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Constituent Power. Toni Negri's Double Attentiveness

Isabell Lorey

New Year 2019, the friends slowly gather on the roof of Casa Azul, having traveled from different corners of Europe to celebrate the turn of the year together and attend the presentation of Toni Negri's autobiography at Casa Invisible the following day. We hear Toni breathing heavily in the stairwell, he struggles up the many steps, and then he is at the top, his face emerges from the darkness of the staircase, a radiant smile in his eyes despite the effort, fulfilled by a double attentiveness: attentively turning towards the deep blue sky and the southern sun, and at the same time towards the concrete sociality of the friends. Just as in Walter Benjamin’s fourth thesis on the concept of history, heliotropic, attentively turning towards the sun, a very specific sun, and at the same time not only towards the “raw and material things”, but also towards those “subtle and spiritual” things that come to life in the struggles. This is the twofold attentiveness that also characterized Toni, towards the constituent power of rising movements and towards the mutual sociality of care relations, as his critical confidence and unconditional curiosity about things great and small, raw and subtle. Still smiling, Toni sits down at the table and

gleefully peels his daily orange, which had been waiting there for him.

The folds of constituent power

In September 2022, Gerald Raunig conducted a long interview with Toni Negri. In the first part of the interview, Toni unfolds once more his understanding of constituent power and how it is connected to the change of everything, that is to revolution.[1]

To comprehend what is the particular clue of Toni's understanding of revolutionary constituent power, it is necessary to revisit the widespread *legal* definition of constituent power. In the interview Toni says: "Its legal definition is that of a sovereign act that imposes a new order on society. Normally the concept of constituent power has been formulated as one of the variants of the power of exception: (...) The power of exception is the power the sovereign has to impose an order." This order very often is a written constitution, a constitutional text. Such "a text", Toni says, "is deferred, reconstructed continuously through jurisprudence".

Common to all these forms of juridical constituent power is that it is "the ability to produce a state (...) as the ability to continue it (... and) as the ability to renew it in consistency with the past".[2]

Yet, there is another form of constituent power that is connected less to legal definitions, but to revolutions – in the interview Toni refers to the French Revolution and the Russian Revolution. What I am interested here is Toni's concept of constituent power as revolutionary force that is able to build something new, to create a sort of counter power amidst a "terrain of struggles". At first it is important that power is understood here similar to Michel Foucault, not as something a person has, but a dynamic "that is

produced by at least two actors" in an agonistic setting. Constituent power that is not juridical is not the power of one, but of many, a common power that "leads to an alternative of power", to alternative forms of living together, to social conditions beyond current forms of subordination and exploitation, beyond patriarchal, racist, colonialist domination. And, Toni adds,

> "constituent power is the result of a struggle that is always open, and a struggle that must demolish the state and sovereignty, as posed, to leave open a breathing space for society. A power that when democracy actually comes to be realized, which has never been realized so far, when there is no more representation, for example, will have to be a power that continually mediates itself directly in society, through productive powers, through administrative powers, through capacities that are taken out of subordination by the state, and thus become constituent powers instead: continual constituent processes."[3]

So, even when the Russian Revolution was broken through Stalinist dictatorship, the force of revolutionary constituent power remains, it is an ongoing process, sometimes more or less visible, often crawling under the surface or on the ground, but moving along.

In this mole-like movement above and under the ground, for Toni the biggest eruption is 1968. "68" stands for the manifold struggles and movements in these times (including the 1970s) that have broken open ossified societies in many places around the world, tremendous forces to want to live and work differently, beyond patriarchal, racist and capitalist exploitation and oppression. The great significance of 68, according to Toni, was that it "fundamentally broadened the concept of exploitation, that is, of

who is subjectified by exploitation. (...) There was not simply a problem with the capitalist organization of society. There was a problem of the general organization of society that went by the name of state sovereignty."

It became obvious: There is a multiplicity of subjects, not collective identities, but multifold singularities, that could come together and cooperate, "through a desire for each other", Toni says, "the multitude was (...) a chaotic multitude, but a chaos that passed not between indefinite beings, but through singularities of desire, of passion, especially of desire for each other."[4]

This meant at the same time an enormous shift in the understanding of exploitation and alienation, moving away from the idea of passive victims, towards a notion of the subject, or better the singularity linked to others, who suffers exploitation and discrimination and at the same time is the one who "works, reacts, resists and struggles". In the 1970s, the struggles could be reinvented as social movements. Among the most significant movements were the heterogeneous feminist movements and "the anticolonial discourses". All this enormously broadened "the concept of another world is possible".[5]

In the audio conversation, Toni refers in detail to Latin America and the tremendously important cycle of struggles that started in the beginning of the 1990s with the Zapatistas in Chiapas and that has genealogical lines to the constituent processes in Venezuela, Ecuador, Bolivia and Chile, but also the important peace and transformation process in Columbia of today – a cycle where the struggles of indigenous, feminist, trans and queer people played and still play a decisive role.

Very important in these constituent processes of breaking open exploitation and domination and inventing other worlds is that the transnational terrain of struggles is never standardized and uniform. Constituent power unfolds in anti-authoritarian directions, in new forms of the commons beyond Soviet Union communism. This also means a new understanding of class that breaks away from the factory and traditional production processes and understands the "subaltern struggles" in their heterogeneity in a terrain of multiple class struggles.

My book *Democracy in the Political Present. A queer-feminist Theory* is highly influenced by Toni's thoughts, especially by his concept of constituent power.[6] The book was written in the cycle of struggles of the democracy and occupation movements of the 2010s and the queer-feminist strike movement that we know from Argentina and other Latin American countries and also in Europe against authoritarian anti-feminist, anti-queer and trans-phobic populism.[7]

One of the problems of liberal democracy Toni emphasizes again and again is that this form of democracy is based on a constitutive separation between the political and the social, between the state and (civil)society. From the problematic idea of an autonomy of the political arises the necessity for political representation, which forms the basis of the irredeemable promise of the liberal norms of equality and justice. However, the specific democratic-capitalist division of labour between a realm of the political and a realm of the social, and the maintenance of this form of democracy as a continuous process of democratization are based not only on the deferral of a comprehensive participation of all members of society to the future. What must be prevented above all is the self-governing of the *demos* as 'all'; representation is considered

necessary; at the same time, the *demos* cannot become present as a heterogeneous multiplicity, as a multitude.

In the framework of the juridical constitution liberal democracy is closely connected with the conception of popular sovereignty, the self-legislation of the *demos* as *'the people'* and with the idea of a nation. Such a constituent power that is limited to legislation counts the many and produces a constitution in the name of a people.

A constituent power that does not domesticate multiplicity is radically different. It starts from the struggles, goes beyond a constitution in the legal sense, is not bound to a nation and a people. It is a constituent power of the multitude, with all of its differences. Such a *demos* of the multitude is not limited by national borders, but always transnational. It does not simply stand in opposition to constituted, institutionalized political power as part of an existing political system and does not emerge outside of forms of institution. It goes hand in hand with different practices of instituting. The multitude of singularities is capable of unfolding such a new constituent power and, along with this, other forms of democracy. The constituent process must be a social revolutionary becoming that – from a queer-feminist point of view – places mutual care at its center and no longer excludes it from the realms of the political and organization. When democracy is conceived of in terms of mutual dependencies and relations of care, it is not only affected by other bodies and things, but also connected to environments and surroundings.

Constituent Power as conceived in *Insurgencies*

Toni has always insisted on a constituent process in Europe, a process that dissolves the violent nationalisms and with them the absurd notions of national-cultural characteristics.[8] Such a process is based on the caring capacities of the multitude, and does not close the borders of Europe. It is not only an anti-national or transnational process, but at the same time an anti-patriarchal and a decolonial process, where much could be learned from Latin America. It is a process that gives rise to a new form of democracy, anti-militaristic and anti-fascist, and, with a rather marginal term from Spinoza, which Toni developed into a concept: an absolute democracy.

Such a constituent process stops interrupting the discontinuous constituent rhythm of revolutionary becoming and considers "revolutionary becoming with respect to political constructions and constituted being"[9] as possible, Toni writes in his important book *Il potere costituente*, where he develops his understanding of constituent power and process. It was first published in 1992; in English in the year of 1999 with the title *Insurgencies: Constituent Power and the Modern State*.

Departing from the three thinkers who inspired him in the conception of a non- juridically-oriented constituent power – Machiavelli, Spinoza, and Marx – as well as the genealogical lines they draw through modern political theory, Toni shows in the final chapter of his book that they, too, remain rooted in three central components of European thought: the ideology of creation, natural law as the basis for the social, and transcendental philosophy.

Toni defines the first component as the "ideological dimensions of Western thought: the Judeo-Christian tradition of creativity".[10] It is the burden of the One. Although Machiavelli, Spinoza, and Marx maintain a type of creative atheism rather than represent any

theological positions, they are unable "to avoid in a definitive manner that point of the Judeo-Christian tradition in which all experience is brought back to unity", Toni writes. "To expropriate God of its creativity is not decisive, if we allow creativity to be defined still by the unity of the creative project."[11] The ideology that creation emerges only from the One, that power and force must be connected to unity and unification, also means adhering to the idea that there is a "creative project", a finality, a historical linearity, or continuous progress. Along this type of continual axis of time, the potentiality and "the strength of the multitude is always conceived ... in the figure of the unity of the multitude".[12] Yet the strength of the multitude is based by no means simply on number alone; it does not exist in numerical manifoldness, but in the multiplicity "of the 'many', that is, the strength of singularities and differences".[13] According to the idea that the many have to become one, the multitude can ultimately only be thought of as a unity. In contrast to this, understanding constituent power *without* a unifying political figure means allowing the potentiality of the multitude to occur in political action as multiplicity.

When Toni understands the multitude not as isolated, dispersed individuals, but, following Gilles Deleuze and Félix Guattari, as singularities that are simultaneously unique and related to others and their environments, it becomes clear that attributing a constituent power of the multitude does not simply mean that the dispersed many who do not form a people, who pursue their particular interests in the private realm, should now finally be politically organized. The multitude of uncountable constituent singularities is a composite figure that does not allow for the logic of the autonomy of the political; it corresponds to the indeterminate *demos* that is not determined to be a people.[14]

Such an understanding of the multitude breaks open the separation of the political and the social, as singularities in their mutual dependencies and affections can never be situated beyond the social.

In the second component problematized by Toni in his book *Insurgencies*, constituent power is understood in natural law terms as a force before the law, before the constitution. This is one of the traditional ideas of constitutional theory: the dispersed many come together with their individual faculties and combine their forces to give themselves a constitution. In contrast to this, there is a constituent power – which is my concern here, following Toni – not before the law in the sense of being an origin: it is not a start, its history is not linear, and it is not composed additively. It is excessive and measureless and does not orient itself *primarily* on the law. It is not genuinely juridical and does not inevitably result in a constitution. It is constituent to the extent that it is detached from the tradition of constitutionalism.

The third component which constantly surfaces in the debates about constituent power is its dissipation. In order to tame the constituent power of the multiple singularities as a multitude, this power is individualized and distributed among separate individuals, privatized and particularized. Disassembled and separated in this way, it is no longer capable of collective political action; stripped of its social relatedness, it becomes an unassociated quantity of private interests that cannot be politically organized. This individualization then forms the basis for the idea that in order to act with political efficacy, the dispersed individuals would need to join together, in a secondary step, to form a collective, united subject – as though at the beginning there was the dispersed autonomous individual, as though the heterogeneous singularities were dispersed as

individuals separate from others, without affections, contexts, or dependencies.

Feminist political theory has repeatedly problematized the masculinist idea of autonomy and freedom. There is a liberal fantasy that individuals can always potentially find collectivity, that it is ultimately possible for separate individuals, under certain circumstances, to join the revolution and form a constituent force that suspends the law. But in this fantasy, as Toni pointedly formulates it, the moral has priority over the political, whereby constituent power is separated "in the empty individual intentionality".[15]

Liberal democracy lives from the struggles to extend the applicability of laws and norms such as equality and freedom. This future-oriented promise of a potentially endless progress of democratization is based on the individualization of constituent power and on the logic that only united *subjects* can act with political efficacy. In the inevitably concomitant mode of representation, the constituent power of multiple constituent singularities disappears in the corresponding chrono-political form of organization. In order to last, in this representationist logic, every emerging social movement must, in a next crucial step, lead to a representative form of organization. Here, the constituent power has never managed "to free itself fully from the progressive concept of European modernity and its plot of rationality".[16] The paradigm of unity and individualization remains committed to the linear narrative of time as progress. Discontinuity, eventfulness, and contingency are discredited by superficial continuity coupled with visibility.

Conceiving of the potentiality of the multitude as constituent power beyond constitutionalism and linearity implies an

understanding of democracy different to that of its liberal form. When democracy is conceived in Toni's sense, without the constitutional representation of the people as "omnilateral expression of the multitude",[17] the heterogeneous *demos* can no longer be contained in the constitution (constituted power) and ignored as constituent power.

In order to understand constituent power in its radical form, it is necessary to break with the liberal, bourgeois form of democracy based on a separation between a political realm and a social realm, a sphere of the public and one of the private – based on hetero-patriarchal gender binaries. It is also a break with the strategic phobia in relation to the multitude, with the fear from which Western political philosophy arises. The multitude can no longer be treated under the dictum of the 'social question', which is always problematized when the conditions of domination threaten to become unstable and the revolt of the poor, the precarious, those without a voice appears to draw near; when, in the ruling order, the multitude can no longer be reduced to the social and the private separated from the political, defamed as driven by irrational passions, reckless, irresponsible, and unpredictable, as a wild crowd that can only be penetrated, dominated, and categorized by (masculinist) political rationality.

In a non-constitutionalist understanding of constituent power, the process of constitution is never complete;[18] it is a matter of a becoming of democracy in the present. The focus is not on an external constitution, but on the process of self-constituting; not on a subject of representation, but on democratic modes of subjectivation.

Constituent power in this most advanced form means establishing possibilities and procedures within and beyond traditionally

understood constituted power, and outside but also within instituted state apparatuses, experimenting with organization models, collective forms, and modes of subjectivation that resist – at least for a while – subservience. While not breaking with every form of constituted power, this new constituent power unfolds new relations and other modes of instituting – not in a separate realm of the juridically political, but rather as inextricably bound up with questions of social reproduction and care.

By breaking the gendered division between public and private spheres, rejecting the autonomy of the political, releasing constituent power from the limitations of the law, and refusing the figure of a bourgeois capitalist, autonomous, identity-bound subject, a democracy detached from the primacy of representation can be practised. This is a democracy whose *demos* cannot be represented as a people, but instead unfolds as a manifold multitude. Multitudinous democracy bursts the taming, violent fetters of the private and allows everyday local practices to become political, practices which, in their relatedness to others and their dispersal, are not considered political in liberal logic. Such a democracy cannot be demanded or realized within a liberal political framework since its aim is to radically transform precisely this framework. This is a democracy that is not supported by autonomous individuals but emerges from connections and affections in their historical materializations. In countless beginnings and repetitions, it takes shape at a micropolitical level in subjectivations that are not a becoming of identitarian subjects, and in social relations that are able to condense and institute at administrative and organizational levels. It breaks with discrimination based on identitarian categories such as class, gender, sexuality, and 'race', and opposes the valorization of difference. It is a form of democracy that refuses the restabilizing

processes of patriarchal-heteronormative and white gendering, and that counters neoliberal relations of exploitation. It actualizes and preserves the precariousness of life in a new form of democracy, that I call 'presentist democracy'.

Constituent immunization

Some fifteen years ago, in my book *Figuren des Immunen* I already applied Toni's concept of constituent power to break open a domination-securing understanding of immunization.[19] I tried to show how governing through normalization and immunization corresponds to a political securitization of a community, a community as nation for example, with dynamics of belonging, borders, threat, risk calculations, integration. Here immunization secures domination. Not only the fight against a pandemic works in the logic of individual and collective immunization. In a political sense of immunization, the safeguarding of a community functions in general by warding off threats and in calculating risks – to legitimate strategies of governing and to secure domination. Here, life must remain precarious. The residual risk is a prerequisite to establish ever-new security mechanisms. This, again, is based on a politically and economically induced *precarity* that entails all of the uncertainties resulting from immunizations – in the broadest sense anxieties, discriminations and injuries in relations of inequality.

To counter and go beyond this logic of immunization that perpetuates domination, I used Toni's concept of constituent power, constituent in the sense of building and creating, and proposed a subversive figure of the immune: *constituent immunization*. Constituent immunization concerns an understanding of immunization that is a far cry from its everyday meanings. Instead of a movement of incorporation and integration

into an already *constituted* political body, the Latin word *immunio* can also be used to highlight the movement of *constituting* beyond a juridical logic of sovereignty. 'Constituent immunization' then means a practice of instituting, a creative, instituent act.

It stresses a renewed ordering in which safeguarding the political body is no longer the stake, but rather the constituting of those formerly constructed as a threat. Such a resistant form of the immune ruptures the dynamics of immunization in which political and economic domination functionalizes the threatening precarious in different ways.

'Constituent immunization' means the *self-constituting* of the precarious in and as an exodus.[20] In the genealogy of *(post)operaismo* this exodus as radical disobedience is a flight, condition for constituting and 'return' to the territory of former domination.[21] A common exodus of the subaltern radically questions existing relations of domination. It is not an exodus from relations of domination into an absolute outside, but the constituting of a common *potentia* in order to dynamize existing power relations again and to struggle for emancipatory social conditions.

Refusal to obey in this sense is a *productive* practice. Its productivity refers to constituting, to composition, to centrifugal force. Constituent power is the capacity for composition, for (self-)organization in the exodus.

As I explained in the beginning: constituent power is a revolutionary force that is able to build something new, to create a sort of counter power amidst a "terrain of struggles". So, on the one hand, we have a plane of immanence, and in an exodus, flight, and desertion, there is no discovery of a completely new terrain.

Rather there is return to the territory of former domination. On the other hand, through the deterritorialization of an exodus, the territory is deformed, so its clear that you cannot return to the same territory of domination. Reterritorialization, 'returning' means not just taking over the old state apparatus, but instituting anew, transforming the given institutional forms.

The *con-* in constituent, the *with*, is not geared towards a community, a *com-munitas*, but to the common that is to be found in recomposition and cooperation. Constituent immunization is a process in which spontaneity and organization are not separate from one another; it is a simultaneity of beginning and duration. This constituent process can only continue when it is brought forward by instituent practices.[22] The beginning anew, in this kind of ongoing process, corresponds to a recurring break, creating a breach that enables new possibilities for action. Yet, this processual constituting is not opposed to a constituted power, but rather new forms of constituted power are elaborated (dependent mandates, like councils or institutions of the common) to allow that which constitutes to manifest itself.

Institutions of the common are not created from nothing; and neither by just taking over existing institutions; they have to be transformed from the very first moment on. But this requires a radical readiness for new forms of organization in which the constituent practices of the movements are translated and carried forward.

In this sense and with the help of Toni's challenging political thought, we can understand constituent power not as a one-time act, a limited process with the legal text of a sovereign nation as its product, but as an unfinished process: a process of invention that is not driven by the interest to contain the radical heterogeneity of

the multitude in the identity of a national people. It is a power without a people, a power that is not suited for populism, a power completely unable to surrender to populist temptations. The constituent process of the multitude corresponds instead with an enduring discontinuous social revolution that re-poses the questions of social reproduction and care.

Attentiveness and Heliotropism

And that was Walter Benjamin's fourth thesis: "The class struggle, which is always before the eyes of a historian trained by Marx, is a struggle for the raw and material things, without which there are no subtle and spiritual things. Nevertheless, the latter are present in the class struggle other than as the idea of spoils that fall to the victor. They are alive in this struggle as confidence, as courage, as humor, as cunning, as steadfastness, and they work back into the distance of time. They will always question anew every victory that has ever fallen to the rulers. Just as flowers turn their heads towards the sun, so, by virtue of a secret heliotropism, what has been strives to turn towards the sun that is rising in the sky of history. The historical materialist must understand this most inconspicuous of all changes."[23]

Trained in the philosophy of Marx and Spinoza and with Deleuze and Guattari, Toni's work, like his life in general, insists on that double heliotropic leaning, inclination, tendency: attentive towards the great struggles and social movements, but also – in an almost queer-feminist turn towards the multiplicity of care relations – towards the small things that come alive with his unwavering confidence and unconditional curiosity, in the machinations of constituent power. This heliotropism is not so secret, it can also be practiced without a messiah and without a sun god. And in ever

new now-times, Toni's legacy will continue to turn towards the constituent power of the movement "which is rising in the sky of history".

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[1] See also my contribution to the audio series on Toni Negri's 90th birthday "Tribute to Toni Negri" from March to August 2023, published on transversal.at: https://transversal.at/tag/tribute-to-toni-negri.

[2] Gerald Raunig, "Conversation with Toni Negri", Part 1, *transversal audio*, March 2023, https://transversal.at/audio/negri-conversation1

[3] Ibid.

[4] Ibid.

[5] Ibid.

[6] Isabell Lorey, *Democracy in the Political Present. A queer-feminist Theory*, London: Verso 2022.

[7] Verónica Gago et al, *8M – Der große feministische Streik*, Wien et al: transversal texts 2018, https://transversal.at/books/8m; Verónica Gago, *Feminist International. How to change everything*, London: Verso 2020.

[8] Antonio Negri, Raúl Sánchez Cedillo, "For a Constituent Initiative in Europe", *transversal*, 2015, https://transversal.at/tag/for-a-constituent-initiative-in-europe.

[9] Antonio Negri, *Insurgencies: Constituent Power and the Modern State*, Minneapolis: University of Minnesota Press 1999, 321.

[10] Ibid., 306.

[11] Ibid., 307.

[12] Ibid.

[13] Ibid.

[14] Michael Hardt and Antonio Negri, *Assembly*, Oxford: Oxford University Press 2017, 42-46.

[15] Negri, *Insurgencies*, 310.

[16] Ibid, 311.

[17] Ibid., 321.

[18] Antonio Negri, "Constituent Republic," in *Revolutionary Writing: Common Sense Essays in Post-Political Politics*, ed Werner Bonefeld, New York: Autonomedia 2003, 243-253.

[19] Isabell Lorey, *Figuren des Immunen. Elemente einer politischen Theorie*, Zürich and Berlin: diaphanes 2011, 281-291; for a summary of the main aspects see Isabell Lorey, "Politics of Immunization and the Precarious Life", in *Dance, Politics, and Co-Immunity. Current Perspectives on Politics and Communities in the Arts*, ed. Gerald Siegmund and Stefan Hölscher, Zürich and Berlin: diaphanes, 2013, 265-276; and also Isabell Lorey, "Constituent Immunization Instead of Self-Immunizing Communities", text contribution for *New Alphabet: Community*, December 9th-11th, 2021, https://newalphabetschool.hkw.de/constituent-immunisation-instead-of-self-immunizing-communities/

[20] Michael Hardt and Antonio Negri, *Empire*, Cambridge, MA and London: Harward UP 2000, above all "Being-Against:

Nomadism, Desertion, Exodus," 210-214; Paolo Virno, *Exodus*, Wien: Turia+Kant 2010; Isabell Lorey, "Attempt to Think the Plebeian: Exodus and Constituting as Critique," *transversal. multilingual webjournal*: "the art of critique", 2008, https://transversal.at/transversal/0808/lorey/en; Isabell Lorey, "Presentist Democracy. Exodus and Tiger's Leap," *transversal blog*, 2014, https://transversal.at/blog/Presentist-Democracy.

[21] Lorey, *Figuren des Immunen*, 36-51 und 307-313.

[22] Gerald Raunig, "Instituent Practices: Fleeing, Instituting, Transforming," *transversal. multilingual webjournal*: "do you remember institutional critique", 2006, https://transversal.at/transversal/0106/raunig/en; Gerald Raunig, "Instituent Practices, No.2: Institutional Critique, Constituent Power, and the Persistance of Instituting," *transversal. multilingual webjournal*: "extradisciplinaire", 2007, https://transversal.at/transversal/0507.

[23] Walter Benjamin, „On the Concept of History," in *Selected Writing, 4: 1938-1940*, ed. Howard Eiland and Michael W. Jennings, Cambridge, MA: Belknap 2006, 389-400, translation slightly changed.