



## Book Review

### **Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants**

Gündoğdu, Ayten. (2015). New York: Oxford University Press. ISBN 9780199370412 (cloth) CDN\$99.00; ISBN 9780199370429 (paper) CDN\$29.95. 314 pages.

LORRAINE PANNETT

Independent Researcher, Guernsey

Ayten Gündoğdu's book addresses two highly-topical, complex and contested fields of study: human rights and migration. These fields intersect with other problematic areas and struggles, for example between universality and national sovereignty. Gündoğdu's angle of vision lends the work particular interest, as she analyses the problems of statelessness through the lens of Hannah Arendt's political theory and Arendt's conception of human being. Although Arendt is a familiar figure in discussions of statelessness, Gündoğdu's approach is to read Arendt both with and against the grain to rethink some of the dilemmas of human rights. She treats Arendt's work as a living document, reinterpreting and reapplying it by bringing it into dialogue with work by other scholars as well as historical and recent events (but not including the current refugee settlement calamities in the Mediterranean, European Union and elsewhere).

Gündoğdu engages with the work of Arendt to analyse and go beyond "*the perplexing persistence of rightlessness in an age of rights*" (Gündoğdu, 2015, p. 11, emphasis in original). She treats these *perplexities* as genuine dilemmas, not aberrations or symptoms of bad faith: for example, the dilemma inherent in universal declarations of human rights is that these rights rely on nation states for implementation. Human rights become frustrated because they are unenforceable. Gündoğdu's aporetic, Socratic, approach

*Correspondence Address:* Lorraine Pannett, Lothlorien, Collas Simon, Torteval, Guernsey, GY8 0LG; Email: lorpannett@gmail.com

ISSN: 1911-4788



does not offer an absolute resolution to the perplexities of human rights, but seeks ways of thinking and questioning that take us beyond the divide between rights on paper and rights in practice. She proposes that the way to go beyond this impasse is via Arendt's "right to have rights" (p. 21). This shifts the question from asking "what grounds human rights to...what guarantees, and reinvents them" (p. 22), and emphasizes "the *political practices of founding human rights*" (p. 22, emphasis in original).

Arendt analysed the way that statelessness challenged the absolutes of the Rights of Man: their universality and enforceability were lost when people became stateless. This convinced her that rights were not inalienable, "natural" rights. Consequently, we are left searching for a new authority for laws, rights, and institutions. For Gündoğdu, this new authority cannot be divine or an endowment of nature. She suggests that, for Arendt, "human rights do not precede and ground politics and citizenship" (Gündoğdu, 2015, p. 40). It is the other way round: human beings and human rights come into existence only within a political community. For Arendt, personhood is a legal artefact, which is at risk in the context of asylum and migration. This is a challenging proposition. I understand social construction as rarely total – otherwise there would be none of the reinvention that Arendt suggests is indispensable for safeguarding and expanding human rights. Community is necessary for human beings to flourish, but conceiving of political community as a condition of human being seems limited and limiting. Understanding others as always already human is important because it shapes our interpersonal relations with those we encounter and our solidarity with people both close and at a distance. Importantly, many of the asylum seekers and refugees I met during my own PhD research and work with refugee organizations did not wait for others to deem them human (Pannett, 2011). For Elizabeth, one of my participants, "an asylum seeker is a human being. An asylum seeker is a person. An asylum seeker has got feelings, emotions, and I feel that even if we are asylum seekers we have the right to be treated humanely, *humanely*." The asylum seekers I encountered already recognize themselves as human. For this reason, it is difficult to accept without argument Arendt's view, as emphasized by Gündoğdu, that human beings are made by their public political practice. It may be that a different human being is made through public acts and utterances, through being part of a political community, but if we are concerned with human rights and we do not recognize migrants as human, how do we recognize them?

Gündoğdu rethinks Arendt's arguments about the social and the political, reading Arendt *against* Arendt. According to Gündoğdu's reading, politics denotes practices of enacting freedom and equality, beginning something new and interrupting practices taken for granted. It is about new practices rather than about issues or actors perceived as political or private. The political is contrasted with compassion, which seals people into victimhood, damaging their political agency and hindering practices "necessary for the continuous

reinvention of human rights in response to new forms of injustice” (p. 57). Stateless people are often dependent on “compassionate humanitarian” (p. 78) to provide subsistence needs. Yet, while acts of compassion proliferate, there are many who are concerned that pity reproduces privilege and is the opposite of transversal solidarity. Moreover, pity focuses on the suffering of the many; it does not recognize the singularity of migrants. Even so, I believe that there must be a place for compassion: giving migrants warm coats, food or shelter so that they survive the winter and live to fight for their rights. Of course, it is not enough, and here Arendt’s emphasis on the importance of public debate and innovative ways of turning issues into matters of common concern is important.

Gündoğdu uses Arendt’s reflections on statelessness to think through the perplexities of detention. Detention deprives people of a political community that upholds their rights; it strips them of legal personhood and rights to action, opinion and speech. Gündoğdu argues that, despite human rights conventions, legal personhood is of human construction and not an “inherent essence” (p. 92), hence its precarity when migrants lose the community that guarantees it. The notion of a “human person” (p. 92), entitled to rights, may be overridden by the fact of territorial sovereignty – border controls categorize and divide the universal into the entitled and unentitled. The unentitled then become dependent on the “charity or goodwill” (p. 94) of those in a position to bestow rights.

Another way in which legal personhood, equality and rights can be stripped away, demonstrating that they are not inherent, is through deportation. While the principle of *non-refoulement*, which prohibits the return of refugees to countries where they may be in danger, is sometimes thought to be absolute, Gündoğdu points out that, according to Article 33(2) of the Refugee Convention, *non-refoulement* may not be followed in cases where the refugee is deemed to be a security risk or a danger to the community.

Gündoğdu considers in detail two legal cases heard by the European Court of Human Rights against deportation from the UK. Both claimants had AIDS, but the cases had very different outcomes. She analyses these cases to demonstrate Arendt’s view that the rights of the stateless are “dependent on a capricious moral sentiment” (Gündoğdu, 2015, p. 113), with any prolongation of their lives reliant on compassion rather than right. Thus, attention to “suffering bodies” replaces discussions of equality and rights (p. 114). This gives rise to arbitrariness and produces the stateless as speechless, their voices replaced by those of “experts.” This is a pertinent observation, but it ignores the ethical perspective that fosters care for others: understanding that all human bodies have vulnerability in common. What difference might it make if, instead of compassion, we thought in terms of care: sentient activity in solidarity with those deprived of the right to have rights?

Reflecting on the example of Roma immigrants expelled from Italy in 2007, Gündoğdu foregrounds Arendt's argument that "the unmaking of legal personhood often goes hand in hand with the destruction of political and human understanding" (Gündoğdu, 2015, p. 126-127). Stateless people lose the context that gives them a place in the world and makes their actions and speech meaningful. Arendt makes what Gündoğdu acknowledges is a "controversial" analogy between statelessness in terms of the loss of a stable context for living and the condition of "savage tribes" who "live and die without leaving any trace, without having contributed anything to a common world" (p. 148). This raises the ethical question of whether a life lived without trace should be denied recognition as human. It ignores also the insights of disciplines such as anthropology, which have given glimpses of the density and meaning in lives that are distant from our own. We might say that lives in camps are thwarted in numerous ways, but many refugees make the best of their sensibilities and capacities even in such hostile surroundings. Gündoğdu gives an example of this in describing the demolition of homes and businesses in and dispersal of refugees from Ogujebe transit centre in 1998 (pp. 151-152)

Gündoğdu undertakes a detailed discussion of the demand for "papers for all" (p. 21), looking in particular at the French *sans-papiers* movement. She takes this as an example of an approach to human rights that relies for its validity on practical political interventions, and the way migrants position themselves as entitled to rights, rather than by reference to foundations. People declare their right to rights that have no prior authorization. She argues that modern revolutionaries have tended to invoke some form of extra-political absolute in order to validate the laws and rights that they introduce. Arendt, on the other hand, suggests that acts of political founding derive their legitimacy from the political practices that they inspire. Gündoğdu draws from the work of Etienne Balibar to propose that the principle at stake in Arendt's call for the right to have rights is "equaliberty," the term which "foregrounds the inextricable link between equality and freedom in modern democracy" (Gündoğdu, 2015, p. 167). Human rights are authorized and universalized through practices that lead to new understandings of the connections between equality and freedom, and their dependence on each other.

Arendt's concern is not with *philosophical* arguments that serve to found human rights, but with *political* foundations. Freedom is understood as a political practice that brings into being the right it invokes. There is no external authority to whom we can appeal; it is only through public utterances that human beings can "reciprocally recognize each other as subjects entitled to human rights" (Gündoğdu, 2015, p. 172). Consequently, Arendt gives a key role to action, including speech, in the ongoing (re)creation of human rights, bringing to the foreground not only new subjects and objects of rights,

“new beginnings that break with the existing order”, but also new perplexities (p. 173).

Thus, Gündoğdu heads her conclusion “The Struggle Remains Undecided.” She demonstrates that we cannot take rights for granted – they have to be fought for, and fought for again, if they are to be kept and extended.

Many of Gündoğdu’s case studies will be familiar to those who work on migration and human rights. What contribution is made by Arendt’s perspective (with and against the grain) and especially her argument for the right to have rights? While the right to have rights resonates with an ethical concept of personhood, it is thin in comparison. Being recognized as a person carries with it recognition as a person entitled to human rights. But being recognized as rights-bearing does not exhaust the attributes of personhood. The migrants I encountered in the course of my research want recognition of their sentience – their capacity for feeling, thought and meaningful action – which can be expressed and validated only through full inclusion in society. Many of Gündoğdu’s examples focus on struggles for specific rights rather than on people as the bearers of rights in general. Working through Gündoğdu’s detailed research helps to question assumptions and generates reflection on rights and the right to have rights. But, given the millions of people in camps, on the move, or with their free movement blocked, I wonder whether the right to have rights can become a matter of public concern and mobilize people as effectively as actually-existing movements around specific rights.

## References

- Pannett, M. L. (2011). *Making a livable life in Manchester: Doing justice to people seeking asylum*. (Unpublished doctoral dissertation). University of Manchester, Manchester, UK.