

The Divergent Cosmopolitanisms of Hannah Arendt¹

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1. Introduction

In *The Origins of Totalitarianism*, Hannah Arendt remarks that “whether we like it or not, we have really started to live in One World.”² This observation encapsulates Arendt’s attempt to come to terms with the fact that national boundaries and geographical distances no longer separate one part of humanity from another in a way that insulates us from common threats to human civilization. The frightening reality of ‘One World’ motivates Arendt to argue that all members of humanity now share the burden of global responsibility, conceptualized in a concrete sense as *responsibility for the maintenance of the human condition*. This insistence on a new form of responsibility corresponds to her analysis of totalitarianism as a new threat to the human condition. In the Preface to *Origins*, she writes:

“[H]uman dignity needs a new guarantee which can be found only in a new political principle, in a new law on earth, whose validity this time must comprehend the whole of humanity while its power must remain strictly limited, rooted in and controlled by newly defined territorial entities.”³

Arendt’s claim that we need ‘a new law on earth’ to address totalitarianism has been used by a number of political theorists to reinforce their claims for the legitimacy and necessity of a cosmopolitan law that seeks to prevent and punish ‘crimes against humanity.’ My purpose is to explore Arendt’s cosmopolitanism by comparing three attempts to elaborate on this element of Arendt’s political theory. I will examine the work of cosmopolitan theorists Seyla Benhabib, Patrick Hayden, and Robert Fine, all of whom claim Arendt as a major influence, to determine the extent to which their theoretical frameworks complement Arendt’s, and the extent to which their frameworks might be subject to an Arendtian critique. I will argue against Benhabib’s attempt to ‘read into Arendt’ a set of foundationalist principles in support of a Kantian cosmopolitanism. I will argue in support of both Hayden’s and Fine’s attempts to ground Arendt’s cosmopolitan demand in a more ‘existentialist’ understanding of what responsibility for humanity might entail, and I will aim to show that this reading is more consistent with Arendt’s own perspective than Benhabib’s foundationalist reading. Finally, I will try to reconcile Arendt’s opposition to human rights discourse with the statements made by all three Arendtian theorists to the effect that human rights have become a central component of political cosmopolitanism.

I will begin by outlining the components of Arendt’s main argument for ‘responsibility for humanity.’ In my second section, I will consider the attempts by Seyla Benhabib, Patrick

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² Arendt, *Origins of Totalitarianism*, 297. Unless otherwise noted, references from *Origins* are taken from the 1973 edition.

³ Arendt, *Origins*, ix.

Hayden, and Robert Fine to elaborate a more robust cosmopolitan theory from Arendt's premises. In this section, I will first address the work of Seyla Benhabib, who argues for a shift toward cosmopolitan norms rooted in a universalist conception of human rights. Second, I will consider Patrick Hayden's interpretation of Arendt's position on responsibility for humanity as a form of "cosmopolitan realism," a term he borrows from Ulrich Beck. Third, I will discuss Robert Fine's argument that a "worldly cosmopolitanism" can be extracted from Arendt's insistence that we reconstruct the idea of humanity in the face of its eradication. In my last section, I will compare these attempts to extrapolate a cosmopolitan theory from Arendt's writings, and evaluate the possibilities they hold for an *Arendtian* cosmopolitan approach to crime against humanity.

2. 'A new law on earth': the building blocks of Arendt's cosmopolitan demand

a) The human condition and the threat of 'organized humanity'

While Arendt does not believe in an essential human nature,⁴ her notion of the 'human condition' suggests that there are conditions under which a truly human life is no longer possible. The most important element of the human condition is the fact of human plurality (that "men, not Man, inhabit the earth"), the ineliminable uniqueness of human persons—and, importantly, also of *peoples*—from which springs our spontaneity, our unpredictability, our ability to begin something new. The totalitarian movements of the twentieth century threatened the human condition itself because they aimed to condition members of humanity to act in ways that were entirely predictable, i.e., they made human beings into 'human animals.' And by threatening humanity on a global scale, these movements revealed the historical *fact* (as opposed to the dream or the nightmare) of "One World," "whether we like it or not." This development, according to Arendt, is the reason that we can no longer look to the existing nation-state system for solutions to our perilous, fragile situation. For Arendt, the unavoidable consequence of 'One World' is therefore the responsibility of all to ensure the continuation of the conditions under which it is possible to live a truly human life, as distinct from a mere animal existence.

Only a 'new law on earth,' according to Arendt, holds the potential to prevent the totalitarian version of 'organized humanity' from being realized at some point in the future. Global responsibility in this sense can be realized only through the creation of a consciously-devised global political framework that guarantees what Arendt calls the 'right to have rights,' that is, the right to belong to a political community (a community of *citizens*) which guarantees all other rights.⁵ Only membership in a political community, that is, in a political space in which one can appear as a distinct person whose opinions and actions have meaning, provides the conditions under which individuals can retain membership in 'humanity.' When the Nazis attempted to eliminate the Jewish population from the face of the earth, Arendt read this as "a crime against humanity, perpetrated upon the body of the Jewish people," because the attempt constituted an attack on human plurality *as such*, and hence as an attack on the human condition.⁶

⁴ Arendt, *The Human Condition*, 9-10.

⁵ Arendt, *Origins*, ix & 298.

⁶ Arendt, *Eichmann in Jerusalem*, 269.

b) Arendt's critique of 'human rights' and the contingency of the human condition

In *Origins*, Arendt argues that, in light of the Holocaust and the rise of statelessness in the world, we have seen that the discourse of human rights has simply failed. Arendt's argument against a reliance on 'human rights,' and the notion of abstract 'humanity' that underpins them, derives from her understanding of the weakness of any claims that 'the human being in general' can place on others.⁷ She holds to a conception of the human person as making its appearance in the world as a 'who' (as distinct from a 'what') through his or her actions and words, a process by which each person reveals his or her uniqueness.⁸ She distinguishes this conception of the person from an 'identity-based' understanding which merely groups individuals according to their 'merely given' characteristics, such as ethnicity.⁹ She argues therefore that the "abstract nakedness of being human and nothing but human" leaves one without any defining characteristics that allows us to recognize one's *personhood* and therefore one's *humanity*.¹⁰

The conception of human rights, based upon the assumed existence of a human being as such, broke down at the very moment when those who professed to believe in it were for the first time confronted with people who had indeed lost all other qualities and specific relationships – except that they were still human. The world found nothing sacred in the abstract nakedness of being human.¹¹

Arendt argues that this is why the Jews who had lost everything else continued to insist on their *nationality* as "the only remaining and recognized tie with humanity."¹² This insistence on a nationality confirms Arendt's claim that it is only through membership in a *polis* (which in our present world implies a nation-state) that one can have a 'home in the world' in which to act and therefore to *appear as human*. Arendt claims that only refugees and stateless peoples "can not be held politically responsible for anything." People without effective citizenship "are the absolutely innocent ones; and it is precisely this absolute innocence that condemns them to a position outside, as it were, of mankind as a whole."¹³ Without citizenship, there is no belonging to a place in the world, no political responsibility, and no recognition as a human. Conversely, with citizenship and participation, one becomes part of a political body which comes with collective responsibility from which no one may escape.

Arendt's theory of the loss of the human condition under totalitarianism provides a necessary foundation for her arguments in support of citizenship rights, the 'right to have rights,' and the basis for 'responsibility for humanity.' In Arendt's analysis, there are three steps by which a totalitarian government can transform human persons into human animals and thereby render them superfluous and ultimately disposable. The first step is to 'kill the *juridical* person in man' by removing that person from the protection of the law (via denaturalization, deportation, internment, etc.). This produces a population without civil rights, a group that has become outlawed in their own state. The second step is to 'kill the *moral* person in man,' that is, to

⁷ Arendt, *Origins*, 302.

⁸ Arendt, *The Human Condition*, 184.

⁹ Arendt, *Origins*, 301.

¹⁰ Arendt, *Origins*, 297.

¹¹ Arendt, *Origins*, 299.

¹² Arendt, *Origins*, 300.

¹³ Arendt, *Responsibility and Judgment*, 150.

destroy all solidarity between people by creating the conditions in which conscience ceases to function effectively. The third and final step is to ‘destroy the *individuality* in man,’ to eliminate the unpredictable and the spontaneous attributes of a person. This step involves the destruction of the capacity for a person “to begin something new out of his own resources, something that cannot be explained on the basis of reactions to environment and events.”¹⁴ Once these ‘human animals’ have been removed from the human condition, there is very little that can save them from being extinguished under totalitarianism. The attempt to extinguish humans ‘in the plural’ is tantamount to an attack on the human condition itself. Once we understand these steps that threaten the human condition itself, we have a basis for an existential argument about what is required to guarantee the conditions of possibility for a fully human life via ‘a new law on earth’ as the expression of responsibility for humanity.

c) Arendt’s ‘new law on earth’ and the political implementation of ‘the one human right’

Most readers of *The Origins of Totalitarianism* refer to editions published between 1958 and 1975, none of which include the final chapter, ‘Concluding Remarks,’ from the original 1951 edition. In this section, I would like to consider what this chapter can tell us about Arendt’s cosmopolitan approach.¹⁵ Here, Arendt addresses the “new law on earth” that is demanded by her Preface and then (in later editions) never referred to again. According to this chapter, this “new law” is the law of a politically-constituted humanity, a *polis* of all humans in the world which must exist *simultaneously* with the ongoing existence of discrete political bodies, whether nation-states or post-national republics, that provide the ‘homes in the world’ to which individual persons may belong. This global *polis* is realized through the creation of a “consciously devised” “law that is above nations.”¹⁶

The possibility of “humanity” as the basis for “human community as such” has never existed before the twentieth century, Arendt argues, because “humanity” has only ever been an ideal until late modernity brought us all crushingly together into One World, a global political space that we must all share, or else perish. From the frightening reality of One World emerges the necessity of coming to terms with global responsibility – the responsibility for all humanity that underpins Arendt’s call for a ‘new law on earth.’ In the “Concluding Remarks,” Arendt indicates that this ‘new law on earth’ can be understood as one of only two possible responses to the new historical fact of humanity. The new law, a cosmopolitan law that would forbid states from acting in such a way as to place any individual outside the scope of membership in a polity, is the only way that the *other* response to the frightening fact of One World, i.e., the totalitarian

¹⁴ Arendt, *Origins*, 451-455.

¹⁵ The “Concluding Remarks” from the 1951 edition of *Origins* were replaced in the 1958 and later editions with Arendt’s new chapter, “Ideology and Terror: A Novel Form of Government.” The 2004 edition of *Origins* includes the original “Concluding Remarks,” as well as a note written by Arendt for *The Meridian*, the publishing newsletter, explaining the change in the 1958 edition. Many respected Arendt scholars cite the original ending to *Origins* and include it as an unquestionably legitimate part of Arendt’s oeuvre. Examples include Elisabeth Young-Bruehl, *Why Arendt Matters* (Yale UP, 2006, 209-210); Dana Villa, *The Cambridge Companion to Hannah Arendt* (Cambridge UP, 2006, 33-34); and Margaret Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge UP, 1992, 60-61). Jerome Kohn’s “Introduction” to Arendt’s *The Promise of Politics* discusses the “Concluding Remarks” and indicates in a footnote that the 2004 edition of *Origins* (which contains the original ending) is “the most complete and readable of all existing editions.” (Schocken Books, 2005, xii).

¹⁶ Arendt, *Origins*, 2004 edition, 629.

response of global domination, can be avoided.¹⁷ The new law entails the “burden” that “some of the factual responsibility shared by the members of every national community for all the deeds and misdeeds committed in their name has now expanded to the sphere of international life.”¹⁸ The fact that only *some* of the responsibility shifts from states to the cosmopolitan sphere reflects Arendt’s insistence that it is *only* the imperative to guarantee the right to *citizenship*, i.e., “the right never to be excluded from the rights granted by his community,”¹⁹ that becomes the burden of humanity, and *not* the full range of what others have called human rights.

In this chapter, Arendt makes it clear that her cosmopolitan demand is a demand for the creation of a law that binds “the comity of nations” to a mutual guarantee to prevent “the one crime against humanity.” This law would in effect create a ‘new, strictly-defined polity’ of humanity with a sole purpose: to provide a guarantee for the “one human right,” corresponding to the “one crime against humanity,” i.e., the right to citizenship. This law would address *exclusively* the violation of *this* right, i.e., the act of removing persons from the human condition (as in the case of denaturalization, statelessness, and the ‘bare life’ of concentration camps that exist outside all legality). This violation, and this alone, “could and should become the subject of action that would not have to respect the rights and rules of sovereignty.”²⁰ The new polity can therefore be characterized as a federation of states that have agreed to prevent, and provide redress for, expulsion from the human condition – and even to “reintegrate” the victims of this dehumanization.²¹

3. Seyla Benhabib’s reading of Arendt’s “foundationalist cosmopolitanism”

Benhabib’s central argument concerning Arendt’s cosmopolitanism is that Arendt implicitly relies on universalist premises in her claims for ‘the right to have rights,’ the ‘new law on earth,’ and the concept of ‘crime against humanity.’ Benhabib also argues that Arendt’s approach to cosmopolitanism is implicitly Kantian in its demand that all humans be included in a framework of global political responsibility, despite Arendt’s rejection of a conception of human nature that would ground this call for inclusion. Finally, Benhabib insists that, despite Arendt’s reflections on the fragility of human rights, it is possible to construct a robust human rights framework from Arendt’s cosmopolitan theory.

a) Benhabib’s reading of the modernist foundations of Arendt’s normative stance

Benhabib rejects a reading of Arendt as a political existentialist, i.e., one who sees “political will and action as creating their own norms for judgment and evaluation, thus rejecting that they could be judged in accordance with extraneous standards, whether of morality, legality or aesthetics.”²² In reading Arendt as a modernist, Benhabib aims to align Arendt with her own universalist, Enlightenment-inspired account of the foundations of an objectively just cosmopolitanism.

¹⁷ Arendt, *Origins*, 2004 edition, 632.

¹⁸ Arendt, *Origins*, 2004 edition, 627-628.

¹⁹ Arendt, *Origins*, 2004 edition, 628.

²⁰ Arendt, *Origins*, 2004 edition, 628-629.

²¹ Arendt, *Origins*, 2004 edition, 631.

²² Benhabib, *Another Cosmopolitanism*, 38, footnote 6.

Benhabib's interpretation of Arendt's substantive 'modernism' is based on her reading of Arendt as a defender of universalist ideals (human rights) and a theorist of the modern dialectic between 'equality' and 'difference.'²³ Benhabib seeks to claim Arendt as a fellow universalist by providing the missing 'normative link' that joins Arendt's existentialist premises with her commitment to the transformation of the nation-state system in the name of preventing crimes against humanity.

Although [Arendt] herself could ultimately offer no philosophical justification either for her belief in universal human rights or for the category of crimes against humanity, her articulations of the issues involved can still guide us. The category of 'crimes against humanity' is now an internationally recognized legal norm such that individuals can be charged with committing this crime and can be brought before a tribunal of the World Court for doing so.²⁴

Benhabib seeks to show that Arendt's support for a future international criminal court and her insistence upon the "right to have rights" are ungroundable without the modernist presuppositions of inherent human dignity, universal principles of justice, and a commitment to normative theorizing that appears to be fundamentally incompatible with Arendt's own reluctance to essentialize the human status.

If we insist that we must treat all humans as beings entitled to the right to have rights, on the basis of which philosophical assumptions do we defend this insistence? Do we ground such respect for universal human rights in nature, in history, or in human rationality? One searches in vain for answers to these questions in Arendt's text. But, by withholding a philosophical engagement with the justification of human rights, by leaving ungrounded her own ingenious formulation of the 'right to have rights,' Arendt also leaves us with a disquiet about the normative foundations of her own political philosophy.²⁵

In Benhabib's interpretation, Arendt makes a normative claim for the existence of human rights, a claim which cannot be sustained without a belief in an essential human nature, of *something* worth preserving in every human that can only be protected by the realization of human rights.

b) The 'missing' normative foundations of Arendt's cosmopolitanism

Benhabib thinks we can legitimately read these missing foundations of cosmopolitanism into Arendt's work by building on what she calls the "anthropolitical universalism" in *The Human Condition*. In Benhabib's formulation, we humans come to our moral senses by grasping what it is to be human, which in Arendt's framework means an awareness of human natality, dependency, embodiment, and our status as agents of world creation.²⁶ In other words, for Benhabib, Arendt's normative commitment to a particular understanding of what it means to live

²³ Benhabib, *Reluctant Modernism*, xxxii-xxxiii.

²⁴ Benhabib, *Reluctant Modernism*, xxxiii.

²⁵ Benhabib, *Reluctant Modernism*, 81-82.

²⁶ Benhabib, *Reluctant Modernism*, 195.

a human life demonstrates that Arendt is committed to a universalist, essentialist understanding of the human condition, whether she admits it or not.

In a series of lectures on cosmopolitanism, Benhabib asks, What are the philosophical foundations of cosmopolitan rights claims in the absence of a fixed human nature or shared religious beliefs? Does ‘crime against humanity’ make sense outside the context of positive law, and if so, how? ²⁷ Benhabib’s discussion of this question –which she calls an “ontological puzzle” – reveals her attempt to ‘read foundations into’ Arendt’s cosmopolitanism. As Benhabib notes, the puzzle has to do with the status of ‘crime’ in the absence of positive law.

Which are the laws that crimes against humanity violate, particularly if, as in the case of Eichmann and the Nazi genocide of the Jews, a state and its established legal system sanctify genocide, and even order it to be committed? A crime, as distinct from a moral injury, cannot be defined independently of posited law and a positive legal order.²⁸

As Benhabib observes, Arendt struggled with the legacy of Kantian cosmopolitanism in the context of totalitarianism as a new threat to humanity. Arendt accepts that the Nazis’ actions were criminal, even though they may not have broken any positive law. As such, “[t]he moral critique of legality presents an ‘extralegal’ moment, alien to the logic of the law.”²⁹ As Benhabib rightly observes, the concept of ‘crime against humanity’ and the idea of a ‘right to have rights’ are both part of Kant’s cosmopolitan legacy.³⁰ The question is, how then could Arendt reconcile such universalist, seemingly essentialist claims with her insistence that a normative framework could not be built upon modernist assumptions about human nature, which totalitarian regimes had shown to be entirely destructible? How indeed could Arendt “justify *cosmopolitan right* without falling back on some conception of a fixed human nature or shared system of religious belief”?³¹

Benhabib’s response to the “ontological puzzle” of the cosmopolitan demand seems to suggest that she would actually rather focus on how it operates than on its foundations, despite her own insistence that cosmopolitanism must be grounded in a modern, universalist understanding of human nature and the rights that suggest themselves from this premise.

[W]hat is the ontological status of cosmopolitan norms in a postmetaphysical universe? Briefly, such norms and principles are morally constructive: they create a universe of meaning, values, and social relations that had not existed before by changing the normative constituents and evaluative principles of the world of ‘objective spirit,’ to use Hegelian language.³²

It appears that her question about “ontological status” is answered only with a claim about the *role* of cosmopolitan norms in constructing the framework of meaning within which judgment and action take place. Similarly, Benhabib’s specific claim about genocide as the “supreme”

²⁷ Benhabib, *Another Cosmopolitanism*, 17, 25-26.

²⁸ Benhabib, *Another Cosmopolitanism*, 14.

²⁹ Benhabib, *Another Cosmopolitanism*, 20.

³⁰ Benhabib, *Another Cosmopolitanism*, 24-25.

³¹ Benhabib, *Another Cosmopolitanism*, 25-26.

³² Benhabib, *Another Cosmopolitanism*, 72.

crime against humanity³³ suggests that this normative principle stands on its own, without reference to the political act that such naming represents, a naming that takes place in a world of competing interests and frameworks of meaning. In other words, the cosmopolitan norms that Benhabib calls “morally constructive” are actually discursively *constructed*, and Benhabib – even in attempting to answer directly a question about their “ontological status” – can speak only of the role they play in the world of global norms. By avoiding the question of the philosophical foundations of the cosmopolitan demand, Benhabib implicitly recognizes the contingency of the demand without directly facing the implications of its ontological status.

4. Patrick Hayden’s reading of Arendt’s “cosmopolitan realism”

a) Arendt’s ‘cosmopolitan realism’

Patrick Hayden’s *Political Evil in a Global Age* explores “the obliteration of personhood through several perversions of power that plague contemporary political activity on a global scale” using Arendt’s argument about human ‘superfluosity’ under totalitarianism.³⁴ Emphasizing Arendt’s argument that modernity has made large numbers of people ‘superfluous,’ Hayden uses Ulrich Beck’s concept of “cosmopolitan realism” to characterize Arendt’s approach to these threats to the human condition. Hayden explains that, for Beck,

cosmopolitan realism recognizes that the classical limits between the national and international have been erased, obscured or transformed, that the distinction between separate spheres of political action must be freed of the dogmatism of the national perspective, and that our understanding of political action must be reinscribed within a critical cosmopolitan outlook. The result is that ‘the spaces of our emotional imagination have expanded in a transnational sense.’³⁵

According to Beck’s theory of “world risk society,” Hayden tells us, a shift has taken place from ‘first’ to ‘second’ modernity which constitutes a “historical relocation of the category of risk” from national to global threats against which state-based responses have become ineffectual.³⁶ Hayden’s perspective is that Arendt offers us the possibility of developing a normative cosmopolitan theory from the historical fact of this threatened life-world. Beck’s term, ‘cosmopolitan realism’ can thus be applied to Hannah Arendt’s stance on responsibility for humanity in that she argues for a politico-legal framework that would limit the sovereign right of states to denationalize their own citizens, while retaining a sceptical stance that such a framework could ever come into existence ‘once and for all’ or be implemented in a way that does not reflect the interests of states.

In opposition to a foundationalist understanding of cosmopolitanism as a state that may one day be reached, Hayden emphasizes rather the *process* of cosmopolitanization: a dynamic state of affairs in which “the norms and forms of political action are reconsidered and renegotiated, and the very definition of humanity is contested and reformulated in ways that seek to preserve the universal and the particular as mutually constitutive rather than mutually exclusive.”

³³ Benhabib, *Another Cosmopolitanism*, 72-73.

³⁴ Hayden, *Political Evil in a Global Age*, 3.

³⁵ Hayden, *Political Evil*, 23, quoting Ulrich Beck, *The Cosmopolitan Vision*, (Cambridge: Polity, 2006), 6.

³⁶ Hayden, *Political Evil*, 23.

Cosmopolitanization binds states increasingly in a shared “global community of fate” even as it requires that we recognize the uniqueness of political communities in their manner of relating to “historically universal humanity.”³⁷ Hayden emphasizes the compatibility of Beck’s ‘shared global community of fate’ and Arendt’s ‘One World’ in that they both insist on the unpredictability of the human condition and the uncertain grounds it offers for normative claims.

b) Arendt’s ‘normative ambivalence’

Hayden suggests that Arendt’s position can be seen embodying a ‘normative ambivalence’: her cosmopolitan sensibility, manifested in a critique of state sovereignty and the rise in statelessness, is moderated and grounded by her ‘suspicion of moral and political idealism.’³⁸ According to Hayden, Arendt helps us to theorize responsibility for humanity beyond the boundaries of the nation-state, but she is nevertheless acutely aware of the ways in which idealist cosmopolitan programmes can develop into imperialism and the abuse of power.

In Hayden’s view, Arendt’s normative position is based on an *existential* argument about what the human condition requires, and does not rely on *essentialist* facts about human nature. Arendt’s normative ambivalence means recognizing the permanent threat of dehumanization (loss of the human condition) and acknowledging that the possibility of preventing crime against humanity is always contingent. This ambivalence also entails the recognition that our politico-legal responses to ‘crimes against humanity’ will never perfectly capture the magnitude of the offence we call ‘crime.’ As Hayden observes, “Arendt expressed reservations about the limitations of legal concepts to convey fully the experience of evil translated formally into the doctrine of crimes against humanity: ‘We attempt to classify as criminal a thing which, as we all feel, no such category was ever intended to cover’, she writes.”³⁹ In other words, the politico-legal response is always necessary, but never adequate.

c) Hayden’s consideration of the Arendtian position on ‘human rights’

Hayden argues that the burden of common responsibility can be met with a ‘promise,’ in the form of a new cosmopolitan law that essentially says, ‘never again’ to the crime against humanity that is genocide. He suggests that this ‘promise’ “reinforces the notion that the new humanity is a political community brought into being by the act of promising itself, and sustained only by a reflexive commitment to be bound in the future by the pledge made in the past. It is a reality ‘guaranteed for each’ only when the continued ‘presence of all’ is promised.”⁴⁰ In this way, the political community of humanity provides the guarantee for the perpetuation of the human condition.

Hayden acknowledges that Arendt is critical of the modern conception of human rights, but insists that her ‘cosmopolitan realism’ is consistent with a *different* conception of human rights. He claims that “it is necessary to bear in mind that her aim is to contribute to renewal of an

³⁷ Hayden, *Political Evil*, 23-24, citing Ulrich Beck, *World Risk Society* (Cambridge: Polity Press, 1999) and quoting Beck, “The Terrorist Threat: World Risk Society Revisited,” *Theory, Culture & Society* (Vol. 19), 42.

³⁸ Hayden, *Political Evil*, 7.

³⁹ Hayden, *Political Evil*, 17, quoting Arendt, *Origins*, 2004 edition, 568-569.

⁴⁰ Hayden, *Political Evil*, 30-31, quoting Arendt, *The Human Condition*, 244.

active commitment to realizing human dignity via human rights.”⁴¹ According to Hayden, it is not human rights *as such* of which Arendt is critical, but a particularly modern conception of them.

Rather than presupposing the originary status of cosmopolitan individuals belonging to a prepolitical world community, Arendt’s cosmopolitan realism regards this status not as ‘a concept, but a living, political reality’ borne of the ‘earthly hell’ of deliberate attempts to make human beings superfluous and the resulting struggles to establish laws that protect the right to have rights.⁴²

Hayden thus takes Arendt’s idea of a ‘right to have rights’ and her insistence on a ‘new law’ as together comprising an expression of support for a new, anti-foundational form of human rights. In Hayden’s framework, therefore, Arendt’s existential premises can plausibly support a politically-constructed guarantee of the cosmopolitan right to the maintenance of the human condition.

5. Fine’s reading of Arendt’s “worldly cosmopolitanism”

a) Arendt’s ‘political cosmopolitanism’

Robert Fine argues that Arendt was convinced that an adequate response to the emergence of totalitarian attempts to eradicate a portion of humanity could not be found in legal cosmopolitanism. “Rather than speak the moral-theological language of guilt, purification and redemption, or the legal language of guilt, prosecution and punishment, Arendt looked to a more political answer: one in which human beings ‘assume responsibility for all crimes committed by human beings’.”⁴³ The struggle against threats to the human condition should be read as an ongoing *political* struggle to reconcile the competing demands of common responsibility and the necessary division of humanity into discrete political entities which provide the space for political action. This struggle is the focus of a *political* cosmopolitanism.

Arendt’s approach, according to Fine, stands in opposition to the cynicism of unmitigated political realism, the scepticism of those who call cosmopolitan law ‘victor’s justice,’ and the idealism of those who think cosmopolitan law will provide “perpetual peace and universal freedom.”⁴⁴ From this sketch, and from Fine’s accompanying description of Arendt’s stance as cosmopolitan, realist, and post-metaphysical,⁴⁵ we can extrapolate the following characteristics of a ‘political cosmopolitanism’: it is ‘cosmopolitan’ in the sense that it aspires to a sense of justice that is not a mere ‘victor’s justice,’ even though it acknowledges that this aspiration can never be fully realized; it is ‘post-metaphysical’ in that it rejects a transcendent formulation of humanity as the conceptual grounds for the requirements of ‘human nature’ or for a cosmopolitan law; it is ‘realist’ in the sense that it acknowledges the inherent and unending political contest involved in the attempt to institute a ‘new law on earth’ and assumes that the

⁴¹ Hayden, *Political Evil*, 57.

⁴² Hayden, *Political Evil*, 24-25.

⁴³ Fine & Cohen, 150, quoting Arendt, *Essays in Understanding*, 142.

⁴⁴ Fine & Cohen, 161.

⁴⁵ Fine & Cohen, 148.

exercise of cosmopolitan law is an exercise of *power*; and finally, it is ‘critical’ because (argues Fine) Arendt’s project is, like Hegel’s and Marx’s, a project of immanent critique, determined to “dethrone” normative judgement and “put it back from where it came: in the world.”⁴⁶

One question that arises from Fine’s interpretation of Arendt’s cosmopolitanism concerns the distinction between victor’s justice and political cosmopolitanism as the exercise of power. In other words, how can a critical cosmopolitanism simultaneously embody “transcendent validity” and operate as a function of power? In support of Fine’s position, I would suggest that this can be answered with reference to Arendt’s ambivalent response to the Eichmann trial as explained in *Eichmann in Jerusalem* and in Arendt’s personal correspondence with Karl Jaspers. As Fine notes elsewhere,⁴⁷ Arendt was critical of the trial because of the flawed process involved in bringing Eichmann to justice (the kidnapping, the political use of the trial for nationalist purposes, the retroactive application of law), but at the same time Arendt thought it “accomplished a touch of justice” in punishing a leading Nazi, in broadcasting the facts of the Holocaust to the world, and in offering a forum for victims to testify.”⁴⁸ There was an important sense in which the Eichmann trial was an exercise in power but also an exercise in justice. Its importance, in tandem with its inadequacy, thus represents the ambivalence of political cosmopolitanism: a measure of justice was achieved, but only in a provisional sense. It responded to a ‘crime’ that could not be adequately punished or forgiven. As such, it was a human response to an action that had as its aim the destruction of a part of humanity.

b) Arendt’s ‘worldly cosmopolitanism’ and the place of human rights

The corollary of Fine’s argument that political cosmopolitanism cannot be reduced to the *juridical* institutionalization of the imperative to prevent crimes against humanity is the claim that Arendt’s cosmopolitanism is also a ‘worldly cosmopolitanism’ and as such insists that ‘the idea’ of cosmopolitanism must be sustained through human judgement and action. This act of judging and acting allows us to criticize legal processes which can never fully realize the cosmopolitan demand. Fine writes that:

Arendt’s ‘worldly cosmopolitanism,’ as I have put it, addresses the intersection of law and politics in a style that recognises that there is more to international criminal justice than ‘the unfolding of law’s master plan.’ . . . Worldly cosmopolitanism . . . means that when we judge and act in political matters, we take our bearings ‘from the idea, not the actuality, of being a world citizen.’ In her reflections on crimes against humanity Arendt offers an illustration, however fractured, of what it is to think as a cosmopolitan citizen in a world in which cosmopolitanism is no more than a flash of light in dark times.⁴⁹

From our position in the world, through immanent critique, we struggle to reconcile ourselves to the cosmopolitan condition while understanding that our attempts to meet the cosmopolitan demand will always take place through political contestation. We reconstruct the ‘idea’ of

⁴⁶ Fine, *Political Investigations*, 162.

⁴⁷ Fine, *Political Investigations*, 153.

⁴⁸ Fine & Cohen, 152.

⁴⁹ Fine, *Cosmopolitanism*, 111, quoting Hannah Arendt, *Lectures on Kant’s Political Philosophy* (Chicago: U. of Chicago Press, 1992), 76.

humanity by working toward the mutual guarantee for all others to benefit from the maintenance of the human condition.

Fine argues that the achievement of the human rights movement has not been the subordination of coercive power under the law of 'right,' but rather the ongoing mediation between human rights as "new forms of coercion" and human rights as a "culture" that helps us to think about new forms of subjectivity in a global age. Fine positions human rights as a matter of political judgement that permits us to criticize the imperfect realization of the *ideal* of human rights even as we strive to realize a "human rights culture" that takes seriously our "cosmopolitan existence" as members of a world for which we are jointly responsible. Fine suggests that human rights should be understood as supplementing existing forms of (civil) rights in much the same way that Arendt insisted on the importance of both a 'right to have rights' *and* the rights that are politically guaranteed by one's fellow citizens.⁵⁰

6. Comparing the three interpretations of Arendt's cosmopolitanism

a) Metaphysical vs. existential foundations of Arendt's cosmopolitanism

The first point of comparison I would like to draw concerns the claims of these authors concerning the philosophical foundations of Arendt's cosmopolitan demand. Benhabib argues that Arendt's cosmopolitanism cannot be supported without implicitly resorting to the standard Kantian metaphysical claims about human nature and the rights entitlement of humans. Benhabib claims that there are no grounds for a cosmopolitan law unless one has a foundationalist understanding of the universal rights that must be respected if human life is to be sustained. Without a normative commitment to the human rights of all, Arendt cannot make the moral claim that the demands of 'humanity' require a normative standard by which positive law can be evaluated.

By contrast, both Hayden and Fine argue that there are sufficient grounds for Arendt's cosmopolitan demand in her existentialist premises. The historical fact of 'One World,' brought about by totalitarianism and reflected in the rise of other potential global catastrophes, has bound humanity together in a set of shared risks. Unless all are engaged "in the strife,"⁵¹ as Arendt puts it, there is a possibility that the conditions under which human life may continue could be eliminated. There is nothing 'essential' in the claim that the human condition requires plurality, political space, and the rights guaranteed both by political communities and by humanity itself in the context of a world risk society. After all, if totalitarianism succeeded, human life (i.e., bare life) itself could continue as 'organized humanity,' even if the human condition itself were eliminated. Arendt's is therefore an existentialist claim that takes into account our historical and social context, both the unprecedented threats of late modernity and the contingent human response required to meet these threats.

If Hayden and Fine are correct in this argument, and I think they are, there is no need to search for hidden metaphysical premises in Arendt's work, as the requirements of the human condition

⁵⁰ Fine, "Cosmopolitanism and Human Rights." 13-20.

⁵¹ Arendt, *Origins*, 2004 edition, 631.

– understood existentially – provide the basis for an understanding of the threat to humanity posed by crimes against humanity. The distinction Arendt draws between human nature and the human condition, i.e., that humans may continue to live as ‘human animals’ outside the human condition (as they did in concentration camps), demonstrates the difference between a cosmopolitan demand based on a metaphysical human nature (an assumption that has been destroyed by the experience of the Holocaust) and a demand based on a conditional claim about two possible futures for humanity – organized under totalitarian rule or under ‘a new law on earth.’ This also underpins the distinction that we may draw between a foundationalist conception of cosmopolitanism and the political cosmopolitanism supported by both Hayden and Fine.

b) Political cosmopolitanism and cosmopolitan realism

A second point of comparison I would like to draw concerns the relationship between Hayden’s characterization of Arendt’s political theory as a form of ‘cosmopolitan realism’ and Fine’s description of her stance as consistent with ‘political cosmopolitanism.’ Both Hayden and Fine emphasize the contingency of the conditions under which human life may continue, and this precariousness forms the basis for the ‘normative ambivalence’ which I would argue underpins Fine’s position as well as Hayden’s. As Hayden argues, the unpredictability of the human condition allows us to make only tentative normative claims about the political requirement to guarantee the basic right to belong to a political community. Arendt’s insistence that humans are ultimately unpredictable, that human action can have unforeseeable results, has the consequence that our normative commitments must always be subject to a re-thinking – a process which must be grounded in human judgement, not in contemplation of metaphysical principles about the requirements of human nature. Similarly, Fine’s insistence that the appropriate cosmopolitan stance is a *critical* position, based on an understanding of normativity as ‘immanent’ critique, returns us to the imperative that cosmopolitanism must be political – a matter of ongoing negotiation, contest and coercion as the scope of rights becomes cosmopolitan. Fine is correct to observe that we will never reach an end-state of cosmopolitan law that forecloses the possibility of crimes against humanity once and for all. The price of human freedom is vigilance, and the price of human unpredictability is the requirement that human judgement and political action must always be rendered in the service of maintaining the human condition. The political response to changes in the circumstances under which this condition must be maintained cannot be determined in advance.

Both Hayden and Fine recognize that Arendt’s wariness toward the prospect of a cosmopolitan law that is not ‘rooted in and strictly controlled by’ political communities reflects the very real possibility that any global political power has the potential to threaten humanity on a scale to which the totalitarian movements could only aspire. All three acknowledge the possibility that a global legal framework holds the potential for abuse on a scale not seen before, even though they recognize the necessity of devising a mechanism by which all members of humanity may take on the political responsibility of preventing crimes against humanity.

The shared ‘global community of fate’ that Hayden borrows from Ulrich Beck is an appropriate symbol for the cosmopolitan stance arising from Arendt’s analysis of our ‘One World.’ Hayden’s argument that the cosmopolitan legal structures established to address crimes against humanity represent a manifestation of ‘cosmopolitan realism’ is legitimate to the extent that

political and legal cosmopolitanism are intrinsically related. But Fine is correct to insist that political cosmopolitanism cannot be subsumed under such juridification of the “larger idea” of crime against humanity. The ‘normative ambivalence’ inspired by Arendt’s existential argument requires that we continually employ the faculty of judgement – our ‘critical cosmopolitanism’ – to evaluate the juridical response to threats against the human condition and, where necessary, to act in concert against these threats, whether they arise from the actions of sovereign states, non-state actors, or any potential new global structure.

c) The relationship between Arendt’s cosmopolitanism and human rights discourse

The third and final point of comparison I would like to address is the conception of human rights that each theorist argues may be drawn from Arendt’s cosmopolitanism. Benhabib argues that Arendt’s cosmopolitanism is consistent with the modernist reading of human rights as universalist claims founded on an essentialist conception of human nature and the inherent dignity of persons. Benhabib positions Arendt’s critique of human rights as a critique of a ‘particular incarnation’ of rights discourse, and argues that Arendt’s implicit normativity is consistent with an Enlightenment framework of universal human rights.

What is perhaps more interesting is that both Hayden and Fine also support a much more robust framework of human rights claims than does Arendt with her ‘one human right.’ Recall that Hayden argues that Arendt’s “aim is to contribute to renewal of an active commitment to realizing human dignity via human rights.”⁵² Perhaps more ambivalently, Fine claims that

human rights are a historical achievement of the modern age . . . albeit a precarious and ever threatened achievement, and neither an artefact of nature (as is imagined by natural law theory) nor a mere construction of the state (as is imagined in legal positivism). . . . Human rights share all the contradictions of the rights that precede them and mean nothing without the power of coercion to enforce them.⁵³

While Fine embraces human rights as a powerful normative discourse in late modernity, he is thus keenly aware of the contradictions that this discourse contains, and he recognizes the status of such rights as a ‘historical achievement’ rather than a fact of nature.

A purist might argue that both Hayden and Fine have lost sight of Arendt’s insistence that there is only ‘one human right’ and that all other rights are ‘civil rights’ in that they are matters of mutual guarantee by citizens. A strictly Arendtian interpretation would emphasize her rejection of the notion of *human rights as such*, and insist that rights (all but the ‘right to have rights’) are only ever guaranteed by the nation-state (or its post-national successor) and are thus necessarily *civil* rather than *human* rights. This is more than a question of semantics: to speak of rights that we have by virtue of our humanity but that are guaranteed by the polity, the purist might argue, is to stretch a concept and risk smuggling in a universalist idea by the back door.

On the other hand, it seems fair to say that, had she lived to see the development of the human rights movement, international law, and the rise of global civil society over the past few decades,

⁵² Hayden, *Political Evil in a Global Age*, 57.

⁵³ Fine, *Cosmopolitanism*, 139-140.

Arendt would find herself very much isolated on this question, and her perspective might even have changed on the possibility of there existing more than ‘one human right.’ A fair reading of Hayden’s and Fine’s positions on human rights would note that the discourse of human rights has become a powerful socio-cultural and political force in the contemporary world, and that even those states that flagrantly abuse what we (almost uniformly) call ‘human rights’ still acknowledge the validity of these rights claims, even though they are not yet fully enforceable. The historical trend appears to have granted human rights discourse a much stronger place in the global dialogue on the requirements for living a fully human life than Arendt foresaw. It seems safe to conclude, therefore, that a strictly Arendtian approach would have to concede to a perspective on human rights that is more Arendtian *in spirit* – particularly in its acknowledgement that the global phenomenon of human rights in the 21st century constitutes a development that no one could have foreseen. The ‘historical achievement’ of human rights, to use Fine’s term, is as much a part of ‘political cosmopolitanism’ as the development of the International Criminal Court and the ‘naming and shaming’ actions of global civil society.

7. Conclusion

One of the conclusions that Arendt draws in *Origins* is that all members of humanity are now – in a very literal sense – responsible for all others. Her claim can be understood as a somewhat unconventional statement in support of cosmopolitanism. Arendt’s cosmopolitan claim comes in the form of a call for a ‘new law on earth’ that would mandate the protection of what she calls the ‘one human right’ – the right to belong to a political community which in turn guarantees all other rights. This call is motivated by Arendt’s realization that the prospect of ‘a single humanity’ is no longer merely a threat or an aspiration, but an actually-realized fact of life on earth in late modernity.

I have explored attempts by three theorists to elaborate a cosmopolitan perspective from Arendt’s political theory. I have rejected Seyla Benhabib’s foundationalist understanding of Arendt’s project, and I have argued in favour of Patrick Hayden’s and Robert Fine’s attempts to justify Arendtian cosmopolitanism from their more ‘existentialist,’ ‘immanently critical’ positions. I have also attempted to demonstrate that the claims made by these authors regarding the role of human rights in political cosmopolitanism are consistent with the ‘spirit’ of Arendtian political theory, if not with the strict position that Arendt herself took on human rights. Each of these three theorists has had to navigate the tension between Arendt’s cosmopolitan demand that we prevent future genocides and her insistence on the bounded polity as the space for political action. It remains to be seen whether Arendt’s cosmopolitan approach can be realized in actuality, but I hope to have demonstrated that a defensible theory of political cosmopolitanism can and has been derived from Arendt’s insistence that we directly address one of the central political problems of our time, that is, the problem of crime against humanity.

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