

Vanishing point: How the future shapes constituent power

Jonathan White



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Abstract

This paper explores some of the ways in which a constitutional order centred on popular authority depends on its citizens' capacity and inclination to project into the future. The analysis focuses in particular on how the imagined world-to-come can act as a source of legitimacy, as an inspiration to collective self-rule, and as a way to contend with political disagreement. As the paper goes on to suggest, this perspective on constituent power brings out its character as a forward-looking process, while it also highlights some of the challenges that arise when confidence in the future wanes.

Keywords: Constituent power; democracy; demos; the future; political representation

* London School of Economics and Political Science (LSE). E-mail: j.p.white@lse.ac.uk

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The emergence of modern European constitutional thought coincided with new ways of thinking about historical time.¹ Alongside the discovery of such concepts as popular sovereignty and constituent power, the eighteenth century witnessed the discovery of the *future* – of an imagined world to come that would be different from the past, perhaps susceptible to conscious design (Koselleck 2004, Hölscher 1999). In place of a traditional Christian emphasis on imminent endings, a new belief in the abundance of time emerged, shaped by influences ranging from the Reformation to the emergence of early capitalism.

As this paper argues, there are important connections between these ideas of politics and time. Not only did they develop in broadly the same period, but also they display certain affinities of substance. The thematisation of the future was by no means exclusive to the politico-legal sphere, but it carried some distinctive implications for it. Providing a reference-point on the horizon for hopes and fears, it helped to structure the experience of the present. In contemporary political theory, it is typically in the ethics of cross-temporal obligation that the future makes its appearance (e.g. Parfit 1984). The focus here is on how it supports the ideas and practices of popular rule – as a source of legitimacy, as an inspiration to collective self-rule, and as a way to contend with political disagreement. The following sections explore each of these features in turn.

¹ The final version of this paper appears as a chapter in Peter Niesen, Markus Patberg and Lucia Rubinelli (eds.) (2026), *The Oxford Handbook of Constituent Power* (Oxford: Oxford University Press). The author gratefully acknowledges the support of a Leverhulme research fellowship (RF-2021-328) during preparation of the text. Excellent feedback on a draft was received at a conference on ‘Constituent Power’ organised by Niesen, Patberg and Rubinelli at the University of Hamburg, 20th-22nd March 2024.

One motivation for this perspective is to grasp popular authority as part of a continuing process. Rather than being restricted to a foundational moment, it is better seen as unfolding in time. Such concepts as constituent power describe provisional arrangements, ongoing revision, projects of change and rectification. Recognising how perceptions of the future shape constitutional matters can help to capture these dynamic aspects.

A second reason for this approach is circumstantial, bound up in the concerns of the present. In an age where existential threats are widely perceived, from climate change to nuclear war, economic breakdown to artificial general intelligence, confidence in the future appears to be waning. Ideas of abundant and linear time seem increasingly anachronistic to many today: ours is an age of felt scarcity and pressure. Accordingly, it makes sense to examine how far some inherited constitutional concepts and commitments may rely on expectations of the future that are no longer widely shared.

Shifting ideas of time in early-modern Europe were the expression of wider shifts in the representation of the world. The emergence of linear perspective in art entailed constructing a point to which all principal lines converged. Philosophical accounts of progress, developed by such thinkers as Condorcet and Turgot, were the application of these geometrical methods to the social world, evoking a trajectory of human history irreducible to religion or fortune (Lepenies 2013, 71ff.). One way to think about the future's significance for constituent power is as a point of orientation to guide critical perspective on the present. One way to think about constitutional crisis is as the confusion that sets in when this anchoring point is lost.

1. Constitutional legitimacy

Constituent power is a concept conventionally connected to the founding of a political community. It was promoted in eighteenth-century France as a way to conceive the authority of the post-revolutionary order, and has been retained to describe the source of legitimacy for constitutions and the legal and institutional apparatus to which they

give rise (Rubinelli 2020; Colón-Ríos et al 2021). Those reaching for the concept have typically sought in it a mechanism by which to connect the ‘constituted powers’ of the state to the principle of popular authorisation.

One ambiguity raised concerns the *bearer* of constituent power. To render the concept tangible, the temptation has been to cast its referent as a pre-political actor by whose intervention the political community is established. In the language of constitutions, ‘the people’ or ‘the nation’ is typically invoked to this end (Canovan 2005). The emergence of nationalism in the nineteenth century entailed efforts to define the collective in terms of cultural markers – shared language, religious tradition, historical boundaries, and so on – so as to resolve some of the uncertainties of constitutional authorship (Yack 2001). Legal and political theorists, whether committed nationalists themselves (e.g. Schmitt [1928] 2008) or keenly aware of the utility of nationalist myth-making (Mill [1861] 1974), have often proceeded as though constituent power can be grasped in such terms.

Yet efforts to ground the legitimacy of political community in this way produce familiar problems. By linking constituent power to a cultural formation, they tend to grant too much authority to existing boundaries and their prevailing interpretations, giving normative worth to what are accidents of history. Short of a pure cosmopolitanism, there is arguably no definition of peoplehood that does not entail arbitrary exclusions (Goodin 2007). Any attempt to conceive constituent power as embodied in a pre-political collective, acting at a foundational moment, founders on the indeterminacy of social boundaries.

Here is a first sense in which we may say that constituent power depends on the future. If constituent power resists being equated, even at the level of rational reconstruction (Habermas 1996, p.82; cf. Patberg 2014), with a defined collective acting at an original moment, the alternative is to conceive it as a process, one in which the arbitrariness of the community’s boundaries is persistently contested and reworked. In this perspective, no constitutional settlement is fully legitimate without ongoing efforts,

extended into the future, aimed at the rectification of the exclusions it entails. Constituent power is future-oriented, we may say, not just in the sense that it is tied to the construction of a new order, but in the sense that that order relies for its legitimacy on continual revision (Ochoa Espejo 2011; White and Ypi 2017).

This is a matter of territorial boundaries, but also of the institutional and legal structures through which power is exercised. The ideals of political equality that modern authority rests on tend to be imperfectly realised by any empirical arrangement. There are the familiar formal exclusions, for example, in the form of denizens who lack political rights (migrants, or historically women, racial minorities and the poor). There are also the informal exclusions, for example, citizens prevented or discouraged from exercising the rights they have by social and economic structures. Real-world institutions fall short of the ideals of equality invoked for them.

For early-modern theorists of constituent power grappling with the transition from absolutist monarchy to republican forms, these were not pressing concerns. Many were living in polities whose borders had long been stable and which could act as the assumed containers of constitutional change. The new institutions they saw emerging, whatever their shortcomings, could be defended as an improvement on what went before. But for later theorists familiar with the dangers of nationalism and the deficiencies of representative institutions, these concerns would be hard to overlook. Philosophers as diverse as Habermas and Derrida have emphasised how the real-world imperfections of political authority can potentially be addressed in time. Deficient constitutions and under-inclusive institutions can be provisionally accepted to the extent that they are located within an ongoing process of reform (Habermas 1996, 2001; Derrida 1992; cf. Näsström 2007; Zürn, this volume). The construction of a demos is, in this view, an inherently unfinished project, dependent for its moral legitimacy on a future in which its promises are better met. We have reason to accept the authority

of imperfect institutions to the extent there is the temporal scope to contest and improve them.²

This reliance on the idea of revisions-to-come is arguably an enduring feature of constitutional authority. Even the best arrangements will imperfectly instantiate the norms to which they are held, and every constitutional revision leaves work to be done. Constituent power relies on an indefinite future. Optimists will say that history gives support for a story of amelioration: that there are past exclusions that have been alleviated (e.g. through expansions of the franchise in democratic states, or through the construction of supranational institutions giving voice to affected interests). Some may point to such future-oriented practices as civil disobedience as ways in which constituent power can be expressed in non-revolutionary times (Kalyvas 2008; cf. Scheuerman 2019).³ Others will point to the exclusions that remain, that resist address, or those whose salience may be increasing – and perhaps to the need for revolutionary change. What is required of the future will be a matter of disagreement. But to the extent that constituent power is a concept worth having, the world-to-come as a space of rectification seems an important resource for living with the fallible arrangements to which it is tied.

2. Collective self-rule

While constituent power is a concept that focuses attention on moments of foundation and constitutional revision, the principles it describes resist localising in time. Questions of peoplehood, authority and legitimacy arise not only in landmark events but also in everyday decisions (Frank 2010). Partly this is because all politics is in some

² This feature is not unique to democracy: it applies wherever practices are expected to live up to certain norms, and hence where there is the possibility of a mismatch between the two. Technocracy and science would be cases in point.

³ Civil disobedience being a future-oriented practice in the sense that it draws attention to the failings of the existing legal order so as to galvanise the pursuit of a better one to come.

sense about the boundaries and composition of the political community – about who belongs, who is excluded, who has access to the material conditions needed for reproduction, and so on. All politics is at some level constitutional politics. But it is also because ideas of popular authority require continuing work to sustain them. Here we move from questions of people-formation to the exercise of power by an existing demos, where the world-to-come has again been an important reference-point.⁴ Political freedom benefits from the expectation of a spacious future in which political projects can be developed and continued.

Already for the great theorist of modern democracy Alexis de Tocqueville, the principle of popular rule had a structural orientation to the future. ‘I have brought out how the idea of progress and of the indefinite perfectibility of the human species is proper to democratic ages. Democratic peoples scarcely worry about what has been, but they willingly dream of what will be, and in this direction their imagination has no limits; here it stretches and enlarges itself beyond measure’ (Tocqueville [1835] 2000, 455). As these words imply, the idea of progress was central to the forward-looking perspective in Enlightenment thought. Into the future one could project the expectation of societal improvement – the continuation of a law-like trajectory that could already be discerned in the past. But the motivating power of the future for political change is broader than the concept of progress. The democratic idea of collective self-rule depends on recognizing the scope for political agency. It depends on the capacity to see the present from the vantage-point of an imagined alternative in which problems and grievances are addressed. In Tocqueville’s terms, ‘dreaming of what will be’ is an important stimulus to political action, connecting ideals of popular authority to democratic participation.

⁴ I shall focus on democratic politics, but the principle of popular authority permits non-democratic renditions – for example, paternalist versions in which the good of the people is pursued in the guise of technocracy or authoritarian rule.

The political isms of the nineteenth century, in particular socialism, brought this aspect to the fore. For reformers of the first half of the century such as the 'utopian' socialists, the focus was typically on immediate action – the near future could easily be seen as the horizon most in tune with democratic ideals of self-determination. Yet the risk was that this might lead to a superficial, evanescent politics, limited in scope and unable to meet its own goals. Not all political ends are achievable in the short-term. Certain ideals and associated visions of radical change – of justice, equality and the like – take time to pursue, partly because they depart significantly from the status quo and must reckon with structural obstacles, partly because they tend to provoke opposition (Wright 2010, 312ff.). Such projects depend on not only a temporal space into which hopes of change can be projected, but also practical strategies to maintain them in the face of setbacks and false starts.

Political parties would emerge as one of the key ways to pursue this in modern democracy, connecting the constituted powers of state institutions to an underpinning in constituent power. The party was a future-oriented collective (White 2025, 2024). It paired concrete short-term demands (limits on workers' hours and controls on wages, for example) with those that relied on a longer-term project (for instance, worker education and coordination, the monitoring of economic conditions, the planning and execution of social revolution, and the pursuit of equality after capitalism), as well as others that could not be foreseen at the outset. The party wrapped its demands in an overarching set of principles that defined it and gave reason for sustained commitment. It was the capacity to look beyond the near term that allowed partisans to abstract from quotidian concerns and articulate radical goals. While the idealised past could also be a source of inspiration, it was the future that promised to make sense of social change and give reason to embrace it. Underpinning the party was an enduring organisation, coordinating action in the near term but expected to outlive the individuals that composed it at any moment, promising the indefinite continuation of the projects to which they committed (White and Ypi 2016). By the end of the

nineteenth century, ideological parties had become the quintessential expression of future-oriented political thinking.

Political freedom is nurtured by the capacity to form enduring commitments. It draws strength from the future as a space of continuation. The persistent challenge for constitutional design has been how to reconcile this with diverse and changing opinion. If collective self-rule includes the capacity to pursue long-term goals, it is also about the capacity to *change course* (Mackenzie 2021, 118ff). Political freedom includes the possibility of revising how authority is exercised as circumstances change or majority views shift. Constitutional revision is one form this can take, as in Jefferson's proposals for safeguarding the 'sovereignty of the living generation' (Jefferson [1789] 1975). A more familiar expression is the periodic changes in policy associated with the institutions of electoral democracy. Here, the third of our key points, the future has been a way to contend with the disagreements and shifts in opinion that are an essential feature of real-world politics.

3. The institutionalisation of disagreement

Any principle of authority grounded in the people has to contend with the fact that the public does not speak with one voice. Value commitments diverge, and interests do not align. Insofar as constituent power is treated as a purely theoretical concept, disagreement does not pose problems. But insofar as one seeks to empiricise it, and pair it with terms such as 'constituted powers' that evoke real-world institutions and their legitimacy, an important question becomes how conflicts arising from the fact of pluralism can be managed. While constituent power is about making and re-making the rules of the game, that power would mean little without the capacity to achieve consent for those rules. Democracies face the challenge of how to convince those of different views to endorse the same institutions (parliaments, electoral mechanisms etc) and how to maintain the consent of those ill-served by them at a particular moment. Here, the future has been a critical resource by which to cultivate legitimacy under conditions of disagreement.

Why, generally, are people expected to accept substantive decisions they disagree with, and the procedures that gave rise to them? Why should they accept the results of elections that go against them? One answer lies in the notion that political outcomes in a democracy are provisional. What the political scientists call ‘losers’ consent’ (Anderson, Blais, Bowler, Donovan, and Listhaug 2005) derives from the recognition that victories and defeats are temporary. Those denied access to power ‘this time’ can take consolation in the prospect that next time things may look different. They may be amongst the victors in an election-to-come, or able to influence a process of electoral reform which ensures that the system does not consistently disadvantage certain groups. The amplitude of the future acts as a resource for toleration and non-violence. Abundant time means time enough to accept the triumph of adversaries and the procedures that put them there. It offers reason for the defeated to continue their involvement and seek to draw new groups into politics.

What is at stake here is *sociological* legitimacy – that is, the belief amongst those subject to coercive institutions that the power these wield is authoritative. Unlike the kinds of exclusion considered in the first section, which may be considered suspect even where they do not provoke widespread dissent, here actor perceptions are central. People who wish to have some say over the rules that structure their lives, and who are denied this capacity by the power distributions of the day, are likely to turn against the order as a whole unless they have reason to see their predicament as temporary. The capacity to reallocate power and redirect the ends to which it is put is one of the foundations of whatever real-world legitimacy can be mustered for a polity’s institutions.

Institutionalising disagreement in this way is especially important if one hopes to see some kind of learning process at work – one by which majorities can develop more enlightened views. Citizens are fallible, and majority opinion at any given moment can seriously depart from what seems defensible. The epistemic flaws that afflict democracy are one of its major vulnerabilities – and the future is a resource to assuage them. Indefinite time means time for experiments, mistakes, and subsequent

reappraisal. For Tocqueville, this was one of democracy's distinguishing virtues: 'if democracy has more chance of being mistaken than a king or a body of nobles, it also has more chance of coming back to the truth, once enlightenment comes to it ...' (Tocqueville [1835] 2000, 247). Democracy has the capacity for self-correction – as long as it can count on sufficient time.

For thinkers of constituent power, the sociological legitimacy of institutions and procedures will not always be a matter of concern. The idea of constituent power can be applied to criticise existing structures – to suggest for instance that constituted authorities have 'usurped' powers that are not theirs (Cohen 2012) – and to call for these structures to be overturned. A system that repeatedly rewards the wrong people and creates permanent minorities may ultimately be one to discard. Sociological legitimacy then becomes an obstacle to overcome. But even if exceptionalism is part of the concept, it nonetheless rests on the notion that an order with stable and legitimate institutions is a plausible goal, towards which constituent power in its creative aspect can be directed.⁵

Representative forms of democracy, centred on competitive, party-based elections, bring out this reliance on the future most starkly. As mediated forms of self-government, they rely heavily on rules, procedures and institutions. These can slow down decision-making, create tensions between citizen preferences and decisions, and introduce distinctive problems of consent. In a world of consensus-based direct democracy, everyone might more easily feel themselves to be the authors of political decisions: questions of losers' consent would then not arise. But in the modern world for which the concept of constituent power was developed, democracy has been representative democracy, and societies have been pluralist in character. In these

⁵ Some renditions of constituent power in the radical-democratic tradition do position themselves against any institutional order (Popp-Madsen 2023, 1190-1), but this is a minoritarian and self-marginalising position.

contexts, the expectation of an indefinite future has a crucial political role to play, making it possible for today's defeated to consider themselves victors-in-waiting.

4. Constituent power meets a future in question

What lies in the future is unknowable, but much hangs on the beliefs that form of it. The world could end at any moment, but politically it is important that this thought be kept in check: that people think and act *as if* there is time to come, as if the lines are not about to converge. This can be said of many human activities – that their meaningfulness depends on the expectation of continuation (Scheffler 2013) – and it applies no less in the domain of democratic authority. Absolutist forms of rule are different in this respect: the tyrannical ruler who claims divine authorisation need make little appeal to the world to come, as they do not tie their authority to normative standards that can expose the regime to critique. Such an order does not carry within it the idea of fallibility and future correction. Popular authority in the modern world, by contrast, does.

One broad conclusion one may derive from this paper is that, where confidence in the future starts to fade, political and constitutional difficulties can be expected. To the extent that times to come are met with an expectation of powerlessness, stasis and / or decline, or to the extent that time seems about to run out, a kind of crisis can set in. One of the challenges of the present is that the capacity to postulate a useable future is increasingly in question (Zielonka 2023). Societies struggle to maintain the assumptions on which modern politics was built. In the context of various kinds of existential risk, a sense of temporal compression takes hold. For some that means the possibility of extinction, and the consciousness of belonging to what could be the 'last generation'. These are anxieties of the vanishing future. For others, the sense is rather that the present and near future is a critical window in which crucial choices must be made: existence may endure, but the scope for agency is timebound. The escalating inequalities of capitalism, and the uncertainties of global geopolitics, cultivate

amongst many an outlook of foreboding and a sense that this could be the 'last chance' to alter the course of events.

Consider the implications for the three elements of constituent power discussed. As regards *constitutional legitimacy*, the perception of temporal compression may, at first glance, have positive implications. To the extent that one sees a critical window within which to address a variety of crises, this shines a stark light on the ways in which political boundaries may be misaligned with the preconditions for a fair and effective response. Far-reaching challenges such as climate change mitigation and adaptation, and related patterns of climate migration, bring into focus issues of exclusion that in other contexts might be possible to overlook. But they may also make these issues more intractable, bringing into question a gradualist approach to the reconstitution of political membership. The steady construction of new regional and global institutions is likely to look out of place. Rather than a reckoning with the questionable legitimacy of the existing state system, these conditions of urgency may encourage an attitude of impatience towards matters of principle and an emphasis on the pursuit of stability.

As regards *collective self-rule*, again there would seem to be mixed potential. Scarce time can exert a galvanising effect – it can be a spur to action and to the ties of solidarity. But one should be wary of equating this with collective self-rule. A sense of temporal constraint invites appeal to the logic of necessity rather than democratic choice (White 2019). As the scholarship on 'securitisation' suggests (Waever 1995), it can encourage a focus on tangible goals rather than normative principles, on the suspicion that the latter are a distraction in times of urgency. Where it does not inspire fatalism, it may incite a desire to bring projects to a rapid conclusion, or a willingness to abandon them when they seem to be coming up short. Each of these concerns may diminish the appeal of more radical exercises of political agency. The less the future is felt to be available, the more restricted becomes the interpretation of collective self-rule – something liable to weaken it not just in the present but in periods to come, given that the conditions for its exercise may require political intervention to sustain them.

For the *institutionalisation of disagreement*, the implications would seem to be straightforwardly negative. There is little reason for the defeated to accept political outcomes they oppose if there is felt to be no scope to correct them in future. The more time is assumed to be scarce, the more political defeats will be viewed as conclusive. Nor, under these conditions, is there much reason to trust that adversaries will adhere to the rules of the game. Reputations matter less when the emphasis is on the now: it becomes tempting to pursue victory at all costs (White 2024). Foreseeable are efforts to repress disagreement or circumvent the procedures supposed to express it. Contested election results, doubts cast on the legitimacy of institutions and opponents, and efforts to silence critics by non-democratic means, are amongst the things that may ensue.

In such conditions, impatience with the mechanisms of representative democracy seems likely to grow. Insofar as the idea of constituent power retains its relevance, its relation to democracy becomes uneasy (cf. Arendt [1963] 2009). In the name of emergency management, it may point to technocratic or enlightened-authoritarian modes of rule that aim to rule the people without need of popular consultation (Fisher 2017; Smith 2021; Vauchez and White 2025). In a more activist register, it can be invoked to challenge existing institutions in the name of unmediated decision-making (e.g. referenda or citizen assemblies), in which problems of disagreement are sidestepped. Constituent power is thereby turned against the representative forms of democracy whose emergence it was initially conceived to make sense of.

5. Conclusion

The idea of constituent power was born in an age of increasing preoccupation with the future. As this paper has argued, beyond the historical connections are conceptual ones. The imagined world to come offers important support for an order grounded in popular authority, as a source of legitimacy, an inspiration to collective self-rule, and a way to contend with political disagreement. Constituent power suffers accordingly when the future is met with scepticism and trepidation. It may be that such concepts

can still do good work in this setting. Sometimes the existing order needs to be remade: revolutionary conceptions of constituent power can flourish in a context of temporal constraint. But to achieve some measure of political order requires that revolutions be followed by constitutions and institutions, and that these be widely endorsed. The ideas and practices of popular authority are likely to struggle if a more positive sense of the future cannot be revived.

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