UvA-DARE (Digital Academic Repository)

Four faces of political legitimacy: An analytical framework

Netelenbos, B.

Publication date
2014

Citation for published version (APA):
Netelenbos, B. (2014). *Four faces of political legitimacy: An analytical framework*.

Politics is not just about the communication of legitimate power, it is also about a specific form of communication: argumentation or reasoning. Already in the classical normative theories it is argued that the common good, common interest or morality can be found and revealed through rational deliberation. In Madison this function was attributed to wise men of property representing the public in parliament (see chapter 2). Their deliberation should not be seen as the aggregation of specific interests through the art of compromise, but rather as a search for common ground; a search for rational consensus that prescribed that representatives ought to be relatively shielded but not isolated from the pressures and demands of their emotional electorate. Parliament did not represent different *factions* but the *public* as a whole. Argumentation among public representatives was supposed to make room for a different kind of rationality as opposed to the strategic rationality of the market – a different kind of political rationality with inherent validity. Rousseau, of course dismissing representation, similarly tried to validate political decisions in the common will revealed through deliberation. His form of deliberation by the sovereign people, as we have seen, was not so much *in public* as a solitary deliberation with the *public in mind* after which the genuine common will was revealed through majority voting. Deliberation is to take the perspective of the public. Although his model burdens the moral and rational capacities of individuals, it is clear that he also tried to find a different political rationality isolated from corrupting *private* strategic interests. Finally, in Kant's theory of morality this specific kind of rationality was formalised as *public reason.* But in Kant's work public reason was no longer a political action but politics had to be subjugated by means of formal law to a universal morality revealed by public reason. In other words, public reason had to be isolated from political strategic action.

We might point to many more theorists concerned with public reason or argumentation and we might agree that some claim public reason to be an accomplishment of individual moral reasoning while others claim it to be an achievement of the political process of public argumentation itself – a difference between public reasoning and reasoning in public. But altogether political legitimacy seems to be based upon a specific kind of public rationality that seems vulnerable and in need for shelter over and against individual or factional strategic interests that threaten to dominate it. Public reason, in this regard, is a principal prodigy of the Enlightenment which aimed to organise a just society upon universal Reason over and against the *private* interests of traditional and *irrational* powers of Prince and Church. Weber has taught us, however (see chapter3) that the end result is not just the emancipation of politics from irrational tradition but also the emancipation of *politics from*

morality. Politics is the endless 'warring of the gods'. Politics is strategic conflict, not reasoned consensus. Modern organisation of representative democracy, it seems, is not about the rationality of public reason but about the rationality of the market place – about strategic rational conflicts between competing factions. Political legitimacy, then, is not based upon a rational consensus arrived at by public reasoning, but organised and mobilised in a political theatre of emotional public acclamation (see chapter 4). If anything, political argumentation seems to be a strategic instrument for appealing to the audience, to mobilise support through symbolic actions expressive of legitimizing meaning. There seems little room in political action for a validating rationality of public reason.

Yet, despite this bleak Weberian picture in which modern man is stuck in a disenchanted rational cage, the promise of a different kind of rationality to be found in public argumentation nevertheless has continued to attract immense scholarly attention. One reason for this attention, it is safe to say, is the work of Habermas. His work is generally perceived as standing in the tradition of the *Critical School* or the *Frankfurter Schule.* His famous predecessors, such as Benjamin, Horkheimer and Adorno, clearly struggled with the legacy of Weber. The central question they pursued is how Weber's discovery of the rationalisation process of modernity – understood as the instrumentalisation of society – related *historically* with the promise of emancipation and freedom inherited either from the Enlightenment, modernity or Marxism. The '*Leitmotif'* of Critical Theory is the ideal of a "community of free men" (Horkheimer 1972:217; Honneth 2005: 344). It seemed that with the demise of the class conflict there was no longer any historical carrier of a different counter-rationality, commanding a search for a different socially viable form of critique (Horkheimer 1972:213-4). However, in the process – and in the shadow cast by the terror of Fascism – reason itself was unmasked as mere myth (Adorno & Horkheimer 1997 [1944]; Boomkens 2009). Even culture or 'autonomous' art no longer seemed to provide an alternative rationality – let alone politics (Adorno 1975:13; Benjamin 1999:732; 2002:103). Indeed, the 'cultural industry' coordinated by techniques and 'economic and administrative concentration' diminished culture to mere depoliticised mass consumption and a means of 'anti-enlightenment' reifying the status quo (Adorno 1975:12,18). As Weber already concluded, there is no longer any escape possible from the iron cage. Culture becomes a 'commodity' and social action merely *instrumental for system maintenance* or, in Easton's terms, system survival. If even resistance itself becomes functional of system maintenance, then society, in Marcuse's words, has become 'one-dimensional' (Marcuse 1964). Indeed, if rational critique is no longer historically present in social action itself, it can only take the form of abstract and politically irrelevant philosophy (Marcuse 1964:xii). The future promises a "relapse into darkest barbarism" (Horkheimer 1972:241).

This intellectual pessimism of the philosophical wing of the First Generation of Critical Theory is the background from which Habermas has built his work. Habermas, on the one hand, shares with his predecessors their worry about the dominance of political and economic system-rationality and the pathological social consequences thereof (Habermas 1975, 1984, 1987, 1989, 1996). But where his predecessors could no longer find a solid point of reference with which to understand or critique this 'social pathology of reason', Habermas tries to provide exactly that (Honneth 2005:338). The alternative rationality might no longer be historically appropriated by an emancipatory class – either the bourgeois public or the labour movement – it is nevertheless still historically present in a specific type of social action: *communicative action* (Habermas 1984, 1987). Communicative action and public argumentation hold the kernel of an alternative rationality that could – and for Habermas *ought to* – provide the foundation for a critical project to 'rationalise' modern society in order to 'finish the unfinished project of modernity' (Habermas 1997). The political system is legitimate to the extent that its norms and validity claims can be 'discursively redeemed' (Habermas 1975:10; 1984:19; 1996:135), i.e. when the instrumental rationality of systems is validated in communicative rationality.

The attention Habermas' work has received in the field of politics-as-argumentation confronts us, however, with some serious complexities. In this chapter I will understand this field from the analytical framework I have been developing in this thesis. This means that I understand political argumentation from a sociological point of view in order to analyse how and where political argumentation might yield subjective normativity. However, Habermas' critical sociology – as is all critical theory – is a mixture of normative, empirical and analytical claims. Not only must we be attentive to the boundary between how it *is* and how it *ought to* be – i.e. between empirical and normative claims – but also to the boundary between how it *is* and how it *could* be, i.e. between empirical and analytical claims. This is not an easy matter as critical theory precisely tries to do away with the rigidity of these boundaries. Indeed, the literature on political argumentation in general is so inherently normative that even many empirical studies seem of little help. What we need, then, is a *sociology of political argumentation*. What I present in this chapter and the next is a preliminary attempt to offer some important analytical building blocks for such a sociology. With it we can analyse a final face of political legitimacy – the legitimacy of politics as argumentation.

7.1 The Deliberative Model of Political Argumentation

If we are in need of a sociology of political argumentation, we need to gain an understanding of what political argumentation *is*; how politics and argumentation relate. A first obvious starting point would be the theory of *deliberative democracy*. Despite the 'coming of age' of deliberative

democratic theory the field is still very much divided (Bohman 1998:401). Indeed, it might be difficult to speak of a single theory at all (Marti 2006:27). Nevertheless, what all deliberative theories seems to share is the idea that argumentation – or deliberation – should be the basis of a specific form of *political decision-making* that is more rational and legitimate than other opposing democratic decision-making procedures.

Deliberative theory, then, makes a specific *epistemic claim* that politics as argumentation is a superior *means* to arrive at rational and legitimate binding decisions (Bohman 1998:401; Bohman & Rehg 1997:ix; Marti 2006:42). Although some deliberative theorists argue for non-epistemic models of deliberative democracy, it seems to me that this epistemic claim is inherent to deliberative theory because it explicitly understands itself in critical opposition to instrumental, strategic, objectivist or utilitarian means of decision-making (Bohman 1998:400; Dryzek 1990:3-4, Marti 2006:28).[1] Deliberative theory claims that argumentation is epistemically superior to voting – where decisions are structured by the aggregation of private preferences and the market force of number – and bargaining – where decisions are structured by the distribution of interests, power and resources (Bohman & Reg 1997:xi; Elster 1997:12-3; Habermas 1996:140).

The epistemic superiority of argumentation – i.e. of deliberation as a decision-making process – is sometimes described in terms of 'problem-solving capacity' (see e.g. Dryzek 1987, 1990:57ff.) but more often it is understood in terms of legitimacy.[2] Deliberation is superior because in ideal circumstances it yields *binding decisions* that are, and are seen to be, in the *common interest* and which are, as a consequence, inherently legitimate. Importantly, legitimacy or the common interest is not so much *revealed* in an argumentative process – i.e. the right decision is already metaphysically present merely awaiting recognition as in the theories of Rousseau or Rawls (see Manin 1987:348) – rather this common interest is formed and produced through the process of argumentation itself; ideally expressed in the form of a rational consensus (Cohen 1997:75,83; Cooke 2000:948; Habermas 1984:392). Deliberation is transformative as it can change *private* preferences, opinions and beliefs towards the public good in the process of argumentation. Politics as argumentation, then, is epistemically opposed to input- and output-legitimacy based upon utilitarian standards of justifications or 'epistemic populism' (Cohen 1986:34; see also chapter 4). As such, we might call deliberation a form of 'throughput-legitimacy'.[3]

---

[1] In proceduralism the source of legitimacy is the procedure itself (Cooke 2000:950). Pure proceduralism, as Estlund forcefully argues, is difficult to rime with this critical position as a coin-flip might be procedurally valid and fair but hardly satisfying for claiming *superior* political decisions (1997:176). Epistemic models, then, appeal to something more than mere procedure.

[2] Next to legitimacy and the 'quality of decisions' deliberative democracy is supposed to increase 'public-spiritedness' and 'mutual respect' (Papadopoulos & Warin 2007:454).

[3] Throughput-legitimacy, in this context, is *not* merely understood as procedural fairness (Papadopoulos & Warin 2007:450). Procedural-legitimacy connotes the idea that we must accept the outcome of a procedure as

The complexity of deliberative theory, it seems to me, is that, on the one hand it lumps together deliberation as political opinion-formation and deliberation as political decision-making[4], while on the other hand, its epistemic claims forces a differentiation between the actual process of deliberation – deliberative action – and the legitimacy of that process – deliberative rationality. In what follows, I will first show how these two positions are unhelpful for building a sociology of political argumentation and, second, how our understanding of political argumentation broadens if we let go of both these positions.

7.1.1 The Problem of Epistemic Rationality

Political decisions are legitimate "if and only if they could be the object of a free and reasoned agreement among equals" (Cohen 1997:73). Legitimacy, validity or 'truth', then, concerns the common interest or *rational consensus*. Legitimate politics is, similar to classical moral theory, domination-free if decisions are based upon rational consent or at least if no one can 'reasonably reject' these decisions (Bohman 1998:402; Habermas 1984:19). The process of deliberation is needed in order to: a) guarantee that a consensus is *reasoned* – not 'false' – and b) in order to *produce* consensus, i.e. to transform preferences and opinions. According to Habermas such epistemic procedure is at least possible in a counter factual 'ideal speech situation' where only the 'forceless force of the better argument' structures deliberation (Habermas 1984:25, 1999:332; Cohen 1997:73; Outhwaite 1994:40). Political argumentation can take on this epistemic function precisely because it forces actors to take a 'public perspective' and to argue in terms of collective interests in order to be persuasive for all (Cohen 1997:76; Dryzek 1990:15; Marti 2006:31; Rawls 1997:766; Habermas 1987:72, 1984:19).[5] Nevertheless, it demands not only ideal procedural norms – such as formal and substantive equalities and freedom or autonomy – but also that the actors are willing to reflexively examine their own beliefs and opinions – willing to exclude "all motives expect that of cooperatively seeking truth" – and that they are willing and sincere to enter into

---

legitimate because of the procedural norms that structure the process – e.g. freedom, equality or accessibility. Deliberative-legitimacy, however, (additionally) claims that the outcome of the process is true, rational or legitimate (Risse & Klein 2007:73). We should be careful, however, to equal this difference with a difference between *form* and *substance* as some deliberative theorists seem to argue (e.g. Cooke 2000:952). Not only might we perceive that deliberative legitimacy is often a combination of throughput- and output-legitimacy and 'democratic legitimacy' a combination of input and throughput (Bader 2010:263), also the idea of pure procedure is untenable. The idea of 'morally neutral' procedure, as is the goal of many liberal theories, is often 'a dangerous myth' (Bader 2007:82). As such, there are more options than merely choosing between 'neutral' and 'epistemic' procedure, or between form and substance, as, for example, Bader's defence of "minimalist morality of decent and liberal democratic practices" (2009:111; 2007:110).

[4] Indeed, in Rousseau's account deliberation *means* decision (Manin 1987:45).

[5] For Habermas, rational consensus is "inherent in the telos of human speech"(Habermas 1987:287; 1996:4; Outhwaite 1994:28-9; Alford 1996:754).

argumentation with the "presupposition that a grounded consensus could in principle be achieved" (Habermas 1984:19; see also McCarthy 1992:60; Dahlberg 2005:127).

Much has been said about this normative ideal of reasoned consensus which I will not try to repeat here. I just want to show that this specific norm of rational consensus is unlikely to structure political argumentation perceived from an action theoretical perspective. The point, then, is not to debunk the epistemic claim of deliberative democracy on normative grounds, not even to claim that its norms cannot be socially valid, but merely to show that it unnecessarily limits our perspective on the meaning of political argumentation.

First, models of public reason tend to be fairly hostile to *politics in general*, to political conflict, partisanship and political parties (Bader 1999:617-8, 2009:130-32; Muirhead & Rosenblum 2006:100; Rosenblum 2007:26, 2003:44). Especially Rawls' model of public reason can be charged with this accusation. In contrast to Habermas, Rawls' starting point is not reasonable agreement but reasonable disagreement. His well-known concept of 'overlapping consensus' does not so much connote some category of values we can all agree upon but rather a shared 'category of reasons' (Muirhead & Rosenblum 2006:100). Politics, for Rawls, must remain within the bounds of such public reason, which means that certain types of conflict – especially conflicts based upon religious and secular worldviews or 'comprehensive doctrines' – must be excluded from public reason. "[I]t would not leave much to talk about in the public political forum" (Bader 2009:130). Second, this also shows the elitist and conservative notions of this model as, on the one hand, it tends to strengthen 'predominant particularistic (and rationalist) interpretations' of public reason (Bader 2009:126ff.) and, on the other, it presupposes that fundamental questions about how to organise society are already settled (Muirhead & Rosenblum 2006:101). Public reason, to this extent, is the 'end of history' in different guise.

But not only Rawls' also Habermas' model might be accused of restricting politics by its narrow rationalist bias which "largely ignores other forms of reasons" (Bader 2009:133). His consensual notion of legitimacy demands generalizable and universal norms or values that are able to go beyond political conflict, i.e. Weber's warring of the gods must be transcended by ever more universal norms (Habermas 1987:146; McCarthy 1992:59).[6] The demand for consensus, in general, is

---

[6] It might be argued that Habermas distinguishes between moral discourse necessitating universality, and democratic or law-making discourse only necessitating acceptance of those involved and as such is proposing different *epistemic standards* (Cooke 2000:953). However, this has more to do with Habermas' own unfolding insight that politics cannot (and should not) be subdued to morality, than really connoting a different model (Habermas 1996:108-9; Mouffe 1999:748). Furthermore, morality remains the hierarchical boundary for all ethical life (Habermas 1987:110; 1992:448; see also Benhabib 1992:88ff.).

reifying the status-quo and delegitimising opposition (Fraser 1990:72; Bader 2007:601).[7] It seems that if one wants to enter into political deliberation one is forced to accept liberal universal norms and even the constitutional state as its logical outcome. To this extent, morality must merely be discovered and not formed in deliberation – or, to put it differently, the universal solution is already present in the deliberative rules from the outset and not the result of will formation (Manin 1987:349; Mouffe 1999:746).[8] It also means that, like Rawls, political conflict itself is delegitimised (Mouffe 1999:752; Fraser 1990:65ff.). At most argumentative conflict is an epistemic means to arrive at a transcending legitimate consensus, at its worst it is irrational, unreasoned, self-interested or a misunderstanding.[9] Third, and related, if only a decision made under condition of universal consensus is valid then political argumentation demands that I lay down my specific political, historical and social identity if we are ever going to reach legitimate agreement. It demands of me to cast away my subjective experiences and to become a universal rational man (Mouffe 1999:748). But this unduly restricts the meaning of politics and seems especially problematic in an age of 'identity politics'. Indeed, politics and political argumentation might be a principle means to form and express identity (Fraser 1990:68; Conover & Searing 2005:279; Mouffe 1999:749; Calhoun 1992:35; 1993:275; Arendt 1998:176). Habermas, as Bader pointedly summarises, "takes a homogenous view of political arguments, postulates a culturally unmediated or 'pure intersubjectivity' and a language 'purified' of history, concentrates on 'what is said' and ignores 'who' said it" (2009:133).

In conclusion, it seems to me that to understand political argument in such depoliticised, elitist, conservative, ahistorical, non-social and decontextualised form is, if not normatively, at least empirically flawed. There is no reason to suppose that any political opposition – historically and socially situated – would agree *in advance* to consensus as the sole norm of political legitimacy or to universal rationalist arguments as the only legitimate form of argumentation, but that does not stop them from trying to persuade others of their views through argumentation. Such opposition is not so much about the search of consensus as about arguing why others are wrong and should agree with their position. Indeed, if only consensus connotes legitimacy than both majority but especially minority interests or political goals are not. This seems to contradict empirical reality in which most

---

[7] This is also true in an ideal situation, it seems to me, because of the informational asymmetry between an unknown future and a known history. Furthermore, political institutions are historical products to begin with, which becomes problematic for deliberative democracy with its fusion of deliberation and (institutionalised) decision-making. It is for good reason that Madison thought that parliamentary deliberation would protect the propertied minority against the irrationality of the masses.

[8] Manin, then, takes a more procedural stance in which "argumentation does not result in a necessary conclusion that the listener cannot reject" (1987:353). Argumentation is *persuasion* not an *epistemic* procedure that determines true or false arguments.

[9] If some empirical research finds that most people consider political conflict to be a form of corruption caused by special interests at the demise of the common interest – implying that the common interest is glaringly apparent and ought to be governing politics – this only underlines why conflict is delegitimised and why the epistemic ideal of the common good leads to political conflict (Hibbing & Theiss-Morse 2002).

political *factions* claim to hold the truth over others who are thought to be wrong. Indeed, for most people truth is something that should be independent of opinion and agreement.[10] Furthermore, we might easily perceive that political arguments are not only, or even primarily, moral arguments. Practical reason and judgment not just demand moral arguments, but also 'ethical-political, prudential and realistic' *normative* arguments (Bader 2007:90; Bader & Engelen 2003:381). The normative demand that all these additional arguments can be neatly, coherently and hierarchically ordered in a complex world under the non-contextual demands of universal morality is not just normatively dubious but seems to mistake political discourse with "an idealised model of philosophical discourse" (Bader 2009:133). We cannot – and should not – reduce politics to moral reasoning.

In short, we might accept that actors try to convince, persuade or influence each other with different kinds of arguments, that actors expect public-oriented reasons to be more appealing than self-interested ones and even that actors agree that consensual agreement is inherently valid, but this does not mean that actors will agree that only consensual, let alone universal, agreement is legitimate or that political argumentation is about the goal to reach such a consensus. We might all agree that what we all agree upon is valid but that does not mean that vice versa we all agree that only what we agree upon is valid.[11] *Consensus is not what necessarily coordinates political argumentation as a form of social action.*

Deliberative theorists, however, might not disagree with this claim. The norm of legitimacy might not necessarily be coordinating deliberative *action* but the epistemic claims of deliberative democracy must rather be found at the level of the *rationality of the process* itself – a process which must be institutionally guaranteed (Bohman 1998:401; Cohen 1997:79; Dryzek 2001:657,661). It is not about whether or not actors actually agree with the goal of consensus or even whether or not they agree with the actual outcome of the decision-making process, the process itself is epistemically rational (Manin 1987:341). Rationality, then, takes on an *outsider's perspective*. This claim of deliberative rationality, however, is fairly problematic for a sociology of political argumentation.

First of all, with the move from deliberative action to deliberate rationality we move from an actor's perspective towards an outsider's perspective on legitimate politics. Indeed, Habermas is fairly clear that he provides a 'decentred', 'anonymous' or 'subjectless' model of validity or

---

[10] This is not to claim that people are necessarily ignorant. It seems that even social scientists, who would agree that truth is a social phenomenon, cannot lay down the subjective feeling of truth as a non-social quality.
[11] Lyotard rightly points out that Habermas sees it exactly the other way around: "Not every consensus is a sign of truth; but it is presumed that the truth of a statement necessarily draws a consensus" (1984:24).

legitimacy (Habermas 1997:58; 1996:4,184). For him, this is a necessity as the only way to rescue the critical project is to 'leave the philosophy of consciousness', i.e. if one views validity in terms of an actor's 'subjective' perspective, as did Weber, one cannot but fall into pessimism about reason, truth and validity, as the *Frankfurter Schule* clearly showed (Habermas 1984:141,279,366; 1987:333,387). The critical project, for Habermas, can only be saved by making validity an 'intersubjectively dissolved' quality as legitimacy withdraws into the *structures* of political procedures (Habermas 1997:59; 2001:110). This means that legitimacy is not consciously accessible by the subjects themselves but only surfaces from rational processes of argumentation *between* subjects.[12] Or, as Habermas admits, he does not aim to provide a 'theory of motivation' (1996:5). Although, this outsider's perspective of legitimacy obviously clashes with the analytical goals of this thesis, it does not necessarily disqualify deliberative rationality as a sociological perspective on political argumentation.

However, secondly, if such deliberative rationality cannot be expected to arise empirically there seems no reason why this perspective should inform an argumentative sociology. As we have seen, media theory makes a plausible case that conflicts are often insoluble because of incommensurable system rationalities which resist transcendence. If a decision can be understood differently in terms of legitimate power, law, money, science and expertise, there is no transcending value or medium that tells us which understanding is 'right' because *all* can be right simultaneously.[13] At the same time, unrestricted argumentation will also show that *none* of these understandings are right as all systems are ultimately symbolic. Furthermore, *uncontrollable contingencies* inherent in social systems might give rise to what Beck calls an 'age of speculation' (Beck 1992:73). As the future becomes unimaginable, many futures become rationally possible and any binding decision inherently risky. In short, media theory shows the complexities, uncertainties and ambiguities inherent in social life, which especially means that the idea of a single right decision cannot be rationally expected. Or, as Luhmann states, "the fact that one can do many things the wrong way is no guarantee that one can also do them the right way" (1993a:155). But if we cannot expect conflict to be inherently solvable, if facts are also values and if reason becomes speculative, it is not clear why deliberation could live up to its epistemic expectations and, if not, why this would nevertheless have to structure our understanding of deliberation. It is not clear why we would have

---

[12] Of course, the discursive procedural and epistemic ideals are accessible – as this discussion shows – but in political practice legitimacy can only be assumed. This surely provides serious problems for Habermas' project to *change* and *transform* society towards a more legitimate one (Elster 1997:18). We might wonder whether Habermas does away too easily with Marxist preoccupations with consciousness – especially Gramsci's 'hegemonic consciousness' understood in terms of 'natural order' (Cox 1999:15-6).

[13] A case might be made that Habermas overemphasises the harmony between differentiated 'systems'. Indeed, for Weber conflicts *between* systems were the principle reason for the 'materialisation' of politics and law, not the conflict between system and 'society' – a thesis that Habermas seems to ignore.

to subjugate our sociological understanding of political argumentation to a universal morality or collective ethics even in the face of improbability.[14] As such, even in normative theory, it seems better to follows Bader's argument that we should acknowledge "moral pluralism, underdeterminacy of principles and the complexity of practical reason" instead of claims of *universal foundationalism* – at least if normative theory wants to be empirically relevant (Bader 2007:89; Bader & Engelen 2003:379).

Thirdly, deliberative rationality necessitates attempts to rationalise and design institutions of rational political decision-making. Deliberative democracy is *not* solely or necessarily an appeal for direct democracy, it is an appeal for rational political institutions in general (Bohman 1998:413; Cohen 1997:84-5).[15] However, with the move from deliberative action towards deliberative rationality this threatens to produce 'elististic' or 'anti-democratic' tendencies (Palumbo 2010:320; Marti 2006:48). When epistemic claims are used to 'rationalise' democratic *representative* decision-making institutions – e.g. parliament, interactive policy practices or governance policy networks – into 'epistemic communities' their decisions are claimed to be legitimate because the decision-making process is more likely to yield valid and rational decisions (Bohman 1998:404ff.; Dryzek 1990:15; Héritier 2003:818; Sabel & Zeitlin 2008:272). Non-participants, who are nevertheless subject to these decisions, have no choice but to accept this claim at face value (Dryzek 2001:656). They are excluded from the transformative process of deliberation and cannot control nor protest the validity of the substance of the decision. Protest or disagreement is a sign of irrationality or ignorance. Institutional outsiders do not so much lack knowledge or information, they lack deliberative participation.

In other words, deliberative political institutions represent not so much the general public but represent its *rationalised essence*. The general public becomes an *objective fiction* – an ideology – as it is neither understood in terms of its actual preference distributions as in utilitarian theories nor as an actually deliberating public as in theories of participatory democracy. Indeed, Cohen defines legitimacy as those decision to which reasonable people *could* consent (Cohen 1997:73; see also Habermas 1996:30). Deliberative political institutions, then, reduce non-participants to mere subjects and exclude the 'real public' from participating in deliberation. It confines rational deliberation to *institutional boundaries*, i.e. it is limited to politics as a decision-making process. The paradoxical situation is that deliberative decision-making institutions imply a clear relation of

---

[14] This argument of improbability is something else than claiming that consensus is unrealistic. We might agree that even if something is unrealistic it might nevertheless be true or something to strive for (Manin 1987:340). However, as the possibility of consensus is *constitutive* of discursive theory it must be probable (McCarthy 1992:65).

[15] This fact is sometimes obscured because of its intellectual roots in theories of participatory democracy.

domination over non-participants that urgently asks for a legitimation deliberative theory cannot provide.[16]

A further problem of using deliberative theory to justify representative political institutions is the lack of clarity of how different representative institutions relate to each other, and on what grounds they may be considered to be representative at all. Whether and, if so, how argumentation can cross institutional boundaries becomes difficult to grasp. Is cross-institutional communication only limited to disputes over what procedure is more epistemic rational, i.e. only about procedural form and not about substance? The strong epistemic claims of deliberative rationality (throughput-legitimacy) *institutionally fragments* politics both because it excludes non-participants from rational argumentation and because it is unclear how different deliberative institutions relate and communicate. [17] When legitimacy becomes inaccessible to subjects then an institutional understanding of legitimate politics becomes problematic.

In sum, precisely because deliberative politics fuses argumentation with legitimate decision-making it is forced to hold and develop strong epistemic claims. However, these claims severely limit a possible sociology of political argumentation to the extent that: a) there is no reason to assume that the goal of value consensus is coordinating political argumentation as social action; b) there is no reason to assume that the foundationalist epistemic ideals of argumentative rationality are probable in complex society; and c) it obscures a clear understanding of politics at the level of institutions.

7.1.2 Liberating Political Argumentation from Deliberative Decision-Making

Deliberative democratic theory, we can say, is an obvious but not the best starting point for developing a sociology of political argumentation. It seems to me that we should liberate political argumentation from strong epistemic claims. A first step is to analytically separate between politics as argumentation – i.e. politics as opinion-formation – and politics as decision-making. I will make clear how this frees our understanding of political argumentation by opposing, as an informative example, the deliberative model with an *accountability model of politics.*

Deliberative and accountability models of politics are not identical (Bovens 2007:453; Erkillä 2007:26) especially because in the latter political decision-making is institutionally separated from

---

[16] Habermas admits when he states that if political will formation is an epistemic process "the democratic procedure no longer draws its legitimizing force only, indeed not even predominantly, from political participation and the expression of political will, but rather from the general accessibility of a deliberative process whose *structure grounds an expectation* of rationally acceptable results" (Habermas 2001:110, my emphasis).

[17] Empirically this problem of communication between different institutions is often the principle problem in so-called interactive or deliberative policy-making (Klijn & Koppenjan 2000; Edelenbos & Klein 2006; Mayer et al. 2005; Edelenbos & Monnikhof 1998).

argumentation. Accountability views politics as a form of *domination* that must account for its actions and decisions before a 'forum' (Bovens 2007:450; Manin 1997:237). Precisely because politics as decision-making is about domination it can be *wrong*. Whether it is wrong or right is up to the forum to decide – the forum, then, is neither part of the decision-making process nor isolated from it as it can ask decision makers to account for their actions. It concerns a process *normatively coordinated* by public argumentation and not by money or power. The forum can ask critical questions and the politician tries to convince the forum of the rightness of his actions. The politician does so not because he is interested in arriving at some consensus, but foremost because he is institutionally *forced* to (Bovens 2007:451). At the same time, this process has an 'epistemic' function to the extent that the forum must come to a reasonable judgment of whether or not political actions were right – how they will be *sanctioned*. However, because politics as decision-making and politics as argumentation are not just analytically but also institutionally separated we can perceive that these epistemic claims are much less demanding and more realistic than in the deliberative model.

First of all, accountability procedures between an agent and a forum are in principle retrospective judgements about decisions and actions of others (Bovens 2007:453). These judgements are not about whether the decision was the only right decision to take, but whether the decision was reasonable *considering the circumstances* and alternatives. Second, this means that the forum does not need to come to a consensual agreement on the ultimate norm applicable, but rather the forum must come to some broad agreement over which multiple and even conflictive norms were *ideally* to be considered in this particular decision and decision-making process. Third, in light of these norms the forum must commence a process of normative fact-finding, i.e. to discover how and if these *general* norms were applied to the *specific* context. However, precisely because of its retrospective character, facts are not truths as in most cases a process of public examination and argumentation paints a conflicting, ambiguous and indeterminate picture of affairs. There is therefore no reason to expect that ideal unrestrained argumentation will reveal more relevant facts or truths – to the contrary – while at the same time, there is also no reason to expect that there will be an *ultimate final decision* – new information or perspectives can always continue the process of opinion formation. In other words, a judgement arrived at in a process of accountability is always provisional and cannot claim to be the truth. The forum does however have to come to a judgment which means that the participants of the forum have to talk to each other. Yet, under these plural, ambiguous, contextual and temporal circumstances – i.e. under conditions of complexity – an epistemic ideal of consensus or truth is too demanding. At most we might hope that judgements structured by argumentation are *reasonable and plausible*.

Habermas, however, refuses to recognise the *political condition* and to give up epistemic foundationalism because he fears we get lost in the irrational, contingent and capricious 'maelstrom of history' (Bader 1994:114; Habermas 1996:282). But if we want to open up normative theory to politics, pluralism and complexity, *nonfoundational* theories seem more interesting and empirically relevant (Bader 1999:619, 2009:113). Giving up foundationalism does not mean that we have to give up rationality – it does not imply postmodern scepticism or relativism. Rather, we must give up the idea that there is always only one rational answer possible (Bader 2009:126, 2007:91; 1995:230). Instead of frenetically trying to control rationality in philosophical abstractions, we might better turn our attention to *reasonable institutional practices*. First, the different epistemic ideals of public reason and political reasonableness point towards the difference between Aristotle's *episteme* and *phronesis* – the difference between universal truth and practical wisdom (Flyvbjerg 2001:56-7; Loeber 2003:54ff., 2007:393ff.; Mouffe 1989:36; Fischer 2009:117; Dryzek 1990:9; Beiner 1983). It is important to note that the weak epistemic ideal of reasonableness allows for disagreement without endangering its claim to rationality – as for example judicial practices show. Expectations of reasonableness, then, do not delegitimise politics, opposition and conflict and even make agreement more likely, precisely because actors do not necessarily have to agree on the same grounds. Second, if we want to let go of foundationalism and, at the same time, not get lost in the irrationality of postmodern relativism, normative theory must take an *institutional turn* while acknowledging "non-ideal conditions of structural inequalities" (Bader 2009:135, 2007:92; Bader & Engelen 2003:376). The core principle of such institutional experimentalist models is to guarantee *reiterative practical learning processes* between goals and practices, between past, present and future conditions, between principles and agents, between multiple levels of governance, between uniformity and localism and between insiders and outsiders (Bader 2007:91, 2009:135; Bader & Engelen 2003:377,394; Cohen & Sabel 1997; Sabel & Zeitlin 2008; Zeitlin 2011; Walzer 1989:532; Börzel 2012; Burca 2010; Fossum 2012; Erikson & Fossum 2012; Kumm 2012).[18]

My goal, however, is not to develop a normative counter-model of political argumentation at this point but to argue that *non-foundationalist* models of political deliberation seem to have more realistic expectations of the rationality of political argumentation. Minimally, we have to admit that there is no reason why a sociology of political argumentation has to be structured by the strong epistemic demands of deliberative democracy. Letting go of the strict demands of deliberative democracy does not mean that political argumentation suddenly becomes a strategic conflict or a process of bargaining. The opposition between deliberative rationality and instrumental rationality –

---

[18] Different from accountability model these experimentalist models need not be restricted to retrospective judgments (without denying the future-oriented qualities of accountability processes altogether).

or between consensus and conflict, for that matter – is overdrawn.[19] Indeed, for actors involved in accountability procedures it is clear that the process *ought to be* coordinated by the 'force of the better argument' and not by money, power or expertise, on the one hand, or the goal of consensus, on the other. This *normative social expectation* is realistic, precisely because the strong epistemic claims of argumentation have been dropped which enables us to understand *argumentation as a specific type of social action*. Furthermore, political argumentation can no longer be institutionally imprisoned. In the accountability example, the forum does not represent a rationalised public but a reasonable, informed and *deliberating* public. Indeed, to the extent that such accountability processes are transparent and information and knowledge is available, the 'real' public might form their own *political opinion* about the political decision. The public is not institutionally excluded from argumentation. Political argumentation might escape accountability institutions (e.g. parliament) and travel to what is known as the 'public sphere'.

Although, freeing political argumentation from the strong epistemic demands of deliberative democracy is promising for our sociology of political argumentation, it does make the notion of political legitimacy more complicated. If legitimacy is no longer about truth, morality or, in sum, no longer about *non-domination*, how does politics as decision-making relate to politics as argumentation – or how does the political system relate to the public sphere – and how does legitimacy rise from it? It seems that we should take a look at a second model of political argumentation: the public sphere model.

7.2 The Public Sphere Model of Political Argumentation

The public sphere model of argumentation has got its most dominant and famous expression in Habermas' early work *The Structural Transformation of the Public Sphere* (1989 [1962]). In this work the model is not purely normative as in classical liberal theory but rather an idealisation of the historical bourgeois public sphere in early modern Europe (Habermas 1992:422; 1989:84).[20] Although the model has been extensively criticised on normative, historical and analytical grounds (see e.g. Calhoun 1992; Fraser 1990; Hohendahl 1979, Cowans 1999), my goal is merely to assess the extent to which the public sphere model can be the analytical building block of a sociology of political argumentation.

---

[19] This also means that voting as majoritarian decision-making cannot automatically be reduced to mere competitive interest aggregation, nor can consensual decision-making be seen as reaching a genuine value-consensus.

[20] Although the public sphere model of politics clearly reverberates with liberal normative theory, it is surprising how little public sphere and public opinion plays a role in traditional normative theoretical theories. It seems as if public opinion only received explicit attention when it started to lose its idealised nature as, for example, in the theories of de Tocqueville and J.S. Mill that decried the perversion of rational public opinion into the conformity and authority of mass opinion (see chapter 2).

The separation of politics as decision-making and political argumentation as opinion-formation is central to the political model of public sphere. In this model the public sphere concerns the 'formation of public opinion' in critical opposition to the political state (Habermas 1974:49). The historical role of the bourgeois public sphere changed, according to Habermas, the 'nature' of political power, from a power that 're-presented' itself *before* an acclaiming public to a power that *represented the public* (1989:7; 1974:50-1) – a change from feudalism to a bourgeois *Rechststaat*. With that change public and private spheres arose as important social categories. In the first place, this public/private divide signifies the boundary between the public power of the state and the private self-organisation of civil society (1989:11-2). This divide is institutionally grounded in a 'limited' non-active state but especially in the private autonomy of property holders (1989:83,222). Secondly, to the extent that the state regulates the private sphere of the economy, political regulation is in the *general interest* of private autonomous individuals (1989:19,24). These private individuals coming together as a *public* to critically and rationally discuss these public regulations, common interests, is what Habermas understands the public sphere to be. According to Habermas, the public sphere, as a consequence, can be analytically situated as existing in between the private and public spheres: a *public of private individuals in critical opposition to the public power of the state* (1974:52). The state has to justify its laws before a critical public forum – a relation that was institutionally guaranteed in parliamentarism (1989:60,81). On the other hand, the public sphere itself was *publically* institutionalised through constitutional guarantees – Habermas convincingly shows that the early declarations of human rights especially concerned the rights of an autonomous public sphere (1974:52-3; 1989:83)[21] – and in specific *private* institutions such as reading clubs, coffeehouses, salons or journals. This private institutional basis of the public sphere is what particularly interested de Tocqueville and what gave rise to civil society as a political category.

Finally, political power, in this public sphere model, is claimed to be legitimate to the extent that the public power of the state is compelled "to legitimate itself before public opinion" (1989:25). The 'medium of this confrontation', according to Habermas, was the "people's public use of their reason" (1989:27). More specifically, legitimacy is "the rationalisation of political power through the medium of discussion among private people" (1974:55; 1989:210). As autonomous individuals argue in the public sphere as equals – i.e. only the force of the better argument counts – about issues that are in the public interest, it enforces, as before, a public reason ideally leading to public consensus of what is 'correct and right' (1989:82-3,178). Political domination that has to 'expose' itself before 'the public use of reason', Habermas argues, is 'rationalised' towards *non-domination* expressed in its 'generality of laws' (1989:28,82,178,195). Just as in deliberative democracy, then, political

---

[21] This universal right-based organisation of the public sphere ultimately also meant that private property could no longer be the institutional basis of 'private autonomy' (Habermas 1992:434).

argumentation in the public sphere acquires an epistemic function expressed in 'consensus' and 'general interest' (1974:53-4). As Habermas sum it up: "Neutralisation of social power and rationalisation of political domination presuppose now as they did in the past a possible consensus, that is, the possibility of an objective agreement among competing interests in accord with universal and binding criteria" (1989:234).

If this is the basic model of the *bourgeois public sphere*, Habermas continues his work to show how this model is perverted; to show the pathological condition of the public sphere in modern society in which the *nature of political power* has undergone a further transformation – a form of 'refeudalisation' (1989:142). The *result* of this perversion, according to Habermas, is: a) the collapse of the public/private divide – which understood as the politicisation of the private and the privatisation of the public seems to restate Weber's materialisation thesis of formal law (1975:70-2; 1989:142,151; 1986:221); b) the demise of private autonomy resulting from a dependency on the welfare state, i.e. private autonomy becomes a function of consumption not of political control (1989:156,249); and c) the legitimation of politics through public relations – the 'engineering of consent' and public 'acclamation' – which we might understand in our own terms as politics as theatre (1989:179,194; 1975:37). This theatre model of politics is the prime reason why Habermas considers modern political power to be a form of 'refeudalisation' – it no longer represents the public as critical forum but presents its power before a public as audience (1974:54). The *cause* of this perversion has, according to Habermas, to do with: a) the commodification of the public sphere – especially the 'media logic' of capitalist mass media (1989:164);[22] b) the rise of economic interest conflicts, antagonisms and contradictions within civil society necessitating an interventionist state (1989:142,146; 1974:54; 1975:33); and c) the rise of mass-democracy and the end of parliamentarism, which increased "plurality of competing interests", policy complexities and foremost party politics (1989:145,177,202-5,234). Precisely, because of these developments the public sphere is 'disorganised', 'colonised' by strategic interests and no longer capable of disclosing rational opinion or political domination (1989:177; 1987:196). The public is no longer the critical and rational forum before which power has to legitimise itself, but rather the passive and privately *consuming* object of strategic and staged political and economic powers (1989:156). The public becomes an object of 'public relations' – the manipulation, 'engineering' and 'exploitation' of public opinion – and a 'mediatised public' or audience used for 'plebiscitary acclamation' (1989:176-

---

[22] Habermas does not deny the private commercial origins of mass media, but claims that there is a difference between a commercial foundation and the commercialisation of media turning critical debate itself in a commodity (1974:53; 1989:164, 182ff.).

9,193).[23] In short, political domination still 'lives off publicity' but no longer 'subjects itself' to the scrutiny of a critical public (1989:209).

Habermas, to conclude, falls into the same pessimism as Weber and the Critical School. Indeed, his refeudalisation thesis comes fairly close to the critique of mass-society as captured by the 'cultural industry' in which culture is lowered to that of the consuming masses and no longer constitutes a means of a critical public but rather the instrument of 'tutelage', 'illusion' and 'psychological facilitation' (1989:166-175,216,246; 1992:438). But at least Habermas is able to make clear what humanity has *lost*: critical reason and a critical public sphere able to 'rationalise power though the medium of public discussion' (1974:55; 1984:398).

7.2.1 The Analytical Contours of a Public Sphere

If there no longer is a critical public sphere capable of rationalising and validating political power in modern society, we might wonder what this political model has to offer us in our attempt to understand political argumentation. However, we have already discussed why the strong epistemic ideal inherent in this model need not inform our sociology of political argumentation. Especially as the model describes the relation between state and public sphere in terms of accountability it inherently seems to hold room for plurality and complexity in public argumentation.[24] It can be fairly easily shown that Habermas' pessimism is a consequence of the strong epistemic demands he ascribes to a rationalised public sphere. For Habermas, the "plurality of competing interests ... makes it doubtful whether there can ever emerge a general interest of the kind to which a public opinion could refer as a criterion" (1989:234). The main problem of Habermas' theory of public sphere, then, is not so much whether his idealisation of the bourgeois public sphere withstands historical examination, as that the strong epistemic ideals of this model inherently imply a perverted public sphere in any complex society – there is no escape possible (Calhoun 1992:29-30; Habermas 1992:440).[25]

That does not mean that without these strong epistemic ideals the public sphere model provides us with an unproblematic understanding of politics as argumentation. The public sphere

---

[23] Habermas seems to claim that public relations relates to critical argument as advertisement relates to price competition (1989:189).

[24] Habermas readily confuses political accountability with democratic will-formation as if they are one and the same. Although these two perspectives cannot be totally analytically separated, we might say that in an accountability model laws are sanctioned by public opinion, while in the democratic model laws are an expression of the public will. If Habermas claims that the state is the "executor of the political public sphere" (1974:49) this difference is blurred. In later works it is clear, in any case, that Habermas emphasises especially the democratic perspective by arguing that in a democracy the people must be able to see themselves as the author of legal norms (1996:33).

[25] Habermas is not the first to decry modernity's complexity – Dewey already bemoaned the 'lost or bewildered' public in the 'machine age': "There is too much public, a public too diffused and scattered and too intricate in composition" (quoted in Asen 2003:175).

model liberates political argumentation from political decision-making, while political decision-making in turn is legitimated in public argumentation – the political state legitimated in the public sphere, political power in public opinion. However, this opposition between the state, decision-making and legitimate power, on the one hand, and argumentation, the public sphere and public opinion, on the other, is not easily grasped in analytical terms. Many questions remain unanswered despite the general attractiveness and currency of this model. If we want to assess the usefulness of a non-epistemic public sphere model of political legitimacy, we might want to know first what a public sphere is in an analytical sense. Unfortunately, it is notoriously difficult to define the analytical contours of a public sphere (Bader 2008:1).

In Habermas' account the public sphere is defined in terms of a value sphere structured by a public/private opposition, in terms of institutional structures and boundaries and in terms of a social system coordinated by argument. In what follows shortly discuss these approaches in order to be able to propose a general understanding of the public sphere after which we might be able to better analyse its relation to political legitimacy.

Public Sphere as a Value Sphere

The most obvious structuring value for understanding a public sphere as a value sphere is 'publicness' or 'publicity'. Although the concept of 'public' has many different connotations, Habermas, as we have seen, understands publicity in terms of a classical liberal opposition between public and private realms and issues. The public sphere concerns itself with public matters, with *public power*, and not with private matters – including private economic or familial powers. This boundary, however, is notoriously difficult to uphold – as can already be perceived in the fact that the public sphere is grounded in both private *and* public institutions[26] – and has suffered under the sustained criticism of feminist theory (Fraser 1990:70ff.; Calhoun 1993:274, 2002:167; Bader 2008:3; Habermas 1992:427). If anything, the boundary between public and private is an object of political struggle and power and, as such, an issue that might be addressed within the public sphere but not something that constitutes its analytical boundary in advance. Habermas' analysis that modern day pathology concerns the collapse of the private and the public – or the materialisation of law – is therefore not that obvious. The public/private divide, however, might still be relevant in terms of public and private *reasons*, i.e. in terms of the argumentative force of common and self-interests. Publicity means giving public reasons (Rawls 1997:767).

A quite different approach, however, is to analyse publicity not in opposition to privacy but in opposition to secrecy (Bader 2008:3). To act in the public sphere is to show oneself and one's

---

[26] Normative difficulties can already be clearly perceived in Mill's liberalism (see chapter 2).

ideas in public. Publicity, in this sense, means *to publicise* or *self-exposure* for which one needs courage; courage to step out into the public and to risk public judgment (Arendt 1998:186). Also in the realms of intimacy and privacy we need courage to thematise sensitive topics – taboos – among familiars and intimates; the courage to challenge settled beliefs and traditions for all to see. The opposition to publicity, then, is not privacy and not even intimacy, but shielding oneself from public judgment – to hide from "the scrutinising gaze of the public eye" (Esmark 2007:352). Publicity opposes anonymity and secrecy. It concerns being *transparent* to the scrutiny of the public eye or the judgment of public opinion. As such, publicity also connotes the notion of *a public* in terms of an audience (*Publikum*) that judges and acclaims. This means that, in contrast to Habermas' claims, the public sphere is *both* argumentation and dramaturgy – that is, both an argumentation *between* active participants giving public reasons and argumentation *before* the gaze of a passive audience. Furthermore, where Habermas emphasises how public opinion is formed by public argument this understanding of publicity also emphasises how argument is formed by the disciplining force of public opinion. Indeed, public opinion as a disciplining force is, as de Tocqueville and J.S. Mill showed us, also part of the liberal tradition (see chapter 2).[27] Habermas fails to see that in the concept of publicity dramaturgy and argumentation are not so much opposed but simultaneously implied. It can be shown that instead of the public/private divide, there are two meanings of publicity that run parallel through Habermas' theory. A publicity that emphasises argumentation, public will formation, and the public as the sovereign author of legitimate laws, on the one hand, and a publicity that emphasises dramaturgy, the disciplining force of the public gaze and the public as a forum of political accountability, on the other. As such, in the modern state public argumentation did not succumb to dramaturgy as some foreign element, it was already present from the beginning, as Habermas later seems to admit (1992:438-9).

Public Sphere as a Social System

Second, Habermas also seems to hint at a parallel between the public sphere and social systems. For example, Habermas argues that public argumentation or 'public reason' is the 'medium' of a rational public sphere (Habermas 1974:52; 1989:27).[28] However, I think it is doubtful whether this parallel makes sense and whether we should understand the public sphere as a genuine action system in

---

[27] Habermas seems to claim that this liberal conception of 'mass opinion' as an attribute of psychological group processes misses "all essential sociological and politological [*sic*] elements" (1989:240ff.). This seems to be a gross and unfounded denial of the sociological relevance of the public gaze or the social mechanisms of 'preference laundering' (Goodin 1995:143).

[28] In later work, Habermas explicitly denies that one can understand the public sphere as a 'social order', 'institution' or 'framework of norms' (1996:360). Less clear is whether this also includes the public sphere as a social system coordinated by a medium as in this later work he seems to emphasise Parsons' 'medium of influence' (see e.g. 1996:363).

media theoretical terms (Bader 2008:3). First of all, public argumentation is not a symbolic medium that can be 'coded' in some way or another. Language or speech, as a possible alternative, cannot – even analytically – be exclusively appropriated for defining a public sphere. Not only is it questionable to limit public argumentation in the public sphere to language only, it is certain that speech also plays a role *outside* the public sphere – it is a 'meta-language' (Parsons 1963a:39; Luhmann 1975:6). Only if we understand system theory in cybernetic functional terms can we say that the public sphere is that social system that 'forms' public opinion through political argumentation (Habermas 1974:1). But that really does not help us at all as the answer is merely repeating the question.

It is fairly difficult, in any case, to understand how argumentation as a medium can coordinate social action as argumentation *is* a social action. Instead, we might try to grasp a public sphere in terms of a specific *type* of social action, i.e. as a sphere of public argumentation. From our discussion of publicity, argumentation might be understood as a specific type of social action, coordinated by the *normative* expectation that it ought to be structured by the *force of the better argument*.[29] Again, this norm cannot be symbolically coded in media theoretical terms. Yet, it might nevertheless be argued that from an actor's perspective this norm distinguishes argumentation from other types of social actions – what distinguishes the 'forum' from the 'market' (Elster 1997; Habermas 1974:53). The norm implies a form of social action among actors *as if* they are equals – a 'suspension of power and prestige' (Habermas 1989:36).

This 'bracketing of inequality' has attracted a lot of normative critique (Fraser 1990:63ff.; Dahlberg 2005:115). However, the implied formal equality in argumentation or the public sphere foremost means that other symbolic media as power and money *ought not to* play a role in public argumentation, but only the force of the better argument. The same holds for the exclusion of tradition, status and reputation as sources of authority. The public sphere can normatively be seen as an 'emancipatory' or 'anarchic' sphere in which every authority can *in principle* be questioned and criticised.[30] Obviously, this does not mean that the public sphere is 'power free' – especially when one perceives power not in terms of domination but in terms of a productive or constitutive power (Foucault 1982:781). There is a clear difference between the argumentative norm that only the force of the better argument ought to play a role and the argumentative (cultural) practice which determines which arguments actually have a *persuasive force*. Nevertheless, it is analytically relevant

---

[29] There is a subtle difference, Cohen seems to ignore, between claiming that actors "share a commitment to the resolution of problems of collective choice through public reasoning" and actors committed to "coordinating their activities … according to norms that they arrive at through their deliberation" (1997:72).

[30] Which does not mean, of course, that this is the *goal* of social action. In functional terms we might agree with Bader, who states that public communications *aim* at "problems of coordination and collective decisions" (Bader 2008:4).

that the public sphere might be perceived by actors themselves as a type of social action which *ought to be* structured by the force of argumentation and not by mere *domination*. The public sphere, it seems, must be understood as a sphere of non-domination – a sphere where actors expect that the force of the better argument holds. From an actor perspective it is perverse not to distinguish between domination and 'discursive', cultural or productive power.

Public Sphere as an Institutional Boundary

From these two approaches we might understand the public sphere as: 1) a domination-free social sphere – if not power free – coordinated by normative expectations of the better argument; 2) in which argument is public, i.e. transparent before the gaze of an active or passive public.[31] What we need to understand, finally, is the *institutional* basis of this public. In his institutional approach Habermas understands the public sphere in critical opposition to the state, on the one hand, and the 'conjugal family', on the other (1989:30). Furthermore, he perceives the bourgeois public sphere as institutionally organised in 'clubs', 'coffee houses' and journals, on the one hand, and in parliament, on the other (1989:32). However, Habermas' historical institutional analysis sustained fairly extensive critique because it ignores competing plebeian or feminist 'counter-publics', i.e. public spheres other than the dominant bourgeois sphere (Calhoun 1992:36-7; Fraser 1990:61). One reason for this neglect, as Habermas admits, is that these public were politically *irrelevant* as they were not able to present themselves – or being conscious of themselves – as the historical 'carriers' of public opinion (Habermas 1989:23, 88).[32] The relevant public, indeed, is 'addressed' and 'evoked' by state authorities (1989:22-3). In other words, Habermas' institutional approach is rather state-centred; a top-down approach that threatens to reduce the public sphere to a normative category and to over-emphasise the harmony and unity of the public sphere. A state centred-view implies a single *public* in terms of its own institutional foundations, i.e. in terms of legal-political membership (citizenship), geographical boundaries and the constitutional boundaries that guarantee a public sphere. The implied normative model is that the state as the carrier of public power derives its legitimacy from *the* public as a collective subject. Not only does this top-down approach threaten to confound the public with nation and public opinion with nationalism, it normatively implies a *unified singular public* that is 'conscious of itself as a public' and therefore capable of legitimation (Habermas 1989: 37; Calhoun 1993:276, 1992:37; Esmark 2007:330ff.; Bader 2008:1). Such restricted understanding of

---

[31] We do not have to understand publicity in terms of public reason as that is already captured by the expectation of the better argument, although it leaves open which kinds of argument are compelling.

[32] For Mah, the essential question concerning the public sphere is precisely which public is able (and how?) to present itself as a universal public (2000:168).

a public sphere is not only normatively dubious, it is empirically questionable in an age of globalisation and social plurality.

In contrast, a more a bottom-up approach provides more room for plurality and multiplicity. Many have emphasised the importance of 'civil society' as the institutional basis of a politically relevant public sphere (Habermas:1989:30; Calhoun 1993:269; Castells 2008:78; Cox 1999:10). Without an active civil society, they claim, there will not be a vibrant public sphere. Civil society can be understood as the *self-organisation* of society in voluntary associations (Habermas 1992:453). In most contemporary readings such civil society is not just analytically opposed to state organisation but also to market organisation (Cox 1999:10). For many scholars, following de Tocqueville, this self-organisation in reading clubs, choirs or community organisations is a 'training ground for democratic values' (Habermas 1989:29, 1992:424; Putnam 1993, 1995). As a consequence, an active civil society, somewhat schizophrenic, is supposed to make democratic government more *efficient*, on the one hand, and to make citizens more political active and holding governmental or corporate powers accountable, on the other. This celebration of civil society as an autonomous and self-organising sphere outside the political and economic – if not an idealised history lost – has met fairly extensive critique. Especially the relation between a non-political or autonomous civil society and political power is often nothing more than a normative restatement of the public/private divide.

What we may take over from the civil society literature, however, is, first, that individual citizens might be *organised* in a plurality of different *publics* with their own collective goals, identities and memberships as 'the public' is no longer a normative concept of state organisation. But this does not mean that these publics are necessarily autonomous or separated from state (or economic) institutions. The public sphere – public argument – we might say, transcends the institutional boundaries of state and civil society. Deliberation in parliament is not isolated but "part of the public deliberation of the public in general" and, vice versa, parliament is a public sphere within the state (Habermas 1989:100; Fraser 1990:75). We might follow Fraser not to separate between state and civil society, but merely to distinguish between strong publics – publics with legitimate decision-making power such as parliament or a corporate board – and weak publics – publics that are solely about opinion formation (1990:74; Eriksen & Fossum 2002:402). Although this begs the question of how these publics are communicatively related, it does make clear that the public sphere cannot be limited to a self-organising autonomous civil society as it transcends the institutional boundaries of state and society.

These 'permeable boundaries' between state and public are also present in the second lesson we can take over from the civil society literature, i.e. the state as *shaping* public discourse (Stob 2005:227; Habermas 1996:374). Civil society scholars are fairly conscious of the dialectic

inherent in the concept of civil society which was so forcefully argued by Gramsci. Gramsci claims that civil society is both an institutional basis for the reproduction of the hegemony of the state and its dominant classes, as well as an institutional basis for possible counter-hegemonic consciousness and political action (Cox 1999:4; Fraser 1990:62). This means that the public sphere is partly also a battle ground in which the idea of a single public with a consensual common interest is elusive. But, and this important, this does not mean that the idea of a common interest or a single public opinion is not empirically important for shaping politics. The public sphere is hegemonic *and* counter-hegemonic, harmonious *and* conflictive. However, an harmonious public with a consensual public opinion is not so much a 'reality' as a 'fiction' – an ideology.

A bottom-up civil society perspective, in sum, means that there is no single public sphere but a multiplicity of public spheres (Erisken & Fossum 2002:405; Esmark 2007:333; Fraser 1990:61; Stob 2005:227). Furthermore, breaking open the public sphere as a normative category of state power means that the multiplicity of public spheres can be perceived as a 'battle ground' – a struggle for hegemony – and not necessarily as an harmonious sphere. The down-side of this bottom-up institutional approach is its institutional fragmentation, which threatens to make the public sphere an elusive concept for political analysis, if not mere ideology.

A final institutional approach is to equal the public sphere with 'the media' in which public argumentation takes place – e.g. newspapers, television or internet (Habermas 1974:49). If the public sphere is fragmented in many different civil publics of all sorts, these publics can be seen as 'actors' in a public sphere unified by mass media. As Habermas points out, the institutional foundations of mass media are particularly political relevant – not only to the extent that its 'logic' partly determines the quality of public argumentation, but also because it determines *accessibility* to the public sphere. The mass media can be seen as the 'arena' in which different actors strife for public *attention* in order to form public opinion, to influence politics and to mobilise support (Habermas 1992:437). To perceive the public sphere as a media-based arena of political conflict has the benefit of emphasising the material, strategic, power-structured organisation of public argumentation. Civil society organisations as well as political and corporate organisations have to strife for public attention which depends upon the available *resources* and *strategies* (Bader 2008:12, 1991; Bader & Benschop 1988; Castells 2008:85). For Habermas, such a strategic, power-ridden and conflictive perspective foremost means the transformation of a public sphere of rational argumentation into a public sphere of 'public relations' and strategic action. Indeed, this media-based approach seems unable to distinguish between politics as argumentation and politics as theatre and game (see chapter 4). Politics as argumentation threatens to be reduced to support mobilisation and acclamation. Furthermore, a media-based institutional approach rather arbitrarily

differentiates between active participants and a passive audience. Although there is no need to restrict public argumentation to face-to-face interaction, it seems also unnecessary to exclude 'private' day-to-day public argumentation or argumentation in voluntary organisations, corporate boards, policy networks or, indeed, in political parliaments and committees. Nevertheless, such a media-based neo-pluralistic approach does show how a domination-free public sphere is structured by all kinds of power resources and inequalities.

In sum, the institutional approach to the public sphere threatens to reify it as a normative category of state, to fragmentise it into multiple and conflictive publics or to restrict the meaning of political argumentation. Instead, we might perceive the institutional foundation of the public sphere in terms of *networks of public argumentation that are 'institutionally anchored'* (Bader 2008:3; Esmark 2007:230; Castells 2008:79; Eriksen & Fossum 2002:405; Calhoun 2002:162).[33] This means that we perceive public spheres as (mediated) networks of individual and collective actors engaged in public argumentation, on the one hand, and that these networks – or publics – are analytically integrated in terms of a specific institutional orientation. This means that we might perceive networks of public argumentation 'anchored' in decision-making institutions, policy domains, specific issue-fields, legal, social or professional identities, formal memberships or in specific (mass) media (Bader 2008:8ff.). Such a network approach, then, enables us to analytically perceive 'the public sphere' as multiple and multi-layered public spheres depending upon the functional institutional focus point of analysis.[34]

A network approach of the public sphere has some considerable advantage. First, it enables – in principle – an empirical inquiry into the structure of a public sphere, which allows us to make use of all the typical descriptives of network theory – e.g. network density, integration, scope and dynamics as well as potential broker-positions. Second, its institutional emphasis allows us not to lose sight of public spheres as power-structured in terms of resources, strategies and accessibility, and as possible arenas of conflict and struggle. It is less helpful, however, for separating between political and non-political public spheres – between 'literary' publics and political publics or, in general, between politics and culture. Political publics, for Habermas, take 'official interventions' of the state as the 'target' of their critique (1989:24, 1974:49). As such, we might understand the political public sphere to concern all public spheres institutionally anchored anywhere in the so-called 'policy cycle' ranging from agenda-setting, to problem formulation, to solution-finding, to

---

[33] In later works Habermas seems to acknowledge such network understanding of public sphere (Habermas 1996:360).

[34] Hohendahl shows that this also seems to be the standpoint of Luhmann as he claims that "[t]he public sphere can no longer be recognized by its generality, rationality and capability of consensus, 'but by the form of the themes for political communication, by its suitability as a structure for the communication process' ... Translated into everyday language, this means that public opinion grows around and follows 'issues.'" (1979:100).

decision-making, to policy implementation, to political accountability (Bader 2008:4). But such approach not only 'hides' many political publics from view that are oriented to 'private strong publics' (Bader 2008:2), it also begs the more fundamental question whether culture and politics can be separated at all. In Habermas' account the cultural origins of the political public sphere are extremely important (1989:29, 39, 51). Indeed, a critical public sphere not only needs institutional support but also the 'supportive spirit of cultural traditions' (Habermas 1992:452). In any case, it comes into conflict with the general tradition of Critical Theory that explicitly did away with any sharp divides between politics and culture. Like Luhmann we might agree that the public sphere encompasses both political and non-political publics which cannot be sharply separated (Hohendahl 1979:89).

In conclusion, I think this understanding of public spheres as institutionally anchored networks of publics and public argumentation – i.e. of non-secretive argumentation governed by social expectations of the norm of the better argument – gives us enough leverage to understand the analytical contours of 'the public sphere'. The downside of this network solution is that the sheer complexity, multiplicity and fragmentation of public spheres makes the original public sphere model of political legitimacy rather problematic. As already discussed, for Habermas the public sphere model runs up against its *epistemic* limits as it cannot deal with 'pluralism of irreconcilable interests' (1992:440). But even if we let go of these epistemic problems the model still runs up to inherent limits. In my view, the model is based upon a host of conceptual differentiations or oppositions that empirically and analytically cannot be sustained. Indeed, Habermas later stated that public opinion is a 'fictitious construct' – a 'counter factual harmonious entity' – over and against the 'empirical' reality of public opinion characterised by plurality and fragmentation, but nevertheless argued that we need both conceptions to understand political legitimacy (1992:439-40). However, as discussed, besides fiction/reality other oppositions are problematic as well: public/private, argumentation/dramaturgy, non-domination/power, harmony/conflict, state/society and politics/culture. The problem is that the boundaries between these oppositions are all permeable. Complex reality threatens to make the public sphere model itself a fiction, an ideology. The point is not so much that one side of these oppositions is true and the other wrong. Rather, we need to go beyond these oppositions, to find a different analytical basis for understanding legitimacy and politics as argumentation. Instead of trying to understand what the public sphere *is* in terms of its boundaries, it might be more helpful to understand what the public sphere *does* in terms of dynamics (Stob 2005:234).

7.3 The Lifeworld Model of Political Argumentation

To overcome the analytical problems of the public sphere model and to escape seemingly inevitable pessimistic conclusions, Habermas has tried to move beyond an idealised historical analysis of the transformation of the public sphere (Habermas 1992:444; Calhoun 1992:30; Dahlberg 2005:112). In later works Habermas denies that modern society can be "adequately grasped by holistic concepts of society" (1992:436; 1996:80). Analysis, as a consequence, has to move to a 'deeper level' that includes "everyday communicative practices" (1992:442; 1984:337).

In his new model Habermas replaces the public/private opposition with the opposition *system and lifeworld* (Habermas 1975, 1984, 1987, 1996). System, in Habermas' sociology, especially concerns political and economic action systems integrated and coordinated through the medium of power and money. In system theoretical terms, Habermas' provides an evolutionary model in which action systems are progressively rationalised and functionally differentiated from 'lifeworld' (1987:154). This development is foremost explained by the functional necessities of the 'material reproduction' of a society (1987:148, 168).

Lifeworld, on the other hand, concerns a form of 'social integration' through "values, norms and consensus formation" (1987:372; 1996:39). Lifeworld integration is, on the one hand, based upon *presupposed* 'culturally ingrained' background consensus which normally remains unthematised and, on the other, upon *achieved* consensus based upon explicit thematisation, argumentation and understanding (1984:100,287). Lifeworld consensus, according to Habermas, explains how social action in everyday life is possible as we normally have to take many social expectations for granted. These unthematised background values and knowledge can only be thematised when actors in everyday practices make validity claims about how to interpret the specific context. Only then, Habermas argues, can we potentially become aware of lifeworld 'at our back' and only then can we accept, problematise or refuse those validity claims (1984:308; 1987:132). In case of refusal, actors must try to find an interpretation they can all agree on – they must come to an 'understanding' or a 'common definition' (1984:94,119; 1987:121-2; 1996:18). In short, communication in the form of argumentation is needed to come to an agreement of how to interpret a specific situation, while unproblematised facts and values remain unthematised in the background in the meantime (1984:100). Habermas, then, understands lifeworld practices and argumentation as a type of *social coordination* performed in specific social situations, practices or contexts (1984:94,101,124,288). Lifeworld understood as both presupposed and achieved consensus allows social coordination. Finally, precisely because lifeworld can be thematised and achieved through argumentation, 'everyday communicative practices' not only *reproduce* but also *produce* 'intersubjectively shared' background knowledge of social norms and values (1984:13,337; 1987:56;

1996:22). Lifeworld, for Habermas, can therefore also be understood in terms of the functional necessities of the 'symbolic reproduction' of a society (1987:137).

Habermas, in short, proposes a 'two-level concept of society' emphasising material and symbolic reproductive and integrative functions (1987:305). In this system/lifeworld scheme the political system is legitimate, according to Habermas, to the extent that its validity claims – present in the medium of power itself as well as in the substance of binding decisions and non-decisions – are validated in the lifeworld, in the values of the background consensus. It is surely *pathological* when the system 'colonises' the lifeworld, i.e. when administration or market intrudes in lifeworld practices with *dysfunctional* or destructive consequences (1987:196,285,372).[35] A situation where the system instrumentalises, reifies, technicises or exploits lifeworld for the mere "purposes of system maintenance" (1987:187,283,309,345,386). A legitimate situation, rather, exists when the system is *functional* for the reproductive needs of lifeworld, when the system is instrumental for lifeworld integrity (1987:345). Legitimacy, for Habermas, is the value-integration of socially differentiated systems back into the lifeworld (1987:307).

However, Habermas is less clear about how system and lifeworld are related, how they interact or communicate. Indeed, in his eagerness to show the pathology of a colonising system he emphasises how system is 'detached', 'uncoupled' and 'unleashed' from lifeworld (1987:154-5, 305, 318; Baxter 1987:66). Nevertheless, we might perceive two possible connections between system and lifeworld crucial for political legitimacy – a *direct* connection perceived in cybernetic and pluralist terms, on the one hand, and an *indirect* connection through lifeworld rationalisation, on the other. I will shortly discuss these different models and argue that the latter model of *legitimacy by detour* is most promising for the understanding of politics as argumentation.

Firstly, where lifeworld is about social coordination in specific everyday contexts, Habermas argues that communicative coordination and argumentation can escape spatial, temporal and social restrictions, especially through 'technologies of communication' such as the 'mass media' (1987:123,184,281). These technologies allow the rise of *public spheres* in which background knowledge can be explicitly thematised and discussed detached from specific lifeworld practices and coordinative demands (1987:390). In his earlier work, Habermas subsequently describes the *direct* connection between the political system and this public sphere in cybernetic terms. Habermas perceives a relation between the public sphere and the political system in terms of 'generalised

---

[35] However, this contrast between 'ideal' and empirical 'reality' is not just something that comes at the end of Habermas' analysis. It is already present at the very *beginning* when the social norm is purified of the empirical – the idea that a 'linguistic abstraction' over and above social and institutional contexts is possible – and *during* his sociological analysis in which analytical claims are often confused with empirical ones (Bader 1994:113).

communication' freed but not disconnected from specific lifeworld contexts (1987:276,281). Although Habermas criticises Parsons for perceiving 'influence' and 'value commitment' as symbolic media effective in differentiated systems, he nevertheless perceives a kind of cybernetic *exchange* between the political system and the public sphere in terms of 'mass loyalty and influence' (1987:185,273,322; 1996:363).[36] Not only is this Parsonian cybernetic system theory less than convincing in itself (see chapter 5), Habermas' cybernetic solution is even less convincing precisely *because* he denies that influence and value commitments are symbolic media themselves.

Secondly and more interesting, then, is another *direct* relation he describes in his later work.[37] In this work he emphasises law as the principle institution able to 'transform' or 'translate' lifeworld values into facts that are relevant for political power and money (1996:56,81). As law, according to Habermas, is both present in lifeworld and system, it is the primary institution that connects both (1987:365-6). Only through law can lifeworld produce facts that the system can understand (1996:56). Law, Habermas claims, is a lifeworld institution that in the course of social evolution differentiated into institutionalised positive law – making political and economic systems possible, in the first place – and into deinstitutionalised morality (1987:174,180; 1996:40).[38] The specific status of law, however, is quite difficult to understand in Habermas' lifeworld/system scheme. Indeed, as he often treats positive law as a steering media, it remains unclear why law is a lifeworld institution to begin with, and not a social system in itself in addition to politics and economics (1987:365). Nevertheless, if law is the crucial 'translator' that can integrate system and system, this implies that especially processes of *democratic law-making* are crucial for guaranteeing legitimacy (1996:356).

Instead of perceiving the political system as detached and uncoupled from lifeworld, Habermas now proposes a 'two stage model' in which the first stage concerns how *communicative power* arising in conflictive public spheres forces the political system to react to issues and to justify decisions and the second stage concerns deliberation among political decision-makers structured by *communicative rationality* (1996:357; Baxter 2002:578; Flyn 2004:434; Dahlberg 2005:127; Dryzek 2001:656). Subsequently, this means that the function of the public sphere is not so much about

---

[36] The criticism is built upon the idea that influence and value-commitment – in contrast to money and power – do not have an "underlying *empirically* motivating power" grounded in 'real value and reserve backings' (1987:276). From our Luhmannian understanding of symbolic media, this critique makes little sense.

[37] This is not to say that this line of thought was not already present in earlier works. Indeed, in *Legitimation Crisis* Habermas wrote that democracy has "the goal of rationalising authority through the participation of citizens in discursive processes of will formation" (1975:123). However, in *Theory of Communicative Action* his 'therapy' was foremost to 'protect' the lifeworld from the system. This not just shows that Habermas thinks that communicative action is not an ideal norm but is already actually empirically *realised*, but it also threatens to reduce democratic practices to "nibbling at the edge" (*gerommel in de marge*) (Bader 1983:351, 1994:113).

[38] Law and morality, Habermas argues, are not so much related 'hierarchically' as through 'internal coherence' (Bader 1984:116). Habermas, however, is rather cryptonormativistic at this point as such differentiation of law "[i]s neither empirically not theoretically founded" (Bader 1983:341, 1994:131).

producing a common interest – a consensual public opinion – as about enforcing lifeworld, its 'communicative power', upon system. The public sphere is where lifeworld and system imperatives clash (1987:346). The function of the public sphere is to *thematise*, to *politicise* and to *force* politics to justify its decisions in terms of argumentation. The core function of the public sphere is less about its *epistemic* function and more about sheer political *influence*; less about consensus and harmony and more about politicisation and conflict (1987:396; 1996:357). This change allows Habermas to cope with the problem of complexity and plurality – albeit in a very abstract way – as it allows him to understand the public sphere as a 'spontaneous', 'non-organised' 'networks of communication' in which "streams of communication are ... filtered and synthesised in such a way that they coalesce into bundles of topically specified public opinions" (1992:425,451; 1996:360).[39]

When the public sphere in relation to the political system is one of politicisation and influence – to enforce the 'communicative power' of the lifeworld upon the system through the process of democratic law-making – it does not mean that Habermas has given up on the epistemic function of communicative rationality. Rather, this function is reserved for the political decision-making publics – e.g. for parliament. The "institutionalised *procedures* of democratic opinion and will formation" become the rational *filter* of public power (1996:371). The model, then, is based upon the differentiation between strong and weak publics, where formal decision-making is the focus of communicative rationality, while the communicative power is a reformulation of 'popular sovereignty' (Flyn 2004:434).

However, the model is fairly problematic, aside from the fact that we seemed to have returned to a deliberative democratic model of politics. First, if Habermas emphasises how political parties and new social movements struggle in the public sphere to mobilise support and influence, indeed, if he argues that legitimacy can be measured in terms of "the influence that public opinion has on the political system", we seem to have returned to some neo-pluralist analysis of politics (1996:362; see chapter 4).[40] This might make us wonder why we need the lifeworld concept at all (Baxter 2002:585). Second, and related, as Habermas emphasises the 'interplay' of an informal public sphere based in 'civil society' and a formally institutionalised public sphere in 'parliamentary bodies' we might wonder whether the analytical divide between system and lifeworld makes any sense at all (1996:371; Baxter 2002:598). Indeed, where the boundaries between system and lifeworld were strict and fundamental in his earlier work, they seem to have become blurred as the

---

[39] "What makes such 'bundled' opinion into *public opinion* is both the controversial way it comes about and the amount of approval that 'carries' it" (1996:362).

[40] Habermas, of course, is interested in the rationalisation of democratic law-making processes: "not influence per se, but influence transformed into communicative power legitimates political decisions" (1996:371). However, this 'transformation' process is transposed to the "procedures" of democratic will- and decision-formation above the heads of the actors in the public sphere who are struggling and competing for attention and influence. Indeed, these actors "can only exert influence" which is based upon persuasion (Flyn 2004:447).

boundaries between weak and strong publics are 'porous' and 'permeable' (1996:374). In any case, whether we have returned to deliberative democracy, to neo-pluralism or to the public sphere model, there seems absolutely no need to complicate our analysis with a 'lifeworld' concept. Indeed, Baxter proposes to discard the concept all together (1987:78).

The public sphere from the *indirect* perspective, however, is not so much oriented to the political system as to lifeworld. The public sphere is foremost the driving force of the *communicative rationalisation* of the background facts and values of lifeworld itself. Habermas is well aware that lifeworld knowledge might contain anti-democratic or bigoted values, might keep interest conflicts below the level of consciousness and might naturalise or 'conceal' relations of domination (1984:332, 1987:87,145). It is only when these background values are thematised that they can be discussed, produced and reproduced through public argumentation. The important addition of this lifeworld model is that political argumentation is no longer *directly* related to political legitimacy but only through a *detour* via the lifeworld. The benefit of this lifeworld detour is that it is no longer necessary – not even on the strong epistemic claims still present in Habermas work – to expect some agreement or consensual public opinion arising from political argumentation in the public sphere. The function of political argumentation is not to come to some rational agreement or decision, but rather to *rationalise* or, at least, *change* the background assumptions of lifeworld.

Indeed, we might fairly easy see that a heated argument that does not lead to consensus, might nevertheless in the process have changed the background expectations, facts and values of both parties – indeed, may have changed *social reality*. For example, we can say that women's equality 'thematised' in the public sphere by feminist movements has not lead to a consensual conclusion. Indeed, there is no reason to expect it ever will – not least because 'the movement' itself is rather fragmented (Randall 2010). Yet, it would be ridiculous to say that this long public strife has not lead to different background expectations about gender (in)equality – there is a difference between the 19th century and the 21st which is not simply a material difference. When politics is subsequently forced to justify its decisions it has to relate to this *rationalised* – or more moderately, to this more reasonable – lifeworld reality.

The benefit of a lifeworld detour-model, then, is that we might be able to understand the relation between political legitimacy and political argumentation without denying the plurality and multiplicity of public spheres and 'public opinion', on the one hand, and without reducing this relation to deliberative rational decision-making. It is this detour model I will analyse further.

7.3.1 Lifeworld – A problematic concept

Unfortunately, this lifeworld model as described by Habermas also has some serious drawbacks as well. The first complex of problems has to do with Habermas' epistemic ideal of argumentation still present in his understanding of both legitimacy and rationality. The second complex of problems has more to do with Habermas' sociological or analytical understanding of lifeworld. Let us consider these difficulties for a moment, beginning with lifeworld as a sociological concept.

The concept of lifeworld is notoriously difficult to understand. Habermas' analysis of the lifeworld threatens to strand in a Parsonian-like complexity and symmetric formality. In the end, it seems to me, we can understand the concept of lifeworld in Habermas' work in three ways: as social coordination, as societal integration and in opposition to system.

Lifeworld as *social coordination* or, as Habermas calls it, the 'ethnomethodological' perspective, concerns the basic idea already explained in which social action necessitates that actors need to come to some interpretative agreement concerning the specific social context – actors need some shared understanding of the situation to pursue their individual goals (1984:129). In daily life, such mutual understanding is most of the time unproblematically communicated. Large parts of social situations in everyday life do not need explicit linguistic thematisation and argument but also concern other forms of symbolic communication. Lifeworld, in this perspective, consists of the totality of "a culturally transmitted and linguistically organised stock of interpretative patterns" that actors *share* in order to come to a mutual understanding of the situation – to make themselves and others comprehensible (1984:13, 392; 1987:124). Social action in lifeworld is *communicative action* and a shared lifeworld makes such communication possible.

Habermas makes a lot of fuss about the concept of 'communicative action' – claiming a 'paradigm shift' in sociology from *subjective* action theory to *intersubjective* communicative theory paralleling the philosophical shift away from the 'monological philosophy of consciousness' (1984:280,336, 386, 390; 1987:115). But in light of our analysis of Luhmann our understanding of action theory is hardly shifting at all.[41] More importantly, even if lifeworld is implied in social coordination there is no inherent necessity to understand it as some form of intersubjective *consensus*. Agreement about how to *interpret the situation* necessary to pursue individual goals does not mean that the actors involved have reached or have to reach a genuine value consensus. However, this is what Habermas seems to be implying. According to Habermas, every 'expression' or

---

[41] Habermas, in contrast to Luhmann, does emphasise agreement. "[T]he concept of *communicative action* refers to the interaction of at least two subjects capable of speech and action who establish interpersonal relations .... The actors seek to reach an understanding about the action situation and their plans of action in order to coordinate their actions by way of agreement" (1984:86). Nevertheless, agreement is a function of – and, as such, subordinated to – social coordination: "Reaching an understanding functions as a mechanism for coordinating actions" (1984:99).

speech-act implies three validity claims relating to the objective world (truth), the social world (normative rightness) and the subject world (sincerity) (1984:75-6,99-100,307; 1987:126; 1996:5). Subsequently, agreement about how to interpret the situation *implies* an affirmation of these validity claims and consensus about 'truth' and 'rightness' (1984:95,99,106).[42] "Agreement rests upon common convictions" – it concerns a 'normative accord', 'shared knowledge' and 'mutual trust' (1984:287,308). However, we should refuse this reading. Luhmann, as we have seen, points out that social coordination and communication is about expectations and expectations of expectations (see chapter 5). As a consequence, social action can function quite effectively in a world where we act *as if* we agree about truth and normative validity and where we can distinguish between confidence and trust. Habermas might be quite right that we can question validity claims implied in *communicative action*, it does not automatically imply that *social coordination* implies consensual validity.[43]

Second, if lifeworld as social coordination can be fairly comfortably incorporated into the action framework of this thesis, Habermas himself explicitly argues that this ethnographic conception of lifeworld does not suffice. As Baxter rightly notices, Habermas provides no good reasons why we have to leave this action theoretical approach (2002:529). Habermas ultimately wants to leave the 'performative attitude' of actors and specific practices in order to be able address the epistemic issue of differentiating between genuine undistorted consensus and 'pseudo-consensus' (1987:150). The ethnographic approach does not suffice for the unconvincing reason that it does not allow a theory of lifeworld 'as a whole' (1987:136-7). Instead Habermas wants to develop lifeworld as *societal integration*. The change in perspective is dramatic. Where social coordination concerns the question of how lifeworld enable actors to coordinate expectations and communicate interpretations of a specific context, societal integration concerns how lifeworld *integrates groups, communities* or *societies* (1987:137). The principle 'object of investigation' changes from lifeworld as social action to lifeworld as 'society' (Baxter 2002:594).[44]

Discussing Durkheim, Habermas understands lifeworld in 'tribal communities' as a totalising 'normative consensus' embodied in the 'sacred' and enacted through 'rituals and signs', which attains its *moral force* because it *is* the collective (1987:45ff.). Lifeworld, then, is Durkheim's *conscience collective*. However, neither Durkheim nor Habermas claims that modern 'functionally differentiated' society can be understood in these terms. According to Durkheim modern society is

---

[42] Sincerity cannot be 'validated' in yes or no positions but only in subsequent action itself. Agreement with 'sincerity' claims might be translated as *trust* (1984:308). A fourth validity claim inherent in speech of communication in general is 'comprehensibility' (1984:42).

[43] In this regard, Habermas would have to accept the idea that war is consensual if both parties interpret the situation as armed conflict. I doubt that this is how we should understand a valid consensus.

[44] Baxter makes a convincing case that this shift is necessary for Habermas if he wants to hold on to the idea that system and lifeworld are uncoupled (1987:73).

no longer *integrated* through such 'mechanical' solidarity but through a more complicated and cooperatively secured 'organic' solidarity. According to Habermas we must understand this shift in types of solidarity (and types of society) in terms of the *rationalisation* of lifeworld (1987:91).[45] Where in primitive communities the lifeworld was a total and, above all, sacred normative consensus embodied, produced and reproduced in totemistic rituals, the 'linguisitifaction' of this symbolic reproduction of society allowed its evolutionary and progressive rationalisation, i.e. the sacred is progressively exposed to rational thematisation of the three validity claims inherent in communication (truth, rightfulness and sincerity) (1987:77,81-2). This 'unfettering' of validity claims from a totalising normative-consensus means that the weight of social integration must more and more be carried by communicative action, by 'achieved and not merely reproduced consensus' (1987:77,89). "The more communicative action takes over ... the burdens of social integration, the more the ideal of an unlimited and undistorted communication community gains empirical influence" (1987:96). The rationalisation of lifeworld, then, concerns the "release of the rational potential of communicative action" (1987:77).

This rationalisation leads, according to Habermas, also to a *functional differentiation* of lifeworld (1987:134, 137). Lifeworld as societal integration means that lifeworld is understood as a *function* of the symbolic reproduction of society. This reproduction must be especially accomplished in three 'lifeworld domains' or 'structural components' that are inherently related to the three validity claims and the three worlds present in communication: culture, society and person (1987:107,115; 1984:5).[46] Culture concerns *knowledge*, society concerns *normative institutions* and person concerns the *socialisation* of individuals (1987:63).[47] Lifeworld, then, is "reproduced by way of the continuation of valid knowledge, stabilisation of group solidarity and socialisation of responsible actors" (1987:137). Finally, to make things even more complicated, these lifeworld domains, functional for the symbolic reproduction of society, can be *institutionalised* in different *value spheres*, especially in science (knowledge), law and morality (society) and art (culture) (1987:91,107).[48]

The point here is not to analyse these claims in much detail, but rather to spell out that with the shift of lifeworld as social coordination towards lifeworld as social integration Habermas

---

[45] As such, Habermas wants to differentiate between a theory of communicative action and 'normative theories of action' – like that of Durkheim and Parsons – in which action actors solely "orient their action to common values" and where "collective identity" and "normative consensus" are inseparable (1984:85; 1987:53).

[46] These three domains, according to Habermas, also point to the three functions of communication: understanding, coordination and socialisation (1987:63, 137).

[47] Such socialisation is, in Durkheimian fashion, particularly about *individualisation* and about the development of individual *moral consciousness* (1987:84,174).

[48] To complicate things further science, law and art appear as 'professionalised' domains of culture organised by 'cognitive-instrumental, moral-practical and aesthetic-expressive rationality' (Habermas 1981:8).

analyses lifeworld in *functional* and *institutional* terms. Despite Habermas' explicit 'critique of functionalist reason' the shift from lifeworld as social coordination to lifeworld as societal integration is remarkably functionalist in nature (1987:334). Habermas is ultimately interested in legitimate *social order* – indeed, even the democratic nation state remains the implicit object of analysis. It might be argued that Habermas perceives the lifeworld to be what in Parsons' work belonged to the societal sub-systems of 'pattern maintenance' and 'social integration' (1987:273ff.).[49] With this functionalist shift, Habermas moves away from an action theoretical understanding of lifeworld or legitimacy. More generally, it might also be argued that Habermas' *sociological* analysis suffers from 'cryptonormativist empiricalisation', i.e. many claims are not so much empirically grounded as normatively inspired, and many analytical claims are taken for empirical facts (Bader 1983:336, 1984:84, 1994:112).[50] Habermas' sociology suffers from a slippage from ought to is.

Finally, Habermas foremost understands lifeworld in opposition to system. This opposition is crucial for his critical theory, the understanding of present-day 'pathological social conditions' and for his conception of legitimacy. When lifeworld and the institutional domains that symbolically reproduce society are founded upon communicative action and hold the potential for communicative rationality, system is the primary source of social pathology by its tendency to 'colonise' lifeworld reproduction and communicative rationality with the 'material reproduction' of society and instrumental reason (1984:399).[51] Habermas, however, has a particularly unhelpful notion of system and system theory.[52]

System, for Habermas, is in the first instance a specific *analytical perspective* of how to perceive society. The primary model of system, then, is traditional economic theory in which the

---

[49] This reading is strengthened by the fact that Habermas especially critiques Parsons for not perceiving the inherent difference between 'inducement' (money) and 'deterrence' (power), on the one hand, and 'persuasion' (influence) and 'moral appeal' (value-commitment), on the other (1987:279; see also chapter 5). What differentiates the latter, according to Habermas, is its communicative and linguistic foundation based upon 'rationally motivated' mutual understanding and not upon success-oriented 'empirically motivating punishments and rewards' (1987:279). As a consequence, influence and value commitment are part of lifeworld and not system. Yet, Habermas does consider them to be "forms of generalised communication", i.e. 'abstractions' or 'simplifications' ultimately dependent on respectively "the intersubjective recognition of cognitive and normative validity claims" (1987:276-7).

[50] Especially Habermas' claim that separating between empirical validity and ideal-normative validity would lead to coarse 'empiricism', 'objectivism' or 'positivism' seems to explain part of Habermas' confusion (Bader 1984:76). Weber is not a 'positivist' as Habermas seems to think but rather has an 'empirical' orientation (ibid.:87).

[51] Or, in any case, to destroy "traditional forms of solidarity without at the same time producing normative orientations capable of securing an organic form of solidarity" (1987:116).

[52] Habermas tends to use the concept of 'system' connected to everyday negative associations, such as 'unfreedom, coercion and uncontrollability' (Bader 1983:334). The dichotomisation between system and lifeworld is less analytically and more normatively inspired. The duality material/symbolic, it might be argued in this context, seems to reproduce the Marxist differentiations between 'base' and 'superstructure' (Bader 1983:337).

'invisible hand' is an 'objective force' that structures and coordinates society 'behind the backs', intentions and consciousness of the individual actors involved (1984:398; 1987:115, 150; 1996:39-40).[53] Where the 'social integration' of lifeworld means that "the action system is integrated through consensus, whether normatively guaranteed or communicatively achieved", 'system integration' concerns integration through "the nonnormative steering of individual decisions not subjectively coordinated" (1987:150).[54] System is an *outsiders' perspective*. But at the same time, system is not only a perspective, according to Habermas, but also a specific social sphere that evolutionary differentiated from the lifeworld itself to deal with the 'overloaded integrative capacity' of a rationalised lifeworld (1987:111,155; Baxter 2002:548; Calhoun 1988:222). This is confusing, to say the least (Bader 1983:331).

System as a functionalist outsider *perspective* and as a *social sphere* come together to the extent that Habermas understands system theory solely in functionalist Parsonian and cybernetic terms. The main functionalist perspective concerns, as in Easton, *system survival* or "the functional reason of system maintenance", emphasising *objective* or *structural imperatives* of social differentiation, functionality and cybernetic inter-systemic communication (1984:399; 1987:117, 150). At the same time a system, for Habermas, is also a social sphere in which actions are coordinated by power and money understood as 'delinguistified steering media' that have the *imperative* capacity to steer social action through "symbolic generalisation of rewards and punishment" institutionally backed-up by reserves of 'real value', i.e. by gold and violence (1987:154,171,272).[55] Because money and power, according to Habermas, are *steering mechanisms* based upon sanctions "they have empirically motivating power and can *replace* rational motivation through reasons" (1987:272,280). As such, whether system is understood as a perspective or as a social sphere, system integration operates beyond the rational will of the actor's involved.

It must be emphasised that this cybernetic version of system theory is profoundly different from the media theoretical perspective as we understand it (see chapter 5). System is about success-oriented *objective calculable knowledge* and not about ambiguous, vulnerable symbolic social

---

[53] The idea that action theory is solely oriented to "the subjective meaning of individual action" and not to social structures over and above individual action is, of course, a coarse simplification we must deny (Baxter 1987:53; Bader 1983:334-5).

[54] The claim that system is 'nonnormative' must of course be denied. The market is not a norm-free sphere. To claim that *politics* is nonnormative is just wrong (Bader 1983:340).

[55] In Habermas' evolutionary account society can only differentiate and increase in complexity to the extent that lifeworld rationalisation allows it – system must be 'institutionally anchored' in lifeworld (1987:173). Indeed, the rise of system media (power and money) is explained especially as functional means to reduce social conflicts that rise from increasing lifeworld rationalisation. As such, they are also "mechanisms for coordinating action" but these media, in contrast to language, 'replace understanding' "uncoupling action orientations from the lifeworld" (1984:372). The 'paradox', then, is that lifeworld rationalisation both allows the potential for social learning *and* its colonisation (1987:186).

coordination (1987:183, 272).[56] Habermas, despite all polemics, never really seemed to understand the analytical consequences of Luhmann's version of system theory.[57] The inherent analytical contradictions that Habermas' analysis confronts us with are threefold.

First, our understanding of social systems is already based upon *communication* and is also understandable from an *actor's perspective*. Communication, then, cannot be the foundational difference between lifeworld and system. Second, in Habermas' analysis *both* lifeworld and system are *functionalist* perspectives concerning the symbolic and material reproduction of society respectively, or simply the 'reproduction' of lifeworld and system (1987:137). Both lifeworld and system are, third, perceived as *institutional* spheres – system consist of the administrative state and the market, while lifeworld consists of science, art and the public sphere. This institutionally based differentiation threatens either to reify system/lifeworld opposition in terms of state/society opposition – throwing us back at the difficulties of the public sphere model – or to reduce and simplify it to the opposition of formal/informal social institutionalisation (1987:309-10, 369).[58]

This institutional differentiation clearly contradicts media theory and simplifies the complexity and ambiguity of social action at the level of multi-functional institutions, organisations and interactions. The direct costs for this simplification is that Habermas must now add a third perspective of society as he not only has to analyse the relation between lifeworld and system but also between 'everyday lifeworld' and 'lifeworld institutions'. Indeed, social pathology, according to Habermas, is not just about colonisation of the lifeworld by system but also about a 'cultural impoverishment' consisting of the segmentation, expertisation and autonomy of lifeworld institutions themselves (1987:326-7, 331; 1981:9).[59] In short, the opposition of lifeworld and system is not as straightforward as Habermas wants it to be – not in terms of his own functionalist account and certainly not in terms of our media-based understanding of system theory.

Habermas' sociological analysis, we can conclude, overemphasises the consensual notion of lifeworld, gives it a too strong functionalist reading and misunderstands the nature of social systems. The second complex of problems concerns Habermas' normative project. First of all, where in the

---

[56] Situated in our discussion of trust (see chapter 6), Habermas perceives system in terms of objective *probabilities* and not in terms of vulnerable *agentic expectations* – in terms of external *force* and not in terms of communication necessitating *confidence and trust*.

[57] It can be argued that Habermas exaggerates the incommensurability problem between Action Theory and System Theory – i.e. the Neo-Kantian divide in sociology he wants to solve – precisely because he has a distorted perception of both (Bader 1983:337ff.).

[58] To claim that system is purely formal organisation not only denies the importance of informal relations and knowledge in the political and economic system, but the market is "the classic contra-principle to formal organisation" (Bader 1983:340).

[59] Indeed, Habermas comes close to an autopoietic reading of these institutions – especially in terms of 'art for art's sake' (1981:9).

'direct' relation between lifeworld and system, or between public sphere and politics, the epistemic dimension is transposed from the public – relieved "of the burden of decision making" (1996:362) – to democratic decision-making procedures and processes, epistemic claims have not disappeared in the 'detour' model. For Habermas, the rationalisation of lifeworld means, as we have seen, that social integration can less and less be carried by *presupposed* normative consensus, but must be more and more carried by *achieved* consensus as more and more presumptions are explicitly being thematised or politicised. Based upon Habermas' epistemic model of 'universal discourse' *progressive* rationalisation of lifeworld means that the "vanishing point" of an "idealised lifeworld" ultimately would be a lifeworld "detached from normative contexts" and solely integrated through postconventional universal morality (1987:145-6,174). If we do not want to take over such universalising epistemic notions, Habermas' detour-model of political argumentation nevertheless demands some form of rationality. Habermas provides a possible alternative solution if he understands the rationalisation of lifeworld foremost in terms of rational 'learning potential', i.e. in freeing the rational potential of argumentation (1987:375,403).[60] As already argued, non-foundationalist models precisely try to understand rationality as a learning process without presuming some teleological universal horizon or one final coherent answer.

The second problem is more fundamental. Rationality, for Habermas, concerns a form of reason that despite the "confusing complexity" of everyday communication, despite its 'fragmented and distorted' nature, as it "has to rely on being symbolically embodied" and "historically situated", can nevertheless surface in the *structures* of communication, argument and lifeworld (1984:331,xli). Rationality is not so much expressed in actual consensus or present in the action orientations of the actors but is situated in "the general structures of the lifeworld to which acting subjects belong" (1984:328,337). It is precisely upon this structural rationality that Habermas builds his understanding of legitimacy. But this outsider's perspective of political legitimacy remains rather impervious to action and the action theoretical framework of this thesis. Indeed, actors do not have access to legitimacy. Legitimacy is no longer based upon agreement but upon a rationality inherent in *intersubjective* communication flows, structures and processes (1996:5). Public opinion as well as public sovereignty are understood by Habermas as 'subjectless' – while rationality is 'decentred' into 'structural conditions' (1996:184,4).

---

[60] Communicative rationality, in Habermas' work, is a tricky concept. It points, first, towards communicative action in lifeworld, i.e. one's action must be understandable and intelligible for others in a specific context. Second, it points towards the 'rationalisation' of the lifeworld, i.e. making lifeworld assumptions thematisable by taking validity claims out of spheres of taboo and the normative 'sacred'. And, finally, it also points towards the rationality of public argumentation itself, i.e. in terms of epistemic ideals.

We might wonder what legitimacy as system-lifeworld integration means from an actor's perspective.[61] Concepts as 'objective' or 'subjective' validity – central to our analysis – start to loose analytical meaning, in particular when Habermas claims that the background values of lifeworld are a 'fusion of facticity and validity' (1996:23). It seems as if the political system is legitimate as long as domination or decisions are not thematised or as long as the system is not 'meaningless' 'alienating' or 'anomic' (1987:140-1,386). Indeed, it threatens to reduce subjective legitimacy to mere acceptance of social order.

Furthermore, Habermas normative understanding of legitimacy remains overtly consensual and harmonious. From an analytical point of view, the legitimacy of modern institutions ultimately remains founded upon a 'common interest' and a "common will anchored in the communicative practice of all individuals" (1984:398; 1987:80). Even though politicisation and conflict play an important role in rationalisation processes, legitimacy itself remains closely tied to a social order which itself is based upon social consensus. When lifeworld cannot simply be equated with 'value consensus', it contains strong consensual notions nevertheless. Lifeworld concerns a communicatively based societal integration in terms of *shared* cultural knowledge, *shared* normative institutions and a *socialised* personality. It is "based ultimately on ... the unconstraint, unifying, consensus-bringing force of argumentative speech, in which different participants overcome their mere subjective views" (1984:10). Although conflict might rise, precisely because the traditionally sacred is no longer outside the profane realms of thematisation and critique, conflict and social fragmentation nevertheless are *dysfunctional* for the symbolic reproduction of society – or, as Habermas states it, the main threat for lifeworld is not its invalidity but its disintegration (1987130, 400).[62] The resource most 'endangered', according to Habermas, is 'social solidarity' (1996:xlii).

7.4 Conclusion: Lifeworld beyond Habermas

In conclusion, if the lifeworld model of politics as argumentation is going to be of any use to us, we need to reconstruct the lifeworld concept. First, we need to get rid of the profound functionalism in Habermas' work. Legitimacy, rationality or social action must be meaningful and understandable from an actor's perspective. Second, Habermas' distorted understanding of system must be discarded in favour of Luhmann's media theory. This also means that we will have to discard the lifeworld as an institutional sphere functional for the symbolic integration of society. Third, if we free

---

[61] How does this rime with Habermas claim that "it must remain possible for everyone to obey the law not on coercion but upon insight" (1996:121)? Indeed, if Habermas perceives the main problem of modern societies to be "how the validity and acceptance of a social order can be stabilised ... in the view of the actors themselves" once lifeworld and system 'clearly begin to differ', how does his theory explain this (1996:25)?

[62] Indeed, if the rationalisation of lifeworld inherently entails a drive towards 'universalisation' (1987:84), social fragmentation can easily be seen as anti-modern or conservative. It is in this regard telling that Habermas calls postmodernists 'neo-conservatives' (1987:45; 1981:13; Lyotard 1984:72).

the lifeworld concept from functions of societal reproduction and of strong epistemic notions, we must also free it from overtly consensual, harmonious and solidaristic presumptions. This does not mean that we have to make an exaggerated choice between either consensus or conflict, but rather that we have to open analysis for the *political condition*, i.e. for non-foundationalist practical reason, for pluralism, complexity and contradiction. Finally, if we discard Habermas' universalistic-teleological version of rationality, if we want to go beyond his foundationalism, we still want to replace it with some other notion of rationality if we do not want to get lost in some postmodern fantasy. In short, I propose to give Habermas' lifeworld concept a *critical realist re-reading* – a re-reading that opens up lifeworld to an action theoretical understanding of political argumentation and legitimacy.