

## Introduction

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The concept of the *agōn*, meaning struggle, comes to Anglo-American political theory from the Ancient Greeks via nineteenth-century Germany. Influenced by Friedrich Nietzsche and Jacob Burkhardt, Hannah Arendt and Michel Foucault both refer to agonism to conceptualize the conditions and possibilities of political freedom. In turn, contemporary political theorists such as William Connolly, Bonnie Honig, Chantal Mouffe, David Owen and James Tully turn to agonism for an alternative normative vocabulary to that of deliberation and communicative rationality, which has tended to dominate recent debates about democratic legitimacy. Beyond emphasizing the unavoidability of conflict and its importance for sustaining democratic politics, agonistic conceptions of politics are distinguished by their emphasis on the strategic, affective and aesthetic aspects of politics, together with the normative significance of these for democratic praxis. Agonistic thinkers share a well-rehearsed critique of theories of deliberative democracy, which are charged with depoliticizing social conflict by representing it in terms of an anticipated or counter-factual consensus. Whereas deliberative democracy establishes the legitimacy of democratic procedures by appeal to the meta-political ideal of consensus, agonistic approaches typically insist that the democratic contest can and should go all the way down to include the principles and procedures that are supposed to regulate political life.

Rather than focus on the agonistic critique of deliberative democracy, however, this book explores the differences between various conceptualizations of agonism, engaging critically with the assumptions that underpin them. In particular, three strands of agonism (by

no means mutually exclusive) emerge from the chapters herein: pragmatic, expressivist and strategic. Pragmatic arguments about the normative significance of agonism, as made by Chantal Mouffe, are essentially twofold. The agon motivates people to participate in politics by making available a clear choice between Left and Right in terms of which a decision can be made. As such, agonism is essential for a vibrant democracy. Furthermore, agonism serves to defuse potential antagonisms by providing a legitimate outlet for political grievances, guarding against the return of the political in the guise of political extremism. Expressivist theories of agonism, exemplified by Connolly, emphasize the value of struggle in sustaining freedom and plurality and resisting social identities that may be experienced as oppressive. The agon is celebrated as a never-ending play of differences, which resists the homogenizing drive for social unity, enabling plurality to flourish. A strategic agonism, as advocated by Rancière, understands struggle as oriented to overcoming social exclusion. The agon thus does not occur between co-citizens but between first- and second-class citizens, between those who are included and those excluded, and it seeks to abolish the social inequalities between them.

Engaging variously with these three conceptions of agonism, throughout this book we enquire into the relation between law and politics. What role does law play in mediating, enabling, constraining or curtailing the agon? And how might agonism provide a basis for understanding the conditions of possibility for contesting the legitimacy of a legal order? At stake in these questions is a theoretical issue in terms of which the differences between the various conceptions of agonism emerge most clearly: how should we thematize the relation between agonism and the political? If a legal order derives its legitimacy from the political unity that it presupposes (e.g. 'the people' in a democracy), should we understand the agon as already internal to this political unity or should it be defined precisely as that which threatens it? Or is it possible to think the agon as both external and internal to the political unity and, if

so, in what sense? Not surprisingly, these questions engage long-standing concerns of radical political theory. Just as the concept of the political provides a basis for re-conceptualizing the commonness of political community without presupposing a progressive philosophy of history, agonism provides a basis for re-conceiving class struggle and democratic freedom in the light of post-structuralist insights about the emergence of political subjectivity.

In the opening chapter, Andreas Kalyvas describes the archaic origins of agonism in athletic competitions in Ancient Greece. Individuals were motivated to participate in these contests by a narcissistic drive to win personal glory. Agonism was an aristocratic practice. One had first to be freed from the mundane struggle to preserve life that was the common lot in order to partake in the higher struggle for excellence that was the preserve of the few. In classical Greece, however, this aristocratic pursuit of glory met with the democratic principle of equality. Agonism came to include public contests of words and competition was opened up to allow participation from all citizens. With the democratization of the agon, the motivational force and creative potential of narcissistic self-love was harnessed for the benefit of the polis, with individuals struggling to win personal glory by contributing to the common good. However, equalization of social status also meant that the competition itself became more fluid and volatile. The agonal spirit that ensured the vitality of Athenian democracy also contributed to its instability. Aware of the potential of the agonal spirit to lead to civil unrest, the Greeks devised a complex institutional system of self-limitation to protect the city against the excesses of the agon, which included, among other things, ostracism and tyrannicide.

The attractiveness of the classical concept of agonism for contemporary theorists of radical democracy is evident in the way in which it differs from orthodox Marxism in its thematization of political conflict. As Kalyvas points out, whereas agonism thrives on the contingent emergence and outcome of conflict, in Marxism plural identities are subordinated to a binary opposition of competing universalities, the struggle is in the service of the

realization of higher unity in which antagonisms will be superseded, politics is a surface effect of subterranean social forces and the role of affects and embodiment are ignored. In contrast to the Marxist theory of class struggle, ancient and modern agonisms recognize the inevitability and irreducibility of political conflict, its importance for sustaining democracy and the significance of the performative aspect of struggle for the self-understanding of the political community and the constitution of subjectivity.

In comparing the agonism of the ancients to that of the post-moderns, however, Kalyvas argues that postmodernists such as Connolly and Honig de-Hellenize the agon. In particular, with postmodernism the subject of the agon shifts from individual to group identities, heroic striving gives way to playfulness and the struggle for a decisive victory is displaced by a perpetual contestation of power relations. Moreover, there is an unwarranted optimism in the expressivist agonism exemplified by William Connolly. This optimism is evident in the thematization of political struggle as a play of difference in which there are no losers, the assumption that conflict will sustain plurality and cultivate respect rather than polarize and entrench group identities and the lack of institutional protections against the disintegrative tendencies of agonism. In contrast to this expressivist postmodern conception of agonism, however, Kalyvas discerns an affinity with the ancients in Chantal Mouffe's pragmatic agonism. In her insistence that the achievement of democracy is to transform a relation of antagonism into one of agonism, Mouffe steers a course between de-politicization (in the form of a hegemonic consensus) and over-politicization (in the form of the violent eruption of antagonism).

While Kalyvas approvingly counts Arendt, together with Nietzsche, as the last of the 'ancient' agonists, Jean-Philippe Deranty and Emmanuel Renault critique Arendt's characterization of agonism as a striving for distinction among equals. They insist, rather, that democratic agonism entails a struggle to realize political equality in a situation of social

inequality. For Arendt, political freedom is synonymous with agonism since it is through striving for excellence that individuals transcend the quasi-natural determination of the social sphere, which is concerned with the preservation of life. Contemporary agonists such as Honig, Tully and Markell recognize the problematic nature of the dichotomy between the social and the political on which Arendt's thematization of agonistic politics relies. Nonetheless, they have found her account of agonism attractive for developing an expressivist conception of agonistic politics as resistance to socially determined identities such as race, gender and sexuality (along lines similar to Connolly).

However, Deranty and Renault characterize Arendt's agonism as aristocratic because it valorizes the transcendence of mass identities. In contrast, they argue that *democratic* agonism includes a strategic dimension, entailing a struggle against social processes of political exclusion by subjects heavy with identity. On this view, democratic politics is agonistic because it entails *politicization* of social inequality. Instead of viewing equality as a necessary condition for agonistic politics, equality is understood to be the object of dispute that is constitutive of the democratic agon. Following from this, whereas from an Arendtian perspective the legitimacy of law derives from its origin in praxis and its proper end is to sustain a space for agonistic politics, for Deranty and Renault democratic agonism typically contests the legal order and the political unity it presupposes because law so often entrenches social inequality and restricts political participation.

Hans Lindahl similarly takes issue with expressivist theories of agonism because they presuppose what is actually at stake in social struggle, namely, reciprocity among free and equal members of the political association. Lindahl insists that agonistic politics should be understood as ineluctable and irreducible vis-à-vis the law. Agonistic politics is *ineluctable* due to the contingency of the legal order – that the political unity that a legal order presupposes might be constituted otherwise. Moreover, agonistic politics is *irreducible*

because it is incommensurate with the prevailing legal order. From the perspective of law, agonistic politics is disorderly not just in the derivative sense that it is illegal but in the primordial sense that it contests what counts as legal and illegal in the first place.

What is at ultimately at stake in agonistic politics, then, is the political unity in terms of which social struggle is represented. Far from being a legally mediated reciprocal conflict among equals, as Tully and others argue, the agon resides in the asymmetrical relation between ‘alegal’ acts that politicize a legal order and the legal response to such acts through the (re)enforcement and/or (re)constitution of the boundaries of the legal order. This relation is asymmetrical because a legal order can only respond finitely to the political acts that contest it, i.e. by representing struggle as *internal* to the social unity that is at stake. In other words, a legal order can only respond to political agonism by rendering conflict meaningful in terms of the distinction between legal and illegal that the struggle would otherwise contest. On this account, therefore, the condition of possibility of political agonism is not the common ground established by the formal legal equality between parties to a conflict. Rather, it is the asymmetrical ‘opening’ between the established legal order and political acts that intimate another way of distinguishing between legality and illegality, selfhood and alterity.

In his contribution, David Owen defends an expressivist conception of political agonism. In particular, he argues against distinguishing agonistic politics as different in kind from ordinary politics on the basis that the former involves contest *over rules* whereas the latter is a contest *within those rules* to which all parties already assent. Given an expressivist conception of human agency, such a sharp distinction between contests within the rules and contests over the rules is untenable. For, while all activity is rule governed (i.e. an activity is not possible in the absence of a set of expectations about what it means to do X), the rules that govern a particular activity cannot be specified independently of the activity but are

exemplified in the act (we understand what it means to do X properly through the practice of performing X in particular cases).

This leads to an understanding of constitutional democracy as the *medium* of political agency. In a constitutional democracy, political agonism refers to the struggle to work out the terms of political association between free, equal and plural citizens through a practical orientation to the abstract and critical norms of popular sovereignty and the rule of law. Far from being potentially neutralizing constraints on the agon, as Lindahl argues, Owen insists that an orientation to these principles is a constitutive condition for democratic agonism. For what binds actors together in the shared enterprise of citizenship is the struggle to reveal what it means to follow these principles within the particular historical circumstances of the polity. This cannot be fully specified in advance by a determinate legal order. In the absence of a common orientation to these principles, the practice of democratic citizenship would not be possible. For, as Owen puts, they specify the shared mode of problematization of our political identity. By struggling to exemplify these orienting principles through participation in public life, the ‘we’ of the polity is (re)constituted and a sense of belonging is generated.

From this debate a bright line seems to emerge between strategic and expressivist conceptions of agonism. Yet, as Jason Frank demonstrates in his analysis of the polemical speeches of Frederick Douglass, in practice these aspects of agonism tend to be interwoven. Frank discusses how the abolitionist movement in the United States contested the social and political exclusion of African Americans by appealing to the abstract and universal norms of constitutional democracy articulated in the Declaration of Independence. But also, and more fundamentally, Douglass sought to stake out a speaking position that was not afforded to him by the prevailing social order.

Following Jacques Rancière, what distinguishes the abolitionist struggle as agonistic is the staging of a dissensus in which the internal division of ‘the people’ – as both the collective

author of the legal order and the politically excluded poor – is made manifest. In his famous address, ‘The Meaning of July Fourth for the Negro’, Douglass addressed his audience from his socially determined identity as Negro: ‘This Fourth of July is yours, not mine. You may rejoice, I must mourn’. In Deranty and Renault’s terms, Douglass thereby participated in the agon as a subject heavy with identity. At the same time, however, he spoke in the name of a people to come, addressing his audience from a position denied to him by the social order, *as if* he was a free and equal member of the political association. As such, he drew his authority to speak from this higher self of the American people: ‘not we the white people ... but we the people – the men and women, the human inhabitants of the United States’. As Frank puts it, Douglass thereby spoke both from outside the people he addressed while at the same time claiming to speak in their higher name.

Against an understanding of the abolitionist movement as part and parcel of an unfolding and self correcting constitutional tradition in the United States, Rancière’s thematization of agonistic politics is important for understanding how Douglass’ Fourth of July address exemplified a constituent moment that effected a break with the existing order. It involved a felicitous claim to speak on behalf of the people while at the same time challenging the legitimacy of the prevailing representation of who the people are. Frank’s analysis demonstrates the limitations of understanding democratic agonism only in terms of the *intelligibility* of political claims by virtue of their appeal to the abstract principles of popular sovereignty and the rule of law. What is also central here is the *sensibility* of political claims, their aesthetic and affective aspect. Crucially, agonistic politics is always also fundamentally concerned with the staging or representation of political claims: it is concerned with transforming the context in which political claims can be heard by an audience as arguments that have a claim on them. And it is with this transformation of the political



context in terms of which conflict is represented that a break is enacted with an existing social and/or legal order.

Agonists want a theory of politics that is not a philosophy of right. As such they understand agonism in terms of political action rather than philosophical truth. More specifically, as Alex Thomson discusses, agonists have sought to re-conceptualize the relation between democracy and politics on the one hand and political theory and democratic practice on the other. Rather than representing conflict in terms of communicative rationality, agonists view conflict as an unavoidable and constitutive aspect of politics. Moreover, rather than seeking to establish a foundation for political institutions in terms of rational principles to which all could agree, agonists understand institutions to be the contingent outcome of political struggle. Following from this, agonists critique mainstream political theory for seeking to subordinate politics to transcendent reason. However, Thomson argues, they remain modernists in wanting to establish a *new* ground for politics in praxis. This leads them to an anti-theoretical politics, in which they substitute conflict for consensus as the lodestar of democracy.

Against the philosophical politics of the agonists, Thomson turns to the concept of *polemos*, as discussed by Heidegger and Derrida, for a more adequate point of departure from which to understand the relation between (democratic) politics and philosophy. Both agonism and *polemos* refer to conflict or strife. However, whereas *agon* is a guiding distinction in terms of which the stuff of politics is recognized as political, *polemos* refers both to the general strife of Being and to a deconstructive way of thinking by which, as Thomson puts it, the absent presence of the truth is experienced in thought. This leads to a shift in perspective from the ontic to the ontological, from the strife of political life to the experience of truth as conflict. The political implications of this shift in perspective are twofold. First, philosophical reflection takes a transhistorical or cosmological perspective that removes the question of

taking a stand for or against the city from the remit of philosophy. Second, it leads to suspicion of the agonists' attempt to re-ground politics in praxis rather than reason. To think in terms of *polemos* means to recognize that both consensus and dissensus threaten the destruction of politics, that there can be no ground for either difference or unity as rhetorical strategies.

Agonism is usually invoked to argue that democracy is more than management by consensus and, moreover, that dissensus is both unavoidable and constitutive of the pursuit of the common good. Yet, against agonists' widespread assumption that contestability does and should 'run all the way down' in a democracy, Bert Van Roermund argues that there is a basic sense in which the Law cannot be interrogated. This argument is developed via an engagement with Claude Lefort's characterization of democracy as a regime in which the place of power is empty (*le lieu vide du pouvoir*). With this influential but elusive metaphor, Lefort means to indicate that what distinguishes a democratic regime from other regimes (monarchical, totalitarian, etc.) is the way in which a democratic society represents the source of legitimate power to itself. In a democracy the source of rightful power is 'the People'. Yet 'the People' is dis-incorporated: no political body corresponds to this name. Although political actors must appeal to the People to legitimate their claims, in a democracy the figure of the people is kept in view for being symbolic rather than real. As Van Roermund puts it, the wholeness of the People is realized precisely in the moment it is deferred and deferred in the moment it is realized. It is thus by reference to this empty place of (legitimate) power that politics is 'staged' (or represented) in a democracy. Democracy thereby institutes an agonistic political order by recognizing, as Lefort puts, the legitimacy of an incessant debate about what is legitimate and what is not. Conflict is taken to be constitutive for the flourishing of political community.

Yet, van Roermund argues, democracy is agonistic in a more fundamental way than is recognized by Lefort due to the heteronomy that is an unavoidable condition of the democratic promise of public autonomy. Indeed, heteronomy is apparent in each aspect of democracy as a form of decision-making by the people in accordance of the rule of law. Firstly, because democracy is a way of making decisions, there is always heteronomy involved in the moment of decision itself. While in principle deliberation can be open-ended and inclusive, the need to reach a decision requires that debate is open and closed and this requires an element of rule. Secondly, because democratic decisions are taken on behalf of a people, there is an element of heteronomy involved in determining the relevant constituency, who is a member of the people and who is not. Thirdly, because decisions taken in the name of the people are supposed to accord with the rule of law, there is an element of heteronomy in the awareness that decisions about what is in the common interest of a determinate political community fall short of our awareness of a wider common good (a proto-political community) that we intuit by reference to the rule of law. In a democracy there is, therefore, a fundamental sense in which the Law cannot be questioned because the staging of the demos is not itself on stage despite being a central aspect of politics. Along lines similar to Lindahl and Frank, van Roermund thus insists that the real agon does not occur between those who already recognize themselves as having something in common. Rather, it emerges in the disjunction between the representation of power and the tactics of power, in the rupture between the People and the population and the contest over what, if anything, the parties to the conflict have in common in the first place.

In his contribution, Keith Breen challenges Kalyvas' sympathetic reading of Mouffe as sharing the Ancients' pragmatic concern to contain the destructive aspect of the agon. In contrast to Arendtian conceptions of agonism that understand politics in terms of freedom and plurality, Mouffe claims her conception of agonism is more realistic because it takes enmity

and exclusion to be defining features of the political. As already noted, for Mouffe, the achievement of democracy is to sublimate antagonistic confrontations (in which enemies confront each other as an existential threat) into agonistic social relations (in which adversaries understand their conflict in terms of the shared symbolic space of the polity). In contrast to the Greeks, however, Breen argues that Mouffe has an unduly optimistic view of agonistic conflict. Despite taking antagonism to be constitutive of the political, she presumes that antagonism can be overcome, channelled into socially integrative conflict. But such a view is only plausible on the basis of a peculiarly quietist conception of radical democracy that discounts conflict that would threaten the survival of the political association. Consequently, Mouffe fails to develop an ethic of antagonism. Since she presumes that all antagonistic conflict can be sublated into agonism, Mouffe does not provide any guidance as to how we should deal with intractable conflict in which the other remains our enemy.

Against Mouffe's charge that Arendtian conceptions of agonism reduce the political to the ethical, Breen shows that, in fact, Arendt provides a rich resource from which to develop precisely the ethic of antagonism that Mouffe lacks. Although Arendt conceives of the political (isonomy) in opposition to violence (sovereignty), she nonetheless views these as inextricably interwoven. Moreover, despite her celebration of political action in terms of the freedom to institute new beginnings, she also recognizes that this same freedom threatens the political association by transgressing its laws and institutions. While praising the agonal spirit of the Greeks, she remains mindful of how agonism made alliances difficult between city-states and led to civil strife within. This leads Arendt to recognize the fragility of the community that is constituted through action and to articulate an ethic of care for conserving the relationships and institutions that sustain political life. Moreover, this ethic of care for the world constituted with co-members of the political association extends beyond the polis to include relations with our enemies. Against the Greeks, she turns to the Roman conceptions of

law and war to develop an ethic of antagonism underwritten by the Kantian precept that no war should be conducted in such a way that ‘would make mutual confidence in subsequent peace impossible.’

Nathalie Karagiannis and Peter Wagner further take up this question of the relation of the inside of an agonistic political community to its outside. With Breen, they note the failure of agonistic theories to account for how a democracy should relate to those non-members who are excluded from participation in its collective decision-making. Against this shortcoming of contemporary agonistic theory, they articulate the implications of their favoured conception of ‘synagonism’ for how a political community should relate to its strangers. Appropriating the Greek understanding of agonism, they define synagonism as the respectful struggle of one against another, bound by rules larger than the struggle, in view of excellence winning for the benefit of the city. In contrast to the presupposition of exclusion as a constitutive condition of political community in Mouffe’s agonism, synagonism starts from the principle of social inclusion or *philoxenia* in order to understand the social and political relations between members and non-members of a particular polity.

Following the principle of *philoxenia*, strangers are welcomed in recognition of the benefits they bring to the city through their participation in social synagonism, especially in the realm of production. In the synagonistic polity foreigners would therefore come and go relatively unhindered. Yet *philoxenia* does not entail an open border. For this hospitality is conditional on the guest being amicably inclined toward the city and respecting its rules and ways. Moreover, the guest is admitted to the city on condition that she *remains a foreigner*. The status of guest is therefore temporary: there is no place in the synagonistic polity for permanent guests such as the *Gasterbeiter* in Germany. For this would institutionalize an exclusionary politics that runs counter to the synagonistic principle of competitive struggle to achieve excellence for the benefit of the city. Moreover, it would contradict the imbrication of

relations of production and citizenship in the synagonistic polis. Consequently, after a time, guests must either become full members of the polity or leave the city. Assuming the guest wishes to join the polity, the only condition for membership is the guest's commitment to the spirit of synagonism.

The avowedly normative character of synagonism raises again the issue of the relation between strategic agonism (in which political struggle is a means for social transformation) and expressivist agonism (in which struggle is an end in itself since it manifests plurality and freedom). Like other expressivist theories, synagonism presupposes the recognition of equality and freedom as a necessary condition for agonism, whether between co-members of the synagonistic polity or (at least socially) between members and non-members. For strategic agonists, however, this appears to be begging the question since it means agonistic politics only refers to conflict that is mediated by already agreed upon norms and procedures. Between social unequals, by implication, agonism is not possible; there is only domination. Consequently, the sting is taken out of agonistic conflict since it is reduced to terms commensurate with its overcoming, represented as internal to a political unity that is removed from the field of contestation.

In contrast to expressivists, then, strategic agonists conceptualize the agon in terms of constituent moments, political acts that establish a rupture with the existing self-understanding of the political community and thereby transform the social context in terms of which claims appear intelligible or unintelligible, reasonable or unreasonable, legal or illegal. Yet, as Owen argues in defence of expressivist agonism, it is only by virtue of shared orientation to the abstract and critical norms of popular sovereignty and the rule of law that such political action can be characterized as a democratic struggle in the first place. Central to the apparent disagreement between strategic and expressivist agonists, then, is the question of whether it is proper to speak of agonistic politics at all when conflict is mediated by

commonly agreed upon norms and procedures. Or should agonistic politics be distinguished from ordinary politics, reserving the term to characterize conflict over the discursive field ('the political') that determines (albeit imperfectly) the available subject positions from which political claims can be articulated and heard?

Emphasizing the strategic dimension of agonistic politics, Aletta Norval takes up again this question of the relation between struggles within the rules (the conventional) and struggles over the rules (the non-conventional) via an engagement with speech act theory. In particular, Stanley Cavell's notion of a passionate utterance (as distinguished from J.L. Austin's conception of a performative utterance) provides a basis for conceptualizing an agonism that exceeds the bounds of its institutional signification, involving the constitution of alternative political subjectivities. By performative utterance, Austin means to capture how to say something ('I forgive you') can also be to do something (forgive). The success or 'felicity' of such performatives depends on the acceptance of a convention in terms of which they can be judged to have been carried out. As such, conventions establish roles that qualify a subject to speak and establish the terms in which what is said is meaningful or not. In contrast, Cavell distinguishes passionate utterances in terms of the non-conventional effects that they produce in their audience. In the case of passionate utterances, there is no conventional procedure, the identities of addressor and addressee are not given but constituted through the utterance and, in having been singled out to respond, the addressor is free to contest the speech situation that the passionate utterance stages in the first place.

In Norval's view, the lawsuit brought by the Khulmani Support Group in the US Supreme Court against a number of companies who did business in apartheid South Africa, exemplifies a passionate utterance. Resembling what Frank refers to as a constituent moment, the class action aims to reconfigure the space in which the claim it brings can be heard. In applying an eighteenth-century Act (the Alien Tort Claims Act) to an unprecedented case, the

conventional is thrown out of joint. Moreover, the articulation of this political claim is at the same time constitutive of a form of political subjectivity ('unemployed workers') that is irreducible to any subject position available within the social order (the prevailing discourse of the 'new South Africa'). At the same time it singles out another subject (globalized capital) from which it demands a response, an acknowledgement that may contest the terms of discourse and the subject positions that the passionate utterance seeks to establish. Yet the Khulmani case also seems to confirm David Owen's point that contest over the rules is often represented as a contest within the rules; that these two orders of contest are often indistinguishable. For, in order to be heard, the expressive utterance of the Khulmani claim must pose as a performative utterance, invoking a convention (the Alien Tort Claims Act) at the same time as it exceeds the institutional context in which the claim is raised.

Similarly, for Fiona Jenkins the task of agonistic theory is to understand a speech situation as a space of struggle. She further explores the agonic relation of the political community to its 'strangers' via a close reading of a television documentary based on interviews with some British Muslim men ('the Beeston boys') who belonged to the same local community from which the London bombers came. The report establishes a speech situation in which the men take the role of helping their audience to understand the actions of these 'home-grown terrorists'. In doing so, the interviewees are confronted with a double bind. On the one hand, they appeal to the cosmopolitan sympathies of their audience by claiming to 'understand' these violent acts in view of their own experience of social exclusion as British Muslims and their outrage at the suffering of Muslims throughout the world. At the same time, however, the expression of such politicized feeling confirms their identification as part of a problematic subaltern community. In this way they are required both to confirm their membership in the wider political community by condemning terrorism while at the same



time assisting this community to understand the radicalization of British Muslims in confirming their affinity with them.

This positioning of the interviewees by eliciting ‘politicized feeling’ exemplifies what Rancière calls consensus-effects, which re-inscribe the established terms of belonging within the political community. The opinion sought from them to help understand is already shot through with explanation in terms of the expectations of the political community about the men’s problematic place within it. Within this frame, the significance of the politicized feeling of grief and anger is taken to be obvious as a confused form of thought (understandable but irrational) and thereby depoliticized. Yet, Jenkins also suggests that beyond its obviousness, the politicized feeling of the interviewees has the potential to politicize the speech situation itself and to denaturalize the subject position in terms of which the interviewees are situated. Following Rancière, this would require the staging of a disagreement, according to which their grievance against the British political community would be heard by their audience not as an expression of suffering but a claim about (in)justice.

Like Karagiannis and Wagner, Adrian Little turns to the insights of social theory to develop a richer conception of political agonism. According to Little, complexity theory challenges simplistic ontological assumptions that inform both deliberative and agonistic theories of democracy. Social complexity means that pluralistic societies cannot be managed by institutional design and attempts to do so will be prone to failure. Complexity can be understood in terms of four key features of non-linearity, path dependence, information loops and emergent properties. Little argues that, in conceptualizing the relation between popular sovereignty and the rule of law as co-original, Habermas tends to conflate complexity with pluralism rather than recognizing how complexity challenges static conceptions of plurality, according to which certain values are ascribed to particular groups or individuals. From the

perspective of complexity theory, plurality cannot be dealt with as a question of management. Moreover, insofar as it always reduces complexity, constitutionalism appears irreconcilable with democracy.

If Habermas tends to privilege constitutionalism as a way of managing social complexity, agonistic theorists such as Honig tend to privilege democracy with its propensity for disagreement and dispute. Such an approach appears more compatible with the recognition of social complexity since it takes closure around a specific institutional structure to be problematic and exclusionary. However, certain thematizations of agonism may also be reductive to the extent that they fail to capture the complex and dynamic nature of political interaction. As Little puts it, complexity theory suggests that agonism should be understood in more fluid terms, characterized by changing membership, contested boundaries of political interaction and emergent political arguments.

In the final chapter, I revisit whether agonistic politics can include contestation of the political unity in terms of which it is represented. This is addressed in the context of indigenous peoples' struggle for sovereignty in Australia since the establishment of a tent embassy on the lawns of Parliament House in Canberra in 1972. Appealing to principles of international law, Aboriginal activists have argued that sovereignty was never ceded to the British invaders and therefore that a treaty remains to be negotiated between indigenous people and the settler society. In response, the former Australian Prime Minister, John Howard, declared that it was an absurd proposition that a nation would make a treaty with its own citizens. As several contributors to this volume demonstrate, whether a political claim appears as reasonable or absurd goes precisely to the heart of agonistic politics. For the reasonableness of claims depends on the giving and receiving of reasons in terms of the foundational values of a polity to which all assent. In contrast, a political claim that contests the political unity from which the legal order derives its legitimacy is likely to appear

unreasonable or absurd. Politics is agonistic, on this account, precisely to the extent that it involves struggle over the speech situation itself, transforming the social context in which the claim is articulated so that it might come to be heard.

As such the agon between indigenous people and the settler society in Australia might be understood either in Lyotard's terms as a case of the *differend* or in Rancière's terms as the staging of a disagreement. As a case of the *differend*, the absurd proposition of Aboriginal sovereignty would amount to an unreasonable proposal or illogical assertion. From this perspective politics is agonistic because it is distinguished by the threat of the *differend*, the silencing of those who have suffered a wrong by taking away the discursive means to bring the wrong to recognition. The various legal claims indigenous people have brought in an attempt to assert Aboriginal sovereignty seem clearly to exemplify a case of the *differend*. As the staging of a *disagreement*, in contrast, the absurd proposition of Aboriginal sovereignty would appear as a ridiculous presentation. From this perspective, politics is agonistic because it involves demonstrating the wrong of the social order. The Aboriginal tent embassy can be understood as the staging of a disagreement in which the demonstrators both enacted their equality by addressing the Australian state on behalf of a sovereign people while testifying to their dispossession as aliens in their own land.

Although the tent embassy was successful as a political demonstration, i.e. as an act of self-determination in and of itself, Australian Aborigines have yet to establish a treaty with the Australian government. To understand the embassy only in terms of a celebratory expressive agonism would therefore be too glib about the ongoing social and political exclusion of Aboriginal people. For their struggle is, in Deranty and Renault's terms, an 'abolitionist' one, a struggle for decolonization. And yet, to understand the agonistic relation between colonial governance and indigenous resistance in wholly instrumental terms would also be reductive. For the tent embassy is perhaps best understood as a failed revolution or in,

Frank's terms, an 'unfelicitous' constituent moment, i.e. a constituent act that has not (yet) come to be recognized as such. Yet, to the extent that the tent embassy brought into social existence a mode of political subjectivity (the sovereign Aboriginal nation) that was not afforded by the prevailing social order, it remains a testament to indigenous freedom and, hence, to the ever-present possibility of decolonization in the present.

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As should be clear by now, while all the contributors to this volume are sympathetic to agonistic conceptions of politics, we also critically interrogate the sometimes glib assumptions that underlie the contemporary celebration of conflict as an antidote to de-politicizing consensus. Examining the relation between law and agonistic politics affords a perspective from which to think more rigorously about the normative significance of social and political struggle in a democratic society, while also revealing the limits of any simple opposition between consensus and conflict theories of politics. As Andreas Kalyvas points out, there has been somewhat of an institutional and legal deficit in the agonism of the postmoderns (with the important exception of James Tully). It is hoped that this book will begin to address this deficit by deepening our understanding of the democratic agon and the ways in which law may serve to sustain or curtail it.