Human Rights, Unicorns, Etc.


... there are no such [human] rights, and belief in them is one with belief in witches and unicorns.

Alasdair MacIntyre, *After Virtue*

One feature of Hannah Arendt’s thought that repulses friends and critics alike is its normative asceticism: her moral minimalism eschews all deontological principles, a priori norms, and prima facie duties. It is not an accident that the only two moral “precepts” to make a significant appearance in *The Human Condition* are forgiveness and promising, precepts “that are not applied to action from the outside, from some supposedly higher faculty or from experiences outside action’s own reach.”1 To claim that forgiveness and promising are internal to action is to claim that their validity and authority depend essentially on action itself, on being performed—saying “I promise” or “I forgive.” Promising and forgiving are actions also in that they are spontaneous, unpredictable; they begin something new, and in the case of promising, can create binding relations; but neither promising nor forgiving can themselves be morally obligated—to tell a child she ought to forgive her friend is not to reveal an extant moral obligation, but to offer a lesson in what forgiveness is. It matters to Arendt’s thought as a whole that in her discussion of promising and forgiving she is apparently claiming that only promising and forgiving are more than morality as “the sum total of mores, of custom and standards of behavior solidified through tradition and valid on the ground of agreements.” In *The Human Condition, On Revolution,* and even in *Eichmann in Jerusalem,* Arendt had ample opportunity to complement her more austere political thinking with routine moral materials, or with a defense of human rights, elaborating her puzzling and suggestive statement about the right to have rights in *The Origins of Totalitarianism.* Her failure to do so is good evidence she never abandoned her moral minimalism.

If I am reading her aright, and I have some uncertainty about this, Peg Birmingham is a moral maximalist. Like many recent commentators, Birmingham is beguiled by Arendt’s gnomic reflections on rightlessness and rights in *The Origins of Totalitarianism,* above all the passage on the right to have rights.

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rights. In this passage, Arendt differentiates the loss of particular rights, a typical upshot of totalitarian rule, from the very different experience of being expelled from the state altogether; because the former is a mode of direct oppression, while the latter can, imaginatively, be conceived as being set loose into the world, as being freed from the rule-bound encumbrances of organized society, it is not patent that the latter is the deeper and worse tragedy. The status of being a Jewish refugee, welcome in no state, revealed to Arendt the depth of the meaning of political belonging in modernity.

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... his treatment by others does not depend on what he does or does not do. 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.... We have become 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 have some kind of organized community, only when millions of people emerged who lost and could not regain these rights because of the new global situation. (OT 296)²

It certainly sounds as if Arendt does mean to claim, baldly, that there exists a right to have rights, that this is the right to belong to some political community; and thus, to be the beneficiary of mundane political and legal rights—freedom and justice—is consequential on being the beneficiary of the more fundamental, moral human right to have rights.³ Further, and I take this to be Birmingham’s basic strategy, it seems necessary to regard Arendt’s claims here, contrasting the rights to freedom and thought, on the one hand, with the rights to action and opinion, on the other, as the leading edge of her conception of action—as speaking and doing in public in concert with equal others, as distinguished from laboring (reproducing the means of life) and working (the fabrication of enduring objects)—developed soon thereafter in The Human Condition. But once this is conceded, then it becomes plausible to construe the conceptual apparatus buoying up Arendt’s conception of action—above all, natality (which, for Birmingham, is Arendt’s fundamental concept);

³ Seyla Benhabib, “Political Geographies in a Global World: Arendtian Reflections,” Social Research, 69, no. 2 (Summer 2002): 548, states that this notion of right evokes “a moral imperative: ‘Treat all human beings as persons belonging to some human group and entitled to the protection of the same.’ What is evoked here is a moral claim to membership.”