

On Arendt's Nexus between Action and Constituent Power: An Interpretative Dimension

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Abstract: Democracy as a brand of constitutional governance has attracted attention to numerous epochs by varied generations. Deeming of the doctrine of constituent power is correspondingly considering democracy as these two societal facets give an impression of concomitancy. Hannah Arendt's stance of constituent power is first reduced to three elements: labour, work, and action. The action turns out to be of the foremost stature among the three, thus, acquiring the aptitude to define all the other auxiliary political components, such as power, *et cetera*. The problematic nature of this construal is to be realized in Arendt's categorization among the immanent school of thought. This research contends for the transcendent and absolute comprehension of constituent power since coupling immanence and action sires limitation while blending transcendence and absolute births power that aptly influences the upshot of the liaison between constituent and *constituant* powers as it is manifest in constitutional moments. Power is here couched as *the outright will's aptitude to bring into being as well as impose change on that which is* in the correlation between the State and sovereignty. The realization of this perspective was through hermeneutics; interpretation of the varied contributions to constituent power illumined by the Arendt.

Keywords: Hannah Arendt, constituent power, ambivalence of constitutionalism, action, Sovereignty, the State.

1. INTRODUCTION

This paper delves into the doctrine of constituent power from Hannah Arendt's point of view. The realization of this intent was by using the appraisal of her works in tandem with her critics. The backdrop occasioned a further deciphering by the employment of both phenomenology as well as hermeneutic methods in the comprehension of the varied ideas presented as elements of constituent power and the constituted powers. The upshot was found to be wanting, as a consequence, in itself turned out to be problematic. Furthermore, Arendt's insistence on both speech and action in her triad (labour, work, and action) political components, develop into being affiliated to the immanent nature of constituent power that gives the impression of not underpinning the desired nexus between the State and sovereignty. It is due to this rationale that this paper argues for the transcendent and absolute nature of constituent power to be apt among the three schools of thought that can birth the pertinent societal transformation; appertaining to constituent power that has been presented in the subsequent section. The import of examining the subject matter at hand is similarly to bring out the linkage between political and legal theory, for the precepts of constituent and instituted power are both political and legal substantially.

2. ARENDT'S NOTION OF CONSTITUENT POWER

The Arendtian construing of the constituent power is arrived at by an askew itinerary by counterpoising the American to the French Revolution, nonetheless, it is no less operational a route, rather so much stronger for being absurd (Negri, 1999, 14). Moreover, Antonio Negri puts forward, instead, that we trace the conjoint cord that links the modern

revolutions and read them as the enlightened development and countenance of one and the identical concept, constituent power. Constituent power is the dynamic, operational component mutual to all current mutinies and the theoretical central to interpreting them.

Arendt condenses his elucidation of politics to the three facets, to be exact, labour, work and action (Arendt, 1998, 202). Albeit these three elements tincture her political outlook, action assumes prominence over the other two, to be precise, labour in addition to work. It is through action that the reality of plurality is actualized bearing in mind that for Arendt, besides action, the aptitude of speech is quite germane, thus, both speech, as well as action, typify Arendtian political scenery. This political comprehension contributes to the Arendtian notion of constituent power.

For Arendt, the rapport between revolution and law, revolution and constitution become a continuum on which what exceeds revolution represents the rational. The law, as well as the constitution, follow constituent power, this is to contend that constituent power proffers rationality along with substance to the law. The cooption of revolution is contextually handy for due to the seamless nature that subsists between constituent power and revolution. Constituent power is the means of the revolution which is indispensable as the human need to be moral.

Constituent power stands as a radical extension of the human knack to create history as an essential act of invention, thus, as an outright *modus operandi*. It is of import to accentuate that the course started by constituent power under no circumstances ceases. The concern ought to be not to restrict constituent power, however, to make it unrestricted. The only conceivable notion of constitution is that of revolution, correctly so, constituent power as absolute and unrestrained technique. Condorcet comes near this concept when, in 1793, he deems constituent power as that law that commences, hastens and rules the progression of the revolution, consequently, construing that the law provides contour to the temporal mutability of the revolution and actively designs itself on its modality. The *Declaration of the Rights of Man of 1793* reiterates this idea when it esteems citizens' rights as dynamic in the constitutional scheme and identifies in this activity the motor of social democracy.

The interest(s) in having a keen look at the doctrine of constituent power attracts a hermeneutics that, yonder words. Through these words, there could be a comprehension of the life, the recourses, the ambivalence as well as the recomposition. The creation in addition to the construction of the capability of humankind, serves as an aptitude to create political predetermination. Owing to the abovementioned, the precept of constituent power is the core of political ontology. In the same train of thought, the confrontation of the contemporary ambivalence of constitutionalism could realize a panacea by interrogating ourselves what subjects in our present-day is sufficient to sustain an outright constitutional procedure proficient of conflicting the concept of sovereignty.

In the pursuit of the preceding, this study contends for a duo Arendt outlook. At this juncture, there is the realization of the first and second Arendt. The first Arendt repudiates the principle of sovereignty while the second Arendt engrosses it in her development along with deciphering of constituent and established power in the political universe. This depiction *inter alia* presents the ambivalent standpoint that encounters interrogation here.

3. NATURE OF CONSTITUENT POWER

Enunciating of constituent power is of the likewise stature as a democracy. These two concepts in our extant epoch have recurrently been correlated as part and parcel of a process that has been amplified during the twentieth century; they have grown into more and more overlaid co-realities in both political and legal theories. Moreover, constituent power has been deemed not only as an omnipotent and expansive precept proficient of engendering the constitutional norms of any juridical system, nonetheless, correspondingly as the subject of this production, activity by the same token omnipotent as well as sprawling. By and large, in the same train of thought and stance, constituent power tends to develop into being identified with the very concept of politics as couched in a democratic society.

Constituent power ought not only to be both a constitutional and juridical tenet, not merely as producing constitutional norms and structuring constituted power, nevertheless, as a subject that regulates democratic politics. Unquestionably, constituent power repudiates the actuality to be incorporated in a constitution; this is due to the crossbreed nature of this sort of power. Constituent power's aptitude castoffs to be fully integrated into a hierarchical system of norms and competencies, it continually lingers outlandish to the law (Burdeau, 1983, 171). Correspondingly, democracy castoffs the

practicality of incorporation in a constitution, make constitutional or to engender a constitution for, democracy is deniably a theory of absolute regime, while constitutionalism is a theory of finite rule, as a consequence, a practice that restrains democracy (Negri, 1991).

Constituent power is an essential act of the nation, emanating from nowhere and organizing the hierarchy of powers (Boutmy, 1891, 250). At this juncture, constituent power is tintured by ambivalence, consequently, christened a doctrine of incongruity that sires crunch. The outlook here is underpinned by the comprehension of its radical facet, the extent of its effects from democracy to sovereignty, from politics to the State and from power to strength. It is in the pursuit of the panacea for this nature depicted by the constituent power that its effects and the values it expresses are exemplified into three categorizations. These classifications comprise: *first*, transcendent concerning the system of constituted power; its subtleties are enforced on the system from outdoor. *Second*, power is instead immanent; its presence is implicit and it operates as a foundation and *third*, constituent power as neither transcendent nor immanent, nonetheless, integrated into, coextensive and synchronic with the positive constitutional system.

3.1 Constituent Power as Transcendent

The proponents of this school of thought, to be exact, constituent power as transcendent, contend that constituent power is assumed to be a fact that first precedes the constitutional arrangement. However, at that moment, constituent power is divergent to the constitution in the sense that it endures historically external as well as can be described only by constituted power. The contribution(s) here happens to be of the antediluvian standpoint, on the other hand, it is appraised insofar as the illogicality is precluded through dislocation of planes. Though the order of the constituted power is that of *what ought to be*, that of the constituent power is that of *what is*. The first is concomitant with the juridical theory, the second with history or sociology. There is no connection between custom and fact, legitimacy and efficacy, what ought to be and the ontological horizon.

The second is the groundwork of the first then again through a causal linkage that is instantaneously fragmented so that the constituted juridical system is downright sovereign. For Hans Kelsen, transcendence is utmost as well as absolute. The characteristic of the law is to control its outlandish fabrication. Only a norm can define and does regulate, the process through which another norm is fashioned. The norm regulating the creation of another norm and the norm shaped according to this prescription; illustrated through the spatial image of superordination and relegation have nothing to do with constituent power. Norms follow the rules of the juridical form and constituent power has nothing to do with the formal process of the production of norms.

Constituent power is itself, at the confine, demarcated by the system in its entirety. Its accurate reality, all-powerfulness, and vastness are implicit in that point of the system where the formal strength of the law is itself invincible and extensive, to be precise, the basic norm (Kelsen, 2002/2009, 193ff). The fact that in Kelsen's ultimate writings the entire factual, jurisprudential and institutional life of the law appears to be absorbed in the normative process does not transform the situation much.

The newfangled dynamic is never dialectical autonomy. As far as constituent power is concerned, we witness the absurdity of having the aptitude to ruminate of it as active for its whole constitutional life, on the other hand, never proficient of being a source of definition or standard of movement for any facet of the system (Kelsen, 1991). How can we comment on this scenario? Little or nothing remains of constituent power through and after this operation of the formal instituting of the law, thus, of the ethical as in Jellinek or sociological as in Kelsen reduction of its concept. Nevertheless, the stance of sovereignty enforces itself counter to that of democracy; the transcendence of constituent power is its negation.

3.2 Constituent Power as Immanent

Under this brand of outlook, the historical bulk of constituent power is not *a priori* excluded from the theoretical investigation, nonetheless, the mode in which juridical theory interrelates to it is no less problematic. To the extent that constituent power grows into a real motor of constitutional dynamism at the same moment, several neutralizing operations are put into action. These are operations of transcendental abstraction or temporal concentration, so that, in the fast instance, the inherence of fact to the law could probably be diluted in, for instance, providential horizon or in the second instance, it possibly will congeal in an unanticipated in addition to the isolated action of avant-gardism.

The minimum, as well as the maximum gradations of immanence, are assessed here with respect to the diminished reach of the effects or to the inconsistent and immediate intensity of the cause. If the efficacy of the constituent tenet is tendered, it is with the *telos* of restraining it and controlling it. The position of minimum incidence of the component principle, as an immanent precept of the juridical system, can be characteristically studied in John Rawls' work (Rawls, 1971/1984, 152ff). He deems constituent power as the second part of a sequence, following an original phase during which the contractual treaty on the doctrines of justice has been made and before third and fourth junctures that center, respectively, on law-making mechanisms and hierarchies and the execution of the law.

Constituent power is reabsorbed into constituted law through a multistaged mechanism that, by making constituent power immanent to the system, divests it of its creative ingenuity. Additionally, political justice or categorically, the justice of the constitution that is fashioned by constituent power continually epitomizes a case of deficient procedural justice. Moreover, in the calculus of prospects, the organization of political consensus is continuously comparatively unspecified. To the frontier that constituent power comes upon in the votive contrivance need be supplementary an overdetermined ethico-political perimeter which is the Kantian condition of the constitution of the transcendental. Immanence is delicate of minimal gradation, even though operative (Pettit, 1980, 143ff).

Ferdinand Lassalle contends that the normative validity of the juridical-formal constitution depends on the material in addition to formal, that is to assert, sociological and juridical gradation of adaptation of the orders of reality that has been posed by constituent power. The inference at this juncture is an actual formative power. Its extraordinariness is performative as well as its immensity exudes as an original project onto the system as an entirety. Bringing to mind the confrontation of the real conditions and the reach displayed by constituent power, the constitutional course can be illusory and premeditated as an intermediary determination between two orders of reality.

Hermann Heller, an additional critic verging in the orbit of those juridical penchants close to the workers' movement, brings to termination Lassalle's vision. At this juncture, the route of constituent power turns out to be endogenous, interior to constitutional development. Firstly, constituent power permeates its vivacity into the constitutional system and then is itself transformed by the constitution (Heller, 1934). The moment when Rudolf Smend could christen the constitution "the dynamic principle of the State's becoming" is not far (Smend, 1928/1955, 119-276). How can the origins of constituent power be, at the end of the analytical process, wholly engrossed by the State? How is it conceivable that the mediation of various orders of reality ends with a dynamism aligned or better, prepared its own, as an intimate quintessence, by the State?

Over again, what is going on at this point is a canceling out of constituent power. Additionally, though these authors refute it, contending instead that the evolution of the State similarly denotes the advanced recognition of a set of integral norms, the determination that these norms assume in the real movement develops into entirely indeterminate. The immanence of constituent power is illustrated by the State to be a form of natural progression.

4. ELEMENTS OF CONSTITUENT POWER

4.1 Democracy

Constituent power is knotted to the notion of democracy as absolute power. In consequence, as a violent and extensive dynamism, constituent power is a notion connected to the social pre-constitution of the democratic entirety. The performing and imaginary facet clatter with constitutionalism in a sharp, robust and enduring mode, thus, giving an impression that in this incident, that is to assert, history does not mete out with the inconsistencies of the present. Devoid of doubt, this mortal tussle between democracy and constitutionalism, between constituent power and the theory and practice of the bounds of democracy, grow into more and more prominent the further history advances.

In deeming the concept of constituent power is, accordingly, couched to be the idea that the past no longer explains the present, and that only the future will be in a position to accomplish such task(s). As Alexis de Tocqueville writes, "The past has ceased to throw its light upon the future and the mind of man roams in inconspicuousness" (Tocqueville, 1945, 331). Puzzlingly, this contrary idea, more than many other motivations, explicates the birth of democracy in America, for instance. The foregoing explication presents the rationale as to why constituent power yields and re-yields itself far and wide and recurrently. Constitutionalism's prerogative of regulating constituent power in (the correlation between the constitution/constituted power and constituent power) the administration of justice is gibberish not only for the reason that it desires to divide this power, however, as well as it pursues to block its constitutive temporality.

Constitutionalism is a juridical principle that is acquainted with only the past, it is incessantly denoting to time past, to amalgamated strengths, and to their torpor, to the restrained spirit. In disparity, constituent power continuously denotes to the yet to come. The liaison between constituent power and democracy is of an intimate nature, which assumes a shape in the instance of the multitudes. This concept is akin to Arendt's accentuation of plurality in politics which is manifested when the citizenry act together in concert. Furthermore, the frontiers of the formal constitution's flexibility stretch among the dynamism that institute society politically as well as that form the material constitution by means of continual institutional conciliations. The reality that stands as the groundwork of the constitution and regulates its dynamic apparatus is not the primary norm, nonetheless, interminable movement.

4.2 Time

Constituent power has a singular linkage continuously to time. Undoubtedly, constituent power is, on the one hand, an outright will defining its specific temporality. Moreover, it exemplifies an indispensable twinkling in the secularization of power and politics. Power befits an immanent dimension of history, an actual temporal vista. The discontinuity with the theological tradition is all-inclusive. Nevertheless, this is not sufficient, constituent power, however, similarly epitomizes a peculiar acceleration of time. History becomes concentrated in a present that grows impulsively in addition to its prospects condense into an exceedingly resilient nucleus of immediate production. From this outlook, constituent power is contiguously allied to the perception of revolution.

Subsequently, it is already concomitant to the theory of democracy, now it situates itself as the motor or cardinal expression of democratic revolution. Besides, we perceive it is taking part in all the contrivances at times, incredibly violent that throb in the democratic revolution, vibrating between the one and the many, between power and horde, in a very fast, frequently intermittent cadence. What could this tempo of constituent power ration with the inert and traditional time of constitutionalism?

4.3 Representation

The tenet of representation as an ingredient of constituent power is deemed as one of the central juridical-constitutional instruments for regulating as well as segmenting constituent power. The enigmatic figure of representation recurs in the context of the development of constituent power. Constituent power, as a component which is connected to representation is inept of expressing itself except through representation, grows into part of the great design of the social division of labour (Pasquino, 1987, 80). The foregoing clarifies how the juridical theory of constituent power resolves the purportedly vicious circle of the reality of constituent power. Nevertheless, is not closing constituent power within representation where the latter is purely a component in the social machinery of the division of labour nothing but the negation of the reality of constituent power, its congealment in a static system, the restoration of traditional sovereignty against democratic innovation?

Despite everything, the quandary cannot be obliterated, wiped out and discharged. Perchance the idea of democratic representation is inherently correlated to constitutionalism in such a mode that foremost utilities of the latter endure in the former. Consequently, the ambivalence standpoint of the notion of constituent power will not exist only in its affiliation to constituted power, constitutionalism or any juridical tweaking of the notion of sovereignty. This incongruity will as well concern the concept of representation for the reason that, at least from the theoretical perspective, a principal as well as indispensable denaturalizing and disempowering of constituent power transpires on this theoretical-practical nodule.

4.4 Thinking and Acting

The Life of the Mind largely rethought the striking opposition between *vita active* and *vita contemplativa* developed in *The Human Condition* (Bradshaw, 1989, 71). The thought is not a practice that occurs outside of the temporal world, nevertheless, is one deeply connected to experience (Arendt, 1979, 308). While the practice of thinking remains a solitary activity, the two additional faculties of the mind, willing and judging, remain responsive to the realm of appearance (Arendt, 2009, 213). The three faculties were to be set aside in communication to preclude what she perceived as the perennial problem of the philosophic tradition, the retreat of the thinking ego (Arendt, 2009; Lindsay, 2017, 1022-1044).

Analytically, the linkage flanked by thought and action is intermittent; to be bewildered by the ephemerality of instituting is a standpoint that antagonizes the life of the mind prior for it to challenge the sphere of manifestation (Lindsay, 2017, 1022-1044). Paul Ricoeur comprehends this reflexivity when arguing that it is *vita contemplativa* which allows *vita activa*

to fathom itself and to reflect upon its peculiar temporal condition (Ricoeur, 1983, 62). The construal at this juncture insinuates another third facet in this universe of a temporary condition, that is, text, so that the triad becomes, thought, text and action.

Certainly, this interface between thinking and acting can be enlarged if her reflections upon Walter Benjamin are considered (Arendt, 1973, 162-163). According to Benjamin, the historical is in the contemporaneous, neither as homogenous, empty time, but as *jetztzeit*, a moment pregnant with transformative potential, in which the past is received to amplify the creativity of action (Benjamin, 2007, 261; Lindsay, 2017, 1022-1044). Analytically, for Arendt, this utilization of the past involves a strategy of citability, which she distinguishes from transmissibility (Arendt, 1973, 190). While the latter is the thread of narrative continuity that ties the past to the present through the authority of tradition, citability makes use of what she elsewhere calls a fragmented past which has lost its certainty for evaluation (Arendt, 2009, 212). There is appropriateness to this arrogation of Benjamin for, corresponding the forfeiture of custom, undertakings of setting up heaven into an erratic cosmos (Arendt, 1961, 95; Lindsay, 2017, 1022-1044).

Short of exceptional circumstances, when the founding of a novel constitution is crucial, the pre-existing political landscape is seldom capable of providing the requisite legitimacy for securing the founding, the privation of hegemony occasions the need for a constitution (Arendt, 1956, 115; Lindsay, 2017, 1022-1044). In the instance of founding, it is not plentiful to replace the security of tradition with what Benhabib calls narrativity for this nevertheless remains within the conceptual frame of a transmissible past that can be utilized unproblematically (Benhabib, 1990, 187). Kalyvas appears to have narrativity in mind when he turns to preceding laws to stabilize the founding. For him, the narrative of legal continuity secures the grounding of the constitutional beginning, through which the old is in position to place self-limitation and stability consequent to the novel, operational in a mode not far removed from to the transmissibility of custom (Kalyvas, 2008, 225; Lindsay, 2017, 1022-1044).

Arendt's Benjaminian offering presents a thought-practice that is a little more complex; after all, storytelling is only one aspect of what Arendt does (Buckler, 2011, 38; Pitkin, 1998, 277-278). She combines with experimental writing, which turns to the past to meddle loose the rich and the strange (Arendt, 1973, 203). The Benjaminian gift of thinking poetically entails the playful combination of thought-fragments to evoke novel and serendipitous experiences. While Raluca Eddon suggests that one would be hard-pressed to imagine a more effective neutralization of the messianic dimension of Benjamin's thought (Eddon, 2006, 268), she fails to recognize the erudition of Arendt's move. Arendt reads Benjamin against Benjamin to disentangle the thought-fragment from its messianic-revolutionary ambiances.

The citability that she identifies in Benjamin's work is one that is bound neither to authorial intentionality nor a narrative totality. The cited thought-fragment might creatively misread the intention behind the cited act, though this is due to its essayistic styling of prizing open the lacuna between past and future to give birth to a fresh beginning. Arendt fleshes out her reflections on Kafka, for the act of beginning is not defined in opposition to the old. The passing of judgement upon those thought-fragments recovered from the past denotes that the old is transformed into the radically new through the practice of thinking; the ricochet of reciprocated apprehensive interested in an immeasurable present-day. It elevates the historical to open the extant up to the novel, the genuine picture may be old, and nevertheless, the genuine thought is new-fangled. It is of the present (Arendt, 1973, 196; Lindsay, 2017, 1022-1044).

There is a good *raison d'être* why we are duty-bound to be vigilant of this distinction between a transmissible and a citable past, for when in *The Life of the Mind* she reconsiders the American founding, for instance, Arendt recognizes that the founding fathers were caught once again in the problem of temporality. She accentuates that they defaulted on the very experience of freedom and novelty in pursuing a justification for their actions which will have to depict the act as a continuation of preceding events (Arendt, 1978, 210). A narrative resolution circumvents the riddle by ensuring all foundation is the re-foundation of a prior political arena, so while it never confronts the predicament of temporal boundary-setting, it comes at a cost. In doing so, the founding fathers denied themselves the hope of founding a new Rome; instead, they were forced to repeat the primeval foundation and found Rome anew (Arendt, 1978, 214-215).

The rarefied distinction drives to the heart of Arendt's position. What is sure is that the absolutely novel need not dismantle the old to attain its connotation, nonetheless whereas Kalyvas' extraordinary politics, like Arato's post-sovereign constitution-making, put guides in place to ensure self-limitation, Arendt refuses this trope of the Western tradition. The former found Rome anew by re-establishing the old in its *doppelgänger* while the latter founds a new Rome

by judging the new against the exemplary. The temporal dissimilarity between the two is acute while the former is inevitable to the ancient, the deed of the erstwhile pulls from the historical, all the same, its act is neither condensed noteworthy through its relation to the past (Lindsay, 2017, 1022-1044).

The founding, while not a temporal beginning, could claim to be an act of absolute novelty that initiates an innovative space in the world. It is not merely the novel as an improved restatement of the old (Arendt, 1978, 216). It is here that a distinctive conceptualization of political temporality emerges. Unlike process-driven activities, in which time appears to transition imperceptibly between tenses, the lacuna that is opened in the present, the infinite diagonal generated when self-consciously located between the weight of past and future represents a twinkling of interminable prospect. It is at this juncture that we could situate this notion of relatively absolute spontaneity Lindsay, 2017, 1022-1044).

This twinkling is by no approach one that seems to be out of nothing; it is not an appearance from utter volition (Lindsay, 2017, 1022-1044). However, an absolute generated from an application of the three mental faculties in concert. In doing so, Arendt reconceptualizes absolutes as tools that are not bound to political theology. In a rejoinder to the Kantian predicament that events of this world can have only relatively first beginnings (Arendt, 1978, 29), these parables build upon Arendt's Augustinian claim that men are born newcomers again and again in a world that precedes them in time (Arendt, 1978, 110). The aptitude to begin in a relatively outright mode respects the finitude of humankind and the limitations upon our worldly aptitude to begin. To act otherwise, to begin as if that beginning was *ex nihilo* is to invoke the very Schmittian tool of political theology and with it, a troubling conception of law as a command (Arendt, 1956, 163).

By contrast, her reformulation of an over-all activity retains the properly temporal experience of politics by experimentally retrieving from the past those imperfect thought-fragments that might be put to a renewed and innovative use to prise open unqualifiedly novel dawn. To be surefire, the unequivocally newfangled is not a forthright continuance of historical happenings for the preceding does not seem to the thoughtful self as an uncomplicated chronicle (Lindsay, 2017, 1022-1044). It is a fragmented past that has lost its certainty. Jacques Taminiaux writes of Arendt, "it is the past itself that launches an appeal to the invention of the novel...of a future approach of inhabiting the world" (Taminiaux, 1997, 217). The previous calls for elucidation, for the past, is only notable through the experience of it. The past is launched into the unconditionally new only through the interface of thinking and acting.

4.5 Novelty and Stability

In the ultimate chapter of *On Revolution*, Arendt's stance attracts thoughtfulness to the treasures that have gone astray of the avant-garde custom, she lucidly calls attention to the mere fact that the spirit of revolution contains two elements which to us give the impression of being irreconcilable. The experience of instituting brings forth an exhilarating awareness of the human aptitude of inaugurating an exultation which is tempered through a pressing concern with the stability and durability of the new-fangled structure. In our contemporary political vocabulary, we recognize stability and the spirit of the novel as opposites is a symptom of our loss (Arendt, 1956, 222-223). This forfeiture is principally apropos to the ostensibly confounding liaison between constituent and constituted powers in contemporary constitutional thought. Across its diverse formulations, constituent power has in recent times been framed as an incongruous concept.

Emmanuel Sieyes', writing in the formative years of the French Revolution, did not perceive the concept as enigmatic. The nation, as the rightful corpus to draw up the novel constitution of, for instance, in France as it was manifest was the constituent power. Albeit this power was ratified only through a complex account of representation intended to rage the unbridled ethical will that was later grasped in the Terror (Sieyes, 1789, 92-162). The handling of constituent power in contemporary thought, however, has reneged on Sieyes' historic acumens. For a number of up-to-date authors, constituent power conjures a pressing tension between the procreant and the sprawling constituent power of the people in addition to the inevitability of being split as well as restrained if it is to proffer a viable constitutional form (Loughlin and Walker, 2007; Lindsay, 2017, 1022-1044).

The subject matter to be belabored is that of principally being concerned with the phenomenological rapport between stability along with novelty that is after this ostentatious oxymoron. By interpreting constituent power as *paradoxical*, these theorists come to read the concept through the theoretical lens that Arendt wishes to critique, for the founding act is bracketed into two opposed elements, to be precise: the intense novelty of constituent power against the stability of constituted powers. Although their suppositions diverge, this intangible agenda organizes the positions of theorists as

diverse as David Dyzenhaus and Antonio Negri. For liberal constitutionalists like Dyzenhaus, constituent power must instantaneously hold out a technique to an unwavering constituted power beside it with the rule of law, once the moment of setting up has lapsed (Dyzenhaus, 2012, 229-260).

Negri, who pursues to transcend the tautness, reveals the radical freedom of a constituent power that remains permanently more than the constitutional form (Negri, 1999). The effort to stabilize the constitutional order unescapably hints at an execrable containment of the creative potential of the multitude. Despite their unadulterated political dissimilarities, each of these theorists retains the antagonistic correlation between stability and novelty, with implications for the conceptual relation between politics and law, for the innovation or unruliness of *the political* is positioned against the surety of the symbolic order of law.

Arendt's assertion is deemed to be that to recapture the lost spirit of revolution consists in the attempt at thinking together and combining the opposed temporalities of stability and novelty meaningfully (Arendt, 1956, 224). Others have undertaken similar tasks by focusing upon her council system, though this has amounted to a theorization of the persistence of constituent power within the constituted order (Muldoon, 2016, 600). It is germane equally to ruminate this in the deed of instituting constituent power granted that the antagonism is to be thrown down the gauntlet efficiently. To do so, we re-examine the political temporality that is brought to mind in the goings-on of inaugurating (Lindsay, 2017, 1022-1044). The advancement of this standpoint is using thoughtfulness to her interpretation in *The Life of the Mind*, someplace she rereads her position from *On Revolution* (Lindsay, 2017, 1022-1044). Here, she confronts what she christens *the riddle of foundation or how to restart time within an inexorable time continuum* (Arendt, 2002, 214; Arendt, 1977, 214; Schaap, 2005, 85). Continuously, this emerges within a world that preceded it in time and so appears to disrupt our received comprehension of stability.

In constitutional theory, this tension is augmented by a peculiar superhuman need to instigate political life with a newfangled almanac. This, Arendt recognizes, is achieved most readily through appeals to extra-temporal absolutes that, in mimicking divine genesis, undo the human achievement of founding (Arendt, 1977, 208). We contend that Arendt's response is not to repudiate absolutes in politics, nevertheless, as a recourse to offer a critical redescription of them. Rather than a resolution to the riddle, her response is more appropriately framed as a disruption to the commonplace temporalization we ascribe to our political vocabulary, allowing us to approach the relationship between stability and novelty as compatible rather than agonistic ideas. In doing so, we are more appropriately placed to navigate the conceptual make-up of the absurdity of constitutionalism and theorize an alternative liaison between constituent power and constitutional form.

4.6 Sovereignty

In the pursuit of the interrelation between sovereignty and constituent power, it is germane to note that sovereignty as supreme power is recreated as the reinforcement itself. On the other hand, it is a groundwork antagonistic to constituent power; it is a pinnacle, while constituent power is an underpinning. It is a consummate decisiveness, albeit constituent power is unfinalized; it suggests a restricted time and space, although constituent power points toward a multidirectional multiplicity of times and spaces; it is a rigidified formal constitution. However, constituent power is outright progression. Everything, in summation, groups' constituent power and sovereignty in resistance, even the absolute idiosyncrasy that both classes lay claim to, the absoluteness of sovereignty is an autocratic notion, whereas that of constituent power is the absoluteness of democratic government.

Arendt's theory of freedom is precisely the one coupled with her disclaimer of tradition that she profoundly brings into effect again political theory. Surely, revolution is a commencement. However, modern history starts when only the component principle is removed from violence and war. Only then is the element precept freedom. Fundamental, at that moment, to any construing of revolutions in the modern age is that the inkling of freedom and the experience of a novel inauguration ought to correspond.

On the other hand, what does this freedom proliferated? It develops into public space, instituting a communicative relation, its particular conditions of probability, thus, its identifiable strength. It is the polis. Freedom is a launch that poses its eccentric state of affairs. The right of community preponderates over all others, over the right to life, over the very specifications of the right to property, so that it is both a constituent and constituted principle. Autonomous government and the foundation of a new-fangled body politic, this is what it connotes to be free. Freedom cannot be abridged, neither does it come after liberation, freedom implies to be already free; it is a political constitution, an utter process.

5. THE POSSIBILITY OF CONSTITUTIONAL HISTORY AS NATURAL

Two foremost twentieth-century scholars reply to this query, to be exact, Max Weber and Carl Schmitt. A dire discernment, Weber construed that the naturalist benchmark is inadequate to make constituent power immanent to constituted power. As an alternative, Weber tenaciously pushes constituent power to confront historical-social reality. During the core of his political sociology where he delimits the theory of the types of legitimacy, it is terse that for Weber, constituent power is located between charismatic and rational power. Constituent power springs from the first the violence of novelty and from the second its constitutive instrumentality. It precipitously forms positive law according to an innovative project that grounds a prototype of rationality.

Weber seamlessly comprehends the intricacy of the affiliations between irrationality and rationality and between the collective and the individual that runs throughout the constituent period (Weber, 1995; Weber, 1967). Furthermore, his sociological formalism does not give the impression to lead to domino effect any more valid than juridical formalism. Relating charismatic legitimation to rational legitimation is not plentiful to permit Weber to enunciate an original phenomenology of constituent power. The attempt fails for the reason that Weber's methodology remains, in spite of every determination to the divergent, instituted on a stationary typology, a typology not so much of the form of fabrication as of the figures of consistency of law and the State. There is an exceptional instance of bigotry as if to describe the constituent power, one had to deliberate the prognostications of constituted power or worse, the sequels, the pertinacious effects of constituent power.

Constituent power, as much as charismatic power, need to be adjudged as its own. These two (constituent and charismatic powers) do not have the equivalent brand of historical consistency as other types of legitimacy. They are demarcated by varying practices, notwithstanding tremendously imperative ones rather than substantial grits. They are ideal categories that suffuse the entire juridical arrangement, immanent, however, in the end, cryptic and outlandish. Henceforth, Carl Schmitt's position, which supposes to cognize the concreteness of this fringe, concretizing the formal approaches making it into the absolute principle of the constitution (Schmitt, 1928).

He realizes the resolution that Schmitt perceives as marking the very prospect of law, the identification and strife of friend and enemy as running through the entire system. The silhouetting of the probability of law and overdetermining it, as an act of war signifies the thoroughgoing of factuality, cast as unconditional immanence in the juridical system (Pasquino, 1988). This immanence is so intense that at first sight the distinction between constituent and constituted power wanes, so that constituent power appears according to its nature as original power or counterpower, as historically determined strength, as a set of needs, desires, and singular resolves. Though, the existential matrix through which constituent power is demarcated is stripped off from the commencement, brought back to the abstract determinations of violence, of the pure event as a voluntary manifestation of power.

The absolute predisposition of the foundation of constituent power develops into a supercilious claim; after coming very adjacent to a material delineation of constituent power, Schmitt gets entrapped in the absurd overdetermination of the conception of sovereignty, no longer of a pure concept of strength, on the other hand, of power. The reference to strength and power is of an essential stature in the realm of metaphysics, this discussion centers on the enquiry of strength and its correlation to power. Power is deemed from its pristine nature as preexisting physical fact, as wrapped up order or as a dialectical upshot.

The constitution of the social is a strength instituted on non-existence, that is, on desire and desire incessantly feeds the movement of strength. Human strength engenders a continual dislocation of desire and draws attention to the absence on which the innovative event is fashioned. The vastness of strength and its yield are stuck in the abyss of precincts, in the deficiency of positive resolves, in this fullness of lack. Constituent power is well-defined emerging from the maelstrom of the emptiness, from the void of the nonappearance of tenacities, as a wholly open need. The underlying principle at this point elucidates why constitutive strength never ends up in power, nor does the multitude tend to become an entirety, however, rather, a set of distinctiveness, an open assortment.

Constituent power is this force that, on the deficiency of determinations, is predictable as an omnipotent and continuously more expansive tendency. Privation of preconstituted suppositions and fullness of strength, this is a genuinely positive concept of freedom. Invincibility and largeness also typify democracy. Subsequently, they delineate constituent power. Democracy is both absolute process and absolute government. Consequently, the exertion to keep open what juridical

thought wants to close, to get to recognize more profoundly the watershed of its scientific lexis, does not merely make accessible to us the concept of constituent power, nevertheless, makes it obtainable to us as the matrix of democratic thought and practice. Deficiency, emptiness, and aspiration are the motor of the politic democratic force as such. It is a dystopia, precisely asserted, the sense of abundant constitutive activity, as subterranean as a utopia, on the other hand, devoid of its delusion and copiously concrete.

6. CONCLUSION

This disquisition has illustrated Hannah Arendt's fundamental outlook on politics. The thread that cuts across her stance in the theme appertaining to political theory is that of action, which further influences other realms such as the liaison between constituent and created power, sovereignty, the State, power, *inter alia*. The Arendtian standpoint has been utilized to pursue as well as moot a varied construal of the constituent power, accordingly, silhouetting the perspective of the State and sovereignty. The realization of this has been through contending that Arendt's penchant towards the immanence nature of constituent power is inadequate considering that it is coupled with a speech in the desired societal revolution(s). Henceforth, necessitating a paradigm shift that has a proclivity to the transcendent and absolute quintessence of constituent power. Moreover, this transforms the nature of power not as acting in concert, however, as *the outright will's aptitude to bring into being as well as impose change on that which is* in the correlation between the State and sovereignty. It is through such conversion of the mindset that eventually influences the tenets on which both the constituent and organized powers ride on. As a sequel, conceivably replying to the nagging question(s) of whether the construal of the constitution as the supreme law is plausible and on the reality that equipoises the State and sovereignty in the power equilibrium correlations.

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