**The Power of the State and the Freedom of the Individual**

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On February 8th, 2018 the *Neue Zürcher Zeitung* gave an article dealing critically with the coalition treaty negotiated the day before between CDU/CSU and SPD the title “More state – less freedom”. Neither the coalition treaty not the criticism is of interest here. I would rather like to direct your attention and your interest towards the connection between state and freedom insinuated in that title. If that title is based on a quasi-physical model of communicating tubes, then the inversion “Less state – more freedom” is valid, too, and the comparative formula “The more state – the less freedom” and its inversion are valid as well. That those formulas express the political creed of a lot of contemporaries doesn’t need closer explanation. Hence I want to turn to the question which understanding of freedom on the one hand and state on the other is manifested in those formulas supplementing one another. The political philosophy dominating in Europe has, in a discussion process of a long period, developed the conceptual tools apt to make the context between state power and individual freedom clear. That process of clarification is what I would like to recall in the following by means of some stages. What philosophers thought of first, has become, as a consequence of long fights of social classes and as a consequence of the great revolutions of 1776 and 1789, practical politics and valid rights and has led – at least in some regions of this planet - to a form of state in which the freedom of the individual and the power of the state can co-exist side by side and together. The number of the historical stages passed during that process of clarification is vast. The selection chosen by me includes on the one hand items that can be called part of a canon; but on the other hand it reflects the philosophical preferences of the speaker as well.

Stage 1: **Aristotle, or: “Freedom in the Greek *polis*”**

Much of what we today connect with freedom is based on Aristotle’s philosophy, who not unjustly is considered as the founder of political philosophy, too. In his *Politics* and his *Nikomachian Ethics* several aspects can be discerned that can be assigned to the domain of problems of freedom, although Aristotle himself didn’t use any unified and comprehensive concept of it, yet. I’m going to restrict myself to three aspects:

Firstly: Aristotle knows about a **concept of freedom concerning activity**: In a negative meaning he thinks of the activity of a person out of him/herself, thus without force from outside; in a positive meaning he thinks of the reasoned decision a person takes prudently deliberating the aspects relevant for something. For that Aristotle has found a proper expression, the “decision taken with deliberation” (in Greek *prohaíresis*).

A second aspect of freedom refers to the fact that the human beings strive to have enough of what is necessary for bare survival and for a good life. For that Aristotle uses the **concept of *autarkeía*, being autarkic, self-sufficient,** still known to us a foreign word today**.**

And finally thirdly: For freedom in a legal and political sense Aristotle uses the concept of *eleuthería*. In that sense he is free who contrary to a slave doesn’t need the natural guidance by a master and therefore exists **for his own sake and for the sake of good life** (for all that cp. Höffe 2014, p. 146 f.). Seen from that *eleuthería,* Aristotle doesn’t only define the slave in contrast to the master, but also the citizen, the *polítes*. What distinguishes him from other inhabitants of the *polis*, is that “he participates in judgements and in government” (Pol. 1275a).

**Interim result nr. 1:** The political thinking that for the first time was self-conscious at its historical beginning in Greece knows political freedom only with regard to the fully fledged citizen who participates in its legislation and judiciary. That participation, however, is economically based on the precondition of excluding from this very participation the whole majority of the population working for the *polis*, including the women. For a long time the philosophers, historians and classical philologists have been quarrelling against and among one another about the question what that ancient concept of freedom has in common with modern conceptions of political freedom. And in connection with that there arises the old question if the kind of democracy practised particularly in Athens at about the time of Pericles provides standards for later attempts to organise the exercise of rule by participation of all citizens. In spite of all that the fundamental thesis of Aristotle’s *Politics* seems at least able to maintain its validity across the times: It results from the **fundamental anthropological destination of the human being as a *zóon politikón*, as a political living thing**, and states that a “good life” for the human being is only possible in a political order determined by law.

Stage 2: “**Roland”, or: “Town air makes free”**

Near the city hall of many a town, whose medieval substance has not completely fallen victim to World War II or later building craze, you sometimes find a stone sculpture, a bulky statue of a man in armour with a bare sword in his right fist. That’s a so-called “Roland“. He owes his name to one of the dukes in the entourage of Emperor Charlemagne. The latter’s biographer Einhard reports in his *vita* of the emperor about the fate of this very duke, who brought up the rear of the Frankish army and was killed in the Pyrenees in a retreat battle by the advancing enemy, not without having once again blown his horn calling for help before his death. The last point is, however, already an addition by the Song of Roland, very popular in the Middle Ages. The figure of Roland was the **symbol of the independence of a town which owned the market right and its own judiciary**, and thus the symbol of a special freedom of a town. That special freedom of the town was concentrated in its own entitled right, which is generally described by the formula “Town air makes free”. The formula itself doesn’t date to the Middle Ages, the facts however do, which for ex. are described in the privilege of the town law given by King Frederic II. to the town of Berne in the year 1218 in the following way:

*Omnis homo qui venerit in hunc locum et remanere voluerit, libere sedebit et remanebit.* The English translation of the article concerned must be: “Any human being coming to this place and wanting to stay shall reside free and stay free.” The facts referred to here are – like so frequently in history – essentially more complex than the catchy formula that town air makes free makes us suspect. “Air” means the proverbial “incorporation of the concept of room, space of settling, place of permanent residence” (Strahm 1955, p. 105). The air or the place of permanent residence determines – and that’s valid till today – the legal status of the person residing in this place. And the real usufructuary of this privilege of the town is in the original Latin text called s*ervus*. A *servus* – the usual translation by “serf” sound unnecessarily deprecating – is in the medieval meaning of the word a person who because of his/her state of birth is obliged to service (Lat. *servitium*) for a master/landowner. The obligation to service could be of various forms and amounts. It nevertheless meant an obligation binding the individual irrefutably and self-evidently. In the hierarchical society of the Middle Ages **a *servus* could belong to rather different levels.** Servants and maids, who ate at the master’s table, because they didn’t have a stove of their own, belonged to the lowest social stratum. The highest level was formed by the *servi nobiles*, the ministerials, who, having received a feudal benefice, could practise a way of life which made the class differences from the free noblemen hardly recognizable. Therefore *servi* who moved to town and there became free from any service for their former master after a year and a day of uncontested residence could belong to all social groups.

But that becoming free had its price. From those having arrived without or with the knowledge and the consent of their masters the town demanded, as from every citizen, services that corresponded with its specific needs: As a member of the town the new arrival entered the service of the town. He exchanged the *servitium* he had got rid of by settling in the town for **the new *servitium* of that very town**, whose “weal and woe” (“Lieb und Leid”) – as the old formula ran – he had to help to bear in the future. For the protection against his former master which the town granted him he owed it fidelity and homage (*fidelitas* and *homagium*) as well as service, so for ex. collaboration in the defence of the town, and the payment of taxes. The liberties he got as a countermove were multiple and locally differentiated. One of the most important ones was that he could give up the relationship of protection granted by the town at any time again and move somewhere else and in spite of that remained free from his former service for his master. Apart from the individual liberties the new arrival also profited from those liberties which were given to the citizens of the town as a whole by royal privilege, such as freedom of the market, of mint and customs, the freedom to judge according to its own law (*immunitas*) or the so-called “Bestfreiheit“, the right to create new laws by decisions of the Council, for the common utility and in honour of the town and the empire (*pro communi utilitate et honore civitatis et honore imperii)*. The last part of this definition of the purpose makes us realize that those liberties particularly applied to the towns directly dependent on the empire, that is to say to those towns which “founded on land of the empire” (*fundus imperii*) had the king and emperor as their immediate lord above them.

**Interim result nr. 2:** The sources handed down concerning medieval town history with regard to the freedom of the individual show a picture not totally unfamiliar to the modern observer of **a well-balanced composition of taking and giving,** of contributing and granting. A kind of large freedom, supported by further privileges, without regard to duties of service based on the state of birth, is achieved by him who subjects himself to the protection of the town and in addition to it contributes the services bound to this protection. Against that background one must probably understand the rather astonishing sentence of a not unimportant expert on old history: “The medieval human being was in a lot of respects more free than the modern one, even if he was a serf. For he was not confronted with a state which is omnipotent, which gives orders of a police state for nearly all fields of life.” (Hölzle, p. 160)

Stage 3: **Sebastian Castellio, or: Freedom of conscience**

On October 27th, 1553 a stake was burning, at the pole the medical doctor and humanist of Spanish origin Miguel Servet. The place of the event is Protestant Geneva, and its initiator is no less than the leading theologian of the town, John Calvin. Servet was a renowned doctor, who practised in Vienne at the court of the bishop there, though under a false name. At a time when questions of the religious denomination gained existential importance, he had studied theological problems as a young man, too, and had for himself arrived at the conviction then unheard of that the teaching about trinity proclaimed at the first Oecumenical Council at Nicaea (325), which was considered as unchangeable not only for the Roman Catholic Church, but also for the adherents of the Reformation, was an error. The treatise in which he had presented and given reasons for his conviction was refused by all theologians of the time most decisively, Roman Catholic as well as Protestant ones. From Calvin of all persons Servet hoped for theological support for his revolutionary theses. A tragic error! Still more incomprehensible, however, is another error by Servet: On his flight from Vienne he stops in Geneva of all places. He is recognized, taken prisoner on Calvin’s doing, condemned, and executed, in an even for conditions of that time especially cruel way. In a contemporary report about the execution entitled *Historia de morte Serveti* you read the awful sentence: “Some affirmed that Calvin smiled, when he had seen that Servet was led to the stake, and lowered his eyes a little behind the hem of his gown.” (Castellio 2013, p. 47) The *Historia* continues: “That event horrified a lot of pious humans and caused the scandal of scandals (*scandalum scandalorum*), which will hardly ever be forgotten.” (Castellio 2013, ibd.) Grave reproaches against Calvin were uttered first of all by a contemporary who had been one of his collaborators in Geneva nine years before. It’s the humanist and reformed theologian Sebastian Castellio. In March 1554, that is to say a few months after what happened in Geneva, Castellio, under the pseudonym Martinus Bellius, published a small book entitled *De haereticis an sint persequendi*. Therein the persecution and killing of dissenters is condemned as unchristian, even as “anti-Christian, not to be argued with Christian arguments” (Castellio 2013, p. 60). In the wake of the publication of *De haereticis* a fierce war of invectives between Calvin’s followers in Geneva and his adversaries in Basel develops. To the case of Servet and to the fundamental problem of killing heretics there are added other contentious issues in Calvin’s teaching, who finally sees himself threatened in his theological authority and now himself tries to fight down his adversaries by all journalistic means at his hand. Those journalistic contentions show a fierceness which you only find where human beings think they have to maintain the convictions of their faith, won in a long struggle, against any form of dissent. Against his critics Calvin defended himself at the beginning of the following year 1555 by a *Defensio orthodoxae fidei* [in the complete form: *de* *sancta trinitate contra prodigiosos errores Michaelis Serveti Hispani*], which tries to justify the strict procedure against Servet. To that *Defensio* of the Genevan theologian Castellio on the other hand answered by means of an invective totally personally aimed at Calvin entitled: *Contra libellum Calvini [, in quo ostendere conatur haereticos jure gladii coercendos esse].* Once again the author doesn’t dare to put his own name, which, however, isn’t able to protect him against the attacks of his adversaries. Anyway their influence is great enough to prevent the printing of the work. It cannot be printed before 1612 – in fact in the Republican Netherlands. *Contra libellum Calvini* has the form of a dialogue between Calvin and Castellio. Out of the extensive paper by Calvin Castellio for the dialogue made a selection of longer or shorter passages, which he first quotes and then comments on. Castellio‘s criticism centres on several points. First of all, however, it focusses on the central question independent from the person Calvin, if a (Christian) authority is entitled to punish heretics. Castellio’s answer can be found in a short passage beginning with the sentence which has made that text so famous: *Hominem occidere non est doctrinam tueri, sed est hominem occidere.* “Killing a human being doesn’t mean defending a doctrine, but killing a human being.” It’s this singular sentence that deserves being written into the imaginary manuals of all religious fanatics and fundamentalists of any colour and any time. And Castellio continues: “When the Genevans killed Servet, they didn’t defend a doctrine, but killed a human being. Defending the doctrine isn’t the task of the authority (what has the sword got to do with the doctrine?), but of the teacher. Protecting the teacher is the task of the authority, as well as protecting the farmer, the artisan, the doctor and others against injustice. If therefore Servet had wanted to kill Calvin, the authority would have defended Calvin lawfully. But as Servet fought with arguments and papers, he ought to have been proved wrong by arguments and papers.” (Gegen Calvin 2015, p. 131)

**Interim result nr. 3:** Against a hierarchical, authoritarian and repressive regime, which makes the belief in a particular religion a duty and persecutes dissenters or human beings who don’t agree to its fundamental ideological positions completely as heretics and apostates without mercy, there is raised the voice of a single person who, without considering the dangers for his own body and life, postulates the freedom of one’s proper convictions (of faith). In his novel-like description of this conflict Stefan Zweig talks about “**Aufstand des Gewissens” (rebellion of the conscience)**. Sebastian Castellio isn’t the only one who formulates the political demand for freedom of conscience and faith and underpins that demand with biblical and theological arguments. However, the authority addressed ignored his demand as well as that of others for a long time. Persecutions because of convictions of faith not liked by the state were quite usual till the 18th century, although the dissenters were no more burnt like in Geneva in 1553. Only step by step and through many historical stages of the religious wars of the 17th century, the Enlightenment, and finally the great revolutions of the 18th century at least in Europe the separation of secular and spiritual authority was achieved and together with it the safeguarding of the freedom of faith as a “matter of the heart” (Hobbes), which belongs exclusively to the private sphere.

Stage 4: **Thomas Hobbes, or: What legitimizes the state anyway?**

Against the background of the denominational civil war in England, experienced by himself as a deadly threat, Hobbes has developed a conception of state which in a certain respect **means a limitation of all striving for freedom of the individual and which at the same time in some other respect constitutes the freedom of the individual in general at all.** That sounds paradox and needs explanation: Two famous formulas characterise the individual and the relationship of the many individuals to one another in a stage of society before the creation of a state, the so-called “natural state”, which is a quasi-mathematical construction, but in the denominational civil war in England of the 17th century found something like an empiric counterpart. The first formula is the famous-infamous *homo homini lupus*, “man is man’s wolf”, the second one is the not less famous-infamous of *bellum omnium contra omnes*, of the “war of all against all”. They belong together and mean the following: For reasons of self-preservation every single human being feels obliged and entitled to see and treat everybody else as a competitor, as an adversary, as a potential enemy who wants his goods and in an extreme case his life. From that basic anthropological datum there results a society in which there isn’t necessarily open war all the time, but in which everybody must be wary all the time, because the permanently latent conflicts can change to open violence at any time. That leads – as Hobbes doesn’t tire of stressing – to a miserable life. Thus reason interested in self-preservation orders the human being to search for a way out of this misery. And the state is this very way out found by reason. It must, however, have come into existence in quite a certain way.

In the famous copperplate of the title of his main work on philosophy of the state, the “Leviathan” of 1651 - you have certainly seen it at some time in your respective history manuals, - Hobbes translated the production of this state into a powerful picture: In the upper half of the bipartite emblem there rises a huge man’s figure out of the sea, above a well-ordered and peaceful landscape with a fortified town and a lot of small villages. It bears a crown on the head, in the right hand the sword as the symbol of the secular power and in the left hand the crook as the symbol of the spiritual power. If you look more exactly, the upper part of the body of this male figure is composed as an artificial human being out of nothing but small human beings, following the example of the famous Italian mannerist painter Giuseppe Arcimboldo. That is the pictorial translation of the idea of contract on which the production of the state is based according to Hobbes. Every single person transfers the propensity for violence he/she owns in the natural state to a third one under condition that everybody else is ready to renounce violence in the same way. In that way this third one receives the collected potentials of violence of all individuals. Thus his power becomes almost unlimited, and therefore Hobbes calls him by a name taken from the Old Testament “Leviathan”, the “mortal god”. The power concentrated in the state is absolute, but it finally serves only one single purpose, whose realisation at the same time means its ultimate legitimization, that is the protection and the security of the human beings who have gathered under its roof. But that also means by an inverted conclusion: If the state is no more able to grant this security, it loses its justification, and the present citizens do not only feel obliged, but also entitled to take their security in their own hands again.

**Interim result nr. 4**: Security for property and life is one of the constitutive conditions for the exercise of all liberties. We owe that insight to the English philosopher Thomas Hobbes, who assigns the state created by contract all power, irrespective of the actual form of government, so that it can stop any form of self-justice in the interest of all its citizens.

Stage 5: **Immanuel Kant, or: The two liberties**

Freedom is the central topic of both the theoretical and the practical philosophy of the representative of the Enlightenment from Königsberg. In the scope of this talk only some hints to that can be given. The **distinction between negative and positive freedom** so intensely discussed till today also goes back to Kant originally. That distinction actually presupposes two different problems of freedom. The first one concerns the legal concept, the second one freedom as an idea. Freedom as a legal concept is equivalent to political freedom. Freedom as an idea, however, has a more comprehensive meaning, being important first of all in moral philosophy. The legal concept of freedom is defined by Kant in his late book *Die Metaphysik der Sitten* (1797) as follows: “Thus law is the embodiment of the conditions under which the arbitrariness of one can be united together with the arbitrariness of the other according to a general law of freedom.” (Kant, MS, p. 337; A 33). Freedom in that meaning means **independence from any force exercised by others or the state on a person**. Kant speaks about this freedom as “independence from coercing arbitrariness of somebody else” and calls it the “only, original right, to which every human being is entitled by virtue of his humanity” (Kant, MS, p.345; AB 45). That is seen as the negative definition of freedom, for it is defined as absence of any force. Thus Kant interprets the political-legal dimension of freedom as a free space not defined in more detail in which every individual can develop independent from all others. But the legal concept of freedom doesn’t include defining more exactly how the individual uses or ought to use his freedom within that free space. That, however, has grave consequences: For actions of one person which should actually only serve the use of one’s own freedom can become an obstacle for somebody else’s freedom. Kant sees the solution for this problem in a general law, when he writes: “Therefore the general law of right is: **Act externally so that the free use of your arbitrariness can co-exist together with the freedom of everybody according to a general law** [ ... ]” (Kant, MS, p. 338; A 34). By that “general law of right” mentioned here Kant sees an unambiguous possibility to force those whose activity is an obstacle to the freedom of others to renounce that activity. The paragraph in which that force justified by law itself is explained is put under the significant title: “Law is connected with the authorization to force.” (Kant, ibd.). That authorization to force, however, ends according to Kant where the other concept of freedom turns up, freedom as an idea. In short it says: The human being as a reasonable being is in principle capable of orientating him/herself in wishing and acting by the moral law demanded by practical reason. In its form that moral law is identical with the Categorical Imperative, whose first formula runs as follows: “**Act only according to that maxim by which you can desire at the same time that it should become a general law.”** (Kant, GMS, p. 52). It would undoubtedly be desirable if all human beings acted according to moral law. But the very idea of this freedom forbids strictly that e. g. a legislator forces the citizens of his state to some moral act. Concerning that Kant writes in his late work *Die Religion innerhalb* *der Grenzen der bloßen Vernunft* (1793): “Woe to the legislator who would want to enact a constitution directed at ethical purposes by force! For he thus would not only cause the exact opposite of the ethical, but also undermine and make uncertain his political ones.” (Kant, RGV, A 124)

**Interim result nr. 5**: Political philosophy assisted by moral philosophy has during Enlightenment developed a concept of freedom in which the freedom of the individual is connected to general law. Freedom is, outside the religious sphere, too, compatible with subordination to the law, as long as the individual as a free being subjects himself to a law system chosen by himself. The will driving him there is called by Kant, following his understanding of causality of nature, “a kind of causality of living beings insofar as they are reasonable” (Kant, GMS, p.83). It sounds paradox: But freedom from the causality of nature is nevertheless understood by Kant as a kind of causality, as the **free will that gives itself laws according to its reasonableness.**

Stage 6: **Karl Marx, or: The “reconciliation” of individual and society in societal labour?**

The *genius loci* demands paying reverence to the philosopher in whose birthplace and during whose 200th anniversary we meet here and now. So what about individual freedom with Karl Marx? Till the revolution of 1848 Marx presented radically liberal positions as a journalist and editor in a magazine for “Politics, commerce and trade”. They vehemently criticize all relics of a medieval order of classes where the chance of birth decided about advantages and disadvantages at the beginning of the path of life of a human being: whether nobleman, bourgeois or farmer, whether wealthy or without possessions, whether elected or damned, according to status, origin, religion, therefore according to the affiliation to collectives. Liberals such as Marx in opposition to that fought for a society in which **individual disposition of talents and industriousness and their self-determined enactment should determine one’s destiny**.

But also after Marx had long turned socialist, in 1875, he uttered vehement criticism on a party programme of the German Social-Democracy just coming into existence by means of arguments behind which one would rather suspect a liberal-democratic party (Marx talks about “party of free trade”). So he for ex. sneers at the social-democratic party programme saying it was, because of the influence of his old opponent Ferdinand Lassalle, “through and through polluted by the faith of subjects of the Lassalle sect towards the state” (Marx / Engels, vol. 19, p. 31). And also the late Marx stays a vehement critic of the state, which is suspect to him as an “apparatus of force”, its system of law and punishment, its police and bureaucracy included. The ideological background of that fierce criticism of the later years, however, is no more a liberal one. Marx’ liberal hopes were dispelled in 1848, after a bourgeois-democratic revolution, ill prepared and amateurishly enacted, had failed in Europe. In fact, Marx also wanted to prevent the Socialism which organized itself in political parties from falling back behind Liberalism. In the background there is rather the idea that “individual” and “society” do not at all represent the irreconcilable opposites which they appear to be to many a Liberal. The individual, endowed with rights and chances of participation, is produced by a certain society in which distribution of work as well as production and reproduction of the basics of life on a large scale dominate, as it is true of the Industrial Revolution in the 19th century, but also for a digitally connected globalized market in the 21st century. That individual, however, needs wealth and culture for his existence. “Source of wealth and culture,” Marx writes in his criticism of the Gotha programme, will be labour, though not as “single labour”, which can create “values for everyday life”, but neither wealth nor culture, but only as “societal labour” or, which was the same, as “labour in and through society” (Marx / Engels, vol. 19, p. 17). Capitalism, however, according to Marx, perverts the use of societal labour. For as uncontested as the sentence that societal labour was “the source of wealth and culture”, was as well the “other sentence”: “To the same extent as labour develops in society and thus becomes the source of wealth and culture poverty and neglect develop on the worker’s side, wealth and culture on the non-worker’s side.” (Marx / Engels, vol. 19, ibd.) Only in a Communist society – which Marx thought possible – the individual freedom expected from societal labour was due to come. In that society of an **association of free individuals every individual enjoys the absence of force as well as the disposal of one’s own time of life,** which allows him/her – as the famous formula already by young Marx runs – “to do this today, that tomorrow, to hunt in the morning, to fish in the afternoon, to rear cattle in the evening, to criticize after dinner, [ ... ], without ever becoming a hunter, a fisherman, a herdsman, or a critic” (MEGA I/5, 2017, p. 33).

**Interim result nr. 6:** There is still a contest, spurred on by this year’s anniversary, too, how far-sighted and workable Marx’ analyses of the long-term economical and societal development are. Marx’ optimism with regard to overcoming all evils accompanying the capitalist way of production in the association of free individuals was due to the hope that Capitalism would collapse because of its own contradictions. That prognosis has not yet come true. But history is not yet at its end. And if we don’t succeed in reversing the destruction of nature connected with the capitalist way of production, Marx has still got good chances to be right. There would, however, no more be anybody on this planet to confirm that to him.

Stage 7: **Hannah Arendt, or: What is freedom, and what does it mean to us?**

Some months ago an essay entitled “The freedom of being free” was published out of the estate of Hannah Arendt, the most important representative of political philosophy in the 20th century. It was not discovered before 2017, but it dates back to the years 1966/67, as is noted down on the manuscript, and seems to have served as the basis for a speech. Whether it was ever given, is not known.

For large parts this essay deals with a comparison between the American Revolution of 1776 and the French Revolution of 1789. It tells about the success of the former one and the failure of the latter and also about the paradox recognition that the successful one had at best found local resonance, while the failed one had determined our understanding of revolution in general. But near the end of her reflexions Arendt formulated a surprising thought which is directed first of all against any pessimism, which you so easily succumb to, if you contemplate history as a whole and the history of revolutions in particular: Alluding to the famous fourth eclogue by the Roman poet Virgil, which celebrates the beginning of a new era with the rule of Augustus, Arendt interprets this text as a “hymn on birth” which praises “birth as such, [ ... ] the great saving [ ... ] ‘wonder’ that will redeem mankind one after the other time” (Arendt 2018, p. 21f.). Arendt combines this thought of the new beginning connected with every birth with her basic anthropological conviction that **the capability of acting makes the human being a political being**. But acting means starting something new that was not there before. And that we as human beings possess this capability, has for Hannah Arendt “obviously something to do with the fact that each of us entered the world by birth as a newcomer. In other words: We can begin something because we *are* beginnings and therefore beginners.” (Arendt 2018, p. 22).

**Interim result nr. 7**: Hannah Arendt‘s thought that by the birth of every human being a new beginning is made, though little, but nevertheless leaving everything previous behind, has something rousing. It opens the **freedom of turning away from the supposedly long time known and of daring something new,** at first in thinking and then probably in acting, too. In that respect this thought reminds of the famous motto in Kant‘s “Aufklärungsaufsatz”, taken from the Roman poet Horace: *sapere* *aude*, about the courage to use one’s own reason.

***Conclusion***State force tends structurally to infringement on the individual, either in a positive form: paternalistically, making decisions for him/her, or in a negative form: controlling, keeping him/her like a child. That’s why state force must be tamed. The freedom of the individual tends structurally to infringement on the claims for freedom by others. That’s why the freedom of the individual must be fenced in. That partly latent, partly manifest conflict between the self-assertion of the individual and the infringement by state power, which for centuries permeated European history, has in the course of the 20th century **found its solution**, in the form of the liberal and democratic state under the rule of the law. **The liberal and democratic state under the rule of the law**, which, inspired by century-long efforts of political philosophy, too, has taken shape in long lasting political struggles, has brought along a balance of individual freedom and state power achieved never before. One guarantee for that balance is the constitution. The former president of the Bundestag Norbert Lammert once called the constitution of the Federal Republic of Germany a “special stroke of luck of German history” (Sendereihe WDR 3 “Das Grundgesetz geht alle an!” 2017). And you need only read once again the few pages of the part on fundamental rights, with the preamble and the first 19 articles, thoughtfully, so that you can agree to that assessment. I don’t say that as a German civil servant who is obliged to loyalty towards the state to which he owes his maintenance, but I say that as somebody who – to speak with Kant – makes public use of his reason. For our topic four aspects seem particularly remarkable:
1. Founding the whole work of the constitution on the normative concept of “human dignity”, taken from the religious and philosophical tradition of the Occident, which is declared as “inviolable” in art. 1 (1) GG.

2. Enumerating the fundamental rights every citizen is entitled to, starting from free development of the personality (art. 2 GG) as far as the right to petition (art. 17 GG).

3. The order binding all authorities of the state that none of the fundamental rights must at any time “be infringed in its essential content” (art. 19 (2) GG).

4. Finishing the part about the fundamental rights by the formally main fundamental right which guarantees everybody thorough legal protection by courts against interventions by the public force which he considers as illegal (art. 19 (4) GG).

But the expression “stroke of luck” perhaps doesn’t only mean the quality of the work of constitution, but in addition to it the “lucky circumstance” of having been born as a citizen of a state body that is protected by such a constitution. Luck in the sense of Fortuna is, however, capricious, too, – as we all experience again and again. And in this respect the expression also reminds of the fact that the balance of individual freedom and state power, which is in fact protected by the constitution, yet can never be safeguarded ultimately, is frail and fragile. Only constant and active participation by the citizens in the affairs concerning themselves and the state in its totality can maintain that balance permanently. For the actual reality of this democratic “solution” of a state under the rule of the law is historically and geographically strictly limited. And it also is in close competition with multiple forms of autocratic state power, for which the power of oligarchic elites means a lot and the freedom of the individual means little. We should always be aware that this state is, seen globally, the result of a special course. Most states of the earth in fact don’t know any guarantee for individual rights to freedom, they don’t know separation of powers, they don’t know the separation of religion and state, and their politically responsible persons don’t even see what we have achieved as desirable for themselves. The historian Bernd Roeck living in Zurich writes on that topic: “For a historical moment the old *Utopia* is no more the Somewhere else, it is the liberal, democratic society under the rule of the law realized in some few small happy areas. World history has been working on that project for millenniums. An unimaginable amount of blood was spilled; [ ... ]. Compared with what history has produced as alternatives, the western civil society has proved itself till now indeed as the best of all possible societies.” (Roeck 2009, p. 16)

Translated from German into English by **Wolfgang Rank**

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