

**‘Ein Anfang ohne Gewalt’?**  
**Constituent Power, Creation, and Hannah Arendt on Revolution and Constitution**

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Well before she focused her attention on the relationship between revolution and constitution in *On Revolution* (1963), Hannah Arendt had identified the pressing need for a new form of political and constitutional founding. The context was the unprecedented political crisis that, after bringing down the Weimar Republic, had issued in the generalized destruction of politics Arendt had analyzed under the name of totalitarianism. Its content was the political problem of the encounter with difference amid a “mankind” become global; its challenge called for nothing less than a novel form of political organization that nowhere yet existed. As she worked on *On Revolution* in the late 1950s and early 1960s, that unsolved crisis continued to form the context for her considerations. Indeed, as Andrew Arato and Jean Cohen, among others, have recognized, this book is in part an argument with one of the other leading diagnoses of the crisis of Weimar and proposals for its constitutional solution: the one formulated in writing after writing in this period by Carl Schmitt. Yet Arendt’s confrontation with Schmitt’s work, and with his conception of the constituent power or *verfassungsgebende Gewalt*, I argue in this paper, is both more wide-ranging and different than commentators have recognized.

The constituent power in its Schmittian formulation, Arendt recognized, is a conservative, counter-revolutionary power, one intended to serve the preservation of the existing order by giving it a new constitutional form. It seeks to manage crisis by forcibly deciding anew for the form that the pre-existing political unit will need to take if it is to continue to exist, warding off those political and existential threats that might ultimately constitute the polity otherwise. In *On Revolution*, Arendt undertakes a reconsideration of new political beginning in light of the Schmittian political theological model of *ex nihilo* creation and the supposed decision out of nothingness that it grounds, proposing a political theological alternative: a revolutionary constitutionalism that would take the form of the constitution of durable political order through maintenance of an orientation to the world and one another in which entirely new beginnings can continue to occur, thereby sustaining the continual, plural encounter with difference that, Arendt maintains against Schmitt, is the condition of any politics and the measure of any revolution’s—lasting, ongoing—success. Successfully instituted, such a constitutionalism would elude the so-called “paradox of constitutionalism” that persistently trips up the thinking of constituent power: the perceived opposition between established law and ongoing politics, between founding and new beginning, between constitution and revolution.

Such success, according to Arendt’s somewhat fantastical retelling of the eighteenth-century Atlantic revolutions, was found neither in France nor in America. Its closest institutional approximations were seemingly to be found in the councils that have emerged repeatedly in the midst of revolutions, perhaps first in the Paris Commune, which Arendt sees not as a source of constitutional crisis but rather as a fleeting intimation—ultimately defeated by the rise of a “centralized power apparatus” which, as she puts it, “under the pretence of representing the sovereignty of the nation, actually deprived the people of their power”—of the kind of “new type of political organization” that “would permit the people to become Jefferson’s ‘participators in government’” (244). (Arendt’s much-misunderstood account of the problem of the “social question” in the French Revolution is also foremost an analysis of the threat posed to politics by the attempt to solve social, economic, and political problems by remaking society via a centralized power, even a presumptively popular one.) A constituent power capable of the kind of ongoing new beginning without which politics withers cannot take the form of a unitary, violent force (*Gewalt*) instituting law but must, like all political power, Arendt maintains, arise spontaneously and remain—constitutionally—divided against itself.

Reread along these lines, might Arendt’s critical thinking of constituent power, and the unorthodox constitutional theory she produces out of it, shed some special light on the economic, political, and constitutional crises we face today, especially as—especially in Europe—central (if, symptomatically, weak and self-undermining) decision-making continues to be the preferred substitute for a broader, plural politics capable of traversing and reconstituting pre-existing political units, a constituent politics that continues to be sorely lacking and which this centralization indeed actively displaces?