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## Menschenrechte und Revolution

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### Thema

James D. Ingram: The Revolutionary Origins of Human Rights:  
History, Politics, Practice

Jeanette Ehrmann: Konstitution der Rassismuskritik.  
Haiti und die Revolution der Menschenrechte

Nabila Abbas: Arbeit, Freiheit und Würde! Chorl, hurriya, karâma  
wataniya! Menschenrechtsimaginationen der tunesischen Revolution

Mareike Kajewski: Revolution als Erfahrung und die Aufgabe  
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Eine programmatische Skizze

### Hintergrund

### Forum

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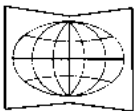
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# Menschenrechte und Revolution

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Jeanette Ehrmann  
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Tessa Debus, Elisabeth Holzleithner,  
Regina Kreide, Michael Krennerich,  
Karsten Malowitz, Arnd Pollmann und  
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## EDITORIAL

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### Menschenrechte und Revolution

Der Zusammenhang zwischen „Menschenrechten und Revolutionen“ steht auf der politischen Tagesordnung: In jüngster Zeit wurden wir Zeugen von Massenprotesten, Aufständen, Rebellionen und Revolutionen in der Ukraine, in Tunesien, Ägypten, Libyen oder Syrien, in denen der Bezug auf Menschenrechte mitunter eine zentrale, manchmal eine eher nebensächliche und – erstaunlich genug – gelegentlich auch gar keine Rolle spielte. Die Frage nach dem Zusammenhang zwischen Menschenrechten und Revolutionen berührt aber auch wesentliche Aspekte der Politischen Philosophie und Theorie der Menschenrechte:

(1) Aus historischer und ideengeschichtlicher Sicht kann beinahe die gesamte Geschichte der Menschenrechte als Geschichte einer grundlegenden *Revolution politischen Ordnungsdenkens* verstanden werden. Die Menschenrechte haben im modernen Rechtssystem „das Oberste zuunterst gekehrt“. Als Gegenentwurf und parallel zum geltenden positiven Recht wurde ab dem 17. Jahrhundert eine spezielle Kategorie von Rechten als „Geburtsrecht“ jedes menschlichen Lebewesens deklariert. Die Verfechter dieser Position sahen und sehen sich meist in einer historischen Kontinuität mit dem traditionellen Naturrecht. Die beiden wichtigsten Wesensmerkmale jener so verstandenen Menschenrechte sind ihr Anspruch auf universelle Gültigkeit zum einen und die Tatsache, dass sie für jede Person gelten und nicht nur für eine bestimmte Gruppe von Menschen.

So war es etwa John Locke, der unter dem Eindruck der Glorreichen Revolution in England die Überzeugung vertrat, dass jedes Individuum allein in seiner Eigenschaft als Mensch über „natürliche“ Rechte auf Leben, Freiheit und Eigentum verfügt. Dies macht Locke neben Charles de Montesquieu und Jean-Jacques Rousseau zu einem der drei wichtigsten Theoretiker der Amerikanischen und der Französischen Revolution, die ursprünglich vor allem für liberale Freiheitsrechte kämpften. In ihrem weiteren Verlauf dehnte die Revolution der Menschenrechte ihre Ansprüche jedoch inhaltlich auf politische Partizipationsrechte und soziale Teilhaberechte aus, aber auch auf den Schutz vor rechtlicher Diskriminierung, auf die Rechte von Kindern, auf sogenannte kollektive Rechte der „dritten Generation“ bis hin zu Rechten des Schutzes von Natur und Tieren. Dabei ist die besagte Re-

volution der Menschenrechte stets aus konkreten Erfahrungen von Ungerechtigkeit und mitunter auch aus blutigen politischen Kämpfen hervorgegangen. Von Olympe de Gouges bis hin zur UN-Konvention zur Beseitigung jeder Form von Diskriminierung der Frau (CEDAW), von den ersten Arbeiteraufständen Westeuropas bis zur heutigen Anerkennung von Gewerkschaften in Osteuropa, Lateinamerika und Asien; vom Kampf für religiöse Toleranz im 17. Jahrhundert bis zu den gegenwärtigen Protesten gegen eine Diskriminierung aufgrund von Hautfarbe, nationaler oder religiöser Zugehörigkeit; vom Widerstand gegen eine offiziell erlaubte Versklavung von Menschen bis zu den heutigen „Sweatshops“, „Arbeitslagern“ in »außerrechtlichen Zonen« und der Versklavung von meistens Frauen und Mädchen in privaten Haushalten und Bordellen – all diese Kämpfe zeigen eine *interne* Beziehung zwischen politischen Unrechtserfahrungen und Menschenrechten. In ihrer Summe bilden sie eine Revolution der Menschenrechte.

- (2) Zudem kann man von *Menschenrechten der Revolution* sprechen, denn die Idee der Menschenrechte kann politisch folgenreiche Revolutionen auslösen – abrupte oder schleichende. Zu einer Art von Revolution kam es im Jahre 1947, und zwar unmittelbar nach Publikwerden eines Entwurfs zur Allgemeinen Erklärung der Menschenrechte. Die Menschenrechtskommission wurde mit Petitionen aus der ganzen Welt überschwemmt, und das geplante Übereinkommen entwickelte sich so rasch zu einem mächtigen Instrument im Dienst der Unterdrückten, das umgehend eine enorme performative Kraft zu entfalten vermochte. Durch die Einmischung sozialer Bewegungen wurden schon bald die Folgen dieser Entwicklung in der politischen Realität sichtbar, und im Zuge politischer Proteste konnten Unrechtserfahrungen mehr und mehr in Forderungen nach menschenrechtlicher Anerkennung umgemünzt werden. Von den Menschenrechten *der* Revolution lässt sich jedoch auch noch in einem direkteren Sinne sprechen, und zwar als Revolutionen *für* Menschenrechte: Die Französische Revolution, die Amerikanische Revolution, aber auch die historisch oft unterschätzte Haitianische Revolution haben die Menschenrechte allererst hervorgebracht. Ähnliches gilt dann auch für die historisch jüngsten Revolutionen in Nordafrika.
- (3) Darüber hinaus kann die Analyse des Zusammenhangs zwischen Menschenrechten und Revolutionen ihren Fokus auf die Rolle der *Menschenrechte in Revolutionen* richten. So werden die Menschenrechte vor und während jeder Art von politischer Revolution verletzt, da der jeweils betroffene Staat und seine Repräsentanten meist ein lebhaftes Interesse daran haben, die bestehende Ordnung unter allen Umständen aufrechtzuerhalten; und zwar notfalls mit Gewalt. Zugleich lässt sich aber mit

Verweis auf international geltende Menschenrechtsabkommen entsprechendes Unrecht dann auch als menschenrechtswidrig entlarven: Vollzieht sich eine Revolution nicht zuletzt *im Namen* der Menschenrechte, so veranschlagt sie die Idee, für deren Realisierung sie kämpft zugleich auch schon als eine Art Legitimationsbedingung oder auch Grenze, an der das „alte“ System mit seinem Widerstand halt zu machen hat. Wird diese Grenze überschritten, so führen entsprechende Unrechtserfahrungen oder gar Gräueltaten zu weiterer massiver Kritik und dann auch zu immer neuen Interpretationen der Menschenrechte; so wie das beispielsweise auch im Zusammenhang systematischer Vergewaltigungen im Krieg der Fall gewesen ist, die erst spät als „neue“ Formen von Menschenrechtsverletzungen anerkannt worden sind.

Der Schwerpunkt des vorliegenden Heftes bietet Raum für Analysen auf allen drei Themenfeldern. James Ingram wendet sich zunächst aus Sicht der Politischen Philosophie den historischen „Wurzeln“ der Menschenrechte zu, die gemeinhin in den Revolutionen des 18. Jahrhunderts verortet werden. Im Rahmen ihrer theoretisch-konzeptionellen Begründung jedoch finden diese „revolutionären“ Ursprünge der Menschenrechte bislang wenig Beachtung. Daher wendet sich Ingram einer Reihe von zeitgenössischen Autor\*innen zu (Lefort, Balibar, Rancière u. a.), die diesbezüglich eine Ausnahme bilden, indem sie systematisch die demokratietheoretische Einsicht fruchtbar zu machen versuchen, dass die Menschenrechte „von unten“ erkämpft werden müssen.

Nach James Ingram können wir von Historiker\_innen lernen, dass die politischen Wurzeln der Menschenrechte in den großen Revolutionen der Moderne zu verorten sind. Im Zuge der Reflexion auf die Natur und besonders auch die Politik der Menschenrechte findet diese Einsicht jedoch kaum Beachtung. Der Artikel behandelt eine Reihe von Denkern (Arendt, Lefort, Balibar, Rancière u. a.), die die revolutionären Wurzeln der Menschenrechte als zentral für das Verständnis ihrer Geschichte, Politik und Praxis erachten, und zwar nicht nur im Hinblick auf die revolutionäre Ära des 18. und 19. Jahrhunderts, sondern auch für unser heutiges Menschenrechtsverständnis. Interpretiert man die Politik der Menschenrechte als revolutionär, so führt dies zu der Einsicht, dass diese Rechte „von unten“ erkämpft werden und damit als demokratisch und emanzipatorisch zu verstehen sind.

Jeanette Ehrmann kritisiert in ihrem Beitrag das akademisch gängige Bemühen, die Geschichte der Menschenrechte, ausgehend von der Amerikanischen und der Französischen Revolution, als einen linearen moralischen Fortschritt, bewirkt durch Europa und Nordamerika, zu präsentieren. Ehrmann will dieses geläufige Narrativ der



Menschenrechte korrigieren, indem sie die „verschwiegene“ Haitianische Revolution als wichtigen Bestandteil einer übergreifenden atlantischen Verfassungsrevolution ernst nimmt und damit ebenso als ein wirkmächtiges Gründungsmoment der politischen Moderne rekonstruiert.

Mareike Krajewski geht der Frage nach, inwiefern sich am Beispiel „revolutionären Handelns“ ein grundlegendes Problem zeigt, das im Grunde jedes politische Handelns betrifft: die Frage, wie revolutionäres Handeln in langlebige Institutionen umgesetzt werden kann, ohne die ursprünglichen Ideen zu verraten. Mit Bezug auf Edmund Burke zeigt die Autorin entsprechende Widersprüche revolutionären Handelns auf, um anschließend mit der Handlungstheorie von Hans Joas eine Alternative zu diskutieren, die anzugeben vermag, wie in der „Spontaneität“ der revolutionären Handlung eine neue Art der kreativen „Performativität“ politischen Handelns erfahren wird.

Nabila Abbas untersucht die Rolle, welche der politische Bezug auf Menschenrechte im Rahmen der tunesischen Revolution 2010/2011 gespielt hat. Dabei lässt sich der tunesische Kampf um Menschenrechte in vier verschiedenen politischen Diskurskontexten nachweisen: im revolutionär deklamierten Anspruch auf Menschenwürde, im Kampf gegen die Unterdrückung der Meinungsfreiheit, in der feministischen Forderung nach Gleichheit sowie im Kampf gegen staatlicherseits angeordnete Folter. Dabei wird für Abbas deutlich, dass sich das tunesische Volk allererst im Zuge dieses spezifisch menschenrechtlichen Widerstands als „Souverän“ konstituiert hat.

Georg Lohmann stellt in seinem programmatischen Text die Frage, ob die Verwirklichung der sozialen Menschenrechte eine Revolution und/oder Reformen erfordern würde. Während die nationalen Menschenrechtskonzeption am Ende des 18. Jahrhunderts Bestandteile von politischen Revolutionen waren, lässt sich die gegenwärtig herrschende internationale Konzeption der Menschenrechte als Verhinderung von Revolution verstehen. So fungieren die mit schwachen Verpflichtungen „gewährten“ sozialen Rechte wie in der Tradition häufig, als Verhinderung einer Revolution gerade eben durch ermöglichte soziale Reformen. Der Autor argumentiert, dass der traditionelle Gegensatz zwischen „Revolution von unten“ und „Reform von oben“ angesichts der skandalösen sozialen Ungleichheiten in nationalen, aber insbesondere globalen Ausmaßen, aufzugeben ist. Die Verwirklichung globaler sozialer Rechte schließen revolutionäre Verfassungsänderungen nicht aus.

Ihr Herausgeber- und Redaktionsteam der *zeitschrift für menschenrechte*

James D. Ingram

## The Revolutionary Origins of Human Rights: History, Politics, Practice

In her introduction to a 2007 collection entitled *Human Rights and Revolutions*, American historian Lynn Hunt, a leading scholar of the French Revolution and one of the founders of the history of human rights as a field, characterizes the relation between revolution and human rights as paradoxical:

*„Human rights are supposed to be eternal and universal, engraved, as it were, in human nature. But not everyone believes them to be inscribed in human nature, and the notion itself of human rights has a distinct history; it entered into political discourse only at certain times and in specific places. What is imagined to be universal and above history turns out to be contingent and grounded in a particular history. Does this paradox undermine their validity?“ (Hunt 2007: 3).*

The very fact, according to Hunt, that historians locate the invention or discovery of human rights in the so-called bourgeois revolutions (above all the French, but also the American, Dutch, English, and Haitian) is enough to cast doubt on their transcendence. Even the most universal – or at least *universalist* or *universalizing* – values, it seems, can have highly particular origins. And this first paradox leads to a second: Hunt observes that the revolution most explicitly devoted to securing and propagating the universal rights of man – the French – soon began instead to trample them. As she puts it: „Revolutions – the supposed origins of totalitarianism – turn out to be the origins of human rights as well“ (Hunt 2007: 4). For Hunt the paradox here lies in what appears to be the common historical root of human rights and modern tyranny: the same revolution that gave birth to human rights also created the concentrated state power that would, from the Jacobins to twentieth-century totalitarianism, destroy them. But the descent of the French Revolution into Terror points to a deeper and more general paradox. Human rights are commonly understood as meant to protect individuals from the excesses of politics.<sup>1</sup> But if they are themselves the products, not of God, nature, or reason, as their authors liked to proclaim, but of politics, then they are subject to its vagaries. Far from being a-, anti-, or supra-political, they live and die with politics.

1 This is clearest in how the tradition of natural rights was taken up by anti-absolutist thinkers during the age of revolution as a weapon against tyranny, exemplarily by John Locke.

In this paper I follow Hunt in taking revolution as a privileged vantage point for considering the relation between politics and human rights. What Hunt sees as the difficulty or paradoxical side of human rights' historical connection to revolution, however – namely, the common roots that tie them to contingencies of history and politics – I prefer to treat as a diagnostic advantage. Considering the relation of human rights not to ordinary but precisely to exceptional, revolutionary politics, I will suggest, is a good way of getting at their real-worldly nature. In human rights' revolutionary origins elements of their political nature are clearly visible that have become hidden through their institutionalization and normalization on one side, and their philosophical elaboration on the other. Thus, Hunt's first paradox, that of the particular origins of universal principles, forces us to reckon with the limited and contested nature of the claims of human rights, and how these at the same time can possess a universalizing charge, while her second paradox, that of how politics can realize or quash their extra-political aims, directs our attention to the different forms of politics that can support or undermine them.

In taking as my point of departure the historical connection between revolutionary politics and human rights, I pursue a strategy at some distance from standard approaches to human rights. In the following I am not centrally concerned with the kind of questions that typically concern philosophers (what human rights are, what they are based on, how they should be justified) or jurists (how they should be codified, what their status is in different kinds and levels of law), nor even with those commonly asked by politicians, lawyers, or other professionals (how human rights should inform and be promoted by policies and institutions). I am interested instead in their origins, of where human rights come from, not only historically but also in the present day. Training our gaze on their origins in this way, I suggest, leads us to ask what kind of politics human rights presuppose or imply, what political actors and modes of political action they convoke. Such an approach to the nature and validity of human rights in effect sidesteps the impasses of common philosophical debates about human rights, offering another way of assessing their promise and perils, while perhaps also delivering practical lessons about the best ways of promoting them.

What, then, can be learned about human rights from their revolutionary origins? I will pursue this question in three steps:

– first, taking the revolutionary origins of human rights seriously suggests a particular way of grasping their historicity, of how their universal claims draw on yet exceed their particular origins;

– second, focusing on these origins leads us to a modality of politics that is uniquely appropriate to human rights and to revolution, and stands in sharp contrast to how they then tend to be conceived and practiced;

– third, it leads us to a distinct way of seeing human rights as practical, and thereby to a set of political practices that contribute in a special way to their development.

In all three cases, I foreground the work of scholars who have made efforts in recent years to bring the theory of human rights closer to their real (historical, political, practical) creation in the world above all by foregrounding their connections to revolution and revolutionary politics.<sup>2</sup>

## 1. History

The focus on the origins of human rights in the so-called Age of Revolution, between roughly 1776 and 1848, is a relatively recent historiographical development and still by no means generally accepted. In effect, it takes up a middle ground between two other common approaches: on the one hand, pushing the origins of human rights even further back into the past, back past the rise of theories of natural right to Roman law until the very birth of civilization; and, on the other hand, focusing on their explicit institutionalization in the Universal Declaration in 1948. As Hunt puts it: „Without the universalism of the eighteenth-century Enlightenment and the political shocks of the American and French Revolutions of 1776 and 1789, respectively, there would have been no concept of human rights in the West“ (Hunt 2007: 4). The plausibility of this revolution-centered approach rests on the fact that it was in the great bourgeois revolutions that the „rights of man“, whatever their cultural or philosophical sources or precursors, became *political*. But what can we take from this historical circumstance?

For Hunt, a cultural historian, the transformation that enabled the bold political universalism of the revolutionary appeals to human rights was ultimately moral, even sentimental (Hunt 2008). The crucial change that made the way for universal human rights lay not in the early-modern rise of natural law or Enlightenment optimism or rationalism, but rather a new sensitivity to the special significance of each and every individual. The cultural basis for the universality of human rights came less from the Jean-Jacques Rousseau of the *Contrat social* than the Rousseau of *Julie*. For Hans Joas

2 Despite the prevalence of French authors among the works I discuss below, German speakers are now at a distinct advantage in exploring these issues thanks to the collection of historical and contemporary texts assembled by Menke and Raimondi (2011).

(2011), likewise, the key to the universality of human rights lies in the „sacralization of the person”, which drew essentially on Christian sources and gathered force through movements like nineteenth-century abolitionism. (For Joas, we could say, it is not the Rousseau of the *Contrat social* but of the *Émile*, and above all the Savoyard Vicar, who has pride of place.) On both these narratives, the great bourgeois revolutions, while important in creating an opportunity for human rights to enter into politics, do not play a generative role. Instead, they figure as catalysts, allowing cultural developments already underway to achieve institutional expression.

This sort of narrative has been challenged by those who insist on foregrounding politics rather than culture. Most notably, in *The Last Utopia* (2010) Samuel Moyn has set out to disenchant the history of human rights by correcting its lack of political sense. Against standard histories that focus on the moral core of human rights and trace them back to the Universal Declaration, the Holocaust, or the Enlightenment, Moyn argues that human rights only began to function as *political* when they began to inform political action, especially the policies of important states. He accordingly dates the rise of human rights not to 1948, let alone 1789, but to the 1970s, when, in the wake of the Helsinki Accords, they became a favorite cause of western activists and above all, under the Carter administration, US foreign policy. Even in this form, however, Moyn argues that human rights represent a moralistic effort to transcend the political realm. To this extent, they are an index of the absence of any real internationalist political project since Communism and anticolonial national liberation lost their allure in the 1970s.

Moyn's critique is to a very large extent itself practically and politically motivated. To a surprising extent, given his own attention to the centers of power, Moyn's political critique of human rights often shadows those from the far left. For him as for Slavoj Žižek (2005) or Alain Badiou (2004), human rights are the cause of an age that no longer believes any change to the status quo is possible, a modest, ameliorative program of rooting out the worst abuses without any hope of correcting their deeper underlying causes. Beyond this, Moyn closely follows the line of argument sketched by Karl Marx in his essay *On the Jewish Question*, which faults rights for their focus on the abstract, isolated individual stripped of the social, cultural, and political relations that give politics its basis and its point. Human rights are moreover not only a- or anti-political because they fail to propose a coherent state policy, on his account, but also because they are disconnected from any project aimed at society as a whole. As Moyn observes, it is not so much human rights' utopianism as the *minimalism* of that utopianism that condemns them (Moyn 2010: 223).

Precisely because his criticisms follow a path well worn by Marxian critics, it is striking that Moyn's argument rests on a strict distinction between the „rights of man“ on one side, which he situates in the revolutionary period, and „human rights“ on the other, which he says were effectively invented in the 1948 and only became politically important in the late twentieth century.<sup>3</sup> While Moyn recognizes the revolutionary properties of the former, the rights of man, he insists that they were always channeled into national projects and state politics; he reserves for human rights, in contrast, the abstraction, emptiness, and flaccid moralism that Marx and his followers had associated with rights from the beginning. Human rights are thus with a single historiographical stroke severed not only from their revolutionary origins but simultaneously from any political content. And indeed, it is this move, the disassociation of human rights from their pre-1948 precursors, that has come in for the sharpest criticism from historians of the nineteenth and earlier twentieth century, who insist on the transnational and supra-statist character of the earlier appeals (e.g. Blackburn 2011; McCruden 2014).

For a model of an historical approach to human rights that focuses on their political rather than, like Hunt or Joas, their cultural or moral content but nevertheless insists on their continuity from 1789 to the present, we can turn to the French political theorist Claude Lefort. Lefort's interpretation of human rights – in the first instance a refutation of Marx's dismissal of them – rests on his reading of the deeper symbolic or philosophical place of revolution in the birth of modern democratic politics. For Lefort the significance of the French Revolution consists first and foremost in overthrowing the centralization and concentration of power as it was literally embodied under absolutist monarchy in the person of the king. Democracy replaces this incarnation with permanent indeterminacy and contestation; after the revolution power no longer belongs to anyone by right, but is only ever partially and provisionally held by one party, then another, according to a regulated struggle. For Lefort, it is no accident that the rights of man were first declared in this revolution, for they are a quintessentially democratic means of limiting, challenging, and contesting power. Far from being a- or anti-political, then, for Lefort human rights are at the very heart of a distinctly modern and democratic form of politics.<sup>4</sup>

3 While this distinction is relatively obvious in English, it is less easily made in many other languages.

4 Strikingly, Moyn's criticism of human rights as anti-political follows that of Marcel Gauchet (1980), one of Lefort's principal opponents in earlier French debates. See Moyn's appreciation of Gauchet (2012).

## 2. Politics

One thing this initial contrast of interpretations makes clear is that what we make of the significance of the revolutionary origins of human rights depends not only on how their history is construed (as cultural or political, as continuous or disjointed), but also and more deeply on what we take to be political. In recent years it has become common to distinguish between philosophical and political approaches to human rights, and to prefer the latter, on the one hand as a way of sidestepping insoluble philosophical impasses, on the other in search of more immediately practicable insights. If such a distinction between philosophical and political views of human rights is now widely accepted, however, differences *among* political views are less often recognized. By disentangling the often unstated notions that underlie different assessments not only of human rights but also of politics, we may illuminate the different kinds of politics they assume or convoke.

The most familiar recent source for the idea that political theorists can and should take a perspective that is „political, not metaphysical“ comes of course from John Rawls, specifically as he abandoned the idealizing approach of *A Theory of Justice* in favor of securing general agreement in the face of a plurality of values and worldviews. For Rawls, saying that his theory was „political“ meant that it was not a general ethical or moral theory, but was instead „worked out for a certain subject, namely, for political, social, and economic institutions“ (Rawls 1985: 223). Such a restricted, „political“ approach seemed especially appropriate when it came to human rights, which on one hand demand the widest possible acceptance, but on the other hand are understood to be much thinner and less demanding than social justice. And indeed, in Rawls’s wake a great many theorists approached the question of universal human rights as he did: by restricting them to political questions, namely those that govern our relations with political institutions, and bracketing more general ethical or „metaphysical“ concerns (e.g. Taylor 1999).<sup>5</sup>

While the importance of this innovation for subsequent discussion can hardly be overstated, what is most important for present purposes is the fact that it is premised on a particular notion of what it is for something to be political. Politics, on the view that unites Rawls with Moyn, is concerned with the community as a whole. As concisely laid out by Max Weber in the opening pages of his classic lecture „Politics as a Vocation“, politics involves „the leadership, or the influencing of the leadership, of a

<sup>5</sup> Representatives of this „political turn“ in liberal human rights theory include many of its most prominent representatives, from Joshua Cohen and Joseph Raz to Thomas Pogge and Charles Beitz.

*political* association, hence today, of a *state*". And what ultimately distinguishes the state is its capacity to make and enforce binding decisions for the whole community, a matter in the end of power. Understood as an activity rather than a domain, politics for Weber thus consists in „striving to share power or striving to influence the distribution of power, either among states or among groups within a state“ (Weber 2004: 32-33).

We need only be reminded of this conventional definition of politics to see how awkwardly it accommodates human rights. For if politics consists of actions by or directed toward states, then rights, human rights in particular, consist of *limits* on politics. Human rights are accordingly anti-political by definition, whether we celebrate this fact with Rawls or bemoan it with Moyn. We can further observe a parallel difficulty with the concept of revolution, for it can be reconciled with this conventional Weberian understanding of politics only if we assume a classically Leninist conception of revolution as the attempt to take control of the state.<sup>6</sup> But insofar as revolutionary politics, like the politics of rights, seeks not just to seize state power but to *transform* it – to tame or limit it, decentralize or disperse it – it seems to tendentially escape this conception of politics. Here the connection between revolution and human rights can be heuristically valuable in calling our attention to conceptions of politics that offer alternatives to the standard Weberian model. Allow me to briefly evoke five different, in certain respects contrasting views of politics, all of them taking their cue in part from the revolutionary creation of rights and all at a considerable distance from Weber's (Rawls's, or Moyn's) implicit statist, top-down model.

## 2.1 REVOLUTION AS CONSTITUTION

Perhaps the best-known twentieth-century attempt to craft an affirmative vision of politics that takes it away from the state and relations of command and obedience is that of Hannah Arendt. For Arendt, politics is not ultimately a matter of coercion and rule, be it benign or malign, legitimate or illegitimate, but of the creation of a public space through the mutual recognition of citizens as equals. Politics is not fundamentally organized around *power-over*, by the state and relations of rule, but by *power-with*, by practices of free cooperation. For Arendt, the state, law, and relations of rule and coercion – the essence of politics from the Weberian perspective – are ultimately parasitic on the free cooperative relations that in the end submit to them, sustain them, and

6 Weber's lecture was directed in part against the revolutionary idealists of his own day who imagined the nobility of their cause allowed them to escape the meanness, instrumentality, and compromise of power-politics.



periodically renew them. Laws and institutions can provide a space for this sort of action, but they are ultimately its creatures. Read along these lines, Arendt can be regarded as representative of a whole current of political theory we might term *radically republican* or *radically democratic*. For such authors, among whom Cornelius Castoriadis or Roberto Unger could also be included, politics is first and foremost identified with people's active and ongoing constitution of their common world.

When we consider the phenomena of revolution and human rights from such a perspective, we find that they appear in a completely different light than they did for Hunt, Moyn, or Rawls and his followers. From this point of view, revolution is regarded as a moment in which people rise up to actively reshape institutions they ordinarily merely tolerate. It thus appears as the apotheosis of the political, one of the rare, „fugitive“ moments, according to Sheldon Wolin's celebrated formulation, when free and cooperative creation appears in public (Wolin 1997). Far from being an action aimed at replacing one batch of rulers with another, as it appears through Weberian lenses, for Arendt „the end of revolution is the foundation of freedom“ (Arendt 1990: 142). Human rights then appear as a „principle“, invented precisely in revolutionary contexts, by means of which people try to politically create the means of future political freedom.<sup>7</sup> While Arendt was famously critical of the reduction of human rights to merely national rights leading up to and in the Second World War, a process that left great masses of people without any rights at all, for her as for others writing from similar perspectives, human rights would have to be creations of politics that would ensure the possibility of the ongoing political action of their bearers. A „right to have rights“, as Étienne Balibar interprets Arendt, is a right to practice politics (Balibar 2007).

## 2.2 REVOLUTION AS EQUAL CITIZENSHIP

While he may not be known, especially in his later writings, as a revolutionary thinker, Jürgen Habermas arrives at perhaps the sharpest formulation of the central idea of his discourse theory of law and democracy in a meditation on the meaning of the legacy of the bourgeois revolutions for contemporary democracy. Aside from the general lesson that it lies within the power of modern politics to make a radically new beginning – an interpretation he associates with Arendt – Habermas suggests that the experience of revolutionary politics has passed down at least one essential lesson to contemporary political theory. As he puts it: „There seems to be only one remaining candidate for an affirmative answer to the question concerning the relevance of the

<sup>7</sup> Since she says relatively little about them herself, there is a large literature on the most plausible Arendtian view of human rights, to which I have made my own contribution (Ingram 2008).

French Revolution: the ideas that inspired constitutional democracy”: namely, the co-originality of democracy and human rights (Habermas 1996: 466). Human rights should not, *pace* liberal and republican interpretations alike, be seen as a *limitation* on democracy, but rather as its *guarantor* and *enabling condition*. While Habermas famously develops this insight on a conceptual rather than historical or political register and with respect to normal, constitutional rather than revolutionary politics, it is according to him a specific discovery of the great revolutions.

### 2.3 REVOLUTION AS INDETERMINATION

If the radical democratic equation of rights, including human rights, with political activity and thus the active creation of a common world is one way of understanding the conjunction of rights and revolution in political terms, it is not the only alternative; nor is it entirely adequate on its own. For although the revolutionary birth of human rights reminds us that they begin with the use of the sovereign power of the people, from that point forward human rights are more often asserted precisely *against* state and even popular power. Especially in more or less democratic contexts, human rights are typically *minoritarian*; they are that part of democratic politics that defies Weber’s view that such politics are essentially plebiscitary. For this reason, in order to grasp the ongoing revolution triggered by the revolution of human rights, we must understand how rights continually allows parts of the people to resist their subsumption into – or, alternatively, their relegation or marginalization by – the people as a whole.

For this reason I propose to turn to a related varieties of political thought that understand politics not as the *constitution* of political community, but also and in a sense more fundamentally as its *disincarnation* or *disruption*. One notable approach I have already discussed is that of Claude Lefort, which is notable in this context for drawing a distinct conception of politics from the experience of revolution. As noted above, Lefort characterizes democracy as a political regime and form of society that in different ways makes it impossible for any particular actors to fully represent or claim power over or within society. A democratic society is one in which everything is provisional, contestable, plural, and impermanent. Regular elections are one of a number of devices, from this point of view, for preventing power from ever settling permanently in one place.

This opens room for a new and more promising place for rights, including human rights, in a democracy. Since for Lefort the testing, challenging, and displacing of power is central to democratic politics, the claiming of rights, against the majority

and the state when necessary, is a quintessentially political form of action. Against Marx and others who would reduce the rights politics to the defense of the isolated individual against society and politics, Lefort insists that rights are not merely immunities against politics but rather constitutive of democratic politics (Lefort 1986: 259-272), especially in the rights of opinion, communication, association – all passed over by Marx in his essay *On the Jewish Question*. The fact that human rights, in addition to and beyond the rights of citizens,<sup>8</sup> always exceed any juridical definition they have been given and are always available to those seeking to make new claims, makes them, for Lefort, an inexhaustible source of democratic politics as process of disruption and invention.

## 2.4 REVOLUTION AS CONTESTATION

If Claude Lefort provides an understanding of democratic politics that foregrounds the constant questioning and displacement of any and all authority, Jacques Rancière goes farther still by insisting that politics occurs only when the very identity of the community is placed in question (Rancière 1999). In his now celebrated account, politics occurs only when those who are marginalized, subordinated, or excluded from the political community nonetheless act politically, claiming the status that has been denied to them. In deliberate contrast to conventional perspectives like Weber's that make politics identical with the state, Rancière identifies action that merely ratifies the status quo with the police rather than politics. He thereby makes politics by definition revolutionary, or at least transformative. In a more radical sense than Arendt or Lefort, for Rancière political action constitutes the community only by destabilizing it as its identity and frontiers are redrawn by successive challenges from its outside.

This view of politics as always and by definition revolutionary corresponds to a still more revolutionary and actively political conception of human rights than those we have surveyed so far. Thus, what Hannah Arendt, Giorgio Agamben, and many others regard as the principal paradox or even tragedy of human rights – namely, that they are the rights of those who have been deprived of all their other effective rights – for Rancière makes them in fact the most political of all rights. It is precisely when one claims the rights one is denied, performatively bringing those rights into being as it were out of nothing, that one practices a Rancièrian politics of rights (Rancière 2004).

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<sup>8</sup> Moyn's strict distinction between the rights of man and human rights is clearly rejected by Lefort. While he only has the French *droits de l'homme* available to him, Lefort applies it to the Helsinki Declaration and Charter 77 as well as the French Revolution, in both cases betokening a new form of politics irreducible to sovereignty.