Against the Unwritten Laws. The Figure of Antigone and the Political Occupation of the Public Space

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As in Sophocles’ Antigone, the symbolic impact of the rites of funeral, in a social and, most importantly, political sense, is the theme of the film Deutschland im Herbst, which could be considered as a cinematographic Trauerspiel. This episodic film was made in 1978 by Alexander Kluge and a team of German directors and deals with the political and societal climate under the threat of far-left terrorism in the German Federal Republic, which culminated in the events of October 1977. The head of the West-German employers’ lobby, Hans-Martin Schleyer, was kidnapped by the Rote Armee Fraktion and finally assassinated. A Lufthansa airplane was hijacked by Palestinian RAF-allies and was subsequently liberated in a spectacular way by West-German elite soldiers in Mogadishu. In the end, the four imprisoned historical founders of the RAF allegedly committed suicide in their ultra-secured prison in Stammheim, Stuttgart. Kluge and his colleagues tried to evoke the atmosphere of this ‘leaden era’ – die bleierne Zeit, as goes the title of another film about this period by Margaretha von Trotta – by putting their stories in the framework of three funerals: the state funeral of Schleyer, the controversial burial of the terrorists and, surprisingly, the official funeral of Marshal Erwin Rommel in 1944. Rommel, who sympathized with the attempt to assassinate Adolf Hitler on 20 July 1944, was forced by the Führer to commit suicide, but he was nevertheless granted an honourable interment. As it happens, Manfred Rommel, the Marshal’s only son, was the mayor of Stuttgart in 1977 and he decided, against popular voices, to bury Andreas Baader, Gudrun Ensslin and Jan Carl Raspe on the official Dornhalden cemetery.

1. Antigone censored
Before the documentary part on the Baader-Ensslin-Raspe-funeral was screened, a fictional episode called Die verschobene Antigone (The Delayed Antigone) was written by Heinrich Böll and directed by Volker Schlöndorff. This television adaptation of Sophocles’ play makes a direct link between Germany in 1977 and the icon of Antigone. The directors of the TV channel,
However, were reluctant to broadcast it in the given circumstances: the play deals, after all, with ‘rebellious wives’. The discussion focused on a disclaimer preceding the actual episode. The director paraphrases the famous “Many wonders there be, but naught more wondrous than man” (“Vieles Gewaltige lebt, und doch / Nichts gewaltiger denn der Mensch”, in the early 19th century translation of K.W.F. Solger). The German term Gewalt refers both to illegal violence and to legitimate power. The supervisors of the channel contended that it was precisely this ambiguity – demonstrated by Walter Benjamin – together with the stylized phrasing of the line that risked to render the disclaimer ineffective. On the other hand, a matter-of-fact disclaimer, affirming the dissociation from violence by all the crew members was perceived as ironic and thus counterproductive. The meeting decided to complete the production but also to reschedule its actual screening on television. After the meeting, the head of the channel asked, quite seriously, if the director manipulated the conclusion of the play – to which Schlöndorff answered that he did not. This discussion about Antigone, the ‘terrorist wife’, is probably the clearest example of the iconic significance of the play and the heroine for a reflection – any reflection – on the meaning and the reach of political space as public space. Since Heinrich Böll’s script is a short sketch, it leaves little room to ask how the public space of Antigone, in her political position, is exactly defined and circumscribed and, subsequently, what kind of political items are put on the agenda by her rebellious – if that is the right term – action.

2. Antigone’s public space
In this article, I will reflect upon the public space as a political space, and upon the role the icon of Antigone, as the theatrical embodiment of a political heroine, could play on this agora. My argument will meander between historical assumptions, both theatrical and political, and contemporary philosophical ideas, with Hannah Arendt’s quest for a democratic political realm as connecting thread. The title of this article is a slogansque summary of another preliminary assumption. Independently from any assessment of the

ethical and tragic position of Creon, the tyrannical nature of his regime or the inherent justice of his defeat, the very reference to the existence of ‘unwritten laws’ – or to be more precise: ‘unwritten and unshakeable customs of the gods’ – weakens Antigone’s position inasmuch as her objective consists in the creation of a political space. A public, political space needs written laws in order to frame itself, but it of course also needs an Antigone to occupy it. That is the very ambiguity of the tragedy of Antigone, and the question is whether her incarnation on stage remains relevant for Arendt’s political quest or desire.

In the aftermath of the ‘German autumn’ of 1977, German theatres were almost flooded with productions of Antigone. Adaptations of Antigone have been iconic throughout German history, but in this particular momentum it seemed more than ever appropriate to revisit Sophocles’ tragedy. The public debates during these ‘leaden years’ had referred indeed more than once to tragic ambiguities, only to dismiss them as unhelpful for the unity needed to fight the threats to the nation. Politics went back to the basic assumption of Carl Schmitt that a clear distinction between friend and foe is required to affirm its fundamental legitimacy. One of the most remarkable Antigone-productions of this period, directed in 1978 by Christoph Nel in Frankfurt am Main, deeply undermines the classical, Hegelian assumption, quite dear to German dramaturgy (and to philosophy in general), of the philosophically balanced battle between the (religious) rights of the family and the (legal) rights of the state – easily convertible into Schmitt’s distinction. Instead, Nel juxtaposed, in a completely different kind of dialectics, the banal and the sublime. Scenographer Erich Wonder had designed a black box on stage, dominated by a moving bar, six meters long, filled with spots. This bar swayed in front of the spectators at every scene, thus blinding those sitting in front of it. Nel had chosen for the poetically brilliant translation of Hölderlin, which is condensed and hermetic. For further distanciation, the actors used scattered lines of the text, diminishing understandability also by close body contact. Hölderlin was almost ridiculously aestheticized, his poetry becoming a ruin of classical language, no longer a way of communication. In contrast with this, a chorus of popular, caricatural figures – tourist, rocker, carnival prince, clown, etcetera – launched dirty jokes and challenged any propriety and decorum the royal context of the tragic conflict could require. This

chorus, in which Creon was integrated as some kind of despotic and whimsical gang leader, killed Antigone, a poor figure hardly conscious of the society she lived in and nevertheless fought against. On a metatheatrical level, Nel’s Antigone dealt with the impossibility to consider Greek tragedy – or Greek civilization in general – as an intellectual message about actual possibilities to create a public discourse – a discourse about the reinvention of democracy after being challenged by unexpectedly violent opposition. Put in another way, the Frankfurt Antigone tried to demonstrate that the conflict between Antigone and Creon, once considered as the paradigm of a precarious political order based on the sovereignty of the nation, has lost its iconic value. Quite paradoxically, half a dozen Antigone-productions in German theatre succeeded in undermining the symbol Antigone, insofar as she stood for the need for a public place for politics. Was this just a post-modern whim or should we reflect on the relationship between Antigone’s position and democratic political space more fundamentally? Three lines of thought will be developed around this question: 1) Arendt’s political space and Antigone’s opening/closing of it; 2) the issue of mourning in Antigone; and 3) the dramaturgical importance of the unwritten nature of her laws.

3. Hannah Arendt’s Antigone on the agora
When Hannah Arendt develops the notion of ‘action’, in The Human Condition, she immediately refers to theatre, conceived of as a ‘mimesis of a praxis’, as did Aristotle. Arendt’s action means ‘drama’, and play-acting is actually an imitation of action, of action. For her, ‘action’ means political action – in contrast with the economic and social practices of ‘work’ and ‘labour’. Precisely the difference between imitating characters and a reflective, ‘less imitating’ chorus, constitutes, in this analogy between skênê and agora, the essential meaning of a political space. The theatrical event, in this almost Brechtian interpretation of a dialectics between blind identification (of the tragic hero) and poetic distanciation (by the chorus), is a serious analogy, because theatre is the only form of art that needs the presence of others, both in its subject and in its execution. Theatre is the political sphere of human life transposed into art. Interpreted as an historical account of Attic tragedy, such a statement may be seriously debatable, as is any suggestion of the simultaneous birth of theatre and democracy. But

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7 Erika Fischer-Lichte, op. cit., 2010, pp. 345-351.
9 Id., p. 188.
more important for Arendt’s reasoning here is the concept of the true political space as a conscious ‘acting out’ of one’s relationships with others without any assurance of the result, not in discourse and not in practice. In On Revolution she even more clearly makes the point that a political space is a space of freedom, freedom from economic and social responsibilities. Political liberty is the continuous reinvention of the basic conditions of action: that is the meaning of ‘pursuit of happiness’ in Thomas Jefferson’s Declaration of Independence, and not entrepreneurial freedom.¹¹ For Arendt, the political realm has to create a space for ‘public freedom’ of speech and action, not considering the substance of those speeches and those actions. This seems a rather strange conclusion in the age of ideologies, for ideology – and critique of ideology – precisely deals with the discursive (trans)formation of speech and action, with the (hegemonic) rules governing the production of meaning. What should we talk about on the agora, if not about economic and social policies?

As Cecilia Sjöholm writes, it is precisely in the constitution of this abstract notion of the political space, of the agora, that the figure of Antigone becomes meaningful. In Oedipus at Colonus she embodies the law of Athens, the foundational idea of politics based on the erasure of Oedipus as mythical hero: the grave as a constitutional scene. Antigone would have liked to follow her father there, but she has a political role to fulfil: she tries to ward off the battle between her brothers.¹² Her position in Antigone is in sharp contrast with this effort to legitimize the power of the polis in Oedipus at Colonus, but at second sight, her attempted burial of Polyneices is as foundational as before. Antigone turns against the law of Creon, against his kerygma, because it precisely lacks the foundational value Athens claimed in the other tragedy. Political Athens, in Oedipus at Colonus, is constituted by its sublimation of Oedipus’ death and the acceptance of the refugee in the city. To put it more abstractly: the exception of the exiles legitimizes the normality of the political community. This paradox could be called ‘divine law’, which is also an oxymoron.¹³

In an essay first published in 1943, We Refugees, Hannah Arendt tries to define the political potential of the position of the exile, the refugee. She explains that one of the main assets of Enlightenment, the principle of sovereignty, has become a monstrous weapon in the hand of those modern

¹² Cecilia Sjöholm, "Naked Life; Arendt and the Exile at Colonus", in: S.E. Wilmer and Audrone Zakauskaite (Edd.), Interrogating Antigone in Postmodern Philosophy and Criticism, Oxford 2010, p. 51.
¹³ Id., p. 52.
nations. The protection a nation provides for its citizens comes at the expense of the excluded, the others, the refugees, all reduced to “human beings who, unprotected by any specific law or political convention, are nothing but human beings”\textsuperscript{14} – they are reduced to bare life, in Giorgio Agamben’s terminology. Assimilated Jews were always the better patriots, Arendt notes with bitter irony. This contradiction is embodied by the double position of Antigone in the two plays: she legitimizes the nation – Athens – as a political space, marked by the respect for the excluded Oedipus, and in a second move, she refers to the fundamental meaning of this same agora, as it has been de-legitimized by Creon’s kerygma, by his refusal to bury respectfully the excluded Polynoeices. But it is not enough to assert that divine laws are protecting the political space, and thus the secular laws,\textsuperscript{15} since that would beg the next question: what is the ground of this divine laws? And Sophocles’ Antigone deals indeed with this last issue, i.e. the nature of the foundational tautology, of a Grundnorm – simply stating that ‘the law is the law’.\textsuperscript{16}

4. Bonnie Honig’s performative Antigone

Before reflecting on this version of the ‘unwritten laws’, inspired by Hannah Arendt, a crucial detour should be taken. Bonnie Honig emphasizes the performative character of Arendt’s political vision. Humanity, as a political value, remains abstract until it is performed in speech and action. The political ‘speech act’, especially when it is foundational – e.g. the Declaration of Independence – is not constative, since it constitutes by itself a political realm, it should not refer to a higher, non-legal truth legitimizing this constitution.\textsuperscript{17} Here we come close to Judith Butler’s reading of Antigone’s ‘unwritten law’: a law that is not communicable, since speech requires – in the context of Sophocles’ play – a script. And public (= written) law cannot do without this law, as it is the unpublishable condition of its own emergence.\textsuperscript{18} In her own reading of Antigone, Honig concentrates on the political sense of mourning in the tragedy, in an effort to re-politicize the tragedy: from politics of lamentation to politics of lamentation.\textsuperscript{19} She makes

\textsuperscript{15} Cecilia Sjöholm, op. cit., 2010, p. 66.
\textsuperscript{16} Hans Kelsen, Reine Rechtslehre, Vienna 1960, pp. 196-227.
\textsuperscript{17} Bonnie Honig, Political Theory and the Displacement of Politics, Ithaca/London 1993, pp. 98-99.
\textsuperscript{19} Bonnie Honig, Antigone, Interrupted, Cambridge 2013, p. 196.
clear that Antigone’s act should be seen in a new regulatory context, dominated by the *polis*. These laws, initiated by Athens’ founding father Solon, are intended to deal with so-called ‘self-indulgent’ rituals of lament: choruses of wailing women, conspicuous grave hills, all focusing on the irreplaceability of the deceased.\(^2\) The political goal is to transform those funeral rites into a national ceremony, which stresses the continuity of the political community and the value of citizenship. Nicole Loraux made a comparable point, although she focused on the funeral oration as a political genre with more or less hidden traces of a previous family- or clan-oriented society.\(^2\) These funeral orations, with Pericles’ oration recorded by Thucydides as the most famous example,\(^2\) inscribe this ceremony in an economy of substitution: the epitaph takes the place of the ‘Homerian’ mourning, henceforth considered as an aristocratic relic.\(^2\) This is exactly the point where Antigone’s political action starts: she refuses to accept this ‘democratic’ logic and thus, consequently, refuses a law based upon an abstract notion of citizenship – where every citizen is replaceable. In contrast, Creon fiercely defends the Periclean point of view, but the facts contradict his claim for interchangeability of citizens. If *Antigone* would reflect a conflict between Homeric and classical ‘democratic’ culture, it is tempting to see this ancient tragedy as an exemplary case of tragic ambiguity or, maybe worse, empty undecidability and thus to de-politicize the stake of the debate.\(^2\)

To be sure, this simple binary opposition is too simple, since political and cultural ambiguities are present in both ‘parties’.\(^2\) But it would also be misleading to interpret Creon’s hegemonic position as a blunt refusal, out of national-democratic principles, to acknowledge the rival – and thus debatable – worldview of Antigone. On the contrary, Creon finally accepts the exceptional challenge the body of Polyneices confronted the city with, albeit after metaphysical catastrophe and great human loss. He erases himself, but at the same time this ruin creates a space to reflect upon the capacity of the political community to manage these devastating events by becoming conscious of the exceptional nature of its institutions. ‘Exceptional’ meaning: born out of exceptions – an incestuous father, a double fratricide, estranged

\(^{20}\) Id., pp. 100-101.
\(^{23}\) Bonnie Honig, op. cit., 2013, pp. 102-103.
\(^{25}\) Bonnie Honig, op. cit., 2013, p. 115.
women – and this in a double sense. These women – Antigone and Ismene – are strangers: although they possess an autochthonous pedigree, Oedipus’ fate has contaminated this certainty. And doubt about the autochthony of political actors causes a threat to the legitimacy of the political order as such: this is the theme of Euripides’ Ion. But these women are also ‘alienated’ in the sense of Bertolt Brecht’s Verfremdung: as women, as non-citizens, they represent and demonstrate more clearly, more ‘objectively’ the contradictions of exclusively male citizenship.

5. Florence Dupont’s a-political, musical Antigone

On a purely formal level, a parallel could be drawn with a completely different, even anti-political analysis of Attic tragedy, the one proposed by Florence Dupont. In her crusade against the influence of Aristotle’s Poetics on western theatre, against this theatre conceived as ‘the imitation of an action’, Dupont seems to disregard the political-critical character of tragedy performed in Athens: it is precisely the contingent imitation of the mythos – both in text and in performance – that challenges traditional worldviews and established institutions. The written, transmitted text of a tragedy is, for Dupont, only the ‘insignificant’ remainder of a popular ritual, a contingent narrative intended to be forgotten. Tragedy is musical theatre, spoken parts are but ‘episodes’ – literally: between the chants – of a much larger ritual performance. In her interpretation of particular tragedies, such as the versions of the Electra-myth by Aeschylus (Libation Bearers), Sophocles (Electra) and Euripides (Electra), the consequences are clear. The figure of Electra is not a mythical character, she is the specific embodiment of the lament, of the kommos, which is a musical form in the first place. The musical dynamic of the kommos, together with the ritual use of instruments and chants, drives the performance forward, the epeisodia are no more than clarifications and comments. Dupont develops an anti-dramaturgical paradigm and refuses, more generally, to think together profoundly...

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experienced ritual and the representation of fundamental political issues. Nevertheless, it could be interesting to consider the *kommos* in *Antigone* as an autonomous performative device, regardless of its poetry, but then in a more political sense. In the tragedies about Electra, the chorus represented a group of strangers (women, refugees) and their musical presence marked this "otherness": they sang the old, ritual, ‘Homeric’ laments, and the *kommos* participated in it. At the same time, says Dupont, the audience identified with the emotional impact of ritual music, not with the characters, but that assertion might be quite speculative. However, if one compares this to *Antigone*, the situation is different, almost dialectical: the *kommos* of Antigone refers to a state of mind and to a counter-world no longer affected by the political community, whereas the chorus asks itself, throughout the play, if this *polis* is not fundamentally too vulnerable, as it is based upon autonomy and humanity. The dirge of Antigone, as a gesture, could thus be seen as a profound human presence, reduced to its un-political source – no speech, no action, in Arendt’s sense, just bare life. This is quite different from the political *agon* Creon and Antigone were engaged in at her trial. But against this ‘earthing’ of Antigone’s position, there is another important argument, to be found in the text of the dirge itself. Creon interrupts Antigone’s final lament, when she clearly prioritizes natal over conjugal kinship – Polynieces over Haemon. After this interruption, she introduces the (in)famous argument of the unreplaceable brother:

Had it been a husband dead  
I might have wed another, and have borne  
Another child, to take the dead child’s place.  
But, now my sire and mother both are dead,  
No second brother can be born for me.  
Thus by the law of conscience I was led  
To honour thee, dear brother.  

These lines, which embarrassed commentators such as Goethe, refer to Herodotus’ story of Intaphernes’ wife, who plead to the Persian king Darius, planning the execution of her whole family, in favour of her brother – using exactly the same arguments. She succeeded to save her brother’s life and Darius also spared the life of her oldest son, as the tyrant was impressed by

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32 Id., pp. 290-293.  
the rationality of her pleadings. Bonnie Honig argues that it is precisely here that Antigone politicizes her condition, she shifts from lamentation to litigation. Antigone tries to force Creon – she does not succeed, unfortunately – to consider Polyneices’ (non-)burial in the larger context of replaceability in the political community, resulting in a movement from an economy of infinite vengeance to an economy of wants and satisfactions. The political theatre – in which Antigone continues to participate in her last moments – shows an almost schizophrenic face: an abyssal lament – the kommos until Creon’s interruption – and a calculated rationality.

6. The parrhesiastic Antigone
Cornelius Castoriadis says that the distinction between divine and human laws is in fact a false one: a proper burial is a human obligation, and loyalty to the city, as Creon claims himself, is a divine commandment. It is the chorus which insists on the parallelism and the apparent contradiction. Even in Honig’s analysis the ‘arrogance’ of Antigone and Creon remains uncontested: they both refuse, for opposite reasons, to treat each other as political equals. The question is, however, if they can escape from this framing by the chorus, well aware of the contingency of their political position. The political domain, says Castoriadis, is comprehensive, and thus a political decision should comprise and take into account all the relevant factors, political and non-political. This includes laws – nomima or customary rules is the term Antigone uses – about which “no one knew whence they appeared”. If an institution claims its autonomy, both in its foundation and in its functioning, it cannot reduce itself to its positivity, to its procedural self-sufficiency. Here, Castoriadis seriously disagrees with Hannah Arendt, who excluded the substance of political action from the political space in itself and refused to define the societal impact of political liberty. He refers to the funeral oration of Pericles, which includes an ethical program that defines beauty and wisdom as public goods. As mentioned before, the crucial issue remains whether Antigone’s insistence on the superiority of agrapta nomima strengthens her position in the political space.

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35 Herodotus, Histories, 3.119 on: http://ncbible.info/MoodRes/History/Herodotus.pdf (accessed 08.05.2015)
36 Bonnie Honig, op. cit., 2013, pp. 132-140.
39 Id., p. 378.
40 Id., pp. 379-382.
or not. In other words, do her speech acts perform anything political? Her position is ‘parrhesiastical’, ‘outspoken’ in a very precise sense, as an attitude demonstrating a particular political virtue: she refers to herself as the subject of speech, she reveals a truth and by doing so, she runs a deadly risk, face-to-face with a powerful person. Finally, she considers this action as a duty. In the agon, both parties also use specific terms denoting ‘justice’ and ‘law’, which refer both to ancient notions of divine justice as well as to contemporary types of regulation. Dikè with a capital is confronted with dikè without a capital, and the unwritten nature of the rules invoked by Antigone serves as some kind of umbilical cord to link secular laws to their archaic traditions. If she would have used the term agraphoi nomoi (‘unwritten laws’, the term Aristotle uses to describe a form of equity that balances strict legal rules), the issue would have been different, and maybe less convincing. The material fact of being written or not is, in the legal sense, of less importance. What matters is the symbolic meaning of writing and the definition of the political space, or, put in another way, the theological residue of her cause. The ‘parrhesiastical’ position of Antigone, her manifestation as pure performativity is of course independent of the constitutional status of the rules or laws she refers to: there was no such thing as a constitutional order or a formal hierarchy of norms in ancient Athens. By referring to a black hole of normativity – “no one knows whence they appeared” – she warns against an interpretation of political liberty – Creon’s liberty, as embodiment of the liberty of the newly founded political community; as having a mock-divine foundation; as an emanation of a well-defined political theology or natural justice. But a fundamental question remains open, and Castoriadis could be right in his critique of the abstract definition of the political realm by Arendt: Antigone deals with matters of life and death, Creon deals with matters of inclusion and exclusion, and these issues have substantial consequences. This tragic agon is about mourning, about burial, about citizenship, about exile, about equality and privileges, about freedom and its material conditions. And since political action consists of performative speech acts, especially for the ‘parrhesiastical’ Antigone, her physical presence embodies all this substance, as Tina Chanter has so eloquently demonstrated. Unwritten laws are

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43 This is my own translation of Sophocles, op. cit., 1981, p. 348, l. 457.
necessary to open up this space, but they have no substance. *Scripta manent*, the written word is the rule. Maybe the basic paradox of political theatricality is this one: that even this script requires incarnation to be substantial. A declaration of independence needs a hymn.