism.'

Honig, Athena Athanasiou, Zeynep Gambetti, and Judith Butler³³, we again encounter that tradition of Arendt scholarship — another Arendt — that theorizes the political *not* primarily as a delimited space, but rather as *negative space*. A politics of the *abyss*, or 'void,' out of which the practice of politics as action erupts as the spontaneous and new. This, again, is a performative account of politics that convenes and transforms the 'space of appearance.' So while Rancière dismisses this 'void' out of hand, a closer look reveals that he is in fact pointing to the very strains of radical political theory that he claims do not exist in Arendt's 'archi-politics.' This is not simply to remark that Arendt is being shortchanged in certain philosophical circles, or to quibble about a matter of interpretation of little theoretical or practical political importance, but to suggest that in fact Rancière's reading is symptomatic of a common misappropriation of Arendt's political theory.

Some of the important practical stakes in this dispute are, I take it, to be found in the discourse and practice of humanitarianism and the extent to which our reliance on humanitarian interference, in global political theory and global political practice, dispossesses refugees of their own political agency while maintaining a commitment to sovereign modes of belonging rooted in exclusion. Finally a matter on which Rancière, Butler, *and* Arendt seem to agree. And yet there continue to be serious disagreements in contemporary work on the current Syrian refugee crisis that should convince us that despite the fact that Arendt's analysis is now 65 years old, the relation between sovereignty, human rights, and political action remain as perplexing as ever.

Take, for example, the 2015 Salon.com article, 'When empathy isn't nearly enough: Why the Syrian refugee crisis demands more than mercurial emotion.' Like others thinking about the Syrian refugee crisis today, co-authors Falguni Sheth and Lynn Huffer argue for the continued relevance of Arendt's formulation of the stateless problem. They conclude their discussion by stating:

Those of us who belong to nations do bear a responsibility to those who do not. Precisely because our human rights are secured through our belonging to a nation-state, our responsibility to the stateless stems from that fact. It is up to us as peoples who belong to nations to push our governments to step up and fulfill their obligations to the stateless not through an abstract humanitarian appeal but through

³³ See Bonnie Honig, *Antigone, Interrupted* (Cambridge: Cambridge University Press, 2013); chapters by Athena Athanasiou, Zeynep Gambetti, and Judith Butler in Judith Butler, Zeynep Gambetti, and Sabsay (eds.), *Vulnerability in Resistance* (Durham: Duke University Press, 2016); and Judith Butler and Athena Athanasiou, *Dispossession: The Performative in the Political* (Cambridge: Polity, 2013).

the legal and political apparatus of our nations.³⁴

Although Huffer and Sheth qualify that we cannot treat the ‘humanitarian appeal’ as abstract, that we ought to forego merely empathetic responses in favor of a properly political response, the quality of our ‘obligations to the stateless’ nevertheless remain abstract, and what constitutes the properly political is difficult to detect. Certainly ‘we’ have responsibilities and obligations to stateless peoples, but whether those responsibilities stem from our belonging to nations and exactly how our obligations should be borne out given our belonging to nations (nations that have and continue to collude in producing the misery of refugees) are difficult to conclude. Their view that ‘violations of basic human rights can only be redressed when nations step up and claim the stateless as their own, not as abstract humans, but as members of a polity’ expresses a commitment to sovereign modes of belonging that I have called into question here. They go on to make the point more explicit: ‘human rights violations can’t be redressed or pre-empted unless there is a credible commitment to protection that can only be expressed through sovereign claims.’ My hesitance here is that in the process of understanding our responsibilities and obligations, especially from an Arendtian perspective, an appeal to sovereign claims should not be taken for granted or regarded uncritically.

My suggestion is that we need to think more deeply about these ‘sovereign claims.’ We must recognize for one, given the history that Arendt traces of the emergence of statelessness, that sovereign claims are already at the root of the Syrian crisis. Further, as I have shown, the ‘calamity’ of statelessness is, for Arendt, not precisely that refugees lack membership in a state, or that they are not protected by so-called ‘sovereign claims,’ but that they lack a ‘place in the world that makes opinions significant and actions effective.’ The geopolitics of ‘sovereign claims’ have at turns provided protections for the victims of those ‘sovereign claims,’ but perhaps only at the cost of deep modes of depoliticization. Thinking with Rancière, we must not ignore the possibility that despite the authors’ misgivings about the nation-state they ultimately reinscribe a political conception that already disempowers refugees. I sense that the recurrent adoption of ‘sovereign claims,’ demonstrated here and in similar literature, is not motivated by genuine commitment to the tradition of nation-state sovereignty as such, especially because it is often paired with apt criticism of the same notion of sovereignty, but by lack of promising alternatives, including the expression of so-called ‘mercurial emotion,’ and a desire to alleviate the suffering of refugees, perhaps motivated by that same ‘mercurial emotion.’

34 Lynne Huffer and Falguni A. Sheth, ‘When Empathy Isn’t Nearly Enough: Why the Syrian Refugee Crisis Demands More than Mercurial Emotion’, *Salon* (2015), <https://www.salon.com/2015/09/19/when_empathy_isnt_nearly_enough_why_the_syrian_refugee_crisis_demands_more_than_mercurial_emotion/> (Accessed: 30 July 2016).

And yet it is not easy to reconcile how we ought to feel — including feelings of responsibility and empathy — with how we ought to act, especially when the community of those included in the 'we' is often precisely what is at issue. The challenge that the global community today faces then with respect to refugees is precisely how to *do something* guided by a conception of justice that is not only humanitarian in the narrow sense. My contention is that this conception of global justice must be rooted in a understanding of political subjecthood and action that exceed the sovereign claims upon which humanitarianism is premised. Crucially, this finally Arendtian conception dissolves the criteria of state sovereignty operating behind prevailing assumptions about who can be political, which in turn convene a unilateral economy of political agency and political power as part of a humanitarian industrial complex that also distributes resources and services.

I do not offer this as a wholesale alternative, but as a critical rejoinder. It is possible that the current juridico-political landscape offers no better alternative to the kinds of sovereign claims that Huffer and Sheth suggest — indeed, this relation may be the most effective way to provide for the maintenance of material needs — but to leave the story there obfuscates the real agencies and activities that refugees themselves enact and which serve not only their political needs, but their existential, ontological, and (yes) emotional needs as well. Indeed, we should acknowledge the fact that political resistance amongst refugee communities has often taken the form of protest against humanitarian and other forms of international intervention. And what is the purpose of this kind of resistance? If we're thinking in an Arendtian frame — that is, with Sheth and Huffer — we must forcefully attest that political action is not primarily a means to an end, but a performative practice intimately tied up with feelings of dignity, worth, freedom, power, and self-hood. Humanitarian policies only partially provide these political goods, and in the next moment may strip them entirely. At the same time that we denounce the abandonment, dispossession, and deprivation of stateless peoples, we ought not dispossess them of their political agency. Butler recently described this difficulty:

Those who find themselves in positions of radical exposure to violence, without basic political protections by forms of law, are not for that reason outside the political or deprived of all forms of agency. Of course, we need a language to describe that status of unacceptable exposure, but we have to be careful that the language we use does not further deprive such populations of all forms of agency and

resistance, all ways of caring for one another or establishing networks of support.³⁵

The precariousness of life is not attended, but deferred, and the deeper tones of vulnerability at issue are perhaps not even recognized. And without this recognition, ‘networks of support’ that constitute non-statist modes of belonging are dismissed or discounted, when the fact is that these relations are real and effective. Again, consider refugee-led protests against living conditions in camps built and maintained by sovereign nations, NGOs, and donors: can our political accounts make sense of and celebrate this phenomenon? The risk on a geopolitical level is revealed in the transition from human rights to humanitarianism and sovereignty to imperialism, or what Rancière refers to as a ‘new right to humanitarian interference.’ As he puts it,

These so-called Rights [of Man] increasingly presented themselves as the rights of victims, the rights of those unable to exercise their rights or even to claim any in their own name, so that eventually their rights had to be upheld by others. The cost of doing so was the shattering of the edifice of International Rights, carried out in the name of a new right to ‘humanitarian interference’ — itself ultimately no more than the right to invasion.³⁶

In this transaction, the Rights of Man unmasked as illusion are nevertheless ‘returned’ to the rightless who finally become ‘the absolute victim.’³⁷ I could add that refugees are also expected to be *perfect* victims, that is, passive recipients of aid, and aid is often made contingent on this antipolitical basis. While it would be wrong to deny that refugees suffer victimization and deprivation relative to the privileges of citizenship, the political — and the really existing modes of political activity that refugees enact — is at risk of disappearing entirely within the discourse of humanitarianism.

Thus, reading with and against Arendt — taking seriously her lessons on statelessness and the juridical, but keeping firmly in mind her broader theory of politics as action/enactment — the sovereign relation to human rights must yield to phenomena of resistance which operate with some ambivalence alongside narratives of victimhood, biopolitics, and political disenfranchisement. Global justice scholarship and practice must be vigilant, in other words, that it does not merely collude with the world-loss that statelessness to various degrees already threatens. The importance of refiguring Arendtian politics in terms of belonging is that it might help us to productively avoid such collusion by expanding the

³⁵ Butler (2015), p. 79.

³⁶ Rancière (2013), p. 70.

³⁷ *Ibid.*, p. 82.

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meaning of political subjecthood and commitments to human dignity, as well as the field for critiquing certain unlivable communal structures.

Indeed, Arendt scholarship, which has stagnated in the archi-political readings of *The Human Condition*, stands to gain a lot from orienting the political in terms of belonging that her work on refugees suggests. To do so means opening up politics beyond sovereignty to a more radical Arendt of boundless action and plural performativity anchored in concrete political experience. This requires recognizing and affirming the bonds of state-less actors who, in the course of their living outside the nation-state, demand and enact other modes of belonging. *The right to have rights* is the expression of this demand, which cannot and should not be understood simply as the right to belong to a *state*. Rather, it is the right of those who find resources for power in each other. As a global community, we have a responsibility to be present among those who constitute the support of 'each other,' but not at the cost of further dispossession. This is by no means a call that is easy to negotiate or respond to. But the demand such a call makes is clear: a reimagining of global justice beyond humanitarianism, or the recognition of a right to politics and the material-existential conditions that such a right requires.³⁸

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