



HAL
open science

Habermas: Testing the Political

Estelle Ferrarese

► **To cite this version:**

| Estelle Ferrarese. Habermas: Testing the Political. Thesis Eleven, 2015. <halshs-01251486>

HAL Id: halshs-01251486

<https://shs.hal.science/halshs-01251486v1>

Submitted on 16 Jan 2017

HAL is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.



HAL Authorization

Page Proof Instructions and Queries

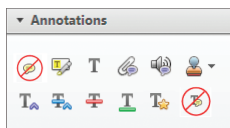
Journal Title: THE

Article Number: 602176

Greetings, and thank you for publishing with SAGE. We have prepared this page proof for your review. Please respond to each of the below queries by digitally marking this PDF using Adobe Reader.

Click "Comment" in the upper right corner of Adobe Reader to access the mark-up tools as follows:

For textual edits, please use the "Annotations" tools. Please refrain from using the two tools crossed out below, as data loss can occur when using these tools.



For formatting requests, questions, or other complicated changes, please insert a comment using "Drawing Markups."



Detailed annotation guidelines can be viewed at: <http://www.sagepub.com/repository/binaries/pdfs/AnnotationGuidelines.pdf>

Adobe Reader can be downloaded (free) at: <http://www.adobe.com/products/reader.html>.

No.	Query
	Please confirm that all author information, including names, affiliations, sequence, and contact details, is correct.
	Please review the entire document for typographical errors, mathematical errors, and any other necessary corrections; check headings, tables, and figures.
	Please ensure that you have obtained and enclosed all necessary permissions for the reproduction of artistic works, (e.g. illustrations, photographs, charts, maps, other visual material, etc.) not owned by yourself. Please refer to your publishing agreement for further information.
	Please note that this proof represents your final opportunity to review your article prior to publication, so please do send all of your changes now.
AQ: 1	Pages in reference are 111 to 141. Please check.



Habermas: Testing the political

Estelle Ferrarese

Université de Strasbourg, France

Thesis Eleven

1–16

© The Author(s) 2015

Reprints and permissions:

sagepub.co.uk/journalsPermissions.nav

DOI: 10.1177/0725513615602176

the.sagepub.com



Abstract

In this paper, I show how the notion of the political as an emerging reality, characterized by a fundamental indeterminacy and a propensity to produce its own borders, features in Habermas's work. The motif of the public sphere is bound with topics that all seem to attach the political to principles or authorities that precede or surpass it: the validity attributed to political statements, the weight of morality in the public sphere, and the concern to preserve science and complexity. I examine each of them in turn, in order to demonstrate how, precisely, the responses provided enable us to identify a place for the political in Jürgen Habermas's philosophy. This place could be called an interstice; nevertheless, it is located at the normative level of his theory, and it is a recurring aspect of Habermas's work.

AQ1

Keywords

Habermas, moral discourse, the political, science, validity

Jürgen Habermas's 2011 essay on the political interprets the concept of the political as the answer of certain French and Italian philosophers – from Claude Lefort to Jean-Luc Nancy and Giorgio Agamben – to contemporary social tendencies towards depoliticization (Habermas, 2011: 24–8). He creates a bridge between his own political theory and the content attributed by these thinkers to the concept of the political by adopting a very particular perspective: he grounds his analysis in what he claims is the concept's inherent theological dimension, identifying therein an argument that justifies the contributions made by religious traditions to communication flows in the public sphere. Although an ambivalent legacy from the pre-modern era, the political nonetheless possesses a rational

Corresponding author:

Estelle Ferrarese, Faculté des Sciences Sociales, Université de Strasbourg, [Maison Interuniversitaire des Sciences de l'Homme – Alsace / Bureau 222-5, Strasbourg, 67083, France](#),

Email: ferrarese@unistra.fr

content since it reflects on the types of contributions that religions are able to make in the public sphere.

Habermas's analysis draws strongly on an essay by Lefort titled 'The Permanence of the Theologico-Political' (1988b), in which the latter considers the persistence of certain theological representations and categories in the modern political imagination. Yet giving such central importance to the theological residue of the notion certainly seems a more typically German (in any case Schmittian) rather than French interpretative approach.¹ In so doing, Habermas leaves aside what constitutes the normative core of the idea of the political for Lefort, as well as for Nancy, and even for Jacques Rancière or Cornelius Castoriadis: 'the political is revealed [...] in the double movement whereby the mode of institution of society appears and is obscured' (Lefort, 1988a: 11), and it coincides with an activity of explicit self-institution of society (Castoriadis, 1987).

In other words, it presupposes or engenders a certain *emptiness*. Claude Lefort famously defined democracy – the quintessential political form – as a regime in which the locus of power is an 'empty place' (an expression Habermas merely mentions in passing in his essay), a site which 'welcomes and preserves indeterminacy' (1988a: 16). Consequently, in his view, the political institutes and preserves itself through the dissolution of the *markers of certainty*. Similarly, for Jean-Luc Nancy, the political exists only as long as it is devoid of finality; he describes 'a humanity that finds itself exposed to the absence of any given end – a heaven, a future – but not less exposed to the infinite for that' (2009: 75). The political therefore implies an openness to the future.

Jacques Rancière appropriated this notion of emptiness (in an explicit reference to Lefort), both to give it a 'structural' dimension and to demonstrate that there is no condition that enforces politics or is predestined for politics:

It is not the labouring and suffering populace that emerges on the terrain of political action and that identifies its name with that of the community. The 'all' of the community named by democracy is an *empty*, supplementary part that separates the community out from the sum of the parts of the social body. (2010: 33)

By definition, the political is without foundation, whereas the political subject is by definition not entitled to act as such. That is why democracy first of all means this: 'a government based on nothing other than the absence of every title to govern' (Rancière, 2009: 41). And this emptiness is precisely what *characterizes* the political, the very quality by which it distinguishes itself from other spheres: the political signifies

something that is added to all these governments of paternity, age, wealth, force and science, which prevail in families, tribes, workshops and schools and put themselves forward as models of construction of larger and more complex human communities. Something additional must come . . . the title specific to those who have no more title for governing than they have for being governed. (Rancière, 2009: 45–6)

Naturally, these different authors do not share a strictly identical conception of the political. For example, Lefort and Rancière differ in their approach to this emptiness, which Lefort considers as a precondition for society's institutionalization of itself, whereas this is what Rancière identifies as the specific political moment.

Furthermore, they are not coming from the same theoretical backgrounds. ‘Socialisme ou barbarie’ is the theoretical and political matrix for Lefort, Castoriadis and Lacoue-Labarthe’s thinking, but Jean-Luc Nancy’s conception of the political develops from a reading of Heidegger and Bataille, whereas Rancière, after his break with Althusser, conceptualizes the political on the basis of extensive research into the ‘archives of the proletarian dream’, in order to uncover the forgotten voices of 19th-century workers, and into the pedagogy of emancipation propounded by Joseph Jacotot.

Nevertheless, all participated in the work of the Centre des Recherches Philosophiques on the political, which resulted in the publication of *The ‘Retreat’ of the Political*. Most importantly, in their work on the political, all shared the idea of a constantly renewed emptiness (1), to which they attributed the same correlates (2) and (3).

1. The political is not a ‘full’ place – full of institutions, full of substance, full of transcendent principles or definitive truths, or even full of activity distributed on the basis of a social division of labour. It is based on a *fundamental indeterminacy*, which brings about (and binds to) the collective determination – which does not necessarily signify (and certainly not for the abovementioned authors) that it is the sphere of decisionism. It presents itself as a movement that invents a world, all the while opening it up to questioning.
2. The consequence of this fundamental emptiness is that the political is an emerging reality which does not derive from any other logic. Nothing precedes it and it does not obey a preordained plan, it follows its own logic insofar as it is emerging. According to these thinkers, the political should be apprehended as a ‘mode’, as opposed to an always-already autonomous sphere. The political coincides with a movement that results from a series of actions and arrangements only identifiable in the aftermath of its shaping.
3. While the political is in principle not enclosed by elements or a predetermined purpose, it sets its own limits and defines its own boundaries (which implies that not everything is political²). The political emerges as a phenomenon devoid of structural necessities. It escapes all functionalism, it does not respond to a practical or metaphysical need, or to a need for institution or power. Its main ‘function’ is the configuration of its own space and its essential work is ‘to make the world of its subjects and its operations seen’ (Rancière, 2010: 37).

In this paper, I would like to show how this notion of the political as an emerging reality – as a ‘mode’, characterized by a fundamental indeterminacy and a propensity to produce its own borders – features in Habermas’s own body of work. For Habermas, politics has no specific place or natural subjects. It is not a closed sphere identified by a particular distinction, such as the friend/enemy distinction which Schmitt defines as the ‘criterion’ of the political. His theory holds no support for the pretension of governments to embody one single principle of public life.

More broadly, the political is not defined by a *task*, such as the one that has been most frequently attributed to it, that of ensuring the survival of members of society. Nor is it subordinated to a *meaning*. The meaning of the political is not the enjoyment of freedom in a community of equals, as in Arendt (2007: 194). It is in no way considered as the

instrument for the realization of the human telos. And finally, it does not have an *origin*. It does not begin with the articulation of injustice, as in Marx. Nonetheless, the thesis of an autonomous sphere, characterized by a fundamental void seems difficult to defend.³

First, there is certainly nothing self-evident about such a claim, given that throughout Habermas's work the political is conceived in relation to the public sphere, which is also presented as a social space in which the functions and properties he attributes to language *in general* are made explicit and catalysed. In this way, Habermas makes the forceful claim that rational discourse designates 'any attempt to reach an understanding over problematic validity claims insofar as this takes place under conditions of communication that enable the free processing of topics and contributions, information and reasons *in the public sphere constituted by illocutionary obligations*' (1996: 107–8; my emphasis, translation altered). Here, the public sphere plainly coincides with the constitutive rules of universal pragmatics, and its materialization is independent from all political implications, goals or concerns.

Furthermore, the motif of the public sphere is bound, throughout his oeuvre, with topics that all curb or condition the political 'mode', and in particular seem to attach the political to principles or authorities that precede or surpass it: the claim for validity attributed to political statements and decisions (which seems to subordinate the political discussion to the discovery of valid propositions and thereby to remove any indeterminacy), the weight given, in myriad ways, to morality in the public sphere (which seems to reduce the political sphere to the exercise of justification, criticism, and implementation of moral standards, and therefore to fully confuse the moral and the political), and the concern to let science and complexity flourish in modern societies (which thus apparently has the power to set the boundaries of the political).

When confronting Habermas's thinking with a tradition that he has barely interacted with, we should therefore take seriously the multiple intertwinings of the political mode with other logics, such as Habermas describes. There can be no question of trying to isolate in his work a radically separate, obviously distinct, 'pure' political sphere, or to imagine a fourth, political action alongside the strategic, dramaturgical and communicative actions he identified in *The Theory of Communicative Action*.

In this paper, I will examine each of the above mentioned topics in turn:⁴ the validity attributed to political statements, the weight of morality in the public sphere, and the concern to preserve science and complexity, focusing on the difficulties they raise, in order to demonstrate how, precisely, the responses provided enable us to grasp the specificity of the public sphere as a political instance and, on this basis, to identify a place for the political in Jürgen Habermas's philosophy. This place could be called an interstice; nevertheless, it is located at the normative level of his theory, and it is a recurring aspect of Habermas's work.

This will be a non-systematic demonstration – as indeed this is the only possible demonstration. However, it reveals a series of gaps and chiasmi, showing that Habermas's conception of the political exceeds the sum of the system of the modern state and a specific procedure of moral discourse.

Truth, validity

The orientation towards validity with which each speech act is endowed is a well-known theme of Habermas's theory, and here I will only recall its implications for political discourse. The quest for validity shapes the opinions defended in the public sphere, the outcomes of collective deliberation, and the type of adhesion the public sphere gives rise to.

Opinions expressed in the public sphere claim validity. They are precisely uttered in order to be recognized as valid. A citizen participating in processes of political opinion and will-formation shows fallibilistic consciousness, which conflicts with 'the existential resolve of an inalienable individual reflecting in the first person singular on how she should live her life' (Habermas, 2010a: 102). He knows that a political proposition can be recognized as valid only if it is subject to criticism.

As much as the singular speech acts which enable and perpetuate the public sphere, the actual product of the public sphere, i.e. the will it gives rise to, contains a presumption of validity. Public will-formation is conceived as a process of cooperative quest for truth and normative rightness⁵ – and not for mutual rhetorical persuasion – whose fallible outcomes have the presumption of reason on their side (Habermas, 1997a: 58). The purpose of the different arguments exchanged in discourse is therefore not solely to obtain the agreement of the other interlocutors, which could simply be a result of a mere force of contagion. Rather, the arguments put forth must have the power to *convince* those participating in discourse, that is, to provide 'rational grounds' for the recognition of 'validity claims' (Habermas, 1975: 107).

Finally, in logical fashion, Habermas rejects the various theories that claim there is no legitimate political order – only political orders *considered as such* – starting with Max Weber. For Habermas, obedience to a legitimate order, far from an uncritical submission to formally correct procedures, is based on good reasons, and legitimacy is the dimension of validity specific to legal value.

This amounts to a rejection of the approach taken by Hannah Arendt and the clear distinction she draws between *doxa* and *epistémè*. For Arendt, decisions made in the public sphere claim neither truth nor any form of validity other than that which derives from the agreement of a large number of participants. Arendt's position rests on the idea that truth, because it preemptively requires recognition and because it enforces assent through a process of coercive proof, is necessarily domineering: the modes of thought and communication that deal with truth do not take other people's opinions into account, although such an acknowledgement of other perspectives is the hallmark of all political thought (1968: 241). Habermas simply responds that Hannah Arendt's position makes her take refuge in the figure of the social contract in order to establish a foundation for the power of public opinion (1994: 225).

Habermas's political theory also forges a link between validity and politics as it refuses any account of agreement as contract, excludes contingent accommodation and rejects the idea of an overlapping consensus as defended by John Rawls. For Rawls, overlapping consensus presupposes that 'all the reasonable members of political society carry out a justification of the shared political conception by embedding it in their several reasonable comprehensive views' (2010: 57). As a result, the content the citizens reach

an agreement upon is distinct from the reasons that make people accept this content as *true*. This, for Habermas, is precisely what makes overlapping consensus unacceptable: the agreement thus obtained is contingent and relies solely on ‘the lucky convergence of reasonable worldviews’ (Habermas, 2010a: 98).

Similarly, Habermas’s theory keeps compromise at a distance, for it is not rooted in an agreement arrived at through argumentation grounded in ‘identical reasons able to convince the parties in the same way’ (1996: 339). In other words, compromise does not arise from a process of articulating good reasons in public and a ritualized competition in which the better arguments prevail: it does not claim validity. It nonetheless constitutes a type of agreement which, through its recurring presence in Habermas’s theory, introduces a vanishing point in the subordination of the public sphere to a logic that is external to it and outlines an idea of the political that surpasses the quest for validity.

Habermas uses the word ‘compromise’ in a very circumscribed fashion. It is strictly defined as an agreement about interests that cannot aspire to an axiological universalization that would enable them to take on the status of an argument. It is the antithesis to the cooperative definition of rational norms as it is a procedure based on an egocentric perspective, which nevertheless requires a will to cooperate among persons who act according to their own success. Yet, compromise thus conceived is not completely cast aside in Habermas’s political theory. As Thomas McCarthy points out, Habermas views ‘bargaining and compromise as reasonable means for dealing with conflicts’ (1993: 189). Throughout his work, Habermas constantly puts compromise at a distance while simultaneously recognizing its necessity. In *Between Facts and Norms*, he points out the risk that ‘compromise procedures will be applied to moral or ethical questions, so that these get redefined into strategic questions’ (1996: 177). Yet Habermas also recognizes that very often in complex societies we have no recourse to discussions that are appropriate to moral questions, nor can we have discussions appropriate to ethical questions: the only option remaining is that of negotiation, a type of discussion whose very purpose is compromise. This does not mean that Habermas’s theory proceeds from accommodations imposed by the descent into mediocrity of the world as it really is.

Habermas accepts the existence of compromise because the social and cultural pluralism that characterizes this *modernity* he hopes to see realized ensures an absence of a common and substantive moral framework. In the pluralism that marks liberal democratic societies, politically significant goals are often based on interests and orientations that are in no way constitutive of the identity of the community as a whole. He thus invokes processes of fair compromise as required not by a disappointing human nature but by the course of modernity. And he does not surrender to the course of modernity but calls for it: he reiterates his long-life commitment to the ‘unfinished project of modernity’ in his paper on ‘The Political’, pointing out the need to preserve ‘the normative contents of modernity out of its own resources’ (Habermas, 2011: 17).

Furthermore, the prospect of compromise, including within legislative procedures, does not appear problematic because, as he states, these are also based on discussion. As such, they can and must maintain an indirect association with the discourse principle: fair negotiating procedures are ‘procedures that provide all interested parties with equal opportunity to influence one another during actual bargaining’ (1996: 165).

This compromise procedure is then framed by a series of precautions. A compromise is legitimate only when the interests involved cannot be cut loose from the first person singular perspective. This is followed by three other conditions: the compromise must be arranged in such a way as to be more profitable to all than the absence of any arrangement; free riders who refuse to participate in the cooperative effort must be excluded from the compromise; finally, the exploited persons, who gain less from the cooperative effort than they contribute, must not take part (1996: 166). In addition – as Habermas argues in almost identical terms in *Legitimation Crisis* and *Between Facts and Norms*, despite an almost 20-year gap between the two works – the compromise remains subordinate to a moral perspective insofar as the breadth of areas that can be solved through a compromise, as well as the conditions of the procedure through which the compromises are reached, must be justified within the context of moral discourses (Habermas, 1975: 112, 1996: 167).

Yet the compromise motif is at the core of a *normative* statement. Habermas describes a kind of agreement that is fully legitimate in the political sphere and eludes the validity motif. This does not mean that the political coincides with the sum of all realized compromises, or that it should be defined as the dimension of conflicts between competing interests and prudential considerations. It rather suggests that for the self-institution of society to fully take place, something remains beyond – something must remain beyond – the reach of validity.

In sum, the primacy Habermas attributes to validity in his theory of the public sphere could well mean the impossibility of the political because, from this perspective, the political does not appear to have any clear boundaries, and the political mode simply derives from another logic. Everything seems to proceed from the free play of language and the founding norms it conveys. Moreover, the radical uncertainty as to results which characterizes an emerging reality finds itself impeded, and the institution of a common world and a mode of being specific to the political *through* the political seems impossible. What can be found at its place is, at best, the actualization of a latent world.

Of the three objections to the existence of the political in Habermas's work I am discussing in this paper, validity is most certainly the most forceful. Yet there is an undeniable breach opened up by the presence of compromise in his theory, suggesting a form of collective self-determination that does not coincide with the discovery of valid propositions. The breach does not completely shift the general orientation of Habermas's theory but it is nonetheless the sure sign of a 'remainder'. By setting legitimate limits and exceptions to the imperative of valid results, the political signals that it defines its own borders. This remainder is thrown into sharper relief if we examine more closely the place of morality in Habermas's theoretical structure; morality itself proceeds from the pre-eminence given to validity in general,⁶ but it generates specific difficulties for the political.

The weight of morality

Habermas's theory is often said to conflate politics with morality. This position is found among thinkers as far removed from one another as John Rawls and Chantal Mouffe. The former, defending a definition of the political grounded in the retreat from any form of

metaphysical or ethical considerations, accuses Habermas of not managing to produce a specifically political conception of deliberation (Rawls, 2010: 87–92). The latter considers that by proposing ‘to view reason and rational argumentation, rather than interest and aggregation of preferences, as the central issue of politics’, Habermas ‘simply replace[s] the economic model with a moral one which – albeit it in a different way – also misses the specificity of the political’ (Mouffe, 2000: 46). For both thinkers, the conflation of politics and morality stems directly from Habermas’s conception of the public sphere and its place within his theoretical system as a whole.

Indeed, many of the motifs in his political philosophy, as well as his fundamental choices, seem to confirm these readings. For instance, we can observe the insistent way in which the political articulates with morality in Habermas’s conception of civil disobedience. It singularly departs from the conception of Hannah Arendt, who attempts to reposition civil disobedience within a purely political logic. In Arendt, civil disobedience is free of any reference to moral imperatives and is expressed by ‘organized minorities bound together by common opinion’ (1972: 56), who make appeals to a higher law ‘inexpedient’, because the force of their argument lies in the sheer number of those defending it. Habermas, conversely, considers civil disobedience as a political gesture which is primarily justified by a *moral* objection, grounded in justice. It designates a ‘rule-breaking resistance [. . .] justified in the spirit and wording of the constitution and conducted by symbolic means that lend the fight the character of a non-violent appeal to the majority to once again reflect on their decisions’ (Borradori, 2004: 42).

More fundamentally, determining the common good or the common interest arises from what Habermas refers to as ‘ethical-political’ discourses which bring together issues which relate to what is best ‘for us’ and during which we examine ‘a configuration of values under the presupposition that we do not yet know what we want’ (1996: 161). Along with another type of discourse more oriented towards strategic action, i.e. pragmatic discourse (during which we consider the opportunities for strategic action), these discussions constitute a significant part of the discussions that take place in the political public sphere, and are apparently as legitimate as moral discourses. Nonetheless, Habermas’s championing of the just over the good, and his wariness vis-à-vis pragmatic and non-generalizable considerations, amounts, de facto, to giving primacy to moral discourse in the public sphere. Furthermore, the latter is allocated the task of determining the acceptability of the other discourses. Indeed, the principle of universalization that grounds all moral discourse must fulfil the crucial role of cutting – ‘like a knife’ – to distinguish the good from the just (Habermas, 1990: 104).

It therefore seems that political action and political statements either consist in proposing, critiquing and justifying moral norms, rules and reasons, or are dependent on a regime of moral validity and acceptability, or are upheld by the moral concern of political subjects. As for the political’s inherent institutional logic, it seems to boil down to the simple application of reasoning to matters of justice.

It is nonetheless possible to identify some gaps in Habermas’s theory, which, when duly examined, lead one to conclude that he does not simply dissolve the political into morality in his work. First, on closer inspection, the citizen who participates in public debate is not subject, in his political arguments, to imperatives of virtue or moral rules. In contrast to Karl-Otto Apel – who posits the moral essence of rationality in all its

dimensions, and establishes each speaker's obligation to not contradict themselves performatively as a fundamentally *moral* imperative – Habermas considers that this obligation is a *logical* constraint, and pertains to the *Müssen* (indicating an absence of alternative) rather than to the *Sollen* (which designates duty in the moral sense).

Similarly, the strength of the 'better argument', which obliges one to acknowledge the superiority of one justification over others in the course of a discussion, is explained by the formal properties of the discussion; if he does not yield to it, the speaker places his own claim to validity in a performative contradiction. Consequently, the promises of political argumentation are not grounded in some moral nature of communication.

Moreover, as regards the theory of society, Habermas argues that modernity enabled a distancing of social action from normative contexts as well as 'a splitting up of concrete ethical life into morality and legality' (1987a: 317). This manifests itself in many ways. According to Habermas, morality, whose relationship to practice is dependent on a fragile system of motivations and orientations, finds an effective complement within law – yet at the same time law, in many cases, makes these orientations superfluous. Indeed, it fosters interactions that are detached from moral concerns (1996: 119 sq.).

Furthermore, it should be noted that even when Habermas recognizes the need or desirability of political subjects having a moral orientation, this does not affect the outcome of the discussion. What prompts citizens to contribute to opinion and will-formation – and therefore to making the law – is fuelled by ethical motivations (and cultural forms of life), but this does not imply that these motivations determine the political mode. 'Democratic practices generate their own political dynamism', as he recently argued (2009: 105). Indeed, we need to distinguish between the reasons for participation in the public sphere and what actually emerges therein, i.e. a pure product of the argumentative game, underivable from any existing authority.

Elsewhere, in *Perpetual Peace* for instance, Habermas refutes Carl Schmitt's critique of human rights, arguing, in contrast to Schmitt, that human rights do not have their origins in a moral system but are instead 'a legal concept'. Unlike other kinds of norms, which can rest on ethical-political and pragmatic considerations, these fundamental rights regulate topics of such a particular kind that moral arguments suffice to ground them. Yet, according to Habermas, this *does not allow* us to attribute a moral nature to them.⁷ Moral rights are grounded in obligations which appeal to the free will of autonomous individuals whereas legal obligations, which the human rights pertain to, only proceed from the authorizations to act according to one's own will and in virtue of legal restrictions enforced on these subjective liberties. 'Basic rights are enforceable individual rights, the meaning of which is to unbind legal persons in very specific ways from moral commands by creating a sphere of action in which each person can act according to his or her own preferences' (1997b: 139).

Finally, it is precisely *through the splitting-up* of ethical life into morality and legality – which is typical of modernity – that a process of will- and opinion-formation was able to find a space and become institutionalized in contemporary democracies. This division implemented the learning processes which both gave rise to and preserved the public sphere, including in its articulation with an active and responsible civil society.

More fundamentally, there is a pivotal element in Habermas's oeuvre that ought to be properly considered and that federates the core content of these scattered elements. Let

us recall that discourse ethics is grounded in two principles. The (U) principle, whereby, to claim to be valid, a norm must fulfil the condition that ‘all affected can accept the consequences and the side effects its general observance can be anticipated to have for the satisfaction of everyone’s interests (and these consequences are preferred to those of known alternative possibilities for regulation)’ (Habermas, 1990: 65), and the (D) principle, whereby ‘only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse’ (1990: 66).

In *Between Facts and Norms*, Habermas broadens this second principle, the discourse principle, and makes it something other than an exclusively moral principle. It now becomes both a *moral* principle and a *democratic* principle – at once the principle of the discursive regulation of *validity* in the context of interactions and the principle of discursive and autonomous *will-formation*. This twofold presentation of the principle should not be considered as a subdivision but indeed as two different aspects of the same (D) principle. The first is a rule of argumentation, the second suggests the *institutionalization* of the practice of *self-determination* enacted by the interlocutors: ‘whereas the moral principle operates at the level at which a specific form of argumentation is *internally* constituted, the democratic principle refers to the level at which interpenetrating forms of argumentation are externally institutionalised’ (1996: 110). Thus, within the same ‘D’ principle there emerges a strictly political logic, defined by the production of *legal* statements, and the *participation* in discursive will-formation.

The (D) principle, including in its democratic/political aspect, remains a fundamentally ethical principle, if only because it presupposes a responsibility, a commitment in relation to one’s interlocutors. Nonetheless, this democratic principle has to do with the *politically autonomous* development of the status of a member in the voluntary association of consociates under law (Habermas, 1996: 122). In other words, it is not merely a matter of judging or constructing valid norms but of ‘constituting a political community by a system of rights that empowers free and equal citizens and channels the use of the political power in a legitimate manner’, as Habermas recently stated (2010b: 295). And this also signifies that the political autonomy enjoyed by citizens is not restricted by moral or natural laws merely waiting to take effect.

Furthermore – and this point is seldom noted – the definition of legal validity summons an undeniably *volitional* moment. The factuality of concrete contexts cannot be removed from Habermas’s conception of the public sphere (as illustrated by the place he nevertheless gives to ethical and pragmatic discourse). He correlatively accepts the idea that attitudes and motives *vary* within the process of rational collective will-formation, which, each time, impacts on the arguments that are presented. ‘On account of this relation to the de facto substratum of a legal community’s will, a *volitional* moment enters into the normative validity dimension – and not just into the socially binding character – of legal norms’ (1996: 156; my emphasis). Thus, the production of the legal form does not singlehandedly enable the introduction of a ‘gap’ between moral and political logic in Habermas’s theory; the discrepancy between the two logics is also the product of the concreteness of the forms of life and interests at stake. Each time, the particular needs and circumstances are what constitute the discussion’s reason for being (and not its imperfection), and give shape and substance to a communicative power.

In this way, the separation between morality and legality that characterizes modernity is accentuated by the very movement of deliberation and justification in the public sphere that guarantees, across several modalities, the autonomy of the political in Habermas's theory. The public sphere does not hold the political and morality together in the sense of reconciling or bridging two discrete logics as in the Enlightenment construction. Rather, the public sphere should be considered as the matrix of the two logics: the place where the two logics are differentiated and, in this way, the emergence of the political guaranteed.

Science and complexity

A consistent feature of Habermas's theory is his insistence on the problems that science (and its autonomous development) and complexity (engendered by the growing autonomization of subsystems) represent for democratic societies. The threat they pose to political will-formation lies in the impossibility of incorporating into discourse both the knowledge required to master the complexity of technical solutions and the knowledge required to master social complexity. In both cases, this impossibility also means the impossibility of the political. Far from deploying in the background of a fundamental indeterminacy, political deliberation and decision are subordinate to the implicit goals of science and its infinite progress. However, the observation does not lead, in either case, to an appeal to renounce this complexity, despite the marginalization it represents for the ordinary language.

In 'Technology and Science as "Ideology"', Habermas expresses moderate defiance with regard to technology. On the one hand, there is indeed an 'ideology' at work in advanced capitalist societies, buttressed by technology and science, and tied to a notion of progress that acts as an independent variable, while its dynamic seems to produce objective constraints for politics. On the other hand, there is no question for Habermas of abandoning or transcending science and technology as we know them. This essay is in fact intended as a refutation of Marcuse's radical critique of contemporary science, and his call to give way to the resurrection of fallen nature and an attitude characterized by care and partnership to foster and free its potentialities. In response to Marcuse, Habermas argues that 'the achievements of technology, which are indispensable as such, could surely not be substituted for by an awakened nature' (1971a: 87–8).

Later, in his *Theory of Communicative Action*, Habermas writes that while modernity subtracts the process of material reproduction from the life-world and entrusts it instead to systems, this does not constitute a problem in itself. The emergence of subsystems, far from being a phenomenon to be curbed, represents an increase in effectiveness compared to traditional modes of material reproduction. This is one of the main thrusts of his critique of Marx, whom he reproached for not having perceived that suppression of the market and the state would signify a regression with regard to the complexity achieved (1979: 43).

Science is often presented as the solution to the problems it gives rise to, especially in his 1970s works. As the subsystems of science and technology enjoy functional primacy for the regulation of society's development, 'the relation of technical progress and life-world and the translation of scientific information into practical consciousness is not an

affair of private cultivation' (Habermas, 1971b: 57). Rather, they represent a challenge levelled at science itself. He does indeed argue that it is possible for science to self-thematize and, in this way, strip the progress that it generates of its 'naturalness'. In *Technology and Science as 'Ideology'*, Habermas posits science as the way to bring technology back into the life-world, and argues that scientific reflection is necessary to bring 'the technical control of particular areas within the reaches of communication of acting men' (1971a: 56). But Habermas later retreats somewhat from these claims, arguing that the understanding of cultural forms of life cannot be given over 'to biologists and engineers intoxicated by science-fiction' (2003: 15).

However, the idea of using complexity to counter complexity remains true to this day with regard to social complexity. The separation Habermas operates in *Between Facts and Norms* between the informal public sphere, where deliberation takes place, and the institutionalized public sphere, entrusted with decision-making, is conceived as a way of preserving a form of complexity within the political sphere, a complexity which tends to disappear once the themes of deliberation have been translated into the everyday language of the public sphere – Habermas speaks of 'a kind of complexity-preserving counter-steering' (1996: 327). Likewise, law is presented as an institution that aims to compensate for a social complexity that strips the normative presuppositions of the deliberative practice, but which aims to do so by matching the complexity of the sub-systems, of precisely speaking the language of the system in order to 'sensitise the self-steering mechanisms of the State and the economy to the goal-oriented outcomes of radical democratic will formation' (1987b: 365).

The theoretical movement Habermas performs thus consists in strengthening the locus of science or complexity. The therapeutic force of science and complexity does not lie in a capacity for self-limitation. Rather, Habermas seems to concede to science (and its inherent reflexivity), and/or to social complexity, the control of the grammar of development. These then strip the political of all, or part of, its power to invent a world and its capacity to make history.

Yet, in parallel, the public sphere is the locus of a specific response to complexity. The specific, *unconditioned* knowledge it gives rise to is considered as a political retort to the all-pervasiveness of the logic of complexity. The public sphere, which possesses a reflexive function, is the sphere in which society develops a knowledge of itself (1987b: 357), a notion which is coupled with that of collective learning. But this learning does not take the form of an accumulation of data, as with science. Rather, it appears as a loss of naivety. This self-knowledge, which is distinct from the mere construction of a self-representation, is coupled with the awareness of the existence of alternative possibilities with regard to the definition, identification and organization of the society in question.

Yet the cognitive reasons that lead Habermas to maintain the configuration in which the public sphere is opposed to science, technology and the complex world they give shape to, are not limited to the idea of a privileged access to the self. They also have to do with the fact that the knowledge that develops in the public sphere is a very specific kind of knowledge. It is not a knowledge strictly embedded in self-preservation as, for instance, in the systems theory from which he nevertheless borrows greatly. For Niklas Luhmann, if systems develop a reflection on their specific unity, it is only in order to

match the hypercomplex environment (Luhmann, 1995: 168). Habermas criticizes this conception for presenting knowledge as instrumental: 'systems theory lets cognitive acts – even its own – meld into the system's achievement of mastering complexity and thus *takes away from knowledge any moment of unconditionality*' (1987b: 371; my emphasis).

Conversely, he characterizes discussions in the public sphere as instituting a cognitive relation to the world that is not subordinated to a finality and which escapes calculating forms of thought. In this way, the public sphere offers an unsubstitutable form of knowledge. This notion, which has a decidedly pragmatic inflection, stems, in Habermas, from a logic of crisis, specifically examined in connection to the theme of civil disobedience. Habermas argues that in crisis situations, the actors of civil society – despite its less complex organization – have the capacity to reverse the direction of communication cycles conventionally established in the public sphere and the political system. Not only does civil society have, as an emanation of the private sphere, the advantage of a heightened awareness for perceiving new problems, but within the public spheres 'the power relations shift as soon as the perception of relevant social problems evokes a crisis consciousness at the periphery' (1996: 382).

Civil disobedience is at once the medium and the expression of the formation of such a consciousness, and 'actualises the normative contents of constitutional democracy in the medium of public opinion' (1996: 383). Since *Between Facts and Norms*, Habermas's expectations for deliberative politics have focused particularly on the capacity of the peripheral structures of opinion-formation to perceive, interpret and frame problems in such a way as to draw attention to them. Consequently, civil disobedience is not apprehended as a marginal event,⁸ reluctantly tolerated in order to break the deadlock in a society's learning process. Rather, civil disobedience is fully considered as an indispensable political practice and a tool for ongoing correction.

The reflexive and cognitive force of the public sphere possesses a specifically political scope, first in the sense that it is held in the institutional network of the self-organization of a society. However, due to the kind of unsubstitutable knowledge it affords, the public sphere is presented primarily as a site of resistance. The relationship between public sphere and science or public sphere and complexity-producing systems is not some kind of hasty collaboration, a form of anticipation on Habermas's part of current thinking on technical democracy and hybrid forums, in the sense that the idea behind it is to introduce science into democracy, by asserting the role of laypersons in political and scientific decision-making. Nor is it about placing science and expertise under the tutelage of the public sphere or about overthrowing the hierarchy between the two entities, as conceived by Marcuse, who regards advanced industrial society as the latest stage in the realization of a specific historical *project* which must be brought to an end (Marcuse, 1991: xlviii).

Rather, the public sphere opens up a kind of epistemic competition, where the goal is to establish a world of meanings. But because the outcome does not have to be clear-cut – yet again, Habermas is not calling for the dismantling of existing science, nor for the limitation of social complexity – the public sphere is simply presented as a structure for contestation. In other words, in Habermas's conception, the public sphere constitutes a kind of counter-authority capable of enforcing the revision of certain decisions, orientations or obvious truths conveyed by the technological and systemic universe, without any claim to becoming part of or appropriating their matrix.

Some neo-republicans, such as Philip Pettit, have defined democratic legitimacy not in terms of consent, or on the grounds of adherence to a procedure, but through the possibility of contestation with regard to collective decisions (1997: 185). It seems that the place Habermas attributes to the public sphere with regard to science and complexity is of a similar nature: what matters is that the decisions and orientations satisfy the condition that demands that citizens be capable of contesting them. In other words, this constitutes, in Habermas's theory, a very particular embodiment of the much older motif of *critique*. Although severely limited, the political is described as a movement that invents a world by opening the existing world to questioning.

Conclusion

For Habermas, the public sphere is thus as much the object of political theory as of the philosophy of language, moral philosophy and social theory, whose themes seem to threaten, if not thwart, the deployment of the political that it is likely to open up. Yet the logic of validity, that of morality, and that of science and complexity, bring to the fore, respectively, a political 'remainder' among the legitimate agreements, an autonomous political principle, and a specifically political relationship to the world. It is thus when *tested against* its other social productions that the public sphere emerges as an empty space (the space where society explicitly self-institutes) and that, in short, it enables the political.

Standing out for the manner in which it is tested by other logics, Habermas's conception of the political is not in any way self-evident or pure. Nevertheless, it can be defined on the grounds of an inherent movement that possesses immanent effects, akin to those that the older term *praxis* tried to account for – in the sense that, as Cornelius Castoriadis has argued, 'praxis [...] can exist only if its object, by its very nature, surpasses all completion; praxis is a perpetually transformed relation to the object' (1987: 89). In Habermas's theory, this praxis is a discursive and intersubjective praxis, coextensive with co-participation in a discourse which implies neither common project nor a finality which exceeds it – a praxis made possible by a fundamental emptiness and characterized by a radical unconditionality.

Notes

1. I have not dealt with the case of Agamben here, whose work is resolutely underpinned by the project of excavating the theological survivals in contemporary political categories.
2. See for instance Lacoue-Labarthe and Nancy (1997: 122–34).
3. We can also add one further, well-known obstacle to establishing dialogue between Habermas and the representatives of this idea of 'void': Rancière's conception of the political is in part based on a criticism of the theory of communicative action, developed in *Disagreement*.
4. I do not claim to be exhaustive. The argument could probably be extended to other topics whose entanglement with the political weakens the autonomy of the latter. Within the scope of this article, we will only examine these three elements because they are among the most present and most permanent in Habermas's work. For a similar attempt to identify a distinctively political deliberation in Habermas's work, see María Pía Lara (2013). She shows that communication and participation are activities that pertain to the political domain in so far as our demands are articulated in ways that disclose new methods for envisioning rights of inclusion.

5. The subdivisions of the concept of validity as well as their respective definitions have varied throughout Habermas's work. If we are to turn to *Truth and Justification*, a distinction is drawn between truth and normative rightness, where the former is apprehended as a concept that transcends justification and cannot be identified with an ideally justified affirmability, insofar as it necessarily involves reference to an objective world. In contrast to the conditions of truth – which must also be satisfied by reality itself – the meaning of normative rightness is reduced, for its part, to an ideally justified acceptability (Habermas, 2005: 249–52).
6. As normative validity. And consequently, justice is 'nothing material, no determinate value, but a dimension of validity' (Habermas, 1986: 249).
7. As Rainer Forst showed, there is no contraction in this argument, because 'it is not incompatible to claim that human rights institutionalize the communicative conditions for a reasonable political will-formation on the one hand, and, on the other, that they have a core moral content that is concretely defined, interpreted and institutionalized in actual discourses' (2010: 178).
8. Concerning the fundamental character of civil disobedience and the place of the 'no' in Habermas's political theory, see also White (2012).

References

- Arendt H (1968) *Between Past and Future*. London: Penguin Books.
- Arendt H (1972) Civil disobedience. In: *Crises in the Republic*. New York: Mariner Books, 49–102.
- Arendt H (2007) *The Promise of Politics*. New York: Schocken.
- Borradori G (2004) *Philosophy in a Time of Terror: Dialogues with Jürgen Habermas and Jacques Derrida*. Chicago: University of Chicago Press.
- Castoriadis C (1987) *The Imaginary Institution of Society*. Cambridge: Polity Press.
- Forst R (2010) The justification of justice. In: Finlayson KG and Freyerhagen F (eds) *Habermas and Rawls: Disputing the Political*. London: Routledge, 153–180.
- Habermas J (1971a) Technology and science as 'ideology'. In: *Toward a Rational Society: Student Protest, Science and Politics*. Boston: Beacon Press, 81–122.
- Habermas J (1971b) Technical progress and the social life-world. In: *Toward a Rational Society*. Boston: Beacon Press, 50–61.
- Habermas J (1975) *Legitimation Crisis*. Boston: Beacon Press.
- Habermas J (1979) Interview with Detlev Horster and Willem van Reijen. *Starnberg*, March 23, 1979. *New German Critique* 18: 29–43.
- Habermas J (1986) *Autonomy and Solidarity: Interviews with Jürgen Habermas*, ed. Dews P. London: Verso.
- Habermas J (1987a) *Theory of Communicative Action, Vol. II*. Boston: Beacon Press.
- Habermas J (1987b) *The Philosophical Discourse of Modernity*. Cambridge: Polity Press.
- Habermas J (1990) *Moral Consciousness and Communicative Action*. Cambridge, MA: MIT Press.
- Habermas J (1994) Hannah Arendt's communication concept of power. In: Hinchman L and Hinchman S (eds) *Hannah Arendt: Critical Essays*. Albany: State University of New York Press, 111–141.
- Habermas J (1996) *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge: Polity Press
- Habermas J (1997a) Popular sovereignty as procedure. In: Bohman J and Rehg W (eds) *Deliberative Democracy: Essays on Reason and Politics*. Cambridge, MA: MIT Press, 35–67.
- Habermas J (1997b) Kant's idea of perpetual peace: With the benefit of 200 years' hindsight. In: Bohman J and Lutz-Bachmann M (eds) *Perpetual Peace: Essays on Kant's Cosmopolitan Ideal*. Cambridge, MA: MIT Press, 113–155.

- Habermas J (2003) *The Future of Human Nature*. Cambridge: Polity Press.
- Habermas J (2005) *Truth and Justification*. Cambridge, MA: MIT Press
- Habermas J (2009) *Between Naturalism and Religion*. Cambridge: Polity Press
- Habermas J (2010a) 'Reasonable' versus 'true', or the morality of worldviews. In: Finlayson JG and Freyenhagen F (eds) *Habermas and Rawls: Disputing the Political*, London and New York: Routledge, 92–116.
- Habermas J (2010b) Reply to my critics. In: Finlayson JG and Freyenhagen F (eds) *Habermas and Rawls: Disputing the Political*. London: Routledge, 283–304.
- Habermas J (2011) The political: The rational meaning of a questionable inheritance of political theology. In: Mendieta E and Vanantwerpen J (eds) *The Power of Religion and the Public Sphere*. New York: Columbia University Press, 15–33.
- Lacoue-Labarthe P and Nancy JL (1997) *The 'Retreat' of the Political*. London: Routledge.
- Lara MP (2013) *The Disclosure of Politics: Struggles over the Semantics of Secularization*. New York: Columbia University Press
- Lefort C (1988a) The question of democracy. In: *Democracy and Political Theory*. Cambridge: Polity Press, 9–21
- Lefort C (1988b) The permanence of the theologico-political. In: *Democracy and Political Theory*. Cambridge: Polity Press, 213–255.
- Luhmann N (1995) *Social Systems*. Stanford: Stanford University Press
- McCarthy T (1993) *Ideals and Illusions. On Reconstruction and Deconstruction in Critical Theory*. Cambridge, MA: MIT Press.
- Marcuse H (1991) *One-Dimensional Man: Studies in the Ideology of Advanced Industrial Society*. Boston: Beacon Press.
- Mouffe C (2000) *The Democratic Paradox*. London: Verso.
- Nancy JL (2009) Finite and infinite democracy. In: Agamben G, Badiou A et al. *Democracy in What State?* New York: Columbia University Press, 58–75.
- Pettit P (1997) *Republicanism: A Theory of Freedom and Government*. New York: Oxford University Press.
- Rancière J (2009) *Hatred of Democracy*. London: Verso.
- Rancière J (2010) Ten theses on politics. In: *Dissensus: On Politics and Aesthetics*. London: Continuum Books, 27–45.
- Rawls J (2010) Political liberalism: Reply to Habermas. In: *Habermas and Rawls, Disputing the Political*. London: Routledge, 46–91.
- White SK (2012) 'No-saying' in Habermas. *Political Theory* 40(1): 32–57.

Author biography

Estelle Ferrarese is a full professor of political and social theory at Strasbourg University. She has been a Visiting Professor at the New School for Social Research in New York, and an Alexander von Humboldt-Foundation fellow at the Humboldt Universität in Berlin. She is currently a research fellow at the Centre Marc Bloch in Berlin. Her books include *Ethique et politique de l'espace public. Habermas et la discussion* (Paris, Vrin, 2014) and *Qu'est-ce que lutter pour la reconnaissance?* (Lormont, Editions Le Bord de l'Eau, 2013). She is also the author of numerous articles on critical theory, deliberative democracy, and vulnerability as a political category.