

Introduction

On Normal and Exceptional Politics

Sanne Taekema*

How should we view the relationship between law and politics? And, in the wake of this question, how should we relate legal and political theory? In this special issue, we have chosen to approach such questions through the work of a political theorist: Bonnie Honig.

Bonnie Honig, Professor of Political Science at Northwestern University, and Senior Research Fellow at the American Bar Association, is a key figure in the movement of agonistic political theory. Her book, *Political Theory and the Displacement of Politics*¹ is generally regarded as a central text in contemporary political theory. Agonism can be described as a theory of politics that takes struggle as the lens through which politics is viewed. Politics is a realm of irreducible conflict, but this is not something to be deplored: not only are conflicts inescapable but they may also have positive generative effects. In Honig's view, the prime task of agonism is to deconstruct the binaries that are created in the dominant political theories and to show the plurality of meanings that are covered by such binaries.² Thus, she takes issue with theories that present politics and democracy as (potentially) peaceful deliberation and with theories that reduce politics to the manifestation of brute power. Honig's theoretical perspective does not aim at providing answers to the problems set by legal or political theory but at scrutinizing the presuppositions that underlie the posing of such problems.

An agonistic view of politics also rearranges the relationship between politics and law. Politics is the broader context of law. Law and politics are not opposites, but interconnected domains, and the questions that arise in law always turn out to have political dimensions. Political decisions cannot be viewed as preceding law: they need to be taken and retaken in the daily

* Associate Professor of Jurisprudence, Tilburg University.

1 Cornell University Press 1993. Her other main book is *Democracy and the Foreigner*, Princeton University Press, 2001. Honig is currently working on a book on *Emergency Politics* (to appear with Princeton University Press 2009).

2 See her reply in this special issue, p. 186.

business of maintaining the legal system. Nor can we see law as setting the boundaries within which the work of political decision-making takes place. The idea of law and politics as simply separate or disjunctive domains needs to be challenged and deconstructed. When focusing on the connection of law and politics, agonism also draws attention to the active role of the subjects of legal rules and to the experience of living under the law rather than to the formal structures of law.

At the core of this special issue is Bonnie Honig's important article, 'Between Decision and Deliberation: Political Paradox in Democratic Theory',³ in which she explores Rousseau's paradox of politics and draws out its critical implications for the deliberative theories of democracy advanced by Seyla Benhabib and Jürgen Habermas. She formulates the paradox as follows:

'In order for there to be a people well-formed enough for good law-making, there must be good law for how else will the people be well-formed? The problem is: where would that good law come from absent an already well-formed, virtuous people?'⁴

The article formed the basis for the conference 'On Normal and Exceptional Politics' organized by the *Vereniging voor Wijsbegeerte van het Recht* (Dutch Association for Legal Philosophy) at the Internationale School voor Wijsbegeerte in Leusden on 18 and 19 April 2008. The aim of the conference was to question the distinction between normal and exceptional politics as the distinction between politics governed by constitutional legal rules and politics practiced in exceptional situations, ungoverned by law. In Honig's article, this distinction is challenged by her claim that the paradox of politics is not only a paradox of founding (as an exceptional situation), but also a paradox replayed endlessly in normal politics. Four discussants were invited to comment on the article from different perspectives: legal philosophy, political philosophy, constitutional law, and political history. These comments by Hans Lindahl, Marin Terpstra, Gerhard Hoogers and Ido de Haan, respectively, form the bulk of the articles that follow. Honig's response to these comments is the closing contribution to this special issue.

I want to thank Roland Pierik and Wout Cornelissen, co-organizers of the conference; without their ideas, enthusiasm and organizational talents this special issue would not have been realized.

3 The article (*American Political Science Review* 101, 2007, p. 1-17) is reprinted here in abbreviated form.

4 On p. 119 of this special issue.