Political theory in a provisional mode

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Abstract
Given the imperfectness, uncertainty and disagreement that characterises politics, we should treat policies and decisions, institutions and ideals as provisional. I take this basic understanding of politics as my starting point, and I then ask two questions: How should we think of provisionality in politics? What are the effects of introducing provisionality into political theory? I start from a critique of the way provisionality is conceptualised by contemporary Kantian critical theory, in particular in the work of Elisabeth Ellis, who has developed a theory of provisional politics. On this basis, I propose an alternative conception of provisionality inspired by deconstruction and the work of Jacques Derrida. Ellis’s conception of provisionality is a step in the right direction, among other things because it works against rigidity and paternalism in political theory. Nonetheless, Ellis stays within Kantian critical theory, and I will argue that it is possible – and indeed necessary – to radicalise her insights. I argue that we should think of provisionality not in terms of ‘not yet’, but in terms of Derrida’s notion of ‘to come’. That is, I argue that imperfectness, uncertainty and disagreement are constitutive of politics, and therefore it’s provisionality all the way down, and provisionality *qua* ‘to come’ is not something that can be overcome.

Keywords: Derrida; Ellis; provisionality; ‘to come’
Introduction: why provisionality?¹
Politics is characterised by imperfectness, uncertainty and disagreement. Politics may be shaped by ideals, but most would agree that our institutions are lacking when compared to those ideals, and some will claim that this is a permanent feature of politics. Politics is also characterised by uncertainty about the effects of events and policies. Finally, despite the contemporary hegemony of neo-liberalism and liberal democracy, disagreement is still prevalent, including disagreements about the ideals of politics. There is no sign that imperfection, uncertainty and disagreement will disappear from politics. These are all reasons for taking a provisional approach to politics. In the face of imperfection, uncertainty and disagreement, we should treat policies and decisions, institutions and even ideals with qualifications such as ‘for the time being’. In short, we should treat them as provisional.

In this paper, I take this basic understanding of politics as my starting point. I then ask two questions: First, how should we think of provisionality in politics? And, second, what are the effects of introducing provisionality into political theory? Naturally, the answer to the second question will be shaped by the answer to the first question, because any particular conception of provisionality will have specific implications for how one theorises politics and for how one does political theory.

There are different ways of conceptualising provisionality. In this paper, I focus on the way provisionality is conceptualised by contemporary Kantian critical theory. This includes deliberative democrats such as Jürgen Habermas, but to some degree also liberal theorists (e.g., Mookherjee 2001). I propose an alternative conception of provisionality inspired by deconstruction and the work of Jacques Derrida. I propose this on the basis of a critique of the Kantian critical theory conception of provisionality.

For deliberative democrats, some form of provisionality is an inherent part of deliberative democracy. For instance, Amy Gutmann & Dennis Thompson (2004) use the term ‘provisionality’ explicitly and argue that it should be an essential part of deliberative democracy. For them, both deliberative outcomes and the principles are provisional, albeit with certain limitations.² Similarly, Habermas argues that

¹ Thanks to Marina Prentoulis for her comments on an earlier version of the paper.
² Neil Craik (2007, pp. 398f) uses Gutmann and Thompson’s theory of deliberative democracy and provisionality in the context of environmental law. For another example of the use of the term and concept of provisionality by a deliberative theorist, see Rummens (2008, p. 402).
deliberations are always open to the potential objections by any participant; a consensus is only reached on the proviso that someone may, in the future, object and thus restart the deliberations. Habermas (1990, pp. 32, 40) also argues that the procedures and principles he rationally reconstructs are fallible and open to challenges. Although Habermas does not use the term ‘provisionality’, the idea is the same: we must take deliberative procedures and their outcomes as provisional. Like Gutmann & Thompson, he argues for a particular set of principles, but also acknowledges the doubt that may exist about those principles and about the outcomes of deliberative procedures.

My starting point in this paper is the work of Elisabeth Ellis (2004, 2005, 2006, 2008), who works within Kantian critical theory. Ellis has the most developed account of provisionality in politics, and she applies provisionality to a range of issues in political science and theory, including in the area of deliberative democracy. The differences between the various conceptions of provisionality have implications for how we think about imperfection, uncertainty and disagreement in politics, and for how we think about critical ideals and autonomy. Ellis’s conception of provisionality is a step in the right direction, among other things because it works against rigidity and paternalism in political theory. Nonetheless, Ellis stays within Kantian critical theory, and I will argue that it is possible – and indeed necessary – to radicalise her insights about provisionality.

After introducing Ellis’s argument for provisionality, I shall first question the distinction she makes between provisionality and non-provisionality (or ‘conclusiveness’). I will show that her attempt to rationalise the limits of provisionality rests on the suppression of uncertainty and disagreement, which she otherwise insists are essential parts of politics. I argue that it’s provisionality all the way down. I then argue that rather than thinking of the ideal of autonomy as ‘not yet’ realised, we should think of it as, with Derrida’s term, ‘to come’, that is, as always inadequate and perfectible. This leads to a different conception of provisionality understood in terms of ‘to come’, where politics takes place in a tension between the unconditionality of ideals such as autonomy and the always conditional anticipations of those ideals. In the following two sections, I develop this conception of provisionality qua ‘to come’. Starting from Ellis’s notion of discursive dynamics, I first argue that, in order to analyse the politics of provisionality, we must examine its discursive framing. Next, and starting from Ellis’s discussion of the politics of species
preservation, I argue that the politics of provisionality must be analysed through the
tensions between provisionality and anticipation and between openness and closure.
Finally, I conclude by looking at what we can expect from political theory in a
provisional mode.

Kantian provisionality
Ellis articulates her notion of provisionality through a critical reading of Kant’s
political philosophy. Kant may seem like an odd starting point for thinking about
 provisionality. After all, is Kant not the philosopher of absolute moral imperatives?
He is, but as Ellis (2008, pp. 2f) rightly argues, his political philosophy is more open
to the imperfections and uncertainties of the world of politics. It is in Kant’s political
writings that Ellis finds a source for thinking about the provisionality of politics
(compare Banham 2007). Drawing on Kant, she presents two – interconnected –
arguments for provisionality: autonomy and the gap between ideals and reality.

Starting from Kant’s political philosophy, Ellis argues that we should start
from autonomy as a basic principle or ideal. For Ellis, autonomy means substantive,
as opposed to merely formal, self-rule. She also expresses this in terms of the notions
of agency and plurality: we must leave it up to citizens themselves to make decisions
about the norms under which they live and we must respect the plurality of singular
individuals (Ellis 2008, pp. 6, 20f). We should then ask what conditions are necessary
for autonomy in a given situation and what is necessary for bringing these conditions
about.

With Kant, Ellis argues that the conditions of autonomy vary according to time
and place. Moreover, the specific conditions needed for autonomy do not exist
naturally, but must be brought about through state intervention. Ellis (2006, pp. 544-6,
2008, pp. 56-60) contrasts this view and Kant’s theory of rights with the theory of
rights found in what she calls ‘minimalist contractualism’. The problem with
minimalist contractualists is that they take the entry into society from the state of
nature as the basis for the assignment of rights. Thus, they take an ahistorical situation
— viz., the state of nature and the social contract — as the normative basis for rights.
The result is that rights are dehistoricised and appear absolute and universal; they are
unduly conclusive where they should be provisional. At the same time, the minimalist

3 For this reason, Ellis (2005, pp. 189-96) stresses the importance of social capital and civil
engagement.
contractualists take a certain kind of society and subject as natural and so depoliticise them. The minimalist contractualist argument typically takes as its model of society and citizenship the white property owning male of European civil society in the seventeenth and eighteenth centuries. As Ellis rightly argues, what are in fact contingent and historical conditions of autonomy are presented as ahistorical and universal; as a result, these conditions are depoliticised.

The conditions for autonomy are not perfect here and now. Whether or not the conditions will at some point be present for the realisation of autonomy, there is a gap between the ideal of autonomy and reality. This takes me to the distinction between conclusive and provisional right. Conclusive right must be applied immediately. The failure to do so would undermine the very possibility of autonomy – if not now, then in the future. That is, conclusive right covers what is essential for autonomy. Ellis’s examples of conclusive rights from Kant are preliminary articles 1, 5 and 6 from *Perpetual Peace*: in the long run, duplicitous treaties, forcible interference in another state’s affairs and misuse of human agents (including assassination) all undermine the possibility of peace and, hence, the possibility of autonomy. They ‘constitute unacceptable contradictions to the idea of the rule of law itself’ (Ellis 2005, p. 80), and these practices must therefore cease with immediate effect (ibid., pp. 80-6, see also p. 149). Ellis (2004, p. 366, 2008, p. 20) adds slavery as another example of a practice covered by conclusive right.

Other practices also threaten peace, but may be provisionally permitted. They include the practices that are the subject of preliminary articles 2, 3 and 4 of *Perpetual Peace*: treating states as personal patrimony, standing armies and debt-financed wars (Ellis 2005, pp. 81-3). In Ellis’s (ibid., p. 80) words, here we are dealing with ‘practices [that] merely hinder progress but do not contradict lawfulness per se’. In these cases, right is provisional and may be ignored for the moment without definitively undermining the possibility of autonomy in the future. For instance, although a standing army may not be conducive to peace, it does not prevent the realisation of peace in the long run.

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4 Kant is not always clear on this. For instance, he differs on the possibility of realising a perfect international union in *Perpetual Peace* and in his *Rechtslehre* (Ellis 2005, p. 135).

5 Ellis (2005, pp. 120-33, 2006, 2008, chapter 3) also introduces the distinction between provisional and conclusive right in the context of a discussion of Kant and property rights. Here she argues that a condition of autonomy is that citizens have some means of living that are necessary for human agency. As a result, some form of private property is necessary for human agency, but the particular form that
The distinction between conclusive and provisional right is made according to whether a practice prevents the exercise of autonomy in the future or not (and, in the context of *Perpetual Peace*, whether a practice prevents peace altogether in the future or not, with peace being a precondition for autonomy). Some practices detract from autonomy here and now, according to Kant and Ellis, but they do not undermine the possibility of peace in the long run. Thus, the dividing line is between those rights that are essential for progress towards autonomy and those that are not. Some practices contradict the very possibility of moving towards the ideal of autonomy, whereas others do not affect the possibility of progress in the long run. Ellis sums up the idea of provisional right thus:

The concept of provisional right applies to institutions that imperfectly mirror their own normative principles; since all existing political institutions do this, pragmatic politics must follow a rule of provisional rather than conclusive right. A general formulation for provisional right in Kantian language is: ‘Always leave open the possibility of entering into a rightful condition.’ (Ellis 2008, p. 112; see also 2005, p. 9)

Provisional right comes with the proviso that we must move towards the realisation of autonomy. The focus is on the process of realising the conditions for applying rights and ideals rather than on the rights and ideals themselves (Ellis 2005, p. 71, see also pp. 182f); and the focus is on the long run rather than on the here and now. For Ellis, what matters are the process and the conditions under which citizens themselves can realise their ideals in the future. According to her understanding of autonomy, the conditions of autonomy – and the rights necessary for realising it – are not given once and for all. It is neither given what they are, nor how they are to be realised. Citizens must themselves decide what the rights necessary for autonomy are, and they must themselves realise those rights. Provisionality thus also has an anti-paternalistic sense to it; one must leave as much as possible to citizens themselves to decide. In this way, autonomy provides a justification for provisionality (Ellis 2004, p.

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Private property rights will take is provisional and will vary according to historical circumstances and according to the political will of citizens.

6 The quote (‘always leave open the possibility of … entering a rightful condition’) is from Kant (1996, p. 485).
Ellis argues for provisionality on the basis of autonomy and the gap between ideals and reality. With regard to the latter, ideals stand in a tension with reality; this is not necessarily a problem, but a natural characteristic of politics. However, Ellis argues, a problem emerges if the gap is too big. The danger is that the ideal will appear utopian and too far removed from the present to be able to guide action under the imperfect conditions of the present. Provisionality is a way to bring ideals closer to reality and thereby, it is hoped, reality closer to ideals. With Kant, Ellis adds that any change must be gradual rather than revolutionary. The reason is stability, which is necessary for autonomy, and the risk of a reactionary backlash from a sudden change (Ellis 2008, p. 64).

Disagreement, uncertainty and the limits of provisionality
Ellis argues for provisionality, but her argument is not an argument against conclusiveness as such, only undue conclusiveness. That is, her argument for provisionality also contains an argument for a limit to provisionality.

Take for instance the argument for provisionality from autonomy. Ellis (2004, p. 367, my emphases) writes: ‘To respect the bedrock democratic principles of substantive self-rule [i.e., autonomy], theories must remain provisional rather than conclusivist, leaving most issues to the active decisionmaking of citizens themselves.’ Most, but not all. She limits provisionality to those ‘policy area[s] beyond those directly involved in guaranteeing self-rule’ and those ‘policy outcomes beyond those required for substantive self-rule’.

Here I do not wish to enter into a detailed discussion of Ellis’s or Kant’s examples of provisional right. However, I want to question their argumentative strategy and the way Ellis establishes the distinction between provisionality and conclusiveness. Take for example Ellis’s discussion of Kant’s Perpetual Peace. Here one may ask whether, for instance, assassination really does ‘undermine the very possibility of peace’ (Ellis 2005, p. 83). And one may ask whether it does so in a way that is qualitatively different from treating states as patrimony, for instance, a practice that may be provisionally tolerated. My aim is not to pass judgement on the particular examples of conclusive and provisional right, but to highlight the potential
disagreements and uncertainty about the effects of particular practices on peace and autonomy. 

If we follow Ellis and accept the existence of plurality, then there is likely to be disagreements about the necessity of the relations that Kant and Ellis establish between autonomy and particular practices, such as assassination and private property. Given Ellis’s normative commitment to agency and plurality, these disagreements must be respected. Similarly, given uncertainty about the future and about the effects of particular practices, the necessity of particular practices for autonomy is open to empirical disagreements. Hence, both disagreement and uncertainty blur the distinction Ellis makes between conclusive and provisional on the basis of the ideal of autonomy.

In the context of the argument for provisionality from the gap between ideal and reality, disagreements are likely and legitimate too. For instance, in the case of the argument for gradualism, the uncertainty about revolutionary change (will it lead to a backlash? etc.) also applies to gradual and reformist changes, even if the uncertainty may appear smaller. In addition, as Ellis (2008, p. 154) herself notes, gradualism and reformism may lead us to pass on revolutionary opportunities to transcend present injustices. Progress can be guaranteed from neither revolutionary nor gradual change; the uncertainty about the future, and our disagreements about this uncertainty, apply to revolutionary and gradual changes alike. Finally, it may be the case that reform lends itself as reasonable, and revolution as dangerous and unreasonable, within a certain social and political framework that influences the way we think about the injustices of, and the very possibility of transcending, that very framework. This is not an argument for or against either reform or revolution, but merely an attempt to highlight the disagreements and uncertainties that arise when we try to distinguish reform and revolution.

Given the disagreement and uncertainty that Ellis herself highlights, I will argue that the implication is that we must extend provisionality to the provisional/conclusive distinction. It all comes down to the nature of the link Ellis makes between the abstract, governing ideal of autonomy (or progress towards it) and

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7 Similarly, some may question the relationship Ellis establishes between autonomy and private property rights.
8 Elsewhere Ellis notes (with Kant) that provisionality cannot be used to justify means with ends. More generally, provisionality is not an excuse for bracketing moral judgements in politics. Provisionality cannot be used as an excuse to let injustices go on indefinitely; one must still strive towards their realisation (Ellis 2005, pp. 132f).
particular practices and institutions. Some practices and institutions are deemed to be
critical for progress towards autonomy, for instance assassination, private property
and slavery, and these are therefore covered by conclusive right. Other practices and
institutions are deemed to be dispensable for progress towards autonomy, and as a
result they are covered by provisional right.

Ellis rightly criticises minimalist contractualists for naturalising particular,
contingent conditions of autonomy through the use of the state of nature argument.
Thereby they present those conditions as ahistorical and depoliticised. However, Ellis
herself naturalises the links she makes between autonomy and certain practices and
institutions when she establishes the distinction between provisional and conclusive
right. She does so by presenting the links as necessary and deductive: if we want
autonomy, then it follows that so and so must be covered by provisional – or,
alternatively, conclusive – right. With Kant, she refers to this type of reasoning as
‘hypothetical imperatives’, which take the form of ‘if … then’. This distinguishes the
hypothetical imperatives from the absolute character of the categorical imperative,
and it distinguishes provisionalist reasoning from the absolute and universalist claims
of conclusivist reasoning (Ellis 2008, pp. 4f, 159 note 12).9

However, the use of hypothetical imperatives and this mode of deductive
reasoning introduce a tension between freedom and necessity that Ellis (2005, pp. 99f)
otherwise criticises in Kant when she criticises Kant’s occasional recourse to a
teleological conception of history. The use of hypothetical imperatives not only
assumes that there is agreement about the ‘if…’, that is, about the ideals; it also
assumes that the relationship (‘if … then’) is necessary and unproblematic. In short,
the hypothetical imperatives can only do the intended work in a context of agreement
and certainty, which Ellis otherwise argues is never present. If the reasoning by which
we arrive at the distinction between provisional and conclusive is itself conclusive and
necessary (‘imperative’ because it can be deduced from autonomy), this limits
autonomy and agency and plurality. The distinction between provisional and
conclusive is placed beyond the reach of present or future political will-formation.

imperatives is reminiscent of the performative contradiction argument used by, among others,
Habermas and Gutmann & Thompson. Like the hypothetical imperatives, the performative
contradiction argument is used to show that you must accept certain assumptions if you engage in a
particular kind of practice (e.g., argumentation). For Ellis on ‘contradiction’, see Ellis (2005, p. 136).
There are two main reasons for doubting the possibility of drawing a clear distinction between provisional and conclusive right; or, to be more precise, there are two reasons why any particular distinction is necessarily subject to dispute. The first reason is that there will be empirical and normative disagreements over the ideals and over the necessity of the deductions Ellis makes with the hypothetical imperatives. Given the affirmation of the value of plurality, we must take seriously and respect these disagreements.

The second reason for questioning the necessity of the provisional/conclusive distinction is uncertainty. There is, first, the uncertainty arising from lack of knowledge about the future and specifically about the future effects of particular practices and institutions (will private property enhance our ability to move towards autonomy? Etc.). And of course there can be disagreement about the level of uncertainty. However, there is also an uncertainty of a more fundamental kind. It arises from the nature of the object we are dealing with, namely human societies and human agency. As Ellis (2004, pp. 350-2, but compare pp. 372f) argues, since human beings are self-interpreting agents, political science cannot be moulded on the model of natural science. In other words, as an object of knowledge, society resists objectification in its totality, and any knowledge about society will be marked by this uncertainty. Yet, this undercuts Ellis’s use of hypothetical imperatives, because these rely on certainty.

For all these reasons, I suggest that the provisional/conclusive distinction is not rationalisable or subject to universal agreement. Rather, we should think of the distinction as a matter of articulation and contestation. The distinction is not given – not even by a hypothetical ideal such as autonomy – but is contingent and therefore a matter of political articulation. The distinction is discursively framed, and social and political agents articulate it in different ways in terms of necessity and non-contradiction and in relation to specific examples.10

This does not mean that no rationalisation, knowledge or agreement is possible. They clearly are. For instance, today there is general agreement that slavery is unacceptable, whether this argument proceeds from the ideal of autonomy or not. Slavery can be articulated as contradicting autonomy. Yet, there are still

10 On articulation and discourse, I follow Laclau and Mouffe (1985, p. 105). I return to the question of discursive framing below when I consider Ellis’s notion of “discursive dynamics”.

disagreements about how to define slavery, something that is evident when the media refer to people living under ‘slave-like’ conditions.

Nor does it mean that distinctions are impossible. After all, we make distinctions all the time, and the argument here does not mean that one cannot distinguish between provisionality and conclusiveness. What it does mean is that the provisional/conclusive distinction is contingent (rather than necessary and universal), and that the distinction can only be drawn by suppressing or abstracting from this contingency, which one can also think of as disagreement and uncertainty. There is a limit to rationalisation; rationalisations – and agreement and knowledge – are always discursively framed. Rationalisations only make sense within more or less stable discursive frameworks, and these frameworks – and how they are constituted – must be accounted for.

This is, thus, a difference between Kantian critical theory and deconstruction. It is an important difference because of the importance critical theorists place on distinction. Critical theory – from Kant to Habermas and Ellis – is precisely concerned with making critical distinctions, as the etymology of ‘critique’ also suggests (from the Greek krinein meaning ‘to separate’ or ‘decide’). Critical theory is concerned with making distinctions that are critical in a double sense: critical in the sense of important for autonomy and emancipation, and critical in the sense of not only empirical but also normative.

Therefore it is no coincidence that Kantians and critical theorists are sceptical of deconstruction and of post-structuralism more generally. For critical theorists, the deconstructivist questioning and destabilisation of distinctions at best makes deconstruction useless (because incapable of contributing to normative social theory), and at worst it makes deconstruction dangerous (because sliding into relativism) (see e.g. Habermas 1987, pp. 185-210). From the deconstructive perspective, things look differently. First of all, as I have argued, it is ‘only’ the status of distinctions that deconstruction criticises, not the possibility of making them. Moreover, the deconstructive challenging and destabilisation of distinctions arises from a concern with accuracy and rigour. Deconstruction questions and destabilises distinctions in the course of interrogating them. Thus, from the perspective of deconstruction, to engage in an incessant questioning of distinctions is a way to take them seriously.
Autonomy: ‘not yet’ or ‘to come’?

The upshot of the argument thus far is that the distinction between provisionality and conclusiveness can only be rationalised by suppressing disagreement and uncertainty. Provisionality extends to the provisional/conclusive distinction, and we must treat the anticipations of it as provisional. What is more, the distinction is not provisional for a lack of agreement and certainty that we might overcome in the future. In this sense, it is not that agreement and certainty have ‘not yet’ been achieved; rather, they will remain ‘to come’ (à-venir), to use a phrase from Derrida (1994, pp. 28, 64f, 2005, pp. 86-92). That is, we will never be able to overcome disagreement, uncertainty and imperfectness. We will not one day, even if only in theory, reach agreement and certainty on all that is relevant, and so we will not reach a final and fixed distinction between provisionality and conclusiveness. Similarly, imperfectness may lead us to generalise provisionality. ‘There are no conclusive political answers’, Ellis (2005, pp. 185) writes, ‘all political right is provisional’: ‘everything is always at least potentially on the political table’ (Ellis 2008, p. 150). The reason is that politics and political institutions are always imperfect (Ellis 2005, p. 63, 2008, pp. 79f, 112, 116).

Yet, this is not the whole story, because Ellis also argues that autonomy and the conditions necessary for it are beyond provisionality. However, if imperfectness is constitutive, then provisionality is constitutive too. From a deconstructivist perspective, provisionality becomes generalised in a way that it is not for a Kantian critical theorist like Ellis. It’s provisionality all the way down.

These points also apply to the ideals such as autonomy. For Ellis, ideals – including autonomy – are provisional in the sense that we are not bound to apply them in every circumstance because of the gap between ideal and reality. In other words, sometimes autonomy may be best served by not insisting that it must be realised immediately, even if we must also act so as to ‘always leave open the possibility of entering into a rightful condition’ (Kant 1996, p. 485 cited Ellis 2008, p. 112). I will argue that autonomy is provisional in a more radical sense than this.

First, however abstract or concrete, any definition of autonomy is likely to give rise to disagreements. Whether we are dealing with the definition of autonomy or its implications, there are likely to be empirical and normative disagreements, and these might lead us to treat autonomy as provisional.

Second, there is a certain ‘freedom’ in the concept of autonomy which means that it will never be completely stable or determined (compare Derrida 2005a, pp. 25,
This is due to the fact that autonomy means that citizens must rule themselves, what Ellis refers to as substantive self-rule. To the extent that this self-rule extends to autonomy and its implications, this leaves autonomy as an open-ended concept that cannot be unequivocally defined. There may be disagreements about autonomy, its definition and implications; there may be uncertainty about the effects of different institutions on autonomy; and even if we had agreement and certainty, self-rule would still have to respond to changing circumstances. As a result, as a concept and an ideal, autonomy is destabilised. Thereby the ability of autonomy to provide guidance for us is limited; the ideal of autonomy is blurred around the edges where things get difficult and where we may need the ideal the most.

Third, and moving one step further, there is an inherent paradox in the concept and practice of autonomy itself. By its very nature, autonomy contains the possibility of its self-annulment. This is evident in a number of examples whenever autonomy is limited in the name of autonomy or choice is ruled out in the name of choice. The most obvious example is the way liberal democracies bind present and future generations constitutionally. Another example is when temporary dictators take power in order to save democracy in the long run, as was the case in Algeria in 1992 and with Musharaf in Pakistan more recently (Derrida 2005a, pp. 30f; compare Ellis 2008, p. 161, note 1). This phenomenon is what Derrida (2003, pp. 94-100, 2005a, pp. 33-41) refers to with the term ‘auto-immunity’. The paradox here is that autonomy must protect itself against paternalism, yet sometimes this can only be done by (partially or temporarily) annulling autonomy, that is, in a paternalistic fashion. It would therefore seem that the condition of possibility of autonomy is simultaneously its limit or interruption. The concept of autonomy is contaminated by its other (paternalism, heteronomy), and so there is no pure essence of autonomy that can be isolated and act as an unambiguous guide of action. In this, the deconstructive approach is different from that of Kantian critical theory, from whose perspective it is possible to determine autonomy conceptually and move towards it in an unambiguous fashion, even if the achievement of autonomy is always deferred.

The ‘to come’ of autonomy can also be understood in terms of what Derrida refers to as a tension between conditionality and unconditionality. Autonomy is conditioned – limited in order to secure it – in the name of autonomy. Since conditions are put on autonomy in the name of autonomy, these conditions open themselves to contestation in the name of autonomy at the very moment they are
posited as necessary for autonomy. In this sense, we can talk of an unconditional autonomy that always exceeds, and thereby relativises, a conditional autonomy. However, the unconditional autonomy is always contaminated by conditionality because it is constituted through determinations and limitations of it, and these simultaneously take away from it. The condition of possibility of autonomy is simultaneously its limit.11 This is why (unconditional) autonomy is ‘to come’ rather than ‘to-be’. Any (conditional) autonomy falls short of (unconditional) autonomy; any move towards autonomy also consists in determining and limiting it. As opposed to this, Ellis (2008, pp. 30f) argues that it is possible to distinguish nonpaternalist conditions and constraints from paternalistic ones.

If the Derridean argument is correct, then autonomy is provisional in the sense of ‘to come’ because the condition of possibility of autonomy is that it is interrupted. Therefore autonomy is not a stable or fixed horizon that we may approach to a greater or lesser degree. Again this undermines the ability of autonomy to act as a guidepost. With a term from Derrida, the tension between unconditionality and conditionality must be ‘negotiated’. What this means is that autonomy cannot provide us with a straightforward rule to follow. Instead we must each time invent what autonomy means and implies, which does not mean that we start from scratch each time, only that autonomy cannot provide a fixed horizon (Derrida 2002, pp. 11-14). In any case, this undercuts the use of hypothetical imperatives (‘if … then’), because neither the ‘if…’ nor the relationship (‘if … then’) is immune to disagreement, uncertainty and imperfectness, which are constitutive.

Autonomy, then, is not a concept or ideal about which we can say that it has not yet been realised but will be so at some point in the future. Rather, autonomy is ‘to come’; not only deferred but aporetic. It will not some day be realised or become present. This means that, although we may anticipate autonomy and its implications, there will be disagreements about how to determine autonomy here and now. What we have are particular anticipations and instantiations of autonomy, for instance the definition Ellis puts forward with its particular implications. Those anticipations go hand in hand with provisionality. It is because they are only anticipations and as such

11 The aporia is that autonomy is only possible as impossible. However, the impossible here is not simply negative or opposed to the possibility of autonomy because it is also its condition of possibility, which is why Derrida (2005b, pp. 87-92) refers to it as ‘im-possible’. On this account, there is something inherently ‘contradictory’ about autonomy, which undercuts the force of performative contradiction style arguments.
provisional, that it is possible to contest them; and it is because things are provisional in the sense of ‘to come’ that we can only anticipate and that we must remain content with anticipating. Moreover, it is necessary to keep open a political space for the contestation of the particular articulations of autonomy. This space corresponds to the temporal gap between the present anticipations of autonomy and a full autonomy ‘to come’. In reality this space for contestation must be institutionalised, though, and so it cannot be neutral; therefore it must itself be contestable, which corresponds to the unbridgeable temporal gap between the present anticipations of autonomy and autonomy ‘to come’. It’s provisionality and contestability all the way down.

The provisionality and contestability are permanent because we will not one day arrive at a perfect state of affairs without imperfection, disagreement and uncertainty. Ellis (2008, p. 150) writes: ‘provisional theory contends that the facts of agency and plurality lead to a politics of permanent contestation.’ I agree. But provisionality and contestation are only permanent if imperfection, uncertainty and disagreement are ineradicable features of politics. In short, they are only permanent if we understand provisionality as ‘to come’ rather than ‘not yet’, and this is where my argument differs from Ellis’s, and where deconstruction differs from Kantian critical theory. Thus, my claim about provisionality is twofold: first, that the provisional/conclusive distinction as well as the ideal of autonomy are themselves provisional; and, second, that we should understand provisionality in terms of the Derridean notion of ‘to come’ rather than the idea of ‘not yet’.

However, this does not mean that the ideal of autonomy is empty or meaningless. For instance, this ideal makes certain discourses possible and to a greater or lesser extent organises those discourses, for instance discourses about slavery. Nor does it mean that autonomy must be rejected and cannot be affirmed. Placing autonomy in question proceeds neither on the basis of autonomy as an unquestioned ideal of politics nor on the basis of rejecting autonomy outright. Rather, I took as my starting point the very ideals affirmed by Ellis, of which autonomy is the most important. The deconstructive move does not consist in opposing – diametrically and from the outside – an alternative to autonomy or provisionality, but to try their limits in order to articulate an alternative, in this case an alternative understanding of

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12 Compare Ellis’s (2004, p. 367) different view of anticipation.
13 Ellis (2004, p. 357, my emphasis) writes in another place: ‘However, and, I would add, fortunately, political theorists have not reached even provisional consensus on which set of philosophical premises might be most authoritative, even for a particular time, much less universally.’
provisionality. Even if it may be an understanding of provisionality that Ellis may not agree with, its articulation started with one foot inside Ellis’s own discourse on provisionality.

In addition, since autonomy is provisional, it can only – and must – be anticipated.⁴ Since autonomy is not realised in the present, and since it will not be so in the future either, it can only be anticipated; but it is also the case that it must be anticipated because it only ‘is’ through these anticipations of it. It is constituted in this way through the anticipations or articulations of it, and the ideal is not independent of those anticipations of it.⁵ If we affirm autonomy, or just want to debate it, we must anticipate what it means. We must start from a (provisional) definition of it, make (provisional) assumptions about it, and so forth. From the very beginning, we are working with a definition of the ideal of autonomy, and, however vague, that definition will necessarily limit our discussions of autonomy, taking us in one direction rather than another. In this way, autonomy is always discursively framed and articulated in one way or the other. The trick is then to institutionalise the provisionality and contestability of the different articulations of autonomy.

There is an important potential objection to the argument presented here. Ellis notes that Kant is often thought of as a philosopher of abstract moral principles with little relevance for the messiness of political life. She notes, however, that Kant’s political philosophy engages with the many complexities of politics, for instance, war. Indeed, for Ellis (2005, pp. 1-10, 2008, pp. 6f), provisionality is a way for Kant to bring ideal and reality closer to one another. On that basis, Ellis may object that my argument is based on a false starting point because it starts from a discussion of unconditional and absolute ideals, here the ideal of autonomy. This is the argument of Marguerite La Caze (2007) who reads Derrida through Kant. Although La Caze is less Kantian and more Derridean than Ellis, their arguments converge in their conclusions on this point.

La Caze notes that Derrida finds aporias in concepts such as hospitality, forgiveness and autonomy, and that he finds a gap between these concepts in their unconditionality and in their negotiated, conditional versions. However, Derrida does not tell us how to bridge the gap between ideal and reality, and so the ideals risk

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⁴ For a useful discussion of provisional and anticipating in Heidegger, see Vedder (2005).
⁵ This is also why provisionality qua ‘to come’ does not absolve us of responsibility for improving things; nor does it mean that we can postpone decisions about autonomy. Instead provisionality as ‘to come’ implies urgency (Derrida 2005a, p. 29).
becoming impotent in the face of real world problems (La Caze 2007, p. 798). What is needed, La Caze (2007, pp. 796f) argues, is to distinguish what are non-negotiable ideals and then translate them into institutions.

However, for Derrida, there is not only a gap between, for instance, the ideal of autonomy and particular anticipations of it; there is also a mutual imbrication between the two in the sense that autonomy is always already conditional and negotiated. Autonomy is not ‘potentially negotiated’, as La Caze (2007, p. 796) puts it, but always-already negotiated. Autonomy does not and cannot exist in its purity or apart from its particular negotiations. It ‘is’ only through particular articulations, and therefore it cannot ‘be’ as full or complete. The problem of bridging the gap between ideal and reality does not arise for Derrida, or at least not in the shape that Kant, Ellis and La Caze give to it, because there ‘is’ no ideal that needs to be negotiated and applied. We do not have – not even as a critical ideal or as a utopian ideal – an ideal of autonomy; all we have are particular negotiations – or better: articulations – of autonomy. And there is no single ideal of autonomy that can function as a guiding post. Instead we have a plurality of articulations of autonomy, none of which can exhaust or fully realise the ideal. There will, in short, always be a gap between the articulations of autonomy and an autonomy ‘to come’, between conditional and unconditional autonomy.

Discursive dynamics
Context matters. The importance of context is one of Ellis’s reasons for turning to Kant’s political philosophy and his argument for provisional right because she believes that it is sensitive to the problem of applying ideals in a non-ideal world. Context is also important for Ellis in that it frames how we see issues and solutions to those issues. For instance, with reference to Koselleck, Pocock and Mansbridge, Ellis (2004, pp. 361-4, 2008, pp. 34-43) argues that political concepts do not just reflect the world, but form part of political action. Ellis (2008, p. 28) captures this point with the notion of ‘discursive dynamics’, which refers to what can be said and what will be meaningful in any given context. Thus, in the context of a discussion of deliberative democracy, she argues that we must examine the conditions of possibility for citizens to make use of public reason rather than just assuming this ability. Reflecting the argument on provisionality, the focus is on the medium and long term because immediate change is unrealistic (ibid., pp. 32f), and Ellis suggests various ways of
moving discursive dynamics in the direction of enhancing agency and plurality (ibid., 43-5).

The notion of discursive dynamics has implications for how we think about provisionality. It is possible to radicalise Ellis’s use of discursive dynamics in a way that goes hand in hand with the radicalisation of the notion of provisionality I suggested above.

Discursive frameworks can be more or less open or closed. In some contexts, it is difficult to think, let alone act, against the dominant discourse, as is for instance the case with liberal democracy in the West today. In other contexts, there may be competing discourses, as for instance in the case of abortion in the US. Discourses may change in response to dislocations; so the current financial crisis may deal a blow to the otherwise hegemonic neo-liberal discourse. Here I follow Laclau and Mouffe (1985, pp. 105-14) who understand discourse as a meaningful totality made up of differentially situated moments, a totality that is more or less closed.16 Ideals such as autonomy are articulated within particular discourses or discursive frameworks. Discourses are constitutive of ideals, problems, solutions, and so on. To say that discourses are constitutive of ideals is to say that we cannot work towards those ideals before they have been articulated within a particular discourse. On this view, there is nothing that is not discursively framed in one way or another.

This notion of discourse has two implications for provisionality. Firstly, we can think of the anticipation or articulation of autonomy in terms of discursive articulation. We have a competition between different discursive articulations of the ideal of autonomy, as well as discursive articulations of competing ideals. In normative terms, the aim is to institutionalise spaces within which different discursive articulations can compete, even if those spaces will themselves be discursive and, as such, not neutral.

Secondly, even if I have argued that we should think of autonomy and the provisional/conclusive distinction as provisional, that is, even if I have argued that it is provisionality all the way down, this does not mean that there will be complete openness in any given situation. Discursive framing precisely implies that any given context will be partly open and partly closed. Or, in the terms used above, we cannot

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16 Derrida’s notion of ‘text’ is similar to Laclau and Mouffe’s notion of discourse, but I use the latter partly because Ellis uses the term ‘discursive’, and partly because Laclau and Mouffe’s notion of discourse is more explicit than Derrida’s notion of text.
We find ourselves in a partly sedimented discursive terrain, which makes certain articulations more possible and likely than others. Thus, although provisionality qua ‘to come’ is an ineradicable condition of politics that can either be acknowledged or suppressed, we cannot but take some things as given as conclusive. If we did not bracket provisionality, then meaning, practices and institutions would be impossible; this is also the case here, where I have to assume that autonomy has a certain meaning in order to be able to argue that we should take autonomy – including what it means – as provisional. It is then the task of the political theorist to analyse the ways in which provisionality is bracketed.

Normatively speaking, and given the affirmation of agency and plurality, one must open up sedimented ways of thinking about, for instance, autonomy. But this opening up will itself involve some closure; for instance, it might involve the exclusion, in some form or other, of those who want to close down the contestation of autonomy. Contestation is itself made possible, but also limited, by certain discursive formations. Furthermore, since no particular discursive closure is natural, but always contingent and hence political, it becomes a matter of which closure one prefers to others, rather than simply a matter of opposing openness to closure. To insist on provisionality all the way down is not naïve or idealistic. The argument precisely takes into consideration the partial closure – and bias, exclusion and violence – that will be a part of any context. On the other hand, this does not imply the blanket acceptance of any particular closure because no particular closure is necessary and, thus, beyond contestation.

But what about the argument that it’s provisionality all the way down – is that itself provisional? The answer must be yes, because the argument about provisionality cannot claim to stand above provisionality, or to stand outside any particular discourse (Connolly 1993, pp. 226-31). If anything, the argument for provisionality qua ‘to come’ can be seen as a discourse on provisionality grafted onto Ellis’s discourse on provisionality.

**The limits of politics?**

What are the political implications of provisionality? Given that provisionality implies that we treat ideals, institutions and policies as provisional; and given the affirmation of autonomy which means that citizens themselves, rather than political theorists,
must take decisions about ideals, institutions and policies; then Ellis (2008, p. 144) is right to note that provisional political theory cannot guarantee a ‘correct’ outcome. Given the openness that provisionality is supposed to represent, the outcome of provisional politics must remain an open question. That said, Ellis’s discussion of the politics of species preservation and extinction is a useful starting point for a discussion of one of the political implications of provisionality. Here I am not interested in preservation politics as such, but in drawing out one of the structural features of provisional politics.

Ellis (2008, p. 144) rightly points out that, in the context of irreversible decisions about species preservation, provisionality inevitably leads to extinction. Provisionality means that we must respect agency and plurality, and so we must leave open the possibility that citizens can make policies that will result in extinction. There is an essential asymmetry between preservation and extinction, because the former can be reversed whereas the latter cannot. If we decide to preserve, we have the possibility to continue that policy or reverse it in the future. If we extinguish, we cannot turn back the clock on extinction, at least not with the technology available today. Thus, provisional politics in the area of species preservation tends towards extinction. The aim of provisionality is to enhance the political possibilities available to citizens, including future citizens. But in the case of species preservation, there is an inherent limit to this, because provisional politics tends towards extinction and, thus, limiting the possibilities available for the future.

This has important consequences for autonomy, and, in turn, for how we think about provisionality. Provisionality is in part justified with reference to autonomy. In the case of preservation policy, provisionality necessarily leads to a reduction of political possibilities because species will be extinguished and this cannot be undone. Extinguished species will not be available to future generations who will not have the ability to make the choice between preservation and extinction of the species in question. Future generations face the outcome of present generations’ exercise of autonomy as heteronomy; the nature they will face as nature is partly created by present generations (see also Ellis 2008, p. 117). We here have an example of provisional politics where conclusivist consequences cannot be distinguished from provisional intentions. In other words, autonomy might as well be secured through paternalist or conclusivist policies that do not leave it to citizens to extinguish species in order that (other) citizens have the possibility to enjoy those species and to decide...
whether to preserve or extinguish them. Provisionality cannot simply be aligned with autonomy or with agency and plurality. Neither provisionality nor conclusiveness necessarily leads to more autonomy; the link between provisionality or conclusiveness and autonomy is a contingent one, about which there will be uncertainties and disagreements.

The attempt to avoid paternalism by insisting on provisionality in the context of preservation policy is itself paternalistic insofar as it means that we in the present have effectively made the choice of extinction for future generations. The attempt to keep things open itself involves closure. This may seem paradoxical at first, but if we accept that the condition of possibility of openness is to limit it, then it is not surprising that the openness of provisional policies may lead to closure and loss of autonomy. This is precisely why we need (some degree of) state intervention and conclusive policies in at least some areas. In other words, from a more socialist perspective, closure is also liberating, and one must put in place the positive conditions of autonomy through state intervention. Thus, provisional politics is not neutral, but may be biased in favour of liberalism, and one must acknowledge the ways in which provisionality is always intertwined with conclusiveness and closure.

This intertwining of provisionality and conclusiveness, openness and closure, is a general trait of all provisional politics. The politics of preservation is only an extreme example of this, and technological advances may make it less extreme in the future. I do not want to suggest, however, that the either/or (literally life or death) choice of preservation politics applies to all other policy areas; rather, it is a matter of more or less. In the case of global warming, for instance, any policy will have consequences that exclude certain future possibilities or at least make them difficult. For example, if we ban or tax the use of particularly polluting cars, this has implications for car production, implications that will be difficult to turn around in the future (car manufacturers may close plants, invest in new technologies, and so on). Similarly, if we do not ban polluting cars here and now, this may have consequences in certain low-lying parts of the world, consequences that it will be very difficult, if not impossible, to undo. In both cases, the justification for the policy and its consequences can be construed in terms of autonomy, whether the autonomy of car buyers and car manufacturers or the autonomy of people living in low-lying areas such as the Maldives (see Henley 2008). Additionally, in both cases, the individual
policy can be abandoned, but the social and political consequences can only be undone with great difficulty, if at all.

If it is true that any provisional politics involves a competition and balancing between the autonomy of different agents, then this has consequences for how we think of the ideal of autonomy. Any exercise of autonomy, and any provisional politics designed to secure autonomy, will simultaneously take away from autonomy, even if the gain and loss of autonomy may be distributed across different persons. This is another way in which we never have complete autonomy. Furthermore, contra Ellis (2008, pp. 30f), what are enabling and restraining conditions of autonomy is subject to both uncertainty and disagreement, and so the distinction between them cannot be rationalised.

We may be working towards an ideal of autonomy, and we may be able to speak of more or less autonomy, aiming for more rather than less. However, this can only be so with some important qualifications, which put into question the whole exercise. First of all, we would have to ask whose autonomy it is that we are trying to maximise (consumers in the West or inhabitants in the Maldives?). In addition, we would have to ask what autonomy means and, thus, what more or less autonomy means. That will depend on how autonomy is articulated discursively; there is no universal yardstick. Finally, balancing one person’s autonomy against another’s is problematic in that we are dealing with the autonomy of persons in their singularity (hence ‘plurality’). If we must respect the singularity of persons, this undercuts the measuring and balancing their respective autonomy.

We may conclude, with Ellis (2008, pp. 20, 116), that we should try to keep politics open, that is, keep open and expand the range of political possibilities that citizens have. Without the openness of provisionality, there is no room for agency and plurality. That is so, but only with an important qualification which changes the sense of the imperative to keep things open. One must also close down possibilities; indeed, one necessarily does so. One must do so in order to keep (other) possibilities open, and in order to keep politics open in certain ways rather than others. Provisional politics, then, does not consist simply in moving towards an ideal of autonomy. Rather, it consists in the negotiation of autonomy and heteronomy, openness and closure, reversibility and irreversibility – and of provisionality and conclusiveness (compare Ellis 2008, p. 165 note 95). This negotiation cannot be guided by a fixed and universal ideal of autonomy.
Conclusion: political theory in a provisional mode
For Ellis, there are things that provisional theory can do and things it cannot do. Provisional political theory cannot provide foundations, although it can examine ‘abstract conditions of political interaction – agency and plurality’ (Ellis 2008, p. 21). Provisional theory cannot provide acontextual, ahistorical or universal justifications or policy prescriptions. It cannot legislate, because that must be left to citizens themselves, but the theorist can criticise existing institutions and suggest new ones that encourage autonomy. In short, (provisional) political theorists cannot decide particular issues, but must ‘limit themselves to establishing the conditions under which real people acting by their own lights may collectively determine their political fates’ (Ellis 2005, p. 182, see also Ellis 2008, pp. 4, 110). Provisional theory should, according to Ellis, treat rights, institutions, policies, and so on, as provisional rather than conclusive. To do otherwise would lead to moral rigidity, paternalism and reification (Ellis 2005, pp. 75, 152). Certain things are not covered by provisionality, however, including autonomy, slavery and the institution of private property. Others are, and these include abortion, medical rationing and the particular form that private property can take (see e.g. Ellis 2004, p. 366).

This has implications for what political theory can do. I accept the limitations Ellis puts on provisional political theory: it cannot provide foundations, and I would argue that one way to make sense of this limitation on political theory is provisionality in so far as provisionality contaminates any foundation or attempt at establishing a foundation. I would go further, however, because I am sceptical about the force of arguments that rely on hypothetical imperatives and non-contradiction. Political theory can shed light on the conditions of realising autonomy and on the links between ideals and specific practices, but this should be understood in terms of discursive articulation. Paradoxes, or ‘aporias’, are inherent to political concepts and practices, and they cannot be resolved, only negotiated in different ways. What political theory can do is to shed light on those different negotiations or articulations:

17 For Ellis (2005, pp. 21, 29), provisional theory is, thus, a second- as opposed to a first-order, theory, a notion she takes from Gutmann & Thompson. A second-order theory provides a framework within which it is possible to discuss disagreements as well as how to deal with those disagreements. Whether the distinction between second and first order theories can be upheld is another question.
what negotiations are possible or likely? What are their (likely) results? How can one press against the discursive limits of the present? And so on.

In one sense, then, Ellis is not sufficiently provisional because she does not extend provisionality to the provisional/conclusive distinction or to autonomy, and because she thinks of provisionality in terms of ‘not yet’ rather than ‘to come’. However, it is not simply a matter of more or less provisionality because provisional politics is always limited by conclusive limits. Thus, it is not just a matter of extending the limits of provisionality, but also of how one conceptualises provisionality and its limits, and of how one negotiates between provisionality and conclusiveness. Thus, it is not just a matter of drawing the line between provisional and conclusive in the right place, but also whether this line can be rationalised.

Ellis argues that Kant’s political philosophy contains a theory of provisional rights. Thus, Kant is more than the philosopher of conclusive moral imperatives. Other theorists who, according to Ellis (2008, p. 15), write in a provisional mode include Thucydides, Alexis de Tocqueville, Max Weber, Michael Oakeshott and Michel Foucault. With George Klosko, Ellis (ibid.) also identifies an element of provisionality in Plato, that ‘most conclusive of political philosophers, with his doctrine of forms and his blueprint for the ideal republic’. Although the conclusive elements dominate in Plato’s thought, discursive reason supplements the absolute knowledge of the philosopher kings, thus creating an opening for provisionality (Klosko 1984, p. 193).

In another context, Ellis (2004, p. 369) notes that ‘[t]he line between provisional and conclusivist theories is admittedly a fine one.’ She places Habermas on the side of conclusive political theorists and Gutmann & Thompson on the side of provisionalism. However, there are also provisional elements in Habermas, such as his insistence on the fallibilism of the rational reconstructions of the presuppositions of discursive reason. Likewise, there are conclusive elements in Gutmann & Thompson, for instance when they affirm a certain form of discursive reason as the only legitimate one.18 Thus I am not convinced that a line can be drawn between provisional and conclusive theorists in the way Ellis draws it.

There are both provisional and conclusive elements in Ellis’s work, just as there are in those other theorists she characterises as provisional theorists. I would

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18 See also Ellis (2004, p. 366) for Ellis’s critique of an example of undue conclusivist theorising in Gutmann & Thompson.
argue that the same is the case with the theorists she characterises as conclusivist, among them Jean-Jacques Rousseau and Karl Marx (Ellis 2008, p. 15). And I would argue that we should read these theorists – ‘provisional’ and ‘conclusive’ alike – according to how they establish the distinction between provisional and conclusive, and according to how they simultaneously allow provisionality a place within their texts and at the same time attempt to manage and limit its effects.

References

19 For ‘provisionalist’ readings of Rousseau and Marx respectively, see Derrida (1997) and (1994). On ‘provisionality’ in the Marxist tradition, see Laclau and Mouffe (1985, chapters 1-2). None of these readings bracket the ‘conclusivist’ elements in the authors; instead they examine the ways in which the authors negotiate the relationship between provisionality and conclusiveness.


