

## RECENT ARENDT SCHOLARSHIP

Review of *The Wandering Thought of Hannah Arendt* by Hans-Jörg Sigwart, Palgrave MacMillan, 2016, ISBN: 978-1-137-48214-3, 147 pages (abbreviated as *WT* below), and *Rightlessness in an Age of Rights. Hannah Arendt and the Contemporary Struggles of Migrants* by Ayten Gündoğdu, New York: Oxford University Press: 2015, 298 pages (abbreviated as *RAR* below).

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Hans-Jörg Sigwart's portrayal of the "wandering thought" of Hannah Arendt succeeds well in situating Arendt's theoretical engagement with politics and public life in a unique location between politics and philosophy. Arendt's work does not take part in political life; not directly in any case. It maintains a certain reflective and critical distance to politics. However, it also remains close enough to politics, or closely enough engaged with politics, to warrant exemption from the tradition of philosophy, especially as far as the latter's characteristic concern with transcendental and eternal truth is concerned. The close engagement of her theoretical inquiries with contingent political concerns disqualifies them from presenting her observations as "ahistorical truths" fit for inclusion among the eternal insights of Platonic philosophy, and thus also disqualifies her from being included in "the circle of philosophers," as she herself put it in a 1964 television interview with Günter Gaus to which Sigwart pays considerable attention (*WT* 12).

Chapter Two (the first substantive chapter that follows the introduction) engages with Arendt's "defence of politics against philosophy" and expounds the basic opposition between politics and political theory, on the one hand, and philosophy, on the other. According to Arendt, observes Sigwart, "the decisive characteristic 'of almost all post-Socratic philosophy' is its very peculiar attitude towards the practical realm of politics." "Plato's work is crucial in this respect," he continues. "Plato paradigmatically articulates philosophy's genuine reaction to a fundamental conflict between philosophy and politics," a conflict that "spectacularly played out historically" in the condemnation of Socrates by the Athenian citizenry. This event formed and informed the hostile "Platonic position" towards politics that Western philosophy would henceforth take, with few exceptions (*WT* 14).

Sigwart links the key characteristic of philosophy to the very nature of the "mental activity of philosophizing itself." It is this mental activity that fundamentally separates philosophy from politics and disqualifies it from appreciating the unique knowledge that politics renders possible. The "mental activity of philosophizing" at stake here, begins with the "fundamental philosophical experience of 'wonderment' or of *thaumazein*, in the sense of the ability to be struck by 'everything that is as it is.'" Emerging from this sense of "wonder," philosophy then commences to ask ultimate and actually unanswerable questions." And in asking these unanswerable questions, it distinguishes itself as a "distinctly individual experience of 'man in the singular.'" The experience of wonderment necessarily induces this "strong self-reflective motive" that highlights "the existential experience that it is 'me,' as an individual, who finds myself confronted with those unanswerable questions about everything that is as it is." The "logic inherent in philosophizing itself has an individualising, almost isolating tendency." This isolating tendency evinces an "inherent incompatibility

[with] ... the pluralist practice of forming opinions on the basis of ... common and commonly accepted standards of common sense” on which politics pivots (WT 15-16).

The rest of Sigwart’s book consists of a portrayal of Arendt’s political thinking that shows how it differs from the solitary wonderment of philosophical thought. Chapter Three situates Arendt’s concern with freedom from the necessity of natural existence against the background of the longstanding philosophical reflection on the indeterminacy of human nature which Sigwart traces to the humanist thought of Pico della Mirandola (WT 39 – 41). Chapter Four takes issue with Arendt’s distinctions between labour, work and political action in *The Human Condition* by highlighting the instability of these distinctions. Arendt surely never considered these distinctions supported by watertight boundaries between the different spheres of human existence, and Sigwart stresses that well. But she often distinguishes these different spheres of human existence with a confidence that underplays and even obfuscates the ways in which overlaps between them actually challenge key aspects of the theory they sustain. Especially significant in this regard is the way in which she sometimes – notably in *The Human Condition* – underplays the ways in which political action is not only an expression of untethered freedom to create new worlds, but also a significantly tethering fabrication of a space that sustains and guarantees this freedom (WT 53). In other words, political action is for Arendt not only a matter of “permanently opening up new horizons of meaning and initiating new stories” that “force open all limitations and cut across all boundaries.” It is also the *work* of creating “spaces in which this utterly unpredictable and boundless activity of spontaneous beginning can be given ... relative stability and continuity” (WT 56).

After the description of Arendt’s understanding of the *practice of politics* in terms of the tension between the boundless freedom to create new worlds, on the one hand, and the need to subject this freedom to stabilising limits and boundaries, on the other, Sigwart moves on to unpack the key epistemological characteristics of this world-creating and world-limiting political practice in Chapter Five. Essentially at stake in this “epistemology of politics” is an “enlarged mentality” that is capable of considering matters of common concern from the perspective of everyone concerned and not from an individual or isolated perspective. (WT 63) This enlarged mentality has four basic characteristics: 1) it concerns an *interpretive integration* of particulars; 2) it performs an interpretive *self-localization*; 3) it produces a simultaneously pluralistic and common perspective of a *political “We,”* and 4) thus constitutes, not only an enlarged mentality, but a *bounded form of enlarged mentality* (WT 65).

Chapter Six – titled “The Experiential Position of Political Theory” – highlights the following seven characteristics of Arendt’s theoretical engagement with politics: 1) It pivots on a *theoretical self-localisation* that is intellectually interested in many but not at home in any project of political understanding. 2) It is positioned *between politics and philosophy*. 3) It is *multi-contextual* – it moves in and out of discursive and textual contexts and effects an interplay between them. 4) *Interpretive simultaneity* – it cannot be classified as modern or anti-modern but deliberately sustains a reflection that relates the past to the present and the present to the past. 5) It follows an *oscillating logic of conceptual construction* that meanders, digresses and develops in an almost literary fashion instead of unpacking systematic arguments. 6) It is *multi-lingual* – it presents itself differently in different

languages (the English and German versions of her texts often differ in substantive content). They also engage in etymological reflections that render different experiences of meaning in different historical epochs visible. 7) It follows *an experimental logic of discovery* that shies away from pre-established methodologies, and embraces, instead, a spontaneous and contingent finding of thoughts and arguments.

It is in the course of unpacking these seven characteristics that the word “wandering” begins to crop up repeatedly in Sigwart’s text (see *WT* 100, 101, 112, 113). Chapter Six thus evidently takes one into the heart of his argument regarding Arendt’s “wandering thought.” It contains the essential statement regarding a political theoretical thinking that wanders about in the region between politics and philosophy, between contexts, between times, between languages. At stake is a mode of political theory that finds its way in the course of freely following the unfolding of texts in an almost literary fashion, avoids methodological straitjackets, and allows itself to just fall upon insights as they may come. All in all, the portrait of Arendt’s “wandering thought” is a fine achievement and it surely gives one a sense of the free spirit that Arendt undoubtedly was.

If there is a respect that a reader might find lacking in Sigwart’s text, it could well be the absence of any “wandering” engagement with the significance of Arendt’s more concrete political theoretical interventions in the major political developments of her time. Any reader who might come to sense this lack would be well advised to read Ayten Gündoğdu’s critical rereading of Arendt’s work against the background of a universal human rights culture that was not yet established at the time that Arendt published her forceful and enigmatic critique of human rights in *The Origins of Totalitarianism (OT)* in 1949. What has changed in the course of the seven decades that have passed since 1949 that may require a reassessment of this critique? Gündoğdu responds to this question against the background of key developments of international law in the course of the second half of the twentieth century. She begins her discussion of this development by noting how Arendt considered human rights a “stepchild [of] nineteenth century political thought” that no political party took seriously then and was still not being taken seriously almost fifty years into the twentieth century. Humanitarian concerns with violations of human dignity were still limited to the engagements of “professional idealists ... and philanthropists” and “international jurists without political experience,” wrote Arendt in 1949, a year after the Universal Declaration of Human rights was adopted by the United Nations. The scope and effect of these concerns, she claimed, remained negligible as a result of a state-centric framework of internal law that guaranteed no protection beyond the protection of constitutional rights of citizens (*RAR*, 6).

It is against the background of this framework of international law that *OT* put forward the enigmatic concept of “a right to have rights.” In an essay published almost a year after the Universal Declaration of Human Rights (UNDHR), Arendt still bemoaned “the lack of reality” of the rights articulated in the Declaration. She recognised the right to asylum as the only significant “symbol of the rights of man” in international law in *OT*, but contended that this symbol had practically been abolished because of the pressures of massive statelessness in the course of the twentieth century and because of the uncodified status of this right in both international treaties and national constitutions. The right to asylum accordingly enjoyed

little more than a “shadowy existence” that could be invoked in “exceptional cases.” It warranted no general institutional protection (*RAR*, 8).

Things nevertheless started to change significantly after 1948 in ways that Arendt never seemed to credit with due significance, argues Gündoğdu. Article 14 of the UNDHR already codified the right to asylum. The 1951 Geneva Convention on the Status of Refugees and its 1967 Protocol stipulated more extensive rights for refugees and asylum seekers. Article 15 of the UNDHR addressed the central problem of statelessness that Arendt raised in *OT* by prohibiting states from either depriving citizens of nationality or denying their rights to change their nationality. In addition to this, the International Covenant on Civil and Political Rights (ICCPR) “requires states to grant all individuals who reside within their territory and subject within their jurisdiction a set of rights ‘without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’” (Art 2.1 ICCPR). Gündoğdu observes in this regard that the several commentators consider the distinction between citizens and non-citizens insignificant from a basic rights perspective. Further to this, article 26 of the ICCPR also provides for equality before the law and equal protection guarantees to both citizens and non-citizens in a way that seems to render obsolete the “dispossession of personhood” and “rightlessness” that were central to Arendt’s analyses in the *OT*.

The list is not exhaustive, but it accounts for the major developments of human rights protections in international law since Arendt’s analysis of the lack of these protections with reference to statelessness, observes Gündoğdu. One must agree with her that these developments surely call for a new assessment of the relevance or Arendt’s assessments of these human rights protections. How might one still attribute significance to Arendt’s scepticism regarding human rights in *OT* in view of the extensive codification of international human rights law in the course of the second half of the twentieth century?

Gündoğdu response to this question is not the one the international lawyers would expect. It may well be, she contends, that the extensive codification of human rights protections in contemporary international law has in many respects rendered human rights violations less, rather than more visible. Confidence in readily available positive legal protections may well have induced a certain complacency with regard to the myriad of ways in which the actual protection of human rights often falls dismally short of the promise that positive law appears to warrant. Worse. Gündoğdu refers in this regard to a striking observation of Seyla Benhabib that leads one straight to the precipice of the abyssal non-recognition that has permeated the inner recesses of confident human rights discourses and the international rule of law that they promise. Benhabib writes:

“These groups exist at the limits of all rights regimes and reveal the blind spot in the system of rights, where the rule of law flows into its opposite: the state of exception and the ever-present danger of violence” (Gündoğdu, 11, quoting Benhabib, *The Rights of Others: Aliens, Residents and Citizens*, Cambridge/New York: Cambridge University Press, 2004, 163).

Anyone who has read some of Agamben’s work on the politics of the ban and the state of exception (See Agamben *Homo Sacer; State of Exception*) will notice how close Benhabib comes here to affirming key tenets of Agamben’s thought regarding the way the rule of law and all jurisdictions or juridical dispensations turn on a primal exclusionary act that

conditions and renders possible all juridical and normative inclusions. The “rule of law flows into its opposite,” as Benhabib claims, because it also flows out of its opposite, Agamben tells us. It is primordially conditioned by this opposite from which it flows and is therefore bound to gravitate to it again, he tells us. Gündoğdu nevertheless makes a conscious and express decision early in her book to reject the fatal critique or fated dismissal of human rights that must flow from Agamben’s line of thinking (according to her). She prefers to work through “the perplexities of human rights” and considers this “working through of perplexities” the key strategy and gesture of Arendt’s critique of human rights. We will return to this “working through of perplexities” presently. It is important to note how Gündoğdu remains haunted by Agamben’s critique of human rights and international law in the wake of a discussion of a number of sobering decisions of the European Court of Human Rights, notably *N v UK* in which the court considered normatively acceptable the compulsory return of a Ugandan citizen under circumstances where the return is bound to condemn her to an early death (due to the absence of adequate AIDS care in Uganda) and *Saadi v UK* that considered the three day detention of a Kurdish refugee with provisional admission status a proportionally sound regulatory measure (see *N v UK*, European Court of Human Rights, decision of 27 May 2008; *Saadi v UK*, European Court of Human Rights, decision of 29 January 2008; *RAR* 109 – 129). Reflecting on these decisions, Gündoğdu feels compelled to acknowledge the force of Agamben’s description of migrants as *homines sacri*, that is, as a form of life that “ceases to be politically relevant” (*RAR*, 116).

As already mentioned, Gündoğdu expressly opts for Arendt’s “working through the perplexities” approach to the critique of human rights and dismisses Agamben’s sweeping philosophical dismissal of human rights. However, her recognition of the force of Agamben’s critique may well be one of the factors that moves her to ultimately articulate an intellectually breath-taking understanding of this “working through of perplexities” in Chapter Five (the last chapter before the conclusion) of *RAR* that makes it abundantly clear that she is not in the least shying away from the abyssal dilemmas that this “working through” has to face. Already in Chapter Two did she stress the “aporetic” nature of this “working through” with reference to Arendt’s use invocation of the *aporias of human rights* in the German translation of *OT (Elemente und Ursprünge Totaler Herrschaft*, München and Zürich: Piper, 601: “Aporien der Menschenrechten”). A strict reading of the word “aporia” would suggest the aporias of human rights actually do not allow one *any way through*, as especially Jacques Derrida’s close scrutiny of the word “aporia” reminds us well (see Jacques Derrida *Force de Loi: Le ‘Fondament Mystique de L’Autorité’* (1990) *Cardozo Law Review* 919-1045). The working through of the “aporia of human rights” that Gündoğdu has in mind, can therefore not entail a “working through” of perplexities in the hope of resolving them, so as to arrive at a perplexity-free theory and practice of human rights.

Gündoğdu is very clear about this. The “working through” that she envisages is ultimately not a matter of *finding a way through*, but a matter of an incessant return to the “abyss of freedom” that “ruptures the linear continuity of time.” That is also how she comes to interpret Arendt’s enigmatic notion of “a right to have rights.” According to her, the right to have rights concerns the freedom to engage in the constitutive political practices through which human rights regimes are inaugurated and sustained. These practices are “characterised by contingency and fragility.” It is “by no means certain that these inaugural practices will result in the political and legal recognition of these new rights claims” (*RAR*

166-168). To be sure, in view of her own emphasis on the aporetic status of these rights, one must actually just accept that they won't be recognised; in any case, not in a way that answers adequately to the promise they seem to hold. That, however, does not deprive one of the irreducible political freedom to return to the abyssal commencement and recommencement on which politics inevitably turns; the freedom to break with the linear continuation of the past and to recommence with the task of re-affirming normative commitments that one knows have a record of failure and are bound to fail again.

Gündoğdu's description of the political freedom to re-affirm normative ideals that have failed in the past and are likely, if not doomed, to fail again, takes an aesthetic and poetic turn towards the end of her book. Her explication of Arendt's conception of political freedom ultimately edges towards a vision of poetic freedom, a poetic freedom that points us toward another, equally impossible, but equally indispensable trajectory of language, namely, the anti-juridical trajectory of an extreme poetry without which the "inclusive" recognition of migrants and refugees in juridical discourses are destined to remain oblivious to the abyssal and aporetic terms of the promise that is made with every utterance of the word "recognition." It should be noted that this poetic element or "moment" in Arendt's contemplation of politics also comes briefly – and poignantly – to the fore in Sigwart's description of her "wandering thought" (*WT* 94-95, and especially 127; for a further elaboration of both Sigwart's and Gündoğdu's recognition of the poetics of the political in Arendt's thought, see my more extensive discussion of both *WT* and *RAR* in Van der Walt "When Time Breaks: The hiatus of refugee status" <http://orbilu.uni.lu/handle/10993/35368>).

Sigwart and Gündoğdu have enriched scholarship on the work of Hannah Arendt with two fine monographs. Whereas the aspirations of Sigwart's engagement with Arendt are more modest and largely rest content with dexterously situating her work in a hermeneutic concept of politics and world-formation, Gündoğdu must be especially commended for taking on the challenge of a critical interrogation of Arendt's work in view of pressing problems of contemporary law and politics. She has raised scholarship on Arendt to an exceptional level of probing critical inquiry that is bound to remain a definitive benchmark for many years – if not decades – to come.