

Do Non-citizens Have a Right to Have Economic Rights?

Locke, Smith, Hayek, and Arendt on Economic Rights

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Many chapters in this book have examined the rights of non-citizens and what it might take to more fully realize these rights. In this chapter, I explore the topic of the economic rights of non-citizens through the lens of the history of philosophy. I make two different but interconnected arguments in this chapter, one that relates directly to the economic rights of non-citizens and one that relates more indirectly. In the first part of the chapter, I examine the claims made by John Locke, Adam Smith, and Friedrich von Hayek that a well-regulated market, supplemented by robust government support, is necessary for the realization of basic economic rights. To be sure, these writers do not use the term “economic rights.” They do, however, argue for what we in the twenty-first century consider to be economic rights: the right to unionize, to a living wage, to subsistence rights, to education, to labor rights such as safe working conditions, to adequate housing, and to social security. All three put forth views on the role of the state in guiding markets so that people are able to access these rights and the importance of government intervention when markets fail.

These arguments are important to highlight because they are often neglected in favor of their claims about free or unregulated capitalism. For example, many are familiar with Adam Smith’s idea that a free market requires limited government interference – the “invisible hand” of the market must be allowed to govern supply and demand. Yet he also believed that governments must, to some extent, regulate markets to ensure they are fair, do not produce too much inequality, and allow people to access what they need for a life of dignity. In other words, a “free” market must be carefully regulated for the sake of what we call economic rights. The purpose of this part of the chapter is to stress that in its theoretical foundations, economic rights required a particular relationship between markets and the state: markets must be allowed to work, but they must be regulated in ways that result in economic rights; when this does not happen, the state must directly step in to provide these basic rights. The work of Locke, Smith, and Hayek shows that, contra

free-market or libertarian thinkers, the government is essential for economic rights. Recognizing how economic rights can be realized – that we should pay attention both to how markets are structured and how governments supplement them – is a crucial foundation for understanding the economic rights of non-citizens.

Though the views of Locke, Smith, and Hayek are important in understanding how economic rights can be realized and the role the state should play in this, they do not directly address what this might mean for non-citizens. Though the term “non-citizens” usually refers to residents of a country who do not have citizenship, I will be using it here mainly to refer to people who are present in a country without legal authorization, such as undocumented immigrants, as well as people who may be legally permitted in the country but are not permitted to participate legally in the economy, such as refugees living in refugee camps. Because Locke, Smith, and Hayek were not thinking about how non-citizens living in their countries might realize their economic rights, I suggest in the next section that their views must be supplemented by the work of Hannah Arendt and her concept of the *right to have rights*.

Arendt argued that most of what we considered human rights were really civil rights since they relied on a state to enforce them and states only cared about the rights of its citizens. In her view, what human beings needed was a *right to have rights*, which she understood as the right to belong to some kind of political community that recognized you as a member. However, Arendt was not thinking of economic rights specifically. What was on the forefront of Arendt’s mind when writing *The Origins of Totalitarianism* were the civil and political rights that had been denied to millions before and during the Holocaust, the rights to political participation, to legal standing, and to security of the person in particular.¹ These are the rights that permit human beings to *act* as political agents, which for Arendt was the capacity to begin something new that reveals ourselves to the world. *Work* and *labor*, the activities through which we build a world and sustain life – what we would consider economic activities – already occupied a privileged place in the modern world.² Indeed, Arendt worried that humans had already been reduced to *homo economicus*, to exclusively economic beings, to the neglect of the life of action. As such, economic rights did not seem to need their own protection.

I want to suggest, nonetheless, that her argument can be extended to economic rights because it is clear in the twenty-first century that being human is not enough to have one’s economic rights protected. Many non-citizens who are able to find work are often exploited and face poor working conditions. For those who cannot find work, and often even for those who can, poverty is the likely outcome, and this includes lack of access to basic health care and education for their children. Others,

¹ H. Arendt, *Origins of Totalitarianism* (2nd ed., New York: Harcourt, 1978).

² Her discussion of these topics can be found in H. Arendt, *The Human Condition* (Chicago: University of Chicago Press, 2nd ed., 1998).

like refugees, who are not able to work in camps, remain dependent on international aid that is often inadequate and prevents them from accessing an adequate standard of living. Non-citizens need a right to have economic rights, that is, a right to belong to an economic community. Ensuring the economic belonging of non-citizens, even when states deny citizenship to them, is essential in order to help protect their other rights. How might non-citizens gain the right to have economic rights? That is, how might they be included in the economic life of a country?

I conclude by discussing the example of refugees in the Global South. Refugees in the Global South, most of whom will remain refugees for over a decade, are denied economic rights such as the right to work and the right to adequate subsistence. They are not permitted to become citizens because they are considered to be living in host countries only temporarily, so citizenship is simply not a way for them to gain access to their economic rights. I argue that we can and should be supporting economic belonging in refugee camps. This may take various forms – temporary work permits, public–private partnerships, etc. – but the goal is ultimately to focus on economic belonging as a way to promote the economic rights of non-citizens rather than keeping them dependent on aid that is largely insufficient. Ultimately, what I show in this chapter is that economic rights, especially those of non-citizens, require well-regulated markets and robust government support, as well as a *right to have economic rights*, a right that can be envisioned as a right to economic belonging and inclusion.

At the outset, let me address two potential objections to my view and methodology. First, an objection. Why not just focus on citizenship? If non-citizens were granted citizenship, they would then be allowed to participate legally in the economy and receive welfare benefits. Why is economic belonging, independent of citizenship, necessary? In some cases, citizenship is enough for both sets of rights, but not always. As an example, we can look at formerly incarcerated people in the United States, who are often systematically disadvantaged in their ability to access economic rights³. This is a case of citizenship not being sufficient for economic rights to be realized. In other cases, non-citizens are highly unlikely to ever be granted citizenship as a way to access rights. Some refugees may never be granted citizenship in their host countries but are in desperate need of economic rights given that they are likely to remain refugees for years, perhaps decades.⁴ It is imperative to think of ways that we may increase their economic belonging, even when states deny them citizenship. Domestic work permits, regional travel and work schemes, and public–private partnerships between relatively wealthy Western states and states that host refugees are some ways scholars have put forth that would allow refugees to

³ See M. Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: The New Press, 2012).

⁴ See A. Betts and P. Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (New York: Oxford University Press, 2017); S. Parekh, *No Refuge: Ethics and the Global Refugee Crisis* (New York: Oxford University Press, 2020).

better access their economic rights while they remain refugees⁵ These, in my view, are forms of economic belonging that should be encouraged.

Second, why look at the history of philosophy? I acknowledge that much excellent scholarship has been done around economic rights and their realization in recent decades.⁶ Many of the chapters in this book look at empirical obstacles to the realization of human rights for non-citizens. This chapter aims to supplement those approaches by providing a more abstract view of the issues under consideration in this book. The aim of this chapter is to provide a theoretical way of framing some of the challenges involved with helping non-citizens access their basic economic rights.

THE STATE AND THE MARKET: JOHN LOCKE

John Locke was one of the first philosophers to think about the role of the market (or the economy) in promoting economic rights. Yet this was not the primary question he sought to answer in his main work of political philosophy, *The Second Treatise of Government*. Here he sought to understand why we should follow the rules of a state without relying on a theistic foundation. To do this, he postulated that we have *natural rights*, and ultimately, these are what the government must protect if it is to be a legitimate government. Locke ultimately determined that the government must also institute and protect a *market* in order to protect one of our natural rights, the right to property. As such, Locke is among the first theorists to analyze the relationship between the government and the economy.

Locke theorizes a complex relationship between the “natural rights” to life, liberty, and property that all human beings are born with; the market; and the state. He suggests that a market, and not merely a government, is essential to realizing and protecting our rights. In his view, the economy is essential for our right to subsistence and consequently our right to life. For Locke, our right to subsistence does not come directly from the government, unlike the rights to life and liberty, but from the government protecting private property rights and a flourishing market.

In his *Second Treatise on Government*, Locke set out to understand why citizens should accept the authority of the state in the absence of a God-given mandate to do so. His way of explaining this is to ask people to imagine what life is like in a “state of nature,” a world that has no government to enforce or create laws.⁷ In the state of

⁵ See Betts and Collier, *Refugee*; Airbel Impact Lab, “Alex Aleinikoff on Displaced: Creating a New Refugee Regime,” *Medium*, May 1, 2018, <https://medium.com/airbel/alex-aleinikoff-on-displaced-creating-a-new-refugee-regime-d541e06cf57e>.

⁶ For example, see S. Hertel and L. Minkler, *Economic Rights: Conceptual, Measurement and Policy Issues* (Cambridge: Cambridge University Press, 2007); S. Fukuda-Parr, T. Lawson-Remer, and S. Randolph, *Fulfilling Social and Economic Rights* (Oxford: Oxford University Press, 2015).

⁷ J. Locke, *Second Treatise of Government* (1689), p. 4, www.earlymoderntexts.com.

nature, he imagines human nature as basically good and theorizes that all human beings have natural rights, including the right to life, liberty, and property. The right to life means that we cannot kill others or ourselves. Our right to liberty means that we are free to do whatever we want as long as we do not infringe on the right to life or liberty of others. Though the state of nature is initially peaceful, occasionally our rights are violated and we are allowed to punish others who violate our natural rights. But Locke thinks we are bad judges of those who hurt us and in punishing are likely to overdo it. As a result, the state of nature will turn into a state of war in which we are never truly free. This motivates us to form a social contract with a government. We agree to give up our right to liberty and our right to enforce the law of nature for the sake of security and protection. He concludes that the basis of government is the consent of the people and a legitimate government is one that rules for the sake of protecting natural rights. A state must protect life and liberty through the creation and enforcement of laws equally across all people.

If our natural rights to life and liberty are protected via the social contract, what about our natural right to property? The existence of private property is a puzzle for Locke. His starting premise is that God gave the earth and its bounty to all people in common. How then can an individual privately own a part of it? If individuals are not able to legitimately own property, this means that a monarch is able to take property and possessions at will and interfere with the private lives of individuals, something Locke is keen to avoid. The key to unlocking the puzzle for Locke is his assertion that our bodies are our property, and when we mix the labor of our bodies with something found in nature, it becomes our private property. This is why property is a natural right; it emerges when what is naturally ours, the labor of our bodies, mixes with nature held in common.

Private property and the right to subsistence go hand in hand, and the right to the latter gives rise to the right to the former. Locke writes, “men, once they are born, have a right to survive and thus a right to food and drink and other things as nature provides for their subsistence.”⁸ In order for nature to provide for our subsistence, we must mix our labor with nature and create private property. The role of the government, then, is not so much to provide our subsistence right, but to protect private property so that we can access subsistence rights through our labor.

But in the state of nature, that is, before a government is established, private property is only legitimate when two conditions apply. First, I can take as my private property only what I can use before it spoils or goes rotten. If I pick more than I can eat, this would deny others a right to their subsistence and infringe on their right to life. Second, there must be “enough and as good” left for others for similar reasons.⁹ That is, even if I could eat everything I pick before it goes bad, I am still required to leave enough for others to subsist on. But Locke is not worried that this will be a

⁸ *Ibid.*, p. 10.

⁹ *Ibid.*, p. 11.

problem because he imagines nature as plentiful and boundless: “there is land enough in the world to suffice twice as many people as there are.”¹⁰ Though these conditions place limits on what one can accumulate, ultimately, the invention of money as a system of exchange allows for unlimited accumulation and the creation of inequality.

The primary question Locke set out to answer in the *Second Treatise* is why we should accept the authority of a state. His answer is that we should give our tacit consent to a government because it is essential for the protection of our natural rights. Put in terms of human rights, the state becomes necessary to protect our civil and political rights, our rights to freedom, security, and autonomy. However, the state is also necessary for our economic rights, including the right to subsistence, insofar as the state is necessary for the protection of the system of currency and private property that allows economic rights to be sustained. “For in governments, the laws regulate the right of property.”¹¹ The state continues to gain its legitimacy through protecting not only life and liberty, but the system of private property and currency known as the market. Our right to life, which requires a right to subsistence, requires the creation and protection of a market.

To see how novel this was for its day, we can compare it to the Greek sense of economics (*oikos nomikos*). For the Greeks, economics meant household management and survival, what had to be taken care of so a person could be free to leave the private realm and go out into the public.¹² For Locke, the government is needed for the sake of increasing and accumulating wealth for the sake of furthering subsistence. The state then is necessary not only for security (as it was for Thomas Hobbes, for example) or human flourishing (the ancient Greek view), but because it is necessary for capitalism and the accumulation of wealth. This accumulation is now seen as necessary for other basic rights to be met, such as the right to subsistence. Wealth and inequality are now consistent with human rights and, in a sense, a requirement of justice. After Locke, markets become a focus of other political thinkers.

ADAM SMITH: “FREE” MARKET AND ECONOMIC RIGHTS

Human rights depend on markets for Adam Smith as well, though for him, the role of the government in helping markets to flourish was more complex than for Locke. For Locke, as we noted earlier, markets were a device that were necessary to preserve our right to property and ultimately to subsistence and life. But for Smith, the market has its own inherent moral value and is not merely a device used to

¹⁰ Ibid., p. 14.

¹¹ Ibid., p. 18.

¹² See C. Lord (ed.), *Aristotle's Politics* (2nd ed., Chicago: University of Chicago Press, 2013); Arendt, *The Human Condition*.

accumulate wealth. Its moral value comes from the fact that free market capitalism, unlike feudalism, allowed individuals to engage with each other on the basis of equality. We are all equally buyers or sellers, engaging with each other out of our desire to pursue our own self-interest. Everyone equally has the ability to control their lives in this way. In a market, workers have the freedom to change jobs, organize to demand better conditions and wages, and, in this respect, are able to exercise more agency over their lives. Markets fundamentally further equality in another way as well. When properly regulated, markets can help eliminate the kind of dehumanizing poverty that was created under feudalism and that sustained fundamentally unequal social relations. By generating wealth, people in all sectors of society, including the poor, benefit. This is important for Smith because poverty implies not only a lack of necessities, but a lack of the things needed for dignity and respect. To put it in contemporary terms, human dignity requires the realization of economic rights.

What role should the government play in supporting the moral value of markets, that is, the ability of markets to permit individuals to engage with each other on the basis of equality for Smith? He is often seen as the father of *laissez-faire* economics, the view that the government should stay out of the economy. Smith argued that the “invisible hand,” the unobservable market force that determines the supply and demand of goods, should be allowed to work in peace without interference from the government.¹³ He is associated with the idea that the rational self-interest of individuals, not government policy, should drive the economy. Producers make what people want in adequate quantities, thereby satisfying people’s preferences in an efficient manner. The government’s job, according to this logic, is to stay out of the market and focus on ensuring peace and security. On this view, it would seem that though it must protect civil and political rights, the government has little role to play in furthering the economic rights of its citizens, other than to not get in the way of market forces.

Such an interpretation of Smith, while common, is nonetheless incomplete. For Smith, while it is true that the government should not fix prices, impose tariffs on imported goods, and should limit taxation so that it is not overly burdensome, it does have a role to play in ensuring that a market can deliver the goods needed by people in a relatively fair way. The government must ensure that conditions of fairness prevail so that feudal relations, characterized by the oppression of workers, do not return. As Debra Satz puts it, “Rather than propounding a doctrine of spontaneous order, Smith continually stressed that markets can function as vehicles of freedom and efficiency only under very definite institutional arrangements.”¹⁴ In other words, the market only functions efficiently and is able to achieve the moral goals Smith believes it would – reduction in poverty, equal standing for laborers and

¹³ A. Smith, *The Theory of Moral Sentiments* (1759), p. 249, www.earlymoderntexts.com.

¹⁴ D. Satz, “Liberalism, Economic Freedom, and the Limits of Markets” (2007) 24(1) *Social Philosophy and Policy* 120–140 at 134.

management, freedom to change jobs when necessary, dignity of choosing and purchasing goods – when the government sets the conditions for it to do this.

Take labor markets. Smith believed that a free market for labor, where people could sell their labor power in exchange for a wage, was best for laborers as well as factory owners. This is because laborers have freedom to choose their job and leave if they are treated badly, a freedom they sorely lacked under feudalism. But in order for labor markets to produce workers that can negotiate on fair terms, they must be skilled, and in order for them to be skilled, the government must provide free public education. Without education, workers are liable to be exploited by their employers. As such, public education was important to make sure that workers were not dominated by the wealthy. But public education was not only important for the individual worker. It supported all of society because an educated, competitive labor force means a stronger economy. The “free” market would not be free without the provision of public education by the government.

Another example of the government setting conditions for a “free” market can be found regarding wages. It surprises many to note that the father of laissez-faire economics supported a government-set minimum wage but Smith did so for two reasons. First, there is an economic necessity: “A man must always live by his work, and his wages must at least be sufficient to maintain him. They must even upon most occasions be somewhat more; otherwise it would be impossible for him to bring up a family, and the race of such workmen could not last beyond the first generation.”¹⁵ Without a fair minimum wage, there wouldn’t be another generation of workers to keep the economy going. Second, there is a moral reason. Smith is aware that factory owners would drive wages as low as possible and workers, having few other options, would be powerless to challenge this. This would essentially mean a return to feudal relations of dependence and servitude, thus eliminating one of the major advantages of capitalism.

Without a minimum wage, the right to unionize, and public education, there is a risk of creating an impoverished working class. This is bad because of the social exclusion and lack of dignity that comes with poverty:

The poor man, on the contrary, is ashamed of his poverty. He feels that it either places him out of the sight of mankind, or, that if they take any notice of him, they have, however, scarce any fellow-feeling with the misery and distress which he suffers . . . The poor man goes out and comes in unheeded, and when in the midst of a crowd is in the same obscurity as if shut up in his own hovel.¹⁶

It is imperative, for Smith, that poverty be avoided and the free market structured in such a way that “servants, laborers and workmen,” who make up the majority of people in society, have access to the necessities of life. Indeed, he famously wrote:

¹⁵ Smith, *Theory of Moral Sentiments*, pp. 57–58.

¹⁶ A. Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), p. 33, www.earlymoderntexts.com.

“No society can surely be flourishing and happy, of which the far greater part of the members are poor and miserable.”¹⁷ To reiterate, this is because poverty was closely tied to dignity for Smith. This is why he considered necessities to be “not only the commodities which are indispensably necessary for the support of life, but whatever the custom of the country renders it indecent for creditable people, even of the lowest order, to be without.”¹⁸ Necessities are social in nature and included in his time things such as linen shirts and leather shoes. These are things that in his day were required to be treated with dignity, “the lack of which would be taken to indicate the disgraceful degree of poverty which (it is presumed) nobody can fall into without extreme bad conduct.”¹⁹ For Smith, poverty and a lack of access to economic and subsistence rights constitutes a deep moral harm, one which makes the proper functioning of an economy so important.

In short, for Smith, like Locke, an effective economy is necessary for economic and subsistence rights, the lack of which result in a denial of dignity. The government must make sure workers are educated and not impoverished, two conditions that we later come to recognize as basic rights: the right to education and the right to subsistence. Though Smith thought many economic functions were better left unregulated, he insisted that the market could fulfill its moral role and relieve people of dehumanizing poverty only when the government played a large role in setting the conditions for this to happen.

FRIEDRICH VON HAYEK: CAPITALISM AND ECONOMIC SECURITY

Political economists who come after Smith, such as Friedrich von Hayek in the twentieth century, would argue that Smith was right that market capitalism was the only mode of human exchange that was able to provide basic economic rights. Hayek stressed that in addition to this, markets were the only method of economic distribution that preserved liberty in the sense of freedom of choice, the kind of freedom most valued in liberal societies. For Hayek, like Smith and Locke, though economic rights require market capitalism, the state also has a role to play in ensuring that the market is able to deliver these goods, though he understood this role in a very different way. I emphasize this here because Hayek is often considered one of the fathers of unregulated, free market capitalism. Yet, even he held that the government must play a role in ensuring basic economic rights.

Like Smith, Hayek believed that economic rights are best sustained through a robust economy where the government created conditions of fairness. Competition is the best way to guide economic activity because it does not require coercive intervention by the state. But it does require the state to play a role. Like Smith, he

¹⁷ *Ibid.*, p. 235.

¹⁸ Smith, *Theory of Moral Sentiments*, p. 676.

¹⁹ *Ibid.*

believed that the government has to intervene for the sake of workers and to make competition effective. In his view, the government should intervene to “limit working hours, to require certain sanitary arrangements, to provide an extensive system of social services” as well as “to prevent fraud and deception, to break up monopolies.”²⁰ These government interventions are for the sake of maximizing competition and hence economic efficiency and freedom of choice.

Hayek differs from Locke and Smith, though, in one important way. He acknowledges a limitation of capitalism: Capitalism cannot provide robust economic security. According to Hayek, there are two kinds of economic security that might be achieved through government intervention: limited security, a “minimum sustenance for all,” and absolute security, “a given standard of life.”²¹ The former kind of security would ensure a basic level of subsistence, while the latter would require that the government provide a job and income. He believed that absolute security was incompatible with capitalism, democracy, and freedom because it would require denying the freedom of individuals to choose their profession based on a given wage and the ability to change jobs. However, limited security is compatible with capitalism. He writes, “There is no reason why in a society which has reached the general level of wealth which ours has attained the first kind of security should not be guaranteed to all without endangering general freedom.”²² He includes among the basic goods a state should guarantee food, shelter, and clothing, sufficient to preserve health, along with a system of social insurance against the “common hazards of life.”²³ He saw these as ways of preserving individual freedom. As long as an economy allowed for competition, wages and positions were not fixed, Hayek is happy to declare: “Let a uniform minimum be secured to everybody by all means.”²⁴ In short, for Hayek, though capitalism is the only system able to ensure liberty and freedom of choice, economic rights can still be provided by the government when they fail to emerge from the system.

In short, what we see from this cursory survey of the history of philosophy is an acknowledgment that economic rights require a market, but a market regulated in certain important ways. For the most part the government is less the direct source of economic rights and more the facilitator of the conditions that allow people to realize their economic rights. However, even for the most seminal free-market economists like Smith and Hayek, when markets are not able to provide basic economic rights and economic security, the government must provide them directly.

²⁰ F. von Hayek, *The Road to Serfdom* (1945), p. 38, www.iea.org.uk/sites/default/files/publications/files/upldbook43pdf.pdf.

²¹ *Ibid.*, p. 58.

²² *Ibid.*, p. 59.

²³ *Ibid.*

²⁴ *Ibid.*, p. 61.

But what about non-citizens? Of course non-citizens, as much as citizens, require a well-regulated market supplemented by the government, but this is not enough. In many cases, non-citizens, especially those without legal authorization, are not permitted to participate legally in the labor market, and when they participate informally, are exploited and often unable to meet basic economic needs. They are rarely entitled to government welfare benefits that would allow them to access their basic economic rights.

It is for this reason that I turn to the seminal thinker of the rights of non-citizens, Hannah Arendt. For her, human rights could not be grounded in human dignity or our common humanity, as many believed. She insisted that human beings need to belong to some kind of organized political community that is willing to recognize you as a member. She called this the *right to have rights*. As I show in the next section, we can use her analysis to supplement the views of Locke, Smith, and Hayek discussed earlier. I argue that in addition to a well-regulated market supplemented with government support, non-citizens require a right to have economic rights, or a right to economic *belonging*.

ARENDT ON THE RIGHT TO HAVE RIGHTS

Hannah Arendt observed that states have a difficult time protecting the human rights of non-citizens, such as refugees and stateless people.²⁵ This was no accident or matter of incompetence. This was due, in her view, to a flaw in the way that human rights were understood. Human rights were supposed to be grounded in our humanity or human nature, but in practice, they turned out to be dependent on citizenship. Without citizenship, states were virtually unable to protect non-citizen residents. Furthermore, international organizations that existed in the first half of the twentieth century were equally unable to provide the kind of rights protection non-citizens needed. People in this situation – no longer able to access the protection of their home state and denied protection in their state of residence – were fundamentally *rightless* in her view. To be rightless for Arendt means that there is no political institution that can protect you as a matter of *right*. For her, “the loss of national rights was identical with the loss of human rights.”²⁶ Elsewhere she writes, “the rights of man, supposedly inalienable, proved to be unenforceable – even in countries whose constitutions were based upon them – whenever people appeared who were no longer citizens of any sovereign state.”²⁷ Instead, the rightless are forced to rely on charity:

²⁵ For a longer discussion of Hannah Arendt’s view of human rights, see S. Parekh, *Hannah Arendt and the Challenge of Modernity: A Phenomenology of Human Rights* (New York: Routledge, 2007).

²⁶ Arendt, *Origins of Totalitarianism*, p. 292.

²⁷ *Ibid.*, p. 293.

The prolongation of their lives is due to charity and not to right, for no law exists which could force the nations to feed them, their freedom of movement, if they have it at all, gives them no right to residence which even the jailed criminal enjoys as a matter of course; and their freedom of opinion is a fool's freedom, for nothing they think matters anyhow.²⁸

In other words, for non-citizens like refugees, human rights cannot be protected as a matter of right but are, at best, granted as a matter of charity.

She called this flaw in our understanding of human rights, that human rights are not grounded in our humanity and cannot be claimed unless people are recognized as part of a political community, one of the cruelest ironies of the twentieth century:

No paradox of contemporary politics is filled with more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as "inalienable" those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.²⁹

To put it bluntly, non-citizens who are not part of a political community effectively do not have human rights.

The reason behind this is not merely structural – that states were not yet equipped with the legal or political tools to enforce human rights for non-citizens. Rather, it is metaphysical and rooted in concepts of human dignity and human nature. Since Locke, theorists have asserted that our natural or human rights are rooted in some feature of our humanity. But in Arendt's view, human beings do not recognize each other merely as humans or because of some feature that we all share in common. For her, there was a deep hypocrisy in the idea that the human being in and of itself, is valuable, sacred, or worthy of special treatment. In fact, "It seems that a man who is nothing but a man," writes Arendt, "has lost the very qualities which make it possible for other people to treat him as a fellow-man."³⁰ Being seen as "nothing but a man" means that you can be easily discarded. Indeed, "the world found nothing sacred in the abstract nakedness of being human."³¹

If humanity is not sufficient to ground human rights, what is? In her view, non-citizens must be recognized as political agents, that is, as individuals with the power to act, to work together with others in speech and action. This can only happen when they are recognized as belonging to a political community. What the rightless have lost when they lose their citizenship is something more fundamental than their human rights: they have lost "the right to have rights." She writes:

²⁸ *Ibid.*, p. 296.

²⁹ *Ibid.*, p. 279.

³⁰ *Ibid.*, p. 300.

³¹ *Ibid.*, p. 299.

We become aware of the existence of a right to have rights (and this means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community . . . only when millions of people emerged who had lost and could not regain these rights because of the new global political situation.³²

For Arendt, what the loss of human rights deprives us of is a *place in the world that makes opinions significant and actions effective*. People outside a political community are deprived, not of the freedom to do what they want but ability to act in meaningful ways with others for a collective purpose. They lose not the right to think what they want but the right to have their opinions considered seriously by others and taken into consideration. In other words, it is not that a person *can* no longer speak or act, but rather, they are no longer *judged* according to their words and deeds but instead according to what is “merely given” about their existence – the fact that they are human beings in general. Speech and action are *intersubjective*, they require the presence and *recognition* of others.³³ Politically speaking, without the right to have rights, words, opinions, and actions do not “matter,” in the sense that they are not acknowledged or valued by others. As a result, the rightless person does not matter either.

What does it take to realize the right to have rights? For Arendt, this is not just a matter of citizenship. For her what is important is *belonging* to an “organized community” that is willing to include and recognize you. Citizenship is not the only way to include someone in a political community, though it is certainly the most obvious. An “organized political community” can take many shapes. The *sine qua non* is that the political community recognizes you via your words and deeds, the features of individual life that make us most human. For Arendt, like Aristotle, what it means to be political or live in a political community is to make decisions through words and persuasion, not through force or violence. It is not merely that we have the ability to speak, but that we can engage in a way of life in which speech makes sense.

As I have argued elsewhere, central to Arendt's view on human rights is that they are fundamentally established through intersubjective commitment.³⁴ She writes:

We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights. Our political life rests on the assumption that we can produce equality through organization, because man can act in and change and build a common world, together with his equals and only with his equals.³⁵

³² *Ibid.*, p. 297.

³³ Parekh, *Hannah Arendt and the Challenge of Modernity*.

³⁴ *Ibid.*, chapter 1.

³⁵ Arendt, *Origins of Totalitarianism*, p. 301.

In short, it is a political decision to create the conditions that allow equality and human rights. She rejects normative foundations and instead insists that human rights are an ongoing struggle that we must commit to over and over again. The first commitment is including those who lack citizenship into some kind of political community.

I am inclined to agree with Arendt that it is belonging in this meaningful way, and not just citizenship, that is so critical for human rights. Though citizenship is important, people need to be recognized as individuals and have the conditions of their agency protected, conditions that allow them to speak and act in meaningful ways. Recognition of identity is as important as the political rights and economic benefits that come with citizenship. While there remains some debate over whether or not she is correct or in fact that international institutions and international law are adequate to protect the human rights of non-citizens in the absence of state protection, many have recognized the importance of Arendt's argument.³⁶ Political belonging matters for human rights.

What about economic rights? As I mentioned at the beginning of this chapter, Arendt did not seem to have in mind economic rights like the right to work or to basic subsistence. Yet I suggest in the next section that it is possible to extend her argument on the right to have rights to economic rights. There is a parallel between Arendt's analysis of political rights requiring political belonging with economic rights. I show that economic rights require economic belonging, and this can in some situations be provided more easily than citizenship.

A RIGHT TO ECONOMIC BELONGING?

What would a right to economic belonging entail in the twenty-first century? To answer this question, I examine one of the quintessential groups of non-citizens: refugees. Currently, there are more than 20 million refugees, the majority of whom live informally in cities in the Global South. The rest live in UN-run refugee camps. In both situations, refugees are deprived of many human rights, including their basic economic rights, especially the right to work and the right to an adequate standard of living.³⁷ This is all the more important because of the duration of refugee situations: people are likely to remain refugees for around seventeen years and spend about ten years in a refugee camp.³⁸ Most refugees are not allowed to integrate into their host states and, as such, have limited access to citizenship rights. By most accounts, host countries do not seem interested in granting refugees citizenship at any point in the

³⁶ See A. Gündoğdu, *Rightlessness in the Age of Rights: Hannah Arendt and the Contemporary Struggle of Migrants* (Oxford: Oxford University Press, 2014).

³⁷ Parekh, *No Refuge*.

³⁸ Executive Committee of the High Commissioner's Programme, Standing Committee, *Protracted Refugee Situations*, U.N. Doc. EC/54/SC/CRP.14 (June 10, 2004), p. 2, www.unhcr.org/40c982172.pdf; Parekh, *No Refuge*, p. 21.

near future. What could a right to economic belonging mean to non-citizens in a situation like this?

A right to have economic rights would parallel what Arendt says about human rights more broadly: It is a right to belong to some kind of meaningful economic community that can recognize you as a member. To be sure, it is not necessarily a community founded on speech and action, but one which includes individuals as equals. Recall what Arendt says about equality. Equality is not something guaranteed by God, founded on human nature, or something that we can rely on the state or laws to implement.³⁹ It can only be guaranteed through the commitment of individuals, through individual decision. While many will consider this insufficient, it is for her the only ground we can rely on in the realm of human affairs.

One way to think about a right to have economic rights is as economic integration for long-term non-citizen residents.⁴⁰ It is possible to envision economic integration of refugees taking many forms, if states were willing to include non-citizens in their economic communities. For example, most countries that host large numbers of refugees in the Global South do not permit refugees to work legally (Uganda, and more recently, Ethiopia, are notable exceptions). Most, of course, do work without authorization in order to meet their basic economic needs, but because they lack legal protections are exposed to various kinds of exploitation.⁴¹ Western states could leverage their influence to encourage states to grant work permits. But there are even more concrete ways that Western states could aid economic integration.⁴² While the focus on finding a durable solution for refugees, namely, a way that they can gain citizenship either through returning home or being resettled elsewhere, is admirable, it is important to support economic integration in the interim. Doing so would allow refugees a right to have economic rights.

Betts and Collier have argued that Western states should create “Special Economic Zones” in host countries that would provide tax incentives and allow lucrative trade deals with companies that hire refugees. For example, Germany might allow a company in Jordan favorable trading conditions if they hire a certain percentage of refugees. The host states would then gain the tax revenue from these enterprises.⁴³ The Jordan Compact of 2016 is an example of such an approach. It allowed Syrian refugees to work and in return Jordan was given grants, loans, and preferential trading status with the European Union.⁴⁴ Although it had problems in its implementation, it remains an example of a way to encourage economic

³⁹ Arendt, *Origins of Totalitarianism*, p. 297.

⁴⁰ S. Parekh, *Refugees and the Ethics of Forced Displacement* (New York: Routledge, 2017).

⁴¹ Parekh, *No Refuge*; B. Rawlence, *City of Thorns: Nine Lives in the World's Largest Refugee Camp* (New York: Picador, 2016).

⁴² Betts and Collier, *Refuge*.

⁴³ *Ibid.*

⁴⁴ V. Barbelet, J. Hagen-Zanker, and D. Mansour-Ille, *The Jordan Compact: Lessons Learnt and Implications for Future Refugee Compacts* (London: Overseas Development Institute, 2018).

integration of refugees and provides a model for how the international community can support a right to have economic rights or a right to economic belonging.

In closing, while both citizens and non-citizens need well-regulated markets in order to access their economic rights, they also need a more fundamental *right* to access such forms of economic inclusion. I have argued that theoretical accounts of what is needed for economic rights must be supplemented with a right to have economic rights, a right that translates in practice to a right to economic inclusion.