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How to Make the Moment Last?

On Rupture and Institutions in Massimiliano Tomba's Insurgent Universality

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Abstract

Massimiliano Tomba's *Insurgent Universality* traces a global history of revolutionary institution-building as 'theory in action', pushing radical democracy beyond an ontology of the political. This contribution aims to clarify the place of 'insurgent institutions' in Tomba's work and suggests that an unresolved tension persists between insurgent universality as popular institutions on the one hand, and as a negative dis-ordering on the other. Exploring the promise and limitations of 'insurgent institutions' in light of their durability, its first part reads *Insurgent Universality* alongside Santi Romano, the legal pluralist whose concept of the institution Tomba adopts. Secondly, the article turns to Hannah Arendt's understanding of authority and Miguel Abensour's discussion of 'insurgent institutions' as two potentially helpful accounts of democratic practice within durational time. Where Tomba remains focused on constellations between moments of rupture, Arendt and Abensour offer a politically generative understanding of durability specific to radical-democratic institutions.

Keywords

Massimiliano Tomba – radical democracy – institution – legal pluralism – Santi Romano – Hannah Arendt – Miguel Abensour

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> It is possible that, due to a circulation between present and past, certain institutions informing a given political context serve to underpin insurgence. It is even possible that insurgent democracy, in order to endure and not be reduced to a flash in the pan, summons or in some way gives rise to the institution, for the purpose in this case of articulating the principle of non-domination and a certain anchorage in time, in the confrontation of two temporalities.[1]
>
> MIGUEL ABENSOUR, 'Institution and Insurgence'

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Against a present stuck between cancelled futures and commodified dissent, Massimiliano Tomba's *Insurgent Universality* offers more than the philosophical assertion of 'non-closure' and 'contingency' that has become a characteristic feature of radical-democratic theory. For Tomba, ontological hypotheses will not suffice. Instead of postulating that 'another world is possible', the uniquely powerful intervention of *Insurgent Universality* consists in showing historically situated actors at work, building revolutionary institutions and forms of life across multiple times and spaces: linking the insurrectionary women of Paris with the maroons of Saint-Domingue, the Paris Commune with the Kabyle uprising of 1871, Russian soviets with anti-colonialism in Central Asia, and the Zapatistas with five centuries of Indigenous struggles and a global lineage of communal experiments. These movements are not depicted as disparate episodes but compellingly placed within a tradition of the vanquished that crosses and punctures the dominant history of modernity. Contingency does thereby not remain an ontological claim but is given worldly reality by way of a historical method with transformative intent. 'The roads not taken [...] shed light on the possibilities that were left unfinished but remain vital to reimagine the present.'[2] Tomba reads the archive against the grain, destabilising the normative weight of the nation-state, private property, and the capitalist mode of production by bringing out futures that could have been and histories that still remain undecided.

1 Abensour 2011, p. xxvii. For the French original, see Abensour 2012, p. 38.
2 Tomba 2019, pp. 5–6.

What emerges is not the 'social weightlessness' of ontology but a vivid account of struggles that exceed unilinear time and the flat space of sovereign statehood.[3] Tomba is at his strongest when he ties insurgent universality to what he calls a 'third institutional dimension beyond the binary opposition of constituent and constituted power': a 'plurality of powers, with many centers but no circumference' – assemblies, councils, and communes – that do not only rupture hierarchical order but positively allow for the institutional enactment of an 'equal access to politics'.[4] Borrowing a Blochian phrase, one might say that Tomba combines the 'hot stream' of insurgent moments with the 'cold stream' of institutional analysis.[5] He thereby provides a model of how to imagine radical democracy while avoiding its notorious pitfalls: an abstract celebration of 'the political' and an exclusive focus on moments of rupture that are set against any form of institutional founding.[6] Indeed, Tomba's far-ranging examples of popular institutional experiments sit uneasily with anti-institutionalist assumptions. Theories of the imperative mandate and recall mechanisms, the constitutionalisation of the right to insurrection, and legal histories of the usufruct of land are all mobilised so as to give ample illustration for an idea of insurgent universality that is both irreducible to 'juridical universalism' and yet closely tied to institution-building.[7]

Although Tomba is in conversation with the French tradition that connects Claude Lefort with Chantal Mouffe, Étienne Balibar, and Jacques Rancière, he carefully avoids speaking of 'radical democracy', as if to prevent a misidentification with a consolidated current and its philosophical problems. What stands out, however, is his often verbatim approximation of insurgent universality to a Rancièrean conception of politics as the enactment of equality. Insurgent universality, Tomba writes, refers to a 'dis-ordering' of an 'unjust existing order' that shows how the 'generic term "homo" exceeded the horizon of citizenship' by bringing forth 'the part of those who have no part'.[8] Universality here denotes a disruptive equality that is understood as dislocating identities from themselves; such universality gets politically *enacted* but cannot be *derived* from any underlying philosophical or legal system.[9]

3 For the critique of 'social weightlessness', see McNay 2014.

4 Tomba 2019, p. 67. The 'plurality of powers' is referred to on pp. 25, 98, 141–2 & 202.

5 Bloch 1974, pp. 239–41.

6 For important recent articulations of these criticisms, see Volk 2021 and Muldoon 2021. For responses from a radical-democratic perspective, see Herrmann and Flatscher (eds.) 2020.

7 Tomba 2019, pp. 31–2.

8 Tomba 2019, pp. 43, 65.

9 Tomba 2019, p. 15.

Side-stepping the 'ontological turn'[10] in radical-democratic theory, Tomba's mode of history-writing can here productively be read as picking up the thread of Rancière's early work in the archives of the nineteenth-century labour movement.[11] Much like Rancière's historiography, the method of *Insurgent Universality* follows through on its own radical notion of equality insofar as the theorist and the often-anonymous movement actors of the past are placed on eye-level – not just using historical sources as passive material for illustrative purposes but taking the movements of the past seriously as sites of theoretical innovation in their own right.[12] Yet unlike Rancière, Tomba also pushes the imaginary of emancipatory politics beyond its Eurocentric limitations and engages in a much overdue dialogue between radical-democratic and postcolonial theory.[13] Finally, Tomba also takes his distance from Rancière insofar as insurgent universality, unlike Rancièrean equality, is not an empty axiom but rather positively associated with certain *institutional* arrangements.[14] For Rancière, 'democracy cannot consist in a set of institutions',[15] whereas for Tomba, insurgent universality is inseparable from a 'new institutional fabric'.[16]

In this contribution, I wish to focus on this last point and aim to clarify the place that institutions occupy in Tomba's account. More precisely, I would like to suggest that there is an unresolved tension running through the book: a non-congruence between insurgent universality as the *presence of popular institutions* on the one hand and insurgent universality as a *negative dis-ordering* and a 'revolutionary rupture' on the other.[17] As Tomba shows with great care, popular movements – whether communard, Soviet, or Zapatista – enacted ruptures with the dominant organisational forms of capitalism and state sovereignty through their experiments with alternative institutions, which in turn ruptured the linear time presupposed by the imaginary of the modern state. Set against the script of universal history, the aporia of institution and rupture can thus be resolved: alternative institutional frames are *themselves* read as instances of a revolutionary break. But not without irony, it seems that this reading of rupture-qua-institution relies on holding onto the assumption of

10 Marchart 2018.

11 Rancière 2012.

12 Tomba 2019, p. 2. Cf. Rancière 2009.

13 For Rancière's explicit refusal to engage with postcolonial theory, see Dasgupta 2008. For important critiques of Eurocentrism in radical-democratic theory, see Hesse 2011 and Conway and Singh 2011.

14 On the axiomatic character of equality in Rancière, cf. Myers 2016.

15 Rancière 2015, p. 62.

16 Tomba 2019, pp. 21, 74, 208.

17 'The revolutionary rupture, which takes place in the uprisings of Paris and Haiti, is what constitutes insurgent universality.' Tomba 2019, p. 19.

precisely the kind of dominant history that Tomba wishes to decentre – if only as a foil. Just like a body of water is only called a flood by those who picture the river as controlled by its embankments, the time of insurgent institutions is only transgressive when read as a departure from normative linearity.[18] Yet this viewpoint is not necessarily that of the revolutionary movements involved: for those whose struggles Tomba inspiringly thinks of as 'theory in action', insurgent institutions are *meant to last*.[19]

Combining the erudition of an archivist with the imagination of a time-traveller, Tomba's history of insurgent institutions is unparalleled in bringing to life the non-linear temporality of revolutionary action. He convincingly shows that the insurgents of the Paris Commune who saw themselves as simultaneously reanimating medieval communal forms and the heritage of the French Revolution were not unlike the contemporary Zapatista movement, drawing both on Mayan understandings of land guardianship and the spirit of the Mexican Revolution.[20] As Tomba emphasises, it is not the historian but the movements themselves who cite the past in the moment of action, producing what he calls a *chronotone*, a 'friction generated by the sliding of different temporal layers'.[21] Yet for all of its imaginative force, his account brackets the fact that, when it comes to institution-building, movement actors have wanted their experiments to be more than episodes within a tragic legacy of exhilarating failures. If insurgent universality is a name we give to a moment of excess and overflow, does it not, in the same gesture, commit itself to its own disappearance? This is what Samuel R. Galloway has called 'the "morning after" question' of radical democracy.[22] Put differently, one might ask if there is 'life after the squares',[23] long after Occupy has left Liberty Plaza, now that the night of *Nuit debout* has come to an end, and not even the Yellow Vests could stay in the streets forever? How could one prevent the 'red-hot magma' of insurgent politics from cooling off into the volcanic landscape of 'abandoned or repressed experiments',[24] instead keeping it flowing, continually, building a democratic way of life over time with the help of instituted forms?

18 *Insurgent Universality* is rich in fluvial metaphors for democracy. Cf. Tomba 2019, pp. 1, 13, 23. Miguel Abensour uses the same image in defence of 'savage democracy' and in opposition to Marcel Gauchet's view of liberal democracy as an 'unsurpassable frame' (*cadre indépassable*). Cf. Abensour 2008.

19 Tomba 2019, p. 2.

20 Cf. Tomba 2019, pp. 84, 222.

21 Tomba 2019, p. 10.

22 Cf. Galloway 2019, pp. 1–4.

23 Cf. Fernández-Savater and Flesher Fominaya 2017.

24 Tomba 2019, p. 52.

There can be no doubt that Tomba is aware of the challenges of durability, and even though insurgency and institution are placed in close proximity, they never fully overlap; the concept of 'institution', it turns out, must minimally contain a dimension of *durational* time. This problem comes out clearly in a passage in which Tomba acknowledges the antagonistic relationship between the 1870 Algiers Commune and the 1871 Mokrani uprising – a deep conflict between two visions of universality, a settler-colonial form of radical republicanism on the one hand and Kabyle anti-colonial struggle framed in the language of Islamic *jihad* on the other, which Tomba too easily resolves by arguing that both struggles were 'united by a tragic destiny' of repression and deportation.[25] This juncture could have been an opportunity to more systematically respond to critiques of universality as imbricated with racial domination – even in revolutionary varieties of universalist discourse.[26] Yet from the vantage point of a theory of radical-democratic institutions, what is noteworthy in this passage on the communards' failure to build solidarity with the Kabyle insurrection is the author's move from a dis-ordering moment of rupture to an appreciation of durational time:

> If the Commune *did not have time* to test its new institutions, it *had even less time* to give rise to a new subjectivity, freed not only from the forms of external dominion but also and especially from the internal ones formed by prejudices of the time. The Commune was an experiment of this kind.[27]

Tomba, in a surprisingly Tocquevillian key, seems to suggest that it is ultimately a matter of time for a certain form of life to kick in and enable emancipatory attitudes.[28] In this passage, he moves away from the rupturing dynamic of *chronotones* and instead emphasises the need for durational stability. Uncharacteristically, he even points to institutions as an arena of learning of sorts, where free and equal relations between actors can only gain substance if 'habits of the heart' ('a new subjectivity') are acquired through quotidian practices.[29] But from within the framework of *Insurgent Universality*, it is not clear how institutions could simultaneously enact a politics of temporal

25 Tomba 2019, pp. 72–3.
26 Cf. Plaetzer 2021.
27 Tomba 2019, p. 73. Emphasis added.
28 Cf. Lefort 2000, p. 48.
29 Cf. Tocqueville 2003, p. 336.

rupture *and* generate the stability that would give actors *enough time* to pose a substantive and lasting challenge to relations of domination.

These difficulties are compounded given the definition of 'institution' that Tomba is working with, that of early twentieth-century Italian legal theorist Santi Romano:

> Here, and in the rest of this book, I assume the definition of 'institution' provided by Santi Romano: 'A revolutionary society or a criminal association do not constitute law from the viewpoint of the State that they try to subvert, or whose laws they violate, just as a schismatic sect is considered antilegalistic by the Church; but this does not imply that in the above case there are not institutions, organizations, and orders which, taken per se and intrinsically considered, are legal.'[30]

This legal-pluralist understanding of 'institution' serves Tomba's intervention well insofar as it unsettles the place of the state and turns an institutional analysis towards a wide variety of political forms, including women's clubs during the Paris Commune, Haitian maroon communities, or self-governing Zapatista *caracoles*. Despite the misleading efforts of Carl Schmitt to integrate Romano's institutional thought into his own approach, a legal-pluralist account of the institution remains profoundly at odds with Schmitt's Hobbesian emphasis on indivisible sovereignty.[31] Given the appropriation of Schmittian thought among contemporary post-Marxists, Tomba's turn to legal pluralism and explicit rejection of the Schmittian understanding of 'the political' offer a more than welcome counterpoint; his is a radical-democratic theory that takes the internationalism of revolutionary movements seriously instead of folding them back into the artificial unity of the 'will of the people' – a move that typically follows Schmitt not only in an ontology of antagonism but also in a disregard for democratic traditions of institution-building.[32]

Breaking with a politico-theological attachment to a sovereign 'people', *Insurgent Universality* makes an important contribution to histories of popular internationalism insofar as a 'universal access to politics' gets enacted across the boundaries of nationally circumscribed citizenship. Insurgent institutions give shape to a historically grounded third option for emancipatory politics,

30 Tomba 2019, p. 239. For the reference to Romano, see also Tomba 2019, p. 75. Cf. Romano 2017, p. 21.

31 For Schmitt's misappropriation of Romano's institutional thought, see Schmitt 2004, pp. 56–7. For commentary, see Loughlin 2017, p. xxiv.

32 Cf. Mouffe 2005. For the critique of Schmitt, cf. Tomba 2019, pp. 129, 134.

beyond an abstract cosmopolitanism on the one hand and a Left populism and social-democratic defences of the national welfare state on the other.[33] While Tomba's reference to Romano remains discrete, despite its determinative place for a key concept in the book, it still suggests the promising possibility of a radical-democratic engagement with legal pluralism more generally. Indeed, many legal pluralists, from Harold Laski and G.D.H. Cole to Léon Duguit and Georges Gurvitch, shared a critique of sovereignty, an insistence on the juris-generative politics of the syndicalist movement, and a non-linear vision of the past as rich in non-capitalist institutional forms that not only resonate with Tomba's thought but could also open up new paths for radical democrats who wish to step out of the shadow of Schmittianism.[34]

The extent to which Tomba's account of 'insurgent institutions' actually follows Romano's definition of the institution nevertheless remains doubtful.[35] For Romano, an institution is an entity with (1) an 'outward and visible' existence,[36] (2) which is 'a manifestation of the social, not purely individual, nature of human beings'.[37] Such an institution must furthermore (3) be a 'bordered entity, which can be considered in itself',[38] and (4) be characterised in terms of 'a firm and permanent unity' that attains minimal stability within durational time.[39] While soviets, communes, and various revolutionary associations fit the bill of Romano's definition, the concept does *not* apply to organisational mechanisms or relationships such as the usufruct of land or the imperative mandate, which are not entities with membership.

But beyond such a semantic slippage, Tomba draws on Romano (alongside Antonio Negri) to affirm that the communards 'experimented with politics beyond the state, which does not mean against the state but, instead, beyond the binary opposition of state power and counterpower, or constituent power.'[40] Instead of making the state the target of critique, the insurgent communards, in Tomba's reading, escaped the spiral of constituent and constituted power altogether by building institutions *beside* the state, refusing to take part in a revolutionary renewal of state sovereignty. This framing seems consistent

33 For a version of the latter that envisions welfare-state institutions as sites of political action and 'world-building', see Klein 2020.

34 Cf. Humphreys 2012, Morefield 2017. It is noteworthy that Schmitt himself explicitly positions legal pluralists (especially those with syndicalist sympathies) among his main opponents. Cf. Schmitt 1996, pp. 39–41.

35 For helpful commentary on Romano, see Croce and Goldoni 2020, pp. 51–98.

36 Romano 2017, p. 17.

37 Romano 2017, p. 18.

38 Ibid.

39 Romano 2017, p. 19.

40 Tomba 2019, p. 75.

with Romano's critique of what Marco Goldoni and Mariano Croce call 'the triumph of the ideology of the state as the only source of law and the guarantor of social peace' but it does not actually follow its legal-pluralist conclusions all the way.[41] Indeed, Tomba silently departs from Romano precisely with regard to the notion of *law*. Where the conceptual innovation of Romano's pluralism lies in interpreting a vast field of institutions as equal sources of legality, Tomba seems to operate with the state-centric understanding of the law of his opponents and repeatedly contrasts insurgent universality (enacted in insurgent institutions) with 'juridical universalism' (represented by the state). For Tomba, the universality of political practice always exceeds the abstract universalism of the legal form.[42]

Given Romano's theory of institutions as themselves constituting alternative sources of law, however, one might wonder why Tomba was unwilling to take the next step: consider insurgent institutions as generative of an *insurgent legality*.[43] In the chapter on the Soviet Constitution of 1918, he comes close to doing so, without ever fully articulating the theoretical relationships between insurgent institutions, the law, and the state. In light of the decentring of the juridical order of the state that Tomba wishes to effectuate in his theory of insurgent institutions, the frequency of references to constitutional law might then initially strike the reader as odd. For Tomba, the constitutional text only 'formalized' the 'political and institutional fabric' which was already at work in the councils.[44] The process of juridification only intervenes after the fact: the legal form is subordinate to spaces of action as the 'permanent source of power', insisting on a 'third institutional dimension' that cannot be dissolved into either constituent or constituted power.[45]

This political understanding of the law corresponds to an innovative reframing of the separation of powers, a concept that at first glance would seem remote from emancipatory politics. But as Tomba argues in opposition to James Madison, the separation of powers should not be reduced to the checks and balances of one power divided among multiple branches; the notion can be repurposed to denote a power-generating interplay of multiple

41 It would go beyond the scope of this article to elaborate on the controversy surrounding Romano's concept of the state, which he calls an 'institution of institutions'. Cf. Loughlin 2017, p. xxiii. Romano attributes a privileged regulatory function to the state, which, critics have noted, sets him apart from legal-pluralist accounts *stricto sensu*. Cf. Vinx 2018.

42 Cf. Tomba 2019, pp. 14–15, 31–2.

43 Croce and Goldoni 2020, p. 75.

44 Tomba 2019, p. 141.

45 Tomba 2019, pp. 141, 67.

powers, which pre-exist any legal form.[46] Tomba describes soviet 'dual power' as the 'control over government by another power, which puts pressure on the holders of power' through assemblies and councils.[47] Yet from the standpoint of Romano's *juridical* thinking of the institution, such an agonism of powers would also be understood as a conflict between *legal* orders. For Romano, whose theory combines pluralism with legal positivism, 'something is not legal if and only if it is not organized',[48] and he gives 'an unprecedented weight to jurists and legal scholars' by assigning them the task to interpret the micro-legal systems of various institutions in light of 'social order'.[49] This pacifying function of the legal profession is a far cry from Tomba's unruly vision in which the 'constitutional form tries to translate into formal language the reality of the soviet institutions' – *without*, however, neutralising the conflict between various institutional orders.[50]

But if Tomba is uninterested in the legal dimension of Romano's theory of the institution, and if the latter's definition is at any rate so broad that it encompasses ephemeral human groupings like people waiting in line under the umbrella concept of 'institution', the suspicion seems confirmed that Tomba's account of insurgent *institutions* remains above all a theory of *insurgency*. His subsequent discussions of land ownership, rural communes with common property (*obshchina*), and translation processes in Central Asia between the Russian soviets and Islamic bodies of deliberation (*shura*) are highly illuminating; but they also leave questions regarding the place of the 'anomalies' of soviet constitutionalism within a theory of insurgent institutions unanswered. Institutional alternatives are analysed primarily as place-holders for rupture, and one is left wondering about organisational arrangements (or a pluralist conception of the law) that could have allowed for a durable experiment with soviet constitutionalism – one that would have given council democrats the chance to more effectively counter 'the Bolshevik's race to control the state machine'.[51]

Despite the fact that Tomba sees himself as using Romano's concept of the institution, his account owes much more to Hannah Arendt than to Romano's juridical approach insofar as councils and assemblies are imagined within an agonism of plural powers and not as legal orders in need of mediation. In fact, Arendt's *On Revolution* arguably reverberates through the pages of

46 Tomba 2019, pp. 142–3.
47 Ibid.
48 Romano 2017, p. 21.
49 Croce 2018, p. 10.
50 Tomba 2019, p. 142.
51 Tomba 2019, p. 162.

Insurgent Universality in ways that go well beyond Tomba's passing treatment of Arendtian council democracy.[52] For Arendt, as for Tomba, the revolutionary councils prefigured 'a new concept of the state [...] to which the principle of sovereignty would be wholly alien'.[53] Arendt, like Tomba, sees the councils as enacting a new understanding of the separation of powers that should not be understood as the division of a single *potestas*, grounded in popular will, but reclaimed as the conflictual interplay of non-sovereign sites of *potentia*, generating new power in the process.[54]

Unfortunately, Tomba hesitates to engage in any substantial discussion of Arendt, despite the obvious resonances between his own history-writing and Arendt's 'lost treasure', her concept of power, and her critique of sovereignty.[55] Reappraisals of Arendt by Patchen Markell, Ayten Gündoğdu, and Lucy Cane, among others, have over recent years demonstrated the possibility of *politicising* social relations in her thought, pushing beyond previous readings that assumed a strictly 'territorial' separation of the political and the social.[56] Arendt's appreciation of the labour movement, for instance, which she called 'the most glorious and probably the most promising chapter of recent history', would be difficult to explain if no passage from social into political concerns (i.e. from hierarchical order to egalitarian dis-order) were possible.[57] Yet Tomba too quickly charges Arendt with 'missing the main point' of revolutionary councils, namely social transformation, without further argument.[58] This is a lost opportunity not only because Arendt shares Tomba's Benjaminian sensibility for non-linear constellations of past and future.[59] She also combines an emphasis on novelty and rupture with an effort to think of revolutionary institutions – including the Paris Commune, the Russian soviets, and the Hungarian Revolution of 1956 – as a matter of *durable* founding.[60]

For Arendt, 'perhaps the very fact that these two elements, the concern with stability and the spirit of the new, have become opposites in political thought and terminology [...] must be recognized to be among the symptoms of our loss.'[61] Where Tomba pictures insurgent institutions as plural centres of power

52 Tomba 2019, p. 151.
53 Arendt 1972, p. 233.
54 Arendt 1963, pp. 151–2.
55 Cf. Arendt 1963, pp. 280–1.
56 Markell 2011; Gündoğdu 2014; Cane 2015.
57 Arendt 1998, p. 215. Cf. Gündoğdu 2014, pp. 81–6.
58 Tomba 2019, p. 151.
59 On Arendt and Benjamin, see Demiryol 2018.
60 On Arendt's councils as a viable theory of political institutions, see also Vergara 2020, pp. 184–215.
61 Arendt 1963, p. 223.

at a distance from the law (which only comes to *formalise*, not to say *deform* political action), Arendt introduces an additional concept into her picture of non-sovereign institutions: that of authority. Through a twist on the etymology of *auctoritas*, Arendt imagines authority not as a relation of hierarchised rule but as a political process of *augmentation*, such that acts of disobedience and transgression could be interpreted not as breaches of order but valued as contributions to the dynamic durability of a specifically *political* institution. 'By virtue of *auctoritas*, permanence and change were tied together' in ancient Rome, Arendt writes, and 'this last point, namely, that foundation, augmentation, and conservation are intimately interrelated, might well have been the most important single notion which the men of the Revolution adopted.'[62]

One certainly need not buy into Arendt's idealised vision of American constitutionalism and her disregard for socioeconomic issues to see that, from the standpoint of council democracy, an Arendtian concept of authority as augmentation could mark the step from insurgency to insurgent institutions – from an ephemeral 'plurality of powers' to a dynamic duration of instituted forms. In Tomba's usage, 'power' and 'authority' are largely deployed interchangeably, and both are located in the ruptural moment of the *chronotone*.[63] Even in his only explicit discussion of the concept of authority, Tomba refers to 'the original, etymological sense of *augeo*', as 'not so much the act of increasing as that of creating something new from fertile soil', again placing emphasis on the side of novelty.[64] But when he moves from the enactments of insurgent universality to the analysis of constitutional texts, an Arendtian concept of authority could have helped to refigure the relation between insurgent practices and constitutional form beyond the anti-legalism that undergirds Tomba's account. Where Tomba portrays constitutional law as negative shackles on the life of action, could one not also imagine a more productive interaction between councils and constitution, such that the law would *not only formalise* but *secure* and *encourage* a transgressive politics of emancipation on which it would, in turn, depend for its authority?

The radical-democratic theorist who took important cues from Arendt to think institutional durability and insurgent action together is Miguel Abensour; yet he remains strikingly absent in Tomba's work, even though Abensour's interest in recovering half-forgotten figures from the margins of modernity – what he calls *le choix du petit*, 'the choice of the small' – comes

62 Arendt 1963, p. 201. For an illuminating reading of authority in Arendt, see Straehle 2019.

63 Note the largely indistinct use of 'power' and 'authority' in Tomba 2019, pp. 193–7.

64 Tomba 2019, p. 197.

close to Tomba's own method.[65] But whereas the latter rather confusingly describes insurgent universality as operating 'beyond and against the state', while 'beyond the state [...] does not mean against the state', Abensour clearly positions insurgent democracy against the state.[66] In *La Démocratie contre l'État* (*Democracy against the State*), Abensour draws a fundamental distinction between two opposing modes of instituting the social: on the one hand '*the state*' (*l'État*), which does not only designate legal and repressive apparatuses but rather all forms of domination that symbolise power as transcending social relations; on the other hand, *democracy*, which refers not to a set of electoral institutions but rather to the intersubjective enactment of freedom and equality. The state, according to Abensour, gets imagined as standing above and beyond the social and is thereby ideologically protected from the action that brings it into the world in the first place. Abensour's critical provocation consists in placing diverse mechanisms of rule under a single name once they have entered into a process of 'transfiguration into an organizing, unifying form, in short, into a State.'[67] His view on statehood is here part of a left critique of bureaucracy that understands state and market forces as interlocking mechanisms of domination – a tradition that found some of its most candid expressions in the pages of *Socialisme ou Barbarie*. Yet much like Tomba's emphasis on institutional forms, and contrary to common misreadings of Abensour as a particularly stubborn anti-institutionalist in an already 'revoltist' current of thought, 'insurgent institutions' (*institutions insurgeantes*) are needed to give durational stability to a democratic form of life.[68]

Abensour distinguishes between the *démocratie insurectionnelle*, the 'insurrectionary democracy', and the *démocratie insurgeante*, 'insurgent democracy'.[69] More than an antagonistic revolt of the *demos*, the latter refers to a durable institution that is 'directed at non-domination, one permanently inventing itself to better perpetuate its existence and to defeat the counter-movements that threaten to annihilate it and to effect a return to a state of domination'.[70] Insurgent democracy thus relies on concrete institutional forms (from councils to constitutional provisions) to dynamically stabilise 'its ongoing insertion in time'.[71] In the 2007 Italian Preface to *La démocratie contre l'État*, entitled

65 Abensour 2001, p. 271.
66 Tomba 2019, pp. 36, 75.
67 Abensour 2011, p. xxxiii.
68 Cf. Abensour 2008; Abensour 2011, pp. xxiii–xxix. For a reading of Abensour that similarly emphasises the durational temporality of insurgent institutions, see Mazzocchi 2019.
69 Abensour 2011, pp. xxiii–xxiv. For the French original, see Abensour 2012, p. 30.
70 Ibid.
71 Ibid.

'Insurgent Democracy and Institution', Abensour rejects a theory of democracy that would reduce the enactment of relations of non-domination to a momentary 'flash in the pan' or a 'firework' (*feu d'artifice*).[72] Where Tomba is concerned with the non-linear connections between struggles, Abensour reimagines the durational time of democratic politics. He thereby introduces a concept of dynamic durability specific to democratic institutions that could meaningfully supplement Tomba's historically fine-grained but overly rupture-oriented account. Against the law of statehood, imagined in 'homogenous empty time', Abensour pictures the temporality of insurgent institutions as resembling a 'launch pad' (*tremplin*), which, again and again, pushes action into the world.[73] Abensour's 'Insurgent Democracy and Institution' approaches Arendt's theory of augmentation insofar as both thinkers advance a vision of institutional durability as closely tied to transgressive political action.

Attuned to histories of defeat and defying the pessimism that too often marks the afterlives of movements whose dreams have been crushed, both Arendt and Abensour could provide generative points of dialogue for Tomba's thinking on insurgent institutions. Santi Romano's concept of the institution, on the other hand, appears overly loose-knit and, due to his legal positivism, of little help for understanding the specificity of democratic institutions and their temporality. But none of these critical rejoinders should be read as objections to the 'theory in action' that Tomba so compellingly puts forward. They are much rather meant as an invitation to return to the rich archives of revolutionary movements with an eye on durational time: listening to actors who tried to make the moment last, building relations of freedom and equality not only across multiple pasts but by weaving stable threads for the institutional fabric of emancipation in the future. The 'blind alleys' and 'lost causes' of popular struggles might then give rise to *insurgent* institutions that could no longer be reduced to *insurrectionary* ones.[74]

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72 Abensour 2011, p. xxviii. Cf. Abensour 2012, p. 38.

73 Ibid.

74 Cf. Abensour's discussion of E.P. Thompson in Abensour 1988, pp. xxvii–xlviii.

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