

The Absent Sovereign and the Invisible Foundation: Political Liberalism's Aporias in Theorizing Constituent Power

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journals.sagepub.com/home/psc**Mykhailo Minakov**¹ 

Abstract

How can constituent power be simultaneously constrained by law and genuinely democratic? This question has haunted constitutional theory since Sieyès distinguished constituent from constituted power. This article argues that political liberalism's attempts to resolve this paradox generate two structural aporias. First, anti-foundationalist approaches to constituent power inevitably produce an invisible foundation: normative standards like “the most reasonable” operate as quasi-transcendental constraints even while disclaiming metaphysical commitments. Second, locating sovereignty in a trans-generational people creates an absent sovereign: ultimate democratic authority resides in an entity accessible only through juridical interpretation, never directly present to living citizens. Through critical engagement with Alessandro Ferrara's *Sovereignty across Generations* (2023) and recent scholarship on intergenerational constitutionalism, I demonstrate that these aporias are not contingent flaws in particular theories but constitutive features of political liberalism's broader project. Drawing on Lefort's concept of democracy's “empty place of power” and Arendt's notion of natality, I argue that constitutional democracy depends on sustaining permanent tensions between popular sovereignty and normative constraint, between democratic self-governance and inherited commitments. Political liberalism's future lies in embracing rather than eliminating its internal contradictions, accepting that sovereignty must remain contested if freedom is to endure without metaphysical foundations.

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dialogue over transgenerational obligation, the article suggests that the future of political liberalism depends on acknowledging rather than resolving its aporias.

Three responses remain possible for political liberalism going forward. First, openly embrace foundationalism: acknowledge that “the most reasonable” functions transcendently and defend this candidly, as [Niesen \(2024\)](#) suggests. Second, abandon robust constraint: allow each generation full constituent power and accept populist risk, as Colón-Ríos’s position suggests, though Ferrara and most liberal theorists reject this. Third, accept the aporia: recognize that political liberalism must sustain itself through tensions it cannot resolve.

This article has defended the third path. Political liberalism’s strength lies not in resolving but in managing the tension between democratic sovereignty and constitutional constraint. Lefort’s “empty place of power” must remain empty even as we populate it with procedures, standards, and interpretations. Sovereignty’s foundation must be absent even as we represent it through courts and constitutions. Each generation’s constituent power must remain genuinely open even as vertical reciprocity binds it to inherited commitments.

Ferrara’s *Sovereignty across Generations* has performed invaluable service by pushing political liberalism’s theory to its limits and revealing where those limits lie. Future scholarship must reckon not with solving the aporias, but with theorizing how constitutional democracy persists through, rather than despite, them. Perhaps the deepest insight available to political liberalism is that some contradictions in political life cannot be theoretically transcended because they reflect permanent features of the democratic condition itself. We want stability and change, continuity and renewal, constitutional constraint and popular sovereignty—wants pulling in different directions that no theory, however sophisticated, can make fully compatible. What theory can do—what this engagement with Ferrara and recent scholarship has attempted—is help us understand why the tension persists, what is at stake in our various attempts to manage it, and how we might live democratically within rather than beyond our constitutive aporias.

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