The Ground of Legitimacy

An Investigation of the Public Sphere as Political Semantics

Joachim Wiewiura

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Preface

We are entering a decade that portends even stranger times than the one we have just left. The 2010s gave severe indications of the collapse of public reason, the principal engineer of our deliberative democracies, whose techniques have been advocated, practised, and enforced on a global scale since the 1990s. However, a collapse of 'the public sphere' would arguably be slower than the pace of landslide victories or sudden crises. It would be more akin to imperceptible tectonic movements which in the end would be powerful enough to destroy the ground of any steadfast idea of political life.

Time and again, narratives of political melancholy have announced the birth of post-truth politics: a condition in which the scales of the acceptable, respectable, and meaningful are no longer in balance with legitimate order. This menacing shift on the political horizon gives rise to a further thought: on the one hand, the profusion of alternatively legitimising opinions and aberrant understandings of justification, which emerge from the depths of the social, indicates a public on the wane; on the other hand, the vibrancy of discussion, the clashing of world views, and the struggle for visibility indicate another public on the rise.

Could such differences imply that 'the public sphere' harbours a logic which does not cater to specific notions of political order? What if the public sphere is able to destabilise rather than stabilise senses of the political? Can the public sphere project *more* notions of legitimacy? Perhaps the public sphere is a source rather than a result of social orders. If so, then the scales of legitimacy will be calibrated in the public sphere, rather than vice versa.

Today, the public sphere comprises the production of alternatives—from opinions to facts. Can theories of the public sphere perhaps offer explanations to help us understand a political reality that no longer rests on firm ground?

Acknowledgements

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I would also like to thank Frederik Stjernfelt and David Budtz Pedersen for generously including me in their Humanomics Research Group at Aalborg University Copenhagen. The intelligent company and discussions have been very insightful and a lot of fun. I also owe many insights to my students on the master's course "Public Spheres and Political Philosophy," which I taught at the University of Copenhagen in autumn 2018. It was truly a pleasure to teach and examine such a diffuse concept together with you.

Moreover, I am very humbled by the fact that many people prioritised reading my drafts in their busy schedules and lives. All your detailed comments, suggestions, and question marks have been immensely helpful. Therefore, with gratitude, thank you: Søren Christensen, Lucas Cone, Robin Engelhardt, Pål Frogner, Martin Gak, Jørgen Huggler, Simo Køppe, Xavier Landes, Simon Langkjær, Steen Nepper Larsen, Martin Hauberg-Lund Laugesen, Kresten Lundsgaard-Leth, Silas Marker, Merl Storr, Sille Obelitz Søe, Cille Varslev, and Clara Marie Westergaard.

I have been lucky enough to be based at the Center for Information and Bubble Studies, a hub of many pleasant conversations and great company with an energetic vibe. I have always looked forward to going to the office in the morning. Likewise, during my research stays abroad: at the Digital Ethics Lab, Oxford Internet Institute, Oxford University, Luciano Floridi and Mariarosaria Taddeo were very kind to host me twice; at the Center for Civic Media, MIT Media Lab, Massachusetts Institute of Technology, I was warmly welcomed by Ethan Zuckerman, who gave me the most valuable things, namely his time and attention. Both stays introduced me to

good company and taught me things I would not otherwise have known how to learn.

Finally, I would like to say a huge thank you to my family, especially to my wife Tora for turning doubt into a more pleasurable state of mind. Thanks for being so utterly caring and attentive to me when I was distracted and sunk in the detail of (most probably) Hegel.

List of figures

All figures are my own.

(right). *A*, *B*, and *C* signify publics. The former portrays no interaction or shared conditions between different publics, and shows no overall public sphere. The integrated view argues that the highest LoA is the comprehensive public sphere within some area (a society, for example). The isolatory view argues that the highest possible LoA of publics only corresponds to each individual public that does not participate in, or maintain, a more comprehensive category.

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List of abbreviations

Habermas, *Auch eine Geschichte der Philosophie*	AGP
Habermas, *Between Facts and Norms*	FN
Habermas, *The Structural Transformation of the Public Sphere*	ST
Hegel, *Phenomenology of Spirit*	PS
Hegel, *Philosophy of Right* (Knox' translation)	PR
Honneth, *Das Recht der Freiheit*	RF
Luhmann, *Social Systems*	SS
Kant, "An Answer to the Question: What Is Enlightenment?"	WE
Kant, *Critique of Pure Reason*	CPR
Kant, *Groundwork of the Metaphysics of Morals*	GMM
Kant, "On the Common Saying: 'This May Be True in Theory, But It Does Not Apply in Practice'"	TP
Kant, *Perpetual Peace*	PP
Kant, *The Contest of Faculties*	CF
Kant, *The Metaphysics of Morals*	MM
Information and communications technology	ICT
Level of abstraction	LoA
Networked public sphere	NPS
Networked	N
Private use of reason	PRUR
Public use of reason	PUUR

I use the standard English translations of all works whenever they are available, but in some cases I have found it necessary to make my own translations. These are marked throughout the thesis.

"One would indeed think that writing means setting something free, something that has been imprisoned and then regains its freedom. It often occurs to me to be the opposite. That by writing one shuts something up that before was free, harnessing what's already operating on its own terms. Were words invented with the intention of placing our thoughts in a bad light? Or what is actually going on?"

S. Sæterbakken, *Where I Think Is It Always Dark*
(2015, 58f) (my translation)

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The public sphere across the board

> One word more about giving instruction as to what the world ought to be. Philosophy in any case always comes on the scene too late to give it.
>
> G. W. F. Hegel, *Philosophy of Right* ([1820] 2008, 16)

SUMMARY

This introductory chapter presents the preliminary considerations that structure the thesis. It presents the main claim and argument, clarifies the methodological presuppositions, and explains the conceptual approach to the public sphere. The aim is to argue, as the thesis title suggests, that the public sphere is the ground of legitimacy. That is, the public sphere is the foundation on which legitimacy is dependent and through which it is subject to specific conditions. I argue that the public sphere can, as the thesis subtitle states, be modelled as what I call 'political semantics', which refers to the idea that public opinions are the primary source of strategies of legitimisation in society. The task is to show that this is a viable model of the complex formation of political views amid an ocean of theories that propose different explanations, apply other approaches, and offer alternative concepts.

I begin by introducing the argument and its components in Section 1.1. I outline the central concepts of my model, endorse political realism, and sketch the dominant countermodels I engage with throughout the thesis. In Section 1.2, I reject two common assumptions about the public sphere, namely that the public sphere presupposes democracy, and that it presupposes a mass or majority. Then, in Section 1.3, I clarify the method I use to structure my analyses of the public sphere, and I make an initial distinction between two uses of the concept. Thereafter, I argue

that my interpretation of Hegel in Chapter 4 takes a step towards a new position in the literature on the public sphere, and I justify my choice of Jürgen Habermas over Hannah Arendt. Section 1.5 presents an overview of the thesis chapters, and in the Conclusion I sum up this chapter and introduce Chapter 2.

1.1   Introduction: argument

I propose the thesis that the public sphere is able to produce a variety of legitimacies. My argument, which can be constructed as a hypothetical syllogism, is that the *basic activity* of publics (= A) expresses *senses of the political* (= B) that cause the production of *notions of political order* (= C). Understanding legitimacy (= D) as being equal to C means that A implies D.[1] The aim of the thesis, then, is to substantiate these hypotheses of the argument, based on which I will propose a model of the public sphere that represents the relation between the basic activity of the public sphere and legitimacy.

The argument contains three components that may be schematically introduced as follows. First, I label the basic activity in the public sphere 'signalling'. I understand a signal as a visible attempt to convey meaning to others, and every signal is able to participate in opinion formation in the public sphere. Signals cover an endless variety of performances such as actions, images, and symbols that range from changing your profile picture on Facebook to walking the streets. Signals may rely on socially embedded ways of engaging politically in the public sphere as well as trying to form new ways of participation.

Second, I give the label 'political semantics' to the general sense or meanings of 'the political' that arise from countless signals. In this way, political semantics is meant as the concept in my model that spells out the placeholder 'public opinion', that much-loaded, heavily debated, and therefore also rather vague concept. I use 'semantics' more broadly than its original usage in linguistics, where it commonly refers to the meaning of *words*. Instead, I intend to use 'semantics' for the meanings of compounds of signals, which refer not only to words but also to general positions,

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[1] If A, then B. If B, then C. Therefore, A implies C. C = D. Therefore, A implies D. Or: if the *basic activity* of publics implies the expressions of *senses of the political* (first premise), and if the senses of the political imply the production of *notions of political order* (second premise), then the basic activity of publics implies notions of political order (subconclusion). Notions of political order are equal to perceptions of legitimacy (third premise). The basic activity of publics therefore implies legitimacy (conclusion).

understandings, or interpretations of political themes and motives that are conveyed throughout the variety of signals. Moreover, 'the political' cannot be fixed externally to certain themes or activities. It is determined in a specific public sphere which interprets some issues and not others *as* political. For instance, identity politics is a case of a political semantics (discussed in Chapter 7 along with other examples) which—amid much controversy—challenges the socially established understanding of political issues in the public sphere, and therefore exemplifies how notions of the political are moving targets.

Third, 'notions of political order' are notions about which meanings are more suitable to work as justifications of power. These notions are rooted in the public sphere because the public sphere is a reservoir of political semantics that are suggestive of specific interpretations of the political. This means that the public sphere harbours one set of loosely coupled stances that endorse one strategy of legitimisation while also harbouring other sets that endorse other strategies. Some strategies overlap, while some fundamentally diverge regarding the ways of authorising, proving, and authenticating—in short, legitimising—political demands. In this way, legitimisation also works in return on the basic activity of the public sphere in the sense of encouraging some signals and not others. This means that types of legitimacy, once established in society, may enforce or curb the generation of specific political semantics.

My account endorses political realism, which means that the point of departure for my investigation is that the concept of the public sphere encapsulates a target system in the world (I will say more about this in Section 1.3). However, realism should not be conflated with a stance which assumes that the deployed concepts *realistically* describe reality. I aim to convey the logic of the relation between the public sphere and legitimacy which I seek to *model*, and the model expresses this logic through the use of stylised components. Realism, minimally, only argues that a model represents a system which is *independent of the model*[2]: that is, in the same

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[2] I follow here Uskali Mäki's minimal scientific realism about social science (Mäki's work is mainly on economics). Mäki (e.g. 2012, 2011, 2000) has developed an influential realist account which argues that realism only has to claim that the target of a model is 'enquiry-independent' (or 'science-independent') rather than 'mind-independent'. Mäki argues that the social sciences cannot adopt the standard realist criterion of 'mind-independence', because the observables of society (e.g. institutions, laws, communication, and for our purposes the public sphere) are mind-dependent. Minimally, realism may thus claim independency of the enquiry (and thus of the model) rather than

way as Galileo's model of gravitational acceleration, Bohr's model of the atom, or any other abstract model with unrealistic or idealised assumptions seeks to convey (albeit not always successfully) something *true* about the world. In this sense, a model may be stripped of the nonideal vibrancy of its referent in the world, and appear more as a cunning attempt to build a trap by which reality might fall into the pit of one's words. Of course, reality cannot be deceived, and the Sæterbakken quotation—the epigraph that introduces this thesis—is therefore not only a point about writing. It also invokes the wary realist position of clinically carving out an organ of the social even while it is already drenched in reality. I do not therefore intend to claim that the realistic conjoins with realism in the portrayal of reality, but only that realism is obligated to deliver the necessary shapes that, in the form of models, enable the idea to emerge in a clear way.

Turning to the relations between the components in the argument introduced above, I will derive the connection between signalling and political semantics from my analysis of Hegel's concept of the public sphere (Chapter 4). However, Hegel rejects the relation between public opinion and legitimacy, so I will instead critically engage with a number of realist theories, and ultimately propose a productive implication between political semantics and legitimacy in Chapter 7.

The central countermodels to my realist account are the theories of Kant (Chapter 2), Habermas (Chapter 3), and deliberative democracy (Chapter 5), which all claim in different ways that the public sphere is structured by components that embody specific understandings of political legitimacy. As such, 'critique' in Kant, 'communicative action' in Habermas, and 'deliberation' in deliberative democracy all substantiate the emergence of public opinions in society. There are different ways to criticise these models: one could argue that they are historically unrealisable in society; that their philosophical groundwork is argumentatively and conceptually problematic; or that their enquiries into the regulative ideal of political autonomy are alternative approaches to realist political theory. Critiques often fall into the first category—such as that Habermas especially is too unconcerned about *actually existing* democracy, as Nancy Fraser (1990) put it; I will engage with these criticisms in Chapters 3 and 7. The third type of critique is hard to get around and is mostly a juxtaposition of approaches, which I will also engage with through a critical comparison of theories. But I am primarily interested in the second type of

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of the social world. Mäki's realism is the background for my own enquiry, and is intended in my phrase 'independent of the model'.

critique. I will therefore offer critiques of Kant, Habermas, and deliberative democracy, and attempt to show why I do not find them philosophically convincing. Moreover, I will show that each in its own way conceptually presupposes a publicly endorsed idea of legitimacy before the public sphere begins to take form. In this way, they propose a notion of public opinion which is only possible if their notion of legitimacy substantiates the fundamental grammar of the public sphere. These positions turn the argument around, so to speak, meaning that public opinion is already a legitimate structure from the beginning: the yarn of public opinion is spun from the spinning wheel of legitimacy. The concept of legitimacy in these theories, then, becomes the sufficient condition for understanding the public sphere.

In contrast, I will attempt to argue that legitimacy and the way in which legitimisation works are much more likely to bend to the force of the public sphere than vice versa. Signalling agents, in the last instance, shape the notions of political order. The public sphere, as a concept of political philosophy that points to the world, is therefore much less susceptible to the demands of theoretical legitimacy than it is vulnerable to the imaginings of hoi polloi. The public sphere is a concept that embodies political practice in one way or another, and this should be understood in order to grasp its contribution to society—what it does and is capable of. In this sense, I do not attempt to clarify what the public sphere ought to do or be. The philosophical investigation is to scrutinise the concept, and this foundational methodological approach of my thesis is thus sloganised in the Hegel epigraph above.

1.2   Rejecting two assumptions

The study of the public sphere is often associated with two assumptions that I see reason to reject because they confine the study of the category in a counterproductive way. First, the relation between democracy and the public sphere is crucial to democratic theory, because the public sphere is crucial to democratisation. The public sphere is a hinge on the door of democracy, so to speak, without which democracy would not open. In this way, the public sphere is a necessary condition for democracy, but democracy is neither a necessary nor a sufficient condition for the public sphere. Democratic theory positions the public sphere as a vehicle in a more extensive system, and the public sphere has been so well integrated into this system that to analyse it independently and away from its democratic 'theoretical surroundings' may seem uncomfortable—perhaps even

controversial. However, one only needs to take one step into the canon to see Kant's rejection of democracy alongside his succinct endorsement of the public use of reason (PUUR). If one were to decipher the concept of the public sphere from an assumption of democracy, one would undoubtedly lose the insights from nondemocratic formulations ranging from Plato to Walter Lippmann. The question is whether one is interested in democracy or the public sphere. Although they are related, and the latter often conditions the former (but not vice versa), our focus is on the public sphere, and only by derivation on the framework of democracy.

Once we consider the public sphere without a democratic backdrop, we often rest on the tacit assumption of 'the many': that is, the nomological law that conflates the public with the study of the mass (or demos, majority, multitude, commons, rabble, crowd). I see three problems with this assumption. First, the public sphere is often imbued with qualities different from the mass, meaning that the public and a mass subject may be quantitatively but not qualitatively similar (mass versus public connotes pairs such as emotion versus intellect, disorderly versus orderly, and impetuous versus considered). Second, the characteristics of the public sphere have often been couched in monolithic terms such as reason, will, or interest, which seek to renounce allegiance to plural forms of collectivity. Third, as Chapter 3 shows, Habermas creates a precedent for distinguishing between any mass subject and the public sphere. In Habermas' analysis of the so-called representational public sphere, the absolutist ruler is the only constituent of the public, because the king is the figure that embodies legitimate claims. Moreover, with the rise of the bourgeois public sphere, Habermas conceptualises the commercial elite as the public, and therefore shows that the public sphere is not the many but rather the few: if elites can sustain publics based on their wealth, education, or other privileges, and the smallest possible elite is the tyrant, then the public sphere as a concept is variable according to circumstances, and is better not predefined as in terms of the majority.

If the public sphere can be found in absolutist rule, then we must also expect the public sphere to work in a broad array of historical situations and settings (see especially Chapters 3 and 7). The essential meaning of the concept must thus refer to attributes that are shared 'across the board'—belonging to its genus, and not only to particular kinds of public sphere (absolutist, bourgeois, democratic, etc.).

1.3   Method

I will refer to the level of abstraction (LoA), which I apply as the philosophical method for my analysis of the public sphere. Since it will structure the implicit use of the concept (Chapters 2–4) as well as more explicitly clarifying the domains of arguments (Chapters 5–7), I will present it here first to explain how I use the concept of the public sphere throughout the thesis. The method was developed by Luciano Floridi (2013, 46ff; see also 2015, 29ff), and it clarifies the way in which the identification of a system—in our case, the public sphere—is intended. The method of LoA is a simple tool to identify which features and characteristics are (to be) taken into account while we abstract them from others. It is meant as an adaptable framework that allows the comparative weighing of different arguments. Well-known LoAs are macro, meso, and micro, but given their apparent triadic limitation I will present a more flexible set of LoAs throughout the thesis.

Generally, LoAs are adopted relative to an enquiry. Consider an instance where plumbers and electricians are repairing a house. Given their differences, they adopt two different LoAs. The plumbers consider the sanitation infrastructure, while the electricians consider the circuits of electricity. Each LoA relates concretely and technically to particular dimensions of the house, and each therefore contains different 'observables'. As Floridi and Mariarosaria Taddeo write: "thus a LoA is a finite but non-empty set of observables accompanied by a statement of what feature of the system under consideration such a LoA stands for" (Taddeo and Floridi 2016, 1577). In the above example, the statements regarding the features of the system to be considered are 'sanitation infrastructure' and 'circuits of electricity'.

To analyse a system on a specific LoA gives a 'model' of that system. The model is ontologically committed to the observables of the LoA (Floridi 2015, 34f). Models are *not* ontologically generative; LoAs can only model and not construct systems. In this way, one is committed to the existence of the specific observables at the LoA. There is no specific limit of scope. For example, Floridi's philosophy of information adopts an informational LoA "that interprets reality—that is, any system—informationally. The resulting model consists of information systems and processes" (Floridi 2015, 35). In this sense, LoAs are very scalable.

Turning to the public sphere as our system, the linguist and rhetorician may consider the public sphere at LoAs where the observables are semiotic and oratorial elements respectively. These dimensions are not observable for the statistician, who analyses the system in terms of the quantitative circulation of news. Moreover,

taking a more abstract example, one may argue that Marxist theories adopt a LoA that interprets social reality (and therefore also the public sphere) in terms of class struggle, which makes them ontologically committed to the existence of class struggles.

In this way, LoAs impart pluralism but not relativism. The plumber and electrician live in the same world, and their LoAs should be compatible, meaning that they can know their observables without ontologically conflicting with each other. Should they clash, it will lead to epistemological disagreement about the world, and they can compare LoAs to resolve the conflict (they cannot conjunctively know P and not-P). This also applies to the choice of system—the plumbers and electricians can coordinate and compare how they consider the house (plumbers may include the sewer in the garden). This a matter of argument regarding the targeting of the system.

Now, using LoAs here, at the very beginning of the thesis, should help to clarify one central issue in the analysis of the public sphere: namely, whether the concept should be analysed as *the* public sphere (a monolith) or as a plurality of differently behaving publics. According to Todd Gitlin's (1998) influential argument, the monolithic version is a chimaera that breaks into a variety of 'sphericules'. This argument has weight, and moderating concepts (most prominently 'counterpublics') have nuanced the portrayal of domination and exclusion, which are simplified in monolithic accounts of the public sphere, according to an argument that I will address in Chapters 3 and 7.[3] Although the introduction of counterpublics suggests a fragmented or segmented social ontology in which different groups do not coalesce into homogeneous public opinions, the question then is whether the monolithic concept of the public sphere has no importance.

Such a conclusion is too hasty, I think, and making the LoAs explicit will indicate why: in Figure 1.1 we see that we can work with both monolithic and fragmented versions of the concept of the public sphere. At a high (or coarse) LoA, the public sphere is singular and conceptually whole, in the same way as 'state', 'economy', and 'civil society' are wholes. They are, naturally, vastly complex and

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[3] Furthermore, there are numerous specifications employed to pluralise the concept of the public sphere: e.g. strategic publics (Anderson 1992), segmented publics (Berkowitz and Turnmire 1994), hot-issue publics (Aldoory and Grunig 2012), digital publics (Plowman, Wakefield, and Winchel 2015), protest publics (Belyaeva, Albert, and Zaytsev 2019), and affective publics (Papacharissi 2015). All seem to apply their own LoAs.

Society   The public sphere
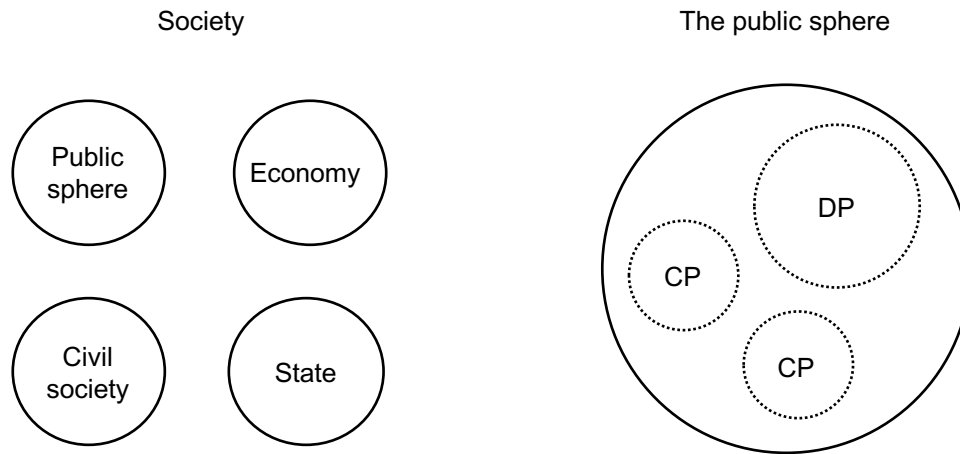
Figure 1.1 Different LoAs at which the public sphere is observable.
CP = counterpublic, *DP* = dominating public.

contextually rich 'on the inside', which can be analysed at a lower (or more finely grained) LoA.

Looking at the public sphere at a lower LoA can be compared to looking more closely at the economy: the economic sphere presumably embodies a systematic, economic logic at a high LoA, but the economic sphere also includes internally different and competing markets at a lower LoA, and with even finer granularity, businesses, customers, goods, etc. Each market applies different standards, but all are still part of the economic sphere. Likewise, the plurality of publics with inner demarcation lines does not suggest that there is no LoA at which one may investigate the general systematicity of the public sphere (which, I contend, is Gitlin's argument).

Moreover, I do not mean to argue that the public sphere is a physically coherent extensive body in society, but rather that its essential basic activity (signalling) occurs with certain features that, considered as a whole, make up the public sphere. The problem with the English term is that the public 'sphere' ('arena', 'domain', etc.) indicates such a body, which is not encountered in the German *Öffentlichkeit*, where the noun derives from *offen* (open) and is therefore less evocative of a firmly confined sphere. Thus the focus of the thesis is on the activity which embodies or animates the trope 'the public sphere' at different LoAs, and in Chapters 6 and 7 I attempt to use 'signalling', and terms such as 'signal-making' and 'public-making', to avoid too static a metaphorical landscape (with the proviso that static metaphors are sometimes also valuable).

1.4   History

In the monumental *A History of Private Life* (1992–1998), Philippe Ariès and Georges Duby show that the public and the private are embedded features of socialisation that change over time. So even if 'the public sphere' seems to emerge in systematic articulations during the Enlightenment (Chapter 2), I do not intend to suggest that one can limit its history, or even its intellectual history, to this period and onwards. Studies from disciplines such as material culture, architecture, and literature continue to confirm Ariès and Duby's thesis with evidence of early historical instantiations of public spheres, for instance, in the early modern period (Doty 2017; Vanhaelen and Ward 2013; Wilson and Yachnin 2010), ancient Rome (Russell 2016), and ancient Greece (Gottesman 2014).[4]

Specifically in the context of the history of philosophy, I will make the point here that this thesis takes a small step in the direction of examining a new conceptual strand in the public sphere literature. By analysing the Hegelian concept of the public sphere in Chapter 4, I will suggest that the contemporary repertoire of public sphere theories has missed a substantial position in Hegel. Let me make one point in this regard: Hegel's concept indicates a lineage running back to Plato.

Plato argues that the logic of the public sphere cannot function as the political benchmark of society (*Rep.* 493a–494a, cf. also 426e). My point is not that the public sphere is a brute-like, wild, and emotional beast (Plato's analogy), but rather, following on from this argument, that it cannot produce what Plato as a philosopher conceives to be good and just politics. This idea gains a sophisticated articulation in Hegel, but in a very different way from that found in Plato. Hegel also separates the public sphere from legitimate politics; but at the same time, unlike Plato, he justifies the public sphere as a dimension of rational freedom. The Hegelian public sphere is a direct result of the autonomy grounded in the constitutional rights of modern society, which nevertheless opens the empirical production of political claims in the social domain—claims which are neither entrenched nor 'fit' with the making of legitimate claims as per deliberative debates in the state (the parliament, according to Hegel). Hegel's model thus develops the difference between deliberative legitimacy in the state and the public sphere in society, while centring both as rational aspects of freedom.

On the one hand, Hegel shares with Plato the claim that the public sphere cannot satisfy or be the engine of good politics. On the other hand, Hegel also insists that

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[4] See also Wiewiura (2018, 361ff) for my engagement with these studies.

rational autonomy in modern society cannot be understood without the public sphere. In this way, Hegel points out the predicament of freedom, which makes it logically necessary to allow the public sphere to express forceful political utterances, yet *without* demanding that an a priori structuring principle of legitimacy should run beneath it for the safety of the state. In sum, Plato and more modernly Hegel show the ways in which the basic activity of the public sphere cannot be comfortably put into relation with (the normative expectations of) political legitimacy.

Seyla Benhabib (1997) has argued that modern theorists of the public sphere such as Arendt, Habermas, and John Rawls—and one should also not forget John Dewey, who often rivals Rawls in lists of the twentieth century's three most influential thinkers on the public sphere (cf. Calhoun 2013)—all theorise versions of 'holism', that is, the idea that legitimacy underpins the public sphere. Since my model relies on Hegel's break from holism (as Hegel separates legitimacy from the public sphere), I have chosen to engage with only a limited set of holist theories. I have made the choice to engage with Habermas—and on a smaller scale Rawls (Chapter 5) and Dewey (Chapter 6)—rather than Arendt for the following reason. Arendt systematically formulates a theory of the public sphere that, inspired by the Greek *polis*, explicates private and public in terms of concepts such as seclusion and exposure, hidden and world, isolation and participation. The Arendtian public realm is constitutive of a shared world—places to meet, narratives to share—that should not discard its common qualities by degenerating into isolated opinion climates (self-perpetuating clans or families) or compartmentalising property orientations (instrumental strategies of wealth). The public sphere only lives off the seeds of common concern (cf. Arendt [1958] 1998, 50ff). Any social integration that lacks the multiplicity of perspective and interpretation of a shared world runs counter to, and even destroys, the public realm (Arendt [1958] 1998, 57f). Arendt draws the integral feature of holism from the Aristotelian *polis*, in which politics is created in the communicative processes that are characteristic of humans acting in concert. Although Arendt in this way begins from an Aristotelian political philosophy (Arendt [1958] 1998, 22ff) and develops a substantially independent stance, her later account of the public sphere turns towards Kant in the sense that the validity of political judgement embodies the public realm, and therefore also the communally shared standards that carry action (Arendt [1982] 1990, 48ff, 60, 72). The later Arendt is thus closer to Habermas' theory, which also subtracts holism

from Kant's system of critical rationality, the intersubjectively constituted communicative actions that make up the development of politics proper.

To be sure, Hegel's political philosophy also heavily revisits the Aristotelian political tradition, as I will point out in Chapter 4 (see also Depew 1992, 40, 50; Wood 1993). Aristotle's politics is a foundation from which Hegel comprehends the concept of freedom specifically actualised through the context of ethical life in the state. On this point, Hegel advocates holism—'organicism', in Hegel's word—in the sense that legitimate politics underpins all institutions of political life. However, I will return to the question of organicism in my analysis of Hegel as it plays a significant argumentative role, defending my claim that the Hegelian public sphere is not organically coupled to the institutions of Hegel's state, and therefore does not endorse holism.

1.5   Overview of chapters

Generally, the main argument runs through the chapters in the following way. The thesis begins with Chapters 2, 3, and 4, which analyse Kant, Habermas, and Hegel respectively and together present the accounts sketched above. Then, in Chapter 5, I turn to deliberative democracy and its attempts to theoretically synthesise the differences between publicity and rationality, which Hegel separated. I argue that the most developed account of deliberative democracy is not able to satisfactory unify the differences. Therefore, I abandon accounts which seek to presuppose rationality in publicity, and I begin to analyse the basic activity of the public sphere, signalling, without rationality—an account already presented in Hegel's model. Therefore, in Chapter 6 I investigate how the basic activity of the public sphere works in the contemporary networked public sphere, and I analyse the problems connected to the conditions of public-making. In Chapter 7, I elaborate my model of the public sphere as political semantics, which I suggest is the ground of the creation of legitimacy.

With this in mind, the following overview of each chapter's argument presents the specific structure and composition of the thesis as a whole.

Chapter 2, "Foundations of the Public Sphere," begins with an overview of Enlightenment theories about the public sphere running from Benedict de Spinoza to Johann Gottlieb Fichte. The point is to show a collage of accounts of which the trope 'the public sphere' expresses several dimensions that justify things such as popular sovereignty, freedom of expression, and political rationalism. The second

part of the chapter analyses Kant's theory of publicity in terms of his system of rights, from which he formulates the transcendental principle of politics. This principle also embodies Kant's famous pair—the public and private uses of reason—and I argue that they are intimately connected, which stands in contrast to other accounts that argue that public reasoning is superior to private reasoning. However, as they are mutually dependent, Kant's theory is subject to what I label 'the problem of stability', which is that Kantian political reasoning is contingent on a definition of politics for which it cannot account. Therefore, Kant cannot explain how one can broaden the scope of public reasoning beyond intuitive examples.

Chapter 3, "Modelling Collective Autonomy," engages mainly with Habermas' theory of the public sphere, which I divide into an early and late period. I begin by presenting three dominant readings of the early, now-canonical work *The Structural Transformation of the Public Sphere* (*ST*), and I propose that the aim of the book is to carve out a nonideological concept of the public sphere from an ideological context. I also argue that the work may alternatively be read as portraying the public sphere as a category which, depending on the social circumstances, projects various types of legitimacy (a view which I endorse). I then analyse the work in detail to show that the dominant readings are problematic. Thereafter, I proceed to the late Habermas' work by analysing his 'formal pragmatics', and his debate with Niklas Luhmann regarding the possibility of shared communication. These elements provide the theoretical background for Habermas' idea that the public sphere is grounded in the public conditions of communication. This leads me to present Habermas' 'signalling public model', in which he proposes that communicative action conveys information and opinion (signals) to the formal political framework concerning the political problems that run throughout society. After this, I turn to the theories of Axel Honneth and Rainer Forst, the prominent thinkers of the third and fourth generations of the Frankfurt School, of which Habermas is the pinnacle of the second generation (and of which Theodor W. Adorno and Max Horkheimer were the founders). I argue that, despite Honneth's Hegelian framework, he commits to a Habermasian public sphere with a Kantian argument, and thus misses the opportunity to consider Hegel's alternative model. Moreover, Forst revitalises Kantianism, and I reconstruct his argument to show that he also endorses a Kantian-Habermasian public sphere. Furthermore, I use Honneth and Forst to show that they not only uphold the Habermasian model of the public sphere as public conditions of communication. They also articulate new dimensions of the public sphere in the form of a *social realm* of autonomy (Honneth) and an *individual right* of every

member of society to demand justifications for society's political organisation (Forst).

Chapter 4, "Freedom Without Legitimacy," is the most exegetic chapter of the thesis. I engage with Hegel's concept of the public sphere from *The Philosophy of Right* (*PR*) and spend considerable time unfolding the necessary structural components in Hegel's system, which enable me to discuss how his concept relates to the other aspects of Hegelian political philosophy, that is, its methodology and orchestration in general. As stated above, I argue that the Hegelian public sphere is an aspect of rational freedom that Hegel places outside the state. This contrasts with three other interpretations: the statist and the solidaristic, which propose in one way or another that the Hegelian public sphere relates to the state; and Habermas' interpretation, which argues that the Hegelian public sphere is a rabble with no aspect of freedom. My analysis of Hegel's account, which distinguishes between deliberation and publicity, forms the basis for my model in later chapters.

Chapter 5, "Deliberative Democracy and Its Conception of Legitimacy," is a relatively short chapter in which I analyse how deliberative democracy in three phases has attempted to reconcile epistemic justification with public debate—elements that Hegel argued could not be harmoniously modelled in the concept of the public sphere. The most recent development in deliberative democracy, the systemic turn, suggests a 'division of labour' between expertise and public debate that integrates both elements into the deliberative system. I argue that this solution is unconvincing because the division of labour divides not only chores but also competences. This means that public debate is without deliberative qualifications, which ultimately violates the 'reflexive control requirement', that is, the proviso in deliberative democracy that deliberation must be generated by the people. The implication is that maintaining the Hegelian division is the most convincing choice for a model of the public sphere. At the end of the chapter, I present Michael Warner's theory of the counterpublic, in which he argues that publics are not necessarily state-focused. This means that publics may work in other ways than by debating and proposing amendments to legislation and formal political issues. Warner's argument helps to redirect attention, from seeing publics as pointing at the state to seeing them as pointing at norms, cultures, and other less formal aspects of political problems. The basic activity of the public sphere thus entertains multifarious activities with different aims, scales, and outcomes (to which I return in Chapter 7).

In Chapter 6, "Under Networked Conditions," I seek to clarify what the topos of 'the networked public sphere' means. I argue that the public sphere is networked insofar as it relates to digital information and communications technology (ICT). The aim is to analyse on the one hand the problems that arise from these digital conditions specifically, and on the other hand the issues that are inherently general problems of any mass-mediated public sphere. Therefore, to be able to assess this difference, I analyse the early technological accounts of Gabriel Tarde, Lippmann, and Dewey at the beginning of the last century. They yield a catalogue of problems that is used as a mirror in the rest of the chapter. Then I reformulate Habermas' signalling public model from Chapter 3, and introduce a LoA of signal visibility as the most general LoA of the public sphere. To understand the scope of the networked public sphere, I analyse three conceptions that differ in the degree to which the basic signalling activity of the public sphere relies on digital ICT, that is, whether the networked public sphere is confined to (1) online platforms, (2) both online and offline activism or political expression, or (3) an infrastructure, meaning that the entire public sphere is subject to networked conditions. I favour the latter (coming from a northern European context), although I also argue that local dependence on digital ICT ultimately remains an empirical question. Leaving open different levels of digital ICT dependence, I introduce three dimensions of signalling (content, environment, and agents) that work across the above conceptions. I then analyse and propose specifically networked problems in each dimension.

Chapter 7, "The Ground of Legitimacy," is a relatively long chapter in which I propose my model of the public sphere as political semantics. The aim is to show that the public sphere generates notions of political order which are equal to legitimisations of the political. In contrast to other realist accounts, I argue that legitimacy does not have a stable source in society, but that the public sphere is the category which incessantly opens the possibility of generating new sources of legitimacy. I show that these sources in the public sphere stem from signalling, which generates political semantics that work as social batteries for specific justifications of political order that may or may not be congruent with the institutionalised system of domination (the state). In this sense, the main characteristic of political semantics is to foster strategies of legitimisation which may contest the political framework (or other dimensions of the political) in one way or another. I elaborate, exemplify, and juxtapose the concepts of signalling and political semantics with other theoretical approaches (most prominently from Ari

Adut, Chantal Mouffe, Fraser, Habermas, and Max Weber), and I show why the available theories and concepts are unable to explain the contemporary vicissitudes of the public sphere. I suggest that modelling the public sphere as the ground of legitimacy helps us to explain the force of modern opinion formation and its immense impact, not only on legislation but on the entire political dimension of our societies.

CONCLUSION

The exchange of opinions is a central aspect of any society and is often seen as the animated effect of a healthy democracy, rather than the germinating cause of chaotically sprouting notions of legitimacy. The question is whether encounters with ostentatious public opinion in recent years have not raised enough eyebrows to prompt us to ask about its role in subverting institutions and recalibrating the measures of political order. Perhaps the public sphere is not firmly anchored in the depths of democratic legitimacy after all? The main ambition of this thesis is to show that the public sphere is indeed intimately connected to the production of legitimacy—but as its source, not as its result. To defend this claim, I will argue that the public sphere harbours the basic ingredients (signalling and political semantics) that serve as fuel for the propounding of different perceptions of legitimacy: signalling—the public activity par excellence—implies political semantics (my concept for 'public opinion'), which initiates the emergence of a large variety of legitimisation strategies in society.

I have presented the method of LoA, which distinguishes between two different uses of the concept of the public sphere. In Chapters 2–4, the public sphere will be applied as a generally coherent concept without internal differences; Chapters 5–7 will propose other LoAs which nuance the internal workings of the concept.

The next chapter will present a range of different foundational conceptions of the public sphere, suggesting a multivalent concept that was mobilised for the sake of different political agendas and forms of government during the Enlightenment. Especially in relation to Germany in the 1780s, the public sphere is a prism that reveals that the intelligible light of reason contains the colours of communication. I will primarily analyse Kant's critical project, in which he includes the public sphere as the primary concept of political progress for human society; he thus lays the foundation for the seemingly inextricable relationship between publicity and reason.

2

Foundations of the public sphere

> The rights of man must be held sacred, however great a sacrifice the ruling power may have to make. There can be no half measures here; it is no use devising hybrid solutions such as a pragmatically conditioned right halfway between right and utility. For all politics must bend the knee before right, although politics may hope in return to arrive, however slowly, at a stage of lasting brilliance.
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> I. Kant, *Perpetual Peace: A Philosophical Sketch* ([1797] 1991, 125)

SUMMARY

Chapter 1 introduced the argument, method, and structure of the thesis. It also briefly introduced the difference between Kant and Hegel, and this chapter begins to elaborate on this distinction by focusing on Kant's concept of publicity. Before I turn to Kant, I will give an introductory overview of the emergence of the public sphere during the Enlightenment period. I will focus on developments in France, Britain, America, and Germany, where rationality, freedom of expression, and popular sovereignty took centre stage as subjects of political philosophy that delegate power to the public sphere.

These developments culminated in Kant's writings, so in Section 2.2 I will analyse Kant's concept of publicity as the political part of his critical philosophy. I will show that Kant's system of right makes social institutions the hosts of autonomy (Section 2.2.1), and those institutions may then be criticised by using reason publicly. I will argue that Kant's distinction between private and public uses of reason should be seen in the light of rationalised institutions, which secure rational autonomy while at the same time being openly criticised (Section 2.2.2). This interplay between institutions and critique improves society and enhances the framework of autonomy. However, in Section 2.2.3, I will show that Kant's theory of the public sphere lacks a premise which can explain why some institutions are

political (and thus susceptible to critique) while others are not. I will argue that the inability of Kant's theory to give this explanation means that the political domains of public critique stagnate in institutions and laws, and cannot be expanded to other political dimensions of society. I label this 'the problem of stability', and suggest that it may be solved by drawing on Georg Simmel's social ontology. This solution to the Kantian problem is different from that of Habermas, whose theory of the public sphere is the subject of Chapter 3. In the Conclusion, I will sum up the results of this chapter and introduce the next.

2.1 Introduction: thematic variations

In the course of the sixteenth and seventeenth centuries, a new force besieged the stronghold of political authority: the publication of critique. The clandestine circulation of writings—distributed anonymously in underground environments, to surface only erratically—was the beginning of more consistent networks of critical communication. These formed subversive climates of opinion, because they denounced religion, royal power, and censorship laws, and advocated the rights to think differently and hold secular beliefs (cf. Mulsow 2015). For example, tolerance for the practice of religion in nonprescribed ways was defended by the philosophers Dirck Coornhert in the Netherlands and Jean Bodin in France in the 1580s and 1590s. Moreover, during the English Civil War of the 1640s, the leading member of the Levellers movement, John Lilburne, proclaimed that every "free-born" Englishman must think what he wanted, without interference from the authorities (Horstbøll, Langen, and Stjernfelt 2020, chap. 22; Foxley 2004). Many other examples could also demonstrate that tendencies which gained prominence during the High Enlightenment (1730–1780) had already been present much earlier.[5] When we look for theories of the public sphere during the Enlightenment, we often encounter thematically elaborate frameworks of political philosophy. Consider, for example, Spinoza's theory of democracy from 1670 as an early example from which different themes can be unpacked as claims about the public sphere. Spinoza writes:

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[5] The debate about the early origins, aims, and content of the Enlightenment has been developed by Paul Hazard ([1935] 2013), Peter Gay ([1966] 1995), Margaret Jacob (1981), and Jonathan Israel (2001). For a recent assessment of the early Enlightenment, see Steffen Ducheyne's edited volume (2017).

Freedom of judgment must necessarily be permitted and people must be governed in such a way that they can live in harmony, even though they openly hold different and contradictory opinions. … In a democratic state … all men agree … to act—but not to judge or think—according to the common decision. That is, because people cannot all have the same opinions, they have agreed that the view which gains the most votes should acquire the force of a decision, reserving always the right to recall their decision whenever they should find a better course. The less people are accorded liberty of judgment … the more oppressive the regime. ([1670] 2007, 257)

This passage makes at least three claims. First, the majority vote entails a decision-making procedure, which points to *popular sovereignty*. Second, citizens may voice their opinion even when it conflicts with the majority, which refers to *freedom of expression*. Third, since members of a state can "enjoy the free use of their reason" to revise the outcome, this indicates that Spinozistic society operates on *a culture of argumentation* ([1670] 2007, 252).

It is not self-evident that these themes should always merge seamlessly. They can be described in stylised forms: the politics of rationality (the culture of argumentation above) refers to the claims that political order should be justified, transparent, and independent of particular interests. Laws and institutions should be sensitive to critique and open to revision through deliberation, because reason is the only way to secure human autonomy and curb arbitrary power. Second, freedom of thought, expression, and communication relate to a different set of political claims, according to which members of society are only free if they can voice their opinions without restriction. Here, autonomy does not presuppose rationality. Third, the politics of popular sovereignty refers to a form of governance which in principle may endorse mob rule, without guaranteeing free expression or deliberation. These themes are scattered throughout the Enlightenment and have many variants, some of which I will present below. I will focus on political claims made about governance from the 1740s to the 1790s, in which the concept of public opinion is most elaborately articulated. I have chosen arguments or claims about the public sphere that are variations of the themes above—sometimes convoluted, as in Spinoza, and sometimes favouring one theme over another.

This section is meant to be an introductory collage. It is, of course, not meant to be comprehensive in any way, but only to show that the theoretical developments

of the Enlightenment form an array of themes that are the foundations of the public sphere as a philosophical concept.

2.1.1 France

The concept of the general will is introduced by Denis Diderot in the 1740s, but it is most commonly associated with Jean-Jacques Rousseau. They have two very different interpretations of the concept, which refers to society's most essential political nature: to know the general will is to know the guiding principle of society. Diderot argues that the general will unfolds in public debates and elections. Therefore, it cannot be known a priori (Israel 2014, 23f, 346f). By contrast, Rousseau thinks that the general will is not disclosed in debates among the people, because the conclusions they reach are not always right (Rousseau [1762] 2012, 43). Instead, citizens must comprehend the general will alone, through their own inner moral compass (Williams 2014, 159). So while Diderot seeks to encourage a political arena in which arguments can meet counterarguments, which will produce society's aims, Rousseau's anticommunicatory stance tries to avoid the dangers of collective opinion.

We can see that Rousseau's political theory endorses the then-common stance on opinion if we consider Michael Keith Baker's (1990) elegant example of the increasing importance of 'public opinion' in the French Enlightenment. Baker compares two encyclopaedia articles published in the 1750s and the 1780s. In the eleventh volume of Diderot and Jean Le Rond d'Alembert's *Encyclopédie*, the article on 'opinion' contrasts opinion with science. It presents the canonical difference between eternal knowledge and flickering supposition, between episteme and doxa. In 1782, Charles-Joseph Panckoucke began the production of the *Encyclopédie méthodique* and deleted the article on 'opinion'; however, he added another on 'public opinion,' *opinion publique*, and indexed it under 'politics' instead of 'philosophy.' Now public opinion was described as objective, rational, and universal (Baker 1990, 168)—and closer to Diderot's concept of the general will. The shift indicates that the *public* character of opinion endowed it with nonpartisanship and equitability, and cut opinion off from capriciousness.

These qualities are also evident in the preface to the *Encyclopédie méthodique*, in which Jacques Peuchet describes seven characteristics of public opinion, accentuating its newfound importance. First, public opinion is characterised by the massive production of newspapers and journals. As such, it is made possible by the "means of universal communication" (Peuchet cited in Baker 1990, 195). Second,

public opinion is equal to the shared as well as distributed enlightenment of society; it is "the sum of all social enlightenment" (Peuchet 1789, *ix*) (my translation). Third, public opinion is a powerful, adjudicative body which discerns and is external to all political activities. Therefore, its omnipresent character eludes institutional form. Fourth, public opinion is peaceful. Fifth, the universal and objective nature of public opinion implies its rationality. Sixth, public opinion thrives in an environment where rational thought is allowed and false opinion is suppressed—which, *en passant*, is an extremely casual version of the basic political theme of the conditions for deliberation. Seventh, the development of the public sphere is slow and calm. It is a "weapon that an *enlightened people collectively opposes* to the precipitous operations of an ambitious minister or a misguided administration" (Peuchet cited in Baker 1990, 196) (my italics).

These seven characteristics of the public sphere illustrate its political role (as the steering principle of politics), its content (rational and unbiased), its nature (careful and prudent), its transmission (through communication technologies), and its locality (as socially diffused). In a word, Peuchetian public opinion is a virtuous power: nonviolent and yet powerful, benevolent and yet rational, and the guarantor of peace for citizens. It gives the impression of an otherworldly force, and ultimately appears to be a combination of the three aforementioned themes that were embedded in Spinoza. Public opinion is the *rational* and *open* manifestation of the *sovereignty* of the people.

In the 1770s and 1780s, the French *philosophes* offer different articulations of public opinion, giving rise to an array of uses that are ultimately devoted to the same baseline: coupling publicity to reason. To name a few, Nicolas de Condorcet distinguishes enlightened *public* opinion from unenlightened *popular* opinion; Guillaume-François Le Trosne and Mercier de La Rivière emphasise the importance of *évidence* in the formation of opinion; and Anne-Robert-Jacques Turgot argues that public opinion should be rationally strengthened by a participatory, multilayered, and institutional system of deliberation, which could form political and social unity in France (examples from Sheehan 2009, 68ff). Moreover, restrictions on reason, Emmanuel Joseph Sieyès argues, hinder the historical advancement of public opinion.[6] Likewise, André Morellet contrasts the

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[6] "Reason does not like secrets; it is effective only through expansion. Only if it hits everywhere, does it hit right, because only then will be formed that power of public opinion, to which one may

deliberations of the salons with the opinions, sentiments, and information of the public sphere, whose collection and public disclosure would provide enormous amounts of data to guide policy (Clark 1998, 84f). Generally, in France there was a turn from secrecy to publicity as the core political value of control (Ives 2003); symbolic of this attitude is finance minister Jacques Necker's 1781 publication of the official financial papers, the *Compte rendu*. Turning state business into public business, Necker supported the open scrutiny of traditionally veiled bases of government decision-making.

This was a move in a theme that, in the English-speaking world, was related specifically to the role of the press and the degree to which public opinion should interrupt parliamentary power. Let me turn to this.

2.1.2   Britain and America

In the eighteenth century, the concept of information shifted: it no longer referred to processes of understanding (John Locke), but rather to blocks of factual reality (William Godwin and Mary Wollstonecraft). This meant that information came to signify documents or the like about the world: items that could be collected. According to Paul Duguid, who also notes the shift, this created the connection between decision and information (i.e. the well-informed decision), and led to the political sentiment that decisions reached on the basis of information were correct (or at least narrowed the probability of error) (2015, 350ff, 360ff).[7] This can be interpreted in different ways. Should politicians now be accountable for the information they use to make their decisions? Should information be subject to public deliberations, from which decisions should emanate? Are all opinions equally allowed in public? The discussions of the role of the public sphere pose the central question: whom does the political system serve?

There were pros and cons regarding public opinion in the press. It was clear that the relatively free British press made it possible for the commons to be involved in national issues when parties openly took a stand (Melton 2001, 20f). However, as

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perhaps ascribe most of the changes which are truly advantageous to mankind" (Sieyès cited in Speier 1950, 383).

[7] To be sure, Duguid tells a more complicated story. Information did not only provide decisions with determinate answers (the deterministic view of information), but could also be faulty and lead astray. However, Duguid does argue that since information was understood as an item about some matter in the world, "the imperative to amass and circulate political information was widely felt" (Duguid 2015, 361).

David Zaret writes, the fact that the publication of parliamentary debates was illegal directly opposed the very justification of parliament, which rested on "democratic conceptions of political order that presuppose the existence, rationality, and normative authority of public opinion" (2000, 8). On the one hand, then, the political system could not sustain this notion of political order without feeding information to the public. On the other hand, a free and hence importunate press that consumed information and cultivated opinion was counterproductive for parliament.

In the 1741 essay "Of the Liberty of the Press," David Hume argues that a free press may decay into unresolvable factionalism. However, as Marc Hanvelt shows, Hume also argues that such risk is "a necessary 'evil' that had to be endured" (Hanvelt 2012, 629; see also Hellmuth 2018, 177ff). This could have been a traditional argument in favour of free speech. However, Hume's concern is what we today would label polarisation, echo chambers, and other informational circumstances which might bring about an opinion-based deadlock in the political environment on a grand scale. The problem of publication is not the propriety of tone but the dynamics of segregation and separatist informational enclaves. With this argument, Hume foreshadows our contemporary debate about noncentralised media and their publication infrastructures, readership, and economic basis.

Hume's essay points to the idea that public opinion is variegated and disunited. But in a theory of governance, what part of public opinion should be allowed to influence government? This is the central question in the debate between Founding Fathers James Madison and Alexander Hamilton. In 1791, Madison argues that public opinion should steer government even though it is not underpinned by a rational framework: "public opinion sets bounds to every government, and is the real sovereign in every *free* one. … In proportion as government is influenced by opinion, it must be so, *by whatever influences opinion*" (Madison [1791] 1987, 73) (my italics). Freedom is only possible in a society in which the opinions of the public are respected by those who govern. On the other hand, Hamilton denies that governments should exhibit "servile pliancy" with regard to opinion (Hamilton [1788] 1987, 67). While Madison is the "philosophic architect of the politics of public participation," Hamilton is reserved about "encouraging political hyperactivity among the citizenry, which only invites demagoguery and civil unrest" (Sheehan 2004, 421f). More precisely, the controversy between Hamilton and Madison is not about the nature of public opinion but whether the government should be influenced by it. Madison does not frame public opinion as a wise,

collective force which is unaffected by strategic influence and manipulation. Instead, he states that popular sovereignty depends on opinion in the sense that any democracy, insofar as it is the rule of the people, ultimately has a "psychological basis of legitimacy" (Gibson 2005, 33f). Madison's model thus couples legitimacy to volatile public opinion, meaning that the source of politics is found in empirical manifestations of opinion, rather than in an ideal conception of political order. Governance must grow from the historical contingencies of its basic structure, which is revealed in public opinion. To put it less radically, Madison does not defend a scandalous, capricious democracy, but rather a regime that continually sources its authority from those who are governed (and who thus indirectly govern too). In contrast, Hamiltonian governance cuts off this base to protect society (the state and constitution) from the tempestuous tendencies of opinion.

In Germany, the question is not whether opinion is able to govern, but in what way rationality and its development through communication are accommodated within the framework of the state—a discussion which ultimately leads us to Kant's systematic account.

2.1.3 Germany

The concepts of rationality, science, and truth are dominantly understood as the backbone of society in the German Enlightenment. For example, philosopher Moses Mendelssohn ([1784] 1996, 54f) argues that the language of science is the language of enlightenment, and enlightenment is dependent on "its dissemination through all estates," while poet Christoph Martin Wieland ([1789] 1996, 81) characterises enlightenment as innocuous since it only distinguishes between true and false. Suspicion, Wieland writes in the same place, must fall on rulers who are against the clarity of things. With a more sociological argument, philosopher Karl Leonhard Reinhold contends that sophisticated reasoning—ingeniously invented machines, the theorems of Archimedes, and the astronomy of Galileo—can easily be understood by common craftsmen, ordinary schoolboys, and ignorant monks, which means that if truth is packaged properly, then it is able to enlighten those who are capable of rational thought by making them use their rational disposition (Reinhold [1784] 1996, 65, 69).

Common to these arguments is the public element, which underpins the development of science and the revelation of truth. Rationality is not only a *capacity* to think which relies only on the framework of the mind; it is also dependent on *publication*, its integral communicative dimension. Rationality thus bridges

thinking and communication, meaning that it operates on a social organisation of thought.

Thinking rationally, therefore, is not an hermetic activity. Although the jurist Ernst Ferdinand Klein favours "criticism [which] makes governing difficult," rationality embedded in words also means that "writing is an arrow whose influence you cannot stop" ([1784] 1996, 92f). Therefore, writers should be cautious when putting pen to paper. According to theologian Carl Friedrich Bahrdt, Klein's observation is genuine but secondary to the connection between thinking and speaking. In an anonymously published pamphlet, Bahrdt reminds his readers that the collection of knowledge presupposes its distribution ([1787] 1996, 101). This leads Bahrdt to the point that speech is generative of thought:

The right to speak is itself the only means, the only way of using the right to think. For one need only consider what would happen if all men were obliged to use their reason for themselves alone, to observe, to ponder, and to collect the knowledge required for their happiness in silence. Could indeed anything other than barbarism arise? Could one man, even if he were the greatest genius, possibly make discoveries, all alone, in any area of knowledge? Does history not teach that all knowledge was at first in its infancy and only grew in a number of centuries to the perfection in which we now find it by researchers communicating their discoveries and insights to one another, talking about them, disputing, examining, and so forth? It is indeed as clear as daylight that all human knowledge rests on the right to speak, and that whoever would not grant the freedom to communicate would hinder all common instruction and thus all knowledge and its spread, growth, and perfection. ([1787] 1996, 102f)

Rationality and science are communicative domains. Even the most talented person could not develop his or her thoughts *freely* in seclusion. Monopolies on communication, doctrines of thought, and the domination of one scholar's work are "tyranny" over thinking (Bahrdt [1787] 1996, 105). The barbarism of seclusion renders the mind destitute. Therefore, thinking and speaking are "inseparably bound"; one cannot work without the other (Bahrdt [1787] 1996, 101). However, Bahrdt does take a more cautious stand later in the pamphlet, acknowledging the unstoppable influence of publication that Klein pointed out.

We find an uncompromising stance in Fichte, who grounds his argument in Kant's philosophy. Fichte argues that one should have no illusions about objective

truth in any substantial sense, and therefore it makes little sense to permit freedom of thought only when it ruminates on the precise nature of objective reality. Humans cannot go beyond their faculty of knowledge, which ultimately limits their ability to know the world independently of themselves. So our objective reality, Fichte argues, is the "certain necessary way in which things must appear to us all, and insofar as our representations correspond with this necessary form of cognizability, we can also call them objectively true" (Fichte [1793] 1996, 129). Moreover, to scrutinise any corner of objective reality in this sense is possible only if reason faces no restrictions on enquiry, and if any examination must obey no other authority than its own workings. This is true for individual and collective investigations ([1793] 1996, 132), meaning that enlightenment is bound to the unhindered communicative structure of sharing reasoning and its results.

> Now one of the most excellent means of making progress is for one to be taught by others; therefore each has an inalienable right *to accept* freely given instruction without limit. If this right is not to be suspended, then the right of the other *to give* such instruction must also be inalienable. ([1793] 1996, 133) (original italics)

People have the right to receive and give reasons and challenge any (monopoly on) thinking, even by checking and reexamining scientific evidence (what we today would label 'reproducibility'). No object is exempt from scrutiny, and to be rational means to be sensitive to the reasons of others. To put this more strongly, humans exercise rationality only when they are coupled to the communicative sphere of reasons. Individuals are sources of reasons from which other individuals benefit. As contemporary German philosopher Marcus Steinweg writes: "thinking is exclusively without costs only for the person who does not think" (cited in Larsen 2018, 140).[8] If one ignores, hides, or shields oneself from the community of arguments, then one does not allow oneself to develop rationally. In this sense, the independence of thought relies on the use of the rationality of others.

The Enlightenment has often been accused of being too individualistic in its understanding of autonomy (Schmidt 2000). Instead, the German discussion shows the connection between collective, visible exchanges of reasons, the development

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[8] It is more elegant in German: "*gratis ist Denken ausschließlich für den Nicht-Denkenden.*"

of critique, and the realisation of individual rights: the mutual bond between the capacity to reason and the networks of reasons.

I can now close this collage of accounts of the public sphere and move to the most systematic account (that I am aware of) in the Enlightenment of the public sphere, namely Kant's system. Like Fichte and Bahrdt, Kant also underscores the point that reason ties collectives of autonomous individuals together. Of course, Kant champions the systematic investigation of human cognition that resides in the individual by studying the limits of reason in *Critique of Pure Reason* (*CPR*). This work presents a philosophical anthropology, describing the structuring framework of cognition in the mind as nesting the conditions of intuition and intellect (i.e. the pure forms of intuition and categories of the faculty of understanding). However, with Kant's concept of publicity, the inner workings of reason also gain an outer aspect, in which the public sphere is crucial to the autonomous development of reason in society.

2.2   Kant and publicity

Kant writes that if "a whole people" is expected to make appeals to reason, then "the only way in which this can be done is by publicity. A *ban* on publicity will therefore hinder a nation's progress" (CF 186) (original italics). Publicity works imperviously to the flattery of esteem, so even social domains such as religion and legislation cannot not rely on sanctity and majesty. They must gain "that unfeigned respect that reason grants only to that which has been able to withstand its free and public examination" (CPR A*xi* n.). No authority other than reason can prescribe the rules of critique, and to control its process by other means is to deny its results and enlightenment (CPR A747/B775). Thus bounded by the strict limits of reason, citizens may conduct discussions "with unlimited public permission," because, like Wieland and Peuchet, Kant suggests that one should not fear rational disputes, as they solve conflicts without prejudice (CPR A747/B775). Therefore, Kant states, reason yields a harmonious state (CPR A751/B779).

> To this freedom [in the state], then, there also belongs the freedom to exhibit the thoughts and doubts which one cannot resolve oneself for public judgment without thereupon being decried as a malcontent and a dangerous citizen. This lies already in the original right of human reason, which recognizes no other judge than universal human reason itself, in which everyone has a voice; and

since all improvement of which our condition is capable must come from this, such a right is holy, and must not be curtailed. (CPR A752/B780)

Autonomy means communicating with others about political concerns. Out of respect for autonomy, then, political institutions must submit to critique without misgivings. Kant elaborates this thought in his system of right.

2.2.1 System of right

One can say that the aim of Kant's political philosophy is to articulate "a systematic politics of reason" (Laursen 1996, 264) that shields society from the influence of ulterior motives by building a consistent framework of thought (PP 93). This Kantian framework can be called the system of right, which comprises both private and public right. Private right refers to the rights that can be conceived by reason, while public right refers to the laws and institutions that enable individuals to use their rights. In Ernest Weinrib's words, private right denotes the "range of rights whose structure and content are normatively intelligible even apart from the public institutions that make them effective. In contrast, 'public right' refers to a condition in which public institutions actualize or guarantees these rights" (2011, 195). However, the transition from private to public right is not a shift from one set of rights to another: public right is the guarantee and effectuation of private right via legal extension, meaning that public right marks the transfer to the "juridical state" (Byrd and Hruschka 2010, 28ff). For this reason, public right in the state links "everyone to everyone else" and characterises the "omnilateral" relation that exceeds the contractual bilateral ties through which individuals may also connect (Weinrib 2011, 196). This omnilateral relation of public right is the heart of the Kantian legal state. Without the juridical framework of the state, which actualises public right, individuals would be left to enforce their private right sporadically.[9] The state thus works as the coordinating entity of rights towards which all members can direct their critical attention.

Members of society make corrections to the state by means of publicity. Moreover, publicity is *the* structuring principle of Kantian political philosophy, because it works as the transcendental formula of politics (Davis 1991, 409; Wit

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[9] As Kant writes, "*public right* is the sum total of those laws which require to be made universally public in order to produce a state of right. It is therefore a system of laws for a people" (MM 136) (original italics).

1999, 301). Just as the categorical imperative is the a priori principle of morality, publicity is the a priori principle of politics; it is also similar (although negatively formulated) to the first formulation of the categorical imperative.[10] The political principle states that an action is politically wrong when its maxim is logically incompatible with publicity. In Kant's words:

> After we have abstracted … from all the empirical elements contained within the concept of political … right … we may specify the following proposition as the *transcendental formula* of public right: 'All actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public.' … [T]his is a purely *negative* test, i.e. it serves only as a means of detecting what is *not* right in relation to others. (PP 125f) (original italics)

One can know that laws, claims, or acts are wrong if they work only by being concealed: conspiracies and other deceitful strategies to seize power are surreptitious and cannot be maintained after their exposure. Their visibility defeats their purpose. Therefore, only an unjust, corrupt political activity or system can work without publicity (CF 187 n.). Secret societies also negate publicity, and will therefore disappear whenever such public freedom is encouraged by the state (TP 86). Thus, every claim on right is only legitimate if it is public, that is, if it possesses "the *formal attribute of publicness*" (PP 125) (original italics). We can therefore understand publicity as laying the groundwork for the production of criticism in society.

We can now formulate the Kantian public sphere in terms of public criticism (what Kant calls the public use of reason) of the laws and institutions of the state which realise the rational system of rights (what Kant calls the private use of

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[10] Kant does provide a positive formulation, but regards it as only tentative in 1795: "it might be formulated as follows: 'All maxims which *require* publicity if they are not to fail in their purpose can be reconciled both with right and with politics'" (PP 130) (original italics). On the page before this, Kant expresses his unwillingness to formulate a positive thesis that makes all public maxims politically justified. A tyrant, Kant argues by way of example, has no reason to conceal his maxims, but they may still be wrong (PP 129). In my view, Kant's positive formulation presupposes that we know how to assess maxims' need for publicity (the crucial generative aspect of the formulation), so the positive formulation remains incomplete without further explication. To my knowledge, Kant did not elaborate on this in his subsequent works. For the connection between Kant's moral and political philosophy, see Wolfgang Kersting (1992, 344) for the role of the a priori, and Domingo García-Marzá (2012) for the role of trust in publicity and legitimacy.

reason). I will argue that the public sphere is the interplay of the uses of reason, which stands in contrast to the dominant view, for which I will account after presenting the distinction below.

2.2.2 Uses of reason

While Kantian politics cannot be thought without publicity (its a priori), PUUR is the more specific template of actual political reasoning. In my view, PUUR refers to the form of the activity of political criticism to which the private use of reason (PRUR) is subject. In this sense, PUUR should criticise the laws and institutions that are given in PRUR.

PRUR refers to the rational mechanisms in one's surroundings. It can be described as a rationale, as it were, of a particular organisation or occupation. For instance, the worker must follow the rules of his or her organisation and obey the directions of the manager. If the worker does not comply, then the organisation ceases to be an organised cohort of interplaying functions; it dissolves. On the other hand, PUUR is the right of employees to voice their concerns in order to improve the organisation. However, PRUR and PUUR cannot be used simultaneously, so one must be exempt from using reason privately in order to use it publicly, and vice versa.

PRUR is iterative, illustrated in Figure 2.1 as an assembly line: a series of links that form an outcome (the bureaucrat must do specific tasks). But PRUR can also be a vocation (all judges must judge according to the law).

Kant's (WE 56f) examples of PRUR point to an agent's rational compliance with the logic of sociopolitical institutions: schoolteachers must teach the state-authorised curriculum; priests must preach specific religious doctrines; soldiers must follow orders; citizens must pay their taxes. "We require a certain mechanism whereby some members of the commonwealth must behave purely passively, so that they may … be employed by the government for public ends" (WE 56). PRUR
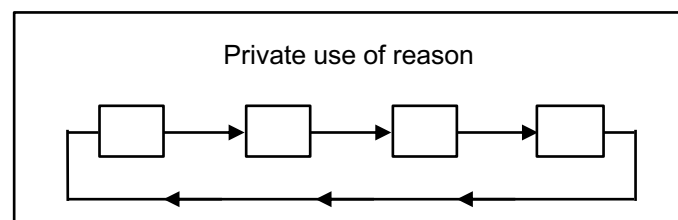
Figure 2.1 The logic of the private use of reason.

carries out *political* actions in accordance with the established institutional purposes, which means, as a use of *reason*, that their maxims at least have not yet been eliminated by the transcendental formula. Therefore, I understand PRUR as a constitutive element of society: PRUR is the rational way of structuring social processes that follow from the legal rights of the state. It regiments or standardises otherwise contingent or nonexistent processes (education in school, religion in Church, the imposition of taxes) in ways that shape an orderly objective political reality. In this way, PRUR is an *abidance of reason* that historically crystallises into specific institutional settings conducive of autonomy.

Understood in this way, PRUR is the prerequisite for PUUR. PUUR is the rational reflection on society's institutional configurations. It recommends revisions. For example, the clergyman "is completely free as well as obliged to impart to the public all his carefully considered, well-intentioned thoughts on the mistaken aspects of those doctrines [of the Church], and to offer suggestions for a better arrangement of religious and ecclesiastical affairs" (WE 56). PUUR is the rumination on how society may become better, carried out by competent citizens.

Now, the distinction between PRUR and PUUR is often characterised as "odd" (Green 1996, 296), "strange" (O'Neill 1990, 32), and "peculiar" (Mikalsen 2010, 30), because Kant deploys the terms 'private' and 'public' in ways that are the opposite of their common uses. When 'private' refers to public institutions, and 'public' to private reasoning, their meanings are reversed (Laursen 1996, 254). To explain this semantic confusion, Kostas Koukouzelis (2009, 850) couples Kant's use of 'private' to the Latin *privus* in the sense of privation: to be deprived of something. PRUR indicates the deprivation of one's free thought (see also Deligiorgi 2005, 63). PRUR follows orders and toes the line, and obedience of this kind, Gerald Postema (1995, 357) concurs, makes reason "restricted, deprived, and confined within externally imposed limits." The preeminent Kant scholar Onora O'Neill also describes PRUR's applications as "incomplete uses of reason" (1990, 17). In sum, these interpretations suggest that PRUR *halts* reason, rather than directly pointing to another, nonpublic use of reason.

In contrast, we can see that PRUR does indicate an activity of reason if we interpret the term differently, namely in the sense of being not common or general but 'special' or, following the *Oxford English Dictionary* (private, adj. 2020), as belonging to a particular group. In my view, PRUR maintains procedures, logics, or ways of doing things in (politically relevant) institutions, organisations, or, in a generalised reading, other social constructions that are determined by rules, decrees,

authority, objectively shared customs, or traditions (for more on this generalised reading, see Section 2.2.3). PRUR is therefore an essential, and indeed progressive, component of political society, because it is in principle continually open to adjustment. Moreover, PRUR functions as a rational guide to members of society, meaning that to follow PRUR is to ensure one is in accord with the latest rational implementation. Let me elaborate on this view.

The terms 'private reason' and 'public reason' are often used (cf. Banham 2019; Taylor 2012; Chambers 2009), but they are not congruent with '*uses* of reason' because they assume two separate reasons. Two reasons would justify their hierarchisation, one subordinate to the other. Instead, I think it is more accurate to see PRUR and PUUR as *modes* of reason—in the singular—which correspond to different yet elementary tasks of (political) rationality. In the same way as Kantian critique is an investigation of reason by reason, PRUR and PUUR are modes of rationality in which the latter is investigative and the former is operational. PUUR is reason critiquing reason as PRUR, which may be sloganised as critique's critique of critique. This activity of reason, which exercises critique on itself, I argue, is the key to understanding this distinction. Again, it underscores that reason is the political groundwork that ought to be criticised within its own bounds. We can understand the relation between PRUR and PUUR as a feedback loop which by its own energy continually reforms itself (rational society) according to the restraints that reason places on itself.

If we look more closely, PRUR is only limited by PUUR, which bears the political obligation to produce critique. PRUR is, so to speak, only as good as the latest critique. For instance, those who hold office should accurately follow the best practice of their institution, but in doing so they should regularly and openly debate the current conception of best practice, and those discussions should lead to changes in the protocols (cf. Figure 2.2).

Rational society moves forwards politically when reason's private use is changed by its public use over and over again. Progress is made only when the
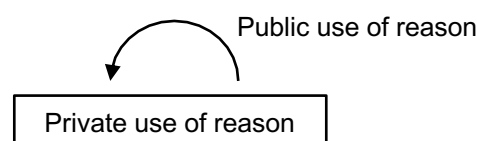
Figure 2.2 The relation between the uses of reason.

always-provisional results of PUUR materialise in political institutions as PRUR. Therefore, we cannot decouple either of them from the question of enlightenment. Public ends, after all, nestle in PRUR.

As such, the two uses of reason are the minimal prerequisites for the practical workings of reasoning in political matters. It follows therefore that no group of people or political ideology should be able to subjugate citizens' thoughts and behaviours to "a certain unalterable set of doctrines, in order to secure for all time a constant guardianship over each of its members" (WE 57). Maintaining a politics without the possibility of rational reform is equal to stalling the self-reforming two-part engine of reasoning which the system of right demands. As Kant states in the epigraph to this chapter, "all politics must bend the knee before right." One should therefore always be allowed to "comment publicly … on the inadequacies of current institutions" (WE 57). To publicly use reason, and as a ruler to respect the feedback loop between the uses of reason, is to uphold legitimate politics in the sense of society acting in accordance with the system of right, which is Kant's notion of political order. If the link between the two modes of thinking is sound, the circuit secures a legitimate state congruent with reason.

I want to make two closing remarks in this section. First, I disagree with Jennifer McMahon (2017, 430) when she argues that PRUR is "infallible" (from the perspective of those who use it). The premise is the opposite, namely that any institutional contingency may be wrong and hence corrigible, and it can only be so by virtue of the interplay of the different uses of reason. The passing of judgement "as a learned individual" (WE 56) is done by those who encounter remediable PRUR (teacher, taxpayer, soldier). The improvement of judgement presupposes fallibility, which also explains why citizens always have licence to make "counter-representations" when "correcting any past mistakes" (TP 85). Institutions are therefore, in principle, open to adjustments only because they are prone to error, which stands in contrast with McMahon's claim.

Second, we can understand the far-reaching philosophical consequences of PUUR by looking at Kant's view of revolution. I disagree with Christine Korsgaard (2008), who argues that Kant's framework under some circumstances might justify a people's rebellion against the government (even Kant, she adds, was in favour of the French Revolution). She writes:

It is by no means obvious that a person who makes the rights of humanity his end would never, under any circumstances, oppose the extant government. If this

is right, nothing in Kant's theory absolutely commits him to the view that a good person would *never* revolt. Nor, I believe, is this what he himself thought. (2008, 256) (original italics)

However, in TP—in this case under the apposite title "On the Common Saying: 'This May Be True in Theory, But It Does Not Apply in Practice'"—Kant analyses rebellion through "the principles of right" (TP 82). These principles are "constant," in contrast to "our judgement of the rightfulness of an action," meaning that our judgements are easily affected by empirical results, which are uncertain, unprincipled, and cannot be determined through necessity (TP 82). In the case of "unmerited suffering" imposed on subjects by their ruler, "no-one in the commonwealth can have a right to contest his authority" (TP 82). Adding to his conclusion, Kant argues that even the "celebrated founders" of the "admired constitutions" of Switzerland, the Netherlands, and Great Britain "have done the greatest degree of wrong in seeking their rights in this way, even if we admit that such a revolution [which yielded a constitution] did no injustice to a ruler who had violated a specific basic agreement with the people" (TP 82). While I—in contrast to Korsgaard—remain agnostic about Kant's personal beliefs, it seems there is strong evidence that Kant's political philosophy rejects any right to rebellion, even a rebellion by morally pure persons with good outcomes. People must not improve their unjust political condition by revolution, but must instead bring PUUR into force, because that is the only way they can be consistent with the system of right, which is necessary for justice to prevail.[11]

> The citizen must … be entitled to make public his opinion on whatever of the ruler's measures seems to him to constitute an injustice against the commonwealth. For to assume that the head of state can neither make mistakes nor be ignorant of anything would be to imply that he receives divine inspiration and is more than a human being. (TP 84)

The improvement of political systems works only through reason, not by emotion, nor by eradicating through revolution the ground that revises the content of the political in an orderly and systematic manner. Reason must have an object, and it would be contrary to the purpose of revisioning to annul all at once the rational

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[11] "Right can only come from justice" (PP 125).

content nested in the institutions. The only rational option through which one may improve society is to work with what there is, rather than demolishing society as it stands. Revolution would disarm the central mechanism of society between PRUR and PUUR; this mechanism would unjustifiably be put out of function.

The case of revolution reveals that PUUR only works through PRUR, and that the identification of a political system always precedes its critique. In the next and final section, I will argue that Kant's theory therefore creates an enclosed and stagnating view of how 'the political' should be understood, which remains an essential problem in Kant's conceptions of PUUR and PRUR.

2.2.3 Generalisation and the problem of stability

Let me generalise Kant's uses of reason and extend their relevance beyond institutions and law by adopting the perspective of Simmel's neo-Kantian sociological theory. In 1908, Simmel argues that society is entirely made up of microscopic social iterations, which as "attenuated threads" weave the objective forms of society ([1908] 1909, 312). For Simmel, these objective forms are social phenomena—for instance, money, culture, fashion, flirting, eating, urban strangers—and they are all shaped from minute, ephemeral interactions which, in their constant reproduction, create society at large. Simmel's social ontology provides a framework through which one can understand social processes as informally developed norms in everyday life that establish palpably normative codes of behaviour outside the institutions of the state. If we see these norms as emerging rationales in the mist of the social—as a logic of conventions, a collective attitude, or socially coordinated behaviours—then we may generalise them as noninstitutional versions of PRUR. This also means that PUUR may direct its critical potential towards these phenomena. It is therefore not only that PUUR operates on PRUR; PUUR relies on the *observation* of social, linguistic, and cultural problems, which presupposes their recurring manifestations throughout society. The problem is that Kant does not account for how PRUR can be mapped (observed), although PRUR determines the limits of critique as well as the content of the political. PRUR is the ground and matter of critique, but within Kant's theory there is no way to determine why some things are political and others nonpolitical.

I conjecture that there was no theoretical need to specify the *formation* of the grounds of the critical public sphere, because Kantian theory assumes that the connection between political institutions and PRUR is sufficiently evident, and therefore by and large delimits the complete set of domains suitable for criticism.

This is what I call 'the problem of stability'. The theory assumes that the target of the public sphere, to quote musician Joanna Newsom, "sprung out fully formed, knock-kneed and upright" (2006). This means that the Kantian public sphere is not theoretically apt to include new targets that are political in alternative ways (e.g. outside institutions). Instead, we encounter Kant's inductive list of the social entities that are eligible for criticism—e.g. school, military, Church—without a general law that explains what it means when entities are political. Ultimately, the designated areas of criticism restrict the operations of PUUR, which may only be expanded by importing theoretical support from sources such as Simmel's social ontology.

Perhaps this is the reason why the Kantian notion of publicity cannot articulate a generative aspect of politics. Kant only provides a negative formulation with which one can analyse and screen the wrongful processes in the fixed domain. The tentative positive transcendental formula of politics (cf. footnote 10 above) had the shortcoming of not being able to determine what it precisely meant that maxims were *in need of* publicity. Thus left with the negative formulation, one could only eliminate maxims and not confirm them. As Kant notes, "the person who has decisive supremacy has no need to conceal his maxims" (PP 129). Thus, maxims can be public without contradiction, which does not confirm their righteousness.

We see, then, that PUUR struggles to determine its content, and ultimately must take what it gets. This inhibited version of PUUR is unsatisfactory: it cannot determine what should count as political, because Kant's theory of the public sphere has no criteria to determine the political, a category on which it thoroughly depends. The problem of stability ultimately arises when Kant refers to a closed system of critique that does not prescribe how it may apply to the world.

The problem of stability can be solved if we generalise the emergence of PRUR to any socially embedded mechanism which is observed by members of society *but at the cost of the closed circuit of rationality*. Understood as an interplay between PRUR and PUUR, Kant's public sphere balances between activity (PUUR) and stability (PRUR), which is ultimately contingent on what the members of society consider should count as political. As it is a basic dynamic of the public sphere, I will return to this relationship at the end of Chapter 7 (Section 7.7).

Habermas solves the problem of stability differently, as I will show in detail in Chapter 3. For Habermas, the expansion of the political domain depends on the rationalisation of the lifeworld. The means of critique are embedded in everyday language and are already generalised, meaning that Habermas has no need to

inductively stipulate the content of the political. Language is the legitimising ground for the political.

CONCLUSION

The Enlightenment articulated century-old struggles for political dominance waged by those who did not hold the sceptre of power. Across Europe as well as in America, theories of governance and authority developed new political orders through the forces of rational discourse, popular sovereignty, and opinion that was freely expressed. These themes both connected and conflicted with each other. Specifically in Germany, thinking and communication were mutually dependent, and were ultimately systematised in Kant's critical philosophy as a political theory of publicity.

I have shown that Kant's system of right embeds autonomy in the political institutions and their critique. This interplay between public and private uses of reason is the Kantian concept of the public sphere, and I have argued that PRUR is not a truncated version of rationality but a mode of the institutional realisation of rational autonomy in political society. I have also argued that Kant's public sphere cannot explain why its political critique is political, namely because there is no theoretical explanation of 'the political' in Kant's theory. The Kantian public sphere is thus unable to refer to the political outside the sketched domains. I tried to solve this problem of stability with Simmel's social ontology, which might expand the scope of PRUR, and thus also the scope of the political. However, this move means that whatever is political is contingent on the people who live in society. I also stated that Habermas solves the problem differently, a matter to which I will now turn.

In the next chapter, I will analyse Habermas' theory of the public sphere, which substantially develops but also rejects elements of Kantian philosophy. On the basis of Kant and the Enlightenment tradition sketched in this chapter, Habermas attempts to formulate a nonideological concept of power in which the components are rationality, publicity, and communication. For Habermas, these aspects intersect at the gravitational point called the public sphere.

3

Modelling collective autonomy

SUMMARY

Chapter 2 sketched the foundations of the public sphere in the Enlightenment and analysed Kant's theory of publicity. I argued that the public and private uses of reason could not justify political critique of x instead of y because the basic qualification of politics was missing. Habermas solves this problem when the members of a society justify the themes of the political through his notion of the public conditions of communication. These conditions emerge from Habermas' comprehensive work, whose central thesis is elegantly grasped in the title of the Festschrift he received in 2001: *Die Öffentlichkeit der Vernunft und die Vernunft der Öffentlichkeit* (the publicity of reason and the reason of publicity). The title crystallises the intimate relationship between reason and publicness that Habermas' philosophy aims to synthesise as well as systematise.

The lift-off and landing, so to speak, of Habermas' theory of the public sphere are thirty years apart, with central works published in 1962 and 1992. This provides an occasion to talk about the early and late Habermas, even though the latter is arguably an expanded version of the former rather than indicating deep differences.

This chapter begins with Habermas' early work and its different interpretations. I will present my own interpretation and carve out two models of the relationship between legitimacy and the public sphere. I argue that the work of the early

Habermas indicates a model that makes the conception of rational legitimacy dependent on the workings of the public sphere, whereas the late Habermas emphasises the inverse relationship in which the public sphere depends on rational legitimacy. After presenting these models in Section 3.1, I will analyse Habermas' early work in detail and its notion of the public sphere to show that the dominant criticisms do not hold.

I then proceed to the late Habermas in Section 3.3 and analyse his mature concept of the public sphere by accounting for his notion of formal pragmatics (Section 3.3.1), and his debate with Luhmann concerning the possibility of establishing a common political ground (Section 3.3.2). These theoretical components represent the Habermasian background conditions of the public sphere.

In Section 3.4, I analyse more explicitly the Habermasian public sphere as the public conditions of communication. I also introduce Habermas' account of the public sphere as a 'signal function', which reveals social problems as political problems that can be dealt with by the formal political system. Sections 3.4.1 and 3.4.2 show that Honneth and Forst, Habermas' successors in the Frankfurt School, adopt Habermas' conception of the public sphere as the public conditions of communication. I argue that Honneth and Forst contribute to Habermas' analysis of communicative conditions because they articulate the public sphere as an explicitly social domain of autonomy (Honneth) and an individual right to justification (Forst). Moreover, I argue that Honneth, despite his Hegelian methodology, relies on a Kantian argument and a normatively demanding notion of the public sphere which stands in contrast to Hegel's model, as I will show in Chapter 4. In the Conclusion, I will sum up this chapter and introduce the next.

3.1 Introduction: different interpretations and the relationship between the public sphere and legitimacy

One of the founding works of modern public sphere studies, Habermas' *ST* has been subject to different critical interpretations since it was published in 1962. In this section, I will briefly sketch three of them and then offer my own interpretation of *ST*'s argument. After this presentation, I will analyse *ST* in more detail and address the different interpretations.

The dominant interpretations of *ST* can be divided into three, often integrated, critical strands: first, *ST* propounds an ideal of the bourgeois public sphere that is too unrealistic; second, *ST* is too idyllic because it portrays the Enlightenment as

having been better than it was; third, *ST* is important to the study of the public sphere but ends up with a model that is exclusionary.[12]

First, *ST* projects a model of the public sphere in which individuals deliberate about common political concerns; however, this model does not correspond to reality. As Ruth Wodak and Veronika Koller argue, "Habermas was convinced that an independent reason almost forced the interlocutors in the public sphere to find a consensus based on the most acceptable and logical argument" (2010, 2). Wodak and Koller portray the Habermasian public sphere as an interventionist entity that, having its own independent, controlling force, moderates the exchange between opinions. This model of the public sphere therefore unrealistically assumes that individuals debate rationally, or at least that all individuals might be able to accept the same reasons as valid justifications (cf. Sikka 2016, 112).

Second, *ST* deduces the deliberative model of the public sphere from the Enlightenment but idealises the period. This implies that Habermas wrongfully postulates that the optimal social conditions for the public sphere as an egalitarian and politically effective communication network emerged in Europe around the 1780s (see Burkart 2018, 273; Papacharissi 2002, 11; Mah 2000, 156): "Habermas claimed that these conditions were not satisfied before the eighteenth century" (Adut 2018, 1). Hence, *ST* is viewed as a defence of the social and political conditions of the bourgeoisie, because the bourgeoisie philosophically articulated the deliberative notion of the public sphere.

Third, *ST* offers a model for the social critique of society, but also inadvertently advocates the exclusion of minorities. In a celebrated essay, Fraser (1990) argues that *ST* portrays the public sphere through an ideal of "participatory parity" which is based on "bracketing inequalities of status" (1990, 63), and which, rather than eliminating those inequalities, assumes a culture of social equality "utterly bereft of any specific ethos" (1990, 64). According to this objection, *ST* postulates an unjustified neutrality in the public sphere, thereby masking the fact that the dominant actors have significant advantages compared with the subordinated classes because the former get to define the seemingly (but not actually) neutral ground of politics (Fraser 1990, 66). *ST* therefore marginalises those at the

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[12] The analysis that follows deals with these interpretations, but of course many other engaging perspectives on Habermas' early work exist which I cannot analyse here: for example, thematic discussions about non-European or religious public spheres in China, Russia, or the Arab world; trans- or international publics; and networked publics. I will, however, return to the latter theme in Chapter 6.

periphery. This leads to a failure to expose the private and intimate experiences of minorities, which excludes them from gaining public representation, relevance, and influence (see also Landes 1988; Mansbridge 2017; Plummer 2003).

Let me propose another interpretation of *ST*. Since the purpose of *ST* is to carve out a nonideological concept *from* an ideological social and political basis, I will argue that one should not understand the bourgeois (and ideological) public sphere as an almost-realised version of Habermas' nonideological concept of the public sphere. I will argue that, in contrast to the exclusionist interpretation, the bourgeois category of the public sphere that *ST* sketches would not be rectified by the participation of the excluded part of the population. Moreover, the interpretations above share the perspective that *ST* portrays the European and masculinist public sphere as the most favourably near-realised version of the ideals the book inherently portrays; that is, the productive proposal is only a matter of adjusting the biased social and political basis—in short, better deliberative institutions would make it more realistic, revisionist historiography would make it less idyllic, and greater inclusion would make it more just.

The argument of *ST* lies elsewhere. Namely, it argues that the bourgeois public sphere was the product of a social class, and therefore the result of a politically homogenised, interest-driven group that realised its sanctified principles only in its own self-deceptive view. This argument may take an even weaker form to accommodate justified criticisms that doubt the existence of a neatly monolithic class that echoes a strict Marxist social ontology (cf. Section 3.2). The weaker form might be this: *ST* conceives of the eighteenth century as having contained certain social conditions from which political philosophies proliferated that, among other things, produced an idea of the public sphere. This idea was strongly advocated by those holding these philosophies, and they increasingly gained political influence, with results favourable to their specific social conditions.

In this way, one of the core achievements of *ST* is to show that the historical mobilisation of the public sphere as a concept was inherently ideological and manifestly based on exclusion. It was ideological because its social structure (ST pt 2) had political functions (ST pt 3) and from there took on particular restrictive meanings of universality (ST pt 4).[13] The connections between basic *social* forms,

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[13] The historical correctness of Habermas' claim is debatable. The philosophical articulations of universality were differentiated even during the Enlightenment in the 1770s and 1780s, when philosophers such as Diderot and Condorcet advocated *unrestrictive* views on universal suffrage,

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┌ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ┐        ┌ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ┐
:  Philosophical idea  :        :  Philosophical idea*   :
: (publicity as critique):        :(publicity as consumption):
└ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ┘        └ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ─ ┘
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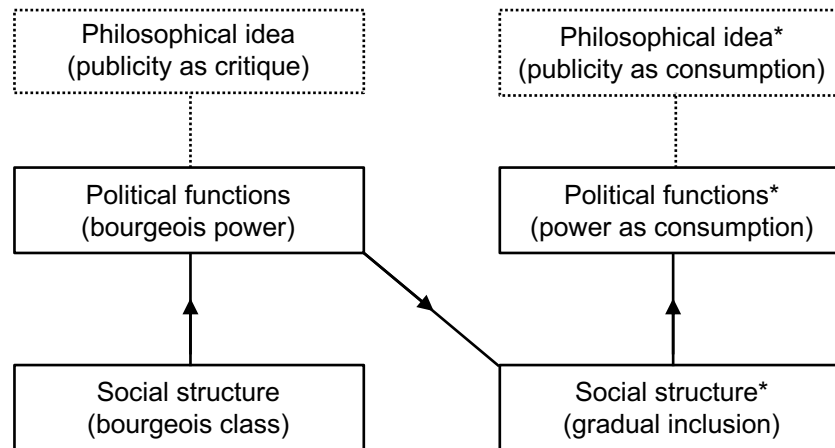
Figure 3.1 The outline of *ST.*

their *political* reverberation, and their *philosophical* articulation crystallise in the bourgeois public sphere (left-hand column in Figure 3.1). When the bourgeois public sphere became able to alter the social system politically—writing constitutions, gradually expanding political rights—the social structure from which the bourgeoisie arose altered too (ST pt 5).

Moreover, as the bourgeois class bestowed political influence on more classes other than itself, the political functions of society also changed (ST pt 6). In this way, the bourgeois category structurally changed into its dialectical opposite, namely a sphere of publicity in which commercialisation and consumption took the place of rationality as the philosophical idea of politics (right-hand column in Figure 3.1).

The Kantian notion of publicity, the rationality of which was supposed to be the only political value, was stillborn in the new social sphere, because publicity was now consumed for the sake of private culture and had no communicative-political dimension. During the nineteenth century, publicity became unpublic, uncritical, and unpolitical. It was therefore vulnerable to the exploitation-seeking and attention-attracting production of citizens' commercially driven desires. Publicity changed from an idea of political justification that appealed to public critique, appealing instead to the personalisation of demand (cf. ST 160f, 175, 193ff). In order to curb these weakening tendencies of the political, Habermas argues that the

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equality, and emancipation for women and black people (Israel 2019, 325ff, 730f). From this perspective, we see that Habermas adopts a unidimensional Marxist understanding of class vis-à-vis the bourgeoisie.

social welfare state of the 1960s should furnish its citizens with social rights (in contrast to the bourgeois conception of the self-sustained autonomous individual), rationalise its own authority, and perceive the public sphere as a "self-generating process" which in the capacity of rights is shielded from being manufactured by external interests (ST 233).

I will give two reasons why *ST* does not simply offer a rise-and-fall narrative of a desirable political condition, although it may seem to do so on the surface (as suggested by e.g. Benson 2009, 178). First, the rise of the bourgeoisie is ideologically blind to the downsides of that rise (which I will describe in more detail in Section 3.2), and for this reason it should not be revitalised. Instead, the normative power of the political idea of the public sphere articulated by the *philosophes* implicitly contains, for Habermas, a democratic theory of legitimacy that should be reshaped for our contemporary settings (the top left box in Figure 3.1).

Second, increasing commercialisation (and thus the fall of the bourgeois understanding of publicity) reactualises a feudal political condition in the modern period. Habermas calls the feudal condition "the representative public sphere" in which the principle of legitimate power is dependent on the crown (ST 5ff) (cf. Peters 1993, 545). This means that it is not the publicity of reason but of the sovereign which embodies the adjudicative logic of the jurisdiction and public opinion. It is the principled similarity between absolutist prebourgeois and consumerist postbourgeois legitimacies, which rely on *"publicity that is staged for show or manipulation"* (ST 247) (original italics), that prompts Habermas to refer to the "refeudalization" of the commercial public sphere (ST 231). If one looks past the dramatic effect of the 'downfall' of the bourgeoisie, one can see on both sides of the bourgeois era the 'uprise' of the representative principle of legitimacy in the form of absolutism and consumerism, shown in Figure 3.2. Habermas does not
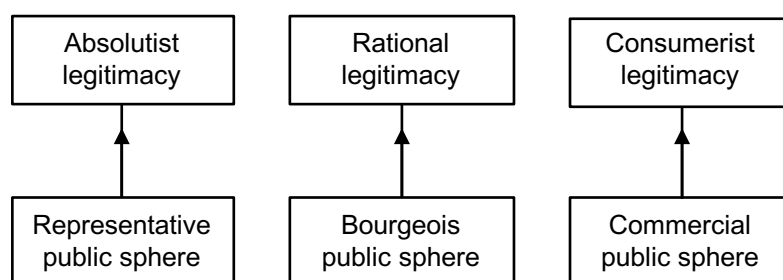
Figure 3.2 The relation between the public sphere and legitimacy.

favour this principle, of course. But the changes in the legitimisation principles open *ST* to a different interpretation regarding its conception of legitimacy, and legitimacy's relation to the public sphere as a concept: namely, that the public sphere ultimately *shapes* legitimacy, in contrast to the sculpting of the public sphere according to a specific principle of legitimacy. In any case, latent in *ST* is the idea that public spheres—as a general category of the social perception of power—are *legitimacy-sculpting*.

Legitimacy-sculpting here also means the structuring of a specific political order. In this sense, the social creation of legitimacy implies a specific way of understanding political claims to power. That different forms of legitimacy yield different political orders is a realist thesis of legitimacy to which I will return in Chapter 7, and which Habermas does not follow, either explicitly in *ST* or later on. Instead, I suggest that Habermas proposes the inverse relation between legitimacy and the public sphere (although this is not explicitly present in *ST*) when he develops his theory of the democratic public sphere. That is, he conceives of the public sphere as the primary social sector that *channels* political legitimacy. Summed up in Figure 3.3, the Habermasian public sphere is the political category that, via publicity, carries out democracy's conception of legitimacy. The democratic public sphere therefore presupposes a framework of legitimacy, according to Habermas. Demonstrating this is the primary aim of this chapter.

I contend that the inverse relation between legitimacy and the public sphere is a restrictive view, as Figure 3.2 also indicated above. The enquiry to open the concept of the public sphere might ask the following questions. Can the public sphere produce legitimacy instead of presupposing it? Might the public sphere not only produce legitimacy but also contest the legitimacy it produces? Is the public sphere the social domain that hosts shifts in legitimacies? I think an answer to these questions can be made in the affirmative. But the argument to corroborate this
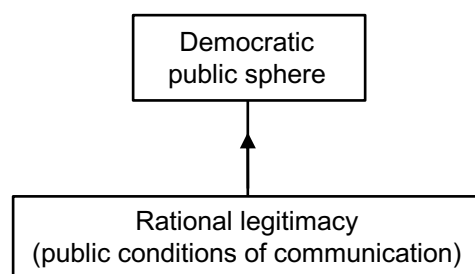
Figure 3.3 The inverse relation between legitimacy and the democratic public sphere.

position cannot be justified at this point. I will attempt to develop it throughout the thesis.

Let me now proceed to analyse *ST* and show how the interpretations sketched above can be seen to miss the target.

3.2 The bourgeois public sphere: the genesis of a new form of legitimacy

In Habermas' narrative, the bourgeois public sphere was mainly made up of educated and property-owning patriarchs, whose direct dependence on the socioeconomic structure nonetheless enabled the political fiction of the independent and autonomous individual (ST §6).[14] The institutions, as Habermas calls them, of the bourgeois public sphere were the coffee houses (England), *salons* (France), and *Tischgesellschaften* (Germany), where this homogeneous group gathered and upheld three intersecting notions of shared collectivity that contrasted with traditional hierarchisation and subordination. Status and rank were discarded in favour of equality. This nurtured an idea of common humanity. The bourgeoisie shared interests in philosophy, literature, and art, creating common concerns. The discursive space was purportedly open to everyone, and that generated their idea of common access (ST 36f). These meeting places—institutions—grounded a discursive space with an audience, which was widened through the circulation of journals (ST 51), and which consisted of private men acting interchangeably as

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[14] A. "The public sphere was safeguarded whenever the economic and social conditions gave everyone an equal chance to meet the criteria for admission: specifically, to earn the qualifications for private autonomy that made for the educated and property owning persons" (ST 86). Again, Habermas' idea of a homogenous bourgeois class can be challenged. For example, Israel's investigation of political positions in the French Revolution shows that the economic bourgeoisie only participated in the so-called Feuillants Club, the relatively moderate political position in the National Assembly and the only one to endorse restricted suffrage. Here, the economic bourgeoisie instead sided with the interests of the representatives of the nobility and clergy. By contrast, the group known as the Girondins, which was especially strong during the first couple of years of the revolution and included Condorcet and Jacques Brissot, was made up of intellectuals, publicists, and academics, and endorsed universal suffrage without any support from (or for) the economic-capitalist bourgeoisie. Nor did the other, more totalitarian groups, such as the Jacobins, include the bourgeoisie in the economic sense (Israel 2014, 38, 54, 156, 220ff) (translated and modified from Wiewiura 2018, 372 n.).

B. Where I refer to §, I am indicating one of *ST*'s twenty-five subsections, which in the German version are numbered as §.

speakers and listeners. These men's communicative conventions did not respect the social markers of Church and state, which appreciated subservience, monopolised interpretations, and were far from permeable. With this underlying social structure, a political alternative to the "state-governed public sphere" now formed (ST 51): "a political consciousness developed in the public sphere of civil society which, in opposition to absolute sovereignty, articulated the concept of and demand for general and abstract laws and which ultimately came to assert itself (i.e. public opinion) as the only legitimate source of this law" (ST 54). According to Habermas' argument, the bourgeois public sphere forms a socially and hence politically homogenous group of people outside the state, asserting what for them were universally legitimate demands, even though they expressed the interests of one specific class (ST §10). In this way, the bourgeoisie benefitted directly from their own motivated initiation of a public debate that was able to push laws concerning goods, property, labour, and capital (ST 78).

Moreover, the bourgeois public sphere consolidated its political power by transforming the law in order to secure its own political institutionalisation, and hence decision-making power, in the state (ST §11, 81). Based on its idea of universality (i.e. the unlimited political inclusion of humanity, which nonetheless was particularly restricted to property-owning patriarchs), a set of inalienable rights were put down as legislation, such as the rights of free association, free speech, equal-weight voting, and inviolability of the home (ST 83). These enactments corresponded to the social and political structure of the bourgeois public sphere, meaning that bourgeois interests concerning privacy and capital transformed the state.

Besides his analysis of the bourgeoisie's seizure of power *through their domination- and interest-driven formation of their public sphere*, Habermas distils from this ideological basis the nonideological political project that was based on the *principles of universality of rational argumentation and hence nondomination*. These principles, which were aspirations and not factual circumstances vis-à-vis their limited class structure, were nonetheless formulated by a bourgeoisie that positioned conceptions of autonomy, cultivation, morality, critique, market, and science as (rationally developing) arenas of freedom that represented the essence of nondomination. The ultimate capacity to bestow legitimacy on lawmaking was situated in the common, critical-reasoning macro arena for these arenas—i.e. in the public sphere—thereby positioning public opinion as the great collective autonomy of society.

Since the critical public debate of private people convincingly claimed to be in the nature of a noncoercive inquiry into what was at the same time correct and right, a legislation that had recourse to public opinion thus could not be explicitly considered as domination. … Public opinion was in principle opposed to arbitrariness and subject to the laws immanent in a public composed of critically debating private people in such a way that the property of being the supreme will, superior to all laws, which is to say sovereignty, could strictly speaking not be attributed to it at all. In accord with its own intention, public opinion wanted to be neither a check on power, nor power itself, nor even the source of all powers. Within its medium, rather, the character of executive power, domination (*Herrschaft*) itself, was supposed to change. (ST 82)

A new principle of sovereignty emerged with public opinion, which denied any link to sovereignty by claiming no power in the first place. For its proponents, the appeal to truth alone could not lead to domination in any genuine sense, and was therefore equal to a refusal to hold power. Rationality, the only method of truth-finding, had no bias. It made no favours and placed its sceptre in nobody's hands. The interests of cliques were thus altogether repealed and replaced by political rights, which secured the autonomy of every member of society. In this way, these rights were put forth as if they did not succumb to specific political projects. They were even imagined to refrain from pointing out a direction for political development: the public sphere exercised rational-critical debate that secured the instalment of an autonomous political framework, which as a collective and communicative network engaged all political subjects through the commonality of reason. The order was characterised by plastic accommodation and responsivity to whatever content this critical-collaborative network produced. The public sphere was thus entirely self-relating, and its exercise of power therefore could not transcend history, which grounded it in the specific reasoning processes of society.

The notion of political self-determination and rational autonomy reached its systematic pinnacle in Kant, as we saw in Chapter 2. In the heart of the Kantian political philosophy, critique only pumps through the ventricles of publicity. Any political projection must be visibly scrutinised and developed negatively, that is, from critique *in situ*. To avoid any augmentation of oppression through the hardening of political tradition, any constitution or set of laws must endure open penetration by the healthy suspicion of rational enquiry. Thus, the stability of an

autonomous political organisation rests on the principled right to destabilise any political configuration that shields itself against being overwritten by critique.

From this standpoint, the bourgeoisie "interpreted itself as unpolitical" (ST 102). Habermas reads in Kant a stance that theoretically affirms the unpolitical aspect of the idea of political organisation altogether. Its complete flexibility resists politicisation. For Habermas, however, Kant's practical qualification of the 'citizen' as inherently property-owning obscured the conflation of two opposing realities where the political subject was far from neutral: the legal and moral autonomy of the citizen belonged only to the person who was sustained by owning the means of production in the market of commodity exchange (ST 109f). Hence, those without property were de facto excluded from trading their personhood—their basic humanity—for a place in the property-dependent participation in the public sphere (ST 111). "The fiction of a justice immanent in free commerce was what rendered plausible the conflation of *bourgeois* and *homme*, of self-interested, property-owning private people and autonomous individuals per se" (ST 111). In Habermas' reading of Kant, the transposition of the *bourgeois*—who came from a social sphere whose 'civil society' was the banner of an interest-based political project—into the notion of the *homme*, the unconditionally autonomous individual, was the "duplication … of the empirical subject in that of the intelligible one" (ST 111). As the bourgeoisie became the social starting point of the enactment of moral and political freedom, the legal allowance of free markets, as well as the moral justification for private ownership, only asserted those starting points further. When the political order of the bourgeoisie was seen one-to-one as the sociorational position belonging to private autonomy, the self-conceived, freedom-breeding bourgeois view of the world was philosophically legitimised as the clinically unbiased and objective standard. In this veiled setting, citizens, as Habermas formulates it, "behaved outwardly as if they were inwardly free persons" (ST 111). In other words, civil society was adjusted for property owners that made its calibration look like a "natural order" (ST 117).

To avoid the impression of a conflated political philosophy where freedom is attained in the bourgeois conditions of the 1780s, it should be pointed out that Habermas emphasises the *regulative* aspect of Kant's idea of political organisation—that is, Kant's rational concept of society or, in Kant's words, "of a constitution in harmony with the natural right of man, one namely in which the citizens obedient to the law, besides being united, ought also to be legislative, [which is an idea that] lies at the basis of all political forms" (Kant cited in ST 114).

From the Kantian notion of the idea, one can determine the Kantian notion of the ideal. For example, the ideal of man must be derived from the idea of humanity, and the ideal of politics must be derived from the idea of society. In abstract form, the idea, which is only conceived by reason, contains the ideal, which is the rational imprint (that is solely *specified* by reason, so any empirical example is impossible) that should regulate, as an asymptotic standard, actually organised political communities that are available to our experience (cf. ST 114; also Dean 2013, 175f; Thorpe 2015). Communities as a whole must therefore rationally comprehend the idea of society to be able to grasp the ideal of the arrangement of politics. As I understand it, the rationally specified ideal of politics is this: the destabilisation of any irrational power by means of using reason publicly. That ideal is empirically without content, derived from the idea of society in terms of a 'constitution in harmony', as quoted above. This, broadly, is the centrally adopted Kantian aim of Habermasian political philosophy.

However, for Habermas, Karl Marx's philosophical analysis disclosed the inherent features of domination in society's material arrangements. Those material arrangements produced social and hence political antagonisms underneath the visible ground of rational discourse, and revealed the ideological presuppositions of the public sphere's superstructure. According to Habermas, it was Marx's conclusion that the "bourgeois constitutional state, along with the public sphere as the central principle of its organization, was mere ideology" (ST 125). Although Marx's "critique of the idea of the bourgeois public sphere as an ideology was so obviously correct" (ST 130), that critique could not, according to Habermas, stand alone or justifiably conclude the total abolition of the Kantian ideal nurtured in the bourgeois public sphere. As Habermas stated laconically: "bourgeois culture was not mere ideology" (ST 160). This culture had, after all, propounded the political ideal of a rational-critical discourse *free* from the social dependency on production. *ST* thus emphasised the philosophical proposition of an ideal for autonomous political communities, rather than—as the accusation of idyllic idealisation suggests—claiming that the ideal penetrated bourgeois communities *in actu*.

The political nucleus of bourgeois culture must be split in two in order to be endorsed anew. Its ideology, comprising the restrictive idea of the citizen, its social basis, and political idiosyncrasies, should be utterly removed to conceive of its other half, namely, the political idea of nondomination *as a comprehensive function of the public sphere*. Amid new societal conditions, the public sphere, with its potential to release into society the political energy of collective autonomy, should

be coupled to all social levels. The public sphere should form a macro domain ultimately anchored in the collectivities of civil-organisational life, which further relates to the private-personal lives of individuals. "The communicative interconnectedness of a *public* can be brought about only in this way: through a critical publicity brought to life within intraorganizational public spheres, the completely short-circuited circulation of quasi-public opinion must be linked to the informal domain of the hitherto non-public opinions" (ST 249f) (original italics). Public opinions generated in the rational-discursive public sphere must, to extend to all members of society, feed on less public yet shared opinions, which again are anchored in the private opinions of persons. The nonideological realisation of the public sphere therefore demands a coherent political framework as well as a nonexclusive social basis. The criticisms of the exclusion of minorities can be compared with this proposition. The ideal that Habermas suggests is the involvement of all members of society on the basis of communication, not an exclusionist male domination wilily veiled as rationality. Therefore, the criticisms of exclusion mentioned above are in accord with Habermas' own contention that the critique of bourgeois culture was "so obviously correct," as the quote above regarding Marx makes evident.

For Habermas, then, rational legitimacy resides in a collective self-governance that exercises and progresses through the communicative field of reasons. The publicity of the public sphere does not only provide a common legitimate form that is rationally flexible. It also collectively disciplines the political: claims are only politically relevant when they correctively engage with the social reservoir of reasons. This, in theory, steers individuals towards seeking justification for their own political opinion through orientation in the current discursive networks. In this way, Habermas' rational notion of legitimacy works as both a resource of political understanding and a background for political opinion formation. Therefore, one cannot revitalise the social conditions of the bourgeois or any other historical period, because the reasons that legitimise politics are utterly internal to society. Thus the abovementioned criticism that Habermas is unrealistic, in the sense of realising an externally projected reason, is not correct if we understand *ST* as suggesting a notion of legitimacy whereby members of society always use their own historical justifications, instead of sourcing them from a metaphysical and ahistorical realm.

3.3 The late Habermas: a theory of the public sphere in modernity

Between 1962 and 1992, Habermas develops his theory of communicative action, a philosophical programme oriented to the discursive and intersubjective space which is created from social interaction. Since autonomous human organisation rests on the rational justification of claims among all members of society, modern political life must be understood through a theory that explicates the basic structure of communicative rationality. Habermas rejects accounts that portray reason as monological (socially isolated and subjectively self-constituent) or purely methodological (scientifically focused on norm- and value-free truth claims). He favours a dialogical account of reason which emphasises the political role of ascribing validity to claims in the social domain. This theoretical view of reason marks, for Habermas, a shift from what he calls metaphysical to postmetaphysical thinking (Habermas [1988] 1992, 28ff).

Metaphysical thinking comprises notions of an "unsituated reason" that is "idealistically apotheosized" ([1988] 1992, 34). In contrast, postmetaphysical thinking places reason in the linguistic contexts of everyday life. It aims to understand how thought and meaning are conveyed in those settings without irrational distortion ([1988] 1992, 50f). As Habermas writes in 1973's *Legitimation Crisis*, language *transforms* the subject's inner life of meanings and passions into utterances and norms with an intersubjective demand for generality (what Habermas calls *Allgemeinheitsanspruch*). These demands for generality, which aim to prove the legitimacy of norms, are constitutive of the common ground (the *Gemeinsamkeit*) of the lifeworld (Habermas 1973, 21f).

With the concept of lifeworld, Habermas points to the vast conglomerate of contextual aspects that maintain everyday social experience and make up society.[15] We can sharpen the lifeworld concept by contrasting it with Simmel's sociology, previously encountered in Section 2.2.3. Whereas society for Simmel is reproduced from all the microscopic social processes—society is spun day-to-day by the 'attenuated threads' of interaction—I understand the Habermasian lifeworld to indicate the opposite: the primacy of a societal horizon, a macro form, that enables or underlies any initiation of interaction and interpretation. For Habermas, the

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[15] The Habermasian conception of the lifeworld is contested. For example, Gerard Fairtlough (1991, 548ff) understands the lifeworld as a shared medium of reference that cannot be referred to in itself, while Andrew Edgar (2006, 89ff) considers that the lifeworld itself may be disputed by those that share it.

lifeworld is a presupposition for the societal integration of social processes (the *Vergesellschaftungsprozesse*) and is arranged by the everyday use of language: "societies are *also* systems … [that] more precisely develop within the borders of a logic of the lifeworld, whose structure is determined by the language-based emergence of intersubjectivity and rests on validity claims that are open to criticism" (Habermas 1973, 27) (original italics) (my translation). In this context, and only this context, we can understand 'society' as the *general system* of the lifeworld in which *specialised systems* demarcate their functional differences. For instance, education, state administration, and the economy are particular systems that emerge in the lifeworld with specialised codes or languages (e.g. the pedagogy of learning, the adjudication of law, or the resource management of economics). I write 'only this context' because in 1981's *Theory of Communicative Action* Habermas develops the difference between lifeworld and system—a distinction not developed in *Legitimation Crisis*. The logic of the lifeworld is made up of everyday contexts from which the political condition of society should stem. Politics is therefore unspecialised, and thus broadly inclusive of all members of society, who should not need special training to live autonomously. I will now explain this stance by focusing on two aspects of Habermas' theory. One aspect relates to the 'logic of the lifeworld' cited above, which refers to the use of language as the foundational account underpinning social interaction by rational means (Section 3.3.1). The second aspect is raised in discussion with Luhmann, namely the question of whether the political dimension of society can be sourced from an unspecialised and common everyday context (Section 3.3.2). After these two sections, I will turn more explicitly to Habermas' concept of the public sphere.

3.3.1   Formal pragmatics

Let me use formal pragmatics as a key to understanding why and how the Habermasian public sphere is the postmetaphysical revision of the metaphysical— and mainly Kantian—conception of the public sphere. Formal pragmatics is Habermas' account of 'language competence', which should both presuppose and guide communicative action whenever the political autonomy of individuals should be maintained. There are thus two equally important aspects of language competence in the Habermasian public sphere: the *guidance of an unattainable regulative ideal*, and the *presuppositions for rational communication*. I would argue that without understanding this double-sided idea of formal pragmatics, one cannot properly account for how Habermasian communication, in an immanent and

context-dependent way, nonetheless aims to unfold context-transcendent notions of validity and rationality. This immanent structure of Habermasian communication is also the main reason why Habermas is able to theoretically present the public sphere as the democratic core of a postmetaphysical conception of society.

At the most general starting point, Habermas argues that *thoughts* are structured in propositions that are understood through *sentences* which attain *identical meanings*, whoever the utterer of the linguistic expression may be (FN 11). Thoughts thus have the ability to be "publicly accessible" (FN 12). They are communicable and comprise a social field of intersubjective linguistic interaction. Language is therefore essentially public, and that establishes a shared, not idiosyncratic, medium between agents, who must use it to make themselves understood by others. Since Habermas' agrees with Ludwig Wittgenstein's ([1953] 1989, §243f) claim that no private language exists, all subjects must inevitably make use of the available and intersubjectively established language games (see also Habermas [1988] 1992, 63; [1971] 2001, 100).

This inherently social feature of communication (the *use* of language) marks the postmetaphysical stance, which rejects the view that there is a dyadic relation between language and the world, a view that treats the relation between word and object as stable denotation (see Ongstad 2010, 49f). To accentuate the turn away from this stance, Habermas draws instead on Charles Sanders Peirce's triadic notion of semiotic representation, that is, the view that an *utterance* points to *something* within an *interpreting community* (FN 14f). Habermas uses this triadic view to point to the contextual aspect of any communication. However, at the same time as speech may be confined to its community, speakers, wherever they are, still have to "accept the foundational norms of rational speech in every discourse" (Habermas 1973, 138) (my translation). Formal pragmatics is the exposition of these norms, which Habermas develops to steer clear of two extremes. On the one hand, the postmetaphysical stance aims to avoid a context-dependent and relativising notion of validity. On the other hand, it seeks to avoid an understanding of rationality that goes beyond the discursive capacities of humans. Put positively, Habermas' theory aims to explain (1) how the validity of an utterance is in force outside its immediate context, and (2) in what way human rationality is situated in and can only refer to intersubjective communication.

1. To formulate a contextually unconditional concept of validity, Habermas argues that interlocutors must regard their utterances as valid only when they accept that what they say must stand the test of being contested by other potential

interlocutors outside their immediate context. Validity therefore presupposes that an utterance raised in a specific context is also open for contention in an indefinitely extended context of interpreters (FN 15ff). Those involved in argumentation "proceed on the idealizing assumption of a communication community without limits in social space and historical time" (FN 322). The totality of particular communities should, in theory, be able to compose one overarching and inherently communicatively coherent totality of interpreters. "Only this transcendent moment of unconditionality distinguishes the argumentative practices of justification from other practices that are regulated merely by social convention" (FN 15). Habermas explains this unconditionality of the argumentative practices of justification as "'sufficient' when it qualifies our current practice of argumentation as an exemplary local embodiment of the (unavoidably assumed) universal discourse of an unbounded community of interpretation" (FN 16). Whenever agents engage in this type of communication, they must presuppose and be willing to defend the utterings of their actual-empirical dialogue argumentatively if other interlocutors should appear, thus extending the scope of the initial context of the conversation.

Not only is the proper use of language underpinned by the assumption of an indefinite extension of dialogue partners, but it may also be used to establish a space of communicative-based action. This space of *communicative action* is made up of the linguistic interactions of interlocutors from which regulative speech arises—for example, commands, promises, and recommendations (Holub 2013, 9). These regulatives are illocutionary, meaning that the speech acts are actions in themselves (saying that you promise *is* the promise), in contrast to perlocutionary speech, which uses language in a way that merely refers to actions (saying that you will persuade is not the same *as* persuading) (cf. FN 18). Legal norms are illocutionary because they constitute a framework whose purpose is to prescribe and permit specific actions—they have the nature of an "ought" that refers to the validity of the norm (FN 86). Because thoughts are externalised, and as such identifiable beyond the individual, they can be objects of conversation and dispute as well as absorbed by others, reproduced, and developed. They can be made into law. Therefore, communicative action constitutes a realm of its own whose "illocutionary binding energies" (FN 166) are "the primary source of social integration" (FN 18). It is communicative action that for Habermas makes us able to compare, assess, and coordinate our thoughts and actions *uncoercively* (as Habermas puts it, "without force except that of the argument" (1973, 148) (my

translation)). Communicative action therefore emerges as the core autonomy-securing property in sociopolitical projects.

2. Habermas is (in)famous for his concept of the ideal speech situation. At the same time as Habermas calls it a regulative ideal, which in his words is "clearly not the same" as the empirical circumstances where argumentative practice takes place, it also refers to the presuppositions that we dealt with above: it is "both anticipated and yet, as an anticipated basis, operative" (Habermas [1971] 2001, 102, both citations). It may only be anticipated because the conditions which in ideal circumstances would lead to the ideal speech situation are present in the presuppositions about communication. When we communicate, we must "act counterfactually as though the ideal speech situation … [were] not merely fictitious but real" (Habermas [1971] 2001, 102). According to Habermas, this is best compared to "a transcendental illusion" that nonetheless, in opposition to Kant, *constitutes* the foundation for actual discourse (Habermas [1971] 2001, 103). The presupposition is built into practical language, instead of merely striving towards "an impermissible projection (as in the nonempirical employment of the categories of the understanding)" (Habermas [1971] 2001, 103). Therefore, Habermas does not refer to a "supraempirical" notion of reason (McCarthy 2011, 51), but instead affirms his idea of rationality within a theory of communicative practice that, in its very structure, practically subscribes to rational norms. It is from this point of departure that rationality is seen to unfold.

Whereas Kant's philosophy used transcendental deduction to articulate the a priori conditions of experience, Habermas' formal pragmatics articulates the necessary assumptions that one must ascribe to language in order to perform illocutionary acts. But where the fixed structures of the mind always condition the Kantian subject's intuition, the presuppositions of communicative action are not productive in the same way. Speech does not have a finished form, and one can use language in other ways (more on this shortly). Moreover, Habermas argues that no ideal language can be posited. There is no "extramundane standpoint" that the subject may attain or deduce from in communicative practice (Habermas [1988] 1992, 139). Communication is left to be produced by the interaction of agents. In this way, Habermas seeks to establish a theory which "*detranscendentalizes* the noumenal realm only to have the idealizing force of context-transcending anticipations settle in the unavoidable pragmatic presuppositions of speech acts, and hence in the heart of ordinary, everyday communicative practice. Even the most fleeting speech-act offers [*Sprechaktangebote*], the most conventional yes/no

responses, *rely on* potential reasons" (FN 19) (original italics). The ascription of validity to a claim thus relies on the assumption that interlocutors remain open by default to potential contestations of that validity in their immediate surroundings of collective interpretation. It is through this intellectual stratagem, employed as the presupposition of argumentation itself, that Habermas couples the context-dependent ambit of conversation with a context-independent notion of validity. The linguistic space of communicative action, with its presupposition of ideal expansion, comprises the "reference system for justifying regulations" (FN 108), a practice that relies on its own generated resources instead of external metaphysical ground. Its authority is not veiled or extolled to induce submission, but framed as participatory and established by the (competent) communicative agents.

The ideal speech situation therefore refers to the internal norms of communication that, when put to use, qualify the anticipation of a means that is "able to settle all conflicts without violence" (FN 323). An agent can, however, also use language *strategically* for his or her own benefit. In that case, s/he withdraws from the intersubjectively constituted space of communication. The strategic agent thus does not engage in a shared lifeworld, but relies only on his or her isolated agency of preferences, a choice between options that shields off the need for the mutual recognition of those around him or her. The wholly individualised, strategic modulation of the world makes the agent "become worldless" (Habermas [1988] 1992, 192).

3.3.2   The Habermas-Luhmann debate: a world to share?

Habermas' theory of society—and specifically his conception of the public sphere—is the continuation of the basic Kantian premise that although human society is highly differentiated and complex, it is coherently based on a cosmopolitan idea of humanity. The free members of a particular society owe their autonomy to communicatively constituted rationality, which obeys the democratic principle of inclusivity. The fundamental demarcation of human society is the anthropological-cognitive constitution of subjects who are able to share views and information by means of their reason. In the final analysis, delineations by cultures, languages, or traditions that characterise different nations, states, and collective identities are politically secondary to the communicative structure of political society.

The logic of Habermas' conception of politics is drawn from the lifeworld, which in any case is the ground upon which more specific systems may take on their own

functionality. This means that no differentiated system is ever entirely cut off from the lifeworld. This view is challenged by Luhmann, with whom Habermas famously debated from the early 1960s onwards. In Luhmann's magnum opus, *Social Systems*, Luhmann sees 'systems' as basic ontological entities that sustain themselves (are 'autopoietic') through their own production of meaning, which operates on a 'difference' between system and environment, internality and externality. The minimal isomorphic form of a system is the unity of this difference, which entails a "centerless world" (SS 439) because the generic self-referential meaning creation relies on the relationship between 'inner' and 'outer' at the same time. Luhmannian systems make sense of the world only by productively decoding and processing it according to its "own schematism" (SS 441). The system inevitably reduces the complexity of the world, which establishes a "ground" (SS 444) (its environment) from which it must continuously perform new interpretations of data, process new information, and self-referentially develop through this process. The meaning of a system is not produced by a static filter that once and for all simplifies or understandably computes the environment. In order for meaning to be stable (and hence comprehended by the system), the system sorts the complexity of the environment. But it is out of the system's reach to control the emergence of complexity in the environment per se. As "the environment absorbs innumerable effects without re-including the system" (SS 475), a system continually encounters an unaccountable variety of complexity, which is "meaningfully re-generalized" (SS 460): a background noise or contextual blur, of which we nevertheless make sense, as when one reads a book without noticing the spelling mistakes that only appear on closer inspection. In this way, a system may evolve through its constant encounter of streams of complexity, sourced from its environment.

For Luhmann, both reflection and rationality are also system-dependent features. A system *reflects* when it considers one of the constitutive sides of its difference, either its 'inner' or 'outer' aspect (SS 455, cf. also Borch 2011, 55). A system reflects *rationally* when it considers its unity of difference (SS 455). Behaving rationally means that "a system must control its effects on the environment by checking their repercussions upon itself" (SS 475). Rationality is a system's way to gather information about itself, as getting to know how it behaves in the world. In short, it is a system's self-evaluation. Rationality is not an overarching superstructure, and nor is it an underlying presupposition of communication that the system must exercise or retain in order to possess a higher unity with other

systems: "the concept of rationality merely formulates the most demanding perspective on the system's self-reflection. It does not signify a norm, a value, or an idea that confronts real systems. … It merely indicates the keystone of the logic of self-referential systems" (SS 477). Therefore, Luhmann's concept of rationality is not a synchronisation of systems, but points to a dynamic in each system—as the most extensive form of internal self-control. Like the capability of vision, rationality is shared by all humans, but it is subjective, not intersubjective: it is a generic operation principle for Luhmann that does not—and cannot be expected to—rely on others. They see and see things differently. There is no basis for convergence in two rationally behaving systems, no guaranteed correspondence of perspectives. Moreover, there is no intersystem perspective that can be drawn from rationality. This includes psychic systems (humans) as well as social systems. For example, the economic, educational, and juridical systems may perform self-evaluations that, based on their schematisms, lead to entirely different outcomes, which may or may not conflict. Therefore, "neither rational action nor rational values offers [*sic*] a chance for a common rationality" (SS 474). Since these social systems' "only guarantee of reality" is communication (SS 446), which by halting would end their existence (SS 456), social systems are conditioned by communication's constant reproduction in its system-specific relevant and meaningful way. This means that social systems cannot have recourse to a suprasystemic common language. For Luhmann, then, communication is entirely immanent to each system, and therefore rationality does not guarantee a politically uncomplicated linguistic medium among systems.

Habermas' conception of legitimacy depends on such a language. He criticises Luhmann's systems for reducing interactions to observances, leading to a communicative "autism" that curbs any societywide integration of systems, not least formal political systems such as courts or laws (FN 335f, 51). Politics is made up of informal and unspecialised contexts where "an ordinary language is available, circulating throughout society and lying beneath the threshold of the special codes" (FN 352). As we have seen, formal pragmatics gives the philosophical justification or evidence for presupposing such common ground, and can be viewed as Habermas' elaborate answer to Luhmann's ontology.

Legitimacy hinges not only on language but also on institutions. Political power cannot rely solely on the undistorted transfer of arguments and information from one social sphere to another and among persons. The illocutionary speech acts of society have "communicative power" that the "medium of law" also must translate

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into "administrative power" (FN 150). These relations assume that the administrative system "should not reproduce itself on its own terms but should only be permitted to regenerate from the conversion of communicative power" (FN 150). That is, the issues which should be politically administrated in parliament, for example, should come from illocutionary debates in society, and not from within the lawmaking system itself. This is the process of Habermasian deliberative democracy. In contrast, Luhmann reduces the concept of democracy to the procedural cession of power between generically positioned systems, between government and opposition (see Sloterdijk 2017, 62). Whereas Luhmannian democracy is sustained only by the recurrent transfer of power, Habermas' cohesive view of democracy is more demanding. For Habermas, democratically illegitimate political power arises when the 'centre' and 'periphery' of the political system are disconnected; that is, when the administrative power becomes independent from the "democratically generated communicative power" (FN 358). Habermasian legitimacy therefore must presuppose communication as a shared standard that connects all political spheres, both institutional and noninstitutional, in order to transfer political power from society to the legislative system properly. Only in this way may society govern itself.

Whereas Luhmann theorises how systems ontologically operate on generic yet immanent codes, Habermas' lifeworld and formal pragmatics are two concepts that point respectively to the presuppositions of systems (which ultimately are shared) and the linguistic bridges between systems (which break down systemic barriers). In this way, the lifeworld is the shared existential condition of humans which enables them to generate meanings undistortedly through communication.

3.4   The Habermasian public sphere

I have now analysed the linguistic ground for interpersonal understanding in Habermas' conception and its relation to political legitimacy. This forms the basis for the late Habermas as he elaborates the nonideological core of the ideological stance mapped in *ST*, now most thoroughly reworked in *Between Facts and Norms* (*FN*) in section "Civil Society, Public Opinion, and Communicative Power." Habermas reformulates Kant's principle of publicity as the guiding principle of politics into a notion of language competence that should be integrated at all levels. As we will see, Habermasian publicity is a linguistic positioning of the subject, who should leave behind his or her private circumstantial anecdotes. The subject should

generalise his or her experiences if s/he observes an issue s/he thinks should be of public interest and should count as political. In this sense, *what should or should not be public* cannot be decided beforehand: whatever the members of society find worth discussing may be brought before the public.

In this way, Habermas evades the (Kantian) problem of stability I detected in Chapter 2, in which criticism cannot determine its own target. Instead, Habermas' theory relies on everyday experiences to be the main content providers of the debates in the public sphere. The focus is on whatever individuals may bring to the table. In contrast, Kant's insistence on PUUR's dependency on PRUR only stated that individuals should reason with their rational capacities, both privately and publicly, within specific domains. The realm of Kantian politics is therefore a narrowly two-sided closed circuit. Habermas' formal pragmatics, on the other hand, provides a comprehensive language-based fundament that provides the ever-beginning starting point of politics. In this sense, he develops a grassroots linguistics that has political importance at a much lower level of society than the rise of the Kantian scholar before the public.

For Habermas, the public sphere is a "warning system" (*Warnsystem*) which is more flexible and chaotic than functionally specific social systems (FN 359). It is an elementary social phenomenon that does not mimic the social order of an institution or organisation, which usually regulates membership and delegates roles (FN 360). In this sense, the public sphere has no PRUR to discipline its design and internal arrangements, and it is therefore "unspecialized" (FN 359). It has a political focus, in contrast to social systems that, according to Habermas' categorisations, either specialise in the truth of assertions (e.g. science, morality, art) or socially integrate members in society (e.g. religion, education, family). This is illustrated in Figure 3.4. While these specialised systems maintain social spheres that, at different levels, relate to veracity and socialisation (in Habermas' words, the "content" and "function" of society, FN 360), the public sphere maintains the third feature of communicative action. It comprises the "social space" of politics (FN 360), an information and opinion network where agents may make use of their "communicative freedom" (FN 147, 361, 442)—that is, autonomously perform communicative action. In this way, the Habermasian public sphere is akin to Kant's PUUR, because it insists on a political form which is quite robust: it refuses to be subjugated to specific political projects, while it is flexible enough to contain them.

The public sphere therefore has a leading role in advancing society's political self-organisation. The public sphere, as a Habermasian theoretical concept, is not

Lifeworld, "reservoir of simple interactions" (FN 360)

Specialised systems		Unspecialised space
Religion Education Family … General social reproduction	Science Morality Art … Validity aspects of communication	The public sphere → An open information/opinion network of communicative freedom
Function (social integration)	**Content** (truth, rightfulness)	**Social space** (political focus)

Figure 3.4   Habermasian specialised systems and the unspecialised communicative network of the public sphere.

biased towards specific preferences or systemic codes, and does not favour particular segments of people. It is formed by all members of society in the most generalised sense, is oriented towards politics, and has an egalitarian basis (FN 308), meaning that individuals in the public sphere should have equal rights of participation (to think, to speak, to assemble, and so forth). Without such rights, members of society could not collectively organise their own lives.

Preceding these social rights is Habermas' contention that citizens also have cognitive and linguistic abilities to access, participate in, and follow the public sphere's communicative network. Members of society can play a public role in it by forming arguments based on information from their daily experiences in private. Taking a position in public, however, demands that they must broaden their view and generalise their claims. Otherwise, they cannot rationally share what they want to say. Habermas describes this as an "uncoupling" from "thick contexts" (FN 361) which are dense with subjective opinions and personal experiences, as well as being linguistically fleshed out in anecdotes. The public sphere hosts public opinions by distilling these contexts. It extracts—purifies and anonymises—the substance from the forms of personality, fascination, and arousal. It does so, in theory, even to the extent that public opinions evade the stamp of a social system, avoiding the representation of a function, interest, or position. Figure 3.5 shows this relationship between private and public communication.

In contrast to the private position of the citizen, the sphere of circulating public opinions does not, then, belong to idiosyncratic stances. It is "subjectless" (FN 136, 299, 486). That is, citizens' private dimension does not substantiate the communicative network, but it takes on the nonsubjective voices of rational communication. The threshold between private and public opinions is therefore the different conditions under which they constitute communication. The private domain is characterised by intimacy, which interlocutors must transform to suit the public sphere if they want to claim the political relevance of their utterances. Habermasian publicity, the publication of reasoning, is the political expectation of generalising intimate issues to their most universal perspective.

The lifeworld has a logic of its own (cf. Section 3.3) that permeates both private and public positions. Outlined in formal pragmatics, and in contrast to Luhmann, the communicative conditions that prevail in each position still share the ultimate ambition of reaching understanding. Therefore, agents in a democracy know that they cannot expect system-specific or personalised arguments in the public sphere, and conversely cannot expect family and friends to anonymise their narratives at

"Citizens occupy two positions at once." (FN 365)

Threshold:
Different conditions
of communication

Thematic flow from private to public through expansion and abstraction

Private	**Public**
Thick context Personal opinion	*Uncoupled thick context* Public opinion
Local experiences and life histories	Information and argumentation
Embedded in social systems (as employee, taxpayer, patient, …)	Loss in differentiation; towards anonymity and generalisation
Idiosyncratic	Subjectless
Central quality: Intimacy	Central quality: Publicity

Underlying assumption: the "orientation to reaching understanding" (FN 366) is undamaged in the translation between communicative conditions

Figure 3.5 Private and public conditions for communication.

the kitchen table. Other communicative conditions in such domains would be unjustified. In parenthesis, we see here that the conditions of communication do not presuppose specific place-bounded localities of each domain. Talking with a friend on the bus does not demand public conditions of communication. Conversely, public conditions of communication should be adopted if a political event is held at someone's private home. Yet in both positions, the overall criterion of communication—mutually recognising each other as communicative agents who are sensitive to illocutionary speech acts—is preserved.

Still, the theoretical relationship between Habermas' public sphere and lifeworld is open to question. Does the public sphere, as the feature of communicative action that generates a social space, directly reproduce the lifeworld? Or are the public sphere and lifeworld only connected indirectly, via social domains that are closer to the private-communicative realm? There is evidence for both readings. On the one hand, "the lifeworld forms, as a whole, a network composed of communicative actions" (FN 354). Insofar as the public sphere, as we saw above, is "the *social space* generated in communicative action," the public sphere participates with all its capacity in the reproduction of the lifeworld (FN 360) (original italics).

On the other hand, Habermas also describes the public sphere as "a communication structure *rooted* [*verwurzelt*] in the lifeworld through the associational network of civil society" (FN 359) (my italics). In this quote, civil society mediates between the public sphere and the lifeworld, which can be seen to juxtapose as placeholders the public and private positions in Figure 3.5. In this way, Habermas' root metaphor suggests that the public sphere is at a certain distance from the lifeworld, which unidirectionally sustains the public sphere without being reproduced by it. This second stance seems to argue that the political space of communicative action coheres with the lifeworld only to the extent that its discussions relate to the personal opinions of civil society.

I cannot solve this problem here, however.[16] In our context, the critical issue to note is that the second stance emphasises civil society's underlying nurturing role with regard to the public sphere. In contrast, the first stance grants the public sphere a self-sustaining capacity. Both agree that political issues stem from the basic social

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[16] Nor am I able to find scholars who offer interpretations other than one that views the public sphere as an instance of communication in the lifeworld (cf. Burnett and Jaeger 2008; Kellner 2014; Sassi 1996).

fabric of society, and must become publicly noticed and discerned by the public sphere to have a chance of being processed and ultimately solved politically.

The public sphere is a network of public deliberations that makes political issues visible for society. The general idea is that "the 'signal' function" of the public sphere, "a sounding board for problems," must prompt and pass on issues to the parliamentary complexes, that is, the formal political framework (FN 359). The signals of the public sphere "amplify the pressure of problems, that is, not only detect and identify problems, but also convincingly and *influentially* thematize them, furnish them with possible solutions, and dramatize them in such a way that they are taken up and dealt with by parliamentary complexes" (FN 359) (original italics). Problems are communicatively modified to suit public display, and aimed at those with legislative competences. This process emphasises that the tasks of the Habermasian public sphere stand outside the administrative power, and it therefore explains why its capacity "to solve problems *on its own* is limited" (FN 359) (original italics). Due to the constantly circulating communicative network of opinion and information, "the public sphere *relieve[s]* the public *of the burden of decision making*; the postponed decisions are reserved for the institutionalized political process" (FN 362) (original italics).[17] The public sphere signals upwards, so to speak, and signals are developed through the public sphere's communicative network. However, looking downwards, the public sphere is informed by civil society. Let us call this model the 'signalling public model', which I have displayed in Figure 3.6. In Chapter 6, I shall reformulate it without Habermasian presuppositions.

The associations and organisations of civil society work at the level of private life, but are also able to "distill and transmit" the problems they encounter "in amplified form to the public sphere" (FN 367). Civil society, as a macro social arena, is able to genuinely function as the processor of real problems, because governmental or economic interests do not control its voluntary networks. Civil society also operates on the backbone of a legal system that makes it possible for individuals to establish organisations that engage in activities with others, to communicate across family ties, detached from the overseeing of the state and from the market-based demand to sell a product (FN 367f, see also 301, 183f).

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[17] The 'public' of the public sphere in the quote refers to the "general public of citizens" in civil society (FN 367).
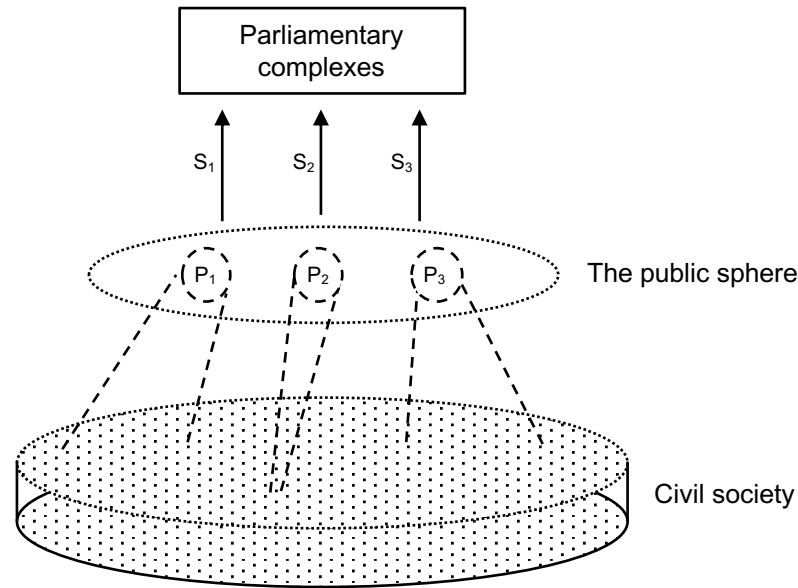
Figure 3.6 The signalling public model. The relation between civil society, the public sphere, and the parliamentary complexes. P_n are public opinions in the public sphere nested in civil society, S_n are public signals transmitting P_n to the parliamentary complexes.

Civil society must have a "liberal political culture" which enables citizens to engage freely in clubs and associations that, from a level of proximity, develop their own ways of being together (FN 371). If the cultivation of customs does not happen "in an already rationalized lifeworld" (i.e. where communicative competence is developed), then "populist movements arise that blindly defend the frozen traditions" (FN 371). Civil society must harbour communicative freedom, and not be externally forced to submit to and enact the traditions of others. It must arrange itself through the discourses of its plurality of autonomously lived lives. However, civil society's messy network of communicative action must be processed by the public sphere, and by the parliament with 'communicative power' further up. Communicative power turns into 'political power' when it "assume[s] an authorized form in formal decisions" in the last instance (FN 372).

From a bird's-eye view, as shown in Figure 3.6, the public sphere mediates between civil society at the bottom and the parliamentary complex at the top. These three categories function as the communicative input side of the legislative process (FN 329). We can see that Habermas maintains this scheme in his monumental 2019 work *Auch eine Geschichte der Philosophie* (which could be translated as 'also a history of philosophy'), confirming the centrality of the public sphere:

In the diffuse *figure of freely competing public opinions*, 'the political'—meaning an interest in the whole society, which for the time being is still legitimised through national publics—may also take form as its *own* centre in functionally differentiated societies in connection with democratic elections. This is, admittedly, only possible to the extent that those themes in need of decision-making find their way to the communication circuits and the politically institutionalised decisions stay *rooted* [*verwurzelt*] in the pluralistic whirrings of voices in a vital public sphere. (AGP 46) (original italics) (my translation)

As we saw earlier, Habermas used the root metaphor to describe the connection between civil society and the public sphere. Still, it is new for Habermas to mobilise the metaphor to express the relationship between the parliamentary complexes and the public sphere. Now formal decisions are explicitly rooted in the public sphere, a much firmer metaphor of retention than the porous transmission of signals. This accentuates the democratic integration between civil society, the public sphere, and the parliamentary complexes, which, as we will see in Chapter 4, echoes the Hegelian idea of organicism in the state.

Moreover, Habermas upholds civil society as the "prepolitical general consciousness" (*vorpolitische Allgemeinbewusstsein*) that detects and is sensitive to societywide problems (AGP 46) (my translation). The functional difference between civil society and the public sphere, the not-yet-political and the highly politicised, and their mutually supporting relationship stress Habermas' insistence on the insufficiency of civil society to stand alone as a concept of political action. Civil society is limited and depends on processing its content via the public sphere in order to gain political impact. On this ground, Habermas rejects the prevalent Marxist idea of civil society as *the* representation of political society (FN 372). In contrast to Marx's notion of civil society as the comprehensive (and thus only) sociopolitical realm of activity which opposes the state (see Hunt 1987; Kumar 1993), Habermas does not see civil society as the complete embodiment of political activity, because the democratic system as a whole is characterised by the procedural conversion of communicative action into both political power and positive law via the *relationship* between civil society and the public sphere, which embody different conditions for communication. According to Habermas, Marx and Engels miss this process in their comprehensive analyses "once the social is politicized" for the sole purpose of spurring the revolution (to actualise a specific configuration of society), which then, for Habermas, results in their disregard of the

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procedurally checked and emancipative self-organisation of communities (FN 478, cf. 488f).

This notion of the public sphere as an outstanding and demanding sociopolitical domain is adopted and developed differently by Honneth and Forst, Habermas' successors in the Frankfurt School. Honneth emphasises its social-emancipative dimension in contrast to civil society (Section 3.4.1), whereas Forst argues that the public sphere ultimately stems from the right of every individual to be granted justification (Section 3.4.2).

3.4.1   Honneth: a Hegelian return to Kantianism

Honneth also argues that the public sphere should be preferred over the "diffused concept" of civil society (RF 549) (my translation). From the perspective of a theory that rationally reconstructs the spheres of society in order to articulate their importance for a socially constituted notion of freedom, 'the public sphere' is different from 'civil society' because the former, in a more evident way, embodies "the normatively demanding, fundamentally constitutional, and media-ethical presuppositions of democratic will formation" (RF 549) (my translation). The voluntary associations of civil society are less dependent on facilitating and engaging with the continuous collision of opinions, a process that has ramifications for a democratically autonomous process of lawmaking. The public sphere is therefore politically superior to civil society in discussions about deliberation and legitimisation.

Honneth recapitulates Habermas' idea of the public sphere as the communication-generated sphere of the rational exchange of views and information. In 2011's *Das Recht der Freiheit*, Honneth further develops Hegel's idea, elaborated in Chapter 4, that rationally conceived freedom must come into view through an understanding of the institutional structures of society. Freedom cannot be deduced from a historically independent reason, nor from a wholly individualised one, because these perspectives are not able to analyse the contingencies of society through which autonomous agency is actualised (RF 15f). According to Honneth, a theory of justice must not be derived from pure juridical *Denkfiguren*, but must be fundamentally adjusted to the social characterisation of freedom (RF 126). An analysis of justice therefore presupposes an understanding of freedom in this sense.

Honneth initiates a 'normative reconstruction' of justice, that is, an analysis of the normative capacities in the contemporary institutional conditions and social

practices that can be said to mobilise justice (RF 23). A *theory* of justice thus amounts to an *analysis* of society ("*Gerechtigkeitstheorie als Gesellschafts-analyse*," RF 14). Honneth's analysis focuses on the *shared values and norms* that *reproduce* the social basis of society and also determine society's conception of justice. From there, a "distillation" (Honneth's synonym for 'normative reconstruction') of social reality must point out the specific spheres which should be able to actualise these values and norms. Furthermore, Honneth's analysis should provide the critical potential to normatively assess how much these spheres do in fact realise them (RF 29f).

Honneth identifies three spheres of social freedom that each correspond to specific formations of a 'we': personal relationships, the market economy, and democratic will formation. Honneth locates the study of the public sphere in the latter. While the former two social spheres are mostly inescapable, because they have an immediate influence on our lives (we have families and buy things), the public sphere is a more demanding aspect of social freedom. We do not just participate spontaneously in the mutual processes of political justification and argumentation in the public sphere (RF 516f). Therefore, civil society, as the network of voluntary associations that is formed more effortlessly, should not be confused with the public sphere. We see here how Honneth adopts the inverse relation between legitimacy and the public sphere (shown in Figure 3.3) when he posits the public conditions of communication—the conception of legitimacy—as the dialogical processes that generate the public sphere.

The social freedom of the public sphere is a 'we' indicating plurality. Honneth follows Habermas' conception of the public sphere as a realm that is constituted by rights (of assembly, expression, association, and so forth) oriented towards intersubjective rather than strictly subjective purposes (RF 483f). For Honneth, the framework of the intersubjectively informed understanding of the fundamental conditions for political autonomy has been carried into the communicative public sphere. This means that the public sphere, like the foundational conditions of autonomy, also implies a "promise of freedom" (RF 500) (my translation). The public sphere is part of the construction of the 'we' which constitutes the society-bound individual in the democratic state. It is the collective realm that forms a unity, the expression of society, *all* individuals. However, this 'we' must not, according to Honneth, be confused with the regimentation of opinion often seen in fascist societies (RF 518). Thus Honneth defines the public sphere as the "inherent reference to freedom of opinion and uncoerced will formation" (RF 518) (my

translation). The public sphere not only must not but also *cannot* be totalitarian, because in that case it would counteract itself. Here, Honneth's argument seems more Kantian than Hegelian: if a public sphere were to act in a totalitarian or fascistic manner, it would violate its own intrinsic framework of rights as well as its autonomy-inducing public conditions of communication, and would therefore be performatively self-contradictory (in the same way as the Kantian Good Will cannot *will* to commit suicide, as in doing so it would violate its own intrinsic value and/or universalisation principle vis-à-vis the categorical imperative; cf. GMM, pt 1). Honneth's public sphere is therefore conceptualised as liberally robust, in order to accommodate the demanding aspect of communicative justification which can develop from such presuppositions.

Strangely, Honneth does not analyse Hegel when it comes to the 'we' of the public sphere. Although he pays homage to Hegelian political philosophy, Honneth's focus on the normative reconstruction of democratic will formation does not align well with Hegel's public sphere. I will analyse the latter in Chapter 4 and show that Hegel provides another model for the public sphere, which has its ground in liberal rights without obeying the demanding logic of publicity.

3.4.2 Forst: the public sphere as the right to justification

Forst, the leading figure of the Frankfurt School's fourth generation (Guillaume 2012, 107), has returned to a Kantian perspective and built on it in terms of justification. Forst's main tenet is that one cannot understand oneself rationally as a moral person without understanding others as moral persons too (per the categorical imperative). This implies, according to Forst, that one should ascribe to others as well as to oneself equal normative authority to make justificatory claims (cf. Forst [2007] 2012, 81; 2016, 87). By Kantian definition, moral persons are also rational persons, of course, and Forst extends this to suggest a *basic right to justification*, meaning "the presupposition for being able to orient oneself autonomously in social space as a 'space of reasons.' This social existence means offering and demanding justifications" (Forst [2011] 2014, 96). Human community is formed by the reasons we give to each other, and every member must tap into the justificatory practice on equal and autonomous footing in order to avoid being dominated. In this context, PUUR means continually having a space for critique in which justifications of what should be the case are permitted. Societies that lack the ability to freely and equally raise justifications that spawn propositions for change *dominate* their subjects.

In cases of unjustifiable asymmetrical [i.e. unfree and unequal] social relations which rest on a closing off of the space of justifications such that these relations appear as legitimate, natural, God-given, or in any way unalterable and leave hardly any alternative for those who are subjected, we encounter forms of *domination*. These are backed by a combination of one-sided, hegemonic justifications and do not give those who are subjected the possibility of or, normatively speaking, the right to reciprocal or general justification and critique. The realm of reasons is sealed off, either because the situation of domination is (more or less) accepted as legitimate or because it is backed by serious threats. (Forst 2015, 125) (original italics)

So even a political community whose members unanimously consider their situation to be completely legitimate must not curb their ability to rationally contest its legitimacy if it is to preserve that legitimacy in Forstian terms. We have already seen this basic model sketched in Kant's *WE* (see Section 2.2.2), in which it is an impermissible act to bind any political community to a fixed political order. Forbidding anyone to make justifications either in favour of or against the state of things would be a regime of domination in Forst's terms. This offers a view whereby PUUR—as the producer of legitimacy—is exercised in an uncurbed manner, only limited by its own inherently fostered boundaries. Political domination in a society, Forst writes, presupposes the "lack of appropriate discursive arenas and institutional structures of justification to contest given justifications and to discursively construct generally and reciprocally acceptable justifications that lead to authoritative norms" (2015, 125). 'Authoritative norms', in contrast to pure domination, are therefore continuously upheld by an active discursive framework of rational justification, by which the political autonomy of every individual in society also is made possible. Without this framework and its actualising arenas, the right to justification cannot be said to obtain.

Habermas and Forst are both Kantians, and both work with transcendental arguments, but in different ways. Forst's argument derives from the Kantian moral law the idea that the *humanity* of human lives (referred to by Forst as "human dignity") cannot be thought without a basic right to justification (Forst [2011] 2014, 97, 100f). The transcendental condition of autonomy, of being a self-determined member of society, is therefore justification, and moral impetus thus moves politically (cf. Forst [2011] 2014, 102). In this perspective, the rationality of the

moral person always presupposes the social realm of justification. On the other hand, we have seen that Habermas explicitly moves away from the Kantian notion of the subject to offer an intersubjective constitution of the political in communication. The Habermasian presuppositions of the political must therefore be found in the communicative actions of the members of society. Justifications must be subjectless; the web of politics must be generated from public conditions of communication. The subject's sociality is constituted by communicative action; otherwise it becomes 'worldless' (as quoted in Section 3.3.1).

Habermas is the contemporary philosopher who is most systematically dedicated to explicating the role of the public sphere. Honneth and Forst subscribe to his explication, albeit from different methodological standpoints. Honneth articulates a Hegelian understanding of political arenas and their axiological functions, which continuously generate vital domains of social freedom. For the present purpose, Honneth's account is striking for two reasons. First, he sketches a Kantian version of the public sphere with a thoroughly Hegelian outlook. Second, and more importantly, his normative reconstruction diagnoses the public sphere as a domain of social freedom, whose core aim is normatively demanding because it is democratically constructive in the Kantian (hence Habermasian) sense of politics. When it comes to the public sphere, Honneth abandons Hegel's account of the public sphere (Chapter 4).

In contrast to Honneth, Forst returns to Kant, and *pace* Habermas deduces from the individualism in Kant's moral theory his theory of reciprocal justification. In Forstian terms, the core domain value of the public sphere is justification as a normative political right. Thus, Forst points not merely to the constitutional rights of the bourgeoisie mapped in *ST* (freedom of speech, assembly, association), as Habermas does, but to rights that *induce* (rather than simply *allow*) critical publicity in terms of justification. This Forstian perspective may be seen in Habermas' most recent writing, in which he states that the "democratic constitutional state establishes the public use of reason" (AGP 89) (my translation). That is, the core legitimising element of democracy is the right to pressure any political system with the burdens of justification in terms of how to arrange society.

So while Habermas articulates the public conditions of communication as the groundwork of the public sphere, Honneth and Forst add two dimensions to the Habermasian understanding: Honneth emphasises the public sphere as a specific *social realm of modern autonomy*, while Forst emphasises the public sphere as the *individual right* of every member of society to demand justification.

CONCLUSION

The processes of deliberation in the Habermasian public sphere (including in its Honnethian and Forstian versions) are produced from the public conditions of communication. These *conditions* of the public sphere are formulated as formal pragmatics embedded in everyday communication, and the public in contrast to private conditioning of communication embodies rational and democratic legitimacy. The public sphere is therefore a vehicle for legitimacy.

I have argued that *ST* opens the possibility of seeing this relationship in the opposite direction: the public sphere produces its own principles of legitimacy. *ST* sketches three different public spheres (representative, bourgeois, and commercial) that give rise to various legitimacies, each of which relate to specific political orders. Thus *ST* has an embryonic form of realism with regard to legitimacy, meaning that the public sphere—which is not confined to the public conditions of communication—is able to project legitimacy on a wider semantic scale that depends on its contingent conditions.

I will now begin to develop my argument that the public sphere produces legitimacy—that the public sphere as a concept of political philosophy denotes the social component of society which structures and develops the foundation of legitimacy. I will defend this claim by arguing that the basic activity of the public sphere gives rise to political meanings that embody different notions of specific political orders, and therefore strategies of legitimisation. In Chapter 4, I will take the initial step and argue that the Hegelian model of the public sphere denotes the first implication of this argument: namely, that the basic activity of the public sphere projects noncurated public opinions without being preconditioned by any principle of legitimacy.

4

Freedom without legitimacy

SUMMARY

In Chapters 2 and 3, I analysed the Kantian and Habermasian models of the public sphere, which broadly consisted of rationally justifying and criticising political issues in society. This meant that the public sphere was spun from the conditions of public communication—the fabric of legitimacy—implying that rational political freedom was realised by rational legitimacy. Hegel's conception of the public sphere contests this relation between freedom and legitimacy, and argues that rational political freedom cannot be fully comprehended in terms of rational legitimacy. Thus, the purpose of this chapter is to take the first step towards a conception of the public sphere which is not already underpinned by a conception of legitimacy, that is, does not already have procedural conditions determined beforehand.

My analysis of Hegel provides an account that, first, discards presuppositions of the legitimacy of the public sphere, and second, without being substantiated by the communicative mechanisms of rational legitimacy, argues that the basic activity of the public sphere generates meanings of the political (i.e. public opinions). This is also the first implication of my argument sketched in Chapter 1.

Yet Hegel does not reject the normative ideals of rational politics. Rather, he argues that the legitimacy of politics is different from the public sphere, which is

also nevertheless an aspect of rational freedom, albeit not a legitimacy-creating one. In Hegel's political philosophy, legitimacy no longer defines the public sphere.

My account will show that the Hegelian public sphere is a rationally justified sphere of freedom within the Hegelian idea of right, and is incompatible with the deliberating legislative framework in the state. The public sphere therefore does not refer to an irrational Hegelian rabble that is weakened by its material degeneration and should be politically suppressed. Instead, it refers to the use of what Hegel calls formal subjective freedom, the right that makes it possible for members of society to voice their political opinions publicly. Hegel's public sphere is not a radical defence of the freedom of speech, but an articulation of a social category which is composed of visible political utterances without oversight or control. Furthermore, it has another important function too: the public sphere is the gateway to knowledge about the opinions of members of society as a compound phenomenon. In the last instance, the public sphere gives access to the foundation on which society's laws and institutions should be established.

I understand the Hegelian public sphere to be detached from any political institutions of the Hegelian state, and I therefore disagree with what I will frame as 'institutional readings'. These readings, which comprise what Jean Cohen and Andrew Arato call statist and solidaristic interpretations, argue that the Hegelian public sphere is integrated into the political institutions, either directly or indirectly. The statist interpretation argues that the public sphere is equal to the deliberating assemblies in the state shielded off from society, while the solidaristic interpretation argues that Hegel's system of political representation integrates civil society (and thereby the public sphere) into the state, which forms a coherent whole. On the other hand, Habermas, who also marks out an institutional reading, offers an interpretation that posits the Hegelian public sphere as an oppositional mass reminiscent of the Marxian proletariat. In contradistinction from this, I label my own account 'noninstitutional', because I argue that the Hegelian public sphere is an extra-institutional instance of freedom following from the Hegelian idea of right.

My ambition has been to write this chapter without expecting prior knowledge of Hegel's philosophy. Therefore, in the first half of this chapter, I concentrate on those parts and system features that are crucial to the discussion of the Hegelian public sphere, and I would like to highlight them briefly now. As I have already hinted, the public sphere is understood in different ways depending on its relationship to other Hegelian concepts in the comprehensive system of the philosophy of right. We may understand this system at three levels in terms of the

concepts to which discussions of the public sphere relate, that is, the concepts of civil society, the state, and the estate assemblies. Before describing these levels (Sections 4.2, 4.3, and 4.4), in Section 4.1 I introduce the main aim and method of Hegel's political philosophy: the idea of right, and the notion of dialectics. I then address the difference between estate assemblies and public opinion in Section 4.5, and I discuss other accounts of the public sphere as a Hegelian category in Section 4.6. I propose my own account in Section 4.7, and I sum up the results in the Conclusion.

Specifically, I will suggest that the Hegelian public sphere has three dimensions: (1) the public sphere is grounded in the framework of freedom, based on the Hegelian idea of right; (2) the public sphere consists of the visible quantity of political beliefs expressed in all their variety throughout society, and thus forms the basis on which society can understand itself; (3) the public sphere is noncurated, and thus has no communicative standards. These dimensions articulate a modern conception of the public sphere as a social and political category that is not based on a conception of legitimacy. Taken together, the dimensions that I identify form a notion whereby the public sphere exists not as a vehicle for rational communicative practices, but as an independent category of (a specific form of) autonomy in society. Thus, this chapter functions as my leverage to articulate another model of the public sphere that is not grounded *on* legitimacy.

4.1 Introduction: Hegel's aim and method in *PR*

Hegel is a systematic thinker whose philosophical concepts are related to each other and form a whole. All concepts rest on each other, because the logical determination of one concept necessitates the beginning of (and is itself necessarily enriched by) the determination of other concepts that subsequently follow. The purpose of this section is to explicate the aspects of Hegel's system that are crucial to his concept of the public sphere, which is found in his main political work, 1820's *PR*. They should also serve as reference points in a vast philosophical structure, since it turns out that the discussion of the public sphere is also a discussion of its specific systemic location.

Let us begin with *PR*'s main purpose and the problem it aims to solve. The explicit purpose is to carefully *think through* the concept of freedom, that is, to give full consideration to its comprehensive, logical structure. In doing this, *PR* takes as its core objective to systemically unite, though not conflate, the individual and the

state—a fundamental opposition—within a political system. This, in short, is the seemingly contradictory problem Hegel aims to solve in *PR*. We may therefore see *PR* as an attempt to unite or consolidate liberal and statist principles of freedom, or—following Isaiah Berlin ([1958] 2002)—positive and negative conceptions of liberty. In general terms, Hegel argues that one cannot philosophically insist on the self-sustaining independence of either the state or the individual alone. Instead, Hegel's concepts of 'individual' and 'state' are logically speaking reciprocally dependent, and therefore their distinctive characteristics must be apprehended in light of the conditional operation they execute on each other.

The sharp conceptual difference between individual and state was made clear in 1819, one year before the publication of *PR*, when Benjamin Constant famously compared the freedom of the ancients with that of the moderns. While the ancients understood the state as the arena of autonomy, the moderns understand the state as the entity that restricts the autonomy of the individual. Constant's liberalism emphasised the now-classic doctrine of the individualised and independent character of freedom, unbounded by the state apparatus: a political freedom to be left alone (Constant [1819] 2002; see also Hansen 1999, 80ff).

In contrast to Constant's view, Hegel suggested that the modern state maintained rather than limited the individual's freedom. As he put it: "the Idea of the state in modern times has a special character in that the state is the actualization of freedom" (PR §260A), and continues: "the state is nothing but the organization of the concept of freedom. … The state is the sole prerequisite of the attainment of particular ends and welfare" (PR §261A). In classical antiquity, Hegel wrote, this time in agreement with Constant, "the subjective end simply coincided with the state's will. In modern times, however, we lay claim to our own views, our own willing and our own conscience" (PR §261A, see also §279A). The modern state recognises that the individual is free to make decisions that are not entirely determined by the state. At the same time, the modern individual also realises that his or her opinions, wishes, and wants are made possible within the framework of the state.

> The essence of the modern state is that the universal [i.e. the general aims of the political framework] be bound up with the complete freedom of particularity [i.e. individual ends] and with the well-being of individuals … [T]he universal end cannot be advanced without the personal knowledge and will of its particular members, whose own rights must be maintained. … It is only when both these

moments [i.e. the universal and the particular] subsist in their strength that the state can be regarded as articulated and genuinely organized. (PR §260A)

"The philosophical science of right," as Hegel called his exposition of this organised whole (PR §1), offers a rationally interwoven structure of state and individual (and much in-between). This many-sided structure unfolds different dimensions of freedom, and they characterise what Hegel calls the idea of right. As Frederick Neuhouser writes on *PR*, "most instances of Right will be ways in which practical freedom finds an existence … in institutions and practices of social life" (2017, 16). All rational ends—whether they be institutional or individual—are different parts of the same general scheme of right. To philosophically comprehend the sociopolitical world, for Hegel, is to understand the differentiated constitution of right, which embodies the immense complexity of freedom. It is in the idea of right that the individual and the state are understood interdependently. To quote Neuhouser again: "such comprehension *reconciles* individuals to the social world they inhabit and sustain through their own activity: what can otherwise appear as external *constraints* on their activity is shown by [Hegel's] philosophy to be instead the conditions of their freedom" (2017, 16f) (original italics).

In his political philosophy, Hegel's systematic analysis of the concept of freedom starts with the 'will': Freedom is the defining property of the will. Will is "an empty word" without freedom, and Hegel parallels their tautological relationship to other a priori truths that are otherwise senseless without their defining property, such as 'matter without weight' and 'body without heaviness' (in a Newtonian framework, of course) (PR §4A, see also PR §29). Thus, examining the concept of the will is equivalent to describing the characteristics of freedom.

'Right' is the broad term Hegel deploys to describe the entire complex of the spheres of freedom. In other words, right is the rationally existing structures of political society (see Conklin 2008, 44f; Wood 2011, 301). Right's "precise place and point of origin is the *will*. The will is *free*, so that freedom is both its substance and its goal, while the system of right is the realm of freedom" (PR §4) (original italics). To paraphrase Hegel's metaphor here, the will 'moves' dialectically, one moment at a time, and each moment illustrates the specific stages of the development of the idea of right. An absolute free will, *liberum arbitrium*, cannot be understood without its relation to the idea of right, because freedom, in all its complexity, is necessarily *the implied result* drawn from a specifically actualised political system. To strike a parallel to Constant's liberalism above, the Hegelian

thought is that even the negative conception of freedom, where individuals are wholly independent of the state, is contingent on a constitutional state securing liberal rights. Even the most independent political freedom is always sanctioned (and made possible by) a political system. In short, the way freedom works in society depends on society.

When a concept is thought philosophically, according to Hegel, it reveals its inner dialectical structure. In this sense, Hegel claims that dialectics is not a philosophical method that is applied to concepts externally (PR §31R; see also Hegel's Introduction to PS). Philosophy solely unfolds the immanent content of the concept by explicating its rational-dialectical structure. Moreover, philosophy is specifically 'speculative', as Hegel calls it, when reason grasps the whole logical structure of the concept (cf. Burbidge 1993, 91). The philosophical examination of a concept implies that it carries or consists of three moments that come to the fore. The philosophical investigation begins with the concept (the first moment), which then develops into its negation, another concept (the second moment). The third moment is the development of a new concept, which mediates or reconciles (*Aufhebung*) the difference between the two former concepts or moments. The new concept mediates in such a way that, being produced from the difference between the two former concepts, it both contains their logical difference (so that the third concept can be traced back to its former moments) and cancels it out (because they are united in the new concept). To understand a concept at only one of its moments is to understand it one-sidedly and, in Hegel's terms, 'abstractly' (cf. Hegel [1808] 1965). In contrast, to understand a concept dialectically is to understand it 'concretely' (Burbidge 2008, 24, 172f). The third moment, which contains the new concept, initiates a dialectical development in its own right, and so on progressively. Dialectics thus displays the inherently 'organic' feature of rationality, which matures on its own account (PR §31R, see also PS 4). Seen in retrospect, dialectics is the coherent result of thought, which logically interconnects Hegel's philosophical system (cf. Houlgate 2005, 39ff).

As *PR* is a part of Hegel's larger philosophical system (see Brooks 2013, 13ff), the concepts in *PR* develop dialectically—from abstract right through morality to ethical life—and can be thought as a whole (cf. PR §31).[18] Moreover, Hegel makes

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[18] That *PR* is a whole while at the same time being only a part of Hegel's philosophical system is a feature of Hegel's organicist logical framework, i.e. each part sustains in itself a whole *within* a

clear that the succession of forms (e.g. property, contract, family, civil society, state) is not a "time order," a historical genealogy, but a "logical order" (PR §32A). It is in this logical context of Hegel's philosophical science of right that we must understand the Hegelian public sphere, as a logical piece in this system. In the words of David James, as "a 'system' of right, [*PR*] aims to present all such legal, social and political conditions of freedom as forming a unified whole, a task that will demand showing how each sphere of right necessarily relates to the other ones" (James 2017, 3). Hegel's *Philosophy of Right* aims to develop an 'idea'—a Hegelian notion that covers all the dialectical moments, and which embodies a logically developed network of concepts. As we have seen above, it is the idea of right, which is freedom (PR §1A), that is our central subject.

At the beginning of *PR*, Hegel gives an intuitive example of the dialectical structure of the will (that is, freedom) in all its seemingly contradictory facets: "freedom in this [logically complete and dialectically formed, i.e. concrete] sense, however, we already possess in the form of feeling—in friendship and love, for instance. Here we are not inherently one-sided; we restrict ourselves gladly in relating ourselves to another, but in this restriction know ourselves as ourselves" (PR §7A). We engage in relations that produce an intimate aspect of ourselves, an aspect we could not have produced alone. A travel companion, for example, can produce a sense of freedom for you, whereas without that companion you might feel utterly lonely and restricted. We are 'caught' in interdependent relations, yet it is in those relations that we are—and not only feel—free in an individual sense. This is the core Hegelian view of the individual living in the state, in emotional guise.[19] Individuals cannot think themselves as really free without taking into

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greater whole to which it contributes as a part. This is the distinctive feature of all of Hegel's concepts, as we will see throughout this chapter.

[19] For readers who prefer strictly logical formulations of the general scheme of the will, Hegel describes this in the following way: "the will contains (α) the element of *pure indeterminacy* or that pure reflection of the I into itself which involves the dissolution of every restriction and every content either immediately present by nature, by needs, desires, and impulses, or given and determined by any means whatever. This is the unrestricted infinity of *absolute abstraction* or *universality*, the pure *thought* of oneself" (PR §5) (original italics). In PR, this first and one-sided moment of the will is the moment of abstract right (see below in main text, Section 4.2). Here, the legal person is thought as a pure abstraction of legal rights—the legal person is, so to speak, 'indeterminate'. Hegel continues: "(β) At the same time, the I is also the transition from undifferentiated indeterminacy to the *differentiation*, *determination*, and *positing* of a determinacy

account the crucial role the state plays in bringing this freedom about, and similarly the rationality of the state cannot be properly thought without philosophical recourse to the freedom of individuals and their social communities. To understand freedom, according to Hegel, we must concretely understand the conditions under which we live.

4.2　The structure of *PR*: locating the concepts of civil society and the state

My analysis above of the aim and methodological approach of Hegel's political philosophy has shown that concepts concretely express the Hegelian notion of freedom. In this section, I will outline the three main concepts—abstract right, morality, and ethical life—that compose the most general dialectical structure of Hegel's exposition of the idea of right. This will enable us to understand in more detail where *PR* locates the concepts of civil society and the state, as well as the relationship between them. These concepts frame the subsequent discussion of the public sphere.

The will—and therefore *PR*—takes its point of departure in what Hegel calls 'abstract right', whose negation is 'morality', by means of which their difference is mediated by the third moment, the concept of 'ethical life', which harbours civil society and the state. This is the overall dialectical movement that *PR* expounds. Let us look briefly at these three categories, each of which has its own detailed

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as a content and object. … Through this positing of itself as something determinate, the I steps into *determinate existence* in general. This is the absolute moment of the *finitude* or *particularization* of the I" (PR §6) (original italics). At this second moment, the I is completely particular, subjectively motivated, and thus determined, in contrast to the pure indeterminacy of the legal person as an abstract entity, something absolutely generic. In PR, this second moment is 'morality' (see below in main text, Section 4.2). In the third moment: "(γ) The will is the unity of both these moments. It is particularity reflected into itself and so brought back to universality, i.e. it is *individuality*. … What is properly called the will includes in itself both the preceding moments. The I as such is in the first place pure activity, the universal which is with itself. But this universal determines itself and to that extent is no longer with itself but posit itself as an other and ceases to be the universal. Now the third moment is that, in its restriction, in this other, the will is with itself; in determining itself it still remains with itself and does not cease to keep hold of the universal. This moment, then, is the concrete concept of freedom, while the two previous moments have been found to be through and through abstract and one-sided" (PR §7 and §7A) (original italics). In its fully developed form, then, the will comprises both the particular and the universal. It becomes 'individuality', which is the key organic form of the 'idea' (in this case, of 'right').

dialectical development. While abstract right deals with the constitution of what it means to be a legal person, morality develops subjectivity.

Abstract right. The legal person exists by means of legal determinations: s/he owns property, enters into contractual relations with other legal persons, and can steal and hence break those contracts. Whatever belongs to the legal person only does so because of the externally determined legal frame (PR §104R): my property is only 'mine' through a legal exercise. In abstraction from other, more private spheres of life (work, friendship, love), the legal person is wholly constituted by an externally situated legal framework, all his or her doings are understood through this framework, and s/he lives as such only on the scholarly pages of jurisprudence. From the perspective of the legal system, contracts and other legal vehicles are in force and available to all persons, and no idiosyncratic vehicles can be made. The manifestation of one's own will here is only possible through the legal framework. However, the aporia in abstract right that logically forces it to its negation is, for Hegel, the case of a wronged legal subject seeking 'revenge', the subjectively willed version of legal punishment (PR §103). In this sense, subjectivity emerges in contrast to the pure mechanism of legal settlement.

Morality. While the legal person could relate to external things (processing property, making contracts), morality is the sphere in which the subject relates to him/herself. The moral subject "sinks deeper and deeper into itself" (PR §106R) through its self-conscious reflection of what is good (PR §141R). Unlike the legal person, who is upheld by the legal framework, the moral subject stands by itself (PR §105) with its conscience and purposes. In morality, the subject finds a particular will that, in contrast to the universal will in abstract right, is its own. While the legal person should find a nonpersonal will stated only in universal and objective terms, the moral subject's feeling of having its own will means that the subject understands itself as having a will isolated from anybody else: should I do this or that? What should my choice be? Just as the legal person exhibited the first one-sidedness of the will, "the will must [also] free itself from this second one-sidedness of pure subjectivity [of morality]" (PR §107A). However, insofar as the interpretation of duty or good intentions resides in the subject alone, then what is *evil* for one person can be good for another. Even Kantian ethics proposed an "*empty formalism*"—the categorical imperative—resting on subjective evaluation (PR §135R) (original italics). Hegel argues that the categorical imperative, or any moral judgement, must have determined principles—for example, that property or human life should be respected—before one can assess whether it is wrong to

contradict them, that is, by stealing or killing. In the compliance with duty for duty's sake (Kant's famous dictum) and not, as Hegel writes, "for the sake of some content," Kant's moral theory collapses under the burden of its own failure to explain in terms of duty why "the death of the whole human race" is worse than its billions of lives (§135R). The contradicting problem (the aporia), then, is that the singlehanded moral agent cannot determine what the good choice is without having content from which to measure—that is, content that is not entirely determined by the agent itself. The moral agent is thus unable to make the good choice on its own, and the concept of morality must necessarily move on to the third and last moment: ethical life.

Ethical life. Morality and abstract right are 'abstract' moments that oppose each other, and modern society cannot be philosophically thought solely in terms of ahistorical contract theory or the individual reflection of morality. Morality and abstract right need to be actualised in institutions that make it possible for citizens to effectuate them. Modern society is understood concretely when freedom in all "its forms" (PR §30R) is determined as an organic whole, thereby denoting the objective instantiations of the will that make society rational.[20] Therefore, morality and abstract right are mediated and reconciled by their third, namely 'ethical life': "the spheres of [abstract] right and morality cannot exist independently; they must have the ethical [*das Sittliche*] as their support and foundation, for [abstract] right lacks the moment of subjectivity, while morality in turn alone possesses that moment, and consequently both [abstract] right and morality lack actuality by themselves" (PR §141A). Ethical life, or *Sittlichkeit*, also branches out in three moments that denote the institutions of modern society (family, civil society, state), each determined in further substructures. As Charles Taylor writes on Hegel's political philosophy: "the *sittlich* is what has to do with a community in which the good is realized in a public or common life. Hence the category englobes more than the state" (Taylor 1975, 431) (original italics). Just as abstract right and morality could not exist independently, so too the first two moments of ethical life—family and civil society—are "only partial, non-self subsistent [*sic*] realizations. With the

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[20] Hegel's philosophy of right actualises 'objective freedom' because it dialectically develops the materially and normatively shared structures (the institutions of social and legal life) that concretely make rational freedom possible in political society (cf. Pippin 2017, 264f; Wood 1993, 218). On the Hegelian perspective that rational claims always rely on historically concrete institutions, see Robert Pippin (2001, 14).
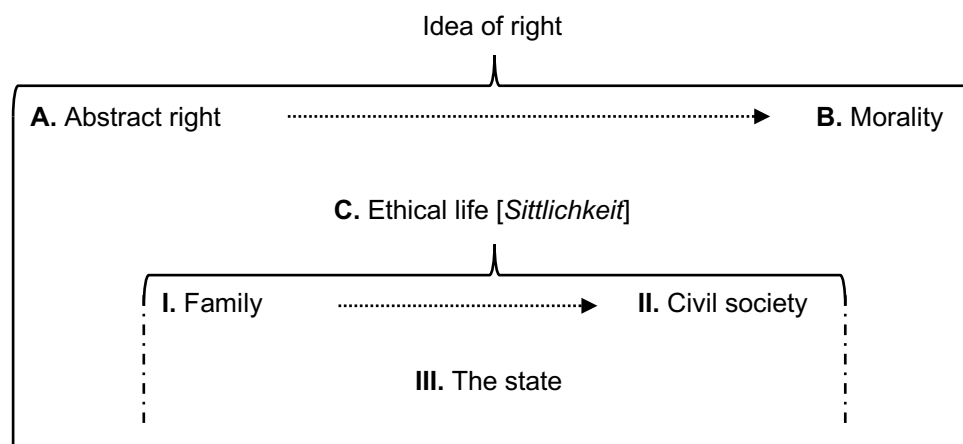
Figure 4.1 Hegel's idea of right.

state, we have a full and self-subsistent one" (Taylor 1975, 438). Figure 4.1 lays out the overall dialectics of the idea of right.

As a specific moment in the idea of right, the state is "the highest embodiment of *Sittlichkeit*" (Taylor 1975, 428) (original italics), and thus also the embodiment of all the successive concepts that logically precede it. One might explain, as Dudley Knowles does, ethical life as the logical moment in *PR* that

> charts three nested domains of value (Family, Civil Society and State) which
> govern domestic, economic, legal, administrative and political forms of life as
> these are encountered in the modern world. I say these elements of Ethical Life
> are *nested* because Civil Society consists of families and the Rational State as a
> whole comprises all its subsidiary institutions. (2002, 221f) (original italics)

I understand Hegel's concept of civil society (*bürgerliche Gesellschaft*) as the sphere of bourgeois economic and associational life that we have already outlined in Habermas' notion of the bourgeois class (see Section 3.2). Hegelian civil society is also based on patriarchal family structures, and its economic activities are constituted by a protecting legal framework that is enforced by public authorities such as the police and the juridical system (cf. de Boer 2013, 543f; Peperzak 2001, 425ff; Stillman 2012, 114ff). While the state logically nests the preceding and dialectically related moments, the state too has a triadic structure that develops the 'estate assemblies', whose relation to civil society centres the discussion of the Hegelian public sphere. I will argue that the public sphere belongs to neither the concept of civil society, the state, nor the organic mediation between them (which

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the estate assemblies represent). However, to make such an argument—contradicting the established accounts, which argue that the parts in the logical structure of ethical life constitute the public sphere—I need to clarify in some detail how Hegel's concept of the state functions.

4.3   The internal constitution of the organic state

The state ends the logical expression of the idea of right with three moments: the internal constitution of the state, external relations to other states, and world history. These are respectively the state's inner structure, international right or interstate relations, and the history of the world as it takes shape or finds its course from the mediation of the two preceding moments (e.g. in war, international negotiations, and peace treaties). This logical triad of the state is shown in Figure 4.2.

The discussion of the public sphere departs from the first moment, (α) the internal constitution of the state, that is, "the individual state as a self-relating organism" (PR §259)—in other words, the way the particular state is logically organised.

According to Hegel, it is Rousseau's theoretical merit that he positions the "*will as the principle of the state*" (PR §258R) (original italics).[21] Hegel opposes structuring the state via a nonrational principle such as 'social instinct' or 'divine authority' (PR §258R), a Hobbesian or theological political constitution that externally determines the state's purpose and composition. The state must be a self-expressing and self-contained coherent and therefore rational whole, like the will. The state is thus not a matter of checks and balances, of maintaining or obtaining

III. The state

α. Internal constitution of the state   ┈┈┈┈➤   β. Relations to other states
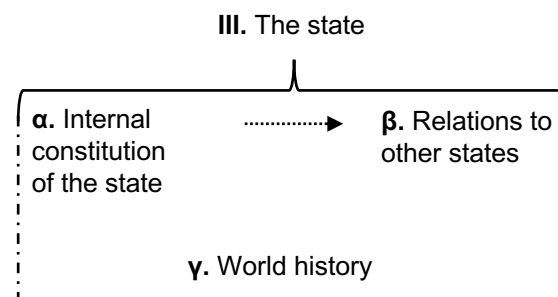
γ. World history

Figure 4.2 Hegel's concept of the state.

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[21] On the difference between Hegel and Rousseau, see Section 4.4.1. On Rousseau's concept of the general will, see Section 2.1.1.

equilibrium among different forms of power, whatever they might be (PR §272R, also §300A). This of course is an objection to the tradition of Montesquieu's "nonsovereign conception of freedom, which decouples political freedom from the exercise of will" (Krause 2015, 148; see also Montesquieu [1748] 1989, Book 11, chap. 6). For the sake of limiting despotic uses of control, the Montesquieu tradition organises the legislative, executive, and judicial forms of power in such a way that they restrain each other.

Hegel's systematic-rational organicism opposes this balancing of otherwise unrelated forms of power. Since the principle of the state is determined as the will, the composition of Hegel's state must follow the form and content—the so-called organic totality—of rationality.[22] For our purpose, the organicism of the state implies three properties: the whole exists for the sake of the parts, and vice versa; each part retains autonomy; and each part promotes the whole by maintaining itself (Beiser 2005, 240). As will be the subject of discussion below, this organic view of rationality—underpinned by the moments of dialectical thinking—is crucial for understanding how the public sphere participates in the political whole, and whether it is an organic or inorganic entity in the system. This determines its degree of rationality, its state-embeddedness, and its general role in Hegel's political philosophy.

For that reason, it is a noteworthy error when the English versions of *PR* translate '*(un)organisch*' as '(un)organised'.[23] In Montesquieu, the state is highly—but not organically—organised. In Hegel, the organicism permeates the whole organisation: "the state, however, is essentially an organization [*Organisation*] whose members constitute circles in *their own right*, and hence no one of its moments should appear as an unorganized aggregate [*unorganische Menge*]" (PR §303R) (my italics). 'Organic organisation' is the specific way in which parts relate dialectically to each other, forming a whole. An inorganic organisation would be a

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[22] On the notion of 'organicism' in relation to the constitution, see William Conklin (2008, 243f). On the general organicism of Hegel's scientific method and its 'application' in his political philosophy, see Yirmiahu Yovel (1996) and Michael Wolff (2004). See also Robert Hanna (1996, 270f) for Hegel's logic and the principle of organic totality. For the concept of the organic in Kant and Hegel and its different uses, see Frederick Beiser (2005, 95ff).

[23] The translations by T. M. Knox (Hegel [1820] 2008) and H. B. Nisbet (Hegel [1820] 1991) both sometimes make this mistake (examples in main text below). Thomas Burger and Frederick Lawrence translated Habermas' *Strukturwandel der Öffentlichkeit* in 1989, and they used Knox's translation (in the 1952 version, it seems) without correcting the mistake (e.g. ST 119).

system such as Montesquieu's, arranged by means of an external principle or balancing structure, the *trias politica*. From Hegel's perspective, the state is only rational when it applies its own principles.

It follows that different powers in the state must relate dialectically to each other through their differences in order to fit organically, and must not be disparate, i.e. logically incoherent or detached from the whole.

> The state is an organism [*Organismus*], i.e. the development of the Idea into its differences. Thus these different sides of the state are its various powers with their functions and spheres of action … By listing attributes, principles etc., no progress can be made in assessing the nature of the state; it must be apprehended as an organism. (PR §269A)

As a "political entity" (PR §273), the state's internal constitution is organically "divided into three substantial elements" (PR §273) according to its dialectical nature, and is thus an "expression of rationality" (PR §272A). In the internal constitution of the state, these three elements correspond to forms of power that indeed are familiar to political theory: one element corresponds to the legislative power, another to the executive power, and the third to the constitutional monarchy (PR §273).[24] Each of these moments also corresponds to the constitutions that Aristotle distinguished—monarchy, aristocracy, democracy—by mere virtue of the number of rulers (one, few, many), as Hegel notes (cf. Houlgate 2008, 356f). Nonetheless, Hegel frames them as conceptually distinct forms in the organic state: the legislative power is formed by many, and is thus the democratic element (or branch or part) of the state; the executive power is formed by few, and thus is the aristocratic element; and the power of the crown is formed by one, and thus is the monarchical element (PR §273R). In the Hegelian version of constitutional monarchy, these "forms, which on this [Aristotelian] principle belong to different wholes, are reduced in constitutional monarchy to moments of the whole" (PR §273R). Hegel's state thus comprises three aspects, shown in Figure 4.3.

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[24] And not, perhaps surprisingly, to judicial power (see PR §272A). For Hegel, the courts are the universal moment of *civil society* that secures the right and installs the duty of any person to be accountable to the rationality of law (see PR §219–229). As we will see below, the courts are for Hegel a part of the executive branch.

"The state as a political entity" (PR §273)	
Constitutional monarchy (the crown)	Monarchy, one
The executive branch (judiciary, police)	Aristocracy, few
The legislative branch (estate assemblies)	Democracy, many
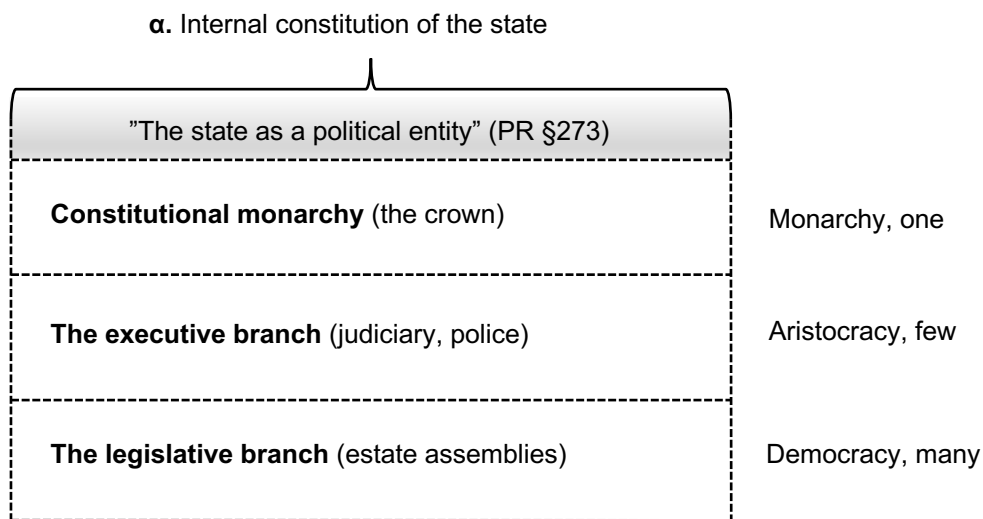
Figure 4.3 The three moments of the internal constitution of the state.

Hegel does not introduce a fully fledged democracy, aristocracy, or monarchy, but a constitutional monarchy with different branches, each having a rational place in the "division of labour" of the internal administration of the state (PR §290). The Hegelian public sphere has often been conceived as an integrated aspect of the democratic element of the internal constitution of the state. Therefore, only a very brief sketch of the two other branches—the executive and the crown—is in order, to sharpen the contrast with the legislative branch before I fully examine the public sphere as a specific component in the Hegelian system of right.

The crown. The three dialectical moments of the crown are as follows. The first moment is the constitution, and laws in general. The second moment comprises the counsel, consisting of "functionaries and agents" who are occupied with the day-to-day doings in the state. The third moment is the decision-making capacity of the monarch (PR §275–277). The crown is the seat of decision-making on the basis of law. It is informed by the two other branches of the state, shown in Figure 4.3, which are more directly related to the rest of society.

The executive. Hegel explains the difference between the crown and the executive branch in terms of the "distinction between the monarch's decisions and their execution and application, or in general between his decisions and the continued execution or maintenance of past decisions, existing laws, regulations, organization for the securing of common ends, and so forth" (PR §287). The executive power carries out the decisions of the crown. It therefore extends to the judiciary and the police to assert the binding forces of law (PR §287). The state is

in contact with civil society when the executive branch is maintained by the public functions of 'civil servants' and 'officials', e.g. the police (PR §295). Therefore, the executive possesses "concrete knowledge and oversight" of civil society, and hence "knowledge in particular of what the state's power needs" (PR §300).

The legislative branch. The discussion of the public sphere takes its point of departure in the estate assemblies of the legislative branch. They frame the political relations between civil society and the state, and are therefore central to the public sphere. As this is the thematic centre of the remainder of this chapter, let us turn to the estates that form in civil society. These estates assemble and embody the legislative power—the democratic element—in the state.

4.4   The estate assemblies

To sum up: the legislative branch is a part of the state's internal constitution. The estate assemblies make up the legislative branch. Thus, these assemblies are organically related to the other branches of the state. Now, the assemblies have the key role of consolidating the organic relationship between state and civil society. The assemblies do this when, as one of the state branches, they represent the interests of civil society. In other words, organicism yields when civil society is drawn into the state.

The assemblies of civil society in the state are the integration of 'the rule of the many', the democratic element, in Hegel's state. The different understandings of the assemblies in Hegel's state also mark the difference between the solidaristic and statist interpretations of the Hegelian public sphere, and are therefore critical to my argument. Their differences depend on two related points, which I will clarify in turn. The first question is how assemblies maintain Hegel's notion of political representation. As I will explain, they do this by mimicking the autonomous organisation of civil society (Section 4.4.1). The other question is what specific institutional function and content carry this political representation into effect. Hegel's answer is that assemblies represent the interests of civil society when they exhibit deliberation (Section 4.4.2). In Section 4.5, I will show a different point of departure for a Hegelian public sphere, other than its common placement in the deliberative productivity of assemblies. That common placement comprises institutional readings (statist interpretations, solidaristic interpretations, and Habermas' interpretation), and I will analyse them in Section 4.6. I will then offer what I call a noninstitutional reading in Section 4.7.

4.4.1 Political representation

The crown and executive power are presupposed to be effective in the legislative branch, although it forms its own "totality" (PR §300). The legislative branch introduces the estate assemblies, which is where the universal interests of civil society are formed. The assemblies represent the democratic element in the state, and Knowles (2002, 332) describes them in terms of Rousseau: they express the general will. At first glance, the parallel works well with Michael McLendon's concise explanation of Rousseau's concept: "good citizens define their interest in general terms as the thriving of the state, and they willingly sacrifice their particular interests for their general interest" (McLendon 2015, 407; see also Williams 2015, 222). Similarly to the general will, the estates comprise the logical moment that brings "universal interest into existence … [i.e.] the empirical universality of the thoughts and opinions of the many" (PR §301). But one must add the caveat that for Hegel, the person who participates in an estate cannot, so to speak, throw off his or her own particular will in civil society in favour of the general will. The individual in the state must have both moments at the same time to attain 'actuality' (Hegel's term for the attainment of dialectically developed rationality, in order to be 'concrete'), and s/he must not just abstractly sacrifice his or her own personal endeavours for the sake of the universal. Here Hegel is in opposition to Rousseau. As Hegel writes, an individual's

> universal determination as such implies that he is at one and the same time both a private person and also a thinking consciousness, a will which wills the universal. This consciousness and will, however, lose their emptiness and acquire a content and a living actuality *only when they are filled with particularity*, and this is to be found in the particular estate and vocation. …. Hence the individual fulfils his actual and living vocation for universality *only when he becomes a member of a [particular] corporation, a community, etc.* (PR §308R) (my italics)

The interplay between an individual's 'particular estate and vocation' (i.e. one's belonging to a particular community in civil society) and its concern with a universal stance in the estate assemblies of the state points to the core idea of Hegelian political representation: the opinions of the many must 'assemble' on the basis of their particular 'estates' in the state to discuss universal matters.

The estate assemblies are arranged in two chambers, a bicameral model like the House of Representatives and the Senate (in the United States Congress), or the Houses of Lords and Commons (in the United Kingdom's parliament) (Knowles 2002, 332) (PR §312).[25] The upper chamber is reserved for the landed aristocracy (PR §306A). The lower chamber represents industry and commerce (cf. PR §203 and §204, respectively).[26] According to Hegel, the upper chamber's primogeniture represents a socially immobile civil society, in contrast to the lower chamber's capitalist basis, which allows social mobility (PR §308). The estates therefore correspond to the organisational structure of civil society.

As noted above, political representation works through vocational collectives and is not directly individual—yet another anti-Rousseauian attribute in the sense of rejecting direct democracy. Citizens must be members of one of the organically organised spheres to which the estate assemblies relate (PR §303R). In Hegel, these assemblies work "as a mediating organ" between the "government in general" and "the people broken up into particular spheres and individuals": they contain seats for individuals representing their community's interest instead of their own (PR §302, cf. also §303R, §308 and §311R).[27] Since civil society makes it possible for individuals to freely occupy different socioeconomic positions by virtue of its capitalist system, political representation can be tied to the individual's civic position without limiting individual freedom. An individual's political agency is not only represented but also formed collectively by the socially generated positions.

Hegel therefore rejects representation via the aggregate of individual votes as a political rule of decision-making. Voting is an abstract view of political representation: it abstracts the citizen from his or her concrete social structure. If the political is social, then it cannot be represented asocially, by isolated voters. Political interests are only formed in the associations of civil society, and

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[25] There are in fact *three* estates: there is also the 'universal estate', which comprises the civil servants (e.g. police and judiciary). But Hegel separates the 'universal estate' from the 'estate assemblies', which comprise the two other estates and are of concern to us here. We may therefore leave out the 'universal estate' in this context (cf. PR §303; see also Conklin 2008, 218).

[26] This is not the case with the US Congress, however.

[27] To be precise, a community must not participate through its specific communal interest alone, but through its interest's universal aspect. In this way, deputies of communities in the estates must "assert essentially the universal interest, not the particular interest of a community or a corporation in preference to that universal interest" (PR §309).

Individual ⟶ Community ⟶ Estate assemblies
via association   *via deputy*
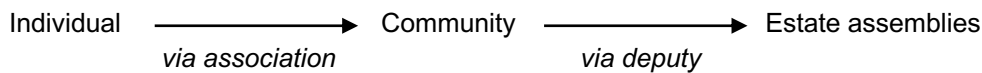
Figure 4.4 Hegelian double-integrative political representation.

representation must therefore be based on them. If the voice of the many relied on the individuals rather than on their associations, then the life of civil society would be ignored: to "hold civil and political life apart from one another … [is to] hang the latter in the air … of caprice and opinion" (PR §303R). In other words, votes are not as "stable and justified" as civil society's associations (PR §303R). The representational basis of the political thus comes from work associations, guilds, and other plurally conceived activities that necessarily include, but should not be reduced to, individuals. Moreover, even individuals should not be reduced to *pure* individuals, as they too are intersubjectively conditioned (cf. the closing paragraph in Section 4.1). The perspectives which emanate from these communities in civil society are carried over to the estate assemblies. In this sense, the individual only relates to the state as an integrated part of his or her community, and a community "can enter politics only through its *deputies*" (PR §308) (original italics).[28] There is thus a double integration at play in the Hegelian notion of political representation (Figure 4.4).

In this rather tortuous way, individuals do nevertheless enjoy political representation, regardless of their expertise, qualifications, or merits (besides being a member of an estate). In any case, the public sphere cannot express itself through votes; but if it is defined in relation to the estates of civil society, it may lean on this system of representation through deputyship in the state.

4.4.2   Mediating civil society and the state: the function and content of the estate assemblies

There are two reasons why the estate assemblies constitute "a guarantee of the general welfare" (PR §301R). First, the deputies are intimately connected to the special needs and intricacies of daily associational life. They possess "*additional* insight" into their association's pressing particularities, more so than the state

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[28] Each deputy should be equally represented: "all such branches of society, however, have equal rights of representation. If deputies are regarded as 'representatives', they are this in an organic, rational sense only if they are representatives not of individuals or a conglomeration of them, but of one of the essential *spheres* of society and its large-scale interests" (PR §311R) (original italics).

officials and functionaries higher up in the ranks (PR §301R) (original italics). Second,

> the anticipation of criticism from the many, particularly of public criticism, has the effect of inducing officials to devote their best attention beforehand to their duties and the schemes under consideration, and to deal with these only in accordance with the purest motives. This same compulsion is effective also on the members of the Estates themselves. (PR §301R)

This of course sounds rather naïve to the more cynical-realistic reader. However, the point here is Hegel's claim about the relation between the assemblies and civil society. The assemblies are kept uncorrupted and in check by the adjusting social force of carping criticism. As a mediating organ, the assemblies ensure that public criticism is organically coupled to the rest of the inner structure of the state. Overall, they comprise the logical moment which guarantees that "the personal insight and personal will of the sphere called 'civil society' … *comes into existence in relation to the state*" (PR §301R) (original italics). In this way, the "real significance of the Estates lies in the fact that it is through them that the state enters the subjective consciousness of the people and that the people begins to participate in the state" (PR §301A). Two dynamics are at play. On the one hand, associations and their issues are coupled to the state. Thus, the political life of civil society enters the assemblies, which on the other hand qualify, refine, and develop more suitable laws to be implemented back into civil society. In this way, the legislative power in terms of the assemblies is occupied with laws "in so far as they require fresh and extended determination" (PR §298). This can only be the case when assemblies bear and curate information from civil society into the legislative power (see Figure 4.5).

Without this organic and bilateral connection, the mass of the people would not be able to inform the state in a fruitful way (cf. PR §304). Rather, they would perform their political claims, their "inorganic opinion and volition," as a "powerful bloc," "in opposition to the organic state" (PR §302) (my translation). Moreover, without the mediating estates, the crown would *equally* rule as a despot, invoking a rule "in arbitrary tyranny," without any knowledge of the society on whose behalf decisions are made (PR §302). The estates thus take up a central role in the internal constitution of the state by linking the legislative branch to those for whom the laws are made. Without this relationship, both would act without an eye for the organic totality, and would thus act autocratically.

The organic
composition of
society

| The crown |
| The executive branch |
| **Assemblies** The legislative branch |

| **Civil society** |
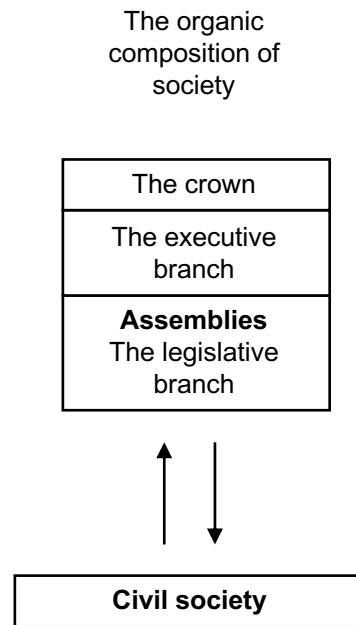
Figure 4.5 The organic relation between state and civil society.

Hegel's understanding of the organic composition of the internal constitution of the state theoretically curbs political action that is not institutionally suited to be absorbed by the state. Political participation must thus align with the state's organisation and modus operandi. "When the multitude enters the state in an organic way, it achieves its interests by legal and orderly means. But if these means are lacking, the voice of the masses will always be wild" (PR §302A). The estate assemblies comprise the counterinstitution that makes up for the wildness and lack of political cultivation of the people, "a formless mass whose commotion and activity can therefore only be elementary, irrational, wild, and frightful" (PR §303R). Opinions that are not located in the estates of civil society in an orderly manner are unsuited for the assemblies, and individuals may escape the commotion of the mass through business training, education, and skill (cf. PR §310). No political opinion that should participate in the organic system of representation can be drawn from the immediate opinions of the people, but instead must be related to civil society's associational life.

I have now analysed the *function* of the assemblies that organically mediate between civil society and the state, but I have neglected their *content*. Let me turn to this issue. The assembling deputies are supposed to deliberate with each other; they are the ones who exercise political argumentation in the state. This is a further restriction (on top of the criterion that issues should be universal instead of

particular, cf. PR §309) that hinders precarious performances of the political: "a further bar to their [deputies'] being so is the fact that their assembly is meant to be a living body in which all members deliberate in common and reciprocally instruct and convince each other" (PR §309). I understand this to refer to reason-normative communication practices, in concord with both Kant and Habermas. This form of communication is unregulated in the sense that the deputies are neither commissioned nor receive orders, but instead engage in dynamic and collective processes of reasoning (PR §309). The deputies in the assemblies coproduce and codetermine the outcome; they are cocreating a space of reasons. Their "distinctive purpose is that through their participation in knowledge, deliberations, and decisions [*Mitwissen, Mitberaten und Mitbeschließen*] concerning universal matters, the moment of *formal* freedom shall come into its right in respect of those members of civil society who are without any share in the executive' (PR §314) (original italics). The assembly institution contains constructive and well-behaved political (communicative) action. Without this institution, whose organic constitution connects the socialised individual and the state, the individual would not be able to perform the political self-determinacy that is prescribed by the idea of right. If the individual and the state were to detach themselves from each other, then Hegel's organicism, which is the guarantee of the logical coherence of the idea of right, would languish.

If the democratic element of the state is the legislative branch, which forms a specific institution for the *voice of the people* to deliberate and rationally steer the state by making propositions and discussing legal adjustments in order for the state to be up to date with society, then it seems evident that *this function* plus *this content* describes the public sphere of the Enlightenment, and naturally climaxes in Hegel's political philosophy. But such a reading is a misinterpretation, I will argue, because it does not take into account the difference between 'the publicity of assemblies' and 'public opinion', which I will analyse below. The latter does not belong to any institution in the organic state, even though it is rationally justified. I suggest that the public sphere in Hegel's framework is a concept of public opinion which the modern state rationally presupposes at the same time as it is unable to rationally integrate it into its institutions. The difference in interpretation lies in the conceptual distinction between the assemblies and public opinion, between the publicity of the former and the visibility of the latter.

4.5 The difference between the publicity of assemblies and the visibility of public opinion

The debates of the assemblies are held in the two chambers of the state, while public opinion is visible in society. Although Hegel upholds this distinction, the deliberative debates of the assemblies may be broadcast widely throughout society, and thus individuals may encounter both categories at the same time, as proximate categories of political speech: one formed outside the assemblies, the other inside. Although both tend to appear in public simultaneously, they reflect two different political categories, a distinction that is important for my argument. Let me explain the difference.

If the debates of assemblies are broadcast in addition to merely being held, then it is easier for others who are not participating to follow them (read, watch, listen to them): "knowledge of universal affairs is extended above all by the *publicity* [*Öffentlichkeit*] of Estates debates" (PR §314) (original italics). The publicity (or broadcasting, *Bekanntwerdung*, as Hegel also calls it; see below) makes it possible for people to be *à jour* with the latest assembly negotiations. In this way, the assemblies inform the surrounding society. In Hegel, the negotiations that are broadcast work as

> an antidote to the self-conceit of individuals and of the masses, and a means—indeed one of the chief means—of their education [*Bildungsmittel*]. The publicity of the estates assemblies is a large and excellent educatory spectacle for citizens, and it is from this publicity that the people learn best about their true interests. (PR §315) (my translation)

The assemblies' exemplary deliberations represent an edifying model for citizens' own political debates, which they are allowed to have (and which, as I show below, make up public opinion). Besides the assemblies' disclosure of the universal interests *of* civil society *to* civil society, the assemblies' rational discourse and debate style also mean that "such assemblies are irksome to ministers, who have to equip themselves with wit and eloquence to meet the criticisms there directed against them" (PR §315).

Publicity is not an inherent quality of these debates, but the general public benefits whenever they are reported (see also Duso 1990, 50). "A people for whom such debates are visible has quite another liveliness in relation to the state than one

without estates altogether or where estates' debates are not public" (PR §315) (my translation). Not only are there informational and educational advantages of publicity, but it also nurtures an energetic climate of opinion: the masses pay attention in a *lively* manner.

This is different from the Kantian PUUR where, as Section 2.2 showed, there is no state institution for using reason publicly. With the assemblies, Hegel mixes both of Kant's uses of reason: the organisational logic (PRUR) of the estate assemblies is meant to correspond to the PUUR of the assembling deputies. With the assemblies, Hegel forms an integrated political body that avoids being completely dependent on the distanced decisions of the monarch, to a larger degree than is seen in Kant. It would presumably be much harder for the monarch to ignore discussions in parliament's chambers than to spurn scholarly (and extra-institutional) discussions of adjustments to the military, for instance. In this quite theoretical frame, Hegel's conception enjoys what Kant's lacks, namely a framework of arrangement, coordination, and purpose completely integrated into the state organisation.

Does Hegel's institutionalisation of rational political discussion, however, annul Kant's radical principle of political agency—the idea that justifies the exercise of political critique from any social position in society? On the one hand, Kant and Hegel both agree that critique is rational, and that alternative, seditious forms of commentary are illegitimate. While civil society surfaces in the state through the organised estates in Hegel, Kant has no such institutionally guaranteed corresponding relation to society. While Hegel's organicism, at least theoretically, institutionally secures both the effectiveness and the publicity of critique along with its societywide roots, Kant leaves political agency out in the open. On such a view, Hegel only consolidates the PUUR we already know from Kant. On the other hand, Kant's radical view on the nature of critique would presumably emphasise the constraints of Hegel's institution. Critique's only condition is its form, not its institutional power, which for Kant should always be subject to critique. If the state acted rationally, for Kant, then PUUR would amend the framework of law in any case, making the assemblies an unnecessary addition to the state.

At this point the importance of Hegel's distinction between the assemblies and public opinion comes into play, because public opinion signifies a new form of collective political agency outside the institutions.

It is not before the broadcasting [*Bekanntwerdung*] of every step by the two houses that they are connected with the wider *public opinion* [*dem Weiteren der öffentlichen Meinung*]. And it then becomes clear that public opinion is different from what a man believes at home with his wife or his friends, and different too from what happens in a large assembly, where one shrewd idea devours another. (PR §315A) (my translation) (original italics)

Hegel places public opinion *between* opinions held in private and the deliberative discussion in the assemblies. Public opinion is found neither in pockets of intimate communication nor on the inside of the state, but somewhere in-between.

It is debated, however, how one should understand 'public opinion', the 'assemblies' in the state, and the role of 'civil society' in forming a coherent conception of the Hegelian public sphere. In order to analyse and weigh these concepts accordingly, let me turn to three dominant readings that either see public opinion as an irrational phenomenon of the mass (Gerhardt), conflate it with assemblies' publicity (Cohen and Arato), or argue that public opinion foreshadows the fragmentation into class society (Habermas). After this section, I will suggest a new account of Hegel's public sphere and argue that it is a conception that is able to constructively inform our current understanding of our contemporary modern public sphere.

4.6   Institutional readings of the public sphere

As mentioned, I will now examine three interpretations of the Hegelian public sphere, and then offer a fourth in Section 4.7. In the course of this section, first, the public sphere is viewed as an integrated part of the state, namely the deliberative assemblies, which stand in contrast to irrational public opinion. This so-called statist view may take different versions: one may argue that the Hegelian public sphere is politically dominated by the totalitarian state, or on the other hand that the assemblies are, in Hegel's view, in fact the only way to secure rational political discourse. Second, the public sphere is seen as a part of civil society that is politically represented in the assemblies and therefore is coupled to the state, albeit indirectly. This so-called solidaristic view emphasises the organic relationship between civil society and the legislative branch. Third, Habermas argues that the Hegelian public sphere is a dialectical concept that at its outset is supposed to be a reasoning institution of the state, but its negation reveals that it is a dominating and

ideological institution of bourgeois society. Therefore, the Habermasian reading of the Hegelian public sphere results in an alternative version that positions the public sphere and the state in an antagonistic opposition between those subjugated and those in power, without any organic relation.

Let me begin with the first reading. It proposes that the Hegelian public sphere is framed within the state, whose authoritative demands *curb* the autonomous deliberation of the assemblies. Therefore, the assemblies—as the Hegelian public sphere—turn out to be only a pseudo-self-governing branch of the state. Volker Gerhardt analyses this in the following way:

> It was an insult to the Liberal tradition when Hegel stubbornly enclosed the public sphere in the state. With this move, it is evident that he sought to distance himself from Kant's 'transcendental' function of the public sphere. Hegel was not alone in his scepticism, and many of his contemporaries made unrestrained access to the public sphere responsible for the excesses of the French Revolution. 'Freedom of the press' had always been suspected to promote revolutionary activities, and it had become an ongoing theme in the face of revolutionary upheaval. In 1770, Struensee had annulled censorship in Denmark and earned the highest praise from Voltaire. However, already in the course of the coming year, Struensee found it necessary to impose new restrictions, but he was ousted from power and executed before they could take effect. In 1772, censorship returned to its old form. (Gerhardt 2012, 189f) (my translation)

It follows from Gerhardt's interpretation that he conceptualises the Hegelian public sphere as an enclosed element in the state administration, a model of controlled and autocratic reasoning. Press freedom is portrayed as a social obstruction from which the Hegelian public sphere must be protected. The case of J. F. Struensee (1737–1772) illustrates the danger of public opinion: pamphlets of all types—from clever to nasty and irreverent—were published in the short period of radical press freedom that Struensee instituted (for the Struensee case, see Laursen 2000; Horstbøll, Langen, and Stjernfelt 2020, chap. 23, 27, and 28). Such contestations and mockery were perceived as threats to the imagined sobriety of politics (as well as the security and preservation of the state, of course). On Gerhardt's reading, Hegel integrates the public sphere into the state to either tame or ban its unruly and illegitimate counterbalance, i.e. public opinion. Taming entails a disciplining of public opinion, whereas banning public opinion entails a prohibition on speech. Nevertheless, both

statist readings suggest that the Hegelian public sphere is a dominant agent of the state.

Such interpretations of the public sphere therefore belong to the statist trend, one of the two trends in regard to Hegel highlighted by Cohen and Arato in their seminal work *Civil Society and Political Theory*. In addition to the statist trend, they also mark out the solidaristic one:

> The statist trend in this context is expressed in the concern to control and disempower public opinion in order to make it compatible with the management of the state. The solidaristic trend, on the other hand, involves the raising of public opinion to a higher level of rationality in a parliamentary framework between state and society, itself exposed to the controls of publicity. From the first point of view, public opinion is ultimately a threat, and the proper relationship to it on the part of political (including parliamentary) elites is manipulative. From the second point of view, public opinion is the condition of possibility of political public life. (Cohen and Arato 1992, 111f)

Gerhardt follows the statist trend when he argues that the Hegelian public sphere militates against the political influence of public opinion. This runs contrary to the solidaristic trend, which emphasises the organicism of Hegel's system: agency is distributed in an orderly manner throughout the political system; associational interests at the bottom circulate to the top. As we have seen above, this trend is visible "when the assembly from which the normative claims of state are drawn is depicted as its penetration by civil society" (Cohen and Arato 1992, 115)—in other words, when the spheres of society that stand outside the internal constitution of the state nevertheless have leverage within it. When extragovernmental entities have the ability to make their voices heard in parliament, then the coherency of the whole order of society is maintained. Through this solidaristic trend, it also becomes evident that Hegel sketches the blueprint for Marx's political ontology in the sense that it is the interest-born spheres of society, and not specific individuals, that enter the state with their cultural and social normativities as the ground for political claims.

Both the statist and the solidaristic trends fall under what I call 'institutional readings of the public sphere'. They are institutional because they propose that the Hegelian public sphere is integrated, one way or another, into the state. The statist and solidaristic trends, as we have seen, differ on the political value of *public*

opinion: it is a social category that is either legitimate or illegitimate for nurturing the ground of political life. However, there are three common features of institutional readings when it comes to the way in which the public sphere is conceptualised. First, on a systematic level, the public sphere fits the organisation of the political. Second, on a functional level, the public sphere manages the transferral of political interests in society to the political system. Third, on a content level, the public sphere contains the legitimate normative claims of society. Thus the public sphere is a part of the political system, the mediator between state and civil society, and legitimately feeds normative claims into the system.

An institutional reading ultimately turns on the idea that the public sphere must operatively perform the workings of the political in order to exist. In the statist reading, public opinion obstructs the political and is therefore in opposition to the public sphere. On the other hand, the solidaristic reading salutes the impact of public opinion, because in this view it harmonises with the organic constitution of the state. Here the assemblies embody the public sphere because they signify civil society's entry into the state. While the statist trend heeds strict institutional boundaries, the solidaristic trend hopes for a thoroughly and coherently organised political society that is interlaced at every level. As mentioned above, I will propose my own account, a *noninstitutional* reading of the public sphere, in Section 4.7.

The solidaristic trend commits a category mistake. Cohen and Arato argue in the quote above that within this trend, public opinion is raised to a higher level of rationality in the parliamentary framework, because public opinion is controlled by publicity. But nowhere in Hegel is public opinion—which, as I have shown in Section 4.5, is always outside the assemblies—a part of the parliamentary framework. However, conflating public opinion with the assemblies veils the mistake. As we have seen, the assemblies are safe havens for political rationality, and civil society's penetration into the state means that deliberative assemblies remove irrational beliefs. Moreover, the publicity of assembly debates is a one-to-many broadcast communication structure with a spillover effect that edifies public opinion. Broadcasting, however, does not grant public opinion any form of rational position, either inside or outside the state. Public opinion is the recipient of, not a contributor to, the communication of the estate assemblies.

One of the most influential readings of Hegel's notion of the public sphere, perhaps unsurprisingly, is found in Habermas' *ST*. We analysed it in Chapter 3, so let us now turn to its §14, "*Zur Dialektik der Öffentlichkeit (Hegel und Marx)*" (on the dialectic of the public sphere in Hegel and Marx). It is a crucial paragraph that

deals with the exposure of the ideological basis of the nonideological core of politics. The notion of an ideal, rational politics, which Habermas draws from his analysis of Kant and others, is formed from sociological conditions whose underpinning assumptions obstruct its intended universality (as we have already seen in Chapter 3; cf. also ST pt 4). Still, the principle of politics that emerged from this ideological basis, as Habermas famously put it, was more than mere ideology:

> As long as the presuppositions enumerated above could be assumed as given, as long as publicity existed as a sphere and functioned as a principle, what the public itself believed to be and to be doing was ideology and simultaneously more than mere ideology. On the basis of the continuing domination of one class over another, the dominant class nevertheless developed political institutions which credibly embodied as their objective meaning the idea of their own abolition: *veritas non auctoritas facit legem* [truth is the lawmaking authority], the idea of the dissolution of domination into that easygoing constraint that prevailed on no other ground than the compelling insight of a public opinion. (ST 88) (original italics)

In the long run, the call for the abolition of arbitrary power, the slogan indeed of the arbitrary ruling class, implied the bourgeoisie's own cancellation. As we saw in the previous chapter, the slogan in Latin was correct for Habermas, and the disclosure of its false basis and consciousness (ideology) only accentuated its inner truth (rational politics). Habermas bridges this gap at the exact philosophical centre of his book: Kant reveals the ideal (rationality), Hegel reveals its breakdown (its ideological ground). Habermas found in Kant that the role of publicity was to unify the empirical manifestations of reason and the intelligibility of reason (ST 116). The empirical progress of society can only work via publicity because it constitutes Kantian reason as critique working on itself with its own measures. Any restraint of publicity would curb the rational development of society. While Kant's PUUR generated the public sphere, "Hegel's philosophy of right would bestow its name: public opinion [*öffentliche Meinung*]" (ST 116). According to Habermas, it was different for Hegel compared with Kant because Hegelian public opinion embodied an inner contradiction: public opinion was fatally torn between its rationality on the one hand and its principled opening to the lower layers of modern civil society on the other. Hegelian public opinion was not simply critical reason exercised on itself. The bifurcated orientation towards reason and civil society destroyed the uniform

sociological basis of the public sphere, because it initiated the influx of competing world views. In Habermas' reading of Hegel, public opinion is an *ambivalent* political phenomenon, worthy of admiration as well as disdain. This ambivalence stems from the integration of characteristics from both the solidaristic and statist trends, positioning Habermas' reading as a third stance.

The success of Habermas' position rests on two premises: (1) first Habermas conflates Hegel's uses of public opinion and the assemblies; (2) then Habermas *reinstates* the difference in order to make the point on Hegel's behalf that the rationality of public opinion is in fact theoretically relocated (and therefore conceptually degenerated) to mass opinion in modern society. This conceptual move transports the public sphere from the rationally assembling estates to the irrational mass. It establishes a seemingly inner conceptual contradiction in the Habermasian reading of the Hegelian public sphere, between its rational and nonrational moments (state versus mass). Thus, Hegel is the vehicle through which Habermas reveals an inner tension present in the structural transformation of the sociological basis of the public sphere. Let me elaborate on the two premises.

At the very beginning of his analysis, Habermas quotes a paragraph by Hegel (PR §301) and substitutes what is a clarification of the assemblies with public opinion, two distinct categories as we saw above:

> In the public of private people engaged in rational-critical debate, there came about what … in Hegel was called 'public opinion'. It was the expression of "the empirical universality of the thoughts and opinions of the many." … Hegel defined the function of the public sphere in accord with the eighteenth-century model: the subjection of domination to reason. (ST 117) (my translation[29])

Here, Habermas not only conflates the estate assemblies and public opinion (an important yet, to my knowledge, undisclosed detail in Habermas' reading of Hegel).[30] Hegel's public opinion is also directly tied to Habermas' political ideal of the public sphere, embodied in Habermas' catchphrase of a public of rational-

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[29] Translated from the German Suhrkamp-edition p. 195 (see References).

[30] Ludwig Siep similarly conflates the two concepts: what is in fact the assemblies' "advisory and educational function" is ascribed to public opinion (see Siep 2015, 186) (my translation). See also Slavko Splichal's (1999) similar reading of Hegel, found in Berger (2006, 48).

critical individuals, *"Publikum der räsonierenden Privatleute."*[31] This connection points to Habermas' interpretation of Hegelian public opinion as inherently rational. This is the first step into the ambivalence.

The second step is taken when Habermas emphasises Hegel's contrast between public opinion and science (ST 118). Public opinion is rooted in civil society without access to the truth-tracking procedures of science, which means that public opinion only possesses "knowledge merely as appearance" (ST 118). (These might also have been Hegel's words; cf. Section 4.7.) At this point, Habermas notes the "ambivalent status of public opinion" (ST 119). With this second move, Habermas relocates Hegelian public opinion from the rational seedbed of the assemblies to the tempestuous mass.

This new location is modern: in Hegel's analysis, civil society and its capitalist system of needs systematically produces poverty and therefore a socially degenerated rabble (Ruda 2017, 163ff). This fragmentation of civil society into classes pulls public opinion's initial coherence (PUUR) asunder, and replaces it with multifarious and contesting interests (ST 118f). This means for Habermas (ST 120) that Hegel installed control measures (e.g. police and the corporation-forming "business estate," cf. PR §250; see also Section 4.4.1 above) to protect the state from unmediated public opinion and to ensure order. With that move, Habermas concludes like Gerhardt that "Hegel has definitely left liberalism behind" (ST 120). Habermas' insistence on relocating Hegel's public opinion away from the assemblies to the mass entirely removes the conceptual ambivalence by emphasising the production of the negation in a dialectical structure: public opinion goes from rational to irrational, from legislative to dangerously oppressive, from established to subversive. The line is firmly drawn, the concept has turned into its logical opposite. Public opinion is infantile, cannot be trusted on its own, and should therefore be controlled. For Habermas, the function of the Hegelian broadcasting of the assemblies is consequently reduced to a totalitarian means of education for the formation of opinion in civil society, so that civil society can come to align with the interests of the state. This, Habermas concludes, is the problematic result of Hegel's stance.

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[31] Variations of this phrase are found throughout the book (e.g. ST 55, 58, 83, 108, 123, 125, 179, 247).

The [Hegelian] public sphere thus demoted to a "means of education" [*Bildungsmittel*] counted no longer as a principle of enlightenment and as a sphere in which reason realized itself. The public sphere [i.e. the assemblies' broadcasting] served only to *integrate subjective opinions into the objectivity assumed by the spirit in the form of the state*. (ST 120) (my italics)

Habermas argues that the assemblies (i.e. the public sphere) *reintegrate* the public opinion of civil society into the state order. Notice the conceptual distinction between the public sphere and public opinion. This reintegration of public opinion is an institutional reading of the public sphere too. But it deviates from both the statist and solidaristic trends. Habermas' reintegrational interpretation is a softer institutionalisation because it does not, like the statist view, bring public opinion under direct, disempowering control by censure. Nor does it, like the solidaristic view, see public opinion's immediate wishes and wants as compatible with the political framework. Instead, as I understand it, Habermas offers a view of Hegel where the assemblies as the public sphere *edify* public opinion with their broadcast deliberation. At the same time, this indirectly and informally broadcast *Bildung* is *necessary* if public opinion in society is to be adequately institutionalised. From the perspective of this Habermasian reading, the statist trend is too restrictive of public opinion, while the solidaristic trend absorbs the needs of public opinion in too unfiltered a way. Thus, for Habermas, the Hegelian public sphere is an institutional component in the state, taking care of an enhanced mediation between public opinion and the political framework.

However, Habermas goes further. Hegel's public opinion was the embryonic stage of a creature that would mature with Marx's political theory: the fully developed separation between the dominating class (the estates and assemblies) and the proletariat (public opinion) (ST 122f). In other words, Hegel's philosophy of right embodied the beginning of the revelation that society's political interests were not always compatible, as Kant had suggested. With Marx in mind, Habermas argues that it was nevertheless *Hegel* who did *not* acknowledge that the contradiction within the organic society would inevitably result in inorganic antagonisms. In Marx, the estates and public opinion took the shape of fractions within society that were more prone to fight than to sympathise with what were no longer their fellow citizens but their oppressors.

For Habermas, then, Hegelian public opinion was the philosophical signifier that, with the hindsight of Marx, pointed to domination through the veil of the

rational state. The assemblies functioned as an edifying medium that was interpreted as the estates' exercise of arbitrary and privileged domination. Hegelian public opinion, which was outside the institutions, had no option but to obey. Habermas writes: "*opinion publique* was relegated to the sphere of *opinion*; hence the reason that was realized in the existing state in its turn retained the very element of impenetrability characterizing personal domination that in Kant's view was to be penetrated and dissolved in the medium of publicity [*Öffentlichkeit*]" (ST 121) (original italics). Turning to a purer statist reading, Habermas interprets Hegel's subsumption of citizens under the state as resembling despotic power rather than reason. Even though for Hegel the publicity (broadcasting) of the assemblies was motivated by reason, for Habermas its outcome was domination. Enlightenment and rational criteria for criticism turned into ideology. In this way, Hegel's philosophy of right was an excellent example of the ideological connection between reason and myth, which Habermas at that time had inherited, so to speak, from Horkheimer and Adorno's *Dialectic of Enlightenment* of 1947. That is, it was the inevitable conversion of rational domination into arbitrary suppression, "the reversion of enlightened civilization to barbarism in reality" (Horkheimer and Adorno [1947] 2002, *xix*). Indeed, Habermas' overall purpose in his book, as I showed in Chapter 3, was to make clear the ideological grounding of the idea of the public sphere, but also to extrapolate its nonideological content. However, by praising Kant and lamenting Hegel, Habermas missed the chance to extract from Hegel a nontotalitarian model of the public sphere—which, I will argue below, is closer to the evidence in Hegel's text—that strongly differs from Kant's.

After all, Hegel's organicism aimed for a political system whose maintenance consisted in the implementation of the needs, worries, and opinions of civil society, as the solidaristic trend emphasises. The Kantian public sphere exercised critique of critique by means of critique, and it was an enterprise of social critique concentrated in a structurally similar agency across society. This was Kant's principle of social freedom. Although Habermas differentiated between spheres (as did Hegel), Habermas' conception of communicative critique based on everyday language enabled all political subjects to exercise critique in the same way too. Any individual could linguistically adopt the public conditions of communication to become an agent of the public sphere. In contrast, Hegel's conception of social freedom entailed different institutional manifestations that, in an organic composition, formed a dialectically distributed political agency. This Hegelian agency claimed its coherence via a number of developments, as we have seen, with

the structure of political representation at the bottom organically connected to the crown at the top. Therefore, one could ask what the relationship between Hegelian freedom and the public sphere is within such a system. This question is specious, however. It presupposes that the Hegelian public sphere has a place in this hyperordered system. That is not wrong—but it is also not correct. My claim is that the Hegelian public sphere is constituted by Hegel's concept of freedom, but it is also without legitimate function in the organically integrated framework of legislative political agency. For Hegel, the public sphere is a central aspect of freedom that cannot be organically institutionalised. Distasteful and offensive expressions of public opinion are *produced from freedom*, and therefore cannot lead to a general ban that shields the state. Therefore, public opinion is a troubling category because it produces a type of political agency whose uneasy existence is problematic for political institutions—although public opinion cannot be shunned either, because it is intimately connected to freedom. Section 4.7 will unpack this argument.

4.7   A noninstitutional reading of the Hegelian public sphere

I will now propose a noninstitutional interpretation of the Hegelian public sphere. I argue that the public sphere is defined in terms of three dimensions. (1) It is based on the principle of formal subjective freedom. (2) As an empirical sphere, it constitutes the essential basis from which society must develop. (3) Yet, in its morass of subjective opinions, the public sphere cannot clearly articulate this essential basis. These dimensions make up the political role of the public sphere in Hegel's political philosophy, and they show that the public sphere is detached from the legitimacy that is generated in the organic political system.

Let me briefly recap what we know so far. Hegel positions public opinion as an independent category in-between private conversations in households and deliberations in the assemblies (cf. Section 4.5). The interpretations presented in Section 4.6 relate public opinion to the state, either directly, indirectly, or in terms of hostility. Moreover, in Hegel's framework, individuals are organically connected to the state because they are politically represented in the assemblies, which ensures the integration of a suitable and controlled deliberative process in the state that subsumes the interests of civil society. Political representation, speech, and rationality are thus connected in this institutional framework.

"Yet," Hegel argues, "in public opinion a field is open to everyone in which they can also express and assert their subjective opinions *concerning the universal*" (PR §308R) (my translation) (my italics). The 'universal' should be understood here as the political issues of society that generally are not idiosyncratic but sufficiently relevant to be political (whatever the definition). I take the 'universal' in Hegel, in this context of 'expressing and asserting one's subjective opinion about the universal', to have the same connotations of 'civic' or 'public' issues. Alternatively, we can also understand the 'universal' specifically as the problems discussed in the assemblies. Torsten Liesegang (2004, 157) calls the orientation of public opinion towards the universal for the "individually minded state-attentiveness" (*individuellem Staatsbewusstsein*) (my translation). This orientation means that public opinion is thematised, so to speak, towards the matters of the organic whole of the state. In any case, whatever issues may be determined to be 'common issues', as it were, this does not entail similar opinions about them, and subjects may express their own views on the matter.

Public opinion therefore shares its political orientation with the debating assemblies. But it does not share their discursive-deliberative grounding. Moreover, public opinion is essentially dependent on broadcasting, although public opinion cannot be said to comprise all visible forms of opinion. The universal orientation of public opinion is different from nonuniversal but broadcast opinion: for instance, hobby or gossip magazines, or personal blogs—although of course these media forms can be universally minded too. While conversations of an intimate nature relate to personal matters and discreet behaviour, Hegelian public opinion is fundamentally nonprivate in the sense of being unconcealed, shared, and relevant beyond the individual.

Public opinion therefore comprises the whole visible network of politically oriented statements that relate to each other in some way—citizens visibly channelling reactions to each other's statements, a circulating jumble outside the institutional framework. Hegel writes: "the formal subjective freedom of individuals consists in their having and expressing their *own* judgements, opinions, and recommendations on matters of universal concern. This freedom is collectively manifested as what is called 'public opinion'" (PR §316) (original italics). Hegelian public opinion points to the full range of *openly circulated personal opinions concerning the political*. It stems from 'formal subjective freedom', which indicates that public opinion is anchored in the idea of right. That is, it is anchored in the multidimensional structure of the rational concept of freedom.

Nicolás López-Calera (1976, 520f) relates the foundation of Hegelian public opinion specifically to the freedoms of speech and the press (see also PR §319). This is definitely one important aspect of the Hegelian concept in question, but it has other dimensions too, as I will demonstrate below. The conception of public opinion as expressions outside the deliberative assemblies, and hence as without rules for debate or propriety of tone, means that in public opinion the "universal in and for itself, the substantial and the true, is linked with its opposite, the purely particular and distinctive opinions of the many" (PR §316). Again, in our context, the Hegelian terms 'substantial' and 'true' relate to the dialectical development of the concept of freedom. Since the 'universal' in this context has the appositives 'substantial' and 'true', Hegel does not seem to point to the universality of politically themed issues, but rather to the universality of formal subjective freedom: namely, the universal right to political expression, which is brought into contact with its opposite, distinctive and particular opinions. Formal subjective freedom is thus an aspect of rational freedom that comes to exist in society as a mixed body of both deliberative and nondeliberative utterances oriented towards politics. As Hegel states, one cannot set up "formalistic" rules, so any utterance should be seen in its context; slanderous talk has "many gradations" before one may pass judgement on it (PR §319R). Luckily, a convinced Hegel states, "shallow and cantankerous talking" is often met with "indifference and contempt," a social mechanism that works well and lightens the burden of imposing restrictions (PR §319).

In this way, the rationality of a right does not imply the rationality of its products. The mere right to express oneself politically does not ensure one's intelligence, care, or deliberative talent. "Public opinion as it exists is thus a standing self-contradiction, knowledge as appearance, the essential just as immediately present as the inessential" (PR §316). The rational basis of public opinion is betrayed, so to speak, by its empirical existence.

Public opinion therefore does not fit the rest of the organic system. "Public opinion is the inorganic way in which people's opinions and wishes are made known" (PR §316A) (my translation). The organic way to do this, of course, is through the assemblies, which are representationally rooted in the communities. Since public opinion does not harmonise with the legislative branch of the state but directly contests it, public opinion does not graft well, so to speak, onto the organic framework of the state. I thus disagree with Zdravko Kobe (2019, 173), who remarks that Hegelian public opinion is "an integral part of the legislative power."

To be able to show how public opinion entails political agency, I will schematically distinguish between three types of political agency. The assemblies enjoy *direct* political agency because they are legislative. Individuals and communities are politically represented in the assemblies, from which they derive an *indirect* political agency (cf. Section 4.4.1). Hegel's organic conception of representation constitutes the direct and indirect types of political agency. Lastly, public opinion maintains *basic* political agency. It is basic because, as a political form of expression, it is necessarily derived from Hegel's notion of freedom. However, it does not satisfy the sufficient condition for participating in the organic form of political representation. This will be developed in the rest of this section.

Let us briefly compare Kant and Hegel. Kant's relation between private and public uses of reason implies an ideal of political agency. As Larry Krasnoff writes:

> Kant repeatedly stresses that laws must be capable of publicity so that they may be criticized by citizens who owe no allegiance to any established authority. Implicit here is an ideal of political agency: the notion that it is possible for ordinary citizens to speak out against unjust authority *in a way that will affect* that authority. (1999, 404) (my italics)

It can be discussed whether Kant's public sphere entails the direct or indirect type of political agency. However, given that the Kantian model entails either one of these agencies, it is different from the Hegelian notion of public opinion, because Hegel places it outside the framework of political representation—without a clear procedural way of affecting authority. Furthermore, for Hegel this means that an improvement in the conditions of direct and indirect agency found in the assemblies, the deputyship of the estates, and ultimately the communities would not affect the political agency in public opinion. Instead, public opinion draws its basic political agency from the rational understanding of how modern freedom works vis-à-vis formal subjective freedom.

As we have seen, Hegel recognises that in the modern world 'we lay claim to our own views, our own willing and our own conscience' (quoted in Section 4.1). In the political life of the moderns, the state does not subdue the individual: political worth and opinion cannot be totalised by the state, which must respect formal subjective freedom. This aspect is neglected in Liesegang's analysis, where Hegelian public opinion is degraded to be "at the disposal of the rulers" (2004, 176) (my translation). Instead, Hegel argues that public opinion is "a great power and it

is particularly so in our day when the principle of subjective freedom has such importance and significance" (PR §316A). Public opinion is knit into the rational fabric of the modern world via formal subjective freedom, while at the same time it is without the characteristics of direct or indirect political agency. Public opinion is a strange category: included in political speech, excluded from political power. It is contrived by the organic framework of right, but renounced by the organic state and its instalment of organic political representation.

Therefore, public opinion is a category that Hegel rationally recognises as a key element in the modern state, even while he explicitly brushes aside its immediate existence as politically unsuitable. To form a comprehensive notion of Hegelian public opinion and its basic political agency, we must specify and take account of three dimensions. As the last stop of this chapter, let us turn to these by considering the following passage from Hegel:

> Public opinion, therefore, contains [1] the eternal, substantial principles of justice, the true content and result of the whole constitution, legislation, and the universal condition in general [*allgemeinen Zustandes*], [2] in the form of *common sense* [*gesunden Menschverstandes*], which in the shape of prejudices pervades the ethical basis as well as the true needs and correct tendencies of actuality [*Wirklichkeit*]. At the same time as this inner condition emerges in our consciousness and in our general expressions, partly on its own account, partly in support of concrete arguments about events, arrangements, and relations within the state, or about felt needs—then [3] the complete contingency of opinions, their ignorance and perversion, mistakes and falsity of judgements emerge as well. (PR §317) (original italics) (my translation)

In short, the dimensions are as follows. (1) The whole framework of right underpins public opinion. Therefore—and at the same time—public opinion contains (2) the essential content of society, on the basis of which society must understand itself, while (3) the contingent existence of public opinion makes this content unclear. The solidaristic reading overemphasises (2) because it positions civil society as the foundation of politics. The statist reading overemphasises (3) because it interprets the messiness of public opinion as having a perilous nature that should be fenced out of the political system. Habermas mixes both and provides an ideological diagnosis, but ultimately remains focused on the relationship between (2) and (3). All three readings appear not to consider (1). Let me elaborate.

Dimensions (2) and (3) point to the content of public opinion and its political institutionalisation. However, both solidaristic and statist readings have subsumed public opinion under 'civil society' in discussions of civil society's political role. They have interpreted, either favourably or unfavourably, Hegel's organic solution to civil society's integration into the state: deputies, who know the universalised interests of their social collectives, stand for the uptake of interests in the state. I argue, on the other hand, that public opinion is a conglomerate of universally minded (i.e. political) opinions grounded in the formal subjective freedom of the individual, and that it is therefore not necessarily based on collective interests or deputyship. Public opinion is not related to the assemblies. Therefore, public opinion is a political category and social sphere that is distinct from, although not entirely unrelated to, civil society.

The main political issue of 'civil society' is how it relates to the 'state'. If we pay attention to (1), 'public opinion' becomes visible as an independent political sphere outside the 'state' and distinct from 'civil society'. With (1) in mind, one can formulate the dilemma of Hegelian public opinion in the following way. On the one hand, public opinion is justified by the philosophical science of right's own systematic thought. On the other, its empirical manifestations seem to run wild and break faith with its rational groundwork. Although public opinion is harnessed to the idea of right—and therefore freedom—and is composed of the political beliefs and attitudes from which society's rationalisation must develop, public opinion runs counter to the rationally conceived political order. Let me describe the three dimensions in light of this dilemma, in order to formulate a unified notion of Hegelian public opinion.

1. *The system of right.* Since public opinion, Hegel writes, "is such a hotchpotch of truth and endless error, it cannot be genuinely serious about either. What it *is* serious about can seem hard to determine; and indeed it will be hard if we cling simply to the words in which public opinion is immediately expressed" (PR §317R) (original italics). The claim, I think, is that one cannot look to public opinion for the discerning standards of truth and deliberative politics. Its standards of content are much weaker. Public opinion cannot cushion itself against false opinion. For such a bulwark, Hegel points to other and for him more suitable institutions. However, to dismiss public opinion from the system of right would be to throw the baby out with the bathwater.

The substantial, however, is the heart of public opinion, and therefore it is with that alone that it is known in and from itself alone. What the substantial is, though, is not discoverable from public opinion, because its very substantiality implies that it is known in and from itself alone. The passion with which an opinion is urged or the seriousness with which it is maintained or attacked and disputed is no criterion indicating what it is really about. (PR §317R)

What is public opinion really about? The substantial core of public opinion is not to be found in the utterances it produces. Public opinion as a chaos of political expressions lacks the means to epistemically assess them. The question points to the intrinsic justification of public opinion. In my view, the only substantial core of public opinion that is endogenous to it is its grounding in the framework of right. Public opinion is legitimised by formal subjective freedom, regardless of its empirical manifestations, which public opinion as a political category cannot control. Therefore, Hegelian public opinion signifies the right to be outspoken about political issues that are not in line with or in the same form as the deliberations of the state. In this way, *public opinion is the only Hegelian analytic expression of a social sphere that produces political speech and is not deliberatively regulated, filtered, or institutionally reconstructed to correspond to the state*. The discarding of public opinion because it lacks substantial connections to the calm adjustments of reason and instead is connected to the regular disturbances of social life is based on a narrow understanding. Such a view assesses the content rather than the structural preconditions of public opinion. I therefore disagree with Hans Friedrich Fulda's claim that "Hegel's state had no place and no right for political intellectuals" to raise their subjective political opinions (1967, 118) (my translation). On the contrary, public opinion is the legitimate arena for such utterances. As Hegel writes: "public opinion therefore deserves to be as much *respected* as *despised*—despised for its concrete expression and for the concrete consciousness it expresses, respected for its essential basis, a basis which only appears more or less dimly in that concrete expression" (PR §318) (original italics).[32] So, since public opinion always contains irrational nonsense *alongside*

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[32] Here Hegel uses 'concrete' in a nontechnical sense (cf. Section 4.1). This reading is justified for the reason that, in this quote, 'concrete' is condemned, which runs against the technically *concrete* nature of the whole Hegelian dialectical-speculative philosophical project. It makes little sense that Hegel should find concrete expressions of thought despicable, as he claims in the quote.

true statements with half- and wholehearted justifications, it should still be respected for the basis on which it stands, namely, the idea of right.

2. Let us focus on the empirical side of public opinion. Can society make sense of it? This is the task carried out by the philosopher, whose acute awareness of social processes must provide an understanding of public opinion.

> Public opinion has no criterion of discrimination, nor *has it the ability to extract the substantial element it contains and raise it to precise knowledge. …* [I]t takes a great man to find the truth in public opinion. The one who can *put into words and accomplish what his age wills and expresses*, he is a great man of his age. What he does is the heart and the essence of his age, he actualises his age, and the one who does not despise public opinion, as he encounters it here and there, will never do anything great. (PR §318) (my translation) (my italics)

I would like to extract the following from this quote: someone outside public opinion must distil its content and discover its inherent will. I understand 'the substantial element' to have two layers. First, there is the layer which is fundamentally made possible by the rationalised, historical articulation of modern freedom reflected in the constitution. Second, society is always developing from its historical basis, and public opinion serves as an important prerational outlet for that basis. This second layer is what Georg Zenkert (1992, 342) in his analysis of Hegelian public opinion has called the "form of appearance, towards which society fundamentally must orient itself" (my translation). To ignore the empirical side of public opinion is to ignore an indispensable part of the essence of society, which must be rationally conceived, and of which the political framework, its institutions, and so on form an organic whole. Individual expressions that come into view in public opinion are not only expressions of thoughts concerning the universal that exists inorganically outside parliament, but also disclose the political standpoints, sentiments, and cultures of society's citizens.

3. Since the empirical existence of public opinion has no explicitly sorted standards of truth or even of deliberation, public opinion cannot, in and of itself, live up to the political standards of the organic-rational state, although it is a product of the whole organic development of freedom. Public opinion is an essential component of political freedom; yet it does not satisfy the sufficient condition (organic attachment to the state) of direct or indirect political agency. It does, however, have a basic political agency, in two ways. First, formal subjective

freedom sanctions the individual right to political expression. Second, public opinion is a political category of right that empirically forms and discloses an aspect of the ground on which the whole institutional-political framework of freedom must rest. Again, public opinion does not satisfy the sufficient condition for direct or indirect political agency. Public opinion is thus different from the empirically objective institutions (courts, assemblies, police) that correspond empirically to their formal-legal grounding. Therefore, it is the third dimension of public opinion that *in isolation* may conceive of public opinion as politically hostile and as needing to be debarred from affecting the institutions of power, as we have already seen in the statist reading.

To sum up, I propose that the Hegelian public sphere must be understood as having three dimensions. First, the idea of right makes public opinion logically necessary—it is uncontrolled, visible utterances that are focused on the universal (the political), and it is different from private conversations as well as institutionalised politics. Second, members of society make themselves heard as a principle of the modern world and thereby form public opinion, disclosing a chaotic realm of beliefs, sentiments, and justifications. However, these are vital activities that contain the fundamental life of society, on which the political system rests. Third, public opinion is nonetheless a component which the political system cannot integrate. In short, the three dimensions point to public opinion's rational grounding; its social sphere of political talk, which is an important aspect of the nonrational foundation of society (i.e. its basic political agency); and its lack of direct and indirect political agency.

CONCLUSION

This chapter has offered a model of the Hegelian public sphere as politics-oriented communication that is made possible by the fundamental aspect of political freedom that does not enjoy institutional integration in any way. The public sphere is the Hegelian category that opens the Pandora's box of 'formal subjective freedom', releasing noncurated political speech into society. Thus, modern society according to Hegel must protect its political institutions from being overrun by such speech in the public sphere, while at the same time allowing it to circulate. Moreover, the public sphere consists of the vast array of political sentiments that provide the attitudinal groundwork for the state, for which reason those sentiments must be ameliorated by the political framework if they are to have any legislative effect. Society must understand itself from its own basis, and the public sphere is the

unfiltered amplifier of political beliefs that provides an access to that basis. In contrast to Kant, Habermas, Honneth, and Forst, this means that the Hegelian public sphere is the ground upon which the political must stand, while at the same time it is unable to be the proving ground for the rationalisation of political standpoints.

Hegel's account is valuable because it insists on the rational autonomy of the production of public opinions while detaching it from the production of rational legitimacy. He thus abandons the Kantian and Habermasian frameworks, where public opinions are only generated through a dialogical mode of reason, that is, where the public conditions of communication align with the conception of rational legitimacy. However, Hegel reaps the consequences of his differentiation between the public sphere and the institutions of legitimacy; hence he ousts the public sphere from the organic political framework.

Hegel not only disconnected legitimacy from the public sphere. He also emphasised their differences, meaning that the *rationality* that embodied the principle of legitimacy was different from the actual *public* conditions *for* communication in the public sphere, to such a degree that rationality and publicity could not merge. Hegel's conclusion was that the public sphere could not therefore be an engine of legitimacy.

Hegel's model of the public sphere nonetheless provides the ground for arguing that the basic activity of the public sphere—the broadcasting of political utterances and expressions—produces meanings of the political. This was the first part of the argument, as stated in Chapter 1. Yet, as Hegel uncouples the public sphere from the production of legitimacy, I must develop my argument that the public sphere is the ground of legitimacy by other means.

With his model of the public sphere, Hegel points to a central and modern problem of political legitimacy: members of society have the right to engage in politics without being experts who possess epistemic qualifications, while the framework of law should nonetheless rest upon expertise, deliberation, and reason to ensure that those same members are subjugated only to nonarbitrary instances of power.

In the last three decades, theories of deliberative democracy have attempted to merge deliberation with democracy: that is, the epistemic or rationally informed qualities of justification on the one hand, and the common and inclusive qualities of democratic governance on the other. In the next chapter, I will argue that they do not succeed, thus providing grounds to abandon their conception of legitimacy. In Chapters 6 and 7, I will further develop my account of the public sphere.

5

Deliberative democracy and its conception of legitimacy

> For, under the imaginary table that separates me from my readers, don't we secretly clasp each other's hands?
>
> B. Schulz, *Sanatorium Under the Sign of the Hourglass* ([1937] 1997, 13)

SUMMARY

In Chapter 4, I suggested another interpretation of Hegel's public sphere by arguing that public opinions are political but do not generate legitimacy. Hegel does not only remove the legitimacy-producing conditions from the public sphere. He also disconnects the relationship between legitimacy and the public sphere by distinguishing between the rationality of deliberation in the assemblies and the empirical messiness of public debate, the latter being unable to be a proper space for justifying policies.

Before I propose my own account, which reconnects the public sphere with legitimacy by arguing that the public sphere conditions legitimacy (and not vice versa), I will engage with deliberative democracy, the prominent political theory which has struggled over the last three decades to unify the polar properties of rationality and publicity that Hegel separates. If deliberative democracy cannot convincingly bring them together in mutual dependence, then this is evidence that we should abandon the view that the public sphere must be conditioned by rationality in order to be a vehicle for legitimacy, and we may begin to look at the relationship differently.

This chapter is relatively short, and I seek to show three things. I will introduce the difference between ideal and nonideal theory, and favour the view that nonideal

theory is a concretisation of ideal theory rather than its opposite. This means that nonideal theory is compatible with ideal theory and is therefore not the same as realism, which I will endorse in Chapter 7. Then, in Section 5.2, I will briefly account for the theoretical development of deliberative democracy in three stages to show which problems it has encountered and subsequently solved. I will end with the most recent development, the systemic turn initiated in 2012, and propose that it encounters a dilemma. The dilemma is that the systemic approach must either abandon the so-called division of labour between the public sphere's publicity and the informational elite's rationality, or else must return to a unified understanding of public justification that it considers untenable.

Chapters 2–4 focused on the public sphere as input into the formal political system, a view that deliberative democracy also endorses. In Section 5.3, I will argue that this state-based approach is too restrictive and does not capture the basic activity of the public sphere, which includes the production of norms, cultures, and informal boundaries in many directions, and not only justifications concerning the institutionalised political framework. Therefore, I will introduce Warner's theory of counterpublics, which focuses on the generative aspect of the public sphere without a state focus. I will summarise the results in the Conclusion and then introduce the next chapter.

5.1   Introduction: ideal and nonideal theory

Deliberative democracy comprises both ideal and nonideal theory. I will outline their differences and argue that they are compatible in order to show that both endorse a substantial principle of legitimacy, that is, rational justification conditions publicity in the public sphere and thereby produces legitimacy. It is this principle of legitimacy that the systemic turn's 'division of labour', which I will introduce in Section 5.2.3, splits into two elements, rationality and publicity, in order to integrate them into a more extensive deliberative system.

Ideal theory determines the normative content of a political concept (e.g. justice, legitimacy, autonomy), whereas nonideal theory examines how its content can be implemented in the political framework. For example, ideal theory outlines the conditions that produce legitimacy, which then work as normative *guidance* for the formation of laws and institutions. In contrast, nonideal theory reworks, slackens, or translates the conceptually perfect conditions of legitimacy into more manageable versions, without losing sight of the normative ideal.

Ideal and nonideal theory can form three different pairs, as Laura Valentini (2012) outlines in her overview: (1) they may couple as different theoretical approaches which emphasise either full or partial compliance with political duties and obligations; (2) they may refer to either utopian or realistic articulations of ideals, differing as to whether ideals should be restrained by feasibility, or (3) whether the normative force of political philosophy lies in an imagined and perfected end state or in incremental reformism. Moreover, the difference between ideal and nonideal theory may suggest a methodological preference for one or the other, without necessarily expressing theoretical incompatibility or opposition.

I will focus on (2) and argue that nonideal theory should not be conflated with realism, which is an independent political theory (more on this later). This means that the choice between ideal and nonideal theory is not a choice between realism and nonrealism; instead, ideal and nonideal theory are different approaches that share the same principle of legitimacy, and both are therefore subject to my argument against that principle.

5.1.1 Ideal theory

The cardinal example of ideal theory is Rawls' political philosophy, from which the ideal/nonideal distinction also originates. Rawls writes that "ideal theory, which defines a perfectly just basic structure, is a necessary complement to nonideal theory without which the desire for change lacks an aim" ([1993] 2005, 285). At its outset, Rawls' theory of justice models a situation that is naturalised as 'the original position' (see Rawls [1971] 1999, 15ff, 102–68) in which rational agents do not have any social information, meaning that such a composition of agents will produce impartial, and therefore objective, principles of justice (cf. Simmons 2010, 10). It will do so by force of the internal mechanisms of the model, that is, the specific reasoning of the agents (see Rawls [1971] 1999, 123ff) and the 'veil of ignorance', the model's informational form (see [1971] 1999, 118f).

This model is the basis for Rawls' ideal conception of public reason and legitimacy, where agents are free and equal citizens and share the criteria for reasonably endorsing political views (Rawls [1993] 2005, 225f, 450f). On this basis, public reason is "the reason of equal citizens who, as a collective body, exercise final political and coercive power over one another in enacting laws and in amending their constitution" ([1993] 2005, 214). Public reason is the ideal portrait of citizenship for a democratic people ([1993] 2005, 213), and is connected to "the legitimacy of the general structure of authority" ([1993] 2005, 136). The exercise

of political power is legitimate "only when it is exercised in accordance with a constitution the essentials of which all citizens as *free and equal* may *reasonably* be expected to endorse in the lights of principles and ideals acceptable to their *common human reason*" ([1993] 2005, 137) (my italics). We see here Rawls' Kantian legacy in his formulation of an idealised conception of public reason in which the citizens legitimately exercise political power whenever reasons are publicly negotiated by a process of justification.

Ideal theory thus formulates the conditions under which normative political ideals would be obtained. In this sense, ideal theories "establish the standards of justification to which political regimes ought to aspire, even if all existing governments fall short" (Fallon 2005, 1798f). In this way, ideal normative conceptions provide the benchmark of institutional arrangements worth striving for, but they do not reveal how to implement them. Thus, I understand ideal theory to be different from Kantian reason, which marks out distinct a priori principles that support and guide action in the form of maxims. For example, Joshua Cohen (1989, 17) sees "democracy itself as a fundamental political ideal," John Parkinson (2003, 184) views legitimacy as "a regulatory ideal, not a fixed point on a scale," and Simone Chambers assumes that "an overarching interest in the legitimacy of outcomes (understood as justification to all affected) ideally characterizes deliberation" (2003, 309). Ideal theory thus makes it possible to compare existing society against normative backdrops (in the above cases, democracy, legitimacy, and deliberation), because ideal theory "entails an ideal for how the members of a democratic constituency *ought* to make decisions about how to organize their life together" (Peter 2009, 1) (my italics). By fleshing out the optimal criteria for the validity of political decisions from the perspective of those who are subject to those decisions, such ideal criteria may be stable across contexts, although their implementation can vary greatly: different cultures may motivate and implement the ideals differently (Sass 2018, 89f). Therefore, ideal theory may articulate rigorous conditions for ideals to obtain, but they may also find different manifestations in the empirical world, where conditions are satisfied in different ways.

The issue of *ideal conditions in reality* refers to nonideal theory. As Christian List (2018, 468) has pointed out, ideals may be aspirational, while their realist counterparts may (more) commonly obtain in the world. This poses the question of the tenability of ideal theory. How can ideals be said to obtain—nonideally?

5.1.2 Nonideal theory

Many scholars have raised counterarguments against ideal theory, dismissing it as ideological (Mills 2005), as insufficiently action-guiding or contextual (Erman and Möller 2013), or as underplaying its own limitations, meaning that ideal theory often mobilises empirical examples and thus gives the impression of ideals working seamlessly in nonideal circumstances (Robeyns 2008). However, I will focus here on nonideal theory's operationalisation of the ideals in ideal theory. A recent example is Adam Swift and Zofia Stemplowska's (2018) 'dethronement' of ideal democratic legitimacy. They make a plea for a more concrete, nonideal conception which they call compromised legitimacy:

> We might, that is, factor all the non-idealness into the concept of legitimacy itself. Perhaps what it *means* for a procedure to be 'legitimate' is precisely that it is *legitimate enough* to make its decisions permissibly enforceable. That would allow us to say things like: 'The way laws are made in the UK fails miserably to realize the values we might hope to see realized by a political procedure, the values in virtue of which enforcing somewhat unjust political decisions would be permissible. Still, all things considered, it realizes them enough.' Appeals to the legitimacy of flawed procedures—where some cannot register to vote or lack basic literacy, where election promises are unreasonably broken, where bills do not get adequate scrutiny, where policies respond to media scares, where money can buy influence, where politicians knowingly mislead—need to establish that such compromised legitimacy should still trump the pursuit of social justice by other means. (2018, 25f) (original italics)

To allow us to understand the production of legitimacy in situations where social injustice or other adverse effects may withhold manifestations of ideal legitimacy, a (good enough, compromised) legitimacy may nevertheless obtain. If political processes cannot be legitimate despite imperfect circumstances, then we are at a dead end in relation to our ever mobilising a worldly version of ideal theory's normative standards. In a similar attempt to refrain from granting political systems legitimacy only in such circumstances, Andrew Mason (2010) suggests that all members of society instead should agree on some minimal requirements of legitimacy. Anything above those requirements counts as legitimate, and we will thus be able to confer legitimacy on political actions, processes, and institutions. In a critical response, however, Matt Sleat (2012) argues that Mason, and nonideal

theory generally, still must wrestle at its theoretical core with the *ideality* of such minimal requirements. In other words, it must determine or specify the lower limit of its minimal notion of legitimacy.

Nonideal theorists must explain how they can loosen the theoretical harness of normative ideals and grant equal force to their own slackened versions. As a gauge for Stemplowska and Swift's 'compromised legitimacy', there must be a conception of some minimal form of legitimacy, and so the same counterargument can also be addressed to them. What is the sufficient amount of compromise in compromised legitimacy? What should be the normative force of 'just legitimate enough' legitimacy?

The nonideal manifestations of normative ideals require knowledge about the circumstances in which they are implemented. At a practical level, Lisa Herzog (2012) suggests that ideal theory should be informed by a social science that works to understand the nonideality of our political world, and this approach has produced scholarship on how to bridge the gap between ideals and their nonideal operationalisation, which can steer policy changes (e.g. Carey 2015; Volacu 2018). Such approach underscores the view that ideal and nonideal theory are nonexclusive and can work together. In sharing its overall normative goals, nonideal theory is an empirically oriented concretisation of ideal theory. Although nonideal theory is more *realistic*, it should not be confused or conflated with *realism*, which is a body of political theories that investigate what politics *is* instead of trying to make it comply with normative standards concerning what it ought to be (see also Sleat 2016). I will endorse realism in Chapter 7, and I will therefore say more about it there. The point here is that realism is not captured by the difference between ideal and nonideal theories, which are different approaches with different aims working together concerning the *same* ideals.

From this perspective, ideal and nonideal share the same notion of legitimacy, as they work to promote what Pierre Rosanvallon (2008, 114) has called substantial legitimacy. 'Substantial' refers to notions based on the "universality of values or reason" about what is legitimate, and obtaining legitimacy depends on *realising* these values, even if only partly or messily. In contrast to what Rosanvallon labels the social-procedural notion of legitimacy, in which a voting procedure (e.g. majority vote) makes outcomes legitimate, the substantial notion of legitimacy can use its values, for instance, to protect minorities, or to demand the public justification of policies at any time (instead of simply complying with the whims of the population) (2008, 116f). For this reason, the substantial approach is not

satisfied with a conception of legitimacy that procedurally sanctions laws through a proportion of votes. Instead, it orients its notion of legitimacy to the *public justificatory* framework of reasons. Ideal and nonideal theory thus work together to specify and make the ideal concrete, to apply it in the world.

To be sure, Habermas also endorses a substantial notion of legitimacy, and when Habermas calls his notion of deliberative politics a procedural concept of democracy (FN 287), the procedure to which he refers is embedded in the public conditions of communication. Habermas' procedure is not a voting mechanism (which does not presuppose deliberation), but a value-inducing, norm-activating, and reason-giving form of communication that is legitimising *because* it carries the prerequisite substantial ingredients. I have already dealt with Habermas, Honneth, and Forst in Chapter 3, but deliberative democracy (in its ideal and nonideal aspects) needs separate attention, because it has developed a theory of the public sphere based on legitimacy on its own account.

5.2   The substantial approach to legitimacy

Legitimacy is understood differently within the family of democratic theories, but they all share the democratic theme that political rule is legitimate when all members of society have authority. However, they have different approaches to collecting and measuring this authority. Legitimate authority may be drawn from the consent of members of society (consent theory), from the most utility-maximising consequences (utilitarianism), or from the results of public justification (deliberative democracy) (see Peter 2017). Following the 'deliberative turn' in democratic theory in the 1990s, as John Dryzek concluded in 2000, the "essence of democracy itself is now widely taken to be deliberation, as opposed to voting, interest aggregation, constitutional rights, or even self-government" (2000, 1). So not only is deliberative democratic theory considered "the pre-eminent way of thinking about democratic theory" (Boswell 2013, 620), but more importantly for our purpose, it is also the theory that most prominently situates the public sphere at the centre of its understanding of legitimacy.

The development of deliberative democracy is usually divided into three stages.[33] They can be viewed as a progression of theoretical adjustments to specific

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[33] Sometimes four stages. The only difference is that those who count four split the second phase into two (theoretical and practical stages) (Elstub, Ercan, and Mendonça 2016, 141ff), while those

problems. In the following, I will sketch the two early stages and analyse the third, the systemic turn, in order to account for the problems that remain. I will subsequently argue that the systemic approach does not, by its own standards, satisfactorily obtain the conditions for its understanding of legitimacy.

5.2.1   The first stage: ideal requirements

The first stage of deliberative democracy presents the normative ideal which we have already seen in Habermas and Rawls: political domination should be exercised by the procedure of deliberation with its prerequisites and underpinning principles, namely that members of society are free and equal (Cohen 1989; Habermas [1985] 1990; FN 322f; Lafont 2017b, 294ff; Schmalz-Bruns 2017, 129ff). As Habermas writes, "a regulation may claim legitimacy only if all those possibly affected by it could consent to it after participating in rational discourse" (Habermas [1995] 1998, 259). Democratic legitimacy obtains only in the political model where all members govern via a visible network of public discourse, embodied by nonarbitrary and rational qualities. This theoretical elaboration of deliberation details the philosophical requirements of democracy, per ideal theory, rather than the practical difficulties of instituting those principles.

In this sense, deliberative democracy broadly claims that legitimacy stems from the public disclosure and debate of arguments, as long as they aim to be justifiable to all members of society. James Bohman writes:

> All deliberative models of democratic legitimacy are strongly normative in the particular sense that they all reject the reduction of politics and decision making to instrumental and strategic rationality. … For a deliberative theory … it is crucial that citizens (and their representatives) test their interests and reasons in a public forum before they decide. (1996, 5)

Deliberative politics thus has two basic requirements, one internal (rationality) and one external (publicity). These correspond to the two communicative qualities that Hegel split apart in Chapter 4—and the qualities which Fichte, Bahrdt, and Kant

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who conflate this phase (as I do in this chapter) view them as two different movements in the same generation (Kuyper 2015, 53f; Mansbridge et al. 2012, 24ff). See also James Bohman's article (1998) for a balance between a linear development of the history of deliberative democracy and an awareness of the problems of any such linear storyline.

merged in Chapter 2. The internal requirement is the communicative ambitions of the deliberating agents, who must apply a general rather than a personal stance to political reasoning. The external requirement is access to such communication by all members of society. Both requirements work together and form the communicative field of deliberative politics.[34] The main difference between Habermas and deliberative democracy, as sketched here, is that such requirements are built into Habermas' conception of the public conditions of communication (and thus already merge into one communicative theory). In contrast, deliberative democracy, specifically in its systemic turn, insists on making them explicit and independent values that must be merged theoretically.

5.2.2 The second stage: inclusion and practice

In the evaluation and expansion of deliberative democracy's framework, both theoretical and empirical adjustments and innovations were produced in light of critiques of its early phase. Bernard Manin (1987) had already explained that the unanimity of all members of society was a practically unsustainable principle of deliberative democracy, thereby indicating a problem of inclusion: all views are equally included in the deliberation process, and yet, at the decisional moment, the majority, whatever it may think, concludes.[35] That leaves the minorities, whatever they may think, on the other side of the fence. The main problem is that minorities are always produced, even in highly deliberative climates: "deliberation requires not only multiple but conflicting points of view, because conflict of some sort is the essence of politics" (Manin 1987, 352). Deliberative democracy must theoretically situate its principle of legitimacy in a conflict-ridden rather than unanimous climate. It must accommodate standing political differences by allowing continuous public justification. Legitimacy obtains in the exchange of reasons, so deliberative democracy must acknowledge that it should encourage debate, even after voting results that have had an exemplary antecedent process of public deliberation. My analysis of Kant has already shown that publicity and *continuous* debate are an

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[34] "In all cases, the large aim of a deliberative democracy is to shift from bargaining, interest aggregation, and power to the common reason of equal citizens—democracy's public reason—as a guiding force in democratic life" (Cohen 2009, 248). And more recently: "the core of systemic deliberative theory is to ensure that law and public policy are legitimated through the assent of all affected individuals in a process of discursive reason-giving" (Kuyper 2017, 339f).

[35] The majority vote exists as a decision-making rule in a deliberative democracy, although it is deliberation and not aggregation that determines what counts as legitimate (Chambers 2012, 52).

integrated part of justification (members of society should not be subject to stiffened political programmes), and Forst also pointed out that legitimacy stems from the arenas of justification in the space of reasons. In my view, Manin's point is novel because it states that deliberative democracy must theoretically adjust to the idea that minorities and majorities are inevitably produced from public justifications. The background assumption of rationality cannot explain the emergence of minorities, so deliberative democracy must accentuate the *conflicts* that make deliberation possible, rather than abstracting from them. Manin's view, therefore, is different from arguing that members of society always have the right to be given justifications (Forst). When conflicts produce justifications, inevitably some members of society will not accept those justifications. Therefore, deliberative democracy must accommodate a framework of conflict rather than agreement (more on this shortly).

One issue is deliberation in the face of open disagreement; another is the procurement of perspectives that may not enter the deliberative climate. Although marginalised views may not conform to the issues of the general debate, or even be easily obtained by decision makers, the inclusion of such views is an essential epistemic element in the deliberative process (Young 1990, 1997). From the perspective of deliberative democracy, the inclusion of such perspectives is not understood in terms of irreconcilable class interests at the base of society, but as generative for forming the common ground of political reality, *non nobis solum*. Thus, after Iris Marion Young, the principle of legitimacy in deliberative democracy is coupled to the strenuous procurement of less vocal minority views, becoming a standard requirement rather than being seen as a hindrance to common goals.

In light of Manin and Young, another substantial theoretical addition to the theory is the work of Amy Gutmann and Dennis Thompson (1996). They make it possible for deliberative democracy to accommodate irresolvable moral and political conflict, while still insisting on deliberative democracy's substantive principle of legitimacy. They work on two levels: deliberative democracy is a second-order political theory that provides the framework for first-order conflicts. Other first-order theories (e.g. utilitarianism, egalitarianism, communitarianism) impose their (first-order) substantive principles on first-order conflicts, which means they cannot accommodate or resolve them. Pure proceduralist theories are thus poor hosts of first-order conflicts too, because they are first-order theories whose substantive principles are determined by procedures that ultimately end up

overriding first-order conflicts. Their procedures favour one part of the conflict. Deliberative democracy, on the other hand, is a second-order theory whose "fundamental principle is that citizens owe one another justifications for the laws they collectively impose on one another" (Gutmann and Thompson 2000, 161). The substantive legitimacy principle of deliberative democracy is not the imposition of a first-order framework which neglects or favours moral or political viewpoints. It is a framework that specifies a second-order principle for political communication altogether, and thus specifies "the chief standards that regulate the conditions of deliberation" (2000, 167). Legitimacy is not an imposing (first-order) political project, but a substantive framework where political expectations, nuances, and impositions of *any* kind adjust accordingly (second-order). The point of the chapter epigraph by Bruno Schulz is to illustrate this idea: deliberative democracy offers a theory in which members of society basically understand each other, in spite of the apparent political, cultural, and social differences which may divide them. It is also in the light of Gutmann and Thompson that Manin's point about conflict should be seen: conflicts are first-order, and therefore can be solved in a second-order framework. But how about second-order conflicts in which different *frameworks* of justification conflict? Gutmann and Thompson seem only to push the problem to another LoA. In Chapter 7, I will propose the view that, however chaotically, the public sphere produces such frameworks too, without any guarantee (or theoretical assumption) of reconciliation.

The second phase of deliberative democracy also has a practical aspect which involves attempts to establish small-scale deliberative environments, so-called minipublics. Here, citizens gather in curated forums without the typical distractions of social settings (e.g. limited time and attention) and deliberate about a subject or policy. In the endeavour to make society more deliberative, minipublics can be seen as an institutional form that structures curated debate among members of society. One variation of a minipublic is James Fishkin's idea of 'deliberative polling', in which citizens are given information, deliberate, and then have their changes of opinion measured (Fishkin 2018; Luskin, Fishkin, and Jowell 2002). Today, there is still much ongoing debate about minipublics' ability to optimise deliberation (Niemeyer 2011), their variety (Fung 2003; 2007), their scalability (Niemeyer and Jennstål 2018), their value to politicians (Beauvais and Warren 2018; Hendriks and Lees-Marshment 2019), their impact on public policy (Lafont 2015), and their impact on public debates and oversight of political processes (Goodin and Dryzek 2006).

In conclusion, the second phase of deliberative democracy focuses on both enclosed experimental settings and large-scale analyses of disagreement (see Hendriks 2006; Kuyper 2017, 331). Minipublics are an integrated part in the systemic turn, because they are seen as small systems in the more extensive deliberative system (see Jacquet 2019; Kuyper and Wolkenstein 2019; Maia et al. 2018); the turn to the third phase of deliberative democracy generally focuses on environments that, at any social level, will contribute to an overall deliberative democratic system. This includes counterintuitive places where deliberation may flourish. For example, partisanship may increase deliberation, because it strengthens specific arguments (White and Ypi 2011, 2016); commissions, juries, and negotiations may deliberate better without publicity, which compromises the genuine exchange of opinion (Chambers 2004); and 'everyday talk', although not strictly compliant with rational norms, may help people to deliberate in the sense of understanding political issues better (Mansbridge 1999). Such studies call for further differentiation, and ultimately for a rethinking of the theoretical framework, leading to the systemic turn in 2012.

5.2.3 The third stage: the systemic turn

The purpose of the systemic turn is to dovetail the general and more specific levels of (practices that lead to) deliberation in a functional, systemwide mechanism that, as a whole, fulfils the vision of deliberative democracy (Kuyper 2017, 331). In light of the consideration that no part of society alone, either formally or informally, can attain "deliberative capacity sufficient to legitimate most of the decisions and policies that democracies adopt," one should combine the numerous sites of deliberative activity to gain a more comprehensive understanding of the whole system (Mansbridge et al. 2012, 1). Here the 'system' comprises all the relevant places in society where deliberation occurs.

The systemic approach may examine any level of the overall system, from soapboxes to town halls, and analyse its part in the 'division of labour', that is, the systemwide production of deliberation through different, yet sufficiently connected, venues (Christiano 2012, 28f; Mansbridge et al. 2012, 2ff). The basic ethos of the systemic approach is that deliberation is not straightforward: parts of the deliberative system may compete with or complement each other, and one part may contribute positively to the system only when assisted by another part (Mansbridge et al. 2012, 2ff). For example, if political parties are enclosed arenas of justification (sharpening arguments and counterarguments), then they contribute positively to

the deliberative system if they also engage in discussions with other parties; but they are negative contributors if they remain enclaves. The deliberative quality of venues thus depends on their content, context, and connections to other venues. The 'division of labour' unifies the task of generating a deliberative democracy through the constitution of logically differentiated parts—much like an engine.

The systemic turn thus "reorients deliberative democracy's gaze beyond institutional tinkering towards examining how various spaces that play host to deliberation generate the legitimacy of a collective decision" (Curato, Hammond, and Min 2019, 96). The turn shifts its focus from entities to entire ecosystems. This does not imply, however, that the deliberative system loses its centre of legitimacy: the systemic approach must, as Parkinson writes, "consider how a system is both 'plugged in' to the source of legitimate authority, the demos, and to the outlet of binding collective decisions and executive power" (2018, 432). Parkinson's plug metaphor is not as unproblematic as it may seem. How is a system of deliberative democracy plugged into the demos, the members of society? We know that deliberative democracy does not rely on surveys, because they are opinion aggregates without prior deliberation; nor can it rely on representative minipublics with exemplary deliberation, because minipublics are isolated systems and not the demos. Minipublics violate the requirement of publicity (the external requirement mentioned in Section 5.2.1) because, as Gutmann and Thompson write, publicity "requires that reason-giving be public in order that it be mutually justifiable" (2000, 169). Minipublics are curated forums which are not freely accessible. The public sphere seems to be the only arena in society which satisfies the publicity requirement and therefore adequately represents the source of the demos, which, as Parkinson claims above, the deliberative system should be plugged into in order to gain legitimacy.

But has the public sphere in the systemic turn changed imperceptibly to mean different, enclosed arenas into which democracy can be 'plugged'? Instead of being an open space, the seat of the demos is now distributed throughout a system with specific deliberative tasks. Have these tasks been reconfigured and inadvertently distributed to other, nonpublic yet deliberative parts of the system? Has the division of labour optimised the system by alienating the nonspecific and undifferentiated public sphere? The question is whether the systemic approach to deliberative democracy has, so to speak, sliced the deliberative system into enclosed yet sufficiently connected compartments, each doing its share to the degree that it wrests the public sphere apart.

These questions refer to the relationship between the division of labour and the public sphere. What work is the public sphere doing in the systemic turn? Ultimately, the question is how deliberative democracy in the systemic turn copes with the external and internal requirements set out in the first stage of deliberative democracy, namely publicity and rationality.

Therefore, at the nexus of deliberative democracy stands the challenge of including, if not merging, a democratic element (nonhierarchical publicity) and an epistemic element (hierarchical reason) without undermining either, because they are only able to generate legitimacy when combined. On the one hand, the absence of the democratic element promotes elitism and epistocracy. On the other hand, rejecting the epistemic element reduces democracy to the rule of the many. Therefore, an adequate theoretical balance without compromise between the elements must be proposed by the systemic turn.

The balance between these values is what Enrico Biale and Valeria Ottonelli (2019, 506) have pointed out as a "truly minimal requirement" if democracy is said to be deliberative. They call it the 'reflexive control requirement': "the process through which decisions are made must reflect the development of an informed and reflexive opinion in the general public through the exchange of reasons" (2019, 506). Reflexive control must be conducted in and by the public, but not through minipublics (2019, 507) or other epistemically proper subsections of the system, which are insufficiently permeable or visibly present in the public sphere (see also Lafont 2017a; Urbinati 2010, 72ff). So not only must citizens be able to rationally accept outcomes, but the deliberative ground for those outcomes must also reflect processes in the public sphere.

Now, I will argue below that the challenge of the systemic approach lies in its solution to the earlier stages of deliberative democracy. Since these stages could not sustain or satisfactorily ground a unified principle of legitimacy (containing two contradictory elements) in the public sphere, the systemic turn suggests identifying different sectors or venues in society that separately correspond to the elements in the principle of legitimacy. Linking these venues without merging them should therefore consolidate the deliberative democratic system as a whole.

The systemic turn thus gives itself the task of mapping the venues where the different elements of (or requirements for) legitimacy work out, as well as reassembling those venues into a coherently connected whole which (again, like an engine) runs to produce a specific outcome, in this case legitimacy. In order to argue

that the systemic turn fails to do this, let me outline and then respond to Chambers' proposition that the division of labour is the preferred solution for the systemic turn.

Chambers (2017) proposes a division of labour between epistemic and democratic elements which unites the substantial principle of legitimacy via an informational feedback mechanism:

> There ought to be an ongoing flow of information that circulates throughout the system and between elites and citizens mediated by a responsible media. … Elites (especially representatives and deputies but also other information elites) need to be responsive to the problems, concerns, and interests of citizens and citizens need to be responsive to the information and persuasive arguments presented by elites. Considered public opinion emerges from the feedback loop. (2017, 272)

The feedback mechanism provides a system where the public sphere (citizens) takes a stand on views and arguments which have been epistemically enhanced by the informational elite. The idea is that the reflexive control requirement is preserved, because the informational loop feeds the epistemic element (curated arguments) into the democratic element (the public sphere). The division of labour ensures that each element functions correctly according to its own logic (hierarchical and nonhierarchical), and the feedback loop thus constitutes a deliberative democratic system as a whole.

This 'bicameral' division of labour is therefore also a division of competence: epistemic competence does epistemic labour in one sector, while democratic competence does democratic labour in another sector. In the feedback mechanism, the fruits of the labour of each are offered to its 'counterpart'.

The division of competence, however, challenges the tenability of the solution that the division of labour brings to the table. I will raise two problems. First, how can the public sphere be 'responsive' (Chamber's word) to the rational arguments of the elite if the public sphere does not have the capabilities to assess arguments rationally? The division of labour implies that epistemically sound policies are evaluated nonepistemically by the public sphere. The affirmation or refutation of an epistemically strengthened policy option is therefore based on a procedure in the public sphere, which in this case is not deliberative. To have a citizenry in the public sphere which is nondeliberative but is also given a choice between (epistemically enhanced) policies seems to be a defence of arbitrary power, because the citizenry

does not have epistemic competence to make a rational, considered choice. This conflicts with the reflexive control requirement, because the *formation* of reasons is not mirrored in the processes of the public sphere. Therefore, the reflexive control requirement is not satisfied, and also arbitrary power arises, because the public sphere has no ability to critically (i.e. deliberatively) assess, and thus rationally obey, policies.

Second, the epistemic function's rational display of arguments contributes visibly to the public sphere, and thus cannot be separated from the public sphere. On the one hand, the division of labour implies that experts who participate in the public sphere participate (*qua* citizens) on an equal footing with anyone else (the democratic element). On the other hand, the participation of experts in the public sphere is a challenge to the division of epistemic and democratic competences. Experts *qua* experts contribute epistemically to the public sphere, and thus introduce epistemic competence into the democratic venue. Therefore, competences mix when experts who also are citizens engage in the public sphere, and this runs counter the division of labour.

The systemic approach faces a general problem: the division of labour only functions when it presupposes that specific competences participate in specific venues. However, as the division of labour presupposes different competences, it also segments the venues accordingly. This means that the domains are separated in terms of what they are able to do. When the 'division of labour' solution then demands that one component (i.e. the public sphere) should be able to assess x on the ground of a competence it does not have (per the division of labour), then the division of labour prevents the success of the systemic model.

The systemic approach thus faces a dilemma: either the division of labour achieves a strong compartmentalism that ruins the reflexive control requirement, or else the division of labour must be abandoned, in which case the theory fails to be systemic. Moreover, the systemic approach cannot go back to earlier stages of deliberative democracy which endorsed a unified conception of legitimacy, because it found those conceptions untenable—hence the development of the division of labour approach.

In conclusion, the systemic approach to deliberative democracy, which endorses substantial legitimacy, fails to meet its own reflexive control requirement by virtue of the division of labour. That is, the division of labour withdraws the rational competence that previously underpinned the public sphere in the previous stages of deliberative democracy. The third stage of deliberative democracy thus

conceptualises the public sphere as a nondeliberative, inclusivist entity which needs other venues to preserve the deliberative function.

On these grounds, I find deliberative democracy's solution unconvincing, and I think that Hegel's separation of publicity and rationality makes a more consistent case that the unity is untenable. The development of deliberative democracy seems to have reached the same conclusion with the systemic turn, albeit without abandoning the ideal of reconciling conflicting normative values. I have offered an argument to explain why this attempt fails.

I will end with one more reservation about the conception of the public sphere in the deliberative tradition, namely that the public sphere is only a component in the general political framework of institutions and laws.

5.3   State-based thinking

In light of the criticism that deliberation was noninclusive, the second stage of deliberative democracy reworked its notions of disagreement and minorities (cf. Section 5.2.2). Therefore, I will not revisit those criticisms here. Instead, I will raise another objection to the deliberative democratic conceptualisation of the public sphere, namely that the public sphere as a political category is not only or *primarily* a component in the legislative process. The public sphere is more than a bank of justifications for (or against) policies and political institutions. Chapter 2 showed that the Enlightenment offered different notions of the public sphere as a project of free speech, scientific communication, truth, proliferating political opinions, insight into and oversight of state business, and guidance for politics. Kant systematised the public sphere as a component in his critical philosophy, and placed it at the heart of politics as the rational examiner of society's political infrastructure. I argued that the Kantian public sphere was ultimately the interplay between the public and private uses of reason because PRUR defined the target of PUUR; without PRUR, PUUR could not work. The Kantian public is thus always tied to and limited by the political framework of the state, and both Habermas and the rest of the deliberative tradition seem to have inherited this state-focused aspect from Kant. The difference between Kant and Habermas (and those that came after him), however, is that politics is defined by members of society using the public conditions of communication, but politics is still formed as issues directed at the state, because issues can only be solved therein (cf. Figure 3.6). The signals of the public sphere are signals pointed at the legislative framework. This perspective makes sense if the

public sphere first and foremost is the realisation of a principle of legitimacy. However, the focus on the public sphere's relationship with the state is a restrictive view of the public sphere as a political category. Does the public sphere only produce reasons for the formal political framework, or do more fundamental dynamics exist in the public sphere which have not been analysed? Are inputs into legislation only one product among many in the makings of the public sphere? In Chapters 6 and 7, I will offer another model of the public sphere, showing that at a fundamental level it produces more than legitimate inputs into the state: in a word, it produces the inputs that form the meanings of what *counts* as legitimacy.

In Chapter 1, I noted the distinction between the LoA of the public sphere as one sphere among others in society and the LoA of different publics within the public sphere. I will now shift to the second LoA and turn to the work of Warner, who offers a framework for understanding the internal structure of publics in a broader sense than the deliberative tradition. Warner states that a public is "organized by nothing other than discourse itself" (2002, 67). It is "world-making" for its participants in the senses of both producing and being mediated by social forms, narratives, and so on (2002, 72, 114ff). That is why, Warner writes, "no single text can create a public. Nor can a single voice, a single genre, even a single medium. All are insufficient to create the kind of reflexivity that we call a public, since a public is understood to be an ongoing space of encounter" (2002, 90). Reflexivity here is not related to the reflexive control requirement above. 'Reflexivity' is Warner's word for the varied and chaotic mass experience of encountering circulating contributions which create the space or network that becomes a public. For Warner, a public is inherently a continuity of discursive encounters, and is actualised by a collective whose boundaries are constantly permeable because they are negotiable and contestable.

In his account, Warner (2002, chap. 2) argues that every public gives rise to specific cultural or social forms, symbolisms, and meanings which distinguish one public from other publics. This in turn establishes criteria for inclusion and exclusion. Although publics are open, the emergence of criteria, and the subsequent selection of members, may reinforce those meanings even further. We can imagine a national public, for example, and Warner analyses multiple, visible forms of discourse that crystallise into specific publics (e.g. queer publics). These microentities are visible discursive spaces that all (at a higher LoA) conglomerate as *the* public sphere.

Warner's account is valuable as a critique of the deliberative tradition because it enables an analysis of the public sphere (of publics and their crucial normative impact) without conceptualising it as a state-focused entity. For Warner, such "state-based thinking" (2002, 124) misses the point that there are publics that have other orientations than proposing reforms and laws. The deliberative accounts of the public sphere above are the targets of this criticism, because their substantial approach to legitimacy construes political claims in the public sphere to be ready-made for, or at least directed towards, legislative (or at least institutional) implementation.

Warner uses the label 'counterpublics' for the types of public that are organised around so-called nonprivileged, nondominant, or nonlegitimate discourses, because these publics have different ways of engaging with politics that do not necessarily align with (the form of) claims that are usually accepted by or directed at the state apparatus. Nor may they necessarily care to reform the legislation. Some may instead focus on shifting norms and other influential parameters, rather than on pushing policy (I will return to these issues and the concept of the counterpublic in Chapter 7). For our purpose, Warner's central claim is simple: publics are self-sustained through discourse as cultural forms, and may not necessarily be state-oriented. Reconceptualising publics as self-organising entities disrupts the habitual state orientation and the focus on how the public sphere may ideally legitimise political institutions. Thus, the public sphere is not only a conglomerate of different social positions that may deliberate—either positively or negatively informing each other from the height of their perspectives—but is a self-organising social category which is not necessarily attached to, and may not even have its eye on, political institutions, although it may do that too. This criticism weakens the ecosystem in the deliberative democratic model and its contemporary systemic approach, which portrays the public sphere as a confined desk in the office of democracy.

CONCLUSION

Ideal and nonideal theory are compatible approaches that deliberative democracy encompasses in its pursuit of a theoretical resolution of two conflicting values, rationality and publicity, within the substantial principle of legitimacy. I have shown that nonideal theory should not be conflated with political realism, which attempts to understand and map the dynamics of the political rather than adjusting it to normative principles.

I argued that the systemic turn in deliberative democracy is not convincing because the division of labour, which should save the problematic unity of the substantial principle of legitimacy, fails to sustain the reflexive control requirement, as well as endorsing arbitrary power when the public sphere has no competence to assess the arguments of the informational elite.

Moreover, I introduced Warner's theory of publics, which suggests that publics are generated from discourse without specific conditions. Thus publics arise within the public sphere that do not focus on the state to solve the problems they encounter. This reorients the nature of publics, making them conditioning entities rather than entities that should conform to the pressures of normative ideals.

Warner's theory thus makes a case for another approach to the public sphere than the one proposed by deliberative democracy. I will therefore leave the substantial principle of legitimacy and investigate the public sphere in a different way, continuing the argument that the public sphere is the ground of legitimacy.

Since the Internet went mainstream in the 1990s, discursive encounters have exploded. But has the public sphere fundamentally changed? What does it mean, conceptually? In Chapter 6, I will explore the contemporary public sphere and propose a general conceptualisation based on the signalling public model from Chapter 3. What happens when the public sphere operates under networked conditions?

6

Under networked conditions

SUMMARY

Previously, in Chapter 5, I argued that the systemic turn's notion of the public sphere was not tenable, because it did not satisfy the reflexive control requirement. I ended the chapter by drawing on Warner's argument that publics develop in other ways than being oriented towards state policy. Publics are political, but sometimes in unconventional and perhaps even strange ways. Nowhere does this seem more relevant than in a 'hyperconnected world' where communication is ubiquitous. Hyperconnectivity often connotes a sense of seamlessness between nodes in networks, but it might also suggest a web of labyrinthine spaces that reveal unknown worlds to us—Piranesian prisons built with optical fibres.

To describe the Internet in only one or two ways would be similar to describing the rooms of the Palace of Versailles in general terms. It would indeed be a strange guided tour. The Internet is so vast, always being rebuilt, and so immense in its intake of social dynamics and information that conclusions derived from one set of circumstances would risk becoming outdated by next year, perhaps even next month. Nevertheless, the Internet is one of the defining technological innovations of our age, and has entailed speed, portability, and connectivity in new and astonishing ways. But we have not 'left' the analogue world: we still read, write, listen, and talk to each other offline, and our world is accompanied by computers

rather than being made obsolete by them. Developments in communication technologies have nonetheless left their mark on the public sphere, to the degree that the trope of 'the networked public sphere' is commonly used as a synonym for the public sphere *simpliciter*. In this chapter, I will therefore investigate what it means conceptually for the public sphere to be *networked*, in order to understand the technological conditions to which the public sphere is subject in contemporary society. I will also begin to specify the basic activity of the public sphere and propose another account based on the signalling public model from Chapter 3.

For the sake of simplicity, I will use the abbreviations NPS for 'the networked public sphere' and N for 'networked' throughout the chapter. This will make it easier to use 'networked' as a concept rather than an adjective, especially when investigating the meaning of N in NPS.

In Section 6.1, I begin with the question of technology in relation to the public sphere. I argue that to understand N in NPS either ontologically or broadly technologically is a cul-de-sac, and I propose that N refers only to digital ICTs.

In order to understand how the networked conditions of the public sphere are different from other historically conditioned public spheres, I will analyse early technological interpretations of the public sphere and show that some of the problems ascribed to NPS today were also problematic for the nonnetworked public sphere at the beginning of the twentieth century. Specifically, I will show that in the 1890s Tarde problematised the rule of opinion over reason, which is similar to contemporary discussions about post-truth politics. Moreover, the debate between Lippmann and Dewey in the 1920s concerning the public sphere's media environment presents concerns about the production of economic and political news, as well as propaganda, that also chime with contemporary tendencies. This analysis of early technological diagnoses of the mass-mediated public sphere—in which herd mentality, misleading information, and the call for science communication also prevailed—helps me to point out the distinctive problems that arise only in NPS.

In Section 6.3, I will use the signalling public model to argue that the basic activity of publics can be reformulated in terms of signalling. Therefore, the meaning of N must be found in whether signalling is networked. I sketch three positions: the first argues that NPS belongs to social media platforms (Section 6.3.1), the second argues that NPS covers the relationship between online and offline politics (Section 6.3.2), and the third argues that NPS covers the whole

digital infrastructure of ICTs, thus ultimately encompassing the public sphere as a whole (Section 6.3.3).

I endorse the third position—although I ultimately think the degree to which the signals of a specific public sphere use digital ICTs is an empirical question. The last step of the chapter is to analyse three dimensions of NPS—the content, environment, and agents of signals—to understand emergent problems which are characteristic to NPS. I will argue that many urgent problems of today were already specified by Tarde, Lippmann, and Dewey, and cannot be seen as new. However, I do propose that the environmental dimension of signalling has two new 'operators', as I will call them, which are covered by the concepts of attention economics and surveillance capitalism. Moreover, I argue that the agency dimension faces a new problem with the rise of social bots which emulate human behaviour in the public sphere. Bots are new signallers, and I analyse them using the Hegelian model, which is able to frame the networked condition of the public sphere, in contrast to the models of Kant, Habermas, and deliberative democracy, which prove to be insufficient.

In sum, this chapter argues that attention economics, surveillance capitalism, and bots are new problems in the basic activity of the public sphere, alongside many other problems that Tarde, Lippmann, and Dewey articulated. This means that these circumstances affect signalling and the production of political expression, ultimately generating a horizon of different legitimacies (which is the subject of Chapter 7). In the Conclusion, I sum up the results and introduce the final chapter.

6.1 Introduction: what technology are we talking about?

In a general sense, technologies are crafted mediators. They may connect us (a phone), disconnect us (a wall), or guide us (a compass). Technologies may extend or lay the foundations for political power (Winner 1980). They may suggest different courses of action depending on their design (Gaver 1991) and their surroundings (Latour 1999), or yield specific insights in the way they harness reality (Cartwright 1999). Technologies also transmit things in different ways. As Joshua Meyrowitz (1986) argues, electronic media are better at displaying emotions through their use of moving images and sound than print media's still images and letters. If we accept the premise that the contemporary public sphere cannot escape the use of technologies to communicate, then the content, articulation, and broadcasting of political expression not only depend on technologies but are also

subject to their specific possibilities of action—in these days, we are far away from the mere vocality of orators standing on the Rostra in the Forum Romanum.

Technologies can do all sorts of things, and I do not presuppose that they are empty of social origins or neutral in leading social change. Nor do I assume 'technological determinism' in the sense that technological progression steers society independently of social relations, a view often ascribed to the historical materialism of Marx (e.g. Russo 2018, 660).[36] Technologies may both consolidate existing hierarchies of social power and disrupt them. Moreover, just as technological inventions may also function differently from intended, so technology may become disconnected from its original context (e.g. inventions for warfare, or aerospace engineering). In sum, technologies may significantly affect the human environment.

Consider for example Floridi's (2014, 25ff) distinction between first-, second-, and third-order technologies. First-order technology mediates between humans and nature (a fishing rod), while second-order technology mediates between humans and another piece of technology (a person using a screwdriver on a screw). Finally, third-order technology mediates between two pieces of technology when one technology uses technology to activate another technology (a router mediates between two computer networks). Third-order mediation processes information without human engagement. The connections are automated, so the internal series of tasks does not mechanically require the work of human understanding, intention, or consideration. We use third-order technologies when we browse the Web, write emails, or tweet. Search engines' algorithms respond to our queries. We constantly

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[36] However, Dag Østerberg has recently argued that technological determinism cannot be attributed to Marx: "by endorsing the view that Marx is a technological determinist, one loses sight of the fact that *social relations* always codetermine how technology changes. It is not technology as nonhuman force or power that forms History. Rather, the driving force of History is *humans*, who create technology. Both cooperation and conflict characterise humans' relations, and those aspects are included in the creation of new technologies. To think about technology as something neutral in relation to political and social tensions obscures the fact that [for Marx] technological changes are inherently determined by class struggle" (Østerberg 2016, 68) (original italics) (my translation). Ascribing technological determinism to Marx misses the sociological idea that the material composition of relations is central to the kind of technology produced. In Østerberg's argument, then, Marx comes to express the opposite viewpoint, namely that social relations always mark technology in one way or another.

use ICTs and work on them across multiple platforms.[37] In contrast to nondigital ICTs (e.g. photography, telegraphy, and printing), digital ICTs are compatible: they fit together because they work with the same raw material, namely computerised information (Floridi 2015b, 6f, 232 n.). They reorient our way of being in the world (we pay with phones, not coins), and in this sense we are prompted to interpret our world and immediate surroundings, as well as ourselves, informationally (Floridi 2015b, 14ff). In a 'mature information society' where "the digital will have become an implicitly expected backdrop" (Floridi 2016, 4), we will never consider the relics of cash that lie in our pockets. Similarly, today's ushers or ticket inspectors at the theatre or airport scan our tickets and wait for technological confirmation.

I will not dwell on whether mature information societies exist—perhaps societies mature informationally in technosocial Petri dishes such as Silicon Valley, which eventually break out and pervade the rest of global society. In any case, it is clear that the technological development of communication networks does not necessarily respect national borders or conventionally conceived political ecosystems. Manuel Castells (2010, 71f) suggests that the proliferation of what he calls 'the network society' (a diagnosis of our time) is based on the convergence of systems that process digital information and are operative on a computer. This does not necessarily imply a dystopian singularity where everything is clouded, so to speak, but rather implies that computers can handle all digitally available information. The network society is therefore characterised by pervasive digital ICTs that form networks (Castells 2007, 239).

I will follow Castells' usage and understand N in NPS to refer to digital ICTs, the specific but also very broad type of technology which computerises communication. Later, I will introduce three versions of N in NPS (Sections 6.3.1, 6.3.2, and 6.3.3), so let me here briefly present two alternative readings of N that I will not pursue. First, I will not understand N in NPS as 'networked' in an ontological sense, which is the stance that sees social interaction in general in terms of networks (e.g. actor-network theory). Although this stance would be useful for mapping emergent forms of agency that would otherwise go unnoticed, it theoretically positions N at the generic centre of the public sphere overall, meaning

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[37] Digital "information and communications technology (ICT) is an umbrella term that includes any communication device or application encompassing mobile phones, computer and network hardware, software, the Internet, satellite systems, and so on. [Digital] ICT also refers to the various services and applications associated with them, such as videoconferencing and distance learning" (Schiliro and Choo 2017, 85; see also Huth, Vishik, and Masucci 2017, 131).

that it obscures what is particular about the public sphere in the age of the Internet. In other words, this perspective would not be able to distinguish between the public sphere and NPS.

Second, N is not equal to technology. Rather, N as digital ICTs works similarly to pamphlets in the public sphere in the seventeenth century, when pamphleteering was the dominant technology in Europe. If N is synonymous with technology, then various technologies (pamphlets, books, journals, newspapers, telegraphy, radio, television, the Internet) would serve as NPSs. Such a reading would take us all the way back to the chiselling of public laws in ancient Greece.

The proliferation and distribution of communication networks requires massive numbers of users who activate the otherwise empty-shell networks. When Kant and Hegel, each in his own way, conceived the public sphere as the volume of communicated political expressions, ICTs were not explicitly taken into consideration. Presumably, the tacit assumption was that ICTs worked unproblematically to project critique (Kant) or opinion (Hegel) within society, or perhaps that communicative distortion was the least urgent problem. This changed with mass media at the beginning of the twentieth century. One can say that Hegel lay the conceptual ground for the communicating mass, because the Hegelian public sphere is a product of unchecked freedom, which means that individuals are allowed to be in charge of extensive information-mediating networks that do not seek to edify the opinions of the many but instead to convey politicised views, which are consciously coordinated and stacked in favour of specific audiences.

In Section 6.4, I will analyse the specific implications of N in the public sphere which characterise NPS. In order to show that some aspects of the contemporary discussion about N in NPS are not particularly new, I will now turn to some discussions that were prevalent a century (and more) ago. Their relevance today is given by issues that have persisted into our time, and they therefore provide a counterbalance to assess the weight of new problems and circumstances in NPS. Let me therefore turn to the theories of Tarde, Lippmann, and Dewey, who portray the public sphere as news-consuming masses in media landscapes which they (are) form(ed by).

6.2 Mass opinions and media environments: Tarde and the Lippmann-Dewey debate

In the 1880s and 1890s, 'the crowd' emerges as a subject of study; in 1895, one of its prominent thinkers, Gustave Le Bon, proclaims that the irrational and unruly crowd is the central aspect of modern society (Borch 2010). However, in 1901 Tarde writes the essay "The Public and the Crowd," in which he sharply distinguishes between the two categories by characterising them with different mass psychologies. In contrast to the physical proximity of the crowd, the communicative distance of the public sphere, enabled by technology, does not resemble the behaviour of swarms of people standing shoulder-to-shoulder. The public embodies a composure that its members can never obtain in the crowd. Tarde explicitly disagrees with "Dr. Le Bon, that our age is the 'era of crowds.' It is the era of the public or of publics, and that is a very different thing" ([1901] 2010, 281).

Three years earlier, in 1898, Tarde circles in on the public sphere in his essay "Opinion and Conversation," arguing that the primary constituent of the public sphere is the cohort of journalists. They are its engine; news is its fuel. In contrast to the crowd, Tarde portrays the emerging media environments as a cohesive web of society, and he depicts society as the interplay between three domains of what he calls the social mind, *l'esprit social*: opinion, reason, and tradition. "Opinion is to the modern public what the soul is to the body, and the study of one leads us naturally to the other" ([1898] 2010, 297). Opinions are the mental capacity of the public sphere, the essential feature of life which invigorates its flesh. The public sphere is the body whose soul expresses opinions, and journalism is—Tarde underscores the metaphor—the heart of the public body, because journalism "both sucks in and pumps out information" ([1898] 2010, 304). In an ideal sense, journalists should only circulate information and express opinions which are nutritious and invigorating for the public body: "all would be for the best if opinion limited itself to popularizing reason in order to consecrate it in tradition. Today's reason would thus become tomorrow's opinion and the day after tomorrow's tradition" ([1898] 2010, 298f). Opinions about the world should be backed by reason. If journalism crosses over from the public sphere to the domain of reason in order to disseminate *informed* opinion, this means that the public sphere does not produce but rather reproduces reason. Therefore, the Tardean public sphere is not rational *sensu stricto* like Kant's PUUR, but it is rational *sensu lato* because it

popularises the rational enquiries of science—what today is termed 'science communication'.

In this way Tarde is a scientific conformist, rather than a proponent of the critical question maker whom Kant spurs to use reason publicly. Tarde focuses on provisional scientific results and their injection into the domain of opinion, which carries another logic than reason (although the difference is not clear from Tarde's text). His view therefore replaces the closed Kantian ecosystem (critique's critique of critique) with a public sphere (opinion) that cannot itself provide what it should make widely known, namely reason.

We can also frame the difference between Kant and Tarde in another way, namely, as the difference between an audience-oriented and a press-oriented public sphere. 'Audience' refers to the individuals that read and write in journals, who develop their reasoning by means of publicity. In contrast, 'press' refers to the social intermediary between reason—which develops within the seclusion of science—and its publication throughout society. The vocational ethics of journalism, the profession of this intermediary, appertains to the responsibility to convey reason correctly, albeit more simply and with attention to relevance. The publicists in the press-oriented public sphere do not only manage the cylinder presses; they are in command of the content, its framing and dramatisation, too.

In sum, the modern Tardean public sphere is the social proliferation of opinion, which ideally conveys the world of science, without embodying reason. Moreover, the Tardean public is heavily conditioned by communication technologies, without which it would degenerate into crowds because it would be unmediated (Tarde [1901] 2010, 280f). Hence crowds are only able to communicate undifferentiated opinions, since crowds exclude any nuance ([1901] 2010, 291). We may imagine Tardean crowds in the media environment: if a part of the larger, differentiated public sphere closes in on itself as a forceful hub, becoming an 'echo chamber' where only similar opinions are reproduced, then it ceases to be a part of the public in the Tardean sense, and turns into a crowd promoting tendentious opinion. The media are nevertheless essential for counteracting crowd thinking, because they constantly provide new, heterogeneous inputs into the social mind.[38] If a pluralist

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[38] This runs well alongside recent scholarship, e.g. Elizabeth Dubois and Grant Blank's (2018) study on the likelihood of political echo chambers in today's media environment. They show that politically interested persons are less likely to remain in echo chambers in a media environment where there is an abundant choice of many platforms.

media ecology does not curate the domain of opinion, it is dangerous to society. Moreover, opinion may not only isolate itself, but also exceed its own boundary:

> The misfortune is that contemporary Opinion has become omnipotent … against reason—judicial reason, scientific reason, legislative or political reason, as the opportunity occurs. If Opinion has not invaded the laboratories of scholars—the only inviolable asylum up to now—it overwhelms tribunes of the judiciary, it submerges parliaments, and there is nothing more alarming than this deluge, whose end is not in sight. (Tarde [1898] 2010, 300)

Tarde decries this development. But he does not argue that the public sphere is irrational when it should be rational, nor ruined when it should flourish. Instead, he decries its expansion to other domains of society, its prevalence in places where opinion has no entitlement to reign.

Tarde characterises opinion as "a momentary, more or less logical cluster of judgments which, responding to current problems, is reproduced many times over in people of the same country, at the same time, in the same society" ([1898] 2010, 300). Opinions are responsive to the world: "for every problem there are always two opinions" ([1898] 2010, 300f). I understand Tarde to argue that reason should dictate the ground upon which opinions stand. They can differ on the nature of problems and solutions, but not on the state of the world. But what are the scope and depth of opinion, and what is expected of reason? It is also unclear from Tarde how opinions and reason relate to each other, because it is unclear when reason is reason and opinion is opinion. To put this more precisely: it is unclear to what degree reason is able to inform and thereby influence opinion without opinion becoming reason. In my understanding of Tarde, the role of scientific evaluation, however unclear, is to accompany opinion to the edge of the evidence—but that creates a demarcation problem. What is clear, however, is that the media and journalists in society must inform citizens by reporting cutting-edge reasoning by using technologies of distance.

Two decades later, Tarde's idea of the public sphere is challenged when journalism is problematised by Lippmann in 1922's *Public Opinion* and 1925's *The Phantom Public*, books to which Dewey responds with *The Public and Its Problems* in 1927. These works are now known as the Lippmann-Dewey debate, and if Tarde was an optimist about opinion-nuancing technologies, then Lippmann and Dewey consider that their expediencies create politicised representations of the world.

Lippmann argues that the ideal of self-governance envisioned by democratic theorists is illusive, as it generally portrays citizens as "sovereign and omnicompetent" (Lippmann [1925] 1993, 11). Instead, taking a realistic stance, Lippmann suggests that citizens are generally "disenchanted" by the cumbersome and remote political processes which only pretend to put power into their hands ([1925] 1993, 3ff). Citizens have personal, social, and vocational concerns or duties much closer to home than Capitol Hill; not only do they perceive their individual role in political affairs to be "second rate, inconsequential" ([1925] 1993, 5), but they also have no time to keep up with state-bound budgets and administration, or other political controversies, which presuppose insight, expertise, and competence (cf. Lippmann [1922] 1997, 10). The world is too complex for every member of society to enrich the political system with his or her judgement.

Although the tradition of Kant and Habermas did not propose omnicompetence but rather, in my view, argued in different ways for the free and open application of critical reason to social and political processes, Lippmann's focus is on the media and the construction of the *platforms* from which citizens may exercise their common capacity to reason. The main claim is that the average citizen, as a consumer of media, does not have access to the unmediated (in the sense of not mediated by the media) representation of the world, that is, 'the environment', as Lippmann labels it. Instead, the media user is subject to what Lippmann terms 'pseudo-environments' (we might simply call them media environments) that frame, filter, slant, or fixate specific parts of the environment. Social, cultural, and technical barriers, along with distraction, limited attention, tone of language, (un)conscious emotions, and so forth, also affect the perception of the pseudo-environment ([1922] 1997, 48f). In short, the world is disproportionally represented in a complex of ways.

The mediated reduction of the world's complexity, which supplies clear-cut views and spells out parts of reality, offers leeway for the media to distort the environment, ultimately enabling the production of propaganda ([1922] 1997, 27ff). This echoes our contemporary discussion of algorithmic control, the programmed infrastructure of social media platforms applied to user-generated content for the channelisation of news and informational curation. For Lippmann, only an imagined "self-contained community" could manage all the dimensions of the environment and thereby constitute a mutual information base for its members ([1922] 1997, 174). In such a case, the public sphere would be a transparent opinion maker, a societywide reference point that steered society independently. However,

in our reality, where media disseminate information, such a public is "a mere phantom" ([1925] 1993, 67). As long as segments of society procure information in separate ways—through distinct channels, by various means, and with different editorially sanctioned decisions, styles, and criteria—then we will be soaked in information environments beyond our control, for good or ill.

Dewey cannot ignore Lippmann's analysis and its somewhat disheartening results, although he agrees that the public is "so confused and eclipsed that it cannot even use the organs through which it is supposed to mediate political action and polity" (Dewey [1927] 1991, 121). Furthermore, democracies do consist of voters who consider politics "a complicated medley of infinite detail …. The average man gives it up as a bad job" ([1927] 1991, 132). Moreover, the legal and political dominance of commerce and industry curbs democratic communication, creating social networks where the democratic public sphere cannot thrive ([1927] 1991, 109). Dewey therefore suggests a partly technologically anchored solution to the democratic problem, namely "the perfecting of the means and ways of communication" ([1927] 1991, 155), because communication is the "prerequisite" for democracy ([1927] 1991, 152) (more on this shortly).

Dewey does not share Lippmann's view that "political decision-making ought to embody an authoritative practical judgment," which is often labelled a technocratic view (Festenstein 1997, 107). Not all political decisions are reducible to practical knowledge and technical specification, although Dewey says it is correct that the implementation of various policies is "to be settled by inquiry into facts" ([1927] 1991, 125). He specifies the domains of facts "like sanitation, public health, healthful and adequate housing, transportation, planning of cities, regulation and distribution of immigrants, selection and management of personnel, right methods of instruction and preparation of competent teachers, scientific adjustment of taxation, efficient management of funds, and so on" ([1927] 1991, 124f). However, if all politics is reducible in this way, then the public sphere is "not only a ghost, but a ghost which walks and talks, and obscures, confuses and misleads governmental action in a disastrous way" ([1927] 1991, 125).

What then should the Deweyan public sphere do? The purpose of the public sphere is found in Dewey's underlying claim that political solutions presuppose political aims. Scientific capacity will always be superior to opinion when it comes to technical knowledge. However, opinion will always be able to discuss the purpose and meaning of society's technically advanced systems: what are they for? How should they change? Why do we want them? This difference between function

and purpose is reflected in Dewey's distinction between the "Great Society" and the "Great Community" ([1927] 1991, 143). The great society is the industrial and alienating machinery in which every citizen is a cog in a wheel. In contrast, the great community is the ideal democratic society where "free and full intercommunication" allows discussions about common aims to surface efficiently ([1927] 1991, 221). This mirrors the self-contained condition of the communicatively transparent society, which Lippmann derided as unrealistic. In fact, Dewey's model also seems to appeal to a version of Habermas' public sphere in a broad sense, understood as communicating one's political notions about society's current composition in everyday language and taking notice of all critical voices. In a democratic society, communication about how things should be should always be open and free.

Although Dewey sees "face-to-face intercourse" as the "deepest and richest" form of community ([1927] 1991, 221), the emergence of the Internet as another facilitator of community—this time virtual, but just as real (cf. Rheingold 1993)— echoes Dewey's concern to give voice to a broad range of society. Moreover, virtual participation carries a social tendency that Tarde ([1898] 2010, 304) identifies at the advent of the modern newspaper: newer and faster media cause tendencies towards uniformity in *space* (everything is connected with everything) and diversity in *time* (more conversations, more subjects, more forums). In this sense, 'hyperconnectivity' as a *social* interpretation of everything's connection is only one side of the coin of the contemporary public sphere.[39] One is hyperconnected to the social networks of the Internet, but by Tarde's logic one is also increasingly *unable* to be cognisant of or participate in the public sphere, due to its massive growth.

Instead of creating a communicatively integrated community, Dewey argues that the great society fragments and diffuses the communication infrastructures that should develop the public sphere. Without reconfiguring these prerequisites for community, the public sphere cannot begin to take form (Dewey [1927] 1991, 126). Without a common orientation in communication—and not just the still-accelerating integration of connected communication networks—the public sphere as a political category will "remain shadowy and formless, seeking spasmodically for itself, but seizing and holding its shadow rather than its substance" ([1927] 1991, 142). The substance in question is community-focused deliberation over common

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[39] In contrast to a *technical* interpretation vis-à-vis third-order technology, where devices are connected and feed each other data.

ends, a version of the public sphere that Lippmann finds near-impossible in mediated landscapes.

In conclusion, Tarde and the Lippmann-Dewey debate are evidence that the public sphere is communicationally fragmented at the beginning of the twentieth century. In general, Lippmann describes a double function of the fragmented media environment: media simplify *and* slant reality, two shifts caused in citizens' *access* to the sociopolitical world. The media prune and misrepresent, and this is understood technically rather than in terms of moral code or virtue. 'Misrepresentation' as a concept, then, incontrovertibly points to a shattered media landscape where the content of the public sphere is neither commonly accessed nor retrieved from the source in the same way.

In Section 6.4, I will show that the core problems of the distortion of *content* (Tarde's idea that opinion invades the domain of reason) and *environment* (Lippmann's and Dewey's diagnoses in the 1920s that media foster separatism rather than commonality) are also present in contemporary discussions of the public sphere. I will use this backdrop to point out which problems are particularly new to the public sphere under networked conditions.

In Chapter 1, I sketched my argument that the basic activity of the public sphere creates political meanings, which gives rise to notions of political order, that is, different conceptions of legitimacy. I showed in Chapter 4 that Hegel provides a model for coupling the basic activity of the public sphere—broadcasting political expressions—with general public opinion. Now it is time to reformulate some of these categories. Namely, I will reformulate the 'broadcasting of political expression' (Hegel's basic activity in the public sphere) through the concept of 'signalling'. I thus confine the basic activity of the public sphere to signalling, which I will explain below. Moreover, labelling the basic activity of the public sphere in this way makes it possible to analyse more precisely in this context what occurs under networked conditions, namely signals. Later, in Chapter 7, it also enables us to distinguish between minimal political expression (signalling) and general public opinion (political semantics). For now, let me turn to the idea that signalling is the minimal fabric of which publics are made.

6.3 The signalling public

Tarde, Lippmann, and Dewey model the production of the public sphere in terms of media environments in which agents (journalists) circulate informational entities

(news). This LoA aligns with the previous chapters, which also presented analyses from the perspective of communicative production. In these analyses, each thinker provided underpinning models of the nature of circulating communication, thus narrowing the observables to publicity (Kant), critical-rational debate or communicative action (Habermas and Honneth), the space of reasons (Forst), deinstitutionalised and universally minded expression (Hegel), and public reason (deliberative democracy). The generic model of the public sphere that we can derive from these theories, therefore, is one in which 'visibility' is the centrally shared feature. In other words, visibility is the most nonspecific LoA adopted for the public sphere, and does not specify the qualitative aspects of visibility. *All theories agree that the public sphere is a visible domain*. This LoA$_{Visibility}$, then, determines the observables to be everything which circulates in visible form.

Figure 3.6 shows the signalling public model, in which Habermas initially argues that the *function* of the public sphere is to generate visible signals. The public sphere is a signal function (*Signalfunktion*) that broadcasts communicatively formed opinions, that is, public opinions, which inform the formal political system (FN 435). In short, the Habermasian public sphere generates publicly broadcast signals, which, in contrast to private signals, are not hidden. Signals are thus communicatively interactional as well as outside the decisional parliamentary complexes.[40] We also know from Chapter 3 that Habermas presupposes that signals harbour language competence and are therefore able to project legitimate claims.

I suggest a reformulation of the signalling public model in light of Hegel (Chapter 4) and Warner (Chapter 5), whereby broadcasting signals are not curated or necessarily state-focused. This gives us another signalling public model which is more chaotic but still cohesive at the adopted LoA$_{Visibility}$. Insofar as we conceive of the general signalling function at LoA$_{Visibility}$, we may at other LoAs distinguish between rational and nonrational signals—but LoA$_{Visibility}$ conflates all qualitative differences into a broad category of public signals. Redirected to the generic LoA$_{Visibility}$, the public sphere generates signals, and the multifarious problems it produces—no matter how inconsistent, contradictory, or inchoate—are *outputs* embedded in what I will generically call 'signals'.

I will describe signals more fully in Chapter 7, and I need only a sketch for the present argument. I have chosen to adopt the signal metaphor because it is more or

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[40] In Chapter 7, I will provide a counterargument to the increasingly accepted view that publics also are inside decision-making institutions.

less tangible as a *product* as well as conveying an *entity* which is emitted from somewhere and noted by someone. A signal may be a silent gesticulation, a faint cry for help, or the absence of a phone call. Thousands of people make signals when they gather on Tahrir Square or share a post on Facebook. Moreover, at the least, signals are communicatory from the perspective of either the producer (e.g. firing a distress flare is a signal hoping to be received) or the receiver (e.g. reading too much into something someone said). In contrast to rational communication, signals do not need both sides to connect in order to persist. Nor are signals necessarily linguistically constituted, for which reason they are more broadly visible than Habermasian communication. The idea of the signal is to say that, in terms of visibility, signal-making is public-making. This means that signals encompass communication, publication, and the production of information, arguments, images, and symbols that are given form beyond pockets of private communication and outside of lawmaking. I conceptually position the public sphere as the only domain in society that is entirely *made up of* broadcast signals. This means that when people in other domains (civil society, economy, the state) produce signals, they are automatically public-making. The signal function, then, is the basic activity—the inner schema—of the public sphere, such that any broadcast communication must be considered an enactment of the public sphere.

I consider the question of N in NPS in terms of the signal function, that is, the basic function of the public sphere. The question then is: what happens when the signal function is networked? Also, which parts of it are networked (only social media, or every signal facilitator?), and to what extent (only specific technologies, or all of them?)—and what is the difference from nonnetworked parts?

I map three positions. Some indicate that N is mainly applicable to social media platforms; others argue that N pervades all online activism and yields circumstances that change the ways of politics; and a third position suggests that N is the digital ICT infrastructure, which comprehensively conditions the public sphere to the degree that signal-making as public-making cannot be practised without N.

I will sketch these positions in Sections 6.3.1, 6.3.2, and 6.3.3, not only in order to understand the different meanings of N in NPS on a scale from a low to high integration of ICTs, but also to be able to detect novel tendencies and agencies in NPS—that is, issues which are specific to the public sphere under networked conditions—in Section 6.4. One more thing to note is that there is a time perspective in these positions (from the 1990s to 2020) which indicates that 'logging on' to a platform is now an often-obliterated step. Yet as we shall see, scholars still conceive

of limited publics 'on' Twitter, which means that the three understandings of N are still very much alive today.

6.3.1 Networked as platforms

Early conceptions of NPS often refer to the emerging online or virtual communities of the 1990s. At that time, online social forums were new microorganisms in the body of the mass media. Was its pulse changing—and was it a sign of vigour or disease? As noted at the beginning of this chapter, the nature of an Internet-based category of the public sphere was and remains a moving target, because all the parts in its constitution change continuously: its code, its users, and its social integration. Whether it destabilises or creates new equilibria is an abstract matter. Perhaps it does a bit of both, in different ways, and in different corners of its vast space.

The backdrop for the early conception of NPS was an Internet that was still a "remote possibility" for many (Papacharissi 2002, 19). The 'digital divide', the distinction between those with and those without computers, was interpreted in terms of economic, social, or cultural capabilities to have or use Internet access and therefore to benefit from the emerging digital economy, education, and community (Howland 1998; Hoffman and Novak 1998; Cullen 2001). If the public sphere was networked in terms of digital ICTs, then it was understood in terms of logging *into* a platform or being *on* the Net. In N as platforms, the opposition between online and offline is clear: the public sphere is networked when it hinges on digital architecture, in the same way as offline behaviour is influenced by physical architecture (Papacharissi 2011, 310f). It indicates a sharp boundary which is easy to notice.

Still today, however, the general usage of NPS explicitly relates to platforms of user-generated content. Analyses of digital platforms which create structural conditions for opinion formation are often platformcentric, implied in concepts such as "Facebook publics" (Langlois et al. 2009, 417), "Twitter publics" (Ausserhofer and Maireder 2013, 293), and "YouTube publics" (McCosker 2014, 213). Moreover, in the early 2000s, the concept of the 'blogosphere' refers to encapsulated online political expression (Adamic and Glance 2005), and Matthew Barton (2005) argues that in addition to a system of blogs, online discussion boards and wikis foster online public spheres too.

LoAs also vary in platformised understandings of N: some refer to NPS as publics online (Usher 2008), others narrow it down to social media (Salter 2016, 2725), while yet others demarcate specific websites as self-contained publics (Poor

2006). In general, N as platforms, which I will abbreviate as $N_{Platform}$, suggests that NPS is somewhere else (online rather than offline), in another form (digital and not print media), or in another place (on Twitter instead of on the radio).

The *relation* between the two forms of public sphere—networked and nonnetworked—is contested in this understanding, however. Greg Goldberg suggests that NPS "is framed as a *migration or extension* of an already existing public sphere to an online platform" (2011, 741) (my italics). In contrast, danah boyd argues that networked publics *restructure* traditional publics, meaning that they have different properties (each is differently and "deeply affected by the mediated nature of interaction") (2008, 125; 2011). Whatever the assessment may be, whether it points to change (boyd) or to more of the same in digital formats (Goldberg), $N_{Platform}$ refers to digital spaces with more or less clear demonstrations of confinement.

I do not propose that $N_{Platform}$ fosters isolation and curbs spillover effects. Instead, I argue that this category positions the networked part of the public sphere as an *alternative* to the *common* or *acculturated* way of public-making. The power of NPS as $N_{Platform}$ can be seen, for example, in Eliza Tanner's work (2001). She argues that a specific Chilean Internet forum discussing Chile's future in light of Augusto Pinochet's capture in 1998 had a significant impact on the Chilean reconciliation process. Similarly, Yeslam Al-Saggaf (2006) argues that the Al Arabiya website in Dubai facilitated an NPS (which Al-Saggaf calls an online public sphere) discussing framings of war and truth. These cases are evidence that the $N_{Platform}$ view can also facilitate discussion outside digitally confined platforms.[41]

On this first conception, then, NPS should be understood as an option, an addition to leading a political life, albeit not an integrated one. It is an alternative path to visible contestation. The networked domain, on this first understanding, is conceptually juxtaposed to the already-established and therefore predominant nonnetworked public sphere.

6.3.2 Networked as online activism in offline politics

This second stance understands NPS not only as impacting on politics but also as changing its logic. NPS encompasses the connectivity of protest movements as well

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[41] Moreover, discussions of the connection between 'online' and 'offline' political participation—so-called clicktivism or slacktivism (see Morozov 2009; Christensen 2011; Halupka 2014)—also presuppose specific domain differences, although their environments (online-offline) may be related.

as political campaigning, which matches or sometimes even supersedes nonnetworked signal-making. This means that NPS is understood as a mainstream rather than 'indie' or niche political activity.

The implication on the one hand is that networked signal-making has a common uptake in mass media in the sense that online activity 'makes the news'. This may occur under broad themes such as fake news, or be narrowly focused as in frenzied controversies. On the other hand, networked signal-making is also increasingly adopted as a familiar type of public-making in the form of issuing instant updates, posting news, and generally mobilising or coordinating political action.

As Peter Dahlgren envisioned two decades ago, the "rampant intermeshing of the Net" with society blurs the online-offline distinction (2000, 339), and "embryonic patterns" of activism have escalated in the public sphere (2005, 155). In this context, it is noteworthy that Dahlgren does not speak of a specific NPS next to a nonnetworked public sphere—there are no juxtapositions between online and offline, or established and upcoming media. Networked signal-making creates possibilities like any other signal facilitator of the public sphere, and networked facilitators are habitual tools of political activity within this second meaning of N. Here, signalling agents are as at home in NPS as they are in the nonnetworked parts of the public sphere.

I will situate Yochai Benkler's (2006) authoritative description of NPS as a key conceptualisation for understanding N as integrated politics (N_{IP}), because Benkler perceives the technological-communicative environment as a space that is not confined to platforms or the digital. For Benkler, NPS emerges from a noninstitutionalised and noncorporate media environment, in stark contrast to mass media, which are both institutional and corporate—that is, the media about which Lippmann also raises concern. Still a new social space in 2006, NPS "enables many more individuals to communicate their observations and their viewpoints to many others, and to do so in a way that cannot be controlled by media owners and is not as easily corruptible by money as were the mass media" (Benkler 2006, 11). This increasingly powerful interloper, with its entirely different way of communicating, has brought about a situation where traditional media can no longer work as informational gatekeepers: everyone can connect, see, share, and communicate, because the economic threshold for publicising any information has become very low.

The abundance of 'redundant paths', that is, access points to news, opinions, analyses, and so forth, makes it hard for anyone to control the information

environment (2006, 260). Once spread throughout the Internet, information is hardly eliminable. Moreover, citizen journalism is much easier to produce, leaked information is easier to get at, and wikis are possible. Consequently, the networked information economy, as Benkler calls it, creates an environment for peer production and sharing that "makes possible a new modality of organizing production: radically decentralized, collaborative, and non-proprietary" (2006, 60). Thus the NPS cannot be understood in purely technological terms, although it resides in underpinning technological structures. "The networked public sphere is not made of tools, but of social production practices that these tools enable" (Benkler 2006, 219). In broad terms, it is the culture of the technological environment and its societal thrust that decides whether it functionally performs as a public sphere. "The public sphere function is based on the content and cadence—that is, the use practice—not the technical platform" (2006, 217). The utilisation of available ICTs, which are widely used for communication, has created a new social space—a new producer of signals—that works as terrain for the public sphere.

Benkler understands this networked social condition as capable of managing the signal function. In some circumstances, the networked environment is even the strategically preferred point of departure. With two examples that demonstrate reactive and generative capacities respectively (2006, 225), Benkler shows

> how the networked public sphere allows individuals to monitor and disrupt the use of mass-media power, as well as organize for political action … [and] how the networked public sphere allows individuals and groups of intense political engagement to report, comment, and generally play the role traditionally assigned to the press in observing, analyzing, and creating political salience for matters of public interest. (2006, 220)

NPS here relies on an innovative media form, an apt system of coordination, that signalling agents in general *may use* to penetrate stalling mass media environments or political systems. It is a powerful signalling resource that the public sphere can weaponise against such targets. NPS is not therefore an infrastructure of the whole public sphere (which is the third position, discussed in Section 6.3.3). Instead, NPS is a powerful signalling capacity in the media environment besides other signalling capacities.

As NPS has a decentralised nature, strategies of control are only possible on a structural level: when it is impossible to control the cars, one should control the

roads. Therefore, Benkler (2016) argues a decade later that the decline of free and open-source software, net neutrality, and user-controllability—partly caused by the implementation of forced standards through scripts[42]—obstructs the decentralisation and malleability of circuits and communicative systems, qualities that made the Internet a uniquely agile and protective environment to host an unencumbered capacity for signal-making.

In this way, power is concentrated in design, as only a few have control over Internet architecture (Benkler 2016, 20). Similarly to the road metaphor above, this power resides in building the paths of movement and communication. Therefore, Benkler (2016, 29) does not advocate an Internet design premised on a Deweyan notion of perfecting the means of communication. Instead, system design must be anchored in and cater to the inherently complex, fundamentally incomplete, and self-adaptive environments of the communicative social spaces of the Internet. It should be a resilient Internet, allowing self-transformational development and activity with multiple options for engagement. If commercial and political interests soak the system design—creating lucrative or governmental-beneficial technological affordances—then the presence of escape routes via redundant paths, and the possibility of recoding the structure, ensure the continuous destabilisation of centralised power.

Benkler claims that such individual and collective freedom cannot be ensured by the design of filters, patterns, or structures that allow "legitimate power to flow in the legitimate direction, but constrain illegitimate power" (2016, 29). Such attempts "will fail often and, sometimes, spectacularly" (2016, 29). Anybody with a computer may utilise the networks of the Internet, often in ways that are impossible to measure and whose legitimacy is impossible to assess. Instead of governments trying to filter legitimate from illegitimate content (whatever that may mean), citizens must continuously be able to counter power with a communication framework which is "resilient, robust, and rich in redundant pathways" (2016, 29). The system complexity must be chaotic enough to escape controlling grids. "Freedom from power, in this context, inheres in diversity of constraint" (2016, 29). Standards of communication (and code) should not be enforced, but should remain open and be subject to change. The key design goal is to "design a system that will disrupt forms of power—old and new—as they emerge" (2016, 20).

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[42] E.g. the World Wide Web Consortium's adoption of HTML5, whose code implements digital rights management, was pushed by economic interests, as Benkler (2016) argues.

This echoes Kant's publicity, in which citizens should always be able to openly criticise political institutions and social dynamics. In our context of the Internet, citizens should also always be able to rewire, reprogram, and reconfigure the information and communication tools they use—tools that (economic and political) power holders often control in one way or another. In contrast to Kant, however, Benkler does not have a strong conception of rationality. Instead, the gatekeepers of information and the monopolists of communication environments (e.g. Facebook, Twitter, YouTube) must not restrain citizens' ability or (with Kant) 'right' to make their own redundant paths in the environment. Moreover, not only is comprehensive filtering for a specific kind of legitimacy barely possible, but any attempt to do so will inevitably presuppose a specific codification of what a legitimate claim is, and will therefore obstruct the fundamental right to destabilise power.

Benkler et al. (2015) analyse the SOPA-PIPA debate, which related to the themes of online copyright and freedom of speech.[43] They show that NPS is indeed capable of signalling: parts of civil society were able to successfully mobilise their dissatisfaction with the formal political system, eventually beating established lobbying tactics. Benkler et al. concretise their understanding of NPS: "By 'networked public sphere' we mean the range of practices, organizations, and technologies that have emerged from networked communication as an alternative arena for public discourse, political debate, and mobilization *alongside, and in interaction with,* traditional media" (2015, 596) (my italics). NPS is an essential part of the whole public sphere, whose signalling capacity is no longer occupied only by traditional media. NPS is now integrated into political debate in such a way that the attention it creates, and the offline protests it mobilises, refocus society's conventional political lens: traditional media now also turn towards NPS for orientation in the political landscape.

N_{IP} may lead to different readings. For example, Zeynep Tufekci's work does away with the juxtaposition of types of media or publics (new versus old media, networked versus traditional publics). Instead, she describes NPS as a blending or blurring of all these media conditions to create a new form of public sphere, namely a networked one that comprises the

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[43] The abbreviation designates the general public discussion concerning the Combating Online Infringement and Counterfeits Act (COICA), the Stop Online Piracy Act (SOPA), and the Protect IP Act (PIPA), which took place from September 2010 to January 2012.

complex interaction of publics, online and offline, all intertwined, multiple, connected, and complex, but also transnational and global. … [It] does not mean 'online-only' or even 'online-primarily.' Rather, it's a recognition that the whole public sphere, as well as the whole way movements operate, has been reconfigured by digital technologies, and that this reconfiguration holds true whether one is analyzing online, offline, or combined instantiation of the public sphere or social movement action. (2017, 6)

Even offline protest movements must consider the ICTs of information and surveillance that influence their subversive activities. With phones in protesters' pockets, the police may track those protesters on the ground. Online and offline are tightly knit—as Tufekci's book title, *Twitter and Tear Gas,* also indicates. I understand Tufekci to define NPS as a comprehensively integrated part of politics to such a degree that large parts of the public sphere are networked, and no parts are unaffected. Tufekci's conception is more radically integrated than Benkler et al.'s version cited above, which still works 'alongside, and in interaction with' other parts of the public sphere. Tufekci presents the outer limit of N_{IP}, and may even work as a transition point to the last notion, because she can also be interpreted as broadly claiming that NPS is the structure of the entire public sphere, such that N in NPS is an inescapable feature of *the* public sphere and thereby resembles an infrastructure. However, ultimately I think that Tufekci's stance does subscribe to N_{IP}, because I read her conceptualisation of NPS as endorsing the view that there are many entry points into and viable instruments of the public sphere around the world (e.g. watching television, listening to radio, reading newspapers, walking the streets)—although they may not all be as effective as they used to be.

6.3.3 Networked as infrastructure

N as infrastructure ($N_{Infrastructure}$) indicates that the public sphere has come to run on the net of ICTs, and avoiding them implies exclusion from the public sphere. In the same way as one could not participate in the pamphlet public sphere without pamphlets, one cannot participate in the public sphere without the digital infrastructure of ICTs. Although the scales are different—the pamphlet was one type of medium, whereas the digital ICT infrastructure is a vast network of interconnected devices that offer a large variety of media—the common trait is that signal-making activities rely on the specific technology. This dependency means

that if one raises one's voice from the soapbox on the square, then one is largely excluding oneself from participation in the public sphere.

What is meant by infrastructure, and what does it do? In contrast to platforms, which work with opt-in memberships, Jean-Christophe Plantin et al. (2018, 299) characterise infrastructures as relying on membership-by-default: opting out is the *only* way out when it comes to the infrastructure. $N_{Infrastructure}$ relies on the premise that our consumption of information, our world orientation, and our lives in general are pervasively supplied with, and therefore dependent on, digital ICTs. We may not notice this infrastructure, just as we may not notice the vast logistics of food and water supply that somehow or other crucially sustains our bodies.[44] As Taina Bucher writes, "life is not merely infused with media but increasingly takes place in and through an algorithmic media landscape" (2018, 1). Unplugging from platforms may change your habits, but defunct infrastructures shut you down.

We may perceive Facebook and Google, for example, as platforms that we used to log into and out of. However, as Anne Helmond et al. show, these platforms may not have been "infrastructural at launch, but rather gained infrastructural properties over time by accumulating external dependencies through computational and organisational platform integrations" (2019, 141). These platform companies are so pervasive that, as Plantin and Aswin Punathambekar argue, they "have now acquired a scale and indispensability—properties typical of infrastructures—such that living without them shackles social and cultural life" (2019, 164). Therefore, $N_{Infrastructure}$ is not solely online but feeds back into the entire body of social life. As José van Dijck (2013, 4) writes, "a new infrastructure for online sociality and creativity has emerged, penetrating every fiber of culture today." This new infrastructure, Plantin et al. (2018) argue, reveals the media environment's transition from platforms to infrastructures: platforms make themselves indispensable by undergoing an 'infrastructuralisation', that is, they expand into an ecology of applications (e.g. Google's expansion to Gmail, Drive, Chrome, Maps, and YouTube, and Facebook's expansion to Messenger, WhatsApp, and Instagram). One's platform membership turns into a multiflexible account—a master key—which becomes as indispensable as one's fingerprint (which ironically sometimes *is* the key, e.g. in Apple's Touch ID).

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[44] As John Durham Peters writes, the interface of giant infrastructures can be very small, as with sink taps in comparison with the whole water supply infrastructure, or electric sockets in comparison with the electricity grid (2015, 31).

In this sense, John Durham Peters argues that media cannot be understood only in terms of media of communication (which is the platform view), "but also as providing conditions for existence, [meaning that] media cease to be only studios and stations, messages and channels, and become infrastructures and forms of life" (2015, 14). Infrastructure here does not strictly refer to the material base, such as the submarine communication cables that transmit signalling traffic (and have done so since the telegraph). Nor is infrastructure understood technically, in terms of the underlying programmable part of platforms (cf. Gillespie 2010, 349; 2018, 18f). Instead, and with the proviso that materiality cannot be smoothly distinguished from the social, infrastructure refers here to *socialised presuppositions* about how we connect and communicate in the public sphere.

N$_{Infrastructure}$ argues that NPS should not be reduced to what happens on Facebook, Twitter, or YouTube, or to activist strategies in politics, but should also include other communication technologies—for example, types of television and radio that run on digital ICT infrastructures. The signal function is networked insofar as it depends on the Internet as an infrastructure (e.g. one can hardly expect these days, perhaps anywhere on the globe, to be able to submit an article to a print newspaper without an Internet connection). In N$_{Infrastructure}$, the signal function is not merely tied to specific platforms or multiple digital possibilities for action, but is actually *untenable* without the underlying digital infrastructure.

Let me now introduce two positions which in different ways lead to infrastructure models of NPS. They are valuable because they ignite different models of how to understand the conditions of the public sphere in contemporary society.

First, although Floridi does not work with the concept of the public sphere, his philosophy of information has still been used as the backdrop for an infrastructural position. For Floridi, digital ICTs not only aid society but also subvert its fundamental categories and necessitate their rethinking. As digital ICTs process data, the question is whether societies simply *use* data-processing to manage well-being, or whether societies *depend* on this processing for well-being (Floridi 2015a, 51ff). In mature information societies, as Floridi calls societies which are wholly dependent on digital ICTs (cf. Section 6.1), digital ICTs are infrastructures of human lives where opting out leads to critical consequences. In Floridi's informationally interpreted infrastructure, morality too becomes an informational infrastructure, the study of which Floridi (2017) calls 'infraethics'. Moreover, Floridi (2015b, 6f, 14ff) argues, in light of humans' constant use of and increasing

dependency on digital ICTs, it is increasingly obvious that humans should be ontologically interpreted informationally, as informational organisms or 'inforgs'. With this informational "re-ontologisation" of the world (Floridi 2015b, 6), businesses that own our information do not simply own knowledge *about us*; they own *parts of us*, of our identity as informational beings. Since information is copiable and distributable, for instance, identity theft, the sharing of compromising images, and the simple storing of Internet searches are questions not just of ownership or terms of use, but also of autonomy and self-protection.

When humans are interpreted as inforgs, there is no online-offline divide—we live 'on*life*', a neologism from the anthology *The Onlife Manifesto*, edited by Floridi (2015c). In light of this condition, Mireille Hildebrandt, who contributes to the *Manifesto*, suggests that we should rethink the technological basis of new forms of public participation and privacy ("choice of exposure and places to hide") in order to "invent the infrastructure that will invent us" (Hildebrandt 2015, 191). Likewise, Peter-Paul Verbeek (2015) argues that public norms of visibility and anonymity will (need to) be renegotiated as personal information passes on to third parties or is funnelled into devices that are capable of facial recognition. One can surely imagine, I think, that this informational condition might induce a neurotic, Dostoevskian existence, as individuals are unable to know what sensitive information systems might be hiding. Moreover, May Thorseth (2015) argues that the new onlife infrastructure of the public sphere makes possible the blatant publication of fundamentalist views—for example, programmatic racism—that create 'fictitious publics' which do not adjust to criticism in the way that Kantian publicity or Habermasian public conditions of communication would require. Thorseth restates a Kantian position to cope with the new media environment, concluding that "in order to maintain a human society we need to be able to draw the line between tolerable and non-tolerable modes of public reasoning" (2015, 257). However, Benkler showed above (Section 6.3.2) that programming a communication system that filters legitimate from illegitimate speech is hardly possible. Moreover, it seems even more difficult to filter *modes* of reasoning—and who should decide? Especially in light of the possibilities of onlife surveillance, such a demarcation might curb signalling rather than being conducive to it.

In my view, Thorseth also defines the public sphere in terms of the procedural conditions of public communication, and she therefore puts the cart before the horse because she portrays legitimacy as the communicative engine of the public sphere. I prefer a view that starts from Hegel, in which the basic activity of the public sphere

begins with signalling, without procedural conditions. This means that the public sphere is left to create its own conditions of what 'it' sees as legitimate. To theoretically reject a priori the public-making potential of those signals that do not embed the correct communicatory conditions is to deny—in my view—that basic public-making activity can express things that are both legitimate and illegitimate (from the point of view of specific normative positions). This does not mean that society should not aspire to desirable normative states regarding its communication infrastructure. Instead, it means that the conceptual distinction between legitimate and illegitimate (in Thorseth's words, tolerable and nontolerable) signalling cannot be derived *from* the concept of the public sphere, because the public sphere is the *presupposition* which makes it possible for publicly endorsed notions of legitimacy to exist in the first place (cf. Chapter 7).

Second, $N_{Infrastructure}$ can also be approached differently. Consider how the obvious expectation of daily communication which comes with infrastructures merges everyday life with media, and makes the praxis of communicating with friends and family unexceptional. However, the ordinariness of such communication, Ethan Zuckerman (2015) argues, is what gives digital media (especially social media) political importance. Regimes which allow a digital infrastructure of nonpolitical communication also open the door to political speech: social media are desirable for activist communication because their platforms are submerged in daily communication, meaning that social media are hard to ban for fear of spurring a general uprising, and this makes it possible for political expression to flourish on those platforms, that is, without being shut down or banned. In this sense, the habitual usage of social media sustains NPS because such media operate as the only infrastructural facility that makes possible the mobilisation of signalling power in authoritarian regimes.

Zuckerman's argument implies a model that emphasises the infrastructural potential for political expressions on a basis that is not meant to provide the existence of a(n oppositional) public at all. In relation to oppressive regimes, where political speech should align with the institutionalised legitimacy, this model can be coupled to Hegel's model (Chapter 4), because it provides a view of political expression as emerging from a commonplace conception of social freedom (talking to friends and family). However, Zuckerman's model is different from Hegel's, because Hegel deals with the fundamental right to voice political dissonance, a right totalitarian regimes do not provide. Instead, Zuckerman's analysis of social media shows the unexpected political utilisation of the fact that regimes (used to) allow

the minimal socially integrated idea of (not even political) freedom, that is, talking to those one holds dear. In this sense, the model evokes the idea that NPS arises on the backbone of an unharmful infrastructure running through society, and banning it would lead to a confrontation between the population and the authoritarian regime because it would compromise a centrally embedded aspect of freedom in society.

This case shows that $N_{Infrastructure}$ in NPS does not necessarily entail free (i.e. autonomously critical) communication. In contrast to the first case, where the problem was overly wild and uncontrolled communication because of the infrastructure, Zuckerman's model shows a restricted and limited infrastructural position. This means that context is important when we are assessing a specific public sphere. It also means that N only reveals the *relationship* between signalling and digital ICTs; N does not say anything about the *possibilities* for signalling in general.

This leads me to the question: which interpretation of N is correct? Ultimately, I think this is an empirical question which is particular to the public sphere under scrutiny. However, I do think that in a European and specifically northern European (if not Danish) context, the signal function becomes increasingly reliant on digital ICTs, to the point where participation in the public sphere almost always puts digital ICTs to use. In this sense, the $N_{Infrastructure}$ position seems most likely to be the convincing answer. But as I do not endorse technological determinism, a certain analogisation may prevail in some small pockets of society in the future—just as digitalisation did some time ago. And therefore the answer—and perhaps also the categories sketched—may be subject to change.

6.4   Networked implications for the signal function

I will now investigate the multidimensional impact of N on the basic activity of the public sphere, namely signalling. I will therefore analyse signalling from the point of view of three dimensions: the *content* of signals, their *environment*, and the *agents* producing the signals. These dimensions are portrayed in Figure 6.1 (I will analyse a fourth dimension, the *action* of signalling, in Chapter 7). The dimensions emphasise thematic problems, some of which are new to the public sphere under networked conditions. The advantage of the dimensions is that they adhere to N in all of the above interpretations, and thus in this sense they do not depend on whether signalling is networked on social media only or relies on comprehensive infrastructures. Let me begin with the dimension which presents no distinctively
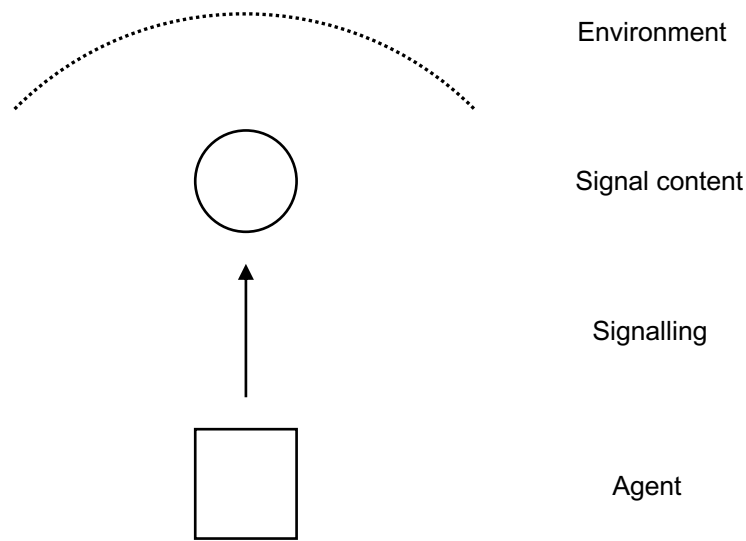
Figure 6.1 Dimensions of signalling.

novel problem in NPS, although it has spurred much political controversy: the content of signals.

6.4.1 Content

The (some would say flagrant) spread of epistemically problematic signals, thematised in the fake news, post-truth, or post-fact content that has flooded the public sphere, has led many to see parts of European and American politics as degraded, or at least as specifically exposed to concentrated masses of public expressions that are insensitive to the democratic conversation. Such content is seen as hostile to (in Habermas' terms) the public conditions of communication, which should be the underpinning safeguard of the signalled contents of the public sphere. In other words, the socially embedded method that (in theory) regulates signalling has been visibly disregarded with the surge of post-truth politics. As Benkler, Rob Faris, and Hal Roberts (2018, 6) reflect:

> This flurry of work exhibited a broad sense that as a public we have lost our capacity to agree on shared modes of validation as to what is going on and what is just plain whacky. The perceived threats to our very capacity to tell truth from convenient political fiction, if true, strike at the very foundations of democratic society.

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The claim here is not that people are wrong and content false. The claim is that the medium for correcting mistakes is fundamentally broken. The immune system battling 'whacky beliefs' has met a virus it cannot combat. This leads to the making of diagnoses which regard such content as disturbances in the public sphere system, and these diagnoses are often formulated in metaphorical terms: "information disorder" as opposed to order (Benkler, Faris, and Roberts 2018, 8), or "polluted information environments" as opposed to clean ones (Benkler, Faris, and Roberts 2018, 10). Being "systematically disengaged from objective journalism and the ability to tell truth from partisan fiction is dangerous to any country," as opposed to systematic engagement with an investigation into shared objective reality (Benkler, Faris, and Roberts 2018, 16). Moreover, Lance Bennett and Steven Livingston (2018, 135) write about "disinformation orders" where "rising movements … willfully defy reason." This content dimension focuses on the medium of rational assessment, and therefore places the problem of the manipulation of opinion environments in that light. For example, the dissemination of propaganda through bots is problematic because it works to "destabilise truth claims and/or construct new microrealities through targeted messaging" (Till 2020, 12). I will analyse bots as an agential dimension in Section 6.4.3, which yields a different perspective; but in the spreading of misinformation, it is unimportant whether the agent is a human or a bot (Scheufele and Krause 2019, 7666). Moreover, content may be significantly altered; even a clearly stated report of scientific results can be *motivated* as proof against its own stated evidence, as Shanto Iyengar and Douglas Massey (2019) show. These cases reveal that digital infrastructures provide an "ideal environment … that arguably threatens any sense of shared truth" (Waldrop 2017, 12632). Therefore, David Lazer et al. (2018) call for the redesign of news media to restore the focus on the promotion of truth and credibility.

All of these arguments about the problematic content production of signalling give an impression of the concerns and normative anxieties about the modern public sphere. But the nonepistemic fabrication of *content* is not new, although it may be occurring in new ways with lower thresholds of production. The theories of Tarde and Lippmann show this. Tarde also described the worrying consequences when opinion overflows reason: the public sphere degenerates when opinion takes the place of reason, or when diverging opinions do not refer back to the same methodological basis in reason or science—that is, when opinion not only goes off on a tangent, but also forms its own foundation. Second, in Lippmann's conception,

the pseudo-environment that each medium produces does not only make propagandising content licit; it also elicits world views, and shapes political cultures which do not run on science-based communication but cater to other parameters.

In sum, these aspects of the content dimension are an inherent part of the public sphere, which is grounded in signal-making that, I argue, ultimately plays a role in producing different kinds of legitimacy (cf. Chapter 7).

6.4.2 Environment

The environment in which signals emerge has also drawn significant attention. Signals depend on their environment, because the surrounding logic of the flow of signals in the vast signal space determines what this space can and cannot do. I will call such logics 'environmental operators' in the signal space. Although there may be many operators, I will focus on two, namely the attention economy and surveillance capitalism. These environmental operators are significant for the public sphere because they emerge only under networked conditions, and they are therefore worth analysing in this context. They are not to be regarded as broad economic ontologies that determine the fundamental logic of signals. Instead, they are operators, which means that they can be motivating forces that structure the blossoming of signals. In this way, they are gardeners in the landscape of visibility, and not the underpinning law of signal growth.[45]

Herbert Simon (1971, 40f) is often regarded as the scholar who coupled the abundance of information to the scarcity of attention, making the information economy a question of the allocation of its scarce resource—hence its relabelling as the 'attention economy'. However, Michael Goldhaber (1997) was the one who linked the attention economy to the domain of the Web. The social life of the Web has a lucrative economy where the commodity produced is not information, knowledge, or skill, but attention. (This leans towards a totalising stance where everything is attention, but it should not blind us to the forms of labour on the Web that offer products familiar to predigital economies, such as storage, tools, and competences.) The difference between the information economy and the attention economy is the change in product: from the manufacture of informational items that are bought by directly paying customers, to the manufacture of attention-grabbing items that make profits from the advertisements fed to the audience. The difference

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[45] I will therefore not consider LoAs that employ economically totalising presuppositions about human anthropology, such as Georg Franck's argument that humans have a fundamental desire for attention, a premise for Franck's theory of attention economics (see van Krieken 2019, 5).

is that the product shifts from the thing that is consumed (e.g. a newspaper) to the attention of the consumer (the reader). For instance, an article on the Web is free of charge often because attention to the article comprises aggregated payment to the article's producer, who primarily sells advertisements. Commercial enterprise in the attention economy, then, means producing *audiences* and not traditional commodities, which turns the conventional goal of production upside down. Such producers who create audiences for profit are, as Tim Wu (2016) labels them, attention merchants.

Richard Lanham (2006, 7) asks: what if the scarce commodity of the attention economy is not even a commodity? Unlike other commodities, customers' attention cannot be stored for later use, but must be utilised in real time. Advertisements usually drive the attention of consumers towards a product; but in the attention economy, advertisements latch onto products, because products are essentially attention collectors. This means, for example, that a video on Instagram, which no one buys but many watch, can become a product, which can be sold to advertisers because it is popular. Therefore, the allocation of attention to fabricated news can become a product in new ways, attracting new competitors that challenge and redirect the monopoly of traditional media institutions (cf. Tufekci 2013). This means that the networked signalscape of the public sphere can be commercialised in terms of the traction of specific signalling agents, channels, or outlets. As the public sphere, according to James Williams (2018, 93), cannot be detached from the "enveloping of human life by information technologies," the conclusion that "the global persuasion industry has quickly come to dominate"—by which Williams understands 'the attention economy'—also seems increasingly to apply at the interfaces of signal production.

Moreover, Honneth argues in a Lippmannian fashion that the "enormous broadening of media influence" in terms of "strategies of information processing" (*Informationsverarbeitungsstrategien*) and "attention-steering" (*Aufmerksamkeits-lenkung*) makes it harder for audiences to distinguish between media-constructed images of social reality and their own (RF 551) (my translation). Furthermore, Honneth argues, the media environment depends on the attraction or even "extraction" of attention (*Gewinnung von Aufmerksamkeit*) from the public sphere, which motivates the creation of exclusively attention-demanding (*aufmerksam-keitsheischenden*) items that ultimately spiral into the creation of "pure fictional worlds" (RF 553) (my translation). In the domains of the environment where this

process is accelerating, Honneth deems it almost impossible to normatively reconstruct the deliberative essence of the public sphere (RF 553).

Advertisements used to exploit events or products on which attention was concentrated (e.g. sports events, youth magazines, political debates), but in the attention economy, attention is concentrated in order to be the product. If this attention-economic mode of production influences the growth of signals, then signalling is attached to new circumstances that stimulate attention for profit, in established as well as new media outlets. Some of the crucial instruments of visibility in NPS are thus calibrated differently from those in the nonnetworked public sphere. With this environmental operator, audience-attracting platforms can be produced as host sites for *any form of visibility* that buys attention for money in order to influence the political status quo.

One may describe the nonnetworked environment of the signal function as conducive to the scrutinising, negotiating, or confrontational spaces in society that fuel discussions about politics with information about the world. In this effort, publics usually extract information from society and force them into the light of public examination. This is most prominently seen in massive information leaks (cf. Chapter 7), but under networked conditions information runs in the opposite direction too, which is the aspect of surveillance capitalism.

The nature of the networked infrastructure of the signal function equips the environment with a hitherto unheralded range of possibilities to track participants in one way or another (e.g. West 2019; Zuboff 2015). As David Lyon wrote as early as the mid-1990s, "precise details of our personal lives are collected, stored, retrieved and processed every day within huge computer databases belonging to big corporations and government departments. This is the 'surveillance society'" (1994, 3). Surveillance capitalism, then, is the situation where capital interests surveil potential customers—humans—for the purpose of selling something on the basis of data profiles, the parameters of preference evaluation. In surveillance capitalism, therefore, the hypercustomised approach to the individual customer is not, strictly speaking, a demand-driven market, but a new way of supplying (Andrejevic 2002, 237). Mark Andrejevic calls this 'interactive surveillance', which underscores the labour of the customer who provides tailored information to ('interacts with') businesses, for example in the form of cookies.

As operators in the public sphere, attention economics and surveillance capitalism in a sense are working with raw materials which differ from each other. Attention is scarce, not multipliable, and cannot be stored. In contrast, personal data

can be given to anyone indefinitely, and can be widely shared and stored. Data is aggregative, in contrast to the individual allocation of attention. Yet these two phenomena work simultaneously as environmental features that enable businesses and political actors to harvest the hyperspecific datafied ingredients that appeal to people's likings or catch their attention, and in that way they affect both the formation of specific audiences and the agendas that propound specific signals. Moreover, in $N_{Infrastructure}$, the signal function is penetrated by these operators, meaning that agents' activities are fully emissive of information in datafied form. When the infrastructure is able to target the agents and align them with specific information, then the signal function's basic ecological flow is tailored in favour of those who control the environmental operators. Such operators were not present in the media environment described by Lippmann, Dewey, or Tarde, where other and different environmental operators were at play. However, these environmental operators are outstanding in NPS today, because they change the ways in which signals endure, gain traction, and generally foster visibility.

6.4.3   Agents and the rise of automated social proof

The vast literature on the algorithmic control of publics can be seen as investigating the structural conditions of latent curating agents. When news media outsource signalling (the writing of stories or shaping of front pages) to algorithmic modelling, or when search engines cater to our enquiries, then algorithms are powerful agency-extending tools of public-making. But such curation can be seen in light of content curation in general, encompassing thematic issues that converge with the sociopolitical role of the editor in media institutions going back once again to Tarde and Lippmann. Therefore, in this section I would like to concentrate on another and completely new type of agency in the public sphere under networked conditions, namely bots. Bots are also algorithms, but they are a specific type of algorithm which is visible and emulates human behaviour in specific, signalling ways—for example, responding to questions (chatbots), or sharing content (Twitter bots). I will argue that bots reveal the most fundamental change in signal-making agency under networked conditions. Not only do bots shape public opinion in NPS, but they also lack a theoretical ground in the available public sphere theories. I will therefore analyse this issue, and ultimately situate it in the Hegelian model from Chapter 4.

In general, the online formation of public opinion is increasingly exposed to "robotic lobbying tactics" (Forelle et al. 2015, 6), and there is a growing interest in

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computational propaganda, that is, the use of automata such as bots in attempts to influence public life (Bessi and Ferrara 2016; Keller et al. 2017; Neudert, Kolloanyi, and Howard 2017). 'Fake news', 'astroturfing', 'false amplifiers', etc. are concepts that try to grasp the new forms of opinion formation agency that are mobilised as instruments in a wide range of areas, such as in domestic political campaigns and cyberwarfare against foreign countries.

Studies have identified several uses. Bots cause alterations in the information environment to an extent that "ultimately affects the ideas, news, and opinions to which we are exposed" (Varol et al. 2017, 280). Bots manipulate public opinion and public life (Ferrara et al. 2016; Bradshaw and Howard 2018); they "generate false impressions of popularity" (Woolley 2016), and engage in "zombie electioneering" (Howard, Woolley, and Calo 2018, 87). The latter refers to activities where

> campaign staff do not have to engage with voters, opinion leaders, or political opponents, because bot accounts can be programmed with a range of canned jokes, opinions, and links to online resources. Bots will follow other users and when those users use designated hashtags or post on specific topics, the bot will chime in with its contribution. (Howard, Woolley, and Calo 2018, 87)

Those who construct these bots can therefore be said to "surreptitiously aim to manipulate public discourse and influence human opinions and behavior in an opaque fashion" (Yang et al. 2019, 48), that is, without disclosing that bots maintain the interactions or content. In addition, bots have also "been used to promote terrorist propaganda and proselytize online extremism" (Yang et al. 2019, 50). To be sure, they may also be used to more benign ends in the production of visible information, such as crisis communications during natural disasters (cf. Hofeditz et al. 2019).

Let me briefly recall that NPS is the idea that digital ICTs are the primary instruments that enable the networked expressions (signals) of the public sphere. In short, N in NPS means that digital ICTs make up the networked relay that provides public signals. In a nonnetworked public sphere—or in a poorly ICT-integrated one—only political agents—humans—can raise their voices in public. But with the change to a more comprehensive NPS (which perhaps even overshadows the nonnetworked part of the public sphere) come new possibilities for political agency, and subsequently new forms of interaction.

The strategies of manipulation above make it increasingly difficult to equate all signals in NPS with human opinions. It is possible, and indeed probable, that NPSs are furnished with fake types of 'social proof': social signals which, when fake, manipulate the opinion climate in which humans are situated. Social proof plays a vital role in the group dynamics that are created when people make their own decisions based on their perceptions of what other people in their surroundings seem to believe or know (Cialdini 1993; Hendricks and Hansen 2016). Social proof is based on public (or simply visible) signals, but the private motivation or reason for a public signal may be hidden. For example, if five people queue to use the bathroom (their motivation is quite obvious here), then the sixth person receives a socially structured, but not linguistically communicated, public signal upon arrival at the line: the bathroom is occupied at the moment. Here, the public signal does not prompt the sixth person to independently check whether the bathroom in front of five waiting people is in fact occupied. Instead, s/he is prompted to align his or her beliefs about the state of the world with the public signal, disregarding whether the bathroom is actually vacant or not.

In a highly digital ICT-integrated environment such as NPS, the mobilisation of automated social proof can start a long list of group behaviours. The catalogue contains endless variety, so let me just give two stylised examples of situations where the distribution of opinion and the signalled representation of opinions are incongruent due to bot activity.

First, in the context of the Russian public sphere, Karina Alexanyan et al. (2012) show how bots strategically stimulate political sentiments: "we also found evidence that one cluster of Twitter users—those centered on the Medvedev policy of modernization—is popular primarily because it is promoted by bots and instrumental Twitter users" (2012, 11). Moreover, Twitter bots were also used in 2011 to drown out anti-Kremlin tweets, in order to divest those signals of their reach and influence (Alexanyan et al. 2012, 11; Krebs 2011). The bots were utilised to outcompete specific types of sentiment held by locals, for the purpose of diminishing their impact on specific Twitter networks. Working as a sort of quantitative diluter of the number of expressions of actually held views, such quantitative hijacking of particular networks is not censorship, strictly speaking, but rather an attempt to amplify other stances to the point where the actually held views become negligible, that is, simply disappear in the crowd.

The second example of bots spurring group behaviour on the basis of social proof is the 'spiral of silence', a concept originally formulated by Elisabeth Noelle-

Neumann (1974) without reference to bots. The spiral of silence is a form of structural oppression of a silent majority by a vocal minority. Noelle-Neumann's thesis is that a majority population that nonetheless perceives itself as a minority (i.e. because its opinion is not represented in the media) refrains from participating in public debates. At the same time, minorities who think of themselves as the majority will in all likelihood significantly fill up the communication space, despite being numerically smaller. The real majority thus spirals into a state of silence, as its incentive to voice its views continuously decreases. This dynamic also implies that we can technically differentiate between the prevailing public opinion and the distribution of undisclosed private opinion. Bots may be exploited to entertain similar dynamics in NPS, creating vocal minorities which do not necessarily drown out other opinions (as in the cases above), but which entirely curb the majority's motivation to make its opinions visible.

In general, information cascades and herd behaviour of various sorts can be initiated by bots and followed by humans.[46] According to *Bloomberg Businessweek*, the hacker Andrés Sepulveda claimed to have "create[d] false waves of enthusiasm and derision" during the 2012 Mexican election, thereby helping then-presidential candidate Enrique Peña Nieto's campaign (he won the election) (Robertson, Riley, and Willis 2016). In their inventory of 'organised social media manipulation', Samantha Bradshaw and Philip Howard (2017) confirm that evidence has been found for the Sepulveda case, as well as many other cases of political interference.

Moving from domestic to foreign affairs, Jonathan Zittrain argues that the concept of 'netwar' points to the so-called militarisation of the Internet, that is, cyberspace is "a domain of war, alongside air, land, sea and space" (2017, 301). Netwar is the enactment of a military strategy that plans to create informational confusion by swaying or manipulating opinion in a foreign country: "it means trying to disrupt or damage what a target population knows or thinks it knows about itself and the world around it" (Arquilla and Ronfeldt 1993 in Zittrain 2017, 300).[47] The military target of netwar is therefore an entire population's apprehension and

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[46] The main difference between information cascades and herd behaviour is their structure. Information cascades situate agents in a network where they see the string of responses of other agents. An individual agent will therefore have an overview of responses that s/he can use to evaluate and perhaps alter his or her own private response. On the other hand, herd behaviour refers to a situation where signals are chaotically distributed—for example, in the case of a stampede, where every agent suddenly reacts to the immediate movement of the mass.

[47] 'Netwar' was originally coined by John J. Arquilla and David F. Ronfeldt (1993).

interpretation of affairs, and that population's insight in its distribution of opinions. The achievement of this aim has become increasingly viable with the entry of sophisticated automata.

In terms of agency, the problem of NPS is the rise of the tension between fabricated signals and actual opinion signals. These signals must share the same wires, and that makes it essential to understand how public signals work and how they alter the conditions of the signal function, that is, the activation, moulding, manipulation, and exploitation of signals and their social context.

Historically, nonnetworked public spheres have had different environmental operators and content curators, while their agential perspective—humans—has been constant. However, in NPS, I think there is a genuinely new problem which is agential. If we phrase this problem in terms of the informational distortion of content (Section 6.4.1), or attentional or surveillant operators in the environment of the public sphere (Section 6.4.2), then we veil the problem's distinctiveness: the human public sphere has got 'company'. Or to put it otherwise: under networked conditions, the agential aspect of the public sphere is expanded to include the activity of computer programs that not only simulate human activity but—and this is conceptually more important—are also able to *work visibly* in the signal function of the public sphere, in their own way.

Bots are significant algorithms that have the property of signalling, which is different from algorithms we use to filter, sort, and black-box information flows. The agential interpretation of the networked signal function in the public sphere presented here can be evaluated according to models which either presuppose a conception of legitimacy in order to understand the public sphere, or else presuppose the public sphere in order to understand the creation of legitimacy. The former strand does not allow bots to enter the theoretical framework of the public sphere, because they are not capable of authentically producing legitimate discourse (see Keller and Klinger 2019, 173). In Tobias Keller and Ulrike Klinger's analysis of different models of the public sphere, all of which presuppose a framework of legitimacy, these models encounter bots as problematic because they misrepresent voices, participate in astroturfing that emulates participation, lack the ability to provide mutual respect, or are inauthentic. Overall, the diagnosis is that bots do not belong to the public sphere in the capacity of those problems.

However, this claim is wrong, I think, and we can interpret it differently once we look to the Hegelian model from Chapter 4.

Recall that Hegel's framework made us aware that the public sphere may produce signals that are incongruent with the way legitimacy is institutionalised. The Hegelian public sphere as a social category does not respect the core model of rational legitimacy, or other types of legitimacy. At the same time, the public sphere is energised by the socially embedded understanding of modern freedom: free political expression is fundamentally implied by the logic of what it (for Hegel) means to be a free society, but its political influence in the state should nonetheless be curbed. In Chapter 4, I also showed that while Hegel ousts public opinion from institutions, he articulates the fundamental premise that general political expressions created from the public sphere ultimately are a significant part of the ground on which political institutions stand. For Hegel, the gesticulations of the social point out the direction of the political, and not vice versa.

Bots signify a new agential, social visibility in the public sphere that underpins the political in the Hegelian sense. These computerised items are agents of the public sphere because they produce public signals that human agents interpret as signals in the public sphere. Minimally, *whatever produces a signal because it is interpreted as a signal* participates on an agential level in the public sphere, and the networked circumstances make the relationship between bots and public signalling possible. Based on the premise that one of the many differences between humans and computers is that humans are semantic beings who are able to capture meanings, understand, and interpret their world—as opposed to computers, which process syntax (see Floridi 2009)—bots in NPS are nonetheless able to interfere with the signalling semantics that lie at the heart of the public sphere per se. No one said that signalling was only for humans.

The above theories, which define the public sphere in terms of authentic public communication, view bots as nonsensical, inauthentic contributors to NPS. However, bots are *authentic* in a different way, which adds another layer to the analysis of networked agency in Hegelian terms. In her article "Code Is Speech," Gabriella Coleman (2009) shows that the free and open-source software (FOSS) project, and the writing of code by its developers, can be legally justified in terms of freedom of expression. In her conclusion, Coleman draws a parallel between freedom of speech and its products (print and books) and a new type of production (code) that, although perhaps not as obvious, is also a product of freedom of speech. I would like to extrapolate two short points from Coleman's essay. First, bots are essentially algorithms, coded scripts written by humans, and they can therefore also be seen as new products of the right of freedom of speech. Second, since Coleman

shows that the FOSS project has pushed for its understanding of 'code as speech' to be acknowledged by legal institutions, we have here an example of agents in the public sphere who have pushed at the institutionalised conception of what legitimate speech is and how it should be understood.

The writing of code justified as free speech would include bots too. And the premise of situating bots in free speech is familiar to the Hegelian model of agency in the public sphere, where the idea of freedom grants agency to humans' political speech outside institutions. The production of bots can therefore be coupled to free speech, and ultimately to the fundamental structure of freedom, but not necessarily to institutionalised legitimacy. Kant, Habermas, and deliberative democracy conflate these two aspects (autonomy and legitimacy) and cannot conceive of bots as new agential circumstances in NPS. Bots are not humans (autonomous), and are therefore not capable of contributing to the notion of legitimacy which shapes the Kantian/Habermasian public sphere. In those models, bots may be discursively but not agentially problematic, because bots do not have agential properties (thus defined). This means that the model cannot account for this agential shift in NPS.

To rephrase, if we take the Hegelian model as a point of departure, bots are agents because they produce signals which are interpreted as participants in NPS. They have an agential impact because the signals emitted are used as if they were qualitatively equivalent to other signals. Thus, bots fundamentally comprise a new group of signal-producing agents in the signal function in NPS.

I emphasise the agency and not the discursive role of bots here, because the automated generation of social proof reveals another dimension of the public sphere: social proof, whether produced by an assembly of humans or bots, does not necessarily constitute linguistically structured communicative acts. Yet social proof contributes to the formation of opinion, and cannot be separated (or excommunicated) from the group of signalling agents. Social proof indicates that the public sphere does not necessarily need linguistics or sentence-formed communication as its basic constitution to generate meaningful views or beliefs about the world. The presence of signalling agents can, at times, be sufficient.

Tarde, Lippmann, and Dewey analysed the public sphere shaped by mass communication technologies—which was therefore not an NPS—and they worried about what I have called content and economic operators. Each in his own way, they emphasised the perils of opinion overruling reason and the marketisation of news media. As I have sketched above, the worry about poor-quality content in the public sphere has changed very little. But the economic operators have changed, on

some parameters in significant ways, in NPS. I have emphasised the production of attention-producing signals and the precision of surveillance data. Moreover, NPS also points to a new problem that was not addressed by earlier forms of public sphere, namely the introduction of a new form of agency.

Let me extend the point about agency with one final comment. There is one problem that remains to be carved out entirely from the Hegelian model: the banning of bots. In this analysis, bots figure as a part of the productive repertoire of the idea of freedom. If this analysis is correct, then those—often politicians—who are to deal with the moral predicament of whether bots in NPS are morally desirable or not seem to be facing a challenge. The question is whether it is possible to reorganise the infrastructure of public platforms in such a way that it would be impossible to generate automated content, without compromising values that must not be comprised (e.g. freedom of expression) because to do so would eradicate the signal function of the public sphere altogether.

This basic problem lies at the heart of—and can therefore be structured through—the Hegelian public sphere. However, one reflection regarding the Kantian and Habermasian models is that they would focus on bots via the public conditions of communication, which would apply a framework of legitimacy. If these models *should* want to differentiate between authentic and inauthentic (or tolerable and nontolerable) speech content, rational and irrational expression, then this would entail a calibration or dissection of the quality of political expression; and when content is thus policed, this might mimic a totalitarian regime, installing de facto sanctions on speech to resolve the issue. Such a way forward will often miss the target—if Benkler is right that content filters cannot be made to let legitimate speech pass through while curbing illegitimate speech. On the other hand, the Hegelian interpretation I have presented in my analysis of the concept of NPS here accepts the uncomfortable position of signalling agency at two levels in the signal function. First, signalling agency in the public sphere potentially produces illegitimate content, while at the same time being legitimate as a producer of that content. Second, as products of fundamental human freedom, bots are created by the coding hands of human agency. In the Hegelian diagnosis, bots therefore symbolise the *wary type of agency* that presents itself to us under the public sphere's networked conditions in times of manipulation, cyberwarfare, and the other complex moral problems that follow. I propose that the Hegelian analysis makes the predicament appear more clearly than would be the case if it were to be analysed from the perspectives of normative standards of interaction.

CONCLUSION

The idea behind this analysis has been to reveal the conditions under which the public sphere functions today. I have sought to outline the circumstances, and hence the problems, under which the basic activity of the public sphere—signalling—operates. I can now begin to take the step towards showing that signalling (with these conditions in mind) not only creates public opinions (what I label political semantics), but also generates a horizon of legitimacies. This is the task of the next chapter.

To sum up this chapter, I have shown that early technological interpretations of public spheres contain discussions about the content and environment of signals. Tarde sketched the tension between opinion and reason, and thus outlined the basic problem of the content of signals in the public sphere. On the other hand, Lippmann especially emphasised the filtration and curation of signals. For him, the environmental operators were the double mechanism of the media, which both slanted and simplified reality—creating pseudo-environments—to gain readers.

I investigated the conceptions of N in NPS, and concluded that, given its different interpretations, the question of which N can be applied to a specific context ultimately remains an empirical one. Conceptually, however, I suggested that N in NPS points to the integration of digital ICTs, and not to 'networks' or 'technology' in broad senses of those words. I also argued that, when forced to choose among the conceptions of N, I favour the infrastructural conception, which means that it is almost impossible to signal in the contemporary public sphere without the use of digital ICTs.

I claimed that the basic activity of the public sphere could be phrased in terms of signalling, and I analysed the implications of the production of signals under networked conditions. I analysed three dimensions of signalling, and found that the content dimension under networked conditions did not indicate new problems. In contrast, I focused on two new environmental operators which were different from earlier environments of signalling. Ultimately, I analysed bots as a new agential problem: I argued that insofar as bots emit signals, they are agents of the public sphere. In the last decade, the predicament of bots in relation to political expression has been widely discussed, and whether politicians should ban them relates directly to the problem of agency in the public sphere. However, the Kantian and Habermasian models cannot analyse the problem, because they couple participation to the public conditions of communication. Bots are problematic because they cannot adopt this communication form; they are illegitimate, as they cannot

authentically endorse the legitimate framework of contestation. In contrast, I analysed bots through the Hegelian model of the public sphere, which is able to think about freedom without a legitimate form of political expression. In this sense, the agents of the Hegelian public sphere exercise the freedom to express political opinions without aligning with specific criteria of speech. Thus, bots become a symbol of the problem of modern agency in the public sphere: that is, the legitimate right to openly endorse illegitimate views, beliefs, or conditions regarding what legitimacy means overall. However, Hegel did not claim that the public sphere could *generate* legitimacy. The Hegelian public sphere was also wild, outrageous, and strange, and its influence should therefore be curbed, according to Hegel.

Hegel was wrong, however. The next and final chapter will present the last part of my argument: the public sphere not only produces political expression without aligning with the public conditions of communication, but also—*contra* Hegel—*creates* notions of political order which, in sum, express a horizon of legitimacies.

7

The ground of legitimacy

> Semanticization is a social process, to which we may contribute only a bit …. Most, indeed almost (yet not) all the sense we can give to our lives is due to the sense-making activities of millions of other people. Hell is not the other, but the death of the other, for that is the drying up of the main source of meaning.
>
> L. Floridi, *The Ethics of Information* (2015, 332)

SUMMARY

In Chapter 6, I analysed the public sphere under networked conditions and highlighted its main features. I also proposed that the public sphere functions by signalling, a notion that shall be concretised in the present chapter. I will propose that the public sphere is a political category that constitutes what I call 'the ground of legitimacy'. That is, the public sphere is defined by its logic of producing many conceptions of what legitimacy means. This implies that the public sphere is fundamentally versatile, and leads to the display of a 'horizon of legitimacies' within society. I suggest this model of the public sphere within the framework of political realism, a philosophical position which is problematic in a number of ways, as I will clarify as well as try to remedy throughout the chapter. I will begin in Section 7.1 by defending noninstitutionalism as the most proper perspective for a theory of the public sphere, because the opposite, institutional perspective unnecessarily introduces attributes that are detrimental to the development of publics. Then, in Section 7.2, I will explain what 'realism about legitimacy' means, subscribe to a modified version of Weber's view of belief-constituted legitimacy, and show how the source of legitimacy may fundamentally recalibrate the social manifestation of legitimacy. In Section 7.3, I turn to 'realism about the public sphere'. In Section 7.3.1, I argue that Mouffe's realist theory of 'agonistic

pluralism' presupposes a conception of legitimacy which I find untenable. Thereafter, in Section 7.3.2, I will analyse one of the most important realist concepts, namely the 'counterpublic', and suggest a reinterpretation which claims that counterpublics should not be understood as nondominant, culturally unitary entities but as countersignalling parts of the visible signalscape in the public sphere. This means that I reframe counterpublics in terms of the visibilities they produce rather than the cultures they represent.

I then introduce the last part of the composition of my proposal for a concept of the public sphere, which is made of three categories that are productively related: signals structure political semantics that publicly constitute legitimacies. To concretise my understanding of signalling—the agents, contents, and environmental operators of which were analysed in Chapter 6—I will propose that 'signals' should be seen as semantic entities, and in Sections 7.4.1 and 7.4.2 I distinguish between 'vertical' and 'horizontal' signalling in order to conceptualise the nondirectedness of publics. Moreover, in Section 7.4.3, I suggest that signals, in terms of their semanticity, always have a connection to nonpublic dimensions of the world.

After the analysis of signals as semantic entities, in Section 7.5 I will contrast my view with Adut's recent public sphere theory, which argues that publics are sufficiently understood as appearances without meaningful content. This is a view to which I will object. My criticism of Adutian publics launches my chiaroscuro portrayal of the concept of political semantics, which will gain expressive articulation in Section 7.6 via three examples that illustrate the concept. These examples are the MeToo movement, identity politics, and the current coronavirus pandemic (Sections 7.6.1, 7.6.2, and 7.6.3), and I analyse them in terms of signalling, which creates legitimacy-constituting notions that ultimately justify different institutionalised systems of domination. After this, in Section 7.7, I explain how the public sphere is the ground of legitimacy, as the title of this thesis promises (and which is summed up for the curious reader in Figure 7.7). Finally, in Section 7.8, I will raise five objections to my proposal for a realist theory of the public sphere and offer five replies. In the Conclusion, I will sum up the results.

7.1 Introduction: institutionalism versus noninstitutionalism

When Fraser (1990, 74ff) introduced the now-widely adopted difference between weak and strong publics to distinguish nondecision-making from decision-making

publics, she introduced a conceptually confusing distinction that obfuscates one of the main characteristics of the public sphere as a political category[48]—namely, that publics work in contrast to institutions. I will make this case by defending what I call the noninstitutionalist view. In the following, I analyse Fraser's weak/strong distinction and argue that it should be discarded for three reasons. First, it camouflages that weak and strong publics are different systems which are not differentiated by decision-making alone. Second, it introduces an unnecessary demarcation problem in relation to democratisation. Third, it conflates organisational democratisation and the public sphere.

A 'weak public' is the type of public that generates or makes opinions public without enjoying any decision-making competences. A 'strong public', on the other hand, is a public that makes opinions visible, provides the arena for their formation, and importantly, enjoys the ability to make decisions. A strong public can *act* after exchanging views, for example in parliament: "as a locus of public deliberation culminating in legally binding decisions (or laws), parliament was to be the site for the discursive authorization of the use of state power" (Fraser 1990, 75). A strong public can not only discuss but also formally warrant the results of the discussion by making decisions.

Weak and strong publics thus do different things. For Fraser (1990, 75), weak publics accentuate a sharp boundary between civil society and the state, a remnant of what she calls the bourgeois conception of the public sphere. Strong publics dissolve this difference and introduce the discussing public sphere in the decision-competent state. By combining informal opinion formation with formal decision-making, the institutions of the state become strong publics. According to Fraser, this forms "a democratic advance over earlier political arrangements" (1990, 75). If publics exchange different viewpoints heterogeneously, then giving them decision-making power is democratically desirable. Strong publics make possible the generation of public spheres within decision-making and governing bodies.

Furthermore, Fraser (1990, 75f) also points to extragovernmental residences for strong publics "in the form of self-managing institutions. In self-managed work-places, child care centers, or residential communities, for example, internal

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[48] Habermas, for instance, implies Fraser's pair when he writes about "institutionalized public spheres of parliamentary bodies" (FN 308). For its common usages, see e.g. Karin Wahl-Jorgensen (2008, 964), Erik Eriksen and John Fossum (2002), and Andy Gibson, Jo Welsman, and Nicky Britten (2017).

institutional public spheres could be arenas both of opinion formation and decision-making." In this way, strong publics are embedded in organisational life and conducive to democratic governance, where employers in a firm, for example, "would participate in deliberations to determine its [i.e. their organisation's] design and operation" (1990, 76). As such, it seems that strong publics can be situated in the state as well as in civic organisations, firms, and businesses. The weak public, on the other hand, is fixed in the public debates of civil society, viz. newspapers, radio shows, or demonstrations. For Fraser, the weakness of the weak public lies in its noninstitutional nature, that is, in its lack of schematised decision-making procedures. This raises three concerns.

First, in going from weak to strong publics, Fraser also moves from an overarching political category of political philosophy to the internal democratisation of institutions. The weak public denotes the societywide circulation of political utterances, whereas the strong public denotes the organisational logic of institutionalised decisional settings. They are different *systems*, and the distinction between them cannot be qualified as a qualitative add-on difference in decision-making, as they take on different meanings across the ontologies of the systems. For example, decision-making may democratise strong publics while restraining the publicity of weak publics.

Second, institutions can democratically rearrange themselves and thereby become strong publics. This implies that members must be capable of making decisions that have direct influence in their own institution. To enable this, institutions should be able to define, demarcate, and make evident the effect of democratic decisions, and also to make clear which decision-making competences belong to whom. Strong publics therefore constantly struggle to adapt their institutional arrangements to best practice within democratic organisational theory. Because weak and strong publics are different systems, the work done to integrate democratic lines of command in institutions is not equivalent to the democratisation of a weak public. The question then becomes what democratising means in terms of weak publics.

Third, the shift from weak to strong publics may be a democratic move in the sense of democratising the state. But democratising the state through the deliberative and decisional abilities of parliament does not amount to introducing the public sphere into the state. That was the unanimous theoretical contribution of Chapters 2–4: the public sphere discusses institutional arrangements at arm's length. It is not trapped in them. I would therefore prefer to conceptually distinguish

between the public sphere and the democratisation of organisations. In a slogan: there is nothing public about strong publics. The democratic parliament is a strong entity in the political infrastructure just because it assumes legislative power. An institution is a strong entity, in Fraser's terms, when its decisional infrastructure is democratic, but neither democratic parliaments nor institutions can be conceptually described as a (weak model of the) public sphere 'strengthened' by decision-making.

Introducing the difference between strong and weak publics makes the structural position of the public sphere in a society unclear. The public sphere is a political category that produces endless reflections, opinions, and statements and which, in my view, cannot be asked to make a choice, to decide, or even to make something clear. To put it crudely, publics cannot *vote*; only citizens can. Publics are chaotic conglomerates of participants, and cannot therefore be said to *act* in a coherent way. Persons—and not publics—can be *asked* to engage in surveys. Moreover, decision-making power is counterproductive to the core function of publics. That is, publics make ideas, opinions, beliefs, and intentions visible by spreading semantic expressions. Publics are labyrinths of signals without much order. Signals may endorse, attack, or be indifferent to resolutions. In this way, publics do not obey the fundamental requirement to constitute a quorum, which is that a certain number of members must be present to endorse a decision. Publics diffuse outwards in visibility; decisions concentrate inwards in closure.

I have already described noninstitutionalism in Hegel's public sphere in Chapter 4: assemblies are only public-making when their discussions are visible on the outside of their institutions, broadcast as it were. They are not public-making when deputies in the assemblies vote; nor are 'assemblies' 'publics' in terms of having an organisational structure which is organically coupled to civil society or other parts of the state. I argued that for Hegel, the public sphere is generative outside the institutional framework, even if the discussing parties may be located inside an institution, such as an assembly. We can find noninstitutionalisms in both Kant and Hegel. Kant motivates the basic difference *between* institution and critique: the rationality of an institution is only possible through institutionally exogenous yet rationally indigenous critique. Kantian PUUR is the deinstitutional category per se which penetrates the institutional shield.

Hegel sustains the distinction between institution and public sphere in another way, through the difference between an institution's contribution to the public sphere and its organisation, which does not belong to the public sphere (a distinction

I will revisit in terms of signalling in Section 7.4.3). This distinction differentiates between the organic institutions of rationality and the realism of the public sphere, which propounds its own behavioural logic. Let me therefore turn to the issue of realism and its conceptions of legitimacy.

7.2 Realism and legitimacy

I devoted Chapters 2, 3, and 5 to normative understandings of legitimacy that frame the public sphere as the provider of legitimacy through deliberative means. We saw in Chapter 5 that ideal and nonideal theories share the core of normative legitimacy. The former articulate political principles, which the latter seek to implement. They are compatible, and for this reason they should both be distinguished from realism, which is commonly seen in contrast to ideal theory (Rossi 2019, 642f).

Ideal/nonideal theories of legitimacy argue that political systems are legitimate when they realise specific normative values (which can be formulated in terms of either substantial values such as justice, equality, or freedom, or more procedurally oriented values such as impartiality, rationality, or consistency). In contrast, realism argues that legitimising principles depend on the internal workings of politics and cannot be derived from analyses of externally authorising values. The nature of politics embodies its own principle of legitimacy.

For instance, early realists such as Niccolò Machiavelli understood legitimacy to rest on the dynamics of power, uncoupled from morality (Machiavelli [1532] 1998; see Zelditch 2001, 42): whatever is expedient for having, holding, or gaining power is a de facto legitimate strategy in politics—which is why the adjective 'Machiavellian' hints at cynical opportunism. Thomas Hobbes ([1651] 1988) likewise defended a version of political realism: politics arise the moment humans collectively seek to organise their relations with each other in order to curb their savage condition in the state of nature. They agree to institute an absolute sovereign whom everyone agrees to obey, whereby the sovereign is able to maintain order, an order from which s/he obtains legitimacy (as s/he embodies the critical function of politics). Weber ([1921] 1978) too offers a version of realism, arguing that different legitimacies motivate different regimes. Individuals or groups grant authority to rulers on the basis of tradition (the patriarch), legality (the law), or charisma (the leader).

I will make the claim here that Weber's realism (more on this shortly) echoes my argument in Chapter 3, namely that the early Habermas in *ST* can be read as

claiming that legitimacy is constituted by, or relative to, the public sphere. *ST* made a basic realist claim; and as I also pointed out, Habermas did not pursue this line of thought—but I will. In the following, I will suggest a modification of Weber's model on the basis of the arguments conceived in my earlier chapters, and I will begin to carve out the realist logic between the source of legitimacy, legitimacy, and the system of domination which is legitimised. I will then use this as the backdrop for my subsequent argument regarding the productive connection between the public sphere and legitimacy.

7.2.1   Sources of legitimacy

For Weber, subjective impressions determine what and how something is legitimate. Beliefs project a specific type of regime, determining its means of power and its procedures of authorisation. As Martin Spencer puts it, the Weberian idea of legitimacy is "that the political experience of a society flows to a significant degree from its ideas of legitimacy" (Spencer 1970, 133) (original italics removed). Weber's conception of legitimacy is valuable in this context because it pertains, in a wholly internalised manner, to the perceptions of participants in a political system. There is no clause on the formation of legitimacy from a posited regulative aspect of human lives (autonomy, equality, justice, reason). The point is not that the formation of legitimacy cannot be measured according to political values. The point is that legitimacy forms according to the subjective beliefs of the members of society, without approximate benchmarking to other values. Weberian legitimacy is therefore key to understanding the formation of what claims or sources are *granted* validity and authority in society. As Michael Saward writes, advocating realism:

> 'Legitimacy', to some, suggests that there is a timeless quantity of an X-factor, which an actor does or does not possess. However, I hold to the view that it is reasonable to use the term so that it is consistent with Weberian uses: it is the perception of legitimacy, not legitimacy according to a standard that is posited as independent of the context in which the question [of legitimacy] arises. (Saward 2010, 144)

The Weberian stance places subjects' attitudes, beliefs, and intentions at the generative centre of legitimacy. Moreover, Weber identifies in the types of legitimacy the particular forms of oughtness, duty, or obligation that subjects

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motivate when seeing certain rules and value systems as legitimate (cf. Spencer 1970, 126). Weber's account is the key to understanding how notions of political order can be seen as equal to legitimacy, which is the third premise of my argument (cf. Chapter 1). Weber's view makes notions about what order of politics is to be endorsed equivalent to specific perceptions of legitimacy, because political authority is only sanctioned by the beliefs of society. As such, legitimacy depends on members' motivations to endorse a political system of domination, because legitimacy amounts to the views about what political order is seen as warranted and rightful. This process is not guaranteed by rational negotiation, but sustained by subjective beliefs. Moreover, Weber argues that these notions of political order inseparably carry not only legitimacy but also a specific political system. For Weber, Spencer writes, "the nature of legitimate beliefs implies a certain kind of political structure and a certain kind of politics" (1970, 132). Here, 'political structure' refers to specific forms of authority—for example, bureaucratic or constitutional government—while 'politics' refers to the display of certain political norms, such as rational or affective norms (1970, 132). As Reinhard Bendix sums up, it is "the *beliefs* in legitimacy that sustain the system of domination" (Bendix 1998, 330) (my italics). This is shown in Figure 7.1.

I want to raise two problems with this model. First, although Weber's categories above rest on his famous ideal (or pure) types, which in their worldly appearances are always modified, it is contestable whether a change of belief in legitimacy in fact leads to institutional change as well. One could imagine that the system of domination can in some cases hold onto its power in Machiavellian ways, so that the opinions and attitudes of the dominated are cut off from constituting the regime or its norms. Whenever there is such a disconnection between subjective beliefs in legitimacy and the system of domination, the model will be unable to explain how legitimacy works.

Second, on the presumption that public opinion has a legitimising role, Chapter 6 showed that public opinion climates need not express the subjective beliefs of
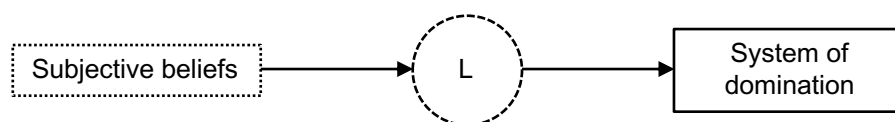

Figure 7.1 The Weberian view. A version of the realist relation between legitimacy-producing subjective beliefs and regimes.

individuals. There may be information dynamics that lead to a dissonance between the macro and micro levels of opinion. We can have public opinions without support from individuals (pluralistic ignorance) or the majority (spiral of silence). Moreover, with the entry of bots as new agents of the public sphere under networked conditions, we may perceive and semantically interpret attitudinal changes in the opinion landscape that are not tied to subjective beliefs in the first place. In this case, nobody airs the belief, and yet it still plays a part in the interpretation of public signals.

We cannot therefore presuppose that the *belief* in authority institutes that authority. The Weberian notion of legitimacy is part of a broader conception that I will call the 'source-legitimacy model', portrayed in Figure 7.2. Its basic claim is that understanding legitimacy equals understanding its source. For Weber, the source is subjective beliefs. For Habermas, it is the public conditions of communication. Thus the model cuts across theories of legitimacy.

However, in Chapter 3 I argued that the early Habermas in *ST* could be interpreted as propounding a particular form of pluralism when it comes to sources as well as legitimacies. That is, he understands different public spheres as sources of different legitimacies that institute different regimes. Figure 3.2 showed three variants of this relationship, which fit the basic scheme of the source-legitimacy model. For instance, one can carve out the democratic system of domination (P) from the bourgeois type of legitimacy (L) which is nested in its source, the nonideological aspect of the bourgeois public sphere (S). This applies similarly to the representative and commercial public spheres. According to my interpretation, *ST* shows that the public sphere as a political category mutates, and that it produces different legitimacies as a result.

We cannot, however, take *ST* beyond its assumptions, namely that the public sphere and legitimacy are related one-to-one, source-to-legitimacy. *ST* pays attention to the capacity of public spheres to *stabilise* legitimacy. But what if the
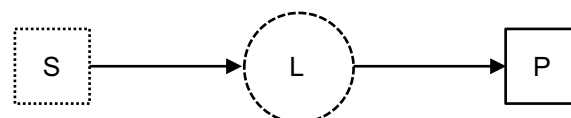

Figure 7.2 The source-legitimacy model. The source (*S*) creates the notion of legitimacy (*L*) which embodies the political system of domination (*P*).

central feature of the public sphere is the opposite—to destabilise legitimacies? That is, to introduce the social risk of an agent penetrating the space of visibility with claims and ambitions to institute another form of legitimacy, or at least, to conjure up alternative frameworks of legitimisation? If pieces of legitimacy are socially created and assembled in the public sphere, then they are also precariously exposed to social dismantling: the public sphere's capacity to take strategies of legitimisation apart and put them together anew to form other and entirely different perceptions of what is legitimate. I mean destabilisation in the sense of forging new demands for legitimacy. This is not the same as the sociopolitical substitution of one legitimacy with another, for example, absolutist with bourgeois legitimacy. Rather, I propose that legitimacy in the public sphere is always subject to recalibration, which does not automatically imply changing the system of domination.

Let me look more closely at the source of legitimacy. If we begin to see the sources of legitimacy as being created by the public sphere, we can begin to understand the public sphere as offering different mutations that sustain legitimacies in specific ways.

7.2.2 The recalibrating ground of legitimacy: the popularity of Elizabeth I

I will use Jeffrey Doty's 2017 book *Shakespeare, Popularity and the Public Sphere* and its analysis of the concept of popularity to illustrate my point that the sources of legitimacy can change due to the workings of the public sphere. I suggest that the following example makes it possible to understand that the public sphere can harbour dynamics that bring about changes in the sources that constitute legitimacy. This is portrayed through the analysis of the semantic change in the concept of popularity during the Elizabethan era. In Doty's words:

A language of what we call publicity had only just begun developing in late Elizabethan England. It originated to identify (and condemn) how elites, by making political appeals to common people, broaden matters of state to public concern. The word 'popularity' became a catch-all for political communication related to the commons. It was used in the 1570s to warn against addressing political or religious arguments directly to the people. By the 1590s, 'popularity' could also refer to the tactic of ingratiating oneself to the people, the possession of popular favor, or the discussion of politics among the people. (Doty 2017, 3)

Moreover, Doty notes, popularity could refer to "the act of publicity itself" (2017, 3). The rapid change of meaning gave 'popularity' a "semantic complexity" (2017, 17): in the 1590s, one distinguished between the popularity a person enjoyed among the people on the one hand, and on the other hand the popularity a person desired to obtain from them: "popularity is beneficial, but only if one can somehow become popular without becoming publicly reputed as someone who is popular" (2017, 18). This dilemma underscored another, paradoxical change in the constitution of power:

> Political figures courted the people's favor for personal political gain or to bring the weight of 'opinion' to their side of a controversy. Public Opinion could help secure one's title, defuse political opposition, serve as a basis for opposing one's sovereign, or confer added influence in council or parliament. Elite appeals to 'the people', however, violated—and sometimes happened right beside—denunciations of popular political participation. … *In trying to win public opinion, elites contradicted their own prohibitions on who could think and speak about political matters.* (2017, 2f) (my italics)

Although Doty is focused on how Shakespeare's dramas staged thoroughly calculated and feigned strategies to win over the people, thereby laying the ground for self-reflection in the people as something to be won, it is also Doty's achievement to show how the general political climate (of which Shakespeare was an important part) in Elizabethan England performed a structural change in the notion of legitimate political agency. During the long period of Elizabeth I's immense popularity, it was new that the people were given royal attention, and they were becoming accustomed to their newly established communicative relationship with the monarch. As Doty (2017, 8ff) shows, Elizabeth was an extraordinary sovereign who nurtured a meaningful relationship to the people, and from being a category without political importance, the people attracted the elite's attention as a source of political legitimacy. For Doty, Shakespeare's *Measure for Measure* shows how Elizabeth's successor, James I, "famous for his absolutist theory of monarchy and his impatience with crowds reacts to a public that has been long acculturated to participating in, rather than merely witnessing, royal pageantry, and how the public thus feels itself a constitutive part of, rather than a mere subject, to royal authority" (2017, 28). In the early modern public sphere, the concept of

popularity instituted a political integrity in the people, however minuscule, giving them a role to play in the construction of what substantiated the legitimacy of absolutism. Doty gives us access to an example of how popular praise was mobilised openly—from within the corridors of political strategy outwards, via publicity—and how elites, appealing for power through the visibility of public attraction, constituted a political semantics that formed the idea that absolutist legitimacy also had another source, namely the people. This shift indicates a doubling of the political constituency regarding the same form of legitimacy. This is shown in Figure 7.3. This example shows that the system of domination was institutionally and legitimately unchanged: absolutism was still in place, although its sources through publicity had changed significantly. It shows that sources of legitimacy can be dynamically knit into the mesh of the public sphere.

In sum, Doty's example shows that the public sphere is the engine of this form of social change, which by visible means affects the sources of legitimacy in one way or another. However, there is no guarantee that the public sphere will not initiate normatively undesirable sources, which may establish legitimacies in both good and bad directions. As a realist concept, the public sphere signifies a form of change in political circumstances, and not a normative structure in the maintenance of the sources of legitimacy.

Let me therefore note the difference between realism and pessimism, two distinct yet easily conflated terms. The pessimist view criticises the public sphere from a disappointed normative standpoint. For example, Adorno ([1964] 2005) argues, perhaps unsurprisingly, that commercialisation and the culture industry pervert the public sphere, while Pierre Bourdieu (1979) proclaims that entertainment takes over the political space of the public sphere and extinguishes people's political interests and attitudes. Although Adorno and Bourdieu may be realistic, so to speak, they can be distinguished from realism as a philosophical position towards the public sphere, because they ultimately posit an ideal conception of what the public sphere should do (which would be: fostering political consciousness), which is ruined or
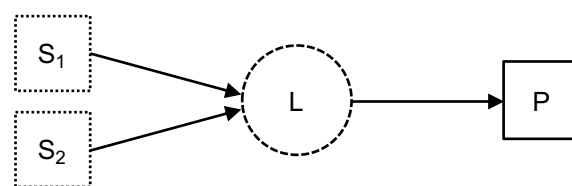

Figure 7.3 Expanding the sources of legitimacy.

overshadowed by other social circumstances. As I have deployed it here, the technical use of 'pessimism' is therefore produced from the absence of the normative performance expected from the public sphere. In contrast, realism investigates political concepts without any presumptions about ethically desired states.

7.3 Realism and the public sphere

I have shown that the public sphere may be coupled to legitimacy through the creation of sources of legitimacy. In contrast to Kant, Habermas, and the tradition of deliberative democracy, which see the public sphere as a coherent system of legitimisation, realism conceptualises the public sphere from the assumption that societies may inhabit a fragmented social ground, with diverse perspectives that struggle with each other. As a corollary, realism must articulate a model in which the production of multiple sources also propagates multiple notions of legitimisation. In Section 7.3.1, I will make the case that the main problem with Mouffe's realist theory of agonistic pluralism is that it introduces a nonfragmented notion of legitimacy. In Section 7.3.2, I analyse the innovative concept of the counterpublic; I argue that counterpublics do not qualify as publics and therefore should be reformulated in terms of the broader concept of countersignalling, which is more suited to explain public oppositions without the cultural embeddedness presupposed in counterpublics. Thereafter, I will propose a three-layered LoA which portrays the conceptual parts of the model of the public sphere that I will develop.

7.3.1 Agonistic pluralism

One prominent version of a strong realist position in the conceptualisation of the public sphere is Mouffe's agonistic pluralism. Mouffe (1999) argues that democracy is a political form which, in contrast to deliberative democracy, offers no tools for the harmonisation or convergence of political positions. Democratic institutions should not seek to eradicate or placate conflicting opinions, but rather should aim to handle the oppositional frictions between them. Mouffe's (1999, 754f) theory of the public sphere relies on her distinction between two concepts: the 'political', which is always conflictual and never reconciliatory, and 'politics', which refers to the discourses and practices that establish the framework for dealing with the essential conflicts of society. Politics thus encompasses the practical system of domination, while the political is the social ontology underpinning every

institutional and noninstitutional organisation of politics. That the political is the basis for politics also means that politics can never reach a satisfactory end state of community for everyone. Opinions and beliefs constantly struggle with each other—for instance, between left and right.

Agonistic or rival positions are therefore not necessarily caused by any manipulative or polarising media ecology. The root of conflict is permanent, not stimulated or caused by external factors. Proponents of different political projects should thus see each other as 'adversaries' instead of competitors or illegitimate enemies: "an adversary is *a legitimate enemy*, an enemy with whom we have in common a shared adhesion to the ethico-political principles of democracy" (Mouffe 1999, 755) (my italics). Politics is played out in a common negotiation between countering parts, and for Mouffe (1999, 756) the public sphere facilitates the arena of dispute between political positions.

For Mouffe, legitimacy cannot be determined a priori before social power relations, which are contingent on the particular society (1999, 753). In this sense, *legitimate* political positions form in an "always vulnerable terrain" where their determinants are subject to change (1999, 753). I will borrow this vulnerability in the formation of legitimacy from Mouffe as I develop my account of the public sphere. However, I will also argue that there is a problem when it comes to Mouffe's key notion of agency in the public sphere, namely the adversary. What conceptual work is left for the public sphere in Mouffe's theory regarding legitimacy if the adversary is already defined as legitimate *prior* to entering the public sphere? If political debate is carried out on the basis of predetermined political positions, the public sphere only hosts discussions *between* legitimate views and does not pertain to their *formation*. Regardless of the public sphere, then, every political projection into the public sphere corresponds to a legitimate position which is grounded on a relational base of power. In this way, Mouffe's theory mimics a Marxist social ontology where the social categories of struggle in the public sphere are already defined elsewhere.

But how do political positions define themselves as legitimate from the conditions of power? Can they do so autonomously? I have shown in Chapter 6 that signalling as public-making need not have a representative basis in material needs, discourses of opinion, or the population at large. All sorts of public opinions can emerge from information dynamics, automated social agents, or other social structures that disproportionally represent the chaotic conglomerate of attempted interpretations of opinion that make up the public sphere. So not all political

positions coincide with an adversary. The problem with 'the adversary' in Mouffe's theory is the unclarity regarding the identification of political positions that are unworthy of the label 'adversary', since the label entails the animation of a *legitimate* enemy in democratic debate. What is the Mouffean criterion of illegitimacy? Is it theorised a priori, before the relations of power? And how is that even possible from a realist point of view? My suggestion is that the public sphere can continually redetermine the building blocks of the question of legitimacy. This is done internally to the public sphere. When Mouffe suggests that adversaries stem from the historically dynamic positions of power but also defines the adversary as legitimate in the public sphere, she introduces a legitimate/illegitimate distinction which is hardly determinable. On one hand, Mouffe proposes a theoretical grounding for the relations of power on which legitimacy is contingent, while on the other hand she also proposes a conception of legitimate agency separate from the conceptive material relations of legitimacy.

In my view, Mouffe's realist theory of the public sphere is unable to cope with the fundamental struggle of the political, so defined, because the adversary as the legitimate agent becomes the benchmark of political struggle, and she thus disregards the illegitimate sides of 'the political'. As noted in Chapter 1, a realist theory of the public sphere should aim to theoretically explain the characteristics of the public sphere in order to conceptualise what it does and not what it should do.

One of the concepts which seeks to explain the emergence of not only different opinions but also different frameworks of legitimisation is the concept of counterpublics, which aims to theorise the relationship between many publics in one public sphere. 'Counterpublics' circumvents some problems, yet at the same time it introduces other problems which in my view must be diagnosed and subsequently dealt with in a realist theory. This is what I will try to do in the next section.

7.3.2 Counterpublics

The conceptual invention of the counterpublic is one of the most important innovations for scholarship on the public sphere. It is also a problematic one. When Habermas framed the idea of the public sphere as a product of a homogenous (i.e. bourgeois) class structure, the logical step for other scholars was to adjust the public sphere to an antagonistic class structure: did the concept also work for other classes with different experiences and perspectives? In retrospect, this move seems to have been inevitable—to misparaphrase Robert Heilbroner ([1953] 1986, 251)—because

it was a move towards describing a fragmented society with a concept based on unity: the concept had to be either reformed or left behind, from a realist point of view. However, as I will show, the idea of the counterpublic does not diversify the public sphere without encountering new theoretical problems. By pointing out the social conditions and experiences that make certain needs and wants visible, it also raises fundamental questions about the formation and direction of the signals of the public sphere as a societywide political category.

It was Oskar Negt and Alexander Kluge ([1972] 1988) who, by following Marx's path-breaking social ontology, argued that Habermas' class analysis had neglected the public-making potential of the proletariat. Negt and Kluge's claim was that the proletariat exhibits a counterform of publicity based on its unique social experiences, distinct from the publicity of the ruling class. The unifying and deliberative public sphere model envisioned by the bourgeoisie is therefore theoretically unsatisfactory as an emancipatory category. It works only by oppressing the proletarian public sphere, which belongs to another set of material conditions and therefore has a wholly different experiential grounding. The worlds of the capitalist and the worker do not overlap: as Negt and Kluge write, "coexistence is impossible" ([1972] 1988, 78).

The question is: does Negt and Kluge's theoretical work break down the internal fabric of the public sphere in order to make it more nuanced? Or do they tear the category apart in order to discard it? The answer depends on the LoA one adopts. On the one hand, an affirmative answer to the first question means that 'the public sphere' is made up of oppositional forces, of different material conditions and social experiences that can somehow still be visible in the overall public sphere. In the same way as the bourgeois public sphere is made up of many subjects and audiences that fuse into a political category, so the counterpublicity can draw attention to a radically different perspective (the workers') which is also made visible by its own logics of publicity. On this reading, Negt and Kluge thereby help to pin down the essentially fragmented nature of the category of the public sphere, which contains different classes and hence different world views that nonetheless are able to encounter each other.

On the other hand, one could argue that Negt and Kluge refer not to a system of parts, but to mutually exclusive wholes. The bourgeois and proletarian public spheres, on this reading, are separate categories that do not intersect, because material and hence social conditions set them apart. The only solution for bringing them together is to resolve them by bringing capitalism to an end: abolishing
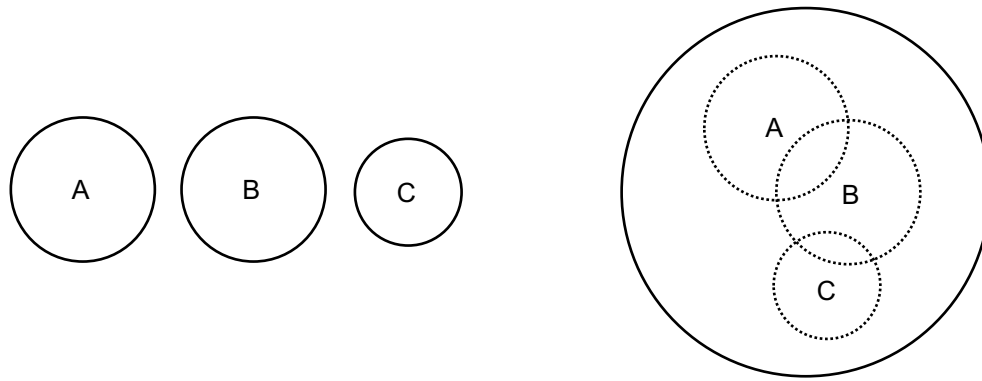
Figure 7.4 Models of the isolatory view (left) and the integrated view (right). *A*, *B*, and *C* signify publics. The former portrays no interaction or shared conditions between different publics, and shows no overall public sphere. The integrated view argues that the highest LoA is the comprehensive public sphere within some area (a society, for example). The isolatory view argues that the highest possible LoA of publics only corresponds to each individual public that does not participate in, or maintain, a more comprehensive category.

ownership of the means of production, and thereby dissolving the condition that ultimately created exclusive social experiences. This isolatory view means that public spheres are closed around themselves and pertain to their own dynamics.

Methodologically, Negt and Kluge's model is a prototype of the relationship between dominant and oppressed publics, which I think can be interpreted in these two ways. Analytically, the different publics are clinically differentiated entities, represented by A, B, and C in Figure 7.4. They relate in their own crystalline ways to material, social, cultural, and political circumstances. Their publicising infrastructures may even be separate. Depending on the LoA, the prototype can endorse two different views. On the integrated view, A, B, and C as a compound make up the composition of the general public sphere. On the other hand, on the isolatory view, the separate publics reveal that 'the public sphere' has to be dropped as an overall political category: public spheres become impenetrable from the outside, they shield their publicity, and they are capable of social change only inwardly. In such cases, publics are immoveable strongholds, so to speak, rather than mobile ground forces in the landscape of society.

I endorsed noninstitutionalism above by criticising Fraser's weak/strong distinction from her 1990 article, but there is also another reason for the canonical status of Fraser's article in the public sphere literature: it thoroughly engages with

the concept of counterpublics.[49] Fraser favours the integrated view in which counterpublics and dominant publics engage within an overall public sphere. Any public arena has hegemonic norms pertaining to linguistic genres, ways of socialising, and patterns of tracking problems, and Fraserian counterpublics essentially contest the dominant priming of those norm codes. "Counterpublics contested the exclusionary norms of the bourgeois public, elaborating alternative styles of political behavior and alternative norms of public speech" (Fraser 1990, 61). By default, counterpublics meet resistance when they participate on their own terms, which are alternative and unwonted compared with the dominant norms in the public sphere. However, the counterpublics are not ousted:

> Insofar as these counterpublics emerge in response to exclusions within dominant publics, they help expand discursive space. In principle, assumptions that were previously exempt from contestation will now have to be publicly argued out. … In my view, the concept of a counterpublic militates in the long run against separatism because it assumes an orientation that is *publicist*. Insofar as these arenas are *publics* they are by definition not enclaves …. After all, to interact discursively as a member of a public—subaltern or otherwise—is to disseminate one's discourse into ever widening arenas. (Fraser 1990, 67) (original italics)

Whereas the isolatory view can hardly do any conceptual work other than to refer to communicatory enclaves, Fraser—in congruence with the conceptual tradition of the public sphere—also points to the cruciality of publicity, and of the circulation of communication that transcends the enclaved cultural boundaries of values and world views. Counterpublics, then, contribute to the discursive space in the sense that they exhibit an array of unusual perspectives that remain distinguishable from the dominant norms.

In general, then, we can conclude that the idea of an egalitarian, multi-cultural society only makes sense if we suppose a plurality of public arenas in which

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[49] Fraser notes in her twenty-second footnote that 'counterpublic' is taken from Rita Felski, who uses it to denote the feminist public sphere: a partial or counterpublic sphere, as Felski (1989, 167) calls it, that participates in the greater public sphere, contributing a hitherto neglected perspective. In this sense, Felski's concept, like Fraser's, also endorses the integrated view (see also Felski 1989, 164ff).

groups with diverse values and rhetorics participate. By definition, such a society must contain a multiplicity of publics. However, this need not preclude the possibility of an additional, more comprehensive arena in which members of different, more limited publics talk across lines of cultural diversity. On the contrary, our hypothetical egalitarian, multi-cultural society would surely have to entertain debates over policies and issues affecting everyone. The question is: would participants in such debates share enough in the way of values, expressive norms, and, therefore, protocols of persuasion to lend their talk the quality of deliberations aimed at reaching agreement through giving reasons? … I see no reason to rule out in principle the possibility of a society in which social equality and cultural diversity coexist with participatory democracy. … After all, the concept of a public presupposes a plurality of perspectives among those who participate within it, *thereby allowing for internal differences and antagonisms*. (Fraser 1990, 69f) (my italics)

Counterpublics and dominant publics have different norms and conditions that form in different discursive arenas. But they can raise their voices in meaningful ways across contexts in the public sphere. They can, for example, march in the streets and, column after column, continue in the newspapers. These are venues where others can take notice of counterpublics and engage with them in the attempt to understand their views.

So far, so good. The conceptual problems arise when Fraser argues above that, for publics to be publics, 'internal differences and antagonism' must be present. We may ask: is a counterpublic, or even a dominant public, internally differentiated, and at what LoA? We know that anything is virtually complex at more finely grained LoAs. But the LoA Fraser (seems to) work at positions the counterpublic, in conceptual terms, as a subordinated discursive body confronting a dominant discursive body. They encounter each other as conceptualised wholes (as A, B, and C in Figure 7.4). Both the oppressed and dominant publics are therefore symmetrical in the sense of being entities that work as publics. However, we can only consider these publics as conceptualised systems that engage in a relation of power when they resist internal differentiation or fragmentation. If A dominates C, then A and C are *undifferentiated* wholes. Are they no longer publics?

When these systems, creating dissonance in their encounter, meet in the greater public sphere (i.e. at a higher LoA), these meetings exhibit the plurality of perspectives that qualifies their encounters as genuinely public-making, according

to Fraser's criterion. The question is whether Fraser can retain the publicness of her more unified, solidified publics, especially the bourgeois public, since she defines these publics in terms of similar norms and codes that exclude other norms and codes. Her characterisation of publics in terms of counterpublic and dominant public thus leans heavily towards homogeneity and not variety. The theoretical question here is whether a 'counterpublic' is a discourse or a way of seeing the world that does not strictly qualify as a public.

Now, the issue is not what 'counter' in the concept of counterpublic introduces, but in what way the counterpublic is a 'public'. In the attempt to define a more diverse public sphere, consisting of one dominant public and more counterpublics, Fraser explicates her concept of a public by hardening it with specific values and contexts that allow certain perspectives while obstructing others. It is this hardening, one could say, that allows Fraser to juxtapose different publics in opposition to each other in the first place.

In trying to solve the problem of homogeneity in the public sphere, Fraser ends up conceptualising the same form of homogenous environment at a lower LoA: now there are just many homogenous publics instead of one. I will call this 'the problem of unity'. The problem arises for Fraser too, I think, as an unfortunate side effect of her attempt (cf. 1990, 71f) to redirect the conversation about the common good in the public sphere from the fixed (*qua* dominant) to the negotiable (*qua* counter). Of course, counterpublics conceptually denote other ways of framing and seeing problems, and quite realistically so. Much-used examples of nonaccepted issues for counterpublics are homophobia, domestic violence, and catcalling, which have previously been deemed illegitimate as public issues by the dominating public. According to Fraser, citizens in the deliberative public sphere conform to an already-established common good, which precludes counterdiagnoses of problems. Without the counterpublic as a concept, the Habermasian public sphere leads to exclusion based on an ordained 'we', without room for negotiation beyond the established norms (Fraser 1990, 72). I will now argue that Fraser's argument is a straw man version of the Habermasian stance. This raises once again the question of what Habermas is taken to suggest, and what kind of proposal for unity or commonality his theory of the public sphere establishes. For Fraser, it is the unity in terms of the 'we' that is inimical to the realism of the public sphere.

Let me therefore focus for a moment on what I take both to be Habermas' project in *ST* and to be specifically relevant in this context: the public sphere was an ideological political project that had, as Habermas discerned, a nonideological

aspect. The bourgeois project stated, especially via Kant, a nonideological frame for political sovereignty that was meant to be so flexible that it could abandon any real talk about sovereignty.

In relation to Fraser, the question is whether the unity of the Habermasian public sphere in *ST* refers to the sphere of material conditions and its participants (i.e. the bourgeois class), or rather to the principle of contestation through deliberation. I would argue that Habermas focuses on the principle instead of the class. Nonetheless, Fraser criticises the material conditions, and she is therefore right— as Habermas thoroughly argued too—to make the argument that the material basis was "bourgeois masculinist ideology" (Fraser 1990, 62). Fraser is mistaken, however, in claiming that the Habermasian conception of the public sphere finds the exclusion of women and so forth to be justified in terms of the nonideological principle of domination.

In my view, Fraser's mischaracterisation of Habermas' project permeates much of her reading. Fraser (1990, 60f) claims, for example, that it is problematic that Habermas does not analyse other publics that materialise at the same time as the bourgeois public. Although it is indeed fruitful to study alternative publics for a variety of reasons, Habermas' analysis mainly articulates a positive political project using the bourgeois as theoretical leverage. It is unclear whether Habermas could have made the same claim by analysing other publics, specifically because Kant belonged to the bourgeois tradition.

Recall my proposition from Chapter 3 that we read *ST* as an early attempt to connect different public spheres with different types of legitimacy (cf. Figure 3.2). If we read Habermas in this manner, Fraser is wrong to propose that "Habermas' account stresses the singularity of the bourgeois conception of the public sphere, its claim to be *the* public arena in the singular" (Fraser 1990, 66) (original italics). *ST* proposes three conceptions of public spheres, not one (cf. Section 3.1).[50] But Habermas proposes that one of them is correct, as his later philosophical development also emphasises.

To circle back to the idea of counterpublics and dominant publics: the problem of unity remains. Let me make four points about unity related to the principle of

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[50] In the ninth footnote in Fraser's article, she concedes that Habermas' preface to *ST* defends his decision not to engage with the plebeian public sphere under the French Revolution or the plebiscitary-acclamatory public sphere in dictatorial industrial societies. But unfortunately, Fraser does not acknowledge that Habermas directly engages with *other* public spheres than the bourgeois public sphere in *ST*, as I have shown in Chapter 3.

contestation through deliberation, and about how I think Habermas' theory can embody Fraserian counterpublics. I will then propose another critique of Habermas and a revised conceptualisation of counterpublics that solves the problem of unity.

First, Habermas argues that the conceptual form of the public sphere already makes it possible, based on its theory of justification as its theory of dominance, to encompass different perspectives. Justification means publicity in the manner of introducing as well as contesting issues in public discussions.

Second, Fraser (1990, 63) argues that social equality is a prerequisite for the bourgeois public sphere. However, as this condition is not fulfilled in the bourgeois public, Habermas' political project can instead be summed up in terms of Kant's, namely that critique of critique by means of critique is the only permitted expression of public-making vis-à-vis political development. No materialised political project can legitimately exempt itself from public criticism. Indeed, the bourgeois public excludes nonbourgeois counterperspectives, but the Habermasian theoretical claim is to substantiate the nonideological core of the self-understanding of the bourgeois, holding a conception of legitimacy in order to renew it in the context of postmetaphysical society. Thus, Fraser's counterpublics can be seen as a step in that direction.

Third, as I have shown in Figure 3.5, for Habermas, to make private issues public is a matter of changing communicatory conditions, and not of precategorising themes as specifically suited to be public or private. Usually, Habermas claims, private persons in civil society are much closer to the places where problems are conceived. This means that the definition, detection, and address of political problems is captured by the lens of everyday experience: through the use of the public conditions of communication, one can articulate the public meaning of problems, thus making them visible for handling by the political centre.[51]

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[51] As Habermas writes: "the communication structures of the public sphere are linked with the private life spheres in a way that gives the civil-social periphery, in contrast to the political center, the advantage of greater sensitivity in detecting and identifying new problem situations. The great issues of the last decades give evidence for this. Consider, for example, the spiraling nuclear-arms race; consider the risks involved in the peaceful use of atomic energy or in other large-scale technological projects and scientific experimentation, such as genetic engineering; consider the ecological threats involved in an overstrained natural environment (acid rain, water pollution, species extinction, etc.); consider the dramatically progressing impoverishment of the Third World and problems of the world economic order; or consider such issues as feminism, increasing immigration, and the associated problems of multiculturalism. Hardly any of these topics were

Fourth, the Habermasian public sphere is a political domain where subjects may even use the rules of communicative rationality to contest what is considered legitimate in the public sphere. However, they cannot contest the rational means of confrontation, which is the basis of the procedural production of legitimacy. These dimensions are the essence of unity in the procedural notion of legitimacy. In sum, they imply that whatever materialises by rational means is de facto legitimate, while continual discussions in the public sphere can also change the catalogue of legitimate issues from one status quo to another.

I would like to suggest another criticism of Habermas that I will use to build an alternative account to Fraser's, which I find untenable. Recall that the Habermasian public sphere is "linguistically constituted" (FN 361). What if public-making cannot be understood only in terms of linguistic constitution? Are there other meaning-creating dimensions of human lives—signals in the public sphere that are not linguistic? Let me give some examples of artistic expression as evidence for affirmative answers to these questions.

In different ways, feminist artists such as Eleanor Antin and Hannah Wilke critically portrayed women's position in society in the 1970s. In *Carving: A Traditional Sculpture* (1972), Antin starved herself to shape her body according to the beauty ideals of the time. Wilke, on the other hand, made a point of her looks by posing in pin-up positions with surrealistic accessories in *S.O.S.: Starification Object Series* (1974–1982) (see Images 7.1 and 7.2). Both Antin and Wilke artistically emphasised the political subjugation of women to certain stereotypes. I claim that Antin's and Wilke's expressions are not linguistic moves in the public sphere. Still, they should be theoretically framed as public-making. In their artworks, Antin and Wilke did not make linguistically precise statements, although they did nevertheless make acute political points.

Habermas' theory of the public sphere presupposes that any contribution to public-making is possible only *after* it has been constituted linguistically. This means that if Antin and Wilke were to explain their artworks, then their statements would be eligible as acts in the public sphere. But it excludes their principal

initially brought up by exponents of the state apparatus, large organizations, or functional systems. Instead, they were broached by intellectuals, concerned citizens, radical professionals, self-proclaimed 'advocates', and the like. Moving in from this outermost periphery, such issues force their way into newspapers and interested associations, clubs, professional organizations, academies, and universities. They find forums, citizen initiatives, and other platforms before they catalyze the growth of social movements and new subcultures" (FN 381).
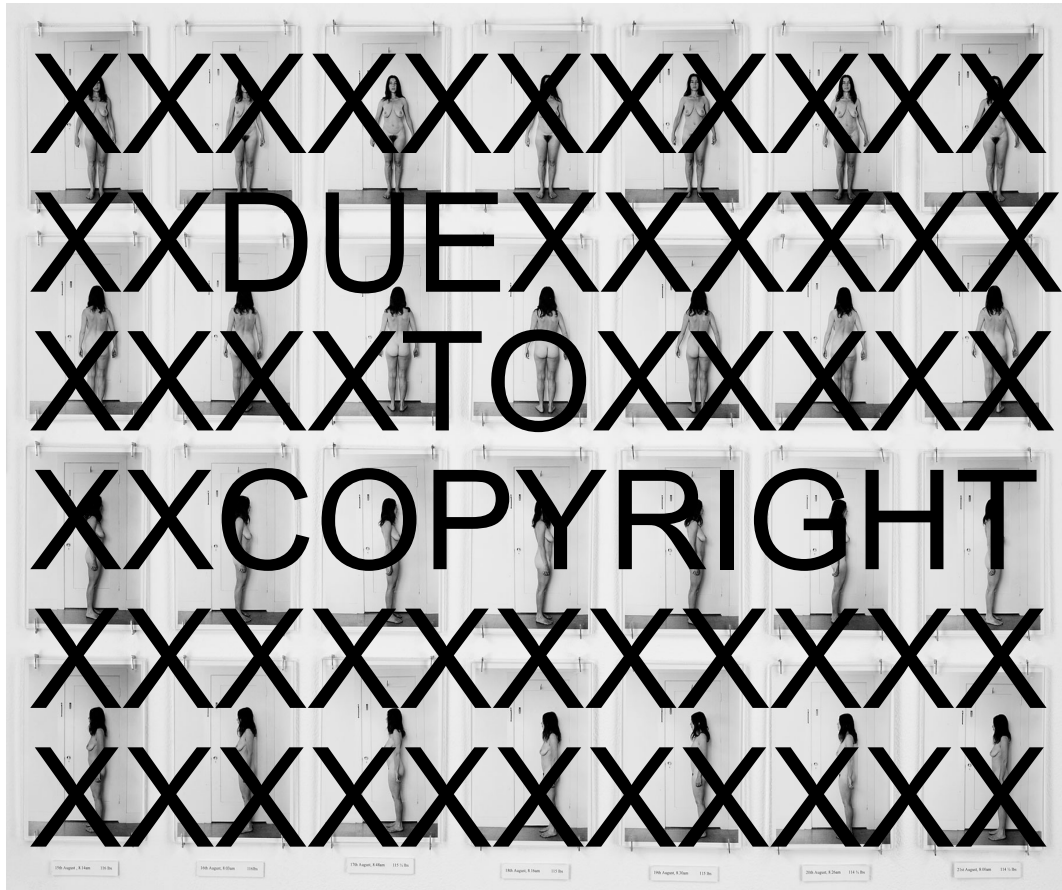
Image 7.1 Eleanor Antin, detail of *Carving: A Traditional Sculpture* (1972, 148 silver gelatin prints in complete piece). Ronald Feldman Fine Arts, New York. Photo: Hermann Feldhaus.

expression on display. To solve this sort of problem, I proposed in Section 6.3 to regard public-making as an act of signal-making, which covers nonlinguistic acts too. Signals broaden the scope of public-making in the sense that *contributions* to the public sphere are internally determined by the interpretations of the participants (both active agents and observers). The notion of a signal, what it is and how it should be understood, is left to those in the public sphere to negotiate and find out. Think of films such as *Modern Times* (1936, Charlie Chaplin) or *My Uncle* (1958, Jacques Tati), which were made for audiences attuned to being able to see critiques of modern living in such films. Without linguistic constitution, these films nonetheless succeeded in a signal-making that portrayed the relation between humans and technique through the themes of industrialism, modern architecture, and managerialism.

With this broadened notion of what it means to contribute to the public sphere, I can now return to the problem of unity and try to solve it. The problem refers to the
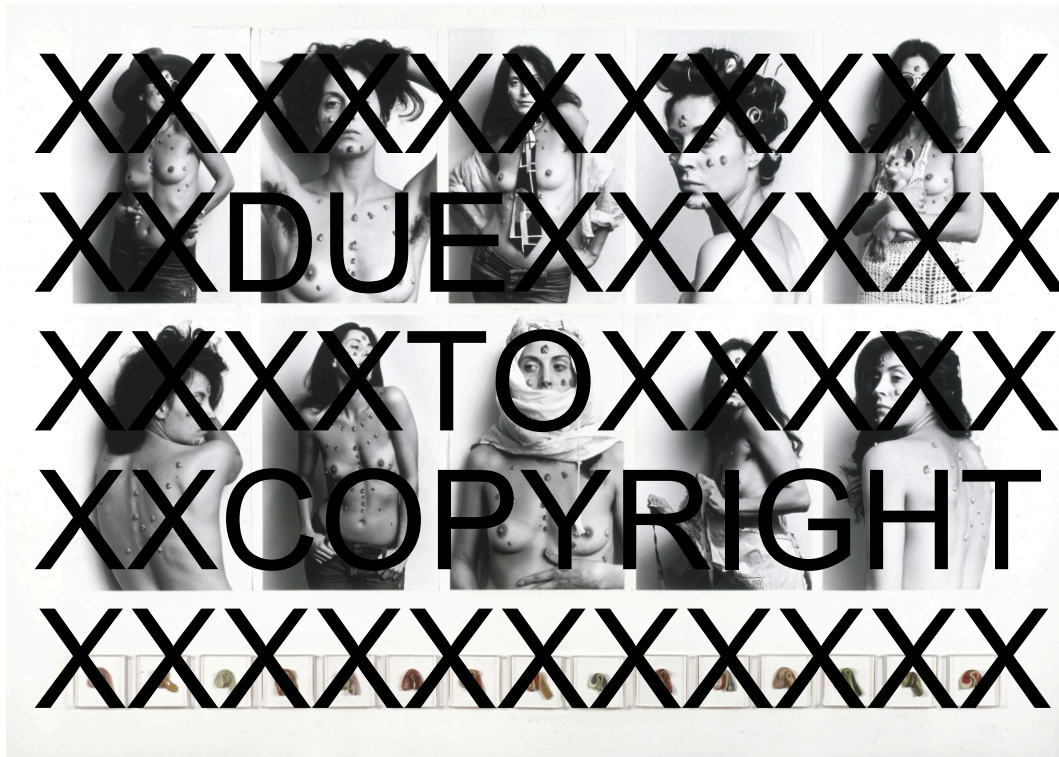
Image 7.2   Hannah Wilke, *S.O.S.: Starification Object Series 1974–82*. Gelatin silver prints with chewing gum sculptures, 101.6 × 148.6 × 5.7 cm © 2020 Marsie, Emanuelle, Damon and Andrew Scharlatt—Hannah Wilke Collection and Archive, Los Angeles. © The Museum of Modern Art/Scala, Florence.

situation where the introduction of counterpublics, in the attempt to diversify the concept of publics, ends up with the same problem at a lower LoA: namely, publics (counterpublics and dominant publics) are defined as homogenous cultural units. This means that counterpublics and dominant publics cease to be publics according to Fraser's own definition ('after all, the concept of a public presupposes a plurality of perspectives among those who participate within it'). To solve this problem, I will introduce two fundamental concepts that comprise my notion of the public sphere. I already introduced 'signals' in Section 6.3, but will say more about it in Section 7.4. I will also use introduce the concept of 'political semantics' in more detail in Section 7.5. For now, however, I will suggest a notion that solves the problem of unity. I propose to rephrase the public sphere in terms of *public-making*, so that the common conceptual attribute of the public sphere is the production of signals. Signals are the smallest building blocks of the public sphere, the observables at the lowest LoA. Political semantics refers to the production of the meanings of public-making signals at the middle LoA of public-making. Finally, political semantics comprises the public constitution of legitimacies, which refers

to the LoA of the public sphere that is higher than the other two.[52] Figure 7.5 models these levels and avoids the use of counterpublics. Counterpublics are problematic because they only refer to a specific type of public-making—which may be subsumed under my concept of political semantics, because counterpublics refers to the production of specific cultural norms in the public sphere through the use of signals. Political semantics, however, allows a broader scope in which one may analyse different productions of meanings, irrespective of whether those meanings are established countercultures or stem from other social dynamics of opposition. My answer to the question of how to understand different meanings in the public sphere while retaining a conceptually coherent framework that does not produce the problem of unity is to point to political semantics.

This model also satisfies what I will refer to as realism's 'condition of instability', which refers to the ability to conceptualise the uncontrollable complexity of meaning in the public sphere. Countercultures which emerge in the public sphere as counterpublics with certain manifested social norms presuppose a *stability* of meaning. In contrast, 'instability' means that no agents (or macroentities such as counterpublics) in the public sphere can claim a monopoly on the meaning of their signals. This idea of instability is already embedded in the nature of the
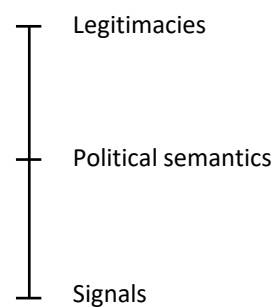
Legitimacies

Political semantics

Signals

Figure 7.5 The three LoAs of public-making.

[52] The broadest and therefore most nonspecific LoA adopted for the public sphere was LoA$_{Visibility}$, which was established in Chapter 6. LoA$_{Visibility}$ comprises these other, more differentiated LoAs, in the same way as (to go back to the example of the house from Chapter 1) a broad LoA comprising 'materiality' would include the plumbers' sanitation infrastructure as well as the electricians' electricity circuits. The plumbers and electricians then adopt their own respective LoAs, each of which has a more definite set of observables; by analogy, these correspond to the three LoAs of signals, political semantics, and legitimacies, with the difference that the latter three LoAs are ontologically interdependent.

signal, because the signal can be interpreted from both the side of the producer and the side of the receiver, as stated in Section 6.3. Countercultures as public makers (i.e. counterpublics) cannot therefore be seen as specific cultural entities, but rather as signalling contributors to the public sphere which carry all kinds of public meanings. Therefore, the theorisation of counterpublics as producers of certain cultures (e.g. gay culture, black culture, hippie culture, punk culture) does not allow for the complexity that follows from the fact that each counterpublic may produce or give rise to *many* forms of political semantics, which may then be analysed.

I therefore understand the key point of counterpublics as a theoretically informative concept that points to the real generative process of publics. Those publics generally must endure by exhibiting visibility in the public sphere through public-making, while their signalling is *more frictional relative to other signals*. I will call this 'countersignalling'. Let me give some examples to show that counterpublics are immensely variegated to the degree that they can usefully be conceptually rephrased in terms of countersignalling. One example of countersignalling is the case of the anonymous yet visible expressions of resistance by a Ugandan LGBT counterpublic against that nation's homophobic dominant discourse and legal framework (Valois 2015). Participating in particular kinds of public-making may expose one to vulnerability, be unsafe, or even be dangerous and harmful, depending on the specific environment. Another example is the so-called DREAMers, young undocumented migrants in the United States who put themselves in a precarious situation by revealing their unlicensed status in the visible online forums of social media (Beltrán 2015). Even offline, the protests of these undocumented migrants in 2006, according to Cristina Beltrán, could be seen as "scenes of public disclosure" and "should be understood as the emergence of an immigrant counterpublic" (Beltrán 2009, 598). Stronger yet, the DREAMers movement managed to set the *dominant* agenda of the national political climate of the United States (Jenkins et al. 2016, 298ff).

Although the perception of friction (i.e. hostility or harmfulness) is often highlighted from the perspective of those who countersignal, such attitudes may also run in the opposite direction: some types of signalling may be perceived as confrontational from the perspective of those occupying the dominating centre, as well as those located in the peripheries of public-making. For example, the homophobic and misogynist styles imputed to some hip-hop genres, their hostility and lack of constructive proposals, may be seen as a form of "symbolic impure dissent [which, however,] can be a valuable public act of protest, a meaningful

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mode of resistance to injustice" (Shelby 2015, 78). As such, not all countersignalling needs to function in the same manner: some draft policies, some demonstrate, some circulate information, stories, or memes, some express themselves symbolically, and this does "not always aim at shaping debate within the broader public sphere" (Shelby 2015, 78). The point here is that such dissent may still be seen as public-making, although its type of discourse does not include the drafting of policy, or even aspire to the reform of its own social and cultural environment. Such 'impure dissent', as Tommie Shelby writes in the quote above, is a conceptual denotation of a type of public-making production of political semantics, which may—but does not necessarily—carry democratic normativities, depending on the interpretation of the genre. Again, we see here that the normativities of (counter)signalling cannot be entirely controlled by the producer, but remain subject to the process of meaning creation by other agents.

In conclusion, counterpublics are countersignalling entities whose public-making produces friction in the signalscape of the public sphere. Let me now turn first to signalling and then to political semantics, to explain in more detail how these concepts inform my notion of the public sphere.

7.4   Signals

The signal is the Planck constant of the public sphere, the minimal energetic activity of public-making. In this sense, discourse, norms, and cultures are not the essential conceptual fabric through which publics come to light. As the vectors of public-making, signals not only indicate the composition, direction, and magnitude of the public sphere, but also operate as its *carriers* (from the translation of the Latin '*vector*'). Section 6.4 dealt with the content, agent, and environment of the signal under networked conditions, but omitted the activity of the signal, i.e. 'signalling' (cf. Figure 6.1). I will now attempt to give body and tangible conceptual form to this activity. Publics are constituted by the visibility of signals, and are in this sense open invitations to engagement. The noninstitutionalism I defended in Section 7.1 dovetails with signalling as an activity which militates against institutional boundaries, defined memberships, and the curbing of visibility. I will make two central claims. First, signals are diverse semantic entities. Second, the semantics of signals bridges the conceptual gap between public and nonpublic. This does not entail that semantics implies a continuity of meaning in the disclosure or production of signals. Instead, it means that signals are constituted by interpreting agents,

which may imply a distortion of the original intention (or emulation of intention) of the signal's producer. It also means that signals create reservoirs of meaning that give energy to different notions of the political, which in being processed by nonpublic dimensions of society may be parachuted back into the public sphere as signals. In order to show all this, I will introduce various examples from civic (or participatory) media, because they exemplify often unusual forms of public engagement—and also because a conception of the public sphere should be able to accommodate such examples.

I understand 'civic media' as a compact term for the performance of acts that are politically significant and meaningful, and whose existence is enabled by, and thus relies on, interfaces that make engagement possible.[53] Different interfaces of civic media run on specific apparatuses that transmit or facilitate certain forms of engagement related to political activity. Today, of course, it is social media and other digital infrastructures that expand the possibilities of such engagement. Instead of just pushing old political forms through new mediations (e.g. e-voting, e-petitions, or e-government services), civic media also offer new political forms as a consequence of emerging media (e.g. activism via hashtags, tweets, or selfies (see Raji 2017)). The term 'civic media' can cover both (1) the functional enabling of those acts, which subsequently may create a new form of political engagement, and (2) the actual manifestation of those acts (the tweets, hashtags, shares, likes, etc.). When whatever is civic is mediated, both the catalysts (interfaces) and their trajectories (what interfaces make possible) count as valuable parts of the concept.

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[53] Definitions of civic media are often very broad (and therefore also vague). For example, Eric Gordon and Paul Mihailidis define civic media as "the technologies, designs, and practices that produce and reproduce the sense of being in the world with others toward common good. While the concept of 'common good' is deeply subjective, we [Gordon and Mihailidis] use the term to invoke the good of the commons, or actions taken that benefit a public outside of the actor's intimate sphere. To this end, the *civic* in civic media is not merely about outcomes, but about process and potential" (Gordon and Mihailidis 2016, 2) (original italics). Gordon and Mihailidis do not define 'public' but seem to presuppose that the public sphere concerns the common good (whatever that may mean), and moreover that it has democratic tendencies (cf. Gordon and Mihailidis 2016, 26). Since I do not posit this presupposition, my definition of civic media does not reproduce it either. In this way, I favour Zuckerman's broad definition over that of Gordon and Mihailidis. Zuckerman states that civic media are "the use of participatory media technologies for civic participation, political engagement, or social change" (Zuckerman 2016, 50f). I take the term 'civic' here to be similar to 'politics' if politics is understood as whatever is mobilised in a public as a political issue worthy of remedy through work and attention.

Civic media thus broaden the palate of political engagement, because they not only facilitate and recontextualise but also make other types of political behaviour possible. As such, civic media conceptually sharpen the focus on those cultural and social forms that take on new mediated routes to political visibility.

Recall Habermas' and Honneth's discussions of the difference between civil society and the public sphere in Section 3.4, which centred on the issue of civil society as a politically undemanding concept in comparison with the public sphere. Civic media place themselves at the watershed of these two categories, because civic media may be seen as an attempt to politically mobilise civil society to public action through technologies and methods that are already nested therein. However, public-making understood in terms of signals has ceded the criterion of rational justification, which dissolves this particular distinction between the public sphere and civil society. This means that signalling as the essential public-making activity does not need the distinction. I also think the distinction becomes increasingly hard to maintain analytically in today's media landscape, where there is no clear demarcation between the mobilisation of civil society and the activity of publics.

In general, signal-making as public-making is concentrated on interpreting some entity as a political indication. As Brady Robards and Bob Buttigieg point out in a case study about changing one's Facebook profile picture, "visibility (and the awareness that comes with being seen) does not just lead to action, but it is also a form of action itself" (2016, 135). Signalling, as stated above, should be understood as the most elemental form of possible action in the public sphere—again, a form which is productively interpreted in the public sphere, and is not to be settled in scope theoretically. However, in an attempt to give some order to the endless examples of today's public-making signalling, I have arranged signalling in spatial terms—vertical and horizontal—in Sections 7.4.1 and 7.4.2. In Section 7.4.3, I describe signalling's relation to nonpublic dimensions of activism.

7.4.1 Vertical signalling

Vertical signalling is signalling that runs through established hierarchical structures, often from citizens to politicians, interest groups to policymakers, or broadly from civil society to government. It can run both upwards and downwards. In the last decade, upwards vertical signalling that focuses on citizen participation in governmental rule-making has been innovated under its networked conditions. There are platforms which make it easier and more manageable for citizens to engage in politics by making inputs to legal processes through comments and

suggestions, and by making amendments to official proposals. For example, RegulationRoom was a platform that facilitated "public input in the rulemaking process" in the United States from 2009 to 2017 (Epstein and Blake 2016, 227). In Iceland, Betri Reykjavik (Better Reykjavik, https://betrireykjavik.is) is an example of a "socio-technical initiative designed to promote citizen participation and collaborative problem solving in city governance. … Better Reykjavik is an 'e-petition' or 'open innovation' website that enables citizens to submit, debate, and prioritize policy proposals and ideas" (Lackaff 2016, 229). As Derek Lackaff points out, Better Reykjavik is developed and run by a grassroots nonprofit organisation; its shareholders are citizens, policymakers, and public administrators; and most importantly in our context, it "has been normalized as an ongoing channel for citizen-government interaction" (2016, 229f). Discussions can be reviewed and followed by anyone with access to a computer. Just like other similar services, such as SmartParticipation (RegulationRoom's successor), Better Reykjavik's code is open source, and in my judgement it offers a well-ordered visibility of information and discussion which facilitates a technically neat form of public-making. As such, it is a space of constant signal-making that would otherwise be cumbersome in terms of access and engagement. To be sure, upwards vertical signalling is not limited to such interfaces, but also includes convening in front of parliament, signing petitions, conducting Internet campaigns, occupying public places, walking the streets, etc., all activities which make evident one's political demands with a clear address to those in power.

Downwards vertical signalling, on the other hand, denotes those instances when policymakers or other formally established positions of power signal to other circles of society, often through media. It is exemplified on social media platforms such as Twitter and Facebook, where officials ranging from police departments to government agencies and presidents post notices and statements.

United States President Donald J. Trump is a controversial pioneer of public communication via social media, and Image 7.3 provides an example of Trump's subversive public signalling, which falls outside the official lines of communication traditionally maintained between the President and the United States Congress.

Image 7.3 Screenshot from Twitter, 5 January 2020. In this post, the US President, Donald J. Trump, uses Twitter as an official notice to the US Congress. Official communication is thereby transformed into a signalling outlet in the public sphere.

Today one can find radical attempts to restructure or even eradicate vertical signalling. 'Cloud communities' such as e-Estonia (https://e-estonia.com)[54] and Bitnation (https://tse.bitnation.co)[55] try to rethink elemental concepts such as 'statehood', 'citizenship', and 'representation'. According to Liav Orgad, these community platforms "offer non-territorial forms of political membership, [and] remodel the way people think about sovereignty" (2018, 259). Although these environments are only just beginning to form, these communities may perhaps become as richly textured in terms of signalling as traditional communities by forming their own media interfaces of discussion.

Lastly, vertical signalling is the typical form of political signalling which Habermas modelled in his concept of the signal function (see Figure 3.6 and Section

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[54] "The first digital residency program in the world. In the blockchain-based digital society of e-Estonia, everyone can acquire e-residency in Estonia in order to access its digital governmental services; e-residents can establish a business in Estonia, register a company, participate in an e-school, open a bank account, and have an Estonian digital ID (e-residents are not entitled to physical residency in Estonia unless they fulfil the regular visa requirements—thus, they are e-residents without physical residency rights). In July 2017, there were more e-residents than newborns in Estonia and the country is planning is to reach 10 million e-residents by 2025, which will make its virtual population almost ten times larger than its territorial population (1.3 million in 2017)" (Orgad 2018, 259).

[55] "*Bitnation* has undertaken the most prolific experiment into crypto-sovereignty with what it calls a 'Decentralized Borderless Voluntary Nation' through situated embassies, Bitcoin ID citizenships and a 'blockchain powered jurisdiction'" (Dovey 2017, 257) (original italics). In fact, the collaboration between Bitnation and the Estonian government "demonstrates how the initially novel, strange or more extreme fantasies within the crypto-community emerge and get integrated within governments on an (inter)national scale" (Dovey 2017, 259).

6.3). But there is also another, massively richer form of signalling which carries the potential for new informal formations of power and hierarchies that are highly public-making: horizontal signalling.

7.4.2 Horizontal signalling

Horizontal signalling refers to signalling without clear, established positions of formal political power. In contrast to vertical signalling, which runs in reference to the established framework of power, horizontal signalling runs from person to person or group to group, and thereby establishes its own informal regimes, hegemonies, meanings of power, discourses, etc. in the public sphere. Together, vertical and horizontal signalling form a mesh of hundreds of thousands of public scenes, each cornering innumerable conflicts—articulated and unarticulated. Horizontal signalling can be seen as the whole body of signalling in the public sphere which does not point directly to governmental or legal change but to political dimensions of the social fabric, where its content, interpretation, and meaning are determined by those who engage in the production and interpretation of public signals. This means that the basic constitution of signals is also determined here. I will give three examples of horizontal signalling: two extreme forms (leaktivism and distributed denial of service (DDoS)), and one common form (hashtagging). Let us begin with the latter.

Hashtagging is a hypermodern genre of signalling. Hashtags are used to mobilise and coordinate forces and generate awareness about a specific problem. Movements create hashtags, and hashtags create movements. The list is long, and the case studies of #YoSoy132 (Treré 2016), #MyNYPD (Lozier 2016), and #destroythejoint (McLean and Maalsen 2016) provide overviews of specific hashtagged movements in new media. While Rachel Kuo (2018, 500) refers to a "hashtag's discursivity," Ricarda Drüeke and Elke Zobl (2018, 138) point to "hashtagged discourses" as "forms of activism [that] can create publics through protest articulations." I think one can look at hashtags as installing an organising principle without providing a formal framework for their users. One could say that the hashtag operator (#) organises attention with both centripetal and centrifugal forces. It exhibits a centripetal force because people will effectively use hashtags to get (close) to the attention centre of specific readerships or viewerships, whether for a video of their #holiday or of #policebrutality. On the other hand, the hashtag exhibits a centrifugal force because its thumbnail-like discursivity inspires others to think and write in terms of what it denotes (e.g. #MeToo, #LoveWins, or

#MakeAmericaGreatAgain), thus initiating an explosion of statements from its attention centre. In this sense, the hashtag operator simultaneously reinforces attention in two directions. This means that hashtags may not only be used as coordination devices by pre-existing movements, but may also—when they circulate—summon and energise dormant activists (see e.g. Myles 2019; Steinert-Threlkeld et al. 2015). Moreover, the frequency with which government leaders engage in vertical signalling on platforms where horizontal signalling is common shows that the two signalling categories are not tied to specific technologies or places of action, but rather are structured in terms of what they denote. This means that hashtags may also be used to address established positions of power; one may even do both at the same time. A polysemantic signal may run on both axes.

Imagine a spectrum that runs from abundant signalling to almost none. At the two extremities we find leaktivism and DDoS respectively. Both belong to the general category of 'alternative computing' and can be more specifically categorised as 'hacktivism' (see also Lievrouw 2018, 69ff). Hacktivism disrupts interfaces by interfering with their infrastructures through code in order to make a 'hack' possible. With this "deconstructive endeavor" (Thomas 2005, 660f), hacktivism creates techniques that allow alternative, aberrant, and under certain circumstances illegal practices of signalling. In Stefania Milan's words, it allows one "to practice digital citizenry, to organise and to engage in cyber-specific forms of collective action" (2015, 551). Not only are leaktivism and DDoS placed at opposite ends of the spectrum of signalling, but they also exemplify signalling from two different aspects: the receiver and the producer respectively.

Leaktivism is the publication of often massive amounts of nonpublic content that is politically sensitive. Leaktivism, the public display of confidential information,

> can have devastating timing and can partially influence elections, to the extent that in the public discourse leaktivism is seen as both enhancing democracy by holding governments and corporations accountable and enforcing transparency, and at the same time disrupting the democratic process, when the leaks are manipulated to influence public opinion and voting behaviour, as witnessed with the phenomenon of election-timed leaks occurring in the US, and subsequently in France and the UK during 2017. (Karatzogianni 2018, 257)

Leaktivism provides new possibilities for collective thinking about political issues such as war crimes (Chelsea Manning, 2010), surveillance (the Snowden

revelations, 2013), or economic inequality (the Panama Papers, 2016). Leaktivism is a contested form of signalling, as it has enormous costs both to whistle blowers and to those about whom the leak discloses information, irrespective of whether they are governments or persons. In the latter case, for example, the platform WikiLeaks made 250,000 documents public in 2011 and, presumably inadvertently, disclosed the names of informants (see Stöcker 2011). This means that leaktivist signalling does not always dovetail with the public conditions of communication, the common good, or the politically established infoscape. Nevertheless, it contributes to the public sphere, but it does so in a disruptive fashion that may disclose critical information about political systems and consequently be politically edifying (depending on the normative standpoint adopted). Of course, leaktivism is a broad category of signal-making that varies across sources, content, methods of disclosure, curation, and so forth. For example, Snowden's leak was curated by *The Guardian* journalist and attorney Glenn Greenwald and others, whereas WikiLeaks in the case above gave public access to files in raw format. Leaktivism nonetheless exposes a central aspect of the production of signals: namely, that one may release unknown signals into the world. This is not to trivially claim that signals have incalculable repercussions when they soak the social. Instead, the claim is that signals may be produced without intention in the absence of thought, oversight, or curation, unaccompanied by statements, and yet be public-making. In this sense, pieces of information can be signals without being constituted by their producer, but only because there are receivers in the social body that constitute them.

In contrast to leaktivism's radical deluging of information, DDoS enforces silence. DDoS is "a coordinated series of actions wherein many individual computers target a central server, flooding it with requests until it is unable to properly function" (Sauter 2016, 443). The point is to "overwhelm the websites and servers by bombarding them with data" (O'Malley 2013, 141), such as when "multiple computers simultaneously 'refresh' a website causing it to overload and shutdown" (Fish 2015, 85f). Anonymous, a global hacktivist movement, has successfully carried out DDoS actions against the United States Department of Justice, the Central Intelligence Agency, Amazon, CNN, eBay, and many others (see Fish 2015, 99). DDoS seems prima facie to be an antisignalling hack. However, as Molly Sauter argues, DDoS actions are similar to public marches or blockades, and they should therefore also be considered as an "alternative mode of political

participation" (2016, 444).[56] DDoS actions are unorthodox moves, meaning that their ability to be modelled in terms of their "interruptive nature … within a discursive democratic sphere is limited" (2016, 447). To qualify their significance nonetheless in the framework of a linguistically constituted public sphere, Sauter (2016, 446) positions DDoS actions as a "making-of-space, the creation of an awkward silence" that initiates public discussion. From the perspective of signal-making as public-making, such silence can be an effective way of signalling, that is, of flagging something: silencing is a means to catalyse discussions, for example about the platform in question. "Often, the disruption caused by the DDoS action is used as a tool to direct and manipulate media attention to issues the activists care about" (Sauter 2014, 59). This process is analogous to the gravitational force of a black hole, which disturbs orbits in its vicinity. Understood as a conception of activism, DDoS actions are loaded with political demands. This makes DDoS different from other, functionally similar actions such as just-in-time blocking, which do not qualify as public-making signalling. Just-in-time blocking is a method used by governments to obstruct the signalscape, "to block content and services at politically sensitive moments" (Deibert et al. 2012, 11). While just-in-time blocking does not seek to address or start a discussion but instead tries to eliminate further signalling, the silencing act of DDoS intends the opposite: to make a public-making gesture towards more signalling, to pull the strings of the media environment in order to initiate discussion. Seeing signalling as the minimal component of public-making can thus explain why DDoS contributes to the public sphere in ways that linguistically constituted models cannot.

Moreover, DDoS exemplifies how broadcast indications of political demands can produce signals without relying on recipients computing the specific meaning of the signal. From the perspective of the activists, DDoS actions deliver semantically loaded signals, although they may not successfully unload this meaning, so to speak, onto the recipients. The concept of the signal is ambiguous—unstable—in this semantic sense. The public sphere of signals therefore also comprises interrupted, failed, or disjointed ways of addressing something to someone, of broadcasting, especially when signals do not align with the local

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[56] Another similar and quite controversial example in analogy to DDoS would be the physical activist form of 'no platforming' or 'deplatforming', in which a group of activists seeks to prevent an invited speaker from delivering a talk, either by getting it cancelled or by showing up at the event and shouting down the speaker. For a history of no platforming, see Evan Smith (2020).

repertoire of signalling—that is, with the available and commonly perceived means of collective action in society.[57] Signalling, as I have used it here, can be the attempt to convey meaning, and it may count as signalling even if there is no reciprocation, like someone crying for help in a language you cannot understand—or more sophisticatedly, like an author's intended intertextual allusion that remains undiscovered. As already mentioned in Section 6.3, I do not claim that signals are constituted by the 'pure arousal' of thought. Signals, it seems to me, must be materially constituted—a glance, a silence, a closed door; a tweet, an absent response, a server out of function—in order to be public-making. Therefore, recipients of signals in the public sphere have enormous power to ascribe signals to the behaviours of someone, even if that someone did not know or intend the signalling in the first place (e.g. 'that joke is racist', 'that word is offensive', and so on).

In order to outline the threshold between public and nonpublic, I will now attempt to sketch the relationship between public-making entities and their nonpublic activities, which are no less defining for those entities than public-making activities. From the point of view of signal-making, this is a chance to look briefly at the subsurface structures underneath the variegated agencies of public-making.

7.4.3 Nonpublic relations

As a result of public-producing signalling, protest discourses travel through media ecologies, set national and even global agendas, and sometimes attain results in the form of lawmaking, or informally in cultural shifts. While this may ultimately grow from the nonpublic roots of society, signal-making movements may also foster dimensions that take root in the social ground. For example, the It Gets Better Project (IGBP) is an LGBTQ youth-oriented antibullying project which has "garnered 50 million YouTube views; launched affiliates in nearly 20 countries; and brought bullying to the forefront of main stream media coverage and public policy debates" (Honda 2016, 333).[58] IGBP is defined by its public-making

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[57] For other, similar uses of the repertoire metaphor, see e.g. the repertoire of electronic contention (Costanza-Chock 2003; Tarrow 1993) or the repertoire of collective action (Tilly 1983).

[58] To be precise, the IGBP website (https://itgetsbetter.org) is the primary host of 70,000 videos (as of 1 May 2020). On YouTube, the IGBP US channel has had over six million views. I have not been able to verify the figure of fifty million YouTube views, which should probably be understood as

strategies of signalling (testimonies, interviews, performances, etc.) but at its core it also offers intimate and personal services such as mental, medical, sexual, legal, educational, and crisis support. Overall, the goal of IGBP is to "be a vehicle for nationwide [i.e. United States] LGBTQ policy change amid ongoing battles for equal rights" (Honda 2016, 337). In terms of the concept of the public sphere, the question is whether IGBP is entirely or only partly public-making. From the perspective of broadcasting, the LoA observables of IGBP (videos, outreach) can be distinguished from the nonobservable parts within its organisation (legal, sexual, mental, etc. support). For instance, although legal support is instrumental for changing laws, it does not initiate visible performances of acts (signals). This does not imply that this support has no connection to the public sphere, as it may assist or motivate young people to come forward with their story 'on the screen'. IGBP, then, is an example of trajectories of nonpublic activities turning into public-making, and the project shows how the conceptual division between public and nonpublic may work in a realist model of the public sphere. Moreover, IGBP is not only an encouraging support system under the radar of the public sphere; the visibility of IGBP also *ipso facto* gives young people evidence of hope in their lives.

Now, is IGBP a counterpublic? As a form of civic media, IGBP addresses the problem of bullying, and quality of life more broadly, among LGBTQ youths due to a variety of factors. IGBP is an organisation whose facilitation of user-generated public-making percolates throughout society and specifically constructs a visible network of solidarity. I defined counterpublics in Section 7.3.2 as countersignalling structures of visibility whose vectors meet above-average resistance, and IGBP is countersignalling in the capacity of its frictional public-making, which contests the status quo. IGBP is not countersignalling in terms of its nonvisible support systems, as they do not signal. Fraser and Warner also use 'counterpublic' to refer to nonpublic-making roots in counterculture. So here there is a conflict between my use and their use. As a theory of the public sphere where the minimal observables are signals, I argue that counterpublics should not be categorised as countercultures, both because counterculture cuts across public and nonpublic domains and because the term is a narrow way of understanding the formation of public opposition (or signal friction). It would be more correct to say: counterpublics are forms of

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views on IGBP's website (circa seventy views times 70,000 videos is fifty million)—although it is likely that I do not have access to the correct data, and the figure has most likely grown since Laurie Phillips Honda published her article in 2016.

signalling that carry cultures etc. with them. There is another and more significant point to make here. We have looked at many different activities as vectors of public-making, that is, signal-making operations that take different forms and thus produce an extensive array of signals. The shaping of semantics—especially regarding what politics is, can be, or should be—need not be anchored in cultures 'from below'. An essential part of the public sculpting of politics is embedded in signal-making activity. Signalling, then, as a category of a realist theory of the public sphere, is a question of interpretation about what serves as the visible meanings of the political. This is different from Kant and Habermas, who argued that the *framework* of the political (PUUR on PRUR; public conditions of communication) are settled from the beginning, determining the possibilities of legitimisation. However, signalling opens the (meta)possibility of also negotiating what counts and what the strategies of legitimisation are, because the building blocks of legitimisation are only beginning to form in the public sphere. In this sense, legitimacy depends on the definitional privilege of public-making to shape semantics, which ultimately embodies the publicly constituted strategies of legitimisation. To determine the framework of legitimacy prior to public signalling is to reverse the implication between the public sphere and legitimacy—a reversal to which Mouffe subscribed when she defined her concept of 'the adversary' as legitimate prior to the dynamics in the public sphere.

With public-making as the overall generative category of the public sphere, and signal-making as its minimal observable entity at its lowest LoA, the public sphere centrally is a semantically loaded sphere of signals. This means that the public sphere is not a surface or externality in society—a veneer of appearances—as Adut's realist theory claims (more on this presently). Instead, I will counterargue that the public sphere is a fundamentally social logic that generates meanings of legitimacy.

7.5 Appearances

This section presents a critique of Adut's theory of the public sphere. It serves as a contrast to my account of political semantics presented in Section 7.6. It is rare for scholars to devote whole books to the concept of the public sphere, so Adut's 2018 work *The Reign of Appearances: The Misery and Splendor of the Public Sphere* is a welcome realist account. I quoted Adut in Section 3.1 as critiquing Habermas' *ST* for romanticising the communicative conditions of the bourgeoisie, and for

understanding them to yield a genuinely nondominating public sphere. I have already argued why I think this is a strong mischaracterisation of Habermas' theory. Nonetheless, Adut begins his theory from this standpoint as a counterexample to the Habermasian tradition.

In contrast to deliberation, Adut argues that the public sphere consists of a bundle of appearances, surfaces. Adut's proposition is to understand the public sphere without an undercurrent of egalitarianism of political engagement, which Adut ascribes to (unnamed) scholars who are "enamoured of public dialogue" (2018, 28). Taking a realist stance, Adut suggests that there is a

> constitutive asymmetry of the public sphere between the few who receive attention and the numerous who give it, between those who speak and those who listen, between those who do and those who watch. … This asymmetry will be sharp to the extent that attention from others is profitable—hence scarce, and subject to competition. Few are visible in places that receive high publicity; even fewer are noticed; and a miniscule minority is ever heard in public. And those who seek attention are not only out to convey ideas but at least equally to acquire reputation and fame—which are at once gratifying to those with a penchant for public life and indispensable to all political action, civic or not. (2018, 11f)

Many eyes on the few: the Adutian public sphere is based on attentional inegalitarianism. 'Public dialogue' presupposes an equality of attention, which is only possible to obtain in private settings (one-to-one, few-to-few) where speakers and listeners can engage in dialogue. In the public sphere, dialogue is overridden by unequal publicity. Therefore, Adut argues, 'public dialogue' is a meaningless concept which conflates attentional symmetry with attentional asymmetry (2018, 28f).

I think Adut is making a moot point if the aim is—and I think it is (cf. Adut 2018, 63)—to argue that other public sphere theorists consider that attention is or even should be equally distributed. One does not have to endorse realism to argue that such attentional equilibrium is impossible (entropy is never zero). Moreover, such equilibrium is also unnecessary for understanding the public sphere as a space of reasons in which one can engage as a member of society.

Instead, the egalitarian basis which Adut could have criticised is that *all* members of society should *equally* be able to understand and engage with the available reasons that disseminate from the public sphere as a network of political

claims. The egalitarian basis of the Habermasian and deliberative democratic corpora is the cognitive capability to assess arguments, not the giving of equal amounts of attention.

However, Adut bases his understanding of politics on the asymmetry of attention. Politics is reduced to elites that accumulate attention: "politics in representative democracies is, above all, elite competition in front of an intermittently interested citizenry, a body whose knowledge usually consists of smatterings and who is, by and large, looking for distractions" (Adut 2018, 72). In spite of Adut's simplification of citizens' motives, and his normative distrust of those motives ('looking for distractions'), which by and large resembles Le Bon's view of crowd psychology as a debased sociality (cf. Section 6.2), I have tried to make the case in Section 7.4 that one cannot subsume civic media and countersignalling projects generally under the banner of 'distraction', or as controlled by elites.

The Adutian public sphere is thus embedded in the attention-cumulative structures of politics. Yet these structures are only surfaces, only sensorially accessible (Adut 2018, 19). Resembling a collage, "surfaces are all there is in the public sphere" (2018, 155), in no uncertain terms: "the public sphere is a space that is generally visible" (2018, 17); "the public sphere is essentially a visual phenomenon" (2018, 40); "in public, being is appearing" (2018, 37). All the appearances that constitute the public sphere are laminated structures, entities of cover which have no reference to socially embedded meaning. They are sceneries portraying a stage. Adut argues (2018, 37f) with Erving Goffman that public interaction is borne by performance and inauthenticity. It resembles the existential condition of Simmel's urban dweller, who is uninterested in—blasé about—the strangers around him due to too many stimuli (cf. Adut 2018, 151; Simmel [1903] 1950).

My use of 'visibility' is different from that of Adut. Until now, I have used the concept of visibility as a placeholder for the concept of publicity. While publicity often implies communicative rationality, my use of visibility implies the creation of sense from the projection of signals. Public-making signals are only signals when they are soaked in meaning. Adut's surfaces are coulisses which imply no reality beyond their shapes and colours.

Adut's main principle of publicity is spectatorship, which focuses on the exterior instead of the interior. Spectatorship is not, as one might imagine, a way of acquiring information about the deeper layer of meaning underneath surfaces.

"Representation is never a derivation" (Adut 2018, 72). Adut uses the topos of the *flâneur*, the independent urban figure who strolls the cityscape "without interacting, without a concern for the common good, engrossed in the utter ecstasy of watching, governed by nothing except his ardent curiosity" (2018, 150). The *flâneur* is the essence of the Adutian public sphere, portraying the curious spectator who is nonetheless utterly uninvolved. Constituting the passive onlooker, spectatorship is the main agential state of the public sphere.

Adut conflates theories of public space with theories of the public sphere, which means that his interpretation of the *flâneur* in urban life takes on political agency in the political debates of the public sphere.[59] To put it more precisely: the *flâneur* takes on no political meanings because, Adut concludes, "it is essential to keep the public sphere … as free from politics as possible" (Adut 2018, 156). Spectators are absorbed by what they see, yet they do not impose interpretations on it. They are concerned with appearance, not content (Adut 2018, 157).

The main problem with Adut's theory is that it reduces the meaning of surfaces to the immediately visible only. The spectator makes no semantic contribution to the world of appearances. One may passively watch—be awed, or be bored. Adut's reductive conceptualisation of the public sphere as hypervisibility (or surface fetishism), a sleekly perceived ecosystem of spectacles, excludes frictional imposition and the production of genuine political demands. It is—in a word— unrealistic.

One cannot interact with a surface; the main public activity is to appear, and to spot appearances. In this environment, politics is reduced to what the Situationists in the 1950s called '*détournement*': the reconfiguration of well-known symbols of power (often commercial ones), which is today known as culture-jamming or subvertising (see Debord and Wolman [1956] 2006). Nonetheless, even such jamming presupposes a social mesh of implicit cultural meaning. Jamming only works by derivation. In this way, Adutian agency in the public sphere collapses into a state of antiparticipation that is unable to construct a meaningful or even potentially meaningful world from which interpretations of the political can take place. If the minimal condition of being a member of the public sphere is being an

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[59] I have argued for the distinction between space and sphere in Wiewiura (2020). Basically, public space is an architectural category referring to streets, parks, and pavements (with political implications for public life in architecture theory), whereas the public sphere refers to issues of legitimacy, norms, and lawmaking in political philosophy.

Image 7.4   An example of *détournement*/culture-jamming. The original photograph of American soldiers at Mount Suribachi during the battle of Iwo Jima, Japan was taken by Joe Rosenthal on 23 February 1945. Instead of raising the American flag, they now 'flag' American culture. Interestingly, in *The McDonaldization of Society* ([1993] 2013), the sociologist George Ritzer claims that fast-food chains are symbols of the uniformity of contemporary society.

unconcerned onlooker, then there are no productive operations in Adut's theory to install meaningful sites of visibility, which will remain semantically void. The Situationists were politically conscious of the potential of reconfiguring the urban landscape, but only because the slight yet obvious tweak of appearances was culturally charged with a meaning that, when altered, was able to draw the attention of passers-by and thereby *involved* them in someone else's contestation. The *flâneur* and the blasé experience of the metropolis is one dimension of the cityscape, but it is not a dimension of the signalscape of the public sphere. The constitution of signals is *loaded* with meaning, calling for attention, and constituted by the involvement of others if not oneself.

Let me now therefore turn to my concept of political semantics, and provide three examples where the public sphere essentially generates meanings about the political from which conceptions of legitimacy are derived.

7.6 Political semantics

Relative to signals that are observable at $\text{LoA}_{\text{Signal}}$ in the public sphere, political semantics are observable at $\text{LoA}_{\text{PolSem}}$, which is ontologically contingent on $\text{LoA}_{\text{Signal}}$ (cf. Figure 7.5). Signals substantiate political semantics like threads in garments. However, not all signals participate in constituting political semantics, that is, interpretative structures in society regarding the meaning of the political. Like bubbles, some signals may not form into the foam-like structure of a political semantics. I use this foam metaphor differently from the author from whom I have borrowed it: Peter Sloterdijk ([2004] 2016) uses it to describe the phenomenological spatialities of society. Here, I use it to describe the macroformation of opinion that is present in almost any model of the public sphere, namely, the emergence of 'public opinions' throughout society. The metaphor of foam encapsulates the idea of political semantics in the sense that signals form greater structures with no specific boundary, and with no conforming conditions regarding their proportionality or shape. A political semantics is completely idiosyncratic to the conglomerate of signallers (bubble blowers). The metaphor has its limits, however, because public opinions are not spatial entities but are semantically constituted by *sense* creation, which means that they are not precisely structures 'out there' but more 'in there', nested in the particular meaning of signals.

Therefore, political semantics does not deliver a 'package' from which a conception of legitimacy at the higher LoA may be conclusively derived. Some political semantics may constitute different conceptions of legitimacy at the same time; it depends on the variety of political semantics, which may form or constitute one aspect of a notion of legitimacy while other semantics form other aspects. Therefore, in Section 7.7 I will refer to the 'horizon of legitimacies' that is made possible by the political semantics that emerges from the public sphere of signals.

I will now introduce three examples of political semantics. I have chosen two politically explosive examples, MeToo and identity politics, and one very recent example concerning the politics of the current pandemic. The point here is not to evaluate their correctness, either politically or morally, but to use the examples functionally to show what I mean by political semantics. I will mobilise some key elements of the movements in question, which are much more complex at other LoAs. I do not claim that these movements embody a 'finished' claim to legitimacy; they are much too protean to be forced to lie still. Another point of reflection before we begin is that political semantics does not refer to the scholarly discussion of

these social phenomena. Instead, political semantics refers to crystallised meanings projected from these movements, as signals.

7.6.1 MeToo

The MeToo movement rose to global fame in late 2017, when Alyssa Milano encouraged women who had experienced sexual harassment or sexual assault to post 'MeToo' on Twitter. This practice proliferated onto other social media platforms, consequently drawing massive public attention across the board. As varied as it is, the MeToo movement has been acclaimed for making covert issues visible on one hand, and criticised on the other for initiating witch hunts and media trials that issue verdicts without juries, with irretrievable consequences for those implicated.[60] The latter critique is shared by Judith Butler:

> My worry, though, is that in public culture right now an allegation of sexual harassment can be immediately taken to be the proof of the claim. Since women complainants, in particular, have been conventionally disbelieved and discredited, the trend is now reversed so that whoever speaks is assumed to speak the truth. Legal procedures for the fair adjudication of such claims are sometimes sidestepped altogether as the media becomes the new public tribunal. … I note with some irony that most people on the liberal-left abhor the lack of due process in the indefinite detention of migrants, that we underscore the importance of due process in the civil rights movement because it provided a legal mechanism to protect black men unfairly accused of acting in a seductive way toward white women. (Butler in Gessen 2018)

The reverse trend which Butler characterises is a construction of a political semantics: Butler sketches the reversal from women being seen as generally unreliable, emotional, and hysterical to their being seen as reliable, trustworthy, and truthful, whereby women's allegations against men are not only taken seriously (as any allegation should be), but are also taken to be true, without legal assessment (cf. Akel 2018, 116ff; Tuerkheimer 2019, 289ff). This perspectival change regarding women—then weak, now strong—within male-dominated culture cannot be explained solely in terms of making a private issue public. The Kant-Habermas strand has the ability to argue that the MeToo movement has succeeded in voicing

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[60] See e.g. Dubravka Zarkov and Kathy Davis (2018), Stavroula Pipyrou (2018), and Thomas Hylland Eriksen (2018) for such reflections on the MeToo movement.

a rational criticism of systematic behaviour with central political aspects (sexual harassment, assault, inequality, etc.). Drawing attention to a structural—and hence nonprivate, nonidiosyncratic—problem, the MeToo movement delivers critique on that issue. However, this idea of public-making in the description of the MeToo movement is too narrow or restrictive an account of what public-making is. Public-making is not only the minimal claim of criticism; it also comprises the social and political implications of public interpretations of the generalised behaviour of women and men.

Nor should public-making be reduced to 'adversaries' vis-à-vis Mouffe's agonistic pluralism, which cannot explain the introduction of a new form of legitimacy claim. 'The adversary' was a legitimate enemy on entry into the public sphere—but how do we assess the legitimacy of MeToo? Any such assessment seems to unfold in the public sphere, because any adversary offers a series of claims which simultaneously offers or develops a notion of legitimacy. Thus, the public sphere is a framework of the formation of legitimacy from interpretations of the political—not a framework for discussing politics in an arena of agents where the question of legitimacy is settled a priori.

I claim that the radically different public interpretations of the MeToo movement, its messages, results, and implications, can be explained by seeing the movement as producing *different forms* of political semantics, which lay claims to different notions of legitimacy. There are probably more, but the two sketched here are the political semantics of the public accusation as valid or invalid, according to the gender of the accuser. I do not claim that this is in fact the case with the women who shared their story. Instead, I claim that the political semantics which was *spun off* or *produced from* the MeToo movement produced a new way of understanding claims as legitimate in the public sphere, as Butler also described above. In this sense, the MeToo movement not only introduced sexual harassment as a new topic in the public sphere, but also, I argue, formed a new dynamic—a political semantics—of what should be able to count as a legitimate, and hence also an illegitimate, claim.

7.6.2 Identity politics

Identity politics—or the politics of recognition—refers to political demands usually associated with the left and oriented towards differences in terms of oppression and privilege.[61] In the words of Charles Taylor:

> Some feminists have argued that women in patriarchal societies have been induced to adopt a depreciatory image of themselves. They have internalized a picture of their own inferiority, so that even when some of the objective obstacles to their advancement fall away, they may be incapable of taking advantage of the new opportunities. And beyond this, they are condemned to suffer the pain of low self-esteem. An analogous point has been made in relation to blacks: that white society has for generations projected a demeaning image of them, which some of them have been unable to resist adopting. Their own self-depreciation, on this view, becomes one of the most potent instruments of their own oppression. (Taylor 1994, 25f)

If we take these problems to be topics of identity politics, it is obvious that multiple viewpoints may be proposed. Let me focus on the view positing that subjects are conglomerates of having and not having privileges, based on the social structures of how identities are formed (racially, sexually, culturally, etc.), leading to oppressive mechanisms. For example, the idea of creating a safe environment for homosexual persons to 'come out of the closet' can be countered by thinking about *whose* privileges put them *into* the closet in the first place (Warner 2002, 52, 120). Thus, one can talk about the distribution and also redistribution of privileges in terms of recognition.

Let me narrow it down further. Some public claims urge the reduction of inequality between sexes, races, or cultures by systematically giving underprivileged populations access to privileged positions, for instance through quotas on boards or in admissions. Therefore, in these cases, one should not increase the anonymity of applications in terms of sex, religion, or race in ways that would be blind to the distribution of privileges.

Moreover, the notion of 'cultural appropriation' points to the idea that the labour of minority cultures can be exploited (or disrespectfully enjoyed) by majorities.

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[61] A quite different range of identity politics also exists on the right, often generating the political demand for more homogenous communities in terms of e.g. ethnicity or culture.

Therefore, normatively speaking, majority populations should not use a minority culture for their benefit at the expense of the minority population. From this perspective, different questions can be asked. Should non-Native Americans wear the traditional Native American headdress (Marsh 2015)? Should people of non-Mexican origin celebrate the Mexican Day of the Dead (de Leon 2014)? More generally, should actors portray other ethnicities or sexualities than their own—a practice denoted by concepts such as 'whitewashing', 'straightwashing', and 'racebending'?[62] My purpose is not to point to bans, or to critique bans, but rather to argue that these public-making statements—disregarding their scholarly-theoretical grounding—are statements that change the political semantics of *how* to understand the meanings of culture, by challenging its use, development, and proliferation. Identity politics as understood above discusses display and representation, and militates against the traditional legitimacy of theatre, costume, and the public action of dressing up as someone else.

I think it would be an overemphasis of the public stringency of identity politics in a chaotic media environment with countless agents if I were to argue that identity politics as a whole delivers a new conception of legitimacy. I would rather speak of these political demands (however diffuse they may be) as shifting the semantic horizon of what is perceived to be eligible to count as legitimate political claims in the public sphere. Identity politics disputes ways of making justificatory claims, and reconfigures the political subject: from a primary bearer of rights, to a primary bearer of privileges. Therefore, to some extent, it rules out an understanding of the political subject as having the right not to be politically judged in terms of his or her colour or sexuality. This alters the basic premise of politics according to the Kant-Habermas strand, namely the idea that the threshold between private and public justification is defined as the elimination of subjective characteristics. The ground for deliberative justification is the ability to unhinge subjective attributes from political talk; to separate subjective traits from normative allowances.

Identity politics, as I have talked about it here, seeks to re-establish that connection in specific ways. It fuses subjective attributes with politics, and it joins subjective traits to normative action. Again, my task here is not to say whether this is good or bad, but to emphasise the differences in political semantics, the

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[62] For publicly accessible general overviews, see the Wikipedia entries on "Whitewashing in Film," "Straightwashing," and "Racebending" (2020a, 2020b, 2020c).

interpretation of political discussion: which claims bear weight, and which do not; what counts, so to speak.

The difference between identity politics and the Kant-Habermas strand, I think, is uncontroversial. What is controversial is which model of the public sphere can explain what is happening. Mouffe's realist model of the public sphere would presumably argue that although these two political projects are in conflict, they are 'adversaries'. As I argued above, the problem is the presupposition of what is legitimate. That presupposition, however, is at the centre of the discussion in the public sphere.

7.6.3 Corona epistemics

The massive repercussions of the current pandemic due to the coronavirus (COVID-19) are an urgent invitation to consider fundamental political concepts such as the public sphere in an unfamiliar light. Many conflicting arguments have been made: the pandemic opens a space for new beginnings (Roy 2020), demonstrates the success of markets (Sindberg 2020), portends the failure of capitalism (Žižek 2020), discloses failed states (Packer 2020), or establishes political authority in knowledge (Thorup 2020), and there has also been a surge in corona-related conspiracy theories (Pummerer and Sassenberg 2020). I will make two points about public-making, specifically with regard to the administrations in Denmark and the United States, to show the construction of new political semantics. The background assumption of this analysis is that the European and North American public debate generally has been aware of the rise of so-called postfact and post-truth politics, which in turn has generated an opposition to antiscience, at least to the extent that politicians seek to distance themselves from fake news outlets. These discussions condemn policymaking that rejects technoscientific evaluations as a significant, informative instrument of statecraft. I therefore assume that the opinion environment, especially among commentators and pundits in northern Europe, would generally find such rejections of science criticisable, meaning that they would be unpopular in the public sphere.

The opposite happened in the Danish case. At the beginning of April 2020, the Danish Prime Minister, Mette Frederiksen, defended her administration's then-radical (now widespread) policy choices, such as closing the national borders: "we are informed by health professionals, but we cannot wait for evidence. We would be risking too many human lives if we were to wait in all circumstances" (Nielsen 2020) (my translation). In other words, Frederiksen stated that in this case there was

no time to wait for evidence-based policies. In a sense, she was restating the difference between science and policy: science is cumbersome, and does not yield results at the same pace as crises call for policies. For Danes, Frederiksen's policy choice stood in contrast to the Swedish tactic: Sweden chose to scientifically evaluate the virus *before* enforcing a state of emergency—and the Swedish administration decided to pursue herd immunity by relying on the scientific method to attain that goal, even though the immediate death toll was high (Duxbury 2020). The juxtaposition with the Swedish administration shows that the Danish administration could have waited for scientifically informed policies to appear, instead of initiating policies which were drastic but uninformed by hard science. Nonetheless, during the crisis Frederiksen's popularity doubled (Mansø and Buhl 2020; see also Hansen 2020). What happened to the endorsement of scientific advice as a legitimate and democratic strategy? I would like to suggest that the concept of political semantics can help to explain this rapid shift in legitimising strategy. Through vertical signalling in her speeches to the Danish nation, Frederiksen constructed a sense of legitimate politics (perhaps of solidarity, care, or compassion) that provided another dimension to the available strategies of legitimisation, which in a matter of weeks, possibly even days, legitimised the Danish democratic system of domination in a different way than previously. Moving away from immediate science-based policy, Frederiksen offered a counterperspective to the dominant legitimising strategy that was presumably present in the Danish public sphere. Moreover, this counterperspective did not stem from a counterpublic, but from the Prime Minister herself. In my definition, Frederiksen and her administration thus constituted a countersignalling cohort whose signalling created frictions with the general interpretation of democratic politics. That is, the administration contributed to the public sphere in terms of nondominant signal-making. Nonetheless, this counterperspective was largely endorsed.

The concept of political semantics can explain such *shifts in legitimacies* for the system of domination, which do not necessarily initiate a shift in the system of domination (similarly to the example of Elizabeth I in Section 7.2.2). It also shows that counterpublics are primarily the visible production of counterperspectives, which do not necessarily need to stem from subverted cultures etc. This analysis also shows that the coronavirus crisis did not inevitably lead to the rise of scientific authority, but rather indicates the rise of a new political semantics offering several legitimation strategies for the system of domination.

With the Danish case in mind, we can now turn to the United States case, where the concept of public-making can work as an explanatory facet. Section 6.4.1 analysed the problem of the antiepistemological content of signals, and showed that the problem of post-truth politics was not that democratic discussions contained false statements. Instead, the problem was the political refusal to engage in truth-tracking methodologies of communication: in other words, the loss of the public conditions of communication (Habermas) and PUUR (Kant). In my analysis, I approach this problem from the basis of Hegel: political structures must adjust to the people that *live* in those structures, and not vice versa. From this realist standpoint, the dynamics of politics belong to its members. Hence, the diagnosis of the pandemic that I can offer from my set of concepts is that Trump—to make him the representative of the visibility of post-truth politics—installs a political semantics which nourishes a new shape (or a returning shape), indicating the possibility of another form of legitimisation. I think that the main philosophical problem with previous analyses of post-truth politics is that their explanations are based on negative descriptions, and are therefore stories of loss. The problem with explaining Trump as an antiepistemic, antimethodological, and antiprocedural politician is that such diagnoses are the productions of negations. In contrast, my analysis provides conceptual tools to understand the production of Trump's public-making in terms of the production of signals that lead to a specific political semantics. The concept of political semantics does not suggest that signal-making endorses a specific political project, a system of domination, or a political theory; instead, it points to vaguely assembled signals as conglomerates of interpretations of political affairs that perhaps produce several political semantics. Once we conceptualise post-truth politics in terms of semantic production, we can begin to make sense by enquiring about the production of the current public sphere, instead of decrying its disappearance—and in the latter case, realist theories of the public sphere would be impossible.

I will not attempt here to analyse *what* kind of political semantics the Trump administration produces. My aim is to show that the concept of political semantics provides a strategy for conceptualising significant possible changes in the public sphere, specifically in regard to the visible reconfiguration of legitimacy. Let me now relate signalling and political semantics to the last LoA, legitimacy, in order to show how my model of the public sphere works as a whole.

7.7 The ground of legitimacy

I use political semantics to refer not to epistemology (fake news, triangulation of information, truth-tracking speech conditions, etc.), or to agenda-setting (attention, political spin, sensationalism, etc.), but to the social meanings of what counts as legitimate. Political semantics are conglomerates of signals in the visible domain of public-making that humans interpret as propounding legitimising strategies. To put this simply: political semantics work to *legitimise*. As noted above, political semantics are ambiguous or vague enough to constitute more forms of legitimacy. I can therefore distinguish conceptually between political semantics and legitimacies. This also implies that legitimacies, which are publicly constituted by political semantics, do not necessarily constitute the system of domination, of which there can be only one in each political system. But there may be many forms of legitimacy present in society, due to the ongoing creation of political semantics (see Figure 7.6).

Political semantics is a category in the theory of the public sphere that denotes the public constitution of legitimacy. I have attempted to show that the public sphere is understood as a noninstitutional entity. Now, it is possible to see that the public sphere is not 'an entity' in any strict sense. Instead, the public sphere is an activity of public-making which can be called 'a sphere' only by intellectual conception. Because signals are semantic entities that relate to e.g. memories, desires, values, and customs, public-making is a form of disclosure of society in society. The public sphere, therefore, is not approachable like the entrance of a building, but noticeable (and interpretable) in the same way as when one catches a
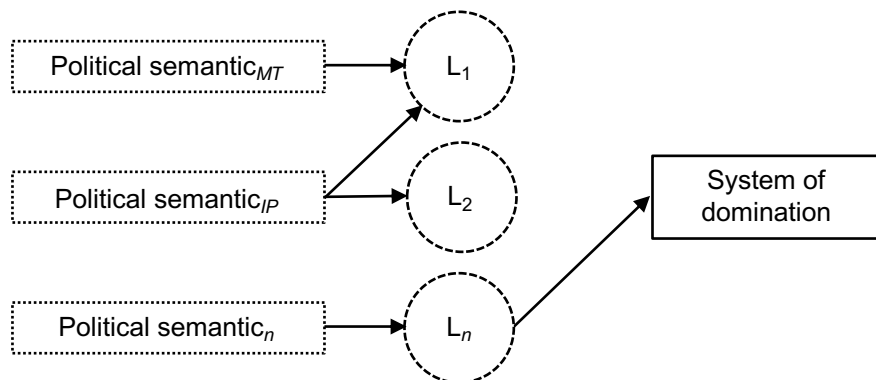

Figure 7.6 The public constitution of legitimacy (*L*) via political semantics. *MT* = MeToo, *IP* = identity politics.

glimpse of someone's facial expression. It may nor may not be an illusory source of intimate thoughts, but it is nonetheless a contribution to the social. Although such expressions are usually ephemeral, they sustain the sculpting of the social world.

The public sphere, then, is the production of signals leading to political semantics that ground legitimacies, insofar as these legitimacies are publicly constituted. One might imagine a nonpublicly produced conception of legitimacy that constitutes the system of domination, although it seems unlikely that a formal system of domination could be maintained without some form of *publicly* constituted legitimisation—which, as I have argued, is not the same as being constituted by the demos, the people, or the majority.

One may ask whether my conception of the public sphere denotes specific power struggles. If one adopts the notion of 'battle' or some other antagonistic term to describe social processes, then one is also ontologically committed to their reality, which conceptually presupposes definitions of interests and delineations of power-holding positions. I do not make such an argument, because I do not presuppose such a political ontology. Instead, I claim that the concept of political semantics refers to the creation of the building blocks of specific legitimacies in society. I am therefore ontologically committed to such processes taking place, as I have tried to sketch above in Section 7.6. I have also aimed to show that signalling as public-making, from the perspective of the individual, is an intractable and perhaps rampageous process, a truly social phenomenon. As such, political semantics are performed by an orchestra to whose melodies persons may sway even if they do not contribute. However, if those outside the orchestra begin to play tunes which are sufficiently significantly different, then they may have started to indicate another and different semantics, which perhaps succeeds in legitimising another expression of musicality.

I can now return to Kant's conception of public and private uses of reason from Chapter 2 and reformulate it in my terms. PRUR is the nested semantics of that which counts as legitimate. PUUR is the continuous penetration of the political landscape of legitimacy by the signalling capacity to generate political semantics. Although I disagree with Kant's rationality-focused theory, which contends that the public sphere constantly reasons about socially materialised rationalities, I agree nevertheless with Kant that a theory of the public sphere must balance between stability and activity: that is, the (active) signalling of a demand for something to be the case (in a stable way) in the world. Therefore, on the one hand, I propose that the signal-composed political semantics are ultimately somewhat stabilised as a
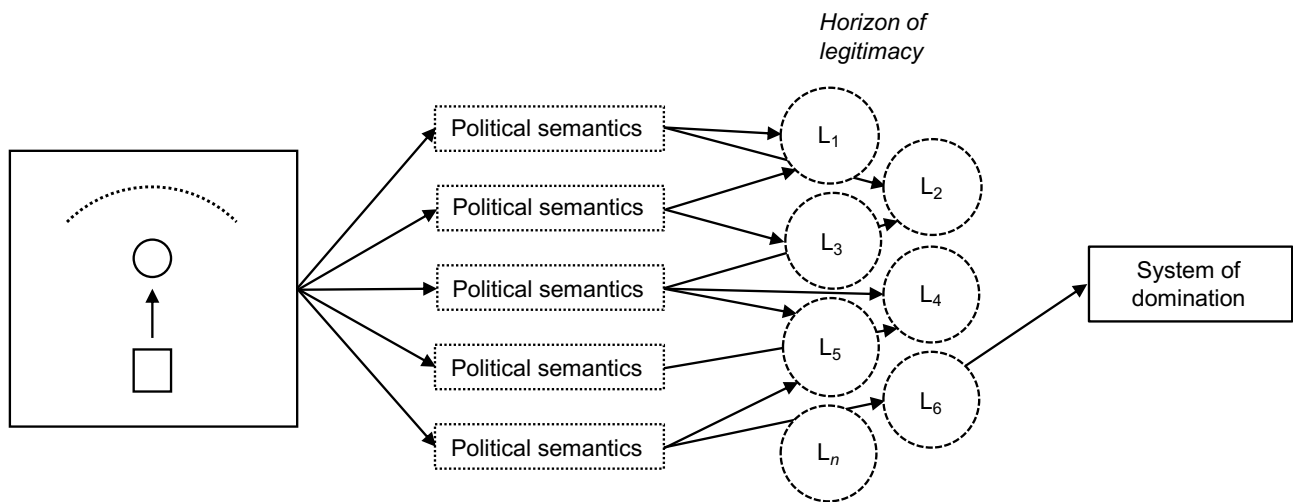
Figure 7.7 The public sphere.

horizon of legitimacies in which different legitimacies are available to members of society (see Figure 7.7). As a model of the public sphere, therefore, I do not propose that political semantics are comprehensive, like Kuhnian scientific paradigms that one cannot escape, look past, or compare. Such a claim belongs to an entirely different LoA. Nor should political semantics be conceptualised as comprehensive if this would make it impossible to see different legitimisation strategies in society as stable and observable phenomena. On the other hand, it is the active part of the public sphere that builds political semantics through signalling, which leaves open the potential to penetrate and alter the formation of legitimacies that stiffen on the horizon.

In contrast to Kant and Habermas, realism in my view cannot cope with the legitimacies that are formed in the public sphere by correcting them via any normative standards. The public sphere belongs, for good and ill, to *those who can signal*, and they constitute their own understandings of legitimacy. Although signals are interpreted by an immense audience outside the public sphere too, the signallers are the ones who are actively generating political semantics. In this model, opinions that are dormant throughout society do not contribute to the public sphere without signals. To be sure, this does not hinder society from being a store of urgent, dangerous political problems, both actual and potential, which may ignite with the flash of a video, a tweet, or an event. However, it means that such problems must be signalled, and in order to be visible and brought into play for a broad range of society they must form as political semantics. The lives of members of society encounter problems all the time—some if not most of us need a specific political

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semantics to be able to articulate and understand that certain features of everyday life may be qualified as a political dimension. The idea here is not to say that political dimensions are in fact either real or unreal. The only arbiter of problems in the public sphere is political semantics, which yield specific paths of interpretation. In this way, the weighing of value and the measurements of perception that these semantics produce ultimately affect the view of the material which some claim to have found as evidence for a political problem. Ultimately, these endless ways of authenticating political situations are the intricate dynamics on the horizon of legitimacies that form the political predicaments of our time.

Moreover, although the signal is an activity, my account does not imply a voluntaristic framework in which signals always correspond to intentional states of individuals. The constitution of signals is not controlled or curated by individual acts of willpower, because signals may be born under the weight of misapprehension, and informational dynamics can misrepresent the distribution of opinion. Moreover, signallers such as bots comprise a new form of agency in the public sphere, producing automated social proofs which nonetheless are powerful acts of public-making. Yet even if bots represent an agency, my account of the public sphere is anthropocentric. I assume that only humans are able to ascribe signals to someone (or something, i.e. bots). So far, it is humans who find the deterioration of the climate, ecosystem, and biodiversity politically problematic, and humans who ascribe political value to religious-metaphysical world views. This means that issues or dimensions are only pulled into the public sphere in the form of signals by humans for humans. Semanticisation, as the epigraph of this chapter states, is a social constitution among humans that gives rise to vastly different analyses of the world. In this sense, political semantics are profane, engineered by the sociality of humans, but without necessarily being irreligious or secular or naturalist.

The result of my concept is that the public sphere harbours a versatile logic which may accommodate any notion of political semantics, and subsequently of legitimacy. The concept of public-making therefore introduces an organicism of its own, different from the theories of Hegel and Habermas. In light of this versatile logic, public-making cannot take sides with any predetermined normative conception of politics, because public-making is the basic condition for any publicly constituted legitimacy. Public-making points to the creation of legitimacy, and therefore to the logic from which legitimacy stems—that is, insofar as it is related to the public sphere at all. In this conceptualisation, then, the public sphere is the ground of legitimacy. In contrast to normative theories which cast the notion

of the public sphere around the steel of legitimacy, I propose that the public sphere is the forge from which the steel meshes of legitimacy are created.

7.8   Five objections, five replies

Let me now present five objections to my proposed concept of the public sphere.

Objection 1. The model is too little concerned about the degenerative aspect of social epistemology (lies, fake news, etc.), which is ruining our democracies.

Response 1. Yes, the model is little concerned about social epistemology, because it argues that the public sphere is not a priori a democratic (or truth-tracking) concept, much less that democratic theory has a decisive say on discerning it. One of the points of trying to investigate the public sphere 'without presuppositions' was to remove it from its democratic environment, and to see what possibilities would open up. This implied investigating the theories of Kant, Habermas, and deliberative democracy to establish what precise claims were made, specifically regarding legitimacy. The details of these theories are important here, because the claim 'the public sphere produces legitimacy' may well be true for Habermas too—but only because the building blocks of legitimacy, the methodologies of normative verification in everyday communication, are already attuned to the dynamics which Habermasians claim unfold in the public sphere. In this sense, the public sphere produces legitimacy, but in the opposite manner to my proposition, where the public sphere does not begin from standards of communication embedded in a specific notion of legitimacy.

Objection 2. The present model is not normative, so the criticism of normative models is void too.

Response 2. I am interested in how the public sphere produces legitimacy, and normative and nonnormative models disagree on the normativity of the public sphere. I do not equate (or conflate) legitimacy with conceptions of autonomy or equality, two important political values. Instead, legitimacy refers to the constitution of order. I argue that it is possible to have different legitimacies (e.g. totalitarian legitimacy, democratic legitimacy, anarchist legitimacy) which depend on their sources. I have tried to argue that the dynamics of the public sphere can constitute legitimacy. Theories of public reason claim that the public sphere is the domain which is able to produce democratic legitimacy. Sure, but does that not depend on the public sphere in question? It seems that if a democratic public sphere produces democratic legitimacy, then nondemocratic public spheres produce

nondemocratic legitimacy. And from there one may mix different tendencies within one public sphere, resulting in many different types of legitimacy. That, I think, is the most realistic point of departure. I have therefore argued for a general conceptualisation of the public sphere, not a specifically democratic one. By doing so I have sought to disclose how the public sphere may expose democracies to danger via its versatility to perform nondemocratically. And that, I think, is productive for normative democratic theory too.

Objection 3. The model gives the public sphere too important a role. The dynamics of power have to do with other factors, such as elite control, material conditions, ideologies, etc. The public sphere is only a side effect of legitimacy produced elsewhere, not its cause.

Response 3. The public sphere is part of the ground of legitimacy, not its only constituting ground. I have focused on what kind of production one may attribute to the public sphere, and not on how legitimacy is produced in all its social facets. My argument is that the public sphere produces legitimacy through signalling, which creates political semantics. Insofar as legitimacy is related to the system of the public sphere, I suggest that the causal relationship is one of production from the side of the public sphere. The normative theories have favoured a different version of this relationship, namely that democratic, legitimate structures are already found in the social domain they call the public sphere, which means that its system can functionally work as the factory from which democracies receive their legitimacy.

I began my argument with a basis in Hegel, but I also offer a theory which is significantly non-Hegelian. The Hegelian idea of right entailed different concrete aspects of freedom, materialised in institutions, rights, and ethically embodied customs, and also counted formal subjective freedom as a necessary part of complex modern autonomy—a part, however, that did not contribute to the political production of legitimacy in the assemblies. For Hegel, formal subjective freedom and legitimacy were not only spun differently from the idea of right. They were unrelated tasks in the weaving of freedom. However, Hegel was wrong in separating legitimacy's yarn from the public loom. Nonetheless, his theory was the first step towards a model without normative presuppositions, because Hegel did not agree with Kant and Habermas on the point that the public sphere embodied the measure of rational legitimacy. The Hegelian public sphere could not have provisos curbing its speech for the sake of producing legitimacy, because this production was separated from the public sphere, as it was taken care of elsewhere in the

Hegelian system. In contrast to Hegel, I have argued for a reconnection of the public sphere to legitimacy, but in a different way from Kant or Habermas.

Moreover, my model does not deny other types of power struggle. I tried to analyse some of them under networked conditions in Chapter 6. And of course, many other aspects may be analysed too.

Objection 4. The proposed model of the public sphere is too positivistic. It focuses too much on visibility.

Response 4. I have argued that signals should not be understood one-sidedly as having visible dimensions only, but also as being semantic entities which give us interpretative access to the meaning of signals, and thereby to the mental lives of those around us.

Objection 5. If the public sphere is made of signals, and signals are only constituted by agents in the public sphere, then do we not live in separate publics?

Response 5. Yes and no. We do live in separate publics, depending on too many factors to name, but of course the variables that may lead to segmentation concern content, language, culture, social position, age, education, etc. However, this answer too hastily rejects the cohesion of public-making as a category that travels across boundaries, especially in NPS. To signal means to participate in some public; but which people, and therefore which public, take notice of one's signal is not entirely up to oneself. In Chapter 2 I cited Klein, who said in 1784 that 'writing is an arrow whose influence you cannot stop'. If this is true, and if signalling equals participation, does this imply that participation is in principle indefinite? I cannot assess the consequences of this argument here. As I have argued, there is no guarantee that one's signal (and thus one's contribution to the public sphere) will not suddenly change in the eyes of other agents. If anything, the problem of participation reveals that publics are not as sleek and clear as a modernist cityscape. Understanding where publics overlap, and thus when one is participating in one public and not another, is an intricate phenomenon. The texture of the world has many levels of nuance that even the scholar has trouble unveiling, as Walter Benjamin and Asja Lācis write in their 1925 essay on the city of Naples ([1925] 1991, 314f). The public sphere is chaotic and variable in so many ways that the definite degree of participation is, at least, beyond the conceptual limits presented here.

CONCLUSION

In Section 7.1, I argued in favour of understanding the public sphere against a backdrop of noninstitutionalism, because signals and the political semantics that form from them are driven by visibility, which does not respect institutional boundaries. Institutions only participate in the public sphere when they broadcast signals beyond their internal systems of communication. In this way, signals cannot be kept 'on the inside' insofar as they are public-making.

I then turned to realism and legitimacy, proposing that Weber's conception of legitimacy provides the link between notions of political order and perceptions of legitimacy. I revised Weber's view in the sense that the source of legitimacy is not stable because the source of legitimacy is formed in changeable environments, especially in the public sphere, as I showed with the example of Elizabeth I in early modern England. Therefore, even in cases where the public sphere is coterminous with the supreme reign of absolutism, the sovereign's publicity goes towards his or her subjects, creating a space where a new source of legitimisation emerges. In this way, the public sphere is a predominant category which can destabilise the source of legitimacy to which regimes then must cling.

In Section 7.3, I investigated Mouffe's public sphere theory of agonistic pluralism, because it is a theory which endorses instability in the sources of legitimacy. However, I showed that Mouffe's theory does not after all offer a theory whereby legitimacy forms in a vulnerable terrain (as Mouffe puts it), because the concept of agency—the adversary—is a legitimate political position formed prior to the public sphere. Thus, Mouffe's theory cannot account for how—or whether—the public sphere generates legitimacy.

I also investigated the concept of the counterpublic, and suggested that if counterpublics are to be publics then they cannot be seen as dormant cultures, because all publics work on levels of visibility and do so in different ways. I suggested therefore that we define counterpublics as countersignalling that encounters resistance. This definition reflects how the productivity of the public sphere has no specific debt to pay to conceptualise cultures: insofar as nondominant cultures are represented—fairly or unfairly—in the pool of public interpretation, their agents can only be conceptualised in the public sphere as signallers who must signal under much stress, despite the friction they experience. Specifically, cultures run in subterranean passages underneath the public sphere, and thus fall out of its analytical structure, in the same way as many other nonpublic phenomena constitute motivations for signalling. Such boundaries indicate the limit of the public sphere.

However, the public sphere does sustain its own cultures at the level of visibility. This means that frictions in the signalscape perpetuate some political semantics and make others harder, if not impossible, to establish.

In Section 7.4.3, I argued that signalling is the metapossibility in the public sphere that breaks open the question of legitimacy. For Kant and Habermas, legitimacy in the public sphere was not the ability to signal, but the application of a communicative framework of reason. However, I suggest that signals are vertically and horizontally unmanageable impulses of meaning that may institute self-generating types of justification. In Chapter 4 I noted this move in Hegel's model, where the abundance of broadcast opinions (signals) carried meanings without curation, and therefore without a communicative framework of reason.

Such signals create the public sphere's larger structures, which comprise the fabled concept of public opinion. I have suggested that public opinions are not just signals, but political semantics that endorse ways of understanding claims and expressions as politically legitimate. Moreover, political semantics can be constitutive of signals, in the sense that members of society can use political semantics to categorise specific signals within certain frames of reference and cultures fostered in publics. As such, some signals may not be comprehensible outside a political semantics, meaning that political semantics make particular politics possible in society while discouraging others. In this way, the concept of political semantics highlights the way in which the public sphere can be seen as the ground of legitimacy.

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English summary

The central theme of this thesis is the concept of the public sphere. The thesis defends the claim that the public sphere constitutes the foundation for the creation of legitimacy throughout society. The argument for this claim is that the basic activity of the public sphere expresses political meanings (which I call 'political semantics') that produce notions of political order which correspond to perceptions of legitimacy from the perspective of political realism.

Chapter 1 introduces the argument, method, and structure of the thesis, while Chapters 2–5 comprise analyses of Kant, Habermas, Hegel, and deliberative democracy. I argue that, with the exception of Hegel, these theories understand the public sphere through a communicative framework of rational-political legitimacy. In contrast, I show that the Hegelian public sphere is an aspect of modern, rational freedom—which, however, is separated from legitimacy. Hegel is thus the basis from which I argue that the public sphere may produce public opinions without rational content.

In Chapter 6 I suggest that the basic activity of public-making without rational presuppositions is 'signalling'. I use this category to analyse the contemporary category of the networked public sphere, and I show how it differs from the earlier, mass-mediated public sphere by indicating new facets in three dimensions of signalling.

I develop the last part of the argument in Chapter 7, showing that the production of public opinion (political semantics) also implies specific notions of political order that can be understood as forms of legitimisation. I defend a noninstitutionalist view of the public sphere, and analyse political realism with regard to both legitimacy and the public sphere. I then analyse three cases that demonstrate what I mean by political semantics, and I show how they generate particular notions of political order that foster strategies of legitimisation. Ultimately, I propose a new model of the public sphere as political semantics that creates a horizon of legitimacies and is thus the ground of legitimacy.

Dansk resumé

Afhandlingens centrale tema er offentlighedsbegrebet. Den argumenterer for tesen, at offentligheden konstituerer grundvilkårene for legitimitetsskabelse i samfundet. Argumentet er, at den mest fundamentale offentlighedsskabende aktivitet udtrykker politiske meninger (som kaldes 'politisk semantik' i afhandlingen), der producerer opfattelser af politisk orden, som svarer til legitimitet set fra positionen politisk realisme.

Kapitel 1 introducerer afhandlingens argument, metode og struktur, mens kapitlerne 2–5 hovedsageligt analyserer offentlighedsteorierne hos Kant, Habermas, Hegel og i deliberativt demokrati. Jeg argumenterer for, at disse teorier, med undtagelse af Hegels, fremlægger en forståelse af offentligheden set gennem en kommunikativ ramme af rationel-politisk legitimitet. Modsat viser jeg, at Hegels teori ser offentligheden som et aspekt af moderne, rationel frihed, samtidig med at den er adskilt fra legitimitet. Hegel danner derfor grundlaget for at argumentere for, at offentligheden kan producere offentlige meninger uden fornuftigt indhold.

I Kapitel 6 foreslår jeg, at den fundamentale offentlighedsskabende aktivitet uden rationelle forudsætninger er 'signallering'. Denne kategori bruges til at analysere den nuværende offentlighedskategori 'den netværkede offentlighed' og viser, hvordan den er forskellig fra den tidligere massemedierede offentlighed ved at påpege nye facetter i tre signaldimensioner.

Kapitel 7 udvikler den sidste del af argumentet. Altså, hvordan produktionen af offentlige meninger (politisk semantik) også medfører specifikke opfattelser af politisk orden, der kan ses som legitimeringsformer. Jeg forsvarer en ikke-institutionel opfattelse af offentlighedsbegrebet og analyserer politisk realisme vedrørende både legitimitet og offentlighed. Derefter analyserer jeg tre eksempler, der redegør for, hvad jeg mener med politisk semantik, og viser, hvordan de danner forskellige opfattelser af politisk orden, der fostrer legitimitetsstrategier. Slutteligt fremsætter jeg en ny offentlighedsmodel, offentligheden som politisk semantik, der skaber en legitimitetshorisont og derfor kan siges at være grundlaget for legitimitetsdannelse.