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Four faces of political legitimacy: An analytical framework

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Publication date
2014

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Citation for published version (APA):

Netelenbos, B. (2014). *Four faces of political legitimacy: An analytical framework*.

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Chapter 5

Politics as Coordination: Luhmann's World of Contingency

Politics is not only about domination or conflict; it can also be understood as a specific form of social coordination. In chapter 2, we have already seen that for Hume and Smith, the principle foundation of legitimate politics is its coordinating function. Politics, they argue, ought to coordinate the economic order to ensure its efficiency for the mutual benefit of all. Political legitimacy, as a consequence, is a derivative of market justice and rationality. The core problem, especially for Hume, is the question of why *homo economicus* would obey such political coordination. Hume tried to find the answer in the artifices of political domination, separating questions of obedience from questions of justice. In this chapter, I also want to pursue this coordinative nature of legitimate politics, but without either reducing legitimacy to an outsider's perspective or reducing politics again to domination, i.e. to the question of obedience.

The coordinative force of politics is a central topic of *symbolic media theory*. Media theory belongs to the 'third generation' of system theory, where the first generation concerns Durkheimian societal functionalism and the second the cybernetic system theory we already encountered in Easton in chapter 4 (Teubner 1984:292). Luhmann explains that this third generation of system theory, in comparison to cybernetic system theory, emphasises the 'problem of self-reference' of systems and subsequent problems of 'reflexive system identity' and 'autonomy and self-organisation' (1984:310). In other words, it is more inward looking, rather than understanding a system's outward exchange relations with its environment. When media theory tries to understand how a political system is internally organised and how it coordinates social action, its main insight is that such organisation is coordinated by a specific language or symbolic medium: *legitimate power*. Political coordination, according to media theory, must be understood as a specific kind of *communication*.

It can be argued that this generation of system theory, especially as developed by Parsons and Luhmann, both continues and dismisses Weber's legacy simultaneously. First of all, system theory readily continues Weber's idea that 'society' consists of different value spheres with their own internal and self-referential logics. Furthermore, it agrees with Weber's insight that between these different value spheres, each serving their own 'god', communication is difficult, if not impossible. Finally, if we argued in chapter 3 that Weber's analysis can be approached from two perspectives – the perspective of social action (*Handeln*) and 'meaningful being-in-the-world' (*Existenz*) – then symbolic media theory continues in particular the first perspective.

This latter claim must be immediately qualified, however. System theory in general is fairly hostile to Weber's action theoretical approach. To the extent that Weber's theory points to the relation between social action and social order, and differentiates between subjective and objective

validity, it poses many similar questions as media theory. However, media theory explicitly discards Weber's interests in subjective action orientations as well as the subject in general. Furthermore, symbolic media theory discards Weber's preoccupation with the question of obedience – it is not political obedience but coordination that must be explained – and the idea that legitimacy must be understood in terms of *Existenz* and unconditional duty. Finally, if Weber's claim of the 'warring of the gods' emphasises the problem of political conflict – the concern of the democratic realists discussed in chapter 4 – then media theory does not deny conflict but tries to understand how conflict can be absorbed within the political process. Although we should not make a caricature of Weber, his ideal-typical description of political or bureaucratic organisation seems especially to highlight its *machine*-like features – its rationality, coherency and predictability. Media theory, on the other hand, especially emphasises the ambiguity, indeterminacy and contingency of political organisation, which makes it more tolerant of conflict.

In what follows, I analyse the extent to which this third generation system theory provides us with different insights into political legitimacy. It is clear from the start that we will not find theories of *subjective normativity* in system theory. My intentions are not to make some straw man of symbolic media theory, but rather to open up this interesting approach to the subjective dimension that is central to this thesis. This, then, will be the general aim of this chapter, while in the next chapter I will argue how we could understand political legitimacy as subjective normativity within the analytical framework of symbolic media theory.

5.1. Symbolic Media Theory: Coordination and Communication

The general claim of media theory is that "[s]ociety consists of communication, it consists only of communication, it consists of all communications" (Luhmann 1984:311). Importantly, 'society' consists of differentiated social systems in which social action is *coordinated* by different rationales, values or expectations, captured and communicated by different symbolic media. This means that most media theorists claim that social action in 'the' political system is coordinated by the medium of *legitimate power*, 'the' economic system by *money*, 'the' legal system by *law* and 'the' scientific system by *truth*, though disputes remain.¹ The main undisputed claim, however, is that political, economic, legal and scientific actions can be both analytically and empirically differentiated *because*

¹ Luhmann perceives, in addition, the social system of marriage coordinated by the language of love (Luhmann 1975:43). Luhmann also claims that other systems (such as the 'school system' or 'family') might have their own 'identity' and meaningful 'boundaries', but that they are not completely 'differentiated', i.e. they do not possess an exclusive language (Luhmann 1984:311). Parsons' categorisation is considerably more complicated. He perceives per definition only four *functional* systems at the level of society: the economic, political, integrative and 'pattern maintenance' (Parsons 1963b:236). However, in between these systems are often a plurality of 'sub-systems' that organise the coordination between the systems. One important sub-system, for instance, is the (electoral) influence system coordinated by support/leadership (Parsons 1963a).

they are coordinated by different symbolic media. Symbolic media, furthermore, can be perceived as 'specialised languages' (Parsons 1963a:38-9), and just as language proper, they allow *communication*.

We might say in very general terms that communication consists of the following analytical parts. First, communication concerns the *transfer* of meaning from one person to another. Meaning is a *selection* of all possible possibilities; communicated meaning is thus a reduction of social complexity (Luhmann 1975:5). Second, communication only *coordinates* or structures social action if meaning is effectively transferred; that is, if persons accept the meaningful selection that is offered as the basis for their own understandings and actions (Parsons 1963b:242). Expectations of meaning thus have to be shared by both actors (Luhmann 1964:16-7). Third, this implies that the inherent problem of all communication is *double contingency* (Luhmann 1973:33; 1975:5; 1974:238; Parsons 1953:621). Contingency means that expectations of what is real or meaningful can differ from one another – contingency denotes the presence of alternatives – while double contingency means that these expectations are in themselves dependent upon the contingent expectations of others (Luhmann 1974:238). Fourth, this inherent contingency can only be solved if expectations are *generalised*, i.e. when reciprocal expectations of meaning become non-contingent or objectively valid in space and time. Finally, this means that communication is especially possible by means of a shared code – a language – that *symbolises* these generalised expectations of meaning (Parsons 1963a:38). When the communication of meaning is made possible by this shared 'symbolic code', the code in itself does not have 'intrinsic' meaning (Parsons 1963a:38); or as Luhmann puts it, the code is the structure, communication the process (1973:43). In sum, "[t]he general function of generalised communication [is] to make reduced complexity transferable" (Luhmann 1974:240). Such a process is 'contingent', but nevertheless 'non-arbitrary'.

If this is how we can understand communication in the most general terms, a media theoretical analysis has to explain how legitimate power as a special language enables communication and, more importantly, what is communicated in the first place. We will address these questions in the first part of this chapter. In the second part of the chapter, we will discuss what such communicative perception of legitimate politics means for social coordination at different levels of analysis, especially where it concerns the *question of validity*. However, we are confronted from the start with the problem that there is no singular, general media theory of legitimate power. Every theorist seems to develop his own, and often very technical, version of media system theory, which might be the reason why so few scholars today still try to understand it. In what follows, I will

not try to provide the final theory. Instead, I will concentrate my analysis of media theory upon the early work of Luhmann, with helpful supporting references to Parsons.²

5.2 Legitimate Power as a Specific Language

All types of symbolic media structure or 'influence' expectations and subsequently behaviour (Luhmann 1975:8; Parsons 1963b:232). One could argue, therefore, that all media concern *power*. This seems to be Foucault's argument when he claims that the type of 'symbolic medium' through which power is communicated is less relevant for the study of power (Foucault 1982:786). For Foucault, power is an *effect* (or relationship) of all media, while for media theory, power is a specific *medium*, a specific language in its own right. The question is how we should understand power as a specific language and what meaning or selection of reality is actually communicated.

In the case of money, many theorists build their formal understanding of money upon some notion of exchange or barter as the most elementary economic relation (see e.g. Parsons 1963b). In the case of power, however, such an analytical starting point already seems problematic. We could follow Blau's attempt to understand power likewise upon an exchange relation, but this would ultimately lead to the conclusion that power, like money, is a form of capital (Blau 2004 [1964]). More promising would be to follow Parsons' lead. Although Parsons also tries to understand power in the direct analogy to money, the specificity of money is not about an exchange relation as such, but that money enables a specific intentional attempt to influence the behaviour of another. Power, then, is a different type of influence: the intentional attempt of someone (Ego) to get another person (Alter) to do something under the threat of negative sanction (Parsons 1963a, b). However, if we start our analysis at this point, not only do we seem to overemphasise the instrumental quality of power in relation to its expressive or communicative features, but in particular we steer our analysis back to the question of command and obedience instead of symbolic coordination. In other words, we steer our analysis to questions concerning the *effectiveness* of the use of power, not to its communicative or linguistic qualities. Although questions of effectiveness are of course important, it seems sensible to first try to understand power as a language.

² Parsons' work is extensive and often extremely technical. Indeed, some scholars even question its internal coherency (Ritzer 2000:432). Parsons excuses himself, claiming that rapid theoretical development is "a source of difficulty and sometimes confusion because it makes it so difficult to maintain consistency of terminology. But that it is definite *development*, not aimless wandering" (1953:631). In order to get a grip on his work, I will concentrate on two articles written in 1963 where he specifically addresses the political system (Parsons 1963a, b). Luhmann's work seems more coherent and often more lucid. Yet, his work can be divided into two general periods, with the turning point somewhere in the 1980s (Lange & Schimank 2001:61). The second period is a full and technical elaboration of media system theory, concentrating in particular on his theory of self-reference or 'autopoiesis'. These later developments notwithstanding, I will concentrate on his earlier period, because in that period the relationship between his media system theory and his theory of social expectations is analytically more lucid. It seems to me that upholding this relationship at least leaves open the possibility to incorporate a (subjective) action perspective in media theory.

5.2.1 From Force to Power

Luhmann starts his analysis with the claim that what makes power possible at all, in whatever rudimentary form, is the duality between 'to will' and 'not to will' (Luhmann 1975:34).³ Power only becomes relevant where a "natural-situational congruity of interests" can no longer be presumed, situations where a consensus of will becomes *contingent* (Luhmann 1975:14). A conflict of will, for Luhmann, forms the analytical basis for understanding power as a symbolic medium – "it is power in raw condition" (Luhmann 1975:34). So, for example, we might perceive a conflict of will when Ego wants Alter's apple and Alter does not want to give it. In this situation, Ego might decide to take the apple from Alter against his will. Taking the apple *by force*, however, entails a risk, as it might lead to a "dangerous test of power", i.e. a test to see who possesses superior force (Luhmann 1975:50). At this rudimentary level, power is purely understood as the possession of superior force, which enables one to pursue one's will despite resistance. Whether Ego will take the apple by force depends upon his *subjective* evaluation of the situation. Ego might take the apple if he believes himself to be stronger than Alter; but even in this case, he might nevertheless decide not to enforce his will in order to avoid the risk and cost of possible violence. "The intention of Ego ... is not to punish but to secure performance" (Parsons 1963a:44). Whether Ego acts depends upon his (strategic) evaluation of benefits and possible costs. If Ego concludes that the risk is too high, he will not pursue his will.

We might agree that this situation changes when Ego does not simply expect to be stronger, but also expects that Alter expects him to be stronger. This is a crucial step as it changes Ego's evaluation, because Ego can now expect that Alter has more interest in avoiding violence than he does, i.e. Ego has expectations of 'asymmetric interests' (Luhmann 1975:65). This expectation of asymmetry opens up new possibilities for Ego, as he can now try to pursue his will *and* avoid a contest of force based upon the expectation that Alter has more interest in avoiding force than he has (Luhmann 1975:22). Ego gains the possibility to make threats. Whether these threats are successful – i.e. whether Alter will *obey* Ego – is a different question. The crucial point is that because Ego expects asymmetric interests, he gains the possibility to pursue his will in face of resistance and without the use of force. Luhmann thus defines power as different from mere force (Luhmann 1975:9).⁴ Power, furthermore, exists independently of whether it is 'used' or not – power is a *possibility* to pursue one's will without force (Luhmann 1975:25). Power is a possibility because it

³ Luhmann claims that the fundamental duality underlying money is the 'dual coding' of the world in 'to have' and 'not to have' (1975:35). For law, this would concern the duality right/wrong (*Recht/Unrecht*), for truth the duality true/untrue and for love the duality private/public (Luhmann 1975:42-3; 1989:140).

⁴ The point is not to exclude force and violence from power, as both are all too real. Rather, Luhmann stresses that force and violence are not genuine forms of social communication as they do not give the other any serious choice for action (Luhmann 1975:9,64).

depends upon *expectations*, and expectations of expectations of asymmetry. This also means that power is independent of actual possession of sources of force. For example, if Ego expects that he is actually weaker than Alter, but he nevertheless expects that Alter expects him to be stronger, he still has the possibility of power.

In our example, however, things are still quite complicated and confusing, as each actor *subjectively* evaluates the situation in his own terms. The social situation, the conflict of will, remains vulnerable and insecure. Any misunderstanding threatens to turn an attempt to use power – to pursue one's will without force – or even to avoid the use of power into a test of force, with all the risks and costs involved. The inherent social complexity of 'double contingency' and the always present 'possibility of conflict' is precisely what *all* symbolic media have to resolve (Luhmann 1975:5,8). This means that if we want to understand legitimate power as a type of language, we must understand how it is able to *reduce* the complexity of social situations by *generalising* expectations beyond the subjective, specific and contextual. As already discussed in chapter 1, Luhmann perceives three dimensions of generalisation: the social, the material and the temporal (1964:17, 1975:237, 1977:46, 1985:24).

A first form of generalisation might be the step from subjective to intersubjective expectations in the social dimension. For example, Alter and Ego might share a history in which a test of power proved for both that Ego is stronger. We can assume that this means that expectations of asymmetric interests to avoid force are now intersubjectively validated. Such *consensual* expectations of asymmetry, according to Luhmann, structure the social relation into 'binary' expectations of strong/weak (1975:65). The importance of this consensus is that Alter does not have the possibility to pursue his will against the will of Ego by force or threat. This does not mean that Alter no longer has any choice of action; rather, it means that if Alter chooses to pursue his will, he must be willing to challenge Ego's will in a test of force. Alter still has the freedom to choose his own actions, but he must expect that certain choices might have serious consequences. Ego, on the other hand, can try to pursue his will, not by using force but by threat of sanction. In other words, intersubjectively valid expectations of asymmetric interests to avoid sanction give Ego the possibility to use power over Alter and not vice versa. As power is now generalised into the social dimensions and is no longer a function of subjective knowledge, power has become a *social property* (Luhmann 1975:15). This also means that power becomes independent of the subjective will, i.e. power structures expectations independent of whether or not Ego wants to use his power, wants to pursue his will (Luhmann 1975:11). To understand power as the effective difference between the actual result and 'what one would have done otherwise' therefore seems hopelessly flawed (see Luhmann 1975:11). Power as communication structures expectations and possibilities, which forecloses any

genuine understanding of meaningful expectations of what one 'would have had otherwise'. In other words, one can only act meaningfully *because* one's expectations are a selection of infinite possibilities.

5.2.2 From Power to Formal Power

To recount, power is, in principle, independent of force, of sources of force, of use, of will and of effectiveness. Power-as-medium, we might say, merely communicates socially valid expectations of *domination* (Luhmann 1973:26). However, if we continue our analysis, the social situation remains up till now rather complex and contextual, especially in relation to anonymous actors. In order for power to coordinate anonymous relations, it has to be generalised to socially institutionalised expectations of domination, i.e. expectations of domination have to become *objectively* valid and no longer dependent upon intersubjective consensus. This is only possible if expectations of domination are somehow symbolised in socially institutionalised codes. Institutionalised power needs *symbols* that are 'functional equivalents' or 'substitutes' for an actual contest or 'test of force' (Luhmann 1975:10). The symbolic code of power, however, is not as clear as words in relation to language or as gold or currency in relation to money. Socially institutionalised symbols of power, in the first instance, might concern actual sources of force symbolising some kind of comparative hierarchy (Luhmann 1975:10). However, except for relatively simple situations, such symbolic code still leaves many uncertainties and complexities that easily lead to miscommunication, an actual test of force or the avoidance of power altogether.

For power to be a genuine symbolic medium, it must be able to generalise 'meaningful orientations', which means that these orientations remain "identical in different situations with different actors" (Luhmann 1975:31). For power to communicate valid expectations of domination in general – i.e. beyond the specific context and social contingency – objective expectations of domination might, in addition, be generalised in the *material* dimension. As such, we can say that a 'next' step of generalisation would be that social expectations of power are generalised from persons to social roles and, especially, to a socially institutionalised *formal hierarchy* of social roles in 'generalised rules' (Luhmann 1975:37). Power, then, might be socially institutionalised in terms of status hierarchies and codes of honour (Luhmann 1975:10). These socially institutionalised codes *symbolise* objective expectations of domination, not in terms of specific persons but rather roles. In other words, if one does not know a person personally, his social position and status symbolise objective expectations of domination. Expectations of domination are no longer dependent upon knowledge of specific persons or a specific context, but are only dependent upon their institutionalised *code*, i.e. the social rules of hierarchy (Luhmann 1975:37).

When expectations of power are no longer symbolised by sources of force but by social rules, these symbols only communicate expectations of *asymmetry*, i.e. of strong/weak. Actors can only assume that this asymmetry is indeed 'really' based upon underlying differences in strength. In other words, it might be possible to differentiate between the decontextualised expectations of *formal* power and contextualised expectations of *informal* power. Indeed, formal power might be completely ceremonial, while informal power is actually coordinating social practice. As such, when expectations of power are generalised into hierarchies of social roles, power is no longer just about the duality strong/weak, but also about the duality formal/informal. Where formal expectations of power concern expectations of domination generalised beyond a specific material context, informal power remains contingent and sensitive to the complexities of contextual knowledge, shared histories and personal trust. Luhmann perceives informal power as a contingent 'substitute code' (*Neben-Code*), just as 'reputation' is a substitute code in relation to scientific truth, or the 'cigarette trade' or black market is substitute code in relation to money (1975:250). A substitute code might be more 'concrete' but also more 'context dependent', which means, according to Luhmann, that it has "less societal legitimation capability" (1975:41).

5.2.3 From Power to Legitimate Power

The problem of power is that a power holder cannot afford a 'single defeat', as expectations of asymmetry remain contingent upon expectations of superior strength (Luhmann 1975:26). A further form of generalisation would be to generalise expectations in the temporal dimension. This means that expectations of power are no longer cognitively valid but are normative or *counterfactually* valid. Symbolic codes of social roles and formal hierarchy no longer communicate expectations of power, but rather legitimate power, no longer domination, but rather legitimate domination. A social role therefore does not symbolise formal expectations of asymmetry, but symbolises expectations that such asymmetry *ought to be* valid, independent of whether this is factually and cognitively the case. Symbols of power, then, not only structure expectations in terms of formal/informal, but in terms of right/wrong (*Recht/Unrecht*) (Luhmann 1975:34). Social role and social hierarchy symbolise the *right* to domination, which is no longer dependent upon actual (cognitive) expectations of asymmetries of interest or upon underlying superior strength. This type of generalisation is therefore more difficult to understand.

Luhmann and Parsons claim that counterfactual expectations of power are 'second coded' (*Zweit-Codiert*) in social norms or in the 'normative order' of society (Luhmann 1975:34; Parsons 1963b:242). Both compare this normative coding of power into right and wrong with the institution of property in the economic system. The social institution of property, they claim, is the *normative*

foundation of the economic system and, as such, of money as a symbolic medium. At the same time, however, property is also coded in law. Just like property, the normative code of power (right/wrong) can be 'firmly institutionalised' in a 'legal framework' (Parsons 1963b:242). As such, it can be argued that law relates to legitimate power as legal property to money (Luhmann 1975:43-5).⁵ What is important is that the 'institutional code' of legitimate power – e.g. status and social roles – is embedded in a socially valid normative order (right/wrong), which, in addition, may be symbolically coded in law (legal/illegal) (Parsons 1963b:243; Luhmann 1975:43-4). To the extent that this is actually the case, legitimate power symbolised in social roles and norms communicates socially valid counterfactual expectations of formal/informal and legal/illegal power (Luhmann 1975:46). Informal power connotes how someone has power contrary to formal expectations of social hierarchy – e.g. when the 'weak' have effective power over the 'strong'. Illegal power connotes how a person uses his formal, legitimate powers outside of legal boundaries. Finally, illegitimate power connotes formal and legal power that comes into conflict with its underlying normative social order.

In a *stratified society*, Luhmann claims, legitimate power is communicated in terms of social roles and status that remain firmly embedded in the normative order of society. In other words, a 'generalised morality' not only 'moralises' power or domination but also law, religion, history – indeed, the total cosmos of the stratified society – into good and bad (Luhmann 1973:27). To this extent, there really can be no difference between the dualities legal/illegal and legitimate/illegitimate. Or, as Luhmann puts it, legitimate domination in a stratified society is not so much second coded in law as in the 'perfection' of a general morality (1975:54). For Luhmann, this means that a stratified society must be analytically separated from the social organisation of modernity, which is characterised by social differentiation. Stratification or differentiation, in Luhmann's analysis, are foremost different historical 'solutions' for the reduction of social complexity and contingency (1977:32-3).⁶ If we want to understand how symbolic power coordinates a socially differentiated *political system*, we need to understand how symbolic expectations can be disembedded from social norms and roles or from a generalised morality.

5.2.4 From Segmented to Differentiated Societies

The final 'step' we need to make is to generalise expectations of legitimate domination in the material dimension from social rules and roles to legal rules and office. If legitimate power is

⁵ We can also say that legitimate power relates to law as scientific truth relates to method (Luhmann 1975:37).

⁶ Luhmann argues that social stratification remains complex and unstable because it is based upon 'symbolic differentiation' in terms of formal social roles and status, but *also* upon informal or actual unequal distribution of sources of power (Luhmann 1977:33-4). Social stratification, according to Luhmann, not only leaves the problem of communication of power between equals unresolved, but also becomes further unstable with the increase of wealth (and power) among those in the lower strata.

symbolically coded in rules, it opens up the possibility of the organisation of power by will, which we might, in the first instance, best understand in terms of bureaucratic organisation. In a bureaucratic organisation of power, as Weber has already taught us, legitimate domination is coded in bureaucratic rules. If we 'translate' Weber's analysis of bureaucracy in media theoretical terms, we might propose four characteristics of idealised bureaucracies.

First, especially in contrast to stratified societies, bureaucratic organisation presupposes the *centralisation* of power (Weber 2004b:37). This must not so much be understood as the centralisation of sources of force but rather as the centralisation of will. It is not force that is centralised in leadership, but the *decision* of how to use and organise collective force (Luhmann 1975:8), and it is precisely when power becomes *decision-making power* that we can speak of political power proper. Second, bureaucratic organisation presupposes the disappropriation of sources of power (Weber 1978:219, 2004b:37). Although generalisation in social roles means that the formal hierarchy of domination is independent of persons, roles and status nevertheless symbolise *personal* power. Disappropriation of sources of power means that valid expectations of domination shift in the material dimension from *person to office* – "the de-personalisation of the medium" (Luhmann 1975:37). Office, most importantly, does not symbolise personal power but *organisational* power. Third, the sovereign at the top of the bureaucratic organisation ideally no longer rules by command but *rules by rule making* (Parsons 1963b:242). In a bureaucracy, this means that political domination is no longer about the sovereign giving commands to his subordinates, but about 'programming' the bureaucratic organisation by giving subordinates the right to make their own binding decisions within the competency of their office (Parsons 1963b:242).⁷ The consequence, fourth, is that even if a bureaucracy presupposes a centralisation of will, it does not presuppose centralised decision-making.

In system theory, this is often grasped in terms of *liquidity*. For Luhmann, this means we should understand the circulation or the 'flow' of power as 'chains of decision-making', in which multiple decisions are taken after one another – it concerns decision-making power as a *process* (1975:29). Bureaucratic, hierarchical rules do not so much designate that A dominates B who dominates C, etc., as that A decides how B decides how C decides, etc. In other words, we might understand liquidity as the 'circulation' of decisions (Parsons 1963b:244).⁸ As a consequence, the

⁷ It concerns the "establishing of the premises of decision-making (not decisions!)" (Luhmann 1975:6, footnote 13).

⁸ Parsons overstretches the analogy between the liquidity of power and the liquidity of money, which makes the concept difficult and contested (see also Giddens 1990:23ff. on the issue). In particular, understanding the liquidity of legitimate power in terms of *inflation* and *deflation* or in terms of *banking* and *investment* seems analytically weak (1963a:60-62). Even a direct analogy between the circularity of money (currency) and of legitimate power (rules) does not hold *prima facie*, as it is not power but decisions that circulate.

'final' decision becomes a property of the political organisation as a whole (Luhmann 1966:293). It can no longer be located in one single act but only in the process of decision-making itself.

Together, these presumptions allow us to understand bureaucracy as hierarchically organised decision-making power and to analyse the most curious characteristic of bureaucracies: the fact that organisational rules that symbolise formal decision-making power are themselves the result of decision-making. It means, firstly, that political power is inherently tied up with the bureaucratic organisation. Political power can thus only be expected to be valid *internally* within the bureaucratic organisation. In system theoretical terms, this means that we must differentiate between the organisation and its environment. Secondly, coding power in organisational rules means that the internal organisation of power can be 'rationalised', but also that expectations of power become inherently *contingent*, to the extent that rules can be changed from one moment to the next (Luhmann 1975:99). Thirdly, precisely because the bureaucratic organisation is differentiated from its environment, we not only encounter the problem of contingency but also the problem of order. We might expect, however, that because the disappropriated individual only has formal *and* informal power because he is an officeholder, he is structurally dependent upon the formal organisation. A bureaucracy, we might say, *organises* its own constitutive motivations, to the extent that each member can validly be expected to have a motive to uphold the formal hierarchical structures of domination.

In short, when expectations generalise from role to office, we might perceive an ideal bureaucratic organisation as *socially differentiated* from its environment. This also seems to imply that a totally differentiated bureaucratic organisation is also disembedded from the societal normative order or 'generalised morality'. Although legitimate power remains 'second coded' in bureaucratic rules, the political organisation itself is disembedded from its social environment. The question, then, is how we can understand the normative nature of legitimate power. The shift from rule by command to rule by rule making, we might argue, means that subordinates gain legitimate political power – the *right* to make binding decisions – *because* the sovereign at the top of the hierarchy uses his political power, i.e. makes a binding decision. Legitimate power, then, is coded in power.

Expectations of legitimate power become possible because power both creates and limits power – power becomes 'reflexive' (Luhmann 1975:40). Reflexivity, for Luhmann, concerns in most general terms "the selection of selections", i.e. when a medium turns upon itself (1973:24; 1989:141). More specifically, in the economic system it means the "exchange of means of exchange", and in the political system it means turning 'power upon the power holder' (Luhmann 1966:273; 1984:314). The normative order of a reflexively organised bureaucracy, then, is symbolically coded in

rules that are themselves the result of binding decisions of legitimate power. This *self-reference* of legitimate power obviously comes to a halt in the power of the sovereign at the top of the bureaucratic hierarchy. To this extent, we can say that the normative order symbolically coded in the rules of bureaucracy does not concern some general morality but indivisible *sovereign power*.

5.2.5 From Bureaucracy to Political System

The sovereign position of the ruler (or rulers) at the top of a bureaucracy coordinated by legitimate – or self-referential – power obviously remains difficult; a difficulty that Weber, as we have seen, struggled with and Luhmann calls ‘the power question’ (Weber 1978:222; Luhmann 1975:38). This question, in the first instance, connotes the problematic relation between the arbitrary will of the sovereign and the (counter factual) rationality of the bureaucracy. The sovereign – whether a political, religious or economic ruler – might in theory pursue his arbitrary will. However, his will is also forced into organisational ‘consistency’ by the ‘normative form’ of bureaucratic domination (Luhmann 1975:28,47). The power questions that are not solved are those of the power relation between different bureaucracies or sovereigns – which remains segmented – and the power relation between the ruler and his subjects outside the bureaucracy – which remains about ‘rule by command’ and is embedded in social morality. In other words, to solve these questions, other than in the validity (truth) of an absolute ruler, *legitimate power* as a medium must be generalised beyond a specific bureaucratic organisation and gain societal relevance (Luhmann 1975:30).

The solution for both problems, it seems, is *law*. Law, according to Luhmann, symbolically codes normative expectations of justice/injustice and can itself be understood as a socially differentiated system – the end result of a process that we might schematically understand, as discussed before, running from traditional to natural to formal to positive law (Luhmann 1989:140). As with Weber, positive law connotes that the legal system is socially differentiated and “defined by its own code” (Luhmann 1989:148). The validity of law, in other words, is self-referential to the extent that the validity of law is defined by law. The importance of positive, self-referential law for the political system is that it allows legitimate power also to become self-referential. To the extent that legitimate power is symbolically coded in law, which is itself a product of legitimate political power, power validates power. This self-referentiality explains why the political system is a socially differentiated *and* normative system, no longer tied to force, asymmetry or, for that matter, morality. Power and truth become socially differentiated as the system becomes ‘reflexive’, i.e. as “[i]t can regulate its own regulation” (Luhmann 1975:29; 1989:141). As such, to the extent that the ruler binds his will to the law, and to the extent that his power shifts from person to office – what

Weber called the 'expropriation of the expropriator' (2004b:38) – the self-referentiality of the legally coded legitimate power solves one of the problems of the 'power question'.

Law might also explain how legitimate power can become a societally relevant medium beyond the organisational boundaries of a bureaucratic organisation. Law allows us to perceive the nature of politics beyond a mere relation of *command-obedience*; rather, we can see it as a *coordinative* relation in which laws as final decisions of the political system coordinate and integrate society. To understand the integrative force of legitimate power second coded in law, we might compare its *boundary problems* with that of money. Money, in media theory, is also a 'specialised language' that symbolises expectations of objective market value (Parsons 1963a:39; 1963b:234; Luhmann 1984:313). Money can be seen as a 'universal language' to the extent that every object for which there is a (potential) market can in principle be objectified in terms of money.⁹ If a society wants to exclude certain goods or services from the market or economic rationality, the economic system must be *bounded* in terms of power and law, if not by social norms. Indeed, in practice not every good – let alone service – is allowed into the formal market, either because it is considered to be public property, inalienable property (especially life, liberty and the human body) or because certain goods are thought of as morally or ethically wrong (e.g. narcotics). Where this boundary is drawn, however, cannot be explained by the logic of the economic system itself. The inherent boundary of money only concerns the possibility of market value, which in itself is a function of scarcity. This explains, according to Luhmann, the colonial tendency and 'functional primacy' of the economic system – even if it might undermine its own social foundations (1975:102). We might say, more critically in line with Marxist analyses, that precisely this monetary objectification (*Verdinglichung*) has a tendency to obscure or mystify deeper lying social relations and inequalities. The language of money, as Luhmann claims, has inherent *depoliticising* force (Luhmann 1974:245; 1984:319).¹⁰

Legitimate power, in contrast, rests upon *counter factual* expectations that inherently seem to limit its colonising tendency. Indeed, legitimate power in the family, the factory, the organisation or the state does not symbolise the same 'objective value'. One cannot understand the legitimate power in the family in terms of legitimate state power. This is not just a question of different symbols necessitating some form of 'translation', as in the case of money in relation to different currencies. Different monetary symbols are expected to symbolise the same economic value, i.e. the

⁹ This does not mean, of course, that capitalist market logic is, in some sense, a *natural* human orientation. As Weber has already shown, economic rationalities are historical and cultural products that must be learned and acquired.

¹⁰ Parsons seems to make a similar argument when he states that the typical 'acting unit' cannot 'judge' "whether the money involved in the transaction is or is not 'good'" (1963b:241). However, Parsons seems to relate this factualising character of money not to the medium itself but to its 'legal tender'.

value of money is expected to be objective and universal. In the case of legitimate power, however, different codes of legitimate power symbolise *different normative orders* (Parsons 1963b:241). Of course, legitimate state power might also try to colonise the legitimate power of the private family or factory; but in contrast to money, the external environment must be drawn *into* the value sphere, rather than the environment protected *from* its value sphere. This easily leads to conflict between normative orders, which cannot be settled by legitimate power itself, but only by threat or force. The *use* of legitimate political power, with its inherent claims of *inequality*, in spheres of life which power codes symbolise different normative orders, would easily lead to *normative* questions, politicisation and conflict (Luhmann 1983:203).

This might seem counter-intuitive, as countless theorists have warned for the power of the omnipotent state. But what makes legitimate state power so powerful, according to media theory, is not that it directly governs or 'colonises' other social spheres, organisations or systems through the use of legitimate power in terms of commands, but can 'export' its legitimate power through law to all spheres of life *without* 'politicising' those spheres (Luhmann 1975:95-6; Parsons 1963b:244).¹¹ What integrates the family, the factory and the organisation into legitimate state power is *law*, as it allows the symbolic codification of different normative orders. As such, the state or the ruler does not so much rule by legitimate command as rule by legitimate law making (Luhmann 1975:49). Law is a symbolic code through which politics can *integrate* and *coordinate* social life and prevent the use of legitimate political power leading to its politicisation. Of course, conflicts might still arise, but conflict does not, at least in the first instance, challenge the *normative* right of political power – a conflict that cannot be settled by legitimate power – but rather its legal correctness or alignment with notions of justice (Luhmann 1975:44).¹² Law allows the integration of different political organisations and institutions, different normative orders, into one single political system coordinated by legitimate power.

In sum, the second coding of legitimate power in positive law, and the export of legitimate political decisions through law, seem to solve the 'power question' and allow a socially differentiated and integrated political system in which expectations are *coordinated* by the medium of legitimate power, generalised in the social, material and temporal dimension.

¹¹ It is therefore not surprising that where legitimate political power – especially in comparison to money – is very difficult to globalise or even to regionalise – as in the case of the European Union – political globalisation tends to take the form of international law, if not outright force and threat.

¹² When Luhmann claims that challenging legitimate domination remains purely 'ideological' as long as it cannot develop a 'functional equivalent' for the duality between legal/illegal, it seems to me that he does away too easily with the existence of different *segmented* normative orders (Luhmann 1975:44); we should not, of course, mistake the model for empirical reality. Furthermore, Luhmann does away too easily with the possibility and necessity of normative critique (see Bader 2001).

5.2.6 Conclusion: Communicating Legitimate Power

Understanding legitimate power as a language forces our analysis to research the question of how expectations of asymmetry are generalised in the social, material and temporal dimensions, on the one hand, and how such expectations can be communicated, on the other. In the work of Luhmann, this analysis points towards the idea that media '*reduce* social complexity' by means of generalisation and, simultaneously, allow an *increase* in complexity of social organisation (Luhmann 1975:31; also Parsons 1963a:40). In Luhmann's analysis, possibilities of communication and the development of modernity go hand in hand. However, some caution is needed. The relation between generalisations, special languages and social progression – from segmented to stratified to functionally differentiated societies – might provide an interesting analytical model to interpret history and society, but it should not, in my opinion, be confused with an empirical theory, let alone social reality.¹³ It remains an empirical question the extent to which the political system is socially differentiated or to which different normative orders of domination are integrated into the political system. In other words, it remains an empirical question the extent to which we can speak empirically of 'the' political system; it is not something that can be conveniently assumed by the sociological theorist or normative philosopher.

Media theory does, however, provide us with a promising coordinative perspective on politics. Legitimate power as a language generalises expectations of asymmetry in time and space, which is to say that it decreases social complexity as expectations transcend the contingency of the subjective, the contextual and the irregular. Furthermore, we might readily perceive that, to the extent that such expectations are successfully communicated, they structure or *coordinate* subsequent social action. Nevertheless, to really grasp politics as coordination, we need to move beyond legitimate power as a language and understand how this language not only enables successful processes of communication but also political organisation and social action.

5.3 Legitimate Power as Coordination: Four Levels of Analysis

Legitimate power as a language, a symbolic medium, concerns the communication of counterfactual valid expectations of asymmetry second coded in law. The communicative or symbolic nature of legitimate power, as we have seen, explains the reduction of social complexity by generalising expectations over social contingency. At the same time, this reduction also allows the increase in political complexity. In what follows, I aim to understand politics as coordination in a complex differentiated society, and foremost to comprehend what this means for the *validity* of legitimate

¹³ Luhmann, indeed, claims that this model might foremost help us to understand and compare historical 'functional equivalents' for similar problems of complexity and communication (1964:7). Luhmann's theory is, in this sense, not a *causal* but a *comparative* theory.

power. To do so, it can be argued that media theory allows for analysis on *four different analytical levels*: the value sphere, social action system, social interaction and personal system (Luhmann 1989:137-8). In what follows, I provide a brief analysis of the validity and validity problems of legitimate power at these four levels.

5.3.1 The Level of Value Sphere: the Abschlussproblematik and the Problem of Vulnerability

At the highest and most abstract analytical level, legitimate power is purely perceived as a symbolic medium that allows communication of meaning. At this level, we cannot analyse questions of social validity but only of validity (truth). As discussed, legitimate power truly becomes socially relevant as a symbolic medium if power turns upon power, i.e. when the sovereign is source and object of power. The validity (truth) of legitimate power, then, seems to be a reflexive or self-referential quality: *legitimate power validates legitimate power*. The truth, value or validity of legitimate power is legitimate power, just as the value of money is money, the validity of law is law and the truth of scientific truth is scientific truth.¹⁴ We might therefore say that legitimate power symbolises or 'reproduces' the political system as a whole. It has no value or validity outside of the political system; it *is* the political system. This also means, as Weber describes for the legal system, that a political system can only understand the world in terms of itself, in terms of legitimate power. The question of the validity (truth) of legitimate political power is self-referentially closed at this highest level of analysis; and just as in the case of positive law, this problematises any search for 'real' legitimacy or validity (truth).

At this analytical level, we can situate what Luhmann calls the *Abschlussproblematik*, the problem of closure (1975:55). Neither Parsons nor Luhmann tries to find a solid foundation for the validity (truth) of legitimate power in subjective belief, as was the approach of Weber. However, they do nevertheless fundamentally differ in their approach of dealing with the symbolic or self-referential nature of legitimate power. For Parsons, the political system is not only a socially differentiated system coordinated by self-referential legitimate power, but a functional societal subsystem. Inspired by Durkheim, Parsons perceives that every society is organised around four fundamental functions that it must uphold: adaptation (A), goal-attainment (G), integration (I) and 'pattern-maintenance or 'latency' (L) (Parsons 1953:625; Luhmann 1978:300). The complexity of Parsons' work, however, is that this 'AGIL scheme' is reproduced at *all* levels of analysis – what

¹⁴ This self-referential nature of symbolic media, specifically of money, does not mean, of course, that media theory answers all the questions concerning the origin, history or nature of money (Ganßmann 2011). More importantly, analysing money as a medium runs the risk to reduce the nature of the economic system merely to *symbolic* coordination as it obscures the *material* inequalities present in economic systems and economic forms of *domination* as domination only seems to be part of the political system (Ganßmann 1986). In other words, just as politics we cannot reduce economic action to a single essential nature.

Parsons calls the 'Chinese box' relation (1963b:245). The four functions are not only a necessity of society, but are necessarily present in the political system itself, as well as in every political organisation and, indeed, in the individual personal system (Luhmann 1978:300; Parsons 1960b). This means that any analysis of a system itself automatically becomes an analysis of 'intersystem relations' at a lower analytical level (Luhmann 1977:30). As such, Parsons' functional system theory, despite its debt to media theory, remains part of the cybernetic system theory where systems must functionally communicate through input and output exchange.¹⁵

The question of validity (truth), however, runs in the opposite direction, as the parts are functional for the whole. Precisely because legitimate power cannot validate its own validity claim without becoming self-referential, it must, according to Parsons, be thematised and validated by a different (and higher) social system with its own particular symbolic medium. This means, in Parsons' scheme, that the political system is legitimate to the extent that it is validated in the societal 'normative system' or the 'functional integrative system', which in turn is validated in the 'pattern maintenance system' (or value system) that is coordinated by 'solidarity'. In other words, validity claims are continually thematised and transposed to higher social levels of analysis – "a cybernetic hierarchy of control" – where they are continually transposed to other functional systems, which come to an end in solidarity or, we might say, in society as the final encompassing 'Chinese box' (Parsons 1960b:477). For Parsons, "the famous concept of solidarity as formulated by Durkheim" is the ultimate *consensual value* that validates society as a whole, including the political system (Parsons 1963b:248). Solidarity has this quality, not least because it seems to allow a leap between the analytical levels of society and individual membership – between the highest and lowest levels – as it 'integrates' individual and collective interests through the belief that individual members 'belong together' (Parsons 1963b:247-8).¹⁶

This solution of Parsons seems more about 'solving the problem of order', in his words, than about solving the problem of (political) legitimacy (1963b:248). It seems that order and legitimacy are again firmly fused. Political validity (truth) "rests on some sort of consensus among the members of the collectivity" (Parsons 1963b:250). This solution, however, is dissatisfying to the extent that the validity of society ultimately seems to rest upon non-contingent consensual values, which clash – if not outright conflict – with historical experiences of "contingency and changeability" (Luhmann

¹⁵ The reason why Parsons' theory is overly complicated is not just the result of these functional 'Chinese box relations' but also result from his insistence to define the political system in terms of its societal function as well as its symbolic value (legitimate power) simultaneously.

¹⁶ In terms of media theory, Parsons claims that '*Gemeinschaft*-type solidarity' – 'fundamental diffuse solidarity' – has the same intrinsic force for the value system as force and gold have for the political and economic systems respectively (1963a:49). This seems to imply that for Parsons, more symbolic forms of solidarity are also possible, i.e. membership in more abstract and generalised groups.

1975:55).¹⁷ If one does not want to take over Durkheim's functionalism, in which society almost automatically and magically expresses itself in the individual, we cannot but acknowledge that feelings of solidarity are part and parcel of the political process itself as a source of legitimation. It might be possible to interpret Parsons as saying that political power is validated to the extent that it can 'mobilise commitments' to fulfil its societal function. This seems more realistic, in the sense that social value consensus is not something that is out there for the unproblematic foundation of society and politics, but is an inherent *political project*. It is thematised in politics and, as such, an object of political and social conflict. Indeed, the endpoint of political evolution is not necessarily the classical nation state. Current processes of internationalisation, globalisation, immigration and individualisation all point to political systems that cannot be founded upon unproblematised notions of solidarity. Solidarity might still be important for political *legitimation*, but it seems to be increasingly fragmented and particularised, in need of constant political attention.

Instead of solving the *Abschlussproblematik* with some form of unproblematised social consensus or conscience collective, Luhmann proposes a different solution. His theory is also functionalistic, but in a different guise than Parsons' functionalism. Parsons, as we have seen, defines systems not just in terms of their value – as value spheres – but also in terms of their function for society as a whole. Luhmann, on the other hand, perceives the function of all systems in terms of the reduction of social complexity, i.e. a system's capacity to overcome social contingency by generalising social expectations. Luhmann understands social history, then, in *functional evolutionary* terms (1975:14; 1977:48).¹⁸ Social development is understood as the consequence of the problem of complexity and contingency. Through 'unplanned', 'non-coordinated', 'contingent' and 'coincidental' processes, structures develop that have the function to reduce complexity and generalise expectations (Luhmann 1989:146; 1977:48).¹⁹ We might say that Luhmann tries to give a functional evolutionary explanation of Weber's rationalisation thesis. The main difference, however, is that where Weber emphasises the meaning-searching human actor as the *causal* motor of this historical process – ultimately leading to the intellectual paradox – Luhmann perceives this process in *non-causal* terms, as one where coincidence and unintentionality are functions of social complexity and contingency.²⁰

¹⁷ Luhmann claims that the continuing transportation of validity claims to other media, ending in an ultimate foundation of all validity claims, begs the question of how one can communicate over the highest and final medium (Luhmann 1975:55). We might say, therefore, that if solidarity can be 'thematized', then it already incorporates its own negation and cannot be the final medium; or, on the other hand, if solidarity cannot be thematized, then society rests upon 'non-contingent foundations' it cannot understand and reflect upon.

¹⁸ This is not to say that media theory itself is inherently an evolutionary theory (Luhmann 1978:238).

¹⁹ Luhmann defines 'change' as "[t]he contingent coincidence of contingencies" (1977:48-9).

²⁰ Weber, of course, also readily acknowledges the importance of material and structural necessities for explaining social development.

If this evolution for Luhmann is neither teleological nor progressive, modernity is nevertheless characterised by social differentiation, i.e. by different reflexive social systems coordinated by their own symbolic codes (Luhmann 1975:248; 1977:32). Whether we accept this functional evolutionism or not, just as in Weber the result seems to be that society consists of differentiated social systems that understand the world self-referentially.²¹ For Luhmann, this means that the whole concept of society has to be reconsidered (Bader 2001:132). The political system does not functionally relate to society as if it was a fixed and stable external social system; the political system can only understand the whole social world in terms of itself. The famous and problematised relation between politics and society, in Luhmann's account, is non-existent as the political system is a specific or 'special version' of society (1977:31; 1989:138). This also means that, differing from Easton, a political system cannot be perceived as a collectivity nor its boundaries understood in terms of geography, institutions or specific persons (Luhmann 1973:29). The political system is defined by the type of meaning or value that is *communicated*. "Social systems consist of expectation-coordinated actions, not of people" (Luhmann 1964:20).

Just as for Weber, the end result is that the existence of multiple self-referential value spheres *fragmentises* social reality. The whole concept of society seems to become problematic, not least because the boundaries of these different systems do not neatly coincide at the level of the nation state. Society can no longer be presented as a unified whole but only as 'world society' (Luhmann 1973:39, 1977:43, 1995:138).²² The fragmentation of social reality and the problematic nature of society seem to discard the idea that there exists something of a transcendent reality, a value sphere where all different meanings, realities and rationalities are coherently united, opening up the possibility for social consensus and ultimate validity. For Luhmann, there is no solution to the Chinese box problem. All value spheres or systems are self-referentially closed – or what Luhmann calls 'autopoietic' (1984; 1989:137) – which means that there cannot be genuine communication between these different spheres as they cannot 'understand' each other;²³ just as in Weber, 'society' is characterised by the 'warring of the gods'.

²¹ We must, if anything, perceive that Luhmann's system theory, as a 'general theory of evolution', is an analytical model and not an 'empirical generalisation' (Laermans & Verschraegen 2001:116).

²² Even if we can agree with Luhmann that society should be conceptualised differently – i.e. it cannot be presented as a unified whole or reduced to the nation state – the empirical reality of a 'world society', in particular where it concerns the political system and of which Luhmann is aware, can be questioned (see Bader 2001:134-5).

²³ The importance of autopoiesis in Luhmann's work also seems to indicate that his evolutionary perspective is less about "'adaptation' to the environment" but rather that "possibilities are often restricted more by the demands of internal consistency than by problems of survival in the environment" (Luhmann 1989:146). Evolution is more about 'self-thematisation' than about adaptation – coming close to a Weberian spirited theory of social development (1973:34). It is autopoiesis in particular that sets apart this generation of system theory from cybernetics.

This conflict, however, only becomes problematic at the 'lower' levels of analysis, i.e. at the level of social organisation and interaction (Luhmann 1989:139). At these levels, different kinds of communication can conflict and interact (Luhmann 1975:101; 1974:248). Indeed, while a bureaucratic organisation might be coordinated by legitimate power, it is also coordinated by money, scientific expertise and, in particular, the legal system. Social organisation and interaction cannot be understood solely from the perspective of legitimate power (Teubner 1991:129; Bader 2001:143). The curious result, then, is that social action can only be understood in terms of different meanings and rationales that sometimes collaborate and at other times conflict, never leading to a singular comprehensive meaning. Underlying Luhmann's thesis of increasing differentiation lies the claim that social systems – especially the political system – must increasingly absorb social complexity and social conflict in particular. This is in no sense an historical automatism – especially compared to Parsons' foundation of solidarity – but rather a very 'improbable' result of social evolution (Luhmann 1977:31). In other words, symbolic media arise precisely where consensus or "certainty (*Selbstverständlichkeit*) and likelihood is unlikely and contingent" (Luhmann 1975:14). It is an improbable result because "[a]ll social systems are potential conflicts", as communication always entails double contingency as a basis of rejection, misunderstanding or deceit (Luhmann 1975:5).

In other words, the *Abschlussproblematik* cannot so much be solved in an ultimate truth but rather points to the inherent risk of value conflict and the risk of the contingency of communication. In general, it points to the *vulnerability of the validity of legitimate power*. Luhmann, therefore, in contrast to Parsons, no longer founds validity (truth) upon some foundational consensus, but tries to analyse "structures and processes, that enable and control the becoming-contingent of the [power] code" (1975:58-9). Communication and contingency control necessitate processes of legitimation, though they do not necessitate a solid non-contingent source of legitimacy. It is not validity (truth) that must be explained, but social validity, despite social contingency and complexity. The social validity of symbolic media is part of a continuous process of communication at the intermediate levels of analysis and, as such, "completely temporal" (Luhmann 1989:148). To understand these processes, we must 'descend' to lower levels of analysis.

5.3.2 The Level of Social Action System: The Problem of Conflict and Ambiguity

If legitimate power as a symbolic medium is relatively clear at the highest analytical level of value spheres, this is mostly because problems of vulnerability or questions of validity are passed on to lower levels of analysis. It is no coincidence that Luhmann's and Parsons' analyses are less univocal at the level of the political system. In general, we can say that they analyse the political system in three different ways (Luhmann 1977:35-6). First, one can analyse the political system in terms of its

function for the societal system as a whole – this seems to be the main goal of *functional system theory* in both Durkheim or Parsons' version. Second, one can analyse how the political system 'communicates' with other socially differentiated systems or its general environment in terms of input and output exchanges – this seems to be the goal of *cybernetic system theory* in both Easton or Parsons' version. Finally, one can analyse the internal organisation of the political system in terms of itself, i.e. in terms of its defining symbolic medium – this seems to be Luhmann's main goal in his *autopoietic system theory*. In what follows, I pursue the last form of analysis, not only because we have already discussed cybernetic system theory in chapter 4, but precisely because autopoietic system theory seems most promising for understanding politics as coordination.²⁴

As already discussed, what differentiates a system from other systems is precisely that it can only understand the world in terms of itself, i.e. in terms of a specific symbolic medium. At the same time, these reflexive systems are not just *value* spheres but also *action* systems. For both Luhmann and Parsons, this means that they try to analyse a system from the point of view of the most characteristic action – the 'unit act'. The act that is argued to be specific for the economic system, for example, is the choice to spend or not to spend money (Luhmann 1984:312; Parsons 1963a:41).²⁵ However, the most intrinsic economic social action is not simply to spend money on consumption goods, but to spend money to make more money. When Luhmann claims that at this analytical level "[t]he meaning of money lies in spending money", he comes close to Weber's historical analysis in which the 'spirit of capitalism' culminates in 'making money for money's sake' (Luhmann 1984:318; Weber 2001:259). Indeed, Weber's fundamental interest in explaining 'duty for duty's sake' has an obvious self-referential character.

Luhmann understands this self-reference foremost as the expression of 'reflexivity' of the economic system, in which 'profit' becomes the 'reference point' for coordinating the economic system (1984:314). This means that how in the economy is communicated over the economy does not depend upon subjective or private motives but upon the 'de-privatised' motive of profit. In contrast to Weber, Luhmann is not interested in explaining the curious subjective orientation of 'duty for duty's sake' (in analogy), but how such reflexivity makes possible a *body of economic knowledge* and expertise that allows the *rationalisation* of the economic action system independent of actual persons and motives. Although Luhmann seems to explain this reflexivity in terms of functional system necessities, the end result is not that different from Weber's conclusion: it

²⁴ This is not to say that Parsons does not pursue this type of analysis as well or that Luhmann does not pursue cybernetic analysis at times. Indeed, in his earlier years, Luhmann was still clearly influenced by all three types of system theory (see e.g. Luhmann 1977).

²⁵ Parsons defines a 'unit act' as "the relationship of an actor to a situation composed of objects, and it is conceived as a choice ... among alternative ways of defining the situation" (1960:467).

emphasises the role of expert knowledge and explains the modern iron cage independent of subjective will or orientation.²⁶

The unit act and its related reflexive version in any case form the analytical basis for Luhmann and Parsons to analyse the *functional necessities* of a social action system to become or to remain a differentiated and unified social action system – not unlike Easton's approach.²⁷ Without wanting to get lost in the overly technical or functional analyses of system theory, such an analysis might nevertheless allow us to understand how a political action system is able to deal with the inherent *vulnerability* of the validity of its symbolic medium, especially in the face of social plurality and conflict. It is this question that I now want to pursue.

If for the economic system the 'unit act' is spending or not spending money, we might say in analogy, that the 'unit act' of the political system is to spend or not to spend power (Parsons 1963b:246). To spend power is 'committing' power by making a binding decision, foreclosing other future possibilities (Luhmann 1975:28).²⁸ Its reflexive-rational expression is, to a large extent, already institutionalised in a political system. Indeed, spending power to make power, to rule by rule making, is the core of bureaucratic organisation as well as of the self-legitimising character of legitimate power. This type of analysis thus seems to force us to analyse how 'the' political system reflexively organises its decision-making process.

We might say that the decision-making process in a modern liberal democratic state is separated into three distinct organisational realms: the administrative bureaucracy, politics and electoral democracy.²⁹ However, such an organisational approach entails inherent boundary problems, problems that are not easily solved. Why is the binding decision of the voter different from the binding decision of the professional politician, and both different from that of the bureaucrat or even the judge? Such analytical difficulties are of course traditionally addressed in legal normative theories of the *institutional separation of powers*. The organisation of the political decision-making process in that tradition is understood in terms of different functions: the

²⁶ For example, Luhmann argues that spending money for money's sake is *necessary* because without money circulating the economy ceases to be a functionally differentiated system (1984:312). Analytically this might be the case, but it should not be mistaken for empirical theory, let alone *causal* theory.

²⁷ The main difference here is that Easton has no media theory. His point of departure for understanding the essence of the political system is *system survival* and the *societal function* of authoritatively allocating value. This function is not so much internal to the system as about the system's relationship to its external 'environment'. It must also be noted that Parsons not only takes the specific 'unit act' of a social system as its point of reference, but simultaneously holds on to the cybernetic version of system theory, with the importance of 'adaptation' (Parsons 1963b:236).

²⁸ However, Parsons seems to take this analogy too far when he suggests that spending power also means the loss of power (Parsons 1963b:244; see also Luhmann 1975:26, footnote 57 on this issue).

²⁹ This is not to say that the political system and the state are necessarily analytical equals. But the *normative order* of the nation state is still a very important political system, despite trans- and supra-national developments. Furthermore, starting our analysis of decision-making at the level of the state does not mean that we cannot perceive transnational organisation – to the contrary.

administrative execution, the political formation and the legal control of political will. Without dismissing such normative ideas as irrelevant – to the contrary – it does not seem to provide us an accurate understanding of the empirical processes of political decision-making, let alone of analytical boundaries. A more promising approach would be to understand boundaries not in terms of normative institutional differences but of different *types of communication*. We have to analyse how the political decision-making process consists of different “spheres of communication” (Luhmann 1966:272). In other words, although bureaucracy, politics and elections are all coordinated by *legitimate power* as a symbolic medium, they are *additionally coordinated* by other forms of symbolic communication, indeed, with other demands of rationality.

In sum, to understand the internal organisation of a political action system, we should not look so much at the organisational or legal normative institutional boundaries of politics, but understand politics in terms of cross-institutional communicative processes. In what follows, I will not provide an in depth analysis of the complicated processes involved in modern day politics. Instead, I will show how the political decision-making processes at the level of organisation can be understood in terms of (at least) three additional forms of symbolic communication and rationality, which can be grasped as forms of *legitimation* of the use of legitimate political power: expertise, party and support. Such an understanding will allow us to address the question of the vulnerability of social validity.

Administrative Organisation and Expertise

Bureaucratic organisation, as discussed, is characterised as rule by rule making. We can understand this as a ‘reflexive’ organisation of political power, to the extent that ‘spending power’ creates more power. Because the sovereign no longer rules by command but by rule making, his power is freed from his cognitive and temporal limitations, allowing him to increase the scope of his power (Luhmann 1975:41; Parsons 1963b:235). The ruler no longer has to ‘know’ everything but he can rather ‘program’ the bureaucracy in terms of conditional rules and office competencies (Luhmann 1975:29). Through such ‘conditional programming’, the ruler, from a *temporal and spatial perspective*, increases his power, as what subordinates must do under specified conditions can be programmed before they occur and without the ruler having to be present.

If this reflexive organisation of legitimate power increases the power of the ruler, the inherent *risk* concerns the limits of its rationality. Reflexively organised power in general increases informational demands about (future) social conditions and necessitates that ‘society’ and the organisation become ‘visible’ or ‘legible’ for the power holder (Luhmann 1975:50; Scott 1995, 1998). The problem of conditional programming, according to Luhmann, is that it is relatively inflexible and

rigid, which makes it difficult for the bureaucracy to adjust and learn from the contingencies of actual and concrete situations, and as such increases demands of detailed knowledge about social conditions in advance, running against inherent epistemological limitations of rational knowledge (Luhmann 1966:276-7; 1983:210). Indeed, it is precisely the counterfactual nature of legitimate power that seems to make such organisation relatively immune to factual learning.

A more flexible organisation of bureaucracy open to rational learning processes might be what Luhmann calls 'political planning' (1966; 1983:206). Planning is no longer about programming the bureaucracy in rules but rather about making "decisions over decisions" (Luhmann 1966:286). Making decisions about decisions without actually making a final decision 'buys' the organisation time (Luhmann 1966:289; 1975:27). The longer the final decision is postponed, Luhmann argues, the more time the organisation has to adjust and learn, the less it has to know everything in advance and the more its informational limitations can be addressed.³⁰ The simplest way to achieve such a reflexive decision-making process is to program the organisation in terms of functional goals instead of rules. Chains of decision-making are no longer inflexibly 'standardised' but integrated in terms of functional 'themes' and accompanying 'identity' (Luhmann 1983:207-9). The ruler only decides on the goals of specific agencies, not which decisions they have to make to realise these goals. More often than not, however, such goal programming is accompanied by conditional rules that prescribe how efficient and effective solutions can be found, as, for example, in the current ideology of 'new public management' (Luhmann 1966:292; Pierre & Peters 2000:64-5). Such conditional programming of goal programming – making decisions over decision-making – seemingly allows the ruler not only to rule by goal setting, but to rule by budgetary control, setting the boundaries within which the bureaucratic agencies have to operate.

Although 'goal programming' might be more suitable for learning and may soften rationality problems, it *increases* organisational complexity and contingency as autonomous decision-making powers are delegated to administrative agencies or policy networks (Luhmann 1966:276-8). The bureaucracy, to an extent, is 'de-bureaucratised'. This, for sure, is a double-edged process, in which organisational complexity allows an increase in political power at the cost or risk of a decrease in direct political supervision. If administration is characterised by such complexity, we can no longer uphold the myth that bureaucracy is some kind of *instrumental machine* in the hands of power holders, in which bureaucrats merely follow pre-programmed rules. Modern bureaucracy, for sure, can only be grasped as an inherent part of political decision-making understood as a *process*. If we want to analytically differentiate between the political and the bureaucratic organisation of decision-

³⁰ This delay is bought at a price, according to Luhmann, as some problems require immediate action incompatible with the slow process of political decision-making (Luhmann 1975:85). Put differently, political time might be incongruous with economic, legal or scientific time.

making, symbols of legitimate power are no longer sufficient – or so it seems – and neither is the institutional differentiation between political will formation and political will execution. Instead, we may perceive that the decision process is not simply coordinated by symbols of legitimate power, but is in addition coordinated and integrated along functional themes and goals – a “differentiation of power-code and power-themes” (Luhmann 1975:41).

Modern bureaucratic administration can be seen as chains of decision-making processes coordinated by legitimate power; hierarchical chains that allow the transfer of “reduced complexity of decisions upon decisions” (Luhmann 1975:29). However, such chains do not solely depend upon legitimate domination for their ‘consistency’. They are *additionally* integrated by ‘identity’ or the ‘self-thematisation’ of the decision-making process in terms of ‘functional specification’ (Luhmann 1975:40,47,29; 1973:24; 1983:208). Modern bureaucratic agencies, it seems, are also integrated by specific functions, themes and goals. Hence, the *normative foundation* of a rational bureaucracy is not solely the self-referentiality of legitimate power symbolised in rules and office (or more generally in law) but *in addition* concerns the functional rationality of the organisation itself.³¹

For Parsons, this means that the bureaucratic or ‘technical’ organisation of the decision-making process is not “in the analytical sense political” but rather that legitimate power is ‘interpenetrated’ by other systems (1963b:236, 244). Indeed, goal programming leaves open many possibilities that are left to the administration to decide with ‘different methods’ (Luhmann 1966:294). The other ‘system’ through which the bureaucracy is organised, and which separates the bureaucracy from politics proper, it seems, is *expertise*. Reflexive self-thematisation of bureaucratic rationality means understanding the bureaucratic process of decision-making in terms of a body of (economic) knowledge and methods, which does not thematise the given (political) goal as such, but how efficiency and effectiveness can be attained and balanced (Luhmann 1966:278). In other words, the *right decision* is not so much communicated by hierarchical structures of legitimate power as by *expertise*. Expertise, then, can be seen as a symbolic medium of its own, symbolised in specific scientific methods, which communicates meaning not in the duality of legal/illegal but rather of rational/irrational. Although expertise might be considered part of the scientific system and, as such, to organise meaning in terms of the duality true/untrue, it seems to me that we should differentiate between scientific practices coordinated by truth and practices coordinated by expertise. This would mean that some scientific methods and techniques – e.g. positivism, behaviouralism or statistics – and some scientific disciplines – e.g. political science and economics – are more about expertise than

³¹ Luhmann draws a nice parallel between the medium power and truth (1975:38). While scientific truth is symbolically coded in terms of ‘method’ (structuring knowledge in terms of true/untrue), it does not prescribe either theory or the subject of interest. Indeed, scientific disciplines and research communities are often integrated through additional *identities* in terms of theory or research subject, besides method and informal economic and political interests.

about truth, more about public administration than about science. The difference here is that, in contrast to science proper, expert knowledge is positive knowledge that does not necessitate explanation beyond valid description.

Although the empirical processes and organisation of administrative bureaucracy of a modern state are complex and diverse, it seems that what separates 'administration' from 'politics' is not the legitimate power of decision-making but different processes of *additional legitimation* (Luhmann 1983:209; 1966:276). What makes a binding decision – the use of legitimate power – a bureaucratic binding decision is that the decision is additionally legitimated in terms of expertise. As such, it makes sense to differentiate between the *legitimacy* of decisions symbolically coordinated by legitimate power and the *legitimation* of decisions coordinated by expertise (Luhmann 1975:29; 1983:152).

A bureaucracy, we might conclude, consists of *two normative orders* coordinated by different media: legitimate power and expertise. These two rationales for decision-making might reinforce each other, but they are not necessarily harmonious, as Weber has already discussed (2004b:75). This conflict is softened to a large extent by the ideal that the rules of bureaucracy can themselves be rationally organised by rational expertise – the dream of modernism. However, an inherent tension in bureaucracy, it seems, is the conflict between expertise, which is expected to be universally valid, and political decisions, which from the viewpoint of the bureaucrat seem to express contingent will. The parallel in Weber's work between the Protestant confronted with a rational but incomprehensible God and the duty of the bureaucrat and the 'nebulous reasons' of the state is no coincidence. From Weber's work, we might expect that the conflicting demands of the 'two gods' of bureaucracy are left for the individual bureaucrat to deal with – to reconcile this inner conflict in duty for duty's sake.

In Luhmann's work, however, this conflict is understood differently. It seems important to emphasise that the reduction of social complexity through symbols of legitimate power is, to an extent, *reversed* in the modern organisation of political decision-making. Indeed, the 'de-bureaucratized' decision-making process is 'indeterminately structured', as it is structured by different and sometimes conflicting legitimating rationales and expectations (Luhmann 1983:173). For Luhmann, the benefit of this additional complexity is increased system rationality understood as flexibility, the ability to learn and to innovate (Luhmann 1983:173, 207-9; 1966:289-90). More importantly, Luhmann argues that precisely because organisation becomes more *indeterminate* and expectations more *ambiguous*, politics is able to *absorb* conflict and, as such, address the problem of vulnerability. By absorbing conflict, the normative order underlying legitimate power is protected from direct thematisation. In other words, absorbing conflict increases the probability of the social

validity of legitimate power. On the one hand, conflict can be absorbed because political decision-making becomes rather *abstract*, enabling politics to vary the 'coherence' of bureaucracy (Luhmann 1966:290) and therefore to pursue conflicting goals simultaneously – e.g. stimulating industry and fighting pollution, or trading with dictatorial regimes and promoting international democracy. This it does in order to cater to different constituencies and interest groups simultaneously, to present decisions as solutions without really changing anything or to present ideological conflict in different budgetary distributions. We can conclude that *indeterminacy* enables what I have called politics as theatre. The point, in my view, is not that no 'real' or relevant decisions are made but rather that such decisions can cater to many different interests and expectations, and can thus avoid conflict over the legitimacy of legitimate power. On the other hand, this also holds for the internal organisation of bureaucracy, where the decision of the superior simultaneously communicates legitimate power and expertise. This ambiguity can absorb conflict to the extent that disagreement does not, in the first instance, thematise the power code but rather truth or expert knowledge (Luhmann 1983:152). In fact, the power code might even be presented as a temporary solution for deciding between conflicting knowledge until rationality reveals itself to all.

In other words, the problem of the vulnerability of the social validity of symbolic media decreasing social complexity can be dealt with at the organisational level precisely by increasing complexity, by opening up the action system to 'contradictory expectations'. This, Luhmann argues, is a "difficult social performance" as it is difficult to continually keep open 'the illusion' that problems can be definitely solved; this form of 'high complexity' does, however, give room to conflict *and* stability (Luhmann 1983:161). The point is that precisely because this structural indeterminacy leaves open many (contradictory) alternatives, the political system can adjust, learn and absorb conflict (Luhmann 1983:173). The bureaucratic decision-making process is, to an extent, autonomous from the political process, giving *both* processes more freedom of action and possibilities to legitimise actions and decisions. Because it is indeterminate, the decision-making process leaves open so many alternative expectations that it can legitimise its decisions through *symbolic actions* rather than only through its power structure (Luhmann 1983:173, 183).

Democratic Decision-Making and Public Support

If bureaucratic decision-making processes are additionally coordinated and legitimated by expertise, we might also try to understand the political process of decision-making in similar terms. The legitimate power of the sovereign ruler, as discussed, depends upon its self-referential symbolic coding in law. As such, the sovereign can be expected to make legitimate political decisions in terms of general law or political planning. However, the organisation of the democratic, legal modern state

is considerably more complex, not least because the sovereign is no longer a singular ruler formulating his bounded political will, but itself consists of a political process of will formation coordinated by legitimate power. We might perceive two processes in liberal democracy that are important for the political decision-making process aside from the *rule of law*. The first concerns the *liberal* normative idea that the will of the sovereign ruler must not only be bounded by law but also by the common good. The second concerns the equally normative *democratic* idea that the people are the true sovereigns and rule themselves – the people legitimately decide their own laws. We might say that if legitimate power in a liberal democracy is normatively and self-referentially coded in law, this rule of law is *additionally legitimated* in the common good and the will of the sovereign people. These two legitimations are not identical but are simultaneously institutionalised in liberal democracy.

The democratic counterfactual expectation of the people as sovereign decision makers, it can be argued, is institutionalised in terms of general elections. The *legal* expression of the sovereign will is primarily organised in terms of recurring elections. This means that democratic citizens not only have legal rights but also *political rights*. All citizens with political membership have equal 'marginal' legitimate power, which they can use in the legally organised vote (Parsons 1963b:245; 1963a:52). For Parsons, this electoral system not only assures that citizens are part of the political decision-making process but that this process is coordinated, on the one hand, by *legitimate power* and, on the other, by *public support* (1963a,b). If legitimate political power concerns the right to pursue one's will within legal boundaries, the *will* of voters is not so much bounded but can (as a necessary consequence) only be expressed, according to Luhmann, in the highly abstract and generalised dichotomous form of voting/non-voting (1983:165). Although one can of course choose between different candidates, between opposition and government or left and right, we can agree that the single vote *symbolises* the complex political will of the individual in dichotomous terms and the aggregate vote *symbolises* the will of the people, no longer dichotomous but linear.³² The voting mechanism thus sets the relative political 'value' of the candidates and – based upon whatever decision rule – *legitimately decides* on the new ruler or, in general, on the distribution of opposition and government. As in Weber, the vote concerns the marginal legitimate power of the people to 'recruit for public offices' (Luhmann 1983:155; 1975:39; Parsons 1963b:245).

The vote, however, is not only, or not even primarily, understood in terms of a collective legitimate political decision on who is to rule, but is commonly interpreted in terms of a symbolic expression of *public support*. For Parsons, this means that the vote is not only coordinated by the

³² Linearity does not mean that legitimate power *increases* with the increase of votes. The linear quality of voting is in itself 'artificially' translated – under the premise of the constancy of the sum of legitimate power – to the *distribution* of legitimate power (Luhmann 1983:176-7).

medium of legitimate power, but must also be understood as an 'exchange' between support and 'leadership responsibility' coordinated by the 'medium of influence' (Parsons 1963b:235,246; 1963a:38). Without getting lost in Parsons' formalisations, we can agree that political leaders in general try to gain office by mobilising (influencing) public support on an ideological platform of some sort, the success of which is thought to find expression in the vote.³³ The leader who 'wins' the office, in other words, not only gains the symbols of legitimate power but is *additionally legitimated* by public (majority) support symbolically expressed in the vote (Parsons 1963a:47,53). The legitimate ruler does not only claim that he has the right to make binding decisions, but that a particular decision – the use of his legitimate power – has the support of the people. In other words, it is not only a legitimate decision, it is the democratically *right* decision to make.

From the perspective of democratic normative ideals of self-government, the electoral majority vote may easily be dismissed as mere *fiction* (see e.g. Scharpf 1970:25-7, 1997:7, 1999:9; 2000b:104). From the perspective of Luhmann's system theory, however, the electoral vote might explain how the political action system can cope with social complexity and problems of vulnerability. We might say that general elections allow for an increase in 'structural indeterminacy', which provides politics more degrees of freedom to absorb social complexity and conflict. Consensus, as the foundation of binding political decisions – whether in the general or parliamentary vote – only seems possible for "very simple systems" and, as Weber has already argued, presumes that "truth manifests itself" (Luhmann 1983:185). As soon as complexity arises – because opinion is structured by different interests and different truths – consensual organisation of will formation seems to run into trouble. Not only might the requirement of consensus, as Scharpf argues, come into conflict with problem solving effectiveness (1970:24; 1999:13; 2006:3), but more importantly, it easily leads to conflicts about truth, questions of legitimacy and problems of order (Bader 2001:150). As such, Luhmann argues that in order to cope with complexity, the will formation process needs to open up to different alternatives, for 'dissensus and consensus', for 'cooperation and conflict' (Luhmann 1983:186).

³³ Parsons' analysis of the electoral sub-system as existing between the political system coordinated by power and the integrative or normative system coordinated by law is so overly complicated that it hardly increases our understanding of the political system. The "capacity to assume leadership responsibility", Parsons argues in cybernetic terms, is not a 'form of power' but of influence, and is the 'real output' of the political system in the integrative system (Parsons 1963b:235,246). Parsons' analysis is confusing to the extent that leadership is 'input' for the normative system, which subsequently must be divided between the "sector of the 'public'" and the legal system, the inter-relations among which remain unclear. To increase complexity, the relationship is also characterised in Eastonian terms as an exchange relation between 'demands' and binding decision as political output (1963b:236, 246). Indeed, his 'double interchange system' seems to mirror Easton's analysis by distinguishing between 'particularised' and 'generalised' support (Parsons 1963b:247). Furthermore, as Parsons seems to (wrongly) think that the 'spending of power' actually means the loss of power, he claims that the power lost in the demand-decision exchange is 'replenished' by leadership-support exchange (1963b:244).

The general vote, in Luhmann's account, is an *organisational means* to deal with social complexity by increasing indeterminacy. The vote increases ambiguity to the extent that the sovereign will of the individual voter, with all its complexities and contingencies, can only be expressed in a very generalised code of voting (Luhmann 1983:166). Although the voting mechanism decreases complexity by being able to symbolise the popular will, its 'actual' meaning remains fairly ambiguous. So, for example, even if two citizens vote for the same candidate for office, they might do so for very different reasons, although this is not reflected in their votes. The electoral vote allows for social conflict to be symbolically expressed in an abstract, depersonalised, decontextualised and generalised distribution of votes. For Luhmann, this means that the vote allows political will formation to become relatively 'autonomous and indifferent' from other social domains (1975:39). The political vote, with its abstract, symbolic and secret nature, in Luhmann's account, partly explains why the political system is able to differentiate itself from other social domains, on the one hand, and why the different 'gods' from all the differentiated systems can nevertheless find political expression, on the other (1983:160,169). Although this is analytically possible, the democratic realists show us that this is in no sense an empirical necessity (see chapter 4). Where the vote is not relatively separated from social roles or social cleavage, social antagonisms are likely to spill over into politics, reducing the possibility of keeping alternatives open (Luhmann 1983:162).³⁴

The ambiguity or indeterminacy of the general vote symbolising public support or the public will allows politics to make *legitimate* binding decisions that are *additionally legitimated* by public support, which, in itself, remains open to interpretation. The vote is, in contrast to Easton and Parsons, not an unequivocal and indisputable input expressing demand or support; rather, it must be interpreted within the political process itself, increasing its possibility to absorb political conflict (Luhmann 1983:165-6). Political conflict is absorbed, it seems, in two respects. First, indeterminacy allows the domestication of the radical potency of democracy, as "the political system can orient itself upon its own storyline" and "sanctions itself" in terms of the popular will (Luhmann 1983:170). Indeterminacy allows elected political actors to *legitimise* binding decisions in terms of democratic norms of popular will and not as a mere expression of power, while at the same time keeping alternatives open. Second, ambiguity about public support – about the will of 'the people' – allows a depoliticisation of social conflicts. Because the political decision-making process is coordinated by two *normative orders*, it means that political conflict over specific decisions, in the first instance, is not about the *legitimacy* of the code of power, but rather concerns disputes about the will of the people – about *legitimation* issues. Ambiguity, in sum, opens up a space for symbolic political actions

³⁴ As an historical example, we might think of the Dutch 'polarisation'. Even in this specific case, however, alternative routes were found – especially through elite consensus – to keep political alternatives open.

interpreting the vote, which allow the *expression* and *performance* of social conflict in abstract and 'distant political domains' instead of in concrete everyday life (Luhmann 1975:95; 1983:171). In other words, indeterminacy allows social conflict to be absorbed into a general *political dramaturgy*.

What separates politics from bureaucracy, then, is that where bureaucratic decisions are additionally legitimated by expertise, politics is additionally legitimated by popular support in the *political theatre*. It is precisely the indeterminacy of this support, expressed in the general vote, which opens up space for political symbolic actions, for dramaturgy. For Luhmann, this means that decisions are especially 'political' if they do not concern setting *goals* for the bureaucracy, but rather that decisions are *means* to gain public support (Luhmann 1966:285). Politics, then, is not just coordinated by legitimate power but also by *democratic rationality*. This does not mean, of course, that politicians do not also try to legitimise their actions and decisions in terms of *expertise*. It does mean, however, that decisions and actions can sometimes be 'political' and at other times 'bureaucratic', if not just an expression of legitimate political power. The boundary between bureaucracy and politics is, as Weber already feared, not an institutional boundary.

Political Will Formation and Party

Political decisions are not simply additionally legitimated in terms of public support but also of the common good. Of course, many normative political theories try to show why the common good should be equalled either with democratic rationality or with expert rationality. In classic liberal representative political models, however, the common good is not expressed by the 'irrationality' of democracy or by bureaucratic experts lacking 'leadership', but rather, the common good is left to the wisdom of representative parliaments. More generally, the common good is supposed to be the result of a rational procedure of political will formation, whether this concerns rational deliberation or institutional checks and balances. These procedures are thought to be rational *filters* upon the tyranny of both sovereigns – the People and the Prince.

The liberal ideal of parliamentarism is based upon the idea that political will formation is structured, on the one hand, by legitimate power – i.e. by procedural rules that bind *collective* will formation but not hierarchical rules that bind the *individual* will – and, on the other, that this process is structured by the morality of the common good.³⁵ To reach a binding decision, the process of will formation is formally concluded by a parliamentary vote. Again, the problem seems to be the demand for consensus, and again the procedure can be opened to social complexity by introducing

³⁵ It might be noted that in Parsons' functional system analysis, he already assumes that legitimate power is legitimated in terms of collective effectiveness, i.e. that forms of power are "legitimised with reference to their bearing on collective goals" (Parsons 1963b:237). This is, however, not a result of media theory but of his functional system theory.

the majority vote in parliament. For sure, this means that it becomes even more difficult to uphold the *liberal myth* that parliament is the locus of political will formation. The binding decision of parliament might rather be perceived as the final “manifestation of the production” (*Darstellung der Herstellung*) of will formation, but not as the actual production itself (Luhmann 1983:175). Will formation can be better grasped in terms of the *political game* in which political actors, within and beyond parliament, try to strategically influence the decision-making process within the given rules of the game (see chapter 4). The game is partly coordinated by legitimate power, but foremost it is a process of bargaining and compromise coordinated by *political influence* based on distributions of power resources (including public support). Although the final decision in parliament is no longer limited by consensual demands and is therefore able to absorb social plurality and cater to different and conflicting organised interests, it seems that it can hardly be legitimated in terms of the common good. It merely seems an expression of *non-legitimate political power* in negotiations behind closed doors, expressing factional rather than common interests. Opening up to complexity, then, makes the will formation process vulnerable, as we normally expect that this process should not merely make legitimate decisions but also yield morally right decisions (Luhmann 1983:184). In my own words, the complexity attained by letting go of the consensus requirement might open up the political process to the *political theatre* – it seems to problematise the politics of the *political game*.

It can be argued that the *will* of an individual member of parliament is not simply expected to be an expression of opportunistic and contingent strategic interests, but is also expected to be generalised and bound by a specific articulation of the common good as it is *symbolically coded in a party*. Parties reduce political contingency. A political party is an extra-parliamentary organisation that, as Weber has already claimed, bureaucratically organises political will formation, gets political candidates into office and demands party discipline in parliament. Legitimate power organised in the party bureaucracy, however, is not the same kind of legitimate power as in the political system in general, even if they might both be integrated by the rule of law. The former’s bureaucratic rules symbolically code their own specific *normative order*, which normally – but not always – includes a more or less coherent and stable party ideology that constitutes a *particular* understanding of the *common good*.³⁶ Every political issue can, in principle, be meaningfully understood in terms of this party ideology; indeed, in terms of right and wrong (Luhmann 1975:57).³⁷ As such, the binding

³⁶ This is not to deny the multi-functionality of political parties (see e.g. Bader 2014).

³⁷ Luhmann claims that these ideologies are themselves a ‘political second coding’ of legitimate power, allowing every ‘political theme’ to be structured in terms of the dichotomy progressive/conservative, which, according to him, is itself not accidentally structured by time (1975:57-8). Although I take over this ‘coding’ of the use and goals of legitimate power in terms of party – and party ideology – it seems that Luhmann falls

decisions of the party leader are not just an expression of bureaucratic legitimate power but are also expected to be the *right* decisions in terms of party ideology. Power holders – both in parliament and government – who are presented as party politicians are expected to be ‘obligated’ to consistency of action in terms of this additional normative legitimation in *party* (Luhmann 1983:187). Party, then, seems to simplify expectations about political actions and to “make the decision-making praxis understandable”, even if it includes interest organisations and takes place behind closed doors (Luhmann 1983:183). As a result, legitimate decisions are not simply expected to be expressive of non-legitimate strategic political power, but also to be additionally legitimated by *party*, i.e. by a specific codification of the common good.

In short, party decreases complexity, on the one hand, as it binds the will of individual politicians, but on the other hand, party also holds the decision-making process open to complexity, to the extent that the political game – the political will formation process – is indeterminately coordinated by both political influence and ideologies of the common good. This additional, if ambiguous, legitimation allows politics to justify its decisions in terms of ideologies of the common good and not as the mere expression of legitimate and non-legitimate power. Party allows the separation between theatre and the game (in my terms), or between ‘public and non-public’ political processes (Luhmann 1983:188). Social conflict is absorbed to the extent that the final decision translates non-legitimate influence in legitimate and legitimated power, and political conflict is absorbed to the extent that opposition, in the first instance, concerns disputes about ideology and not about political power itself. Party, then, not only differentiates the *political game* from political theatre and administration; its indeterminacy also allows the political organisation to absorb social complexity in the guise of political conflict, social plurality and non-legitimate political power. It might be argued that the role of the political party, and especially of ideology in contemporary democracy, is changing or declining (Offe 1984:68,169ff.; Dalton 1996; Katz & Mair 1995; Koole 1996). Based upon the analysis above, it is interesting to question whether this means that collective will formation will lose some of its indeterminacy and ability to absorb social complexity, whether expectations of the common good will be replaced either by democracy or expertise, or whether, instead of party, a different ‘symbolic code’ can be found for the common good (Weber’s proposed leadership qualities may be a possible substitute).³⁸

victim to theoretical aesthetics when he forces party into a duality of progressive/conservative. As many have showed, historically there have been different types of cleavages in party systems

³⁸ Increasing calls for transparency as a moral right might also be interpreted in relation to party.

Conclusion: Indeterminacy and the Problem of Ambiguity

This analysis of the organisation of the political decision-making process in the modern legal democratic state shows how political action at the analytical level of political systems is not solely coordinated by legitimate power but also by expertise, vote and party. These additional legitimations increase the indeterminacy of political decisions. One expects the bureaucrat to make the *right* decisions based upon his expertise and one expects that his actions will be prescribed by hierarchical rules and controlled by his superior. One expects political decisions to be the *right* decisions based upon notions of the common good and one expects that such decisions are the result of political influence, negotiations and bargaining. One further expects political decisions to be the *right* decisions based upon the common will and one expects them to be the expression of legitimate political power. Indeed, we might expect that political decisions are legitimate *and* rational *and* democratic *and* moral.

The political organisation of legitimate decision-making processes is therefore 'indeterminately structured'. It is precisely because a binding political decision is not only expected to be valid in terms of legitimate power, but in addition is expected to be *legitimated* in counterfactual expectations of expertise, vote and party, that the decision-making system can be a flexible indeterminate process that can deal with social complexity, contradiction and conflict. Political decisions are less about legitimate domination and more about making the *right* decision. As such, these additional legitimations allow and necessitate a shift from a focus on the structure of legitimate power to the symbolic legitimation of decisions through argumentation and dramaturgy (Luhmann 1983:152-4).³⁹ Indeterminacy, then, addresses problems of the vulnerability of validity, of legitimate power as a symbolic medium, first, because processes of symbolic legitimation make it easier – though not easy – to satisfy different counterfactual and even conflicting expectations simultaneously or to use different legitimating arguments for different publics, different times and different places. Conflict might be absorbed, second, by distracting conflicts about legitimate power to arguments about the legitimation of power. It forces opposition to argue why the decision is *not* the right one or what would be the right decision, not why power is legitimate or not.

Indeterminacy, then, might solve some of the problems of the vulnerability of legitimate power as a symbolic medium, but it seems that these problems are exchanged for the risk of disappointed expectations and lack of 'security' (*Sicherheit*) (Luhmann 1983:192; see also Parsons 1963a:47). Although we might expect legitimate decisions to be rational, democratic and moral, indeterminacy assures us that we can never be sure. The political decision-making process must continuously uphold counterfactual expectations of expertise and hierarchical control, of specific

³⁹ We are reminded of Weber, who also argues that bureaucracy 'drains' all 'normal sentimental content' from relations of domination (1978:731).

interests and the common interest, of legality and democracy. This is a remarkable achievement indeed and 'a permanent problem', especially as these expectations often *contradict* each other (Luhmann 1983:152).⁴⁰ We might conclude that the problem of conflict is exchanged at the level of social organisation for problems of ambiguity, which cannot be countered by validity (truth) but only by the continuous political *organisation of trust* (Luhmann 1983:193).

5.3.3 The Level of Social Interaction: The Problem of Contingency and Effectiveness

We can also analyse the symbolic medium of legitimate power at the level of social interaction. Symbolic communication structures social interaction in many different ways. One could easily incorporate Goffman's theory of *frame analysis* or *presentation of self*, in which he studies face-to-face encounters in daily life, where not only actors but also the social context communicate normal expectations of social meaning and role differentiation through symbols, signs and artefacts (Goffman 1974; also Manning 1992). Goffman tries to show how, in everyday practices such as walking on crowded sidewalks, we communicate normal expectations through body language that coordinate an otherwise very complex social situation, as it allows strangers to pass each other without much friction or conflict and without much need for specific information (Goffman 1971). Goffman shows that in much day-to-day social interaction, communication of normal expectations is an unconscious process of which we only become aware in situations of *abnormality* or *ambiguity*.

In similar ways, we might try to understand how more specialised languages such as money, law and power not only allow communication, but foremost enable *efficient coordination* of social actions. What makes communication so effective, just as in Goffman's analysis of the sidewalk, is that we *expect* what others will do, without having to know them personally, without having to know their histories and beliefs. In short, communication in these specialised languages is effective because expectations are generalised in the social, material and temporal dimension. Precisely because social complexity is decreased in these dimensions, communication allows actors more 'degrees of freedom' as they are freed from contextual, particular and contingent *knowledge* (Parsons 1963a:40). In media theory, then, the coordinative effectiveness of money, law and power is explained by the fact that it decreases complexity and increases freedom.

We have already discussed how the reflexive organisation of legitimate power increases the 'degrees of freedom' of the sovereign, i.e. that it increases his power in space and time. We can now also perceive that legitimate power likewise increases the freedom of the sovereign's subordinates – bureaucrats or citizens – in general. First, freedom of citizens is increased to the extent that legitimate power binds arbitrary and contingent political will in law. Legitimate power coded in law

⁴⁰ Luhmann, somewhat disappointingly, argues that therefore "ignorance and apathy are the most important conditions" for the functioning of the political system (1983:191).

replaces the 'omnipresence' of violence by 'a regulated present', in which 'future conditions' that initiate violence are known (Luhmann 1975:65). To a certain extent, legitimate power makes the *future* intelligible and makes it possible to avoid force and explicit commands (Luhmann 1975:36). Legitimate power as a symbolic medium does not coordinate social action in terms of command and obedience, but rather by making it possible to avoid power (as force) altogether. Second, the increased freedom of the citizen not only concerns the consistency and reliability of legitimate power, but he actually *gains* power. As the legitimate leader binds his will to legality, we might say that subordinates also gain counterfactual legitimate power – not, in the first instance, political but rather *legal* rights. Law gives "the powerless a share of societal power" (Luhmann 1975:49). Through the legal system and legal judgement, political power can be 'summoned' to act. Law, then, becomes an instrument for the citizens, which allows them to use public power for private use without the need to act politically (Luhmann 1975:95). So, for example, a private economic transaction might be 'secured' in a legal contract that functions both as an *assurance* for the contractual commitment of both parties as well as an *insurance* in case the other party defaults, precisely because a legal contract allows one to summon political power through legal procedure. Through the legal system, the powerless have legitimate power at their disposal.⁴¹ Finally, in a fully rationalised and reflexive political system, citizens and subordinated bureaucrats can also summon power upon power (Parsons 1963b:242). A subject of legitimate domination can claim that a specific decision of the ruler, or even the ruler himself, is not legitimate, i.e. is illegal. Different from domination, such a challenge does not lead to a contest of force, but to a judicial contest of legal truth. In other words, the subordinate can challenge legitimate domination even in the face of superior force.

In general, symbolic media function to *conquer time* and function as *assurances* and *insurances*.⁴² Legitimate power allows the citizen to understand the social world in terms of stable expectations of power generalised in space and time. Subordinates can act meaningfully or rationally in a consistent non-contingent world of power, and, just as with coordination on the crowded sidewalk, *effective coordination* by legitimate power is based upon the communication of non-contingent expectations in the face of social contingencies and complexities (Luhmann 1975:68).

If the coordinative force of legitimate power increases freedom – or decreases social complexity – it seems to come at the expense of two problems: the *problem of contingency* and the *problem of effectiveness*. First, although legitimate power is forced to be consistent, self-referential or socially

⁴¹ This example also shows how autonomous organised power in private organisations is integrated in the political system through the system of law (Luhmann 1975:104).

⁴² This does not mean that different media function in similar ways at this level. For example, if legitimate power conquers time by making the future intelligible, money conquers time by making it possible to postpone decision-making (but compare our discussion of bureaucratic organisation above).

disembedded, it is also inherently contingent, as it can prescribe its own legitimating rules, its own normative code. As such, legal power is both consistent *and* contingent, as tomorrow all rules can be different. Without a doubt, the ability for legitimate power to remain reliable and flexible is the improbable achievement of the modern legal state, in which the contingency of politics is bound to the non-contingent conditions of law (Luhmann 1975:50). Thus, while modern legitimate power might allow us to know the future, it also makes this future inherently contingent.

Second, to depend upon the coordinative effectiveness of legitimate power seems inherently risky precisely because it is merely self-referentially valid (true) and precisely because expectations of legitimate power have become independent from force or actual asymmetric interests to avoid force (Parsons 1963b:237).⁴³ If expectations of power are solely *symbolic* and *counter factual*, there is nothing, it seems, that guarantees its effectiveness. Legitimate power might reduce social complexity, but it seems to come at the cost of its 'intrinsic effectiveness' (Parsons 1963b:250).

This problem of effectiveness must be treated carefully. The effectiveness of power in media theory should not be seen as successfully securing *obedience*, but rather in terms of successful *communication*. It can be argued that Parsons emphasises the former and Luhmann the latter. Parsons tries to explain how the uses of symbolic media "are ways of structuring intentional attempts to bring about results" through inducement, deterrence, 'activation of commitments' or persuasion (Parsons 1963a:42-4; see also 1963b:238). It is about 'getting results', about instrumental 'control' and 'exchange', and not just about 'conveying information' (Parsons 1963a:40).⁴⁴ Media, for Parsons, always have an 'imperative mood' (1963a:42). Luhmann, on the other hand, explicitly tries to free media theory from Parsons' bias for instrumental exchange over communication (Luhmann 1984:319). He understands the effectiveness of legitimate power in terms of successful communication (Luhmann 1975:5). Although communication does not *secure* performance or obedience, successful communication does *structure* actions by limiting "the space of possibilities" (Luhmann 1995:149). Communication concerns the "transfer of reduced complexity" – or the "reproduction of selective performances" – which mutually structures normal expectations upon

⁴³ For Parsons, this is the reason why legitimate power is 'symbolic power' (1963b:238). This might be true, but is nevertheless analytically confusing. It seems better to separate between how expectations of power can be coded in symbols and how expectations of power might be counter factual.

⁴⁴ It is not true that Parsons ignores the idea that media communicate expectations or "the definition of the situation" (Parsons 1963a:40). It might be argued that Parsons' somewhat confusing reading can be explained by the fact that he uses money as the primary example of a symbolic medium and develops other media in direct analogy. The complexity of money, however, is that it is simultaneously a *language* communicating expectations of economic value and a *private property* symbolising expectations of future generalised reciprocity. As Parsons states, money is both a symbolic 'measure of value' and a 'medium of exchange' (1963b:236). To this extent, it can be argued that money as a symbolic medium is rather an exception (Luhmann 1974:238). Luhmann, in any case, warns for 'degeneration' as the result of a too strict method of analogy (1975:64).

which both actors involved can act meaningfully (Luhmann 1975:8,31; but also Parsons 1963b:242). Power as language communicates the 'definition of the situation' or the 'concrete context of departure' in which social action subsequently takes place – it structures but does not determine the result (Parsons 1963b:242, 1953:626; Luhmann 1975:8). Media, to sum up, "must make explicit and plausible that one must act and experience in a specific way, although ... it can also be different" (Luhmann 1975:250). Media can do this "not by validating (*Begründung*) the selection itself" but by replacing contingency with generalised expectations.

The force of coordination does not lie in the fact that communication limits or determines social action, but in the fact that generalised expectations *make social action possible* in the first place. The communication of legitimate power not only reduces social complexity by defining a situation in terms of counterfactual asymmetry, but foremost by defining it in terms of *motivation*. Motivation should not be understood as subjective action orientations – the subjective cannot be communicated – but rather that shared expectations of power make it possible to ascribe motivations to others – socially valid expectations and expectations of expectations of their motives – which makes it possible to expect and even predict others' actions (Luhmann 1975:7). Motivations do not explain why people act but rather how they are normally expected to act if they act. The force of 'normal expectations' can be understood as the 'probability' of normal expectations reinforcing themselves (Luhmann 1975:12; compare Weber 1978:31). Communication is not just about enabling the 'experience' (*Erleben*) of shared meaning but also 'induces action' (*löst Handeln aus*) (1975:74).

If legitimate power only communicates mutual expectations, then the actual coordinating force of power remains inherently *vulnerable*. To put it differently, legitimate power loses its force in case of miscommunication, if an actor refuses to take over the communicated reduced complexity or refuses to communicate at all. Both Parsons and Luhmann are aware of this inherent vulnerability of symbolic media. Parsons, however, refuses to accept the radical consequences of it. In discussing the medium of money, he argues that the *real value* of money ultimately remains tied to the value of gold (Parsons 1963b:240). However generalised and symbolic money becomes, he argues, the intrinsic motivator ultimately remains gold. In direct analogy, this means that the real value of legitimate power remains tied to *force* – force is the 'ultimate deterrent' in the case of communication breakdown (1963b:238). For Parsons, then, force, power and legitimate power are positioned on one single dimension of "means of gaining compliance" (1963b:238).⁴⁵ In Luhmann's

⁴⁵ Parsons' analysis of the effectiveness of legitimate power at the interactional level is somewhat confused. Parsons seems, on the one hand, to limit the use of power to the 'strategy' of coercion, based upon the 'intrinsic' motivation of 'situational' negative sanction (1963b:238-9). Indeed, as Parsons notes, "[t]here is a sense in which power may be regarded as the generalized medium of coercion" (1963b:240; see also

analysis, in contrast, force, power and legitimate power are no longer posited in one single dimension as they communicate different meanings. For Luhmann, the 'real value' of money lies in its capacity to communicate expectations and motivations. It depends upon expectations that anonymous others accept its value, i.e. that they understand the language and accept its meaning. It does not matter whether money has 'real' value; what matters is that it allows us to act *as if* it has value. Value, then, depends upon mutual confidence or trust (Parsons 1963b:237, 1963a:47). This is not different for the 'value' of legitimate power– it is purely symbolic.⁴⁶

The coordinative force of symbolic media is thus inherently vulnerable. For Luhmann, this means that to understand the coordinative force of legitimate power we must not merely analyse how we should understand communication of legitimate power as a language, but foremost analyse how this inherent vulnerability of communication and symbolic media is *organisationally* dealt with (Luhmann 1975:85). In other words, because expectations of legitimate power are no longer dependent upon contextual contingencies, its effectiveness becomes contingent. Precisely because expectations of legitimate power are generalised, power can be used to *control* the risk of ineffectiveness through organisational *techniques*. Ineffectiveness becomes a 'risk', but a risk that becomes visible and, as such, controllable but not solvable (Luhmann 1975:83).

To understand the effectiveness of symbolically communicated expectations of legitimate power, we should not so much explain command and obedience, as in Weber, but rather the institutional organisation of communication and *trust* (Parsons 1963b:237). Force as the 'ultimate deterrent' or organisational structures of bureaucratic control and accountability, in this regard, do not so much explain effective obedience by 'intrinsic motivation' as they explain confidence that others are motivated to accept the validity of counterfactual power. They must be understood as *sources of assurance* through which we can expect that legitimate power also motivates others, including the sovereign himself, increasing *for all* the freedom to act meaningfully in non-contingent space and time. The point is that obedience is *normally expected*, while disobedience becomes an *abnormal* act, which can be expected to be organisationally controlled and forced to face justice (Luhmann 1974:251). Threat and force are not so much used to motivate obedience by limiting the

1963a:44). On the other hand, Parsons is also aware that the effectiveness of legitimate power cannot be reduced to threats and force, and as such rests upon the mobilisation of commitments (1963b:250; 1963a:42). Parsons, we might conclude, remains tied to a Weberian social action perspective of politics as domination.

⁴⁶ It might be noted that Parsons, again, overstretches the analogy between money and power, though also misunderstands it. In terms of the former, Parsons claims that 'symbolic power' can "be exchanged for something intrinsically valuable ... namely compliance with an obligation" (1963b:238). Although that leaves the 'recipient' with "nothing of value", he can expect that in another context "he can invoke obligations" from others. In terms of the latter, Parsons seems to claim that confidence in money parallels legitimacy in power. Rather, a direct analogy would yield that the effectiveness of counterfactual power also depends upon confidence.

alternative actions of subordinates, but to sanction illegality and reassure the normative order. In other words, disobedience, not obedience, is the act that has to be explained.

The coordinative force of legitimate power is not so much about the *use* of power – i.e. not about command and obedience – as about structuring the expectations that enable social interaction, i.e. about communication. Nevertheless, legitimate power is, of course, especially in a bureaucracy, also about legitimate domination. Power is being used. In contrast to money, legitimate power inherently entails asymmetric expectations, a fact which seems to make its actual ‘use’ especially vulnerable.⁴⁷ We might now perceive that the additional legitimization of legitimate power through expertise, but also through vote and party, counters expectations of *unequal asymmetric interest* with expectations of *equal symmetric interests* present in rationality, public support and the common good. Increased indeterminacy also increases the probability of the effectiveness of the use of power by absorbing its inherent conflictive or unequal nature. Indeterminacy increases effectiveness.

In conclusion, at the level of social interaction, we foremost try to understand the coordinative force of legitimate power in terms of increased freedoms by successful communication and how political organisation must address the accompanying risks of contingency and ineffectiveness. It seems that these risks must be kept in check by the *organisation of trust*.

5.3.4 The Level of Personal System: The Problem of Individuality and Risk

Finally, we can discuss the analytical level of the individual person. It must be noted that where we discussed ‘meaning’ and ‘motive’, these are all objective social expectations communicated and organised in terms of symbolic media. They do not concern *subjective action orientations*. Luhmann is outright hostile and dismissive about the ‘subjective’ and wonders why it ought to be included in theory at all (1973:21). In light of our general aim to understand the subjective normativity of political legitimacy, we might wonder why Luhmann is so keen to do away with the subjective altogether.

The problem of sociology, according to Luhmann, is that it never really produced a theory of *individuality* but only a theory of *individualism* (1995:129). Sociology foremost analyses the problem of individualisation in relation to modernisation processes such as detraditionalisation or increasing social differentiation. This analysis yields two kinds of theoretical problem, as the problem of individualism is foremost understood as a problem of order and the problem of social differentiation is thought to problematise individuality (Luhmann 1995:132). Concerning the latter, if the individual is to perform all kinds of differentiated roles, his individuality can no longer be expected to be

⁴⁷ But we should not deny that the use of money also entails expectations of different and competing interests.

prescribed by a stable social position or status, as seemed to be the case in segmented or stratified societies. With the rise of social differentiation, then, Luhmann signals the rise of the 'semantic of the subject' in the history of thought, i.e. the idea that if individuality can no longer be found in the social, it must be found outside the social in the individual himself, in his subject (1995:127). In short, behind the 'masks' put on in different social roles, it is expected that a 'real' identity is hiding (Sennett 1977:264). For Luhmann, this idea of a true *subject* is a 'fiction' (Learmans & Verschraegen 2001:112). The individual will fail to find true meaning by understanding himself in terms of himself. Such reflexivity, as always, does not find a true core but merely constitutes a self-referential – or autopoietic – process (Luhmann 1995:136). Luhmann, therefore, dismisses sociological theories that not only try to understand the subject in terms of 'originality', but especially those that aim to understand it as something that can and ought to be 'emancipated' from the chains of society (Luhmann 1973:21-3; 1977:32).

Luhmann is, of course, not the only sociologist to unmask the myth of unmasked identity. His problem with sociology therefore also concerns that other *theoretical* problem of individualisation: the problem of order, stability or solidarity. He foremost dismisses theories that, inspired by Kant's idea of 'transcendental subjectivity', claim that the self-reflexive individual will not so much find a true and individual identity, but that *universal humanity* can serve as the moral basis of society (1995:128,157-9). For Luhmann, society or communication is based upon the idea of double contingency and the non-communicable nature of 'subjective' meaning. To find the universal – the perspective of the other – inside the subjective is to deny the contingency and complexity of the social altogether. Luhmann, in general, scorns all theories that use the subjective realm as a kind of theoretical 'escape', i.e. use the subject as a 'utopian' realm in which *non-social* freedom and autonomy explain what the theorists cannot explain (1973:21; 1995:162).

Instead of finding the solution for the problem of order in the subjective or trying to emancipate the subject from the social, Luhmann argues that we should understand the relation between the social and the individual not as a 'zero-sum relation', but rather perceive that societal complexity increases individual freedom (Learmans & Verschraegen 2001:114). In fact, he argues that only Durkheim seemed to be sensitive to this solution by turning this relation 'upside down', i.e. the individual does not explain the social but the social explains the individual (1995:129). What sociology needs, according to Luhmann, is not a theory of individualism but a *theory of individuality*.

An individual human, according to Luhmann, should be perceived in terms of two self-referential systems – the psychic and the organic – that are not genuinely communicating but only 'structurally coupled' (Luhmann 1995:144,152; 1974:252; Learmans & Verschraegen 2001:116). Both systems are autopoietic, which means that they are coordinated by self-reference. The psychic

system, we might recognise, concerns the realm of 'consciousness' or, in our Weberian framework, subjectivity (Luhmann 1973:23). Precisely because the individual consists of self-referential systems, this means that it is *excluded* per definition from society (Luhmann 1995:167). This seems to be the reason why Luhmann thinks that Weber's action theory cannot yield a genuine sociological theory, as the *subject* is both outside society and "too concrete for sociological theory" (1975:5). In Luhmann's theory, the subjective is non-communicable, non-social and belongs to an actual concrete individual.

Luhmann must, of course, explain how the individual outside society is nevertheless included in the social. Symbolic media at some point must relate to the organic psychological individual. In his early work, Luhmann tried to understand this relation in terms of 'symbiotic mechanisms' and the 'prohibition of self-gratification' (1974). The former concept points to the relation that must exist between social media and the organic system.⁴⁸ Force, in this contexts, remains important as it 'mediates' between the symbolic level of social interaction and the 'material level' of human existence (1975:61).⁴⁹ The latter concepts connotes the idea that the individual must be forced into society by assuring gratification only through the 'detour of social communication'.⁵⁰ However, even if these two mechanisms explain why the individual cannot escape the social entirely, it hardly amounts to a theory of individuality in modern society.

In later work, when Luhmann more clearly developed his theory of autopoiesis, he claimed that if the individual or the subjective cannot really be included in the social – as no genuine communication is possible between the subject and social systems or between two subjects – it can nevertheless be included to the extent that we can communicate in the social realm *about* subjects (Luhmann & Verschraegen 2001:121). This seems to allow two kinds of mechanism: the social presentation of self and understanding oneself in terms of social knowledge. Luhmann first differentiates between the *person* and the *subject*. The person, based upon the work of Goffman, concerns the social presentation of self (*Selbstdarstellung*). Person or 'identity', then, is something the individual must constantly manage and uphold in social interaction, despite all his different roles

⁴⁸ This means for Luhmann that truth is related to the organic process through 'observation', love through sexuality, money through 'satisfaction of needs' and power through 'physical violence' (1974:247). A similar idea is also present in Parsons, who sees the person as "a system of four basic need-disposition units" (1953:628).

⁴⁹ Both Luhmann and Parsons point out that in the analogy to money, the means of motivation can be subject to 'inflation', as in the case of the 'empty threat' (Luhmann 1975:89; Parsons 1963a:62; 1963b:256). However, this must be correctly understood. Threat is not the foundation of legitimate power. Luhmann rather claims that as violence 'cannot be ignored' by humans based upon their 'physical organic existence', this 'shared symbiotic foundation' explains why we can ascribe valid expectations of motivation to others (Luhmann 1975:61-3).

⁵⁰ In relation to truth, love, money and power this concerns the prohibition of respectively 'subjective evidence' or 'introspective certainty', 'masturbation', autarky and the direct use of violence to pursue one's will or feelings of justice (Luhmann 1974:247).

in different social situations. Person, for Luhmann, is a social claim of being 'different', of being an individual, which must constantly be communicated and accepted in the social realm (1995:148). Being an individual person, then, is an *intersubjective* achievement, communicating meaning and motive (Goffman 1974:58; Luhmann 1964:20). Self-presentation not only achieves individuality but also assures that the individual commits to his self-presentation, making communication possible in the first place (Luhmann 1995:152; Parsons 1963a:40-2, 1963b:240). Secondly, person relates to the subjective self-referential system to the extent that the subject can only understand itself in terms of itself – in terms of its own (fragmented) *experiences* (Luhmann 1995:135,153). To put it differently, self-reference means being conscious of one's history of consciousness (Luhmann 1995:135; Learmans & Verschraegen 2001:117). The importance of personal history and subjective experience seems to open up Luhmann's theory to a Foucauldian analysis in which social practices provide the knowledge for the subject to use for processes of 'self-formation' and 'subjectification' – reflexive processes in which the subject makes itself an object of investigation (Rabinow 1984a:11-2). Indeed, Luhmann argues that without these social components – without social 'resistance' – a self-referential system would become highly contingent (1995:133). However, differing from Foucault, Luhmann seems to stress the importance of societal structures beyond practices, and foremost the *plurality* of modes of self-management (Learmans & Verschraegen 2001:115,125). Nevertheless, Luhmann seems to agree with Foucault's claim that subjectivity should be understood as reflexive 'self-knowledge' (Foucault 1982:781; Rabinow 1984c:387).

Is Luhmann's hostility towards the subjective justified on these grounds? The mere fact that the subjective is self-referential or merely symbolic does not justify, it seems to me, the ironic dismissal of the problem of individual meaning. We might agree that modern quasi-religious attempts to find one's true self are destined to fail – as Weber has already taught us – but it does not justify denying the individual need for meaning altogether, the need for some form of self-justification in Weber's words (Luhmann 1995:136). It does not suffice that Luhmann points out the social constructivist nature of subjectivity and *therefore* dismisses it as irrelevant. The need for subjective meaning and validity (truth) is all too real for *theory* to dismiss its *empirical* relevance. Furthermore, if Luhmann argues that the subjective cannot exist per definition in his analytical framework of autopoiesis because every system – including the psychological – is a form of communication, and as a consequence is not subjective but intersubjective (between Ego and I?), we seem to get caught in theory for theory's sake (1995:170). It implies that every self-referential system – whether social or individual, psychological or organic – is a subject. In that case, we might agree that the concept of subject no longer makes sense or is intelligible. However, it is one thing to criticise the sociological

use of the subjective as some realm of universal morality, and quite another to dismiss the moral notion that the individual subject is a *special kind* of system (Luhmann 1995:148,164). Not only does this deny our own experiences and make the world rather unintelligible, but its normative consequences seem to deny the possibility of any genuine critical theory. Luhmann's hostility towards the subjective, in this regard, might be explained by his misunderstanding of morality, as if morality only connotes some universal and 'thick' ethics conflicting with his notion of social differentiation – a form of demodernisation (Bader 2001:148).

Luhmann's analysis can, however, also be read as a welcome addition to Weber's work. Luhmann shows why the problem of validity (truth) or the *Abschlussproblematik* can neither be solved at the most abstract level of value sphere nor at the level of the subjective. Both are self-referential processes that only *symbolise* validity. This, of course, does not deny Weber's work. Weber did not try to find validity in the subjective, but rather tried to explain the relation between subjective beliefs and social practices. Subjective validity is a social process. Furthermore, Weber was more than aware of the self-referentiality of subjective meaning – of duty for duty's sake. What Weber did not problematise, and what Luhmann continues, is not just the problem of validity (truth) in an increasingly reflexive and rationalised world, but also the problem of validity (truth) in an increasingly differentiated world. Although Weber is, of course, aware of the existence of different value spheres and how this might lead to political conflict, he is less concerned with the conflicts this brings at the individual level. Luhmann is more open to *the complexity of personal self-management in a differentiated society*. This complexity cannot be solved in one single social form of self-discipline. As such, Luhmann's analysis is more open to plurality and social complexity, which cannot be solved through individual subjective validity but only at the level of social organisation.

This means that Luhmann – at the analytical level of individuals – is less concerned with the origin of subjective orientations, and more with the relation between the individual and the social. Luhmann tries to show how individualism, individuality, plurality and conflict is not in inherent opposition to society, but rather a consequence and precondition of social complexity (Bader 2001:133-4). Analysis on this level therefore points out individual risks in relation to processes of social communication, rather than social risks in relation to processes of individualisation.

I cannot provide a detailed analysis of individual risks in complex differentiated societies at this point. We might, however, perceive that the problems identified so far at the other three analytical levels provide a general starting point. At the level of value sphere, the main risk concerns the problem of validity (truth), which translates at the individual level to the problem of meaninglessness. For Luhmann, this 'burden of reflexive self-determination' must be solved by society providing meaningful 'templates' for individuals to copy (1995:133,140-1). It seems to me,

however, that Weber's analysis of self-justification might be more fruitful at this point. At the level of social action systems, we identified how the problem of conflict is absorbed by increased ambiguity. This ambiguity, however, not only absorbs social conflict, but also seems to *individualise* actual conflict as well as risk. The former points to the general tendency of depoliticisation, which transforms potential social conflict into an individual and isolated conflict (Luhmann 1983:112). The latter points out that ambiguous expectations might absorb conflict or contradictions, but also burden the individual with the decision of whether or not to trust decisions – e.g. whether or not a certificate of food safety expresses expertise or mere bureaucratic power. Ambiguity increases feelings of insecurity. Finally, at the level of social interaction, we can say that the problem of contingency and the effectiveness of social media increase individual uncertainty. Indeed, the risks involved often do not concern the social validity of legitimate power but rather individualised risks – it is the risk that others will act in contrast to communicated expectations (Luhmann 1974:251). This becomes even more apparent in the inherent risk of contingency of legitimate power, i.e. the risk that tomorrow the rules might be different. Finally, at the level of social interaction, we might also situate the risk of inappropriateness and the risk of social commitment, i.e. all those risks associated with problems of self-management in complex everyday life.⁵¹

What Luhmann's analysis points at is therefore not how the validity of legitimate power might be grounded in the subject, but how individual risks in a complex society must somehow be dealt with, either by the individual himself or at the levels of social organisation. The individualisation of risks, we might perceive, is only a *social* problem to the extent that a lack of *trust* in the social validity of symbolic media threatens social organisation, threatens the reduction of complexity. The social problem of individual risks thus once again points to the *social organisation of trust*.

5.4 Conclusion: Risk and Trust

In this chapter, we have tried to understand how politics as coordination might be grasped in terms of symbolic media theory, i.e. in terms of communication in a specialised language. The conclusion of this analysis must be that the political system is *suspended in mid-air*. The validity (truth) of legitimate power can neither be solved at the highest level of analysis with some absolute truth, nor at the lowest level through subjective validity. At both extremes, validity (truth) can only be

⁵¹ To speak the 'right' language is context appropriate. One cannot buy love or friendship, for example, because these relations are not coordinated by money. Such inappropriateness breaks *normative expectations*, which are not communicated by the symbolic media themselves but depend, according to Luhmann, upon a 'process of meta-communication', founded in 'tacit understanding' (1975:249). It seems, then, that to understand social action, our analysis must go beyond symbolic media and include lifeworld communication (see chapters 7 and 8). The risk of inappropriateness, in any case, increases with the increase in ambiguity and indeterminacy.

understood in terms of symbolic self-reference. The problem of validity must therefore be dealt with at the 'middle levels' of social organisation and interaction (Luhmann 1977:46).

Validity in Luhmann's media theory is no longer about validity (truth) but about social validity, and the question of how this social validity can be *organised*. This seems to be the reason why Luhmann ultimately dismisses *action theory*, as it is not subjective orientations that explain social action but rather the successful communication of objective motives (1983:29-32). Luhmann, in other words, tries to explain how legitimate power – or any symbolic medium – can effectively coordinate social action *independently* of subjective orientations. It is to this extent that we can understand social systems as the essence of Weber's 'iron cage'. Validity (truth) is no longer important, as the political system has become entirely symbolic. It does not matter whether or not subjects believe in the validity (truth) of legitimate power, it only matters whether people can coordinate their social actions *as if* legitimate power is valid (true). Validity of legitimate power is thus reduced to social validity.

As a conclusion, we might ask ourselves two final questions. First, to what extent is this dismissal of validity (truth) empirically sensible? Even Luhmann wonders whether 'totalisation of reflexivity' can sustain motivation (1974:253). He seems hesitant to give up a 'meaningful life' altogether and argues that it must at least always be held open as a possibility, "as an indeterminate horizon of further explorations" (1995:141, 1977:32). The problem of Luhmann's theory, in this regard, is that he not only *separates communication from action*, but also treats this model of communication as an empirical reality. This means that when Luhmann speaks of 'the' political system or 'the' market, we might empirically perceive different *kinds* of democracy, bureaucracy and capitalism (Bader 2001:143; Offe 1984:182). In this regard, the contemporary fact that 'the' political system is still characterised by segmentation in nation states, despite forces of globalisation, should also temper firm beliefs in the functional and universal force of social evolution. More importantly, precisely because persons, but also organisations, are *acting* in multiple systems simultaneously, an action perspective allows more analytical room for interactions and even coordination *between* systems, without denying the self-referential nature of symbolic media as such. Actions, it is important to acknowledge, are not as differentiated as communication (Bader 2001:142). Moreover, we can seriously question whether social systems coordinated by money, law, power and truth cover the whole scale of meaningful social actions. In chapter 8, I will argue that, in addition to system communication, we might also understand social action in terms of lifeworld communication. In sum, Luhmann's separation of communication and action opens up interesting possibilities for analysis, but an action perspective seems to allow more plurality and variation that seems empirically relevant.

The second question concerns the consequence of the dismissal of *subjective validity* for the general question of this dissertation. The difference between politics as domination and politics as coordination, as we have seen, is that the latter does not aim to determine social action but merely to coordinate it by communicating expectations and motivations and “condition[ing] the probabilities of acceptance and rejection” (Bader 2001:140). The core question becomes the social or objective validity of legitimate power and not its subjective validity (truth). However, we have also seen that coordination, understood as the reduction of complexity, is inherently *risky and vulnerable*. The risks of ambiguity, contingency and ineffectiveness, at the intermediate levels of analysis – at the levels where validity must be organised – must be addressed. These risks cannot be solved but must be countered, it seems, with the *social organisation of trust*. In other words, Luhmann replaces the problem of validity (truth) with the general problem of trust. In the chapter that follows, I argue that it is precisely the notion of trust that entails a *subjective normative quality*. Even if legitimacy is purely understood as objective social validity and not in terms of truth, complexity, risks and vulnerability might nevertheless explain subjective normativity.