I would like to propose some formulations that will help orient us among the presuppositions of a characteristic discussion of the 1980s. At once a subject for specialists and a matter of public debate, this discussion is marked by a tendency to substitute the theme of the relations between ethics and politics for that of the relations between the political and the social, and perhaps more profoundly to reinscribe the latter within the former. It sees—on the right, but also on the left—the question of revolution give way to that of citizenship, at least insofar as what is at stake at a deeper level is not a reformulation of the question of revolution in terms of citizenship, and thus also civic-mindedness and civility, whether one invokes a renewal of citizenship (going beyond the simple recognition of individual rights) or advances the idea of a “new citizenship.”

This is why it is not surprising that a central theme of ongoing debates—quite apart from any coincidental anniversaries—concerns the unfolding and historical impact of the French Revolution, and more specifically its “founding” text, the *Declaration of the Rights of Man and
Citizen of 1789, the meaning and nature of whose universality are again being questioned. In focusing on this text myself, I am conscious of the double risk of antiquarianism in relation to the interpellations of present history and of Eurocentrism or even Francocentrism that comes with such an approach to the problem of the political. But even if the question of “the rights of man” were only a mask or a lure, which I do not think it is, it would still be worth the trouble to try to assess the reasons for the gap between their statement in the past and a current democratic problematic. And even if this statement corresponds only to the fictive universalization of a particular society or culture, which I also do not think it does, it would be equally necessary to inquire anew into its reasons, unlike the intellectual movements and currents of social struggle that shaped the idea of “revolution” for us in the nineteenth and twentieth centuries.

I will address, in a more or less elaborated way, four aspects of this question.

First, if it is true that for us the statement or rather the series of statements of 1789 has long since lost the self-evidence it claimed, if it is true that a gap has emerged in many ways between the prerequisites of freedom and those of equality, which were previously inseparably associated, how should we interpret the reasons for this?

Second, how should we interpret the relation between the statement of the Declaration and the specificity of the revolutionary event? Should the collective practice that finds its expression and weapon in this institutional text be thought under the heading of a subject (humanity, civil society, the people, social class), or rather that of a conjuncture and a conjunction of forces? Without there being any question of proposing here an analysis of the character of the revolution of 1789–95, the choice of the second option will lead me to say a few words on the originality of the Declaration’s statements in relation to what is commonly considered its ideological “source,” the classic theories of natural right.

Third, coming to what is probably the essential point, I will examine the status of the statement and the enunciation of the proposition that, it seems to me, is at the heart of the Declaration and allows us to understand its logic: the proposition that identifies—in extension and then in comprehension—freedom and equality. What interests me above all here is the truth of this proposition, which I will call the proposition of equaliberty, and on this basis the rupture it produces in the political field. But
these are equally the reasons for its instability, the forms in which an incessant division has developed out of what had been produced as a unity of opposites. What follows from this is a system of reference, a topos for classifying and interpreting the different strategies, theoretical as well as political, that have confronted this dilemma over at least two centuries, and from which in reality we have not escaped.

Fourth and finally, though in an inevitably very allusive way, I would like to at least pose the following question. If it is true that the revolutionary proposition identifying freedom and equality constitutes the incontrovertible and in a certain sense irreversible statement of a political truth, if it is also true that the inscription of this truth in the very history that produced it is immediately characterized by instability and in a certain sense decline, and if it is true finally that its return in contemporary politics is at least a sign of the demand for a new practical inscription, under what conditions would that inscription be thinkable at the end of the twentieth century? Such a question will have to remain largely open, and no doubt aporetic. At least it will be possible to illuminate the reasons for this by negatively outlining what, in the contradictions of modern politics, has remained silent, and more fundamentally finds itself necessarily repressed in the topos constructed around the Declaration.

First, then, wherein lies the contemporary relevance of the revolutionary statements? I said it a moment ago: in the paradoxical form of an apparently irreducible split between concepts or values that are felt to be equally necessary. No doubt this is *a contrario* witness to the interdependence of equality and freedom in the form of the periodic return of authoritarian ideologies positing that life in society, or human nature, requires both the imposition of hierarchy and the promotion of individual or even collective inequality. But the permanence of the critique of the rights of man, inaugurated at the beginning of the nineteenth century by counterrevolutionary thought, does not, conversely, make their own consistency self-evident. Contemporary liberalism is not alone in positing that, beyond very strict limits (that have a juridical form), freedom and equality are mutually exclusive. This conviction is widely shared by socialism and more generally by the social progressivism of different minorities at the very moment that, practically, it appears that claims for freedom and equality condition each other, as we see in struggles for democracy in so-called socialist countries just as in anti-racist
movements in western Europe or the struggles of black people in South Africa.

This profound contradiction feeds upon several ideas whose self-evidence is seldom questioned, in particular the idea that equality (or, more generally, “real” equality) is essentially economic and social—an elastic notion by definition that today tends to also include the cultural—whereas freedom is above all juridical-political and institutional. But at the same time there is another self-evidence or pseudo-self-evidence on which liberalism and socialism end up agreeing, even if they draw opposite conclusions—namely, that the realization of equality occurs through state intervention, since it essentially has to do with distribution or redistribution, whereas the preservation of freedom is connected to the limitation of this intervention, even to constant defense against its “perverse” effects. It seems to me that this omnipresent but uncritical reference to the state, designated as a block, which constantly reproduces the difference between “formal” and “real” (or “substantial”) rights as well as the representation of equality as an exclusively collective goal while freedom (in any case the “liberty of the moderns”) would be essentially individual freedom, even in the realm of public freedoms (which would then best be thought of as public guarantees of private freedoms).

From this we proceed directly to the fundamental paradox, which is the split between the discourse of the rights of man and that of the rights of the citizen at the very moment a moralization of political life or its re-foundation on ethics is asserted. Today the discourse of the rights of man (above all formulated as a defense, rather than conquest, of the rights of man) covers a very broad spectrum, from freedom of conscience or individual security to the claim to a right to existence or a people’s right to self-determination. But it remains completely distinct from the discourse of the rights of the citizen, which itself oscillates between the proposal or claim to enlarge the political sphere to new domains (such as ecology) and that of revalorizing the political in the classical sense—a synonym for the collective institution of deliberation and decision—against the invasion of economism or technocracy. It seems to be very difficult, perhaps more and more difficult, to maintain the equation that is typical of the revolutionary statements of 1789, to which I will return: that of man and citizen, the consequence of which would be, among other things, the idea that the emancipation of the oppressed can be no one’s work but their own. As if “man” were in fact nothing other than what remains
when we abstract from the “citizen.” There is nearly universal agreement on the fact that equating man with the citizen leads invariably to totalitarianism, to what is often called the imperialism of “the political” (tout politique). But the flipside of this agreement is the proclamation that the rights of man, however natural and universally necessary they may be, essentially represent an ideal—which is, if one thinks about it seriously, the exact inverse of the performative statement of 1789, which declared the immediate social relevance of those rights, posited the necessity and the possibility of putting them into effect, and materialized them in a constitution.⁴

One could—one should—investigate the reasons for this split, which becomes glaring the moment the reference to juridical universalism is renewed. Many well-known explanations are available. One invokes human nature: the gap between the “rights of man” and the “rights of the citizen” is the same as between the essential, theoretical goodness of human nature, without which true community would be impossible, and the practical malevolence of empirical individuals subject to the constraints of their passions, their interests, and the conditions of their existence. Homo homini deus, homo homini lupus. At the improbable point of equilibrium of this contradiction we find precisely law, which Jean-Denis Bredin recently suggested be defined as the “art of solving the insoluble question,” rediscovering Kant’s “unsocial sociability” as its basis.⁵

Another common explanation is historicist: time has passed, so the material and cultural conditions under which the statements of 1789 could be constitutively self-evident no longer exist. We are no longer, no doubt, “men” of the eighteenth century, and it is doubtful that we are still “citizens” of the nineteenth. We are more than that, in one sense (for example, we live in a world of communications and global culture that relativize national citizenship, the unsurpassable horizon of the constituents of the revolutionary period); in another sense we are less, since our differentiated societies are organized not only by class, but above all by status. It is not impossible to combine these two types of explanation, emphasizing the original utopianism of the rights of man by positing that from the start their proclamation—which furnished political and social modernity with a means of asserting itself against the hierarchical social orders of the past and their own, above all, theological imaginary—only served to announce an ideal, that is, to crystallize a new imaginary.

I will privilege another mode of explanation, one that is more dialectical or, if you like, more intrinsic: it suggests that, from the beginning, the
“founding” statements, by reason of their very simplicity and their revolutionary radicality, hide within themselves a contradiction that prevents them from becoming invested in a stable order. Or better still: the contradiction, to the second degree, resides in the instability of the relation between the aporetic character of the statements and the conflictual character of the situation in which they arise and which serves as their referent, so that every attempt to reanimate the statements of the rights of man and citizen, based on its very truth, cannot help but run into the effects of the development of its own tensions. This path seems to me the most fertile, but it can be pursued in different ways that I will not discuss in detail. Here it is especially the interpretation of the development of the Declaration in the course of the revolutionary process of 1789–95 that acquires a differential importance, especially the comparison of the original text and its more or less abortive rewritings (which were not, however, without impact) of 1793 (the Montagnard Declaration) and 1795 (the Thermidorian Declaration). This development, with its characteristic oscillation between two readings of the relation between man and citizen, one plebeian and the other bourgeois, supported by antagonistic forces within the Revolution itself, already reveals the contradictions at work from the beginning.

In a remarkable book, La révolution des droits de l’homme (The revolution of the rights of man), expressing a neoliberal if not conservative perspective, seeking reasons why the Revolution is “finished” for us (but also what delayed this result for so long), Marcel Gauchet has followed what seems to him to be the development of a fundamental aporia from text to text: the fact that the kernel of the Declaration of 1789 was the establishment of an absolute notion of national sovereignty, the mimetic inversion of the monarchical sovereignty it opposed, in order to legitimate the representation of the people. For the “one and indivisible” will of the absolute monarch, the Constituent Assembly had to make a corresponding “general will”—equally one and indivisible, equally the depository of all authority, but founded in the last analysis only on the individuals who make up the nation. Such a notion is condemned to oscillate between direct democracy and revolutionary dictatorship. With the exception of the partial but determinate liberties inscribed in the American model of the Bill of Rights, it proves to be incompatible with the pragmatic institution of a juridical framework for modern politics,
whether it is a matter balancing the powers of the legislature and the executive or state prerogatives and individual independence. This is why the Revolution was an immediate failure, while in another context, after a century of political confrontations and regime crises, its symbolic statements acquired the function of a more or less consensual regulatory ideal.

Symmetrically, in a series of recent articles, Florence Gauthier, rediscovering and renewing the tradition of revolutionary idealism (as it can be traced from Robespierre and Fichte to the young Marx and Ernst Bloch), has tried to show that a rupture took place between the Convention’s Montagnard, Jacobin phase and its moderate, Thermidorian phase. There is a continuity between the statements of 1789, centered on the primacy of freedom and the pursuit of its universality, and those of 1793, which develop the latent egalitarianism of this conception as universal reciprocity or the universal reciprocal recognition of freedoms, including the fundamental right to exist (the right to existence, with its economic consequences). They proceed from the classical, essentially Lockean idea of a declaration of natural right founding association or citizenship, which delimits the political sphere and the role of the state on the basis of human nature. On the contrary, with the Thermidorian Declaration of 1795, centered on the untouchable character of property and the reciprocity of rights and duties, a determinate social foundation is substituted for the natural, universal foundation of citizenship: there is a rupture, even a reversal. This of course expresses counterrevolutionary reaction to the development of social conflicts, and especially to the way the popular, nonbourgeois elements of the Revolution continually used the universalism of the rights of man politically, against the practical restrictions placed on them by their own authors—the distinction between active and passive citizenship on a censitary basis, and the exclusion of de facto equality from the domain of natural rights.

For my part, I will adopt exactly neither of these two ways of interpreting the intrinsic contradiction of the revolutionary moment. Both of them seem to me, for completely different reasons, to lack specificity: the specificity of the text of the Declaration of Rights, and the specificity of the revolutionary conjuncture, outside of which one can understand neither the immediate development of the statements nor their retroactive effects, which continue today. It is unfortunately impossible to go into
all the details one could wish for. But, to put it schematically, I believe neither that the concept of national sovereignty forged in 1789 under the influence of circumstances is a simple reversal, within the framework of a fundamental continuity, of the concept of monarchic sovereignty, in a way substituting one transcendence for another, nor that the reference to man and the universality of his nature as founding the rights of the citizen can be traced back to the average content of its ideological sources, which can be generically designated as classical natural right.

As far as sovereignty is concerned, as I have tried to show elsewhere, the revolutionary innovation consists precisely in subverting the traditional concept by posing the highly paradoxical thesis of an egalitarian sovereignty—practically a contradiction in terms, but the only way to radically get rid of all transcendence and inscribe the political and social order in the element of immanence, of the self-constitution of the people. From there, however, begins the immediate development of a whole series of contradictions that proceed from the fact that so-called civil society and especially the state are entirely structured by hierarchies or dependencies that are both indifferent to political sovereignty and essential to its institutionalization, even though society or the modern city no longer has at its disposal the means of the ancient city for neutralizing these contradictions and pushing them out of the public sphere, namely, the rigorous compartmentalization of the *oikos* and the *polis*.

As far as declared natural right is concerned, I believe that the revolutionary moment of the *Declaration* and its uninterrupted efficacy in the course of sociopolitical struggles is essential. In other words, I do not doubt that the materiality of this act of enunciation was the anchoring point for a series of claims that, from the day after the *Declaration*, started to claim it in order to demand the rights of women, workers, or colonized races to be incorporated into citizenship. But I in no way believe that it is inscribed in the continuity of classical natural right, be it Lockean or even Rousseauian, as its culmination, its realization, or simply its radicalization. Historically and epistemologically, and whatever the self-consciousness of its authors, who were grappling with their own Ancien Régime intellectual formation, the core of the *Declaration of the Rights of Man and Citizen* does not come from preexisting ideologies. It is no longer part of the framework of theories of human nature as the foundation or guarantee of a juridical order that, from the sixteenth to the eighteenth century, formed precisely the alternative to theories of di-

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From Equaliberty by Ingram, Étienne. DOI: 10.1215/9780822377221
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vine right and provided the opponents of absolute monarchy with the basis of their arguments. It only takes up—in part—their terminology in order to nullify their logic. So what it immediately determines is not the triumph but the irreversible opening of the crisis of classical natural right, the opening of a new ideological field in which the politico-philosophical ideologies of the nineteenth century will take their places, whether they express liberal, socialist, or conservative positions, and whether they derive epistemologically from positivism or historicism, idealism or political pragmatism.

Classical natural right is characterized by the extreme diversity of its conceptions of human nature and its schemes for the originary foundation of civil society, which correspond to as many strategies for reforming political institutions. The statements of 1789, the results of a veritable coup in the debates over national representation, which went on under the triple constraint of its own interests, the open but still not declared conflict with the monarchy, and the Great Fear of popular insurrection, are characterized, on the contrary, by a remarkable simplicity (what I called elsewhere a de jure fact), whose foundation, we will see, is purely negative, short-circuiting the problematic of the origins and modalities of association. It is remarkable, notably, that the notion of a contract is absent. But of course the complexity and heterogeneity of the classic theories of natural rights, be they contractualist or anticontractualist, statist or economistic, correspond to the relative homogeneity of a rising social class, which can be called the bourgeoisie, whereas the unitary simplicity of the Declaration of Rights represents in the field of ideas, or rather of words—words that immediately escaped the control of their authors—the real social complexity of the French Revolution: the fact that, from the start, it is not, is already no longer, a “bourgeois revolution,” but a revolution made jointly by the bourgeoisie and the people, or the nonbourgeois and especially noncapitalist masses, in a constant relation of alliance and confrontation. It is a revolution immediately grappling with its own internal contestation, without which it would not even exist, a contestation that runs ceaselessly after the unity of its opposites.

Let us then come to the core of the revolutionary statements. It resides, it seems to me, in a double identification, one explaining the other and giving it its content (although, as we will see, this content remains strangely indeterminate).
First identification: that of man and citizen. Here a choice of readings must be made, since a long, quasi-official, national, and international tradition interprets the content of the original seventeen articles as the expression of a distinction between the rights of man (universal, inalienable, subsisting independently of any social institution, thus virtual, etc.) and the rights of the citizen (positive, instituted, restrictive but effective), leading in its way to the foundation of the latter on the former.\(^{12}\) And, no doubt, in order to be able to found these rights, it is necessary to distinguish between what founds and what is founded, but the whole question here is to determine whether, in the text itself, we are indeed dealing with the statement of a foundation.\(^{13}\) No doubt, too, the duality of the terms “human” and “citizen” carries the possibility of a dissociation whose effects we will observe.\(^ {14}\) But it can and should be interpreted otherwise, in its context. Reread the *Declaration* and you will see that there is in reality no gap between the rights of man and the rights of the citizen, no difference in content: they are exactly the same. Nor, consequently, is there any difference between man and the citizen, at least to the extent that they are defined practically by their rights, by the nature and the extension of the rights to which they are entitled—but this is precisely the object of the *Declaration*. I recall that freedom, property, security, and resistance to oppression (Article 2) are enumerated as “natural and imprescriptible rights of man”—that is, exactly those that the rest of the *Declaration* will show are organized juridically by the social constitution.

What then poses a problem at this level? First of all, the presence of resistance to oppression. The least that can be said about this is that it is not very explicitly instituted thereafter. But it can also be said that it is the corollary of freedom, the guarantee of its effectiveness—to be free is to be able to resist any constraint that destroys freedom—and that it represents the verbal trace of the revolutionary struggle that imposes this freedom as a conquest.\(^ {15}\) On the other hand, the absence of equality. But this appearance should immediately be corrected—even if it is the trace of an internal vacillation to which we will have to return—by rereading Articles 1 (“Men are born and remain free and equal in rights”) and 6 (“The law is the expression of the general will. All citizens have the right to contribute to it... All citizens being equal in its eyes are equally admissible.”). These formulations do more than compensate for the absence of equality in the enumeration of Article 2; they reverse its meaning, making equality the principle or right that effectively ties all the others together.
The treatment of equality in the Declaration is precisely the site of the strongest and most precise identification of man and citizen. Indeed, no time was lost in reproaching it for this, and this was what very quickly led to the dissociation, in one way or another, of man and citizen, or the rights of man and the rights of the citizen, while we find here the confirmation of their coincidence in the revolutionary moment, from which the act of enunciation (the Declaration) is inseparable. Not only does the Declaration not install any “human nature” before society and political order as an underlying foundation or external guarantee; it integrally identifies the rights of man with political rights and, in this way, short-circuits theories of human nature as well as those of theological supernature, identifying man, individual or collective, with a member of political society. In a moment, I will specify this notion of the rights of man as political rights and vice versa by showing that it goes to the idea of the right of man to politics, to politically institute all human activity in view of a liberation and an equalization.

But before that it is not unhelpful to reflect on what radically distinguishes this from the “naturalist” statements of the tradition of antiquity. The equation of man and citizen in 1789 is not a revival of the zôon politikon. In fact, the idea of the zôon politikon, insofar as it really corresponds to the institutions of the Greek or Roman city, is not underpinned by the identification of equality and freedom, but by the completely different thesis of equality within the limits of freedom considered as a social status, founded, as the case may be, on a tradition, a constitution, or a natural quality of individuals (which makes them, for themselves and for others, masters). Here equality is only a consequence, an attribute, of freedom. There can be no reversibility between the two terms. Whence, right up to the texts that probe the democratic virtualities of the notion of citizenship most deeply, for example certain passages of Aristotle’s Politics, the strange limitation of the concept—or at least what must appear as such retrospectively to the modern reader. Aristotle defines citizenship by the alternate exercise of the functions of ruling and obeying (archein and archeistai), thus as a strong form of the generalized reciprocity of free, male, adult individuals (which is also the basis of their philia, a general concept of the “social bond”). From this reciprocity follows the anthropological and even cosmological position of the citizen between two limits of deficiency and excess that are, by the same stroke, the limits of the political: the subhuman in different figures (woman, slave, child) and
superhuman in the figure of the wise man, the god, or the hero. But where we retrospectively see a contradictory combination, a suggestion of universality and an arbitrary limitation, there is in reality only the application of a different logic in which freedom represents a status, a personality, and equality, a function and a right of this status.\(^\text{16}\)

Inversely, it would be just as erroneous to adopt, under the pretext of historical consciousness, the classical opposition that comes from liberalism. As opposed to the Greek (and even more, Roman) unity of the social and the political, the *Declaration of 1789* would have instituted their “bourgeois” separation, founded on the distinction between the public and private spheres. That Marx, in a famous text of his youth, took up this reading on his own account does not prevent it from being essentially a complete misinterpretation in relation to the materiality of the statements. The man of the *Declaration* is not the private individual as opposed to the citizen, who would be the member of the state. He is precisely the citizen, and this recognition should, to the contrary, lead us to ask how it happened that the very notion of the state is so problematic in a revolutionary text that seeks to found a constitution whose goal—at least in the eyes of its authors—is to erect a new state. The answer to this question can only come from examining the subversive effects of a radically new idea bearing precisely on the relation of equality to freedom, announced universally.

What is this idea? Nothing less than the identification of the two concepts. Here is the extraordinary novelty and at the same time the root of all the difficulties, the nub of the contradiction. If one really wants to read it literally, the *Declaration* in fact says that equality is identical to freedom, is equal to freedom, and vice versa. Each is the exact measure of the other. This is what I propose to call, with a deliberately baroque phrase, the proposition of equaliberty—a portmanteau term, impossible and yet possible only as a play on words, that nevertheless alone expresses the central proposition.\(^\text{17}\) For it gives both the conditions under which man is the citizen (through and through) and the reason for this assimilation. Beneath the equation of man and citizen, or rather *within* it, as the very reason for its universality, resides the proposition of equaliberty.

This proposition has the status of a self-evident truth, as the Americans said. Or, more exactly, it has the status of a certainty—that is, its truth cannot be put in doubt. How is it, then, that it is constantly put in
doubt, albeit in forms of negation that never stop admitting its insistence, manifesting its irreversibility?

It cannot simply be by reason of the fact that we have here two words. Their formal distinction is obviously necessary to posit an identity of signification. Let us rather say that to be able to think freedom and equality as identical, it is necessary to reduce an initial semantic difference, inscribed in the relatively distinct histories of the words “freedom” and “equality” before the statement of ’89 up to this meeting point, which changes the whole picture at a single stroke. From another point of view, it is very simply the trace of the fact that the revolutionaries of ’89 fought against two adversaries at once, and against two principles: absolutism, which appears as the negation of freedom (in the permanent fact of the prince, or what was called reason of state), and privilege, which appears as the negation of equality (in the abiding right of the stronger, that is, the right of the man of quality, or the aristocrat). The monarchy and the aristocracy, whose politico-social unity is immediately thought in the concept of the Ancien Régime—this amalgam which counterrevolutionary thought never ceased striking out at, even today, notably by distinguishing within the Revolution between a “revolution of freedom” and a “revolution of equality.” But the Revolution of 1789 (and this is precisely why it is the Revolution, determining in an instant an irreversible mutation in the very meaning of the term) is both: it takes aim in an identical way against tyranny and against injustice (against an equality in submission and against a freedom identified with privilege). It shows that just tyranny (open despotism) and democratic injustice are equally impossible.

But what, more deeply, blocks the recognition of this radical thesis is what must indeed be called the Platonizing reading of these texts: one sees Equality and Freedom as Ideas or Species, subject to the law of the Same and the Other. One looks for the common nature of Equality and Freedom. One looks to where they would finally reveal their common “essence” (and one can be tempted to respond tautologically: this essence, this “nature,” in a word this foundation, is man or the subject). There is also another reason. One senses that, in order to give this identity an empirical content, a positive reference, it would be necessary to indicate which freedom and which equality are identical—or rather, since what is manifestly characteristic of the statement of the Declaration is their universal identification, in all their forms, within what limits or conditions
they are identical. In short, here one comes up against a stupefying indeterminacy.

In reality, it is a matter of two connected but distinct problems. For the first, the answer is simple but its implications are extreme, since it engages nothing less than the truth-status of the proposition of equaliberty. For the second, the answer is practically impossible—or, rather, it is destined to remain indefinitely open, indefinitely deferred by its very contradiction, which is no doubt of no less import, since what is at stake is very simply the application, the passage from theory to practice, of a proposition that comes from (revolutionary) practice itself.

Let us look first at the question of nature. My position is brutal: the reasoning that underlies the proposition of equaliberty (E=L) is not essentialist. What underlies it is not the intuitive discovery or the revelation of an identity of the ideas of Equality and Freedom, if only because they are completely transformed by the revolutionary equation. It is the historical discovery, which can rightly be called experimental, that their extensions are necessarily identical. Simply put, the situations in which both are present or absent are necessarily the same. Or, again, the (de facto) historical conditions of freedom are exactly the same as the (de facto) historical conditions of equality.

I am saying that, understood in this way, the proposition of equaliberty is indeed an irreversible truth, discovered by and in the revolutionary struggle—precisely the universally true proposition on which, at the decisive moment, the different forces making up the revolutionary camp had to agree. In turn, the historical effects of this proposition, however contradictory they may be, can only be understood in this way, as the effects of a truth or effects of truth. This does not mean that they are never forgotten or contradicted.

You will say to me: Where is the proof? Since it is a matter of a universal truth in this sense (an a posteriori universal or, better, a historical universal), it can only be negative. It can only have the status of a refutation—what Aristotle would call an elenchos. But it can be made at any time, in situations as diverse as one could want. It is, in fact, a negative proof: if it is absolutely true that equality is practically identical to liberty, this means that it is materially impossible for it to be otherwise—in other words, it means that they are necessarily always contradicted together. This thesis is itself to be interpreted in extension: equality and freedom
are contradicted in exactly the same conditions, in the same situation, because there is no example of conditions that suppress or repress freedom that do not suppress or limit—that is, do not abolish—equality, and vice versa. I am not afraid of being contradicted here, either by the history of capitalist exploitation, which by negating in practice the equality proclaimed in the labor contract ends up in the practical negation of freedom of speech and expression, or by the history of socialist regimes that, by suppressing public freedoms, end up constituting a society of privileges and reinforced inequalities. Clearly, the distinction between individual and collective freedoms, like that between formal and real equality, has no meaning here. It would rather be a matter of the degree of equality that is necessary for the collectivization of individual freedoms, and the degree of freedom that is necessary for the collective equality of individuals, the response being in each case the same: the maximum in the given conditions. Whence we arrive at yet another way of expressing the negative experience that constitutes the proof—the only possible proof, but sufficient as such—of the proposition of equaliberty: the diverse forms of social or political power that correspond either to inequalities or to constraints on the freedom of man-the-citizen necessarily converge. There are no examples of restrictions or suppressions of freedoms without social inequalities, nor of inequalities without restrictions or suppressions of freedoms, be it only to put down resistance, even if there are degrees, secondary tensions, phases of unstable equilibrium, and compromise situations in which exploitation and domination are not homogeneously distributed across all individuals. Such is the very mechanism of the formation of classes or elites, which inevitably transforms power into superpower or hegemony.

Indeed, if freedom is not equality, then either it is superiority—mastery—or it is subjection and dependence on some power, which is absurd. Thus, correlatively, equality must be thought as the general form of the radical negation of all subjection and all mastery, that is, as the liberation of freedom itself from an external or internal power that takes it over and transforms it into its opposite.

One can then understand why the essential content of the statement of the Declaration, the circumstantial work of the bourgeois spokesmen of the Revolution, is not their own domination or control over the process in which they are participating. And one understands why a struggle
is immediately engaged where what is at stake is the application of the principles of ‘89, that is, their universal extension or their limitation.

But one can also understand what I just suggested: that the signification of the equation Man = Citizen is not so much the definition of a political right as the affirmation of a universal right to politics. Formally, at least—but this is the very type of a form that can become a material weapon—the Declaration opens an indefinite sphere for the politicization of rights claims, each of which reiterates in its own way the demand for citizenship or for an institutional, public inscription of freedom and equality. The rights claims of workers or of dependents as well as those of women or slaves, and later those of the colonized, is inscribed within this indefinite opening, as we see in attempts beginning in the revolutionary period.

But here is the second aspect. An intrinsic part of the truth of our statement is its negative universality, that is, its absolute indeterminacy. Since we are speaking here about a truth and a truth-effect in history, it is more necessary than ever to articulate the level of the statement and that of the enunciation—or, if you like, the pragmatic relation between the signification and the reference. Its indeterminacy gives the statement all its force, but also the practical weakness of its enunciation. Or, rather, it makes the consequences of the statement themselves indeterminate: they depend entirely on relations of forces and their evolution within the conjuncture, within which it will always be necessary to practically construct individual and collective referents for equaliberty, with more or less prudence and precision, but also audacity and insolence against the established powers. There will be a permanent tension between the conditions that historically determine the construction of institutions that conform to the proposition of equaliberty and the excessive, hyperbolic universality of the statement. Nevertheless, it will always have to be repeated, and repeated identically, without change, in order to reproduce the truth-effect without which there is no revolutionary politics. There will thus be a permanent tension between the universally political signification of the rights of man and the fact that their statement leaves the task of producing a politics of the rights of man entirely up to practice, to struggle, to social conflict—in particular, to the development of the conflict that was already at the origin of its formulation. Let us simply note here that this tension is such that the politics of the rights of man and the citizen is in general what is most lacking in discourses of the rights of
I now come to the last point of my exposition. I will propose the following hypothesis: to define equaliberty, or to inscribe it in practice at the price of struggles directed concretely against the historical negations whose negation this proposition itself represents, is to put its truth into effect. But such an effectuation depends on two factors: a determination of the real contradictions of postrevolutionary politics, that is, the given relations of forces and conflicts of interests in the successive conjunctures in which it is pursued, or even reconstituted, and a determination of the forms in which such real contradictions are thinkable within the ideological space opened by the revolutionary proposition—even, very simply and still more fundamentally, the very possibility of adequately thinking such contradictions within this ideological space, that is, naming them or formulating their solution as a realization of equaliberty. It does not follow from the fact that the proposition of equaliberty is universally true that it is the whole truth (a notion, to tell the truth, that is a contradiction in terms). It follows from this that in immediately determining the opening of a space of thinking, it also determines a closure—in other words, it immediately determines it as an ideological space.

Today it is exclusively the second aspect that will interest me in conclusion, and this for the following reason. Historical experience forces us to understand not only that different contradictions, different struggles for equality and freedom are not spontaneously compatible with each other in the field of revolutionary struggle, but also that they cannot be enunciated in the same language, in terms of the same discourse—which would, however, be a minimal precondition for their practical conjonction, to say nothing of their “fusion” in the same democratic or revolutionary movement. At least part of the reason for this situation, which suffices to account for the relative inadequacy of the revolutionary idea today, lies in the heterogeneity of contradictions we are dealing with here, and even more radically in the fact that it is not a matter of contradictions in the same sense of the word. To illustrate this idea it will suffice to mention what have traditionally been designated class contradictions and the contradiction of sexual relations (relations between men and women). To these, for reasons I hope to make clear, I will add for my part a contradiction that seems to me equally fundamental, and equally
heterogeneous to the last two, and which serves to ideologically locate formulations such as the division of manual and intellectual labor, or the division between corporal and mental activity.

Our discussion will take the form of the construction of a configuration or topography of the ideological tensions of modern politics as restructured by the revolutionary proposition. It is within such a topography that we must try to localize the statement of contradictions in order to measure their heterogeneity and distance.

Here, schematically, is my working hypothesis:

1. The equation of freedom and equality is indispensable to the modern, subjective remaking of right, but it is powerless to guarantee its institutional stability. A mediation is required, but it takes the antithetical forms of fraternity (or community) and property (or commerce).
2. Each of these mediations is in turn the object of a conflict and finds itself practically divided, on the one hand into national community and popular community, on the other into labor-property and capital-property. The combination of these two oppositions is the most general ideological form of class struggle.
3. Each of these mediations, as well as their conflictual combinations, represses another kind of contradiction: on the side of fraternity-community, sexual difference; on the side of property (labor and/or capital), the division of “intellectual” knowledge and “corporal” activity.

The consequence of this formulation is that there are two completely heterogeneous types of contradictions, which not only cannot be reduced to a unity, but in a certain way must give rise to incompatible but rigorously inseparable discourses—at least as long as the discursive matrix of political action is founded on the concept of man the citizen, with which we began.

Allow me to comment briefly on the three points I just raised, beginning with the question of mediations. We must again begin with the constitutive instability of the equation Man = Citizen, undergirded by the identification of equality with freedom, that is, the affirmation of a potentially universal right to politics. Elsewhere I have tried to show, following others (and, if one reads the texts carefully, the revolutionaries
themselves), that this affirmation introduces an individual oscillation, induces a structural equivocation between two obviously antinomic politics: a politics of insurrection and a politics of constitution—or, if you prefer, a politics of permanent, uninterrupted revolution and a politics of the state as institutional order. It is clear that such an antinomy divides the very concept of politics without ever being able to find a synthesis (which is perhaps the typical characteristic of modernity). It also signifies that freedom and equality will constantly tend to be dissociated, to appear as distinct principles or values that can be invoked by opposing camps or forces, at least that their identity—and especially their juridical identity—is not guaranteed or, if you like, founded by the introduction and the primacy of a third term. Then we would no longer have the immediate identity $E=L$, but a mediate identity: $E=L$ insofar as they are expressions or specifications of another principle, which would at the same time appear as their presupposition or common substance. By the same stroke, it will be ideologically possible to move from a negative, indeterminate proof to a positive, determinate one (but mediate and, as a result, productive of a simply relative truth).

Nevertheless, the fact is—no doubt because of the intrinsic ambiguity of any institutional mediation of the social, transindividual relation, but also because of the fact that any institutionalization of a revolutionary break is subject to the law of the prerevolutionary “return of the repressed”—that such a mediation cannot take a single historical form. Historically, it has assumed two antithetical forms: mediation by property (and property in oneself) and mediation by community (which was typically expressed during the French Revolution in the terms of the triptych Liberty-Equality-Fraternity, laid out on the three poles of a symbolic triangle, but the triangle Liberty-Equality-Property was no less decisive).

We can represent this configuration as follows:

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E &= L \\
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\end{align*}
\]

Let us pause a moment on this point. To be sure, none of the notions involved—freedom, equality, property or commerce, community or fraternity—is radically new. What is new is the way they are grouped,
defined in relation to each other, and the tension that is established be-
tween the two possible “foundations” of liberty and equality, which are
like two alternative ways of socializing the citizen: property, be it individ-
ual or collective; community, be it conceived as natural or historical, or
even spiritual. Here we have the matrix of the political ideologies charac-
teristic of modernity, from socialism and liberalism (each of which, in its
way, places the accent on property) to nationalism and communism (each
of which, in its way, places it on community, and notably in France on fra-
ternity). Noting the insistence of this structure is also a way of clarifying
the stakes of the contemporary discomfort concerning politics. It is be-
lieved that this discomfort concerns the terms of freedom and equality, but
in fact it seems to have more to do with their complements. For, as an an-
choring point for individuality and thus for the relation between men and
things or man and nature, property in all its forms has today lost its self-
evidence, its simplicity, and has become a complex, opaque notion. What is
it, for example, to be the owner of an ability, a credit, or a right? Mean-
while, fraternity or community has lost both its univocity (for there is not
one but many collectivizing socials, many competing groups or bonds of
belonging with which individuals are called on to identify) and its consis-
tency. There are social relations that, after having bound individuals to-
gether too well, no longer seem to bind them together at all: for example,
the professions, the family, and no doubt the question arises more and
more often for class and the nation itself. But we will see in a moment that
the deepest reason for this vacillation of the foundations of modern poli-
tics is no doubt to be sought in the political emergence of differences that
dissolve the identity of the property-owning subject as well as the commu-
nitarian subject as one of the major stakes of freedom and equality.

What is striking here—and is not only a formal symmetry—is that
neither property nor community can “found” freedom and equality (and
consequently the politics that are deployed around these rights of man
the citizen) without an antithetical reasoning. This is what I will call the
argument of the danger of the opposite excess. It will be said that the
excess of community, the absolute primacy of the whole or the group
over individuals, would be the suppression of individuality, which is why
the relations of freedom and equality must be controlled, measured,
by the principle of the guarantee of property, especially property in one-
self, the property of the conditions of existence. Symmetrically, it will be
said that the excess of property, the absolute primacy of the selfish indi-
individual, would be the suppression of the community. This is why freedom and equality must be defined essentially as expressions of the communitarian being of men, of the institutions in which the community pursues its own realization. As these systems become more complicated, one re-discovers the old dialectic of being and having: this is why the community undertakes to realize itself by means of a certain regulation of property, and property by means of a certain form of community, regulated by efficiency, justice, the general interest, etc.

But above all this dialectic cannot develop without each of the great mediations tending to split, to divide in two. This no doubt has to do with the fact that, initially borne by the convergence of completely heterogeneous social groups and practices, the notion of universal citizenship becomes the object of the confrontation between the dominated and the dominant, and also between violent as well as juridical or legal forms of politics. There is always, be it on the side of the dominant or on the side of the dominated—and without our being able to observe here a general rule, a disposition of forces and ideas established once and for all—the use of violence against the law, against juridical form, but also of legality against violence.

What then happens historically on the top half of the triangle (Liberty, Equality, Fraternity), in fact very early, beginning with the internal conflict of the Convention, simultaneously worked up by questions of war and public safety, but also by the patriotic revolutionary cult and the class differences that led to talk of a new aristocracy and new privileges? The system of Fraternity tends to be doubled into a national fraternity and, before long, a statist, revolutionary, social fraternity wherein extreme egalitarianism finds expression in communism. The meaning of the Nation changes: it no longer means all the citizens in opposition to the monarch and the privileged, but the idea of a historical belonging centered on the state. At the extreme, through the mythification of language, culture, and national traditions, it will become the French version of nationalism, the idea of a moral and cultural community founded on institutional traditions. Opposed to it, on the contrary, the notion of the people drifts toward the general idea of the proletariat as the people’s people, the depository of its authority and its veritable communitarian aspirations. We see this ambivalence clearly in Michelet and above all in Hugo (Les misérables).

What happens symmetrically on the bottom half of the triangle (Liberty, Equality, Property)? There too a scission is at work, which turns
around questions like the right to existence and the right to work. It could be said that there tend to be two ways of justifying the rights of the citizen with reference to property, and thus of thinking the individual as bearer of the values of freedom-equality: either by the property of labor (and especially the appropriation of oneself, of the means of existence, by labor), or by property as capital (whether it is a matter of money capital or symbolic capital, for instance entrepreneurial ability, know-how, etc.). On the ideological level, these notions are astonishingly ambiguous (as we saw a moment ago with “the people”). The capitalist is defined as a worker, as an entrepreneur; the worker as the bearer of a capacity, as human capital. The notion of property can be formally conserved in both cases, just as it appears to be common to ideologies of individualist liberalism and collectivist socialism, which formally agree in saying that what is socially decisive is property, the “commerce” of owners.

We also see that these two manifest contradictions in some sense fused politically very early. From 1789 to 1793, what was dominant was the question of the community of citizens, the problem of fraternity evoked in the complete statement of the Montagnard formula, which, once it was cut down to acceptable proportions, would become the republican motto: Unity, Indivisibility of the Republic, Liberty, Equality, Fraternity, or Death. From 1789 to 1795, and up to the Napoleonic Code, the other contradiction developed, resulting in the symbolic scission between bourgeois owners and egalitarian communists. Throughout the nineteenth century, what I have called the general ideological form of class struggle would develop: not simply the opposition between individual and collective property, labor and capital, but the addition of the two contradictions. The bourgeois camp is both, from an ideological point of view, to say nothing of material interests, one form of property against another and one form of community against another.22 It is liberalism plus nationalism. And in the same way the proletarian camp is a form of property or appropriation—collective, social, or planned appropriation—plus a form of community: precisely communism, which inherits the revolutionary crowds’ ideal of fraternity, and the idea that the only citizens in the proper sense are the men of the people, the workers.23

Can we leave it there? I do not believe so. And this is one of the reasons for what I have called the relative inadequacy of the idea of revolution at the end of the twentieth century, which goes back to its very
origins. The contradictions we have just been discussing are manifest contradictions that have been made explicit for two centuries in the discourses that make up modern, postrevolutionary politics. This is to say that they are perfectly formulated in the language of freedom and equality, or if one likes, in the language of oppression and injustice. But today another type of contradiction or division is increasingly being noted, a division that is very difficult to formulate in this language (or that always bears an irreducible remainder to any formulation in terms of oppression or injustice). At least we have become more conscious of its existence. A sign of the times? Perhaps.

I believe that there are fundamentally two of them—which those of us who were engaged in politics in what used to be called the “revolutionary party” encountered as insurmountable obstacles to the formation of a community of free individuals struggling together against social inequalities. These contradictions or divisions of a completely different type, generally repressed out of political consciousness and discourse or mentioned only with shame, put in question the very notion of the individual, the model of individuality or, if one likes, “human nature,” that is, the very possibility of presenting the individual in general as an example of the human race. They are the division of the sexes (not only as a division of social roles, but more profoundly as absolute difference, the duality of man and woman that divides the human species, and with it any community, into two dissymmetrical halves without a mediating term) and the division between body and mind (this Platonic opposition of two sides of individuality, which Spinoza, to the contrary, tried to think as identical, and which is found from one end of the social field to the other as the division between manual and intellectual labor, technique and reflection, execution and knowledge, sport and art or culture, etc.).

No doubt it is a matter of inequalities, or more exactly of the foundations constantly invoked in order to institute inequality, and by the same stroke to limit or annul the freedom of an entire class of humanity. And yet behind these inequalities there is a kind of difference that cannot be overcome by the institution of equality, which does not mean that here too equality is not the formal condition of liberation, but that it remains purely external. And this difference itself is, in both cases, extraordinarily equivocal, combining a biological aspect with a historical aspect, a double articulation of individuality with the body and with language, a real aspect and an imaginary aspect. These are differences par excellence
that announce the reality of the imaginary in human experience, and in this respect pose the question of the internal limits of politics, or of a transformation of politics that includes not only man the citizen, but man the subject of fantasies or desires.

Here, it seems, there is no political solution purely in terms of equaliberty, even if this is a necessary condition for the recognition of rights: neither the separation of groups nor their fusion. (The myth of the total man, manual and intellectual, is worth about as much as that of the androgyne—and, moreover, they are related.) These are repressed contradictions that haunt modern politics. In this sense, even if they are constantly presented as external to it, they are constantly present in the hollow of its discursive, legislative, organizational, and repressive practices. Perhaps we can date the beginning of their real enunciation only from today, to the extent that the inadequacy of specialized discourses on the family, education, and professional training is now becoming manifest.

Perhaps it is only now that we can ask about the mutation of politics that would be implied by the recognition, itself political, of sexual difference and cultural or intellectual difference, in their very difference—that is, an effective extension of the right to politics to women and to manual workers and other “uncultured” or “uneducated” people, abolishing the de facto necessity whereby they find themselves represented by others, or led by others in the political sphere. And yet these political differences have been constitutive of the political institution, as the sphere of government or the polity, from its origin, and they have been explicitly placed in question since the French Revolution, be it in the form of women’s claims to citizenship or the apparently contradictory forms of rights claims to education and challenges to the power of intellectuals, spokesmen, and technicians. The two centuries that have elapsed since 1789 then appear to us at once as the age of the suppression of difference (to the home, to the school) and its irresistible expression.

What these two differences have in common negatively is that they are other than inequality, even if they are always already inscribed in a relation of power. More precisely, they are inscribed in a relation of collective inequality (men and women, elites and masses) that is reproduced, exercised, and borne out as a personal, singular relation, individual to individual, whereas modern society has formally abolished all dependence of one man on another. This is why they always appear backward
with respect to the notion of an inequality of rights and status: short of or beyond the social, in the contingency of individualities or the necessity of transindividual destinies. What they have in common positively is that they have to seek their liberation as a right to equality in difference, that is, not as the restoration of an original identity or the neutralization of differences in the equality of rights, but as the production of an equality without precedents or models that would be difference itself, the complementarity and reciprocity of singularities. In a sense such a reciprocity is already virtually included in the proposition of equaliberty, but—paradoxically—it can only claim to be inspired by it on the condition of reopening the question of the identity of man and citizen, not in order to regress toward the idea of citizenship subordinated to anthropological differences (as in the ancient idea of citizenship), but in order to progress toward a citizenship overdetermined by anthropological difference, explicitly directed toward its transformation, distinct from both an institutional naturalization and a denial or formal neutralization (which in fact functions as a permanent means of its naturalization).

For all that, these two differences are not similar. The power they institute (and that appears as the universal expression of a transindividual force or power) does not subject the same individuals, or rather the same “classes” of individuals, and above all it does not subject them by the same means, even though it constantly operates additively.25

Thus, it could be shown that a monopolization of knowledge (or masculinization of knowledge, the institution of specifically “male” knowledges) is always present in the inequality of the sexes, to the extent that it concerns not only private, domestic behavior but also public behavior (or rests on a political constraint that makes it return to the private domain), and more fundamentally because it is inscribed in the everyday violence of a voice that dominates bodies. Equally, it could be shown—though with more difficulty, either because the mechanism is more deeply repressed or because in our contemporary technological societies the speech of the uneducated is harder to hear than that of women—that the political monopoly of instruction, expertise, and meritocracy always presupposes an implicit model of masculine domination in very ambiguous forms: the repression of “women’s issues” outside the field of recognized intellectual disciplines, and above all the compensation for the “intellectual” power that some men exercise over others with the “corporeal” power that these intellectually dominated men exercise over “their”
women. But all this does not change the fact that in the last analysis the difference that forms the basis of these powers cannot be reduced to a single model.

With sexual difference we are dealing, as it were, with a supplement of singularity that prevents the same content from being attributed to the freedom of men and the freedom of women, and consequently either of them being reduced to the model of a common subjectivity. We can desire, as a condition of their freedom, that women should have equal rights, equal access to knowledge, the professions, and public responsibilities (which supposes a more or less profound transformation of the conditions in which they are exercised). We cannot think that they will then act as generic individuals. Equality here is not the neutralization of differences (equalization), but the condition and necessity of the diversification of freedoms.

On the contrary, in the inequality of knowledge, which is at once the differential reproduction of a mass and an elite, the use of educational institutions to compartmentalize and hierarchize social activities, and the legitimation of the “intellectual” way of life (even if only purely formally, outside the acquisition of any real knowledge) as a disposition and predisposition for authority to the detriment of the “manual” way of life, we are instead dealing with a subtraction of singularity. If we want to admit (here again, with a philosopher like Spinoza) that individuality is a function of communication, and that communication develops most not between predetermined social types or roles but between singularities, between practical experiences, each of which can learn something from and teach something to others, we must recognize that, paradoxically, the expansion of knowledge as a support of power is de-individualizing. The universality of the function of knowledge in modern societies, the positive condition for the constitution of a common language of politics (and also its secularization), is paid for by a restriction of the real possibilities for communication—the institutional form of which is precisely the specialized monopoly of communications. From this perspective, it is inequality that creates practically irreducible difference, but struggles against inequality can lead neither to the annul-ling of differences nor to their democratic reproduction in the form of a generalized selection of individuals. For greater freedom to develop, both for individuals and for communication itself, it would be necessary to institute at the same time a neutralization and a redistribution of knowl-
edge, an equivalence of experts and the uneducated with regard to the right to expression in public space and a symbolic dissociation of the institutional equivalence between intelligence and knowledge. Truth be told, this egalitarian requirement has always been the aporia of the political utopias of intellectual emancipation.

This asymmetry between sexual difference and intellectual difference is inscribed within the relations among the key institutions of modern politics as concrete politics, namely, the family and the school. This allows us to understand why, if the family (a constitutively inegalitarian institution) plays a weak, “private” role in the neutralization of intellectual differences as a source of power between parents, the school (a formally egalitarian institution) plays a comparatively large, public role in the liberation of women, albeit at the price of constantly tending to neutralize sexed subjectivity. The counterpart of this role is, obviously, the incomparably greater difficulty of relaxing the hold of male power for uneducated rather than educated women—despite the possibilities at times offered by work, unionism, and even organized politics.

From these considerations I will draw the following hypothesis about the inscription of anthropological differences in the topography of equaliberty. No doubt one can maintain that sexual difference as well as intellectual difference is a function of community, whose conflictual character virtually contains the principle of the rupture of its unity, which at its limits manifests its “impossibility.” And this contradiction reproduces itself in a circle. Is it because communication between men and women, or between intellectuals and manual workers, is in a sense impossible, that it must be imposed by an increase of communitarian organicity—a social division of roles, tasks, and honors that necessarily takes the form of inequality or power? Or is it because organic, identitarian community (society, the state, the nation, a class) confines equality within strict limits within which gender inequality and intellectual power can subsist or are even given free reign so that communication between singularities proves to be at the limit impossible? Here too, however, the analogy covers a dissymmetry. In effect one can, it seems to me, maintain that sexual difference has a privileged relation with respect to the institution of the community, whereas intellectual difference takes all its critical significance for politics from its relation to the institution of property.

Once all human individuals are deemed citizens, free and equal in rights, and virtually demand the effectiveness of those rights, the division...
of sexual roles directly becomes necessary in order for society to be able
to represent itself as a community (and not as a juxtaposition of unconnected individuals). One can certainly posit that every historical community, an institution that is at once both real and imaginary, rests on the relation between sexes (that is, on kinship, the division between male and female tasks and roles, the determination of the symbolic character of each as a repression of bisexuality). But the modern political community, not only because it is a state but because it is a state whose juridical structure is founded on the proposition of equaliberty, is never, as such, a sexed community. What underlies it, as a national community, is therefore not the simple relation of the sexes (except metaphorically, it is not an extended family), but practical and ideological sexism as a structure of the internal exclusion of women, generalized to the whole society. It is thus the unstable equilibrium of the denial and the universalization of sexual difference. Thus, the affirmation of this as political power becomes the most sensitive point of the crisis of the community (or the communal identity crisis).

On the other side, intellectual difference maintains a privileged relation with property as a social mediation. It could be shown that the concept of an intellectual capacity (in the broad sense, including knowledge and will) has always been included in the representation of a human appropriation of things, precisely as (ontological) difference between a human personality and a body, which is itself only a thing. Its trace could be found a contrario in the constant legislation that identifies intellectual tutelage or derangement with an incapacity to possess. To possess things one must, in effect, first of all possess oneself, and this possession is nothing other than the generic concept of intelligence. Yet, when, in opposition to community, property—individual or collective—becomes the mediation of equality and freedom, the guarantee of individual humanity and the condition of citizenship, the meaning of capacity and incapacity changes. Here again, it leaves the purely private sphere and acquires a public value. All property is inscribed in the codes and equivalences formalized by the knowledge of political economy; every individual is a proprietor (and measured by his or her property) insofar as he knows the theoretical and practical science of exchanging values, or is (re)cognized by it (that is, is himself or herself inscribed in its account books). Individuals or classes relate to their being or having only through the in-

From Equaliberty by Ingram, Étienne. DOI: 10.1215/9780822377221
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This process intersects with class struggle. We know that the more capital is concentrated, the more (real or supposed) technical competence becomes the condition of its appropriation at the expense of principles like inheritance and personal activity. We can also ask ourselves if this evolution does not correspond to a complete reversal of people's property in things into property in people (and citizens) by the signs of value in motion (that is, money or its accumulation)—a description that is even more relevant for the capitalist than for the salaried employee. Correlatively, we know that the result of the exploitation of the salaried workforce is increasingly the impersonalization of the worker as part of a de-intellectualized mass, and that its condition is the accumulation of the intellectual power of production and exchange outside the activity of individual workers (today, in the self-reproducing ensemble of computer hardware and software). In the deepest layer of his analysis of the property relation as a relation of exploitation, Marx precisely identified this scission between the intellectual and the manual as the point at which exploitation and domination (or alienation) fuse. For the worker whose work (and consequently whose training) is totally de-intellectualized, self-ownership or labor power has become a total fiction. But we must no doubt go one step further and designate the autonomization of knowledge beyond individual intelligence (and thus beyond the figure of the intellectual) as the opening of a potential crisis of any possibility for the individual or the collective to be represented as the proprietor of something or of itself. Then we are no longer dealing only with a mechanism for the division of human nature that practically contradicts the requirement of freedom and equality (and which one can endeavor more or less easily to confine beneath politics, in the economic, the social, and the cultural, all the while exploiting it to perpetuate the monopolies of political representation). Here what we have is a dissolution of the political individual. The rights of the citizen are deprived of their substance insofar...
as they must be exercised by proprietors, while the question of equality and freedom is led back to its original formulation, without a preestablished answer: Which men are citizens?

Thus, we can suggest that a second configuration, coming slowly to light, can be deduced from the first one, and that it is like its underside or the return of its repressed:

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<th>Men // Women</th>
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<td>(intellectual // manual)</td>
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<td></td>
<td>Experts // Uneducated</td>
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Instead of having the mediations for the institution of equaliberty and its ideological foundation, this topography has points of uncertainty for the preceding mediations and foundations, which are at the same time the points where anthropological difference causes modern individual or communal identity to vacillate. At these points, precisely the demand for equality and freedom (or equaliberty) is greatest, but the concrete forms (whether juridical or practical) for satisfying it are today the most aporetic. They are thus, par excellence, the sensitive points for remaking politics.

In situating these points in relation to the universal truth contained in the statement of the Declaration of 1789, we have thus finished setting out the historical and ideological dialectic of equaliberty, which opens onto not an end of history but a question posed in and by history in view of its continuation. This dialectic has allowed us to successively set out:

- the inherent alternative of revolutionary politics (not violence and law, but insurrection and constitution—or, if one likes, to speak with Lenin, the state and the nonstate);
- the post-revolutionary contradiction between the formal institution of freedom and equality and their realization in the
forms of property and community, whose most general form is class struggle (socialism against liberalism, communism against nationalism);

• finally, the anthropological differences that are returning to the political field and thereby producing its current uncertainty: the uncertainty of its language, its subjects, and its objectives.

We could also say that this dialectic allows us to set out successively three ages of politics: an ancient period, in which the concept of the city is subordinated to anthropological differences, to the unequal status of the free man and the slave, the sovereign and the subject, majority and tutelary humanity; a modern period, in which the concepts of man and citizen are virtually identified, opening the right to politics to all humans; and finally a postmodern period, in which the question is posed of going beyond the abstract or generic concept of man on the basis of generalized citizenship. Let us note here, however, that if these ages succeed or engender one another, they do not supplant one another like the scenes of a play. For us, and consequently in our relation to the political question, they are all still present in a disunified totality, a non-contemporaneity that is the very structure of the current moment—which means that we are dealing simultaneously with the state, class struggle, and anthropological difference. Our task is to construct practical conduct on all these levels at once, without being able to synthesize them. Yet this does mean that we are completely deprived of guiding threads. At the hinge between ancient and modern politics, we have the de jure fact implied by the revolutionary rupture: the proposition of equaliberty and its effect of universal truth. At the hinge between modern politics and the politics that is in the course of being born within and against it, we have a problematic of remaking: How do we move from universal truth to singular truth, that is, how do we inscribe the program and the name of equaliberty within singularities? From the fact to the problem there is not a continuity, a simple progression, still less a deduction, but there is necessarily a connection, since without the fact the problem could not even be posed.
CHAPTER
HANNAH ARENDT, THE RIGHT TO HAVE RIGHTS, AND CIVIC DISOBEDIENCE

Every great oeuvre has its history, internal and external. It reflects an intellectual development that sometimes includes ruptures. It responds to historical changes that force it to reorient itself. We could imagine that this is particularly so in the case of a philosopher like Hannah Arendt, who, trying to make intelligible (to herself) that political action deals with the unpredictable, the new, confers a central function on the category of the event. More than any other contemporary thinker, we are tempted to say that she never wrote the same book twice, nor any two books from the same point of view. But this does not mean that we are not dealing with strong continuities, the recurrence of insistent questions, on which the expansion of her philosophical horizon and displacements of her analysis precisely depend. It is based on this conviction that I will take elements from moments in her work that are very far apart, inscribed in different contexts and heterogeneous styles—history, speculative reflection, politically engaged essays, journalism—in such a way as
to reconstruct what seems to me to be a central problem (perhaps the
central problem) for her: that of the politics of human rights and its foun-
dation, or rather its absence of foundation, its unfounded character.

A HIGHLY PARADOXICAL CRITIQUE OF THE RIGHTS OF MAN

Where does the persistent difficulty Arendt’s discourse on rights, at least
from a philosophical point of view, come from? First of all, it seems to
me, from her combination of one of the most radical critiques of their
speculative anthropology, and thus of the classical theory of human
rights as a foundation of the juridical edifice and corresponding political
practice, with an intransigent defense of their imprescriptible character
(at least for some of them), which practically identifies their neglect with
a destruction of the human. How is it possible at the same time to reject
the idea that there are fundamental human rights (as well as the majority
of our democratic constitutions and universal declarations that postulate
their anteriority and primacy in the normative order) in theory and to
place an intransigent politics of the rights of man at the very heart of the
democratic construction? How is it possible to negate on one side what
one seeks to put into practice on the other?

The discourse Arendt develops in what is, at least in appearance, her
most systematic philosophical treatise, The Human Condition (1958), does
not make the task any easier—quite the contrary. The word “condition,”
which figures in the title, is the exact antithesis of “nature.” It doubly
repudiates any metaphysical or speculative theorization of human na-
ture. On the one hand, it does so by reiterating in its way the proposition
announced by Marx in the sixth thesis on Feuerbach: there is no such
thing as a universal or formal human essence housed in each human in-
dividual (for example in the modality of a cogito), but only, if one can put
it this way, a plurality of human individuals, and thus a plurality of more
or less conflictual relations among them, which are constitutive of their
common “world.” On the other hand, this time at the antipode from
Marx, it does so by allowing the deeply alienating conflict to be named
that develops between two sets of conditions: those that could be called
natural, since they concern the reproduction of life, and those that could
be called political (or civic), since they concern the formation of a public
space, where the common is recognized by the plurality of human beings
as their end. Arendt sees, as we know, a typical characteristic of moder-
nity and of the alienation proper to it (alienation from the world, and not just from the self or the subject) in the fact that the growing technicization of processes for reproducing life in “mass society” allows humans to represent reproduction as their activity par excellence, and to substitute this for the pursuit of the good life—that is, the construction of political relations based on the irreducibility of each person’s position. Paradoxically, the development of growing artificiality thus tends to naturalize the political domain at the same time that it socializes the world.

To put it in Derrida’s terminology, the counterpart of such a radical alienation seems to be the task of inventing a cosmopolitics “to come” as the sole modality of emancipation that offers humanity the means to reconstruct, differently, what has been lost in its history. But we must at the same time be careful here not to contradict Arendt’s many warnings against any idealization of the past, including the Greek past, which is nevertheless the origin of our concept of the political, and the epistemological lesson implicitly contained in her historical pessimism and her reticence about prophesizing the future.

We are thus led to reformulate the question posed by this concept of the politics of human rights, which links different moments of her practical philosophy, from the analysis of the tragedies of contemporary history to the republican ideal of the vita activa, by giving it the form of the most brutal possible dilemma: how to hold together an extreme form of institutionalism, explicitly connected to the critique of theories of natural right we can find in Burke, and a critique of world-alienation, which is hard to imagine without reference to an idea or model (Urbild, Vorbild) of the human, precisely by reversing the anthropological and metaphysical presuppositions of the Enlightenment?

ARENDT AND HER CONCEPT OF THE POLITICAL

It will be said that the escape from the verbal embarrassment is not so difficult, and can be found in the author’s contemporary commentary in the essay On Revolution: it has in fact become a commonplace that for Arendt the rights of man cannot be conceived as an origin to be rediscovered or restored (as was postulated in their name by the revolutions of the Enlightenment), but only as an invention (one of the meanings of auctoritas) or a continuous beginning (archē). It is by following this thread that we can most readily identify Arendt’s trace in a whole current of
contemporary political philosophy (or nonphilosophy, even “antiphilosophy,” which rightly shares her concern with demarcating itself by means of a critique of the originary, conceived in historicist as well as transcendental terms). By criticizing the classical revolutionary ideologies and simultaneously vindicating the “lost treasure of revolution,” Arendt distanced herself from the explicit or latent representation that makes revolution a restoration, the rediscovery of a birthright or an originary state of freedom and equality while by the same stroke making constitutions essentially systems of guarantees for preexisting rights (as Locke had perhaps announced more perfectly than anyone else). She sought to insist, to the contrary, on the idea that revolutions institute or, strictly speaking, invent what is human, including the principles of reciprocity and collective solidarity, and for this reason exert a durable effect or inaugurate a permanence in the life of republican political systems. They therefore do not derive from a foundation and do not derive their legitimacy from their universal, a priori character; rather, they introduce the universal into history. Philosophically, nothing is opposed to what we call the “groundlessness” (or the absence of foundation, Grundlosigkeit) of this way of articulating the practical and historical character of human rights, which precisely reverses a certain way of founding the political on a metaphysical essence. It is in fact such an idea of groundlessness that alone can authorize the identification of human rights with a practice (or a pure activity)—at the price, no doubt, of recognizing their historically contingent or aleatory character.

I endorse this interpretation, which has become classic, without reservation, but I believe it is incomplete. We must take a further step to expose what gives Arendt’s thesis its extreme radicality. Following the dialectical model of the coincidentia oppositorum, she is not content to make the institution the source of positive law but sees it as a construction of the human as such, and pushes the idea of a politics of human rights so far as to make dissidence—in the specifically modern form of “civic disobedience”—the touchstone of the founding reciprocity of rights. She is therefore in no way “historicist” (or “relativist”), even if she presents the construction of systems of individual rights as entirely immanent to history. And, while legitimizing the notions of power and authority, she finds a means of lodging a paradoxical principle of anarchy—of “nonpower” or the contingency of authority—at the very heart of archè, or the authority of the political. We are thus led to reinterpret...
the absence of foundation or groundlessness of rights not only as a logical thesis, but as a practical thesis that is itself political, even if in an essentially antinomic mode. Every political construction implies the combination of a contrary element (which we could call “unpolitical”), and thus—at least virtually—the permanent recreation of the political out of its own dissolution, and in the end the practical impossibility of separating once and for all the construction of the human through political institutions from its destruction or deconstruction (which results specifically from the historical collapse of institutions, but sometimes also from certain aspects of its most everyday, banal operation). For this combination of collective action with its own opposite is, in fact, the political itself.

I do not conceal from myself, of course, the fragility and imprecision of these formulations. This is why I would now like to return to Arendt’s texts (or at least some of them) to see if we can find in them such a dialectic of opposites that would coincide with her own concept of the political, her Begriff des Politischen. To begin, it will depend only be a matter of naming or locating the problems in the hope that this basis will be sufficient to expand the discussion to other aspects of Arendt’s oeuvre. My point of departure will be the relation between the now-famous expression “right to have rights” and the critique of the nation-state, and what I call “Arendt’s theorem”—its position against the current of modernity when it comes to the relation between man and citizen. From there I will return to the highly particular way she lays claim to the Greek model of democracy, or rather (for she never stops reminding us of how important the original terminology is here) the concept of isonomia—which is not, contrary to what we still sometimes read, equivalent to “democracy” (which had strongly negative connotations in Greek debates), but rather the origin of a series that passes through the Latin translations aequum ius and aequa libertas and arrives at our “equal freedom”—not a regime, but the principle or rule of the constitution of citizenship. This detour will allow me finally to return to how Arendt uses antinomy, or develops an “unpolitical” conception of the political. I will insist in particular on the anti-theological modality of this usage, which has to be associated with the depth of Arendt’s moral and aesthetic connection to Greek tragedy, and consequently with a notion of law that is systematically detached from the heritage of sovereignty, even under positive and secularized juridical forms.

Hannah Arendt

From Equaliberty by Ingram, Étienne. DOI: 10.1215/9780822377221
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What, then, is what I called Arendt’s theorem, and what is its relation to the notion of the right to have rights? We know that in the last chapter of part 2 of *The Origins of Totalitarianism, “The Decline of the Nation-State and the End of the Rights of Man,”* Arendt developed a provocative thesis based on her observation of the tragic consequences of imperialist wars, which resulted in the appearance of masses of stateless refugees and superfluous human beings. The common characteristic of all these humans, who are in a sense “too many” but remain physically present in global space, is that they are progressively deprived of all personal protection by the destruction or dissolution of the political communities to which they belonged—despite the efforts of international organizations created precisely in an attempt to respond to this unprecedented situation—and permanently threatened with elimination. This must be seen as a perverse consequence of the history of the nation-state, which served as the historical framework for the universal proclamation of certain fundamental rights of the person, but also rigorously identified belonging to a community with possession of a nationality or the status of a national citizen. This situation refuted de facto the declared ideological foundation of the nation-state (at least in the democratic and republican tradition), whereby the rights of the (national) citizen appeared as a secondary construction, instituting or recognizing preexisting natural rights. In turn, human rights gave the political institution (in practice, the state) that transformed them into civic rights a universalistic principle of legitimacy—not in the sense of *extensive* universality, potentially including all humanity, but, much more significantly, in the sense of *intensive* universality, which corresponds to the absence of internal discrimination and the equal freedom of nationals. Under these conditions, we would have to admit—with practically the whole modern juridical and philosophical tradition—that human rights have a broader extension than civic rights. The former are logically independent of the latter and thus provide a basis for recognizing the dignity of people who do not belong to the same political community but only, so to speak, to the natural (or essential) community of human beings. This is why their protection would have to be organized internationally, since national solidarity no longer applies—especially in wartime, when national communities enter into conflict and exclude one another.¹⁵

But in practice the opposite happened: when the civic rights and corresponding guarantees are abolished or historically destroyed for whole
masses of individuals, so are their human or personal rights. Arendt speaks here of a “bitter confirmation of Burke’s critique” of the rights of man in the name of a principled anti-individualism and the primacy of the historical institution over transcendental universalism. What we are offered here is a typical *elenchus* (or *reductio ad absurdum*), where the impossibility of the consequence refutes the theoretical premise. This is what I call Arendt’s theorem, in order to emphasize that her argumentation does not only have empirical value but significance on the level of principle. It is by no means a matter of maintaining that since the consequences of war and imperialism are incompatible with the universalistic ideological claims of nations, we must find an equally practical compensation or counterweight (for example, an internationally recognized humanitarian politics), which would mean that at the level of principles or moral ideals, human rights could still be conceived of as the foundation for civic rights, whose evolution contradicted them in fact. The direction of the argument is exactly the reverse, and this is what makes it so provocative (a bit like how the arguments of the ancient Sophists appeared as provocations against reason and tradition). If the abolition of civic rights is also the destruction of human rights, it is because in reality the latter rest on the former and not the reverse.

Here there is an intrinsic reason, inherent in the very notion of rights and their relational character—or, better, in the idea of reciprocity that is inherent in them. Rights are not properties or qualities that individuals each possess on their own, but qualities that individuals confer on one another as soon as they institute a “common world” in which they can be considered responsible for their actions and opinions. From this comes the crucial importance of the formula “right to have rights”: the right to have rights is precisely what the stateless, and more generally excluded individuals and groups who are multiplying in contemporary societies, are deprived of. And among the rights individuals are thus deprived of, we must of course include the fundamental political right to demand or claim their rights, the right to petition in the classical sense. The reciprocal thesis that follows from this is that the first right is precisely the right to have rights, taken absolutely or in its indetermination (I will return to this point), and not some particular statutory right. It is in this sense a matter of a right without an a priori foundation, as contingent as the political community itself—or, better still, the existence of a community of political actions, the simultaneous engagement of individuals in common

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political action. Paradoxically (at least from the perspective of a metaphysical doctrine of foundations), this right to have rights is at once absolute and contingent. It is what in modern history the nation-state, in a violently contradictory way, has alternately guaranteed and suppressed, not only for distinct groups (for example, for the citizens of colonial powers and their colonial subjects) but sometimes for the same people (thus, in Europe, for Jews emancipated in the Enlightenment and denationalized and then exterminated in the twentieth century, but also to varying degrees for other categories of stateless persons).

To gauge the full weight of this proposition, we must turn to the next section of *The Origins of Totalitarianism* and its interpretation of how the totalitarian state became exterminist. Here Arendt draws all the consequences from the fact that, on the universalistic (and thus humanist) conception of citizenship claimed by nation-states, there was at bottom no means of excluding someone (or some category) from the enjoyment of civic rights other than excluding them from humanity itself. Let us recall that what she is discussing here is not the situation of foreigners insofar as they find themselves already (or from a certain point, following a rectification of borders) outside the political territory of the state, but the ongoing production of the excluded within the state itself—a process that begins with the deprivation of civic rights, continues with the systematic destruction of the moral personality of individuals who command the respect to which they have a right (and which they themselves bear), and culminates in industrialized mass murder that destroys individuality, or the “human face,” as such. So we understand why Arendt’s institutionalism has most deeply nothing to do with the long tradition that extends from Burke and Bentham to legal positivism. The idea implied in Arendt’s critique of human rights is not that only institutions create positive rights (along with obligations and sanctions), which would mean that outside institutions the notion of right has no meaning, individuals have no specific rights, only natural (biological, psychological, even cultural, etc.) qualities. Nor is it, despite certain appearances that are used to include Arendt in a neoclassical current that would also include Leo Strauss, a return to the ancient idea of the *zoon politikon*. It is a much more radical and philosophically opposite idea: outside the institution of the community—not, of course, in the sense of an organic community, another naturalist, symmetrical myth, but in the sense of the reciprocity of actions, what Kant called “commerce” or “reciprocal action”—there
are no human beings. Humans do not exist as such, and thus they are not, strictly speaking.19

Nothing is therefore more erroneous than reading Arendt as if she sought to abolish or relativize the connection between the idea of humanity and that of rights in general, for it is instead a matter of reinforcing it. Arendt does not seek to relativize the idea of rights (or human rights) but, to the contrary, to make it indissociable and indiscernible from a construction of the human that is an internal, immanent effect of the historical invention of political institutions. We must say that strictly speaking human beings are their rights, or exist through them. But this notion covers over a profound antinomy, for we are forced to note that the same institutions that create rights—or, better still, by means of which individuals become human subjects by reciprocally conferring rights on one another—also constitute a threat to the human as soon as they destroy these rights or become an obstacle to them in practice. This is made very clear in the history of the nation-state (and its imperialist, colonialist, and exterminist derivatives), but it is certainly also true of other political forms constituted in history—including the Greek polis, whose privilege does not reside in some immunity from this tragic contingency but perhaps from the fact that its way of presenting and justifying exclusion, which was not that of modern universalistic discourse, was much less ideological or dissembling.

**ARCHÈ AORISTOS**

We thus find ourselves on the threshold of the questions posed by recourse to the notion of isonomia. This is precisely its first meaning: an institution by which individuals confer rights on each other in the public sphere, starting with the right to speak on a footing of equality (isègoria, parrèsia), which allows them to claim or legitimate all the others and is thus the concrete anthropological figure of the right to have rights. Be it in *The Human Condition* or in *On Revolution*—in reality two complementary books written during the period that follows the Hungarian revolution against Stalinist dictatorship and ends in the triple catastrophe of the 1960s: the U.S. war in Vietnam, the global student revolts of '68, and the Six Days War between Israel and the Arab countries, leading to the occupation of East Jerusalem and the Palestinian territories—she never stopped insisting on the typically “sophistic” idea that it is not the
case that social and political forms replace a natural human freedom and equality with such and such a degree of inequality and tyranny, but, to the contrary, that the institutions of the city, insofar as they rest on isonomia, give birth to equality in the public sphere and by the same stroke to freedom in relations with power and authority in place of preexisting hierarchy and domination. Not only is the institution the origin of a second nature. It is not preceded by any real first nature, or only by an indetermination and a possibility that remains virtual.20

Here a philological and philosophical episode takes place that is at once subtle and rich in consequences. In both The Human Condition and On Revolution, Arendt does not refer initially to Aristotle’s classic definition of citizen (politès) in terms of the reciprocity of command and obedience (archein and archesthai, whence proceed the places of the archôn and the archomenos), but to the (undoubtedly fictional) episode reported by Herodotus in book 3 of his Histories, concerning a debate among the Persians as they chose an heir and at the same time decided the form of government after the murder of the imposter who had taken power after the murder of Kambyses, following an aristocratic plot.21 Let us note first of all that the same episode plays a crucial role for Rousseau, who could be called Arendt’s intimate enemy in her project of redefining the political against the tradition of political philosophy, in the negative moment of his critique of inequality prior to trying to imagine a constitutional order analogous to our lost nature.22 In the story, each of the three Persian princes who could be named to refound the state (Otanes, Megabyzes, and Darius, who is chosen in the end, definitively setting Persia on the opposite course to that of the Greek city-states) makes a plea for one of the typical regimes: isonomia, oligarchia, and monarchia.23 The first is defined as “government of the mass of the people” (plèthos archon), in the sense, first of all, that “affairs [of state] are placed at the center” (es meson katatheinai ta prègmata), and then that offices are drawn by lot with the obligation to account for how they are discharged, with the “public” retaining the say in the last resort (bouleumata panta es to koinon anapherei). After the Persian nobles reject this extreme solution (a kind of anticipatory night of August 4), Otanes, in the form of a personal claim, delivers the formula that expresses his political ideal: oute archein oute archesthai ethelô, I want neither to command nor to obey.24 Clearly, Aristotle (and, following him, the tradition of political philosophy centered around citizenship) never saw
the definition of civic virtue in such a formulation: for there to be citizens, there must be an *archè*, a principle of authority, even if that authority is divided or circulates among the citizens. Otanes’s principle, taken literally, is thus an anarchist principle. When it is taken into consideration (by Arendt or others), we are obliged to ask ourselves what place the anarchist moment has in a determinate conception of the political.

What I am maintaining here is of course not that we should classify Arendt herself as an anarchist or that she did not differentiate between democracy and anarchy. (She defended herself on this charge, in particular in her essay “On Civil Disobedience,” to which we will return, and in the German interviews she gave at the end of her life.) It is rather that she deflects all positivism by including, at the origin of political institutions—or, better, in the indeterminate neighborhood of this origin—an imprescriptible moment of an-archy that has to be constantly reactivated precisely if the institution is to be political. The construction of the political, and thus the definition of the citizen, can thus only be antinomic. No doubt disobedience and obedience to the law are not equivalent; they cannot put on the same level by institutions. But the fact is that without the possibility of disobedience, there is no legitimate obedience—a thesis that does not refer (as in classic formulations of a right of resistance) to an imprescriptible and inalienable human nature, but to the pragmatic experience of the birth, history, and decadence of democracies (and “constitutions of liberty” in general).

This thus leads directly to what Arendt argues in her essay on “civic disobedience,” provoked by the debates around the Vietnam War and the dissidence it set off in American society. Her thesis, as we know, is far from simple. It relates in particular to the relation she maintains with contemporary events that serve as a framework and within which she tried to intervene in a specifically theoretical way. It is not a matter of forging arguments for or against this policy, even if Arendt in fact takes sides, but of returning on the basis of conjunctural problems to the republican principles at stake, and by the same stroke—taking note of the contingency of the history to which they belong—correcting or reworking our understanding.

Arendt does not give the name “civic disobedience” to simple objections of individual conscience based on a subjective reaction to the abuse of power (or what is perceived as such). She speaks of “organized
minorities” and even of “masses” (if not of mass movements) that present problems for public order and the recognition of state power. But neither does she aim at the simple fact that a regime gripped by a legitimacy crisis has to face phenomena of insubordination and growing illegality. In a sense it is just the opposite: it is a matter of collective movements that, in a highly determinate situation with objective limits, abolish the vertical form of authority in favor of a horizontal association so as to recreate the conditions of free consent to the authority of the law. It is thus a matter, in the end, not of weakening legality but of reinforcing it, even if this way of defending the law against itself (or against its discretionary application by the government, the administration, the magistrates) can only be legally considered illegal, even criminal—at least from the classic institutionalist perspective for which there can be no difference between the legal order and the state order.

What is particularly striking in her analysis is her insistence on the idea of the risk civic disobedience implies. What is at stake is not the legal risk that is run (the punishment logically implied by breaking the law or disobeying the constituted authorities), which goes without saying, but the political risk—that is, of an error of judgment on the situation and the relation of forces that constitutes it, such that the aim of recreating the continuity of the politeia or the conditions for the existence of the active citizen could very well turn into their opposite, by a ruse of reason or rather of history, symmetrical to that of Hegel, resulting in their definitive destruction.

It is striking that here Arendt again cites Tocqueville’s notion of “dangerous freedom” and refers to the “perils of equality” that are inseparable from democracy. These ideas are at the center of the political dilemma inherent in movements of dissidence and civil disobedience, caught between the authoritarianism and conservatism of the state and the possibility of an essentially totalitarian internal degeneration:

No doubt “the danger of civil disobedience is elemental,” but it is not different from, nor is it greater than, the dangers inherent in the right to free association, and of these Tocqueville, his admiration notwithstanding, was not unaware. . . . Tocqueville knew that “the tyrannical control that these societies exercise is often far more insupportable than the authority possessed over society by the government which they attack.” But he know also that “the liberty of association has become a necessary guarantee against the
tyranny of the majority,” that “a dangerous expedient is used to obviate a still more formidable danger,” and, finally, that “it is by the enjoyment of dangerous freedom that the Americans learn the art of rendering the dangers of freedom less formidable.” . . .

We do not need to go into the old debates about the glories and the danger of equality, the good and the evil of democracy, to understand that all evil demons could be let loose if the original contractual model of the associations . . . should be lost. Under today’s circumstances, this could happen if these groups, like their counterparts in other countries, were to substitute ideological commitments, political or other, for actual goals. . . . What threatens the student movement, the chief civil-disobedience group of the moment, is not just vandalism, violence, bad temper, and worse manners, but the growing infection of the movement with ideologies (Maoism, Castroism, Stalinism, Marxism-Leninism, and the like), which in fact split and dissolve the association.²⁹

That is to say, it would deprive it of its capacity to gather together an internal pluralism of tendencies into a common dissidence, a distilled model of what could be a society of citizens, a public square. These problems are obviously far from obsolete today.

But the idea of contingency or indetermination (opening the necessity and risk of judgment) that inspires these considerations can also be formulated “in Greek,” for example by retrieving the first definition of citizenship proposed by Aristotle in the Politics, which characterizes it as the bearer of an “indeterminate” or “unlimited” archè, according to the translation we choose of archè aoristos. (But no doubt it is necessary precisely to retain both connotations, especially if we do not want to immediately return this to a simple institutional function, whose content would be participation in deliberative and judicial assemblies, and thus to the exercise of judgment in decisions and accounting, bouleuein kai krinein.)³⁰ This definition—the first of three—is fundamental; it commands the whole logic of what follows. What is more, let us not forget that it is precisely what Aristotle wants to get beyond as quickly as possible, no doubt because of the danger it poses of an uncontrollable oscillation of democracy and tyranny. Nevertheless, it does not disappear in favor of better ordered or better defined notions (especially the second definition of citizenship as the alternation of authority and obedience: archein te
kai archesthai dunasthai) without leaving a trace that is periodically re-activated in the construction of the politeia as the “balanced” or “perfect” regime (as far as is humanly possible) because it neutralizes the inconveniences and cumulates the virtues of the others (in practice just two: democracy and aristocracy). This is the case every time it is necessary to re-activate the foundation of the city in the “domination” or “mastery” (kurios einai) of that which constitutes it (the uniform mass of citizens), which means that every regime is in a sense democratic (or better: a regime cannot be antidemocratic). Arendt’s thesis, by comparison, would be that archè has to again become unlimited or indeterminate (aoristos) in the negative form of civic disobedience, for this annuls the privilege of power, or returns judgment to the side of “whatever” citizens. The problem that is by definition insoluble (as was constantly objected to by Arendt), which she treats as the challenge that is the test of the truth of democracies, is to incorporate into institutions their opposite: it is to institute disobedience as the ultimate recourse in the face of the ambivalence of the state, which makes it the destroyer of liberties and of lives at the same time that it is their guarantor.

HOW TO ESCAPE VOLUNTARY SERVITUDE?

It thus remains to take into account a crucial dimension of this antinomic conception that we can associate with a certain tragic model of the groundlessness of rights. The fact of combining in this way a negative thesis—what I have called Arendt’s theorem—that identifies the construction of the properly human relation with the possibility of a right to have rights in the framework of a political institution that takes the form of a historical community, with a positive thesis, which makes the inclusion of a principle of disobedience or dissidence at the heart of obedience itself the condition of the existence of the political (and thus reverses the idea of the closure, the completeness inherent in it into openness or incompleteness), places any purely legal (or legalistic) understanding of right itself in question. It is opposed to the sovereign tautology: the law is the law (Gesetz ist Gesetz), which also means that its own “nonviolence” (in the highly particular sense Arendt gives this notion) poses a limit to the violence of tautological propositions that descend from theology to the political. What can seem strange here, at least for those with some familiarity with dialectics, is that the negative proposition (reduction
to absurdity or impossibility) in reality announces the sole condition of possibility of the institution, and the content of the positive proposition is the idea of a negative dialectic inherent in the life of the law, which accompanies all its existence to the point at which it is applied (and is not limited to a founding insurrection of the juridical order as a whole or to the exercise of a constituent power destined to be effaced in the constitution it produces).

Arendt did not meet the question of obeying the law and how it is conceived by the dominant positivism (which is organically united with the operation of the modern state, including the rule of law) abstractly, but in the course of what, for historical and personal reasons that are easily understood, was probably the “crucial experience” par excellence in her life as a public intellectual, namely the Eichmann trial. Here the chapter of *Eichmann in Jerusalem* on the “Duties of a Law-Abiding Citizen” must be very carefully reread, noting the effect of generality produced by the formula abstracted from its context, but also without prejudicing the relation Arendt finally establishes between the state of exception and the normality of the Rechtsstaat. The chapter closes with a provocative interpretation of Eichmann’s zealous behavior, which, during the decomposition of the Third Reich, while some Nazi leaders responsible for the Final Solution attempted to “moderate” its operation by negotiating the exchange of safe-passage for groups of Jews slated for extermination for strategic goods (or in hope of personal accommodations with the victors, which they sometimes obtained), led him to demonstrate an intransigent “conscience” in executing the Führer’s annihilation order, running the risk of coming into conflict with his immediate superiors. Arendt shows that we need not see here the signs of particular ideological fanaticism nor of Eichmann’s exceptional cruelty, but an illustration of the inevitable consequences of a certain conception of law and legal obedience constitutive of what she calls in the same work the “banality of evil.”

Three main traits seem to characterize the law understood in this sense: its *universality* (the fact that it cannot allow exceptions, and thus is “without prejudice” in its application); its *imperative* character (the fact that it requires unconditional obedience to the letter, not interpretation or discussion on the part of the citizen whose obedience it prescribes); and its *absoluteness* (this is the most problematic point, for in the case of the legal system of the Third Reich the ultimate source of law was not a constitutional order or the general will of the people expressed through
its representatives, but the very words of Hitler, including those that remained unwritten, which had the force of law, since he was supposed to be the incarnation of the German people). What Arendt described as “the moral, juridical, and political phenomenon at the center of our century” thus resides in taking to the limit certain intrinsic characteristics of juridical formalism that invert it: from a function of the construction (or conservation) of the common world to a function of destruction, without for all that altering its form. Neither the guarantees of juridical form itself (the fact that the law was promulgated according to rules) nor the mechanisms of moral defense—conscience and humanity—were sufficient defenses against this reversal. They presuppose, Arendt tells us, that the problem is solved, for the problem lies in the very significance of the idea of law as command or expression of sovereign will.

And just as the law in civilized countries assumes that the voice of conscience tells everybody “Thou shalt not kill,” even though man’s natural desires and inclinations may at times be murderous, so the law of Hitler’s land demanded that the voice of conscience tell everybody: “Thou shalt kill,” although the organizers of the massacres knew full well that murder is against the normal desires and inclinations of most people. Evil in the Third Reich had lost the quality by which most people recognize it—the quality of temptation. Many Germans and many Nazis, probably an overwhelming majority of them, must have been tempted not to murder, not to rob, not to let their neighbors go off to their doom (for that the Jews were transported to their doom they knew, of course, even though many of them may not have known the gruesome details), and not to become accomplices in all these crimes by benefiting from them. But, God knows, they had learned how to resist temptation.34

What on one side (that of obedience) appears banal, as the sense of duty executed to the letter, thus appears on the other side as “radical evil,” following the critical usage Arendt makes of this Kantian category, simply by pushing the identification of the law with an expression of will whose autonomy can turn from good to evil, to the extreme.35 And, in the same way, voluntary servitude (in which the individual’s “good will” in a way turns against the capacity to judge for himself) appears as the other side
of the totalitarian process of the institutionalized destruction of the human through the production and elimination of superfluous humans.

Here it would be necessary to attempt a genealogy of the expression *Gesetz ist Gesetz* or “the law is the law,” which furnishes the tautology of right with its typical expression. Its origins are murky, even if one could try to trace a line that goes back to certain maxims of Roman law (*dura lex, sed lex*), or, very differently, to debates in the Jewish tradition on obedience to the Torah (which Spinoza recalls in chapter 4 of the *Theologico-Political Treatise*). But the crucial problem seems to reside in the transfer of absolutism to the law itself, which was the work of jurists at the time of the institution of the nation-state, in particular Bodin (and, following him, Hobbes), and thus of the internalization of the sovereignty of the will to the form of law itself, which impersonalizes it or renders it independent of the particular person of the sovereign and the circumstances of his decision.\(^3\) The important point is obviously the fact that in the conception of the law as expression of the sovereign will (be it that of a prince or of the people) that subjects “each and all” to a single juridical order, one is led to do without the subjects’ consent (and consequently their capacity for contestation through representatives or intermediary bodies, as they had been variously preserved by feudal monarchies). At the same time that the state acquires, according to the jurists’ expression, “decisional and procedural autonomy,” the law becomes unilateral, which means that it presumes the subjects’ obedience or makes it into a prior obedience. Not only is “the privilege of the law to be obligatory without the agreement of its addressees”; “the act of sovereignty is imposed unilaterally as soon as one is in a position to distinguish between its authors and its addressees (third parties), who are subjected to a prior obedience. It may be that the law of the Sovereign runs up against the active opposition of certain subjects, but in law it is valid as soon as it is juridically perfect, and thus it is valid if need be against the will of the addressees. It is essentially constraining since the refusal to obey it can imply enforcement.”\(^3\) This holds more than ever as soon as the sovereign is no longer an individual prince but presents itself as the body of the citizens themselves, and thus independently of the modalities of the exercise of legislative power.\(^3\) And this leads immediately to distinguishing between norms that are contestable (acts of magistrates, particular government decisions) and those that must always remain incontestable (laws against which, as soon as they are promulgated,
there can be no appeal—but can only be changed through a new act of sovereignty).\(^39\)

We can now return a last time to Arendt’s analysis (here more than ever “thinking without banisters,” as she claimed) in order to specify at once where the line of demarcation falls between the normal, conservative institution of law and its perverse or criminal institution, if it can even be drawn cleanly, and by which byway or change of paradigm Arendt tried to draw the political (and therefore also unpolitical) consequences of highlighting a grey zone where these two extremes paradoxically meet.\(^40\) Here the notion of voluntary servitude is unavoidable, not because it would bring a solution (which would only be a repetition of the enigma), but because it poses the problem in a radical way—at least if we read it not as a simple empirical description of situations in which varying degrees subjects consent to servitude or subordination—as soon as this cannot be explained simply by relations of forces, but as an interrogation without an immediate or definitive answer on the conditions of possibility, within the very constitution of the will, of unconditional obedience, or the will to obey without which there would be no absolute power.

It is precisely this problem that absorbed Arendt’s attention as soon as she took seriously Eichmann’s reference during his trial to the Kantian categorical imperative and how he applied it to his own “dutiful” obedience. Not only did she not see it as a ruse plain and simple; she related it to what in contemporary jargon would be called a process of subjectification inscribed in a certain way of interpreting the citizen’s relation to sovereignty through the intermediary of the universality of the law.

And, to the surprise of everybody, Eichmann came up with an approximately correct definition of the categorical imperative: “I meant by my remark about Kant that the principle of my will must always be such that it can become the principle of general laws”\ldots He then proceeded to explain that from the moment he was charged with carrying out the Final Solution he had ceased to live according to Kantian principles, that he had known it, and that he had consoled himself with the thought that he no longer “was master of his own deeds,” that he was unable “to change anything.” What he failed to point out in court was that in this “period of crimes legalized by the state,” as he himself now called it, he had
not simply dismissed the Kantian formula as no longer applicable, he had distorted it to read: Act as if the principle of your actions were the same as that of the legislator or of the law of the land—or, in Hans Frank’s formulation of “the categorical imperative in the Third Reich”: “Act in such a way that the Führer, if he knew your action, would approve it” . . . Kant, to be sure, had never intended to say anything of the sort . . . But it is true that Eichmann’s unconscious distortion agrees with what he himself called the version of Kant “for the household use of the little man.” In this household use, all that is left of Kant’s spirit is the demand that a man do more than obey the law, that he go beyond the mere call of obedience and identify his own will with the principle behind the law—the source from which the law sprang. . . . Much of the horribly painstaking thoroughness in the execution of the Final Solution . . . can be traced to the odd notion, indeed very common in Germany, that to be law-abiding means not merely to obey the laws but to act as though one were the legislator of the laws that one obeys. Hence the conviction that nothing less than going beyond the call of duty will do.

Whatever Kant’s role in the formation of “the little man’s” mentality in Germany may have been, there is not the slightest doubt that in one respect Eichmann did indeed follow Kant’s precepts: a law was a law, there could be no exceptions. . . . No exceptions—this was the proof that he had always acted against his “inclinations,” whether they were sentimental or inspired by interest, that he had always done his “duty.”

The expression “household use” that Arendt employs here is not, of course, secondary. It does not simply signify “personal” or “private,” but is opposed to the public use of practical reason that, in the true Kantian doctrine as Arendt understands it, makes the discovery of principles (or maxims) of action conform to the law of the exercise of judgment. This is why invoking the “voice of conscience” cannot serve here as a banister, but finds itself carried away in the same movement of perversion as the categorical imperative itself. But the most delicate point of this interpretation (which tried to think to the extremes the virtualities of a certain concept of law) clearly resides in the proposition concerning the subject’s ideal identification with the legislator. We can illuminate this by
connecting this passage to developments in the third part of the *Origins of Totalitarianism* on the relation between the Leader and the members of the movement:

The supreme task of the Leader is to impersonate the double function characteristic of each layer of the movement—to act as the magic defense of the movement against the outside world; and at the same time, to be the direct bridge by which the movement is connected to it. The Leader . . . claims personal responsibility for every action, deed, or misdeed, committed by any member or functionary in his official capacity. This total responsibility is the most important organizational aspect of the so-called Leader principle [*Führerprinzip*], according to which every functionary is not only appointed by the Leader but is his walking embodiment, and every order is supposed to emanate from this one ever-present source. This thorough identification of the Leader with every appointed subleader and this monopoly of responsibility for everything which is being done are also the most conspicuous signs of the decisive difference between a totalitarian leader and an ordinary dictator or tyrant. A tyrant would never identify himself with his subordinates, let alone with every one of their acts . . .

This total responsibility for everything done by the movement and this total identification with every one of its functionaries have the very practical consequence that nobody ever experiences a situation in which he has to be responsible for his own actions or can explain the reasons for them. . . . The real mystery of the totalitarian Leader resides in an organization which makes it possible for him to assume the total responsibility for all crimes committed by the elite formations of the movement and to claim at the same time, the honest, innocent respectability of its most naïve fellow-traveler.42

There is thus perfect symmetry between the way the Leader, the source of all legitimacy, incorporates the actions of the all the subjects, and the way they internally identify their will, in what distinguishes the “inclinations” and “sentiments” Kant called “pathological” (that is, deriving from the empirical arbitrariness of each) from those of the “legislator,” who is now the Leader.43 But we are also closer to the way that de La Boétie, in his *Discourse on Voluntary Servitude*, questioned the mech-
anism by which, in a perfect tyranny (what he calls the power of One), “the despot subdues his subjects, some of them by means of others, and thus is he protected by those from whom, if they were decent men, he would have to guard himself.”  Here, too, we find a process of identification that makes each individual with a certain power a “little One”—or, as de La Boétie says, a “little tyrant” (tyranneau), an exact replica of the sovereign One:

whenever a ruler makes himself a dictator, all the wicked dregs of the nation—I do not mean the pack of petty thieves and earless ruffians who, in a republic, are unimportant in evil or good—but all those who are corrupted by burning ambition or extraordinary avarice, these gather around him and support him in order to have a share in the booty and to constitute themselves petty chiefs under the big tyrant . . .

. . . For, in all honesty, can it be in any way except in folly that you approach a tyrant, withdrawing further from your liberty and, so to speak, embracing with both hands your servitude? . . . The tiller of the soil and the artisan, no matter how enslaved, discharge their obligation when they do what they are told to do; but the dictator sees men about him wooing and begging his favor, and doing much more than he tells them to do. Such men must not only obey orders; they must anticipate his wishes; to satisfy him they must foresee his desires; they must wear themselves out, torment themselves, kill themselves with work in his interest, and accept his pleasure as their own, neglecting their preference for his, distorting their character and corrupting their nature . . .

. . . What condition is more wretched than to live thus, with nothing to call one’s own, receiving from someone else one’s sustenance, one’s power to act, one’s body, one’s very life?

To return to the situation Arendt describes—which, according to her, constitutes the difference between a tyranny, even an absolute one, and totalitarianism, strictly speaking—it is necessary that, on the one hand, the particular will (“pleasure,” “interest”) of the Leader is replaced by the universality (or, rather, the form of universality) of the law, and, on the other hand, that the process of identification extends to all subjects, in the minimal exercise of power each makes to command himself to obey, or to identify his will with that of the legislator.
We then better understand, perhaps, the dilemma that resides at the heart of the critique of law-as-expression-of-will as a political absolute that runs through all Arendt’s reflections on contemporary history and her attempt to rediscover, with the help of the Greeks—and, more fundamentally, to invent, “without testament”—an interpretation of the institution (of nomos) on which the collective exercise of judgment, which is rooted in freedom of speech and tests itself to the point of risking disobedience, would not constitute just the ideal foundation of legislative power, but the everyday reality of its exercise and control by the community of citizens. The tautology of legal positivism (“the law is the law”) is essentially unstable. Either it requires a supplement of conviction or a sense of duty on the part of individuals, who can—under the extreme historical circumstances of totalitarianism—be transformed into zealous collaborators with the execution of legal crime, or it has to be corrected with all the risks this carries by incorporating a right to disobey into the constitution itself (in the sense of the material constitution, that is, a practice of public institutions, not a normative text). It would, to be sure, be a bit hasty to suggest that each of us, as citizen, only has a choice between becoming a potential “little Eichmann” and transforming himself by resisting authority (into a citizen against the powers that be)—just as it would no doubt be illusory to imagine that a state or a society in which civic disobedience figures among the fundamental rights would in itself be immunized against totalitarian degeneration. And yet, at least as a regulative idea, this is indeed the choice that, according to Arendt, should orient our understanding of the political.