
The Argumentative Turn Revisited

PUBLIC POLICY AS COMMUNICATIVE PRACTICE

Frank Fischer and Herbert Gottweis, editors

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9. The Argumentative Turn toward Deliberative Democracy

Habermas's Contribution and the Foucauldian Critique

The argumentative turn in policy analysis and planning is based on the insight that our language does not simply mirror the world but that instead language profoundly shapes our view of the world. Since "public policy is made of language," as Giandomenico Majone (1989:1) famously puts it, the ways policy analysts represent the social reality in their research are deeply embedded in controversies about the truth of their claims and about social power.

The debates in social philosophy and epistemology about the essential status of language in the sciences and its implications were inspired by philosophers like Ludwig Wittgenstein, Martin Heidegger, Hans-Georg Gadamer, J. L. Austin, and Jacques Lacan. But it was eventually the work of Jürgen Habermas and Michel Foucault that kept the debate moving in the direction later aptly coined "the argumentative turn in policy analysis" by Frank Fischer and John Forester (1993). In assessing policy analysis as argumentation, Fischer and Forester made use of the ambiguity of the term "argument," referring both to an analytical content and to a practical performance. In retrospect, it is in particular Habermas's early criticism of positivism in the social sciences and his later conceptual work on discourse theory, in which he developed this ambiguity of content and performance, which became the crucial step in bridging the gap between language philosophy and public policy analysis.¹ In addition, Foucault's theory of discourse and power inspired a new area of academic inquiry: the discourse analysis. Today, the work of Habermas as well as that of Foucault has become the point of reference for two altercating strands of research in public policy.

Habermas is still regarded as one of the most influential academic thinkers of our times in the fields of philosophy, sociology, linguistics, and political science.² In addition, his contributions as a public intellectual have triggered many political debates both in Europe and in the United States.³ In the first part of this chapter, we reevaluate Habermas's

influence on critical policy studies. First, we look back on his path from a critique of positivism to democratic theory and his theory of deliberative policy. We discuss whether Habermas has made an epistemic turn in his more recent writings on democratic theory and its implications for policy making. Then, we turn to current empirical studies about deliberative policy making. In the second part of the chapter, we reevaluate Foucauldian critiques of the Habermasian approach to democratic theory, beginning with a reconstruction of the internal links between Foucault's theory of discourse, knowledge, and power, and moving to an outline of their implications for a critical analysis of deliberative policy and politics. Finally, we reflect on the consequences of late Foucault's understanding of governmentality for critical policy studies today and argue that Foucault's ethos of critique is indeed in some respects not far away from the intentions of Habermas's discourse ethics.

Jürgen Habermas: From Postpositivism to Deliberative Democracy

In retrospect, the impact of Habermas's contribution to the argumentative turn in the study of public policy can be seen on three different levels. First, Habermas's work became a prominent point of reference for critical policy scholars as a result of his contributions to the field of *democratic theory*. His work was read as having a participatory impulse, which attracted academics interested in democratic reforms. Starting in the 1950s with a radically democratic reformulation of Franz L. Neumann's famous statement that democracy is the realization of human freedom through political participation, Habermas became politically engaged in his early days as a proponent of a socialist and participatory concept of democracy.⁴ His outspoken support for the protest movements against German remilitarization in the 1950s, as well as his support for the protest movements of the late 1960s and his engagement with democratic university reform, created his public image as an advocate of participatory democracy. In the field of university politics, for example, Habermas put on the political agenda the "democratization of the university" through the institutionalization of open and nonhierarchical discussions and through politically decided topics of research (1970:6). In addition, he defended "student's participation in research processes" (1970:9). However, Habermas understood political partici-

patron in his writings (and his political activities) in a certain normative sense: as an activity of equal involvement in processes of discursive will-formation. At this point in his intellectual development, Habermas diagnosed a tension between democracy and capitalism. In his programmatic introduction to *Theory and Practice*, he spoke of the "incompatibility of the imperatives that rule the capitalistic economic system with a democratic process for forming the public will" and called for the "discursive formation of the will as an organizational principle for the social system as a whole" (1973:4, 27). Habermas hoped that the political forces pressing toward a democratization of society would "succeed in penetrating the total complex of production" (232). This understanding of the democratization of society and the essential role of "rational arguments" in political debates were confirmed again in the mid-1970s in the final chapters of Habermas's programmatic essay *Legitimation Crisis* (1975).

Second, Habermas has been read by social scientists as an author who reconceptualized the tradition of critical theory of the Frankfurt School of western Marxism. From his early book *The Structural Transformation of the Public Sphere* (originally published in 1961) to his *The Theory of Communicative Action* (originally published in 1981) and *The Future of Human Nature* (2003), Habermas intended to lay the ground for a "theory of society" that would be capable of formulating a critical perspective on the processes of reification and alienation in modern capitalist societies (see Iser 2009; Strecker 2012; White 1988). Since the 1980s, this work has contributed to *metatheoretical* debates among many policy scholars about basic questions of social philosophy, theories of society, and the policy process.

Third, this interest in Habermas's work has stimulated debate on the *methodological level* in the field of policy studies and discourse analyses. This started with his early critique of positivism and neopositivism in the 1960s and was complemented in the 1970s by his critique of Gadamer's hermeneutics.⁵ It was, in particular, Habermas's claim, in his *Knowledge and Human Interest* (originally published in 1968), that Freudian psychoanalysis might serve as a paradigmatic case for an emancipating and participatory social science that laid the ground for the search for postpositivist methodologies among scholars of public policy (see Fischer 1980). Thus, Habermas's attack on positivism and his attempt to overcome the shortcomings of pure hermeneutic alternatives

became a crucial steppingstone for the argumentative turn in the social sciences.

Revisions and New Turns in Habermas's Thought

Since the mid-twentieth century, starting with the publication in 1953 of his first articles on Heidegger's philosophy and his sociological studies of consumerism, Habermas has shown a tremendous capability and willingness to engage in debates with his critics. More than once he has reacted to substantial objections to his ideas by making radical theoretical changes and revisions. The best-known of these changes are those that led him away from his early, Adorno-like cultural critique, first to an epistemological foundation for critical theory, and subsequently to a theory of communicative rationality.⁶ However, Habermas's later work has also constantly undergone revisions, mostly triggered by the need to bring in new topics and to respond to his critics. Due to the vast amount of literature by and on Habermas, it can be easy to overlook some of these lesser-known revisions, even though they may be of importance for an assessment of his contributions to critical policy studies, including policy discourse analyses. With respect to the significant role of Habermas's work in shaping the formative phase of the argumentative turn, we mention three of these changes.

First, revisions occur on the *methodological level*. Although Habermas is still a critic of positivism (as well as of rational choice) in the social sciences, he has distanced himself from his harsh and polemical attacks of the 1960s. As early as 1982, in the new German edition of his book on positivism, he acknowledged the relevance of mainstream empirical research in the social sciences. As a consequence, he developed the concept of "rational reconstruction" as a suitable methodology for empirical policy research (e.g., into the deliberative quality of public discussion) and discourse analyses.⁷ Unfortunately, Habermas has not developed this methodological concept very far (see Habermas 2005; Koller 2009; Gaus 2009:106–10). And so, it comes as less of a surprise when one gets the impression, in some of his other writings, such as *Between Facts and Norms* (originally published in 1992), that he has returned to a traditional distinction between political philosophy (which deals with normative issues only) and empirical social sciences (which use all sorts of methodologies). Thus, scholars in critical policy studies

are left without clear answers to questions about the methodological status and potential of Habermas's more recent work: what is left of his critique of positivism, which inspired the early postpositivist movement? It is doubtful whether postpositivist scholars today still may learn new lessons from Habermas's later take on methodology.

In addition, Habermas has made changes, clarifications, concessions, and revisions on the metatheoretical level. With respect to the field of discourse analyses, the main clarification has concerned the different types of discourse. With the publication in 1991 of *Erfahrungen zur Diskursethik*, Habermas began to differentiate between three types of discourse, moral, ethical, and pragmatic, each with its own communicative claims and internal logic (see Habermas 1993). The differences between Habermas's understanding of a discourse as a source for normative standards and Foucault's conceptualization of discourses as spaces of power relations, which had already worked out a couple of years earlier in his lecture *The Philosophical Discourse of Modernity* (originally published in 1985), finally became more clear-cut.

However, it is not fully clear to what extent these categorical and conceptual differentiations are relevant to the argumentative turn in general and to empirical research on public policy issues. Questions may be asked about the consequences of the distinction between weak and strong forms of communicative action to empirical discourse analyses: To what extent can the revised role of imperatives within Habermas's linguistic framework reinvigorate the empirical identification of arguing and bargaining in political deliberations? And how can the analysis of political debate make use of the distinction between the three types of discourse? It is obvious that the analytical differentiation between moral, ethical, and pragmatic types of discourse—each with its own communicative claims and internal logic—is supposed to have conceptual as well as normative consequences for empirical research on policy formation processes. But what exactly these analytical distinctions lead policy analysts to has not been worked out yet.

To some readers of Habermas such as Nancy Fraser, William Scheuerman, Hans Joas, or Rainer Schmalz-Brunns, however, the most disturbing revisions they find in Habermas's work are in the field of *democratic theory*. In the final chapters of *The Theory of Communicative Action*, in which Habermas integrates systems theory into his theory of society to such a degree that, in the end, system media such as "money" and

"power" seem to dominate (or, in Habermas's word, "colonize") the realm of politics. Against this tendency of modern societies, Habermas has insisted on the relevance of participatory politics, in particular through social movements and an activist civil society. Even though these movements were interpreted by Habermas as a defensive social force against the colonization of the life-world by the system, active members of social movements were understood as crucial policy makers to fight pathologies of modernity. In his later writings, Habermas has distanced himself from any earlier aspirations to democratize society as a whole. According to Habermas, one has to take the arguments of modern systems theorists such as Niklas Luhmann more seriously than he did earlier: "All the modern economies are so complex that a complete shift to participatory decision-making processes, that is to say, a democratic restructuring at every level, would inevitably do damage to some of the sensitive requirements of contemporary organization" (Habermas 1987:324). As a consequence, he placed political participation within the sphere of the life-world, where it is expected to defend communicative rationality against the colonization of the life-world with the instrumental rationality of systems imperatives. This conceptualization served as a source of inspiration for radical politics and new social movements. In addition, it provided a starting point for a number of scholars of critical public policy who had been interested both in radical democracy and in a sociological analysis of public discourses. So in the 1990s, Habermas's work again was cited as a normative and methodological cornerstone for the movement toward a more democratic and civil society (Arato and Cohen 1992).

The development of Habermas's ideas about democracy culminated in the publication in 1992 of *Between Facts and Norms*. This book was the first by Habermas devoted exclusively to questions of democratic principles and democratic institutions. Shortly after its publication, the book made Habermas, and continues to make him, one of the—if not *the*—most widely read authors dealing with the concept of "deliberative democracy." In particular, in the second part of the book, Habermas delineates a "two-track" model of the public sphere. In a wider and mostly unorganized public sphere, the members of civil society discuss political issues and create communicative power. If this power is strong enough, it may undermine the institutionalized realm of the governmental system (consisting in legislative bodies and other formal politi-

cal institutions such as constitutional courts). But it is not allowed to occupy the state. Rather, in the passage from the wider public sphere to the inner realm of the political system, a deliberative laundering of communicative power has to take place.

Habermas's procedural reformulation of deliberative democracy and his two-track model seemed to bridge the gap between an elaborated normative program and empirical research in democratic policy making (see Benhabib 1996; Bohman 1996). Even though some authors criticized *Between Facts and Norms* for what they perceived as a lack of consistency with its radical democratic normative starting point (see Buchstein 1994; Scheuerman 1999; Schmalz-Bruns 1995), the theory of deliberative democracy, in its Habermasian version, still seemed to offer at least a normative orientation for a certain strand of scholars in the public policy research community. According to their understanding, the theory of deliberative democracy has to be worked out in more detail into a concept in which practical public policy problems would be settled in a way that emphasizes simultaneously the egalitarian and rational promises of modern democracy (see Chambers 1996; D'Entreves Passerin 2006).

An Epistemic Turn in Habermas's Theory of Democracy?

Since the publication of *Between Facts and Norms*, Habermas has carefully distinguished between the mode of "routine politics," which is within the institutions of the political system, and the mode of "exceptional politics," in which citizens get more deeply involved in political participation. According to Habermas, this model is normatively sufficient as long as the political apparatus is under the critical supervision of a professional public sphere. Today, Habermas is distancing himself from most of his early writings on democracy. In the German edition of his selected works published in 2009, in the volume collecting his main articles on political philosophy, he included no article written earlier than 1992. He justified this editorial decision with the argument that it was not until he completed *Between Facts and Norms* that he fully understood the proper role of democracy in modern societies (see Habermas 2009a:21).

Habermas is in line with the basic argument stated by other proponents of the deliberative theory like John Dryzek or Joshua Cohen that

one of its major strengths lies in its particular suitability for offering a conceptual framework for democracy beyond the nation-state. According to Dryzek, the discursive theory of democracy "is particularly conducive to international society, because unlike older models of democracy, it can downplay the problem of boundaries" (2000:129). During its shift in focus from civil society actors in the framework of the nation-state to international organizations and supranational bodies, the deliberative theory of democracy quietly underwent a revision of its legitimating point of departure, as a result of which it has joined the trend of the "rationalization of the theory of democracy." Although the deliberative theory of democracy at first had its place in the tradition of radically democratic approaches that attempted to make a contribution to reform policy by strengthening forums of participation, its source of legitimacy has successively shifted ever more toward engendering "reasonable results" as a normative point of reference. There is especially the danger of a slippery slope from deliberative politics, through epistemic communities, to the rule of experts. This trend can be observed especially in the context of so-called comitology research on the political system of the European Union. After research uncovered that the expert bodies with international membership within the multilevel European system not only negotiate interests with one another but also make numerous decisions after exchanging arguments, these bodies were presented as examples par excellence of successful political processes of deliberation (see Joerges and Neyer 1997; Joerges 2002). After a deliberative redescription of "democracy" it is only a small step to regard the decision-making processes of the European comitology, which both lack transparency and are highly exclusive, as "democratic." Habermas's deliberative theory of democracy at the very least gives support to this democratic rereading of a highly technocratic governmental apparatus (Scheuerman 2004), even though he himself charges that the political elites in the EU have acted like technocrats in the recent financial and political crisis in Europe (Habermas 2010, 2011).

In the context of the debates about transnational democracy, Habermas has recently introduced an additional distinction between "voluntaristic" and "epistemic" understandings of democratic politics. According to him, it is the postnational constellation that "calls for further adjustments within the conceptual apparatus of political theory" (2008: 319) if we want to enable the theory of democracy to catch up with the

realities of a world organized at a supranational level. For the normative core of his understanding of democracy, this means undertaking a shift in emphasis requiring that "we also ascribe an epistemic function of democratic will-formation" (Habermas 2001:110). In Habermas's approach of "epistemic proceduralism" (2006:413), democratic processes obtain their legitimizing power "not only and not mainly from participation and will-articulation," but from the general accessibility of "a deliberative process whose structure grounds an expectation of rationally acceptable results" (110; for a critique, see Jörke 2009).

The benefit that Habermas expects from this shift toward the epistemic dimension, as the move is coined by Rainer Schmalz-Bruns (1995: 274), is its particular suitability in the deliberative theory of democracy for meeting the requirements of a conceptualization of democracy that transcends national boundaries. By doing so, Habermas can easily and critically counter an understanding of democracy that insists that in a democracy citizens first of all must have the same opportunities to bring their authentic preferences to bear through elections or referenda that are "voluntaristic" (Habermas 2001:110). Habermas thus assigns to the participatory element in the concept of democracy the status of a dependent variable of the rationality wished for in political processes. Reasonable deliberation and inclusive participation are not simply two sides of democratic policy making, which is how Habermas in some of his writings tends to reconcile the two different strands (Habermas 2009a:12), but there is a priority for the cognitive element. The logical consequence of this priority is that democratic participation is subordinated to the demands of rationality posed by modern politics. Thus, a deliberative theory of democracy interpreted in this vein has a problem concerning its democratic nature when it comes to its input dimension (see Buchstein and Jörke 2007).

The influence of the changing sociological view of the forces and developments that are constitutive of modern societies, which Habermas took from Niklas Luhmann's systems theory approach to democratic theory, can hardly be overestimated (see Schmalz-Bruns 2009: 449). However, one would have a hard time trying to identify Habermas's distinction between a "voluntaristic" strand and an "epistemic" strand in democratic thought as something like a fundamental turn in his work in the field of democratic theory. As Thomas Saretzki indicates, there had been quite a number of "concretistic (mis-)interpre-

tations of his concepts (e.g., concerning the ideal speech situation)" (2009:428), since for some of his readers his concepts seem to suggest practices of direct democracy and direct political involvement by all citizens. Habermas himself undoubtedly invited some of these constructive readings by the way he illustrated his concepts and the way he took sides in political controversies in the 1960s, 1970s, and early 1980s. But despite these statements, the lack of an answer for the question of proper institutionalization of democratic principles in his work before *Between Facts and Norms*, in which he finally worked his ideas through the institutional setting of modern Western democracies, invited readers to fill the gaps with their own radical democratic aspirations.

On the other hand, Habermas explicitly rejected the idea of any totalizing visions of modern society that run counter to the complexity and plurality of modern society in the name of democracy (Habermas 1982). To him, the associative vision of a radical democracy is utopian in the negative sense, for it is based on unrealistic assumptions about the possibility of reducing the complexity of modern societies. A democratic theory that has no sociological plausibility is a hopeless project for him. And for this reason, Habermas focused his understanding of "democratization" on the options within the context of institutionalized will-formation and decision making in political parties, parliamentary legislation, the judiciary, and the political administration. So, despite the new Habermasian language of "voluntaristic" versus "epistemic," there should be no misunderstanding that Habermas from early on—for example, in the final sections of *The Structural Transformation of the Public Sphere*—put an emphasis on reasonable will-formation and not just the articulation preferences in polls or political activities (Habermas 1989).

So, Habermas can indeed be seen as a radical democrat even today. Radical, however, in a very special sense. He is not radical in the traditional meaning of having a totalizing and participatory democratic vision of modern society. His theory is radical with respect to the normative foundation of his democratic thought. In his view, any proper account of democracy has to be radical in the sense of being deeply connected to the fundamental rationalities that characterize the normative infrastructure of modernity.

Deliberating Deliberative Democracy

Since *Between Facts and Norms*, Habermas has devoted a certain amount of his intellectual energy to coming to terms with the institutional setting of democracies, both on the national and on the supranational level. According to Habermas, it is the deliberative "structure" (2001: 110) of institutions that can produce rationality in democratic decision making. The idea of seeing a close connection between the process of deliberation, political rationality, and a certain type of institution is not new; already Hegel in 1821 characterized the institution of the criminal jury according to the "deliberation of the members of the courts" and its potential to come to a fair verdict due to the different perspectives and the local knowledge that jurors may bring into the process (Hegel 1952:§224).

By focusing on the institutional aspects of deliberative democracy, Habermas has created a prolific source of troubles for his democratic thought. Recent research on deliberative practices identifies different areas in which institutions of deliberative democracies have in their practice proven susceptible to falling behind the normative expectations placed on them. There are three difficulties that are the focus of the critical debate.

First is the *problem of strategic exploitation*. Even if sometimes deliberative practices only gradually develop a universally normative characteristic within small bodies, they do remain susceptible to strategically minded actors who merely simulate the mode of debate, while simultaneously attempting to obtain as many benefits as possible through the-*orie*." The strategic aspect intensifies if participants in deliberative processes are pressured by the expectations of their political clientele. Jon Elster concludes from this susceptibility that it is better to give up Habermas's requirement of public scrutiny in favor of the view that deliberative processes are at times better served if they are conducted behind closed doors (see Elster 1997).

Second is the *problem of motivation*. Not all deliberative contexts equally motivate their participants to encumber themselves with the cognitive and moral exertion required to carry on rational discourse. Problems of motivation can partly be solved by the skillful work of professional moderators (see Fishkin 2009:132–34); however, participants often weigh the costs and benefits of deliberative processes and

question whether their committed involvement is worthwhile if the result of political deliberations does not lead to binding political decisions (Ryfe 2005).

Next is the *problem of polarization*. The success of the deliberative process depends not least on the overall composition of those taking part. Apparently, homogeneous social settings do not invite rational communication but instead trigger a repeating process of participants confirming each other's opinions (Mutz 2006:16). If we follow Cass Sunstein's thesis, taking the next step forward from social-psychological research, one can even formulate a "law of group polarization" (2003:81; see also Ryfe 2005:54–60; Schweitzer 2004:91–97). According to this law, discussions in homogeneous groups or in groups that display a clear hegemony of one point of view do not have the effect of opening up horizons, but merely result in everyone in the group (or the group forming the majority) taking a more extreme position after the debates than before. On the other hand, researchers have been able to observe that all the participants in heterogeneous groups are more prepared to enter into a conversation about the deliberations of the other participants in the debate (see Druckman 2004; Fishkin 2009:331–34).

Putting these three problems together, we see that the problem of Habermas's deliberative theory of democracy is obviously not just one of democracy but also one of deliberation. And the problems become even more pressing when we take a closer look at processes of deliberation from a Foucauldian point of view.

Foucault and Deliberative Politics

One of the focal points of the sociophilosophical discussion in the 1980s and 1990s was the controversy between Habermasians and Foucauldians. Starting with Habermas's critique in *The Philosophical Discourse of Modernity* of the contradictions and blind spots in Foucault's concept of power, this debate evoked reams of articles on the relationship between power, critique, and subjectivity (see Bernstein 1989; Habermas 1987; Honneth 1991; McCarthy 1990). Habermas and his followers argue that power in the work of Foucault is too undifferentiated and that, for conceptual reasons, Foucault cannot distinguish between those forms of power that are the product of democratic action and those forms of power that are typical for totalitarian societies. But this is not the only

problem with Foucault's concept of power. According to Habermas, Foucault also commits a performative contradiction insofar as he uses his insights to critique the power relations in contemporary societies. For example, when he describes in *Discipline and Punish* (1977) how subjects are produced by modern institutions such as the school and the army, this is clearly intended as a critique of those institutions and their corresponding disciplines. But he is not able to spell out the normative ground of this critique. On the contrary, in Foucault's work all normative thoughts are the result of the interrelation between power and knowledge. They are generated and reproduced by discursive formations and therefore cannot serve as a solid ground for critique. In a famous article, Nancy Fraser summarizes this critique: "On the one hand, he adopts a concept of power that permits him no condemnation of any objectionable features of modernity. But at the same time, and on the other hand, his rhetoric betrays the conviction that modernity is utterly without redeeming features. Clearly what Foucault needs—and needs desperately—are normative criteria for distinguishing acceptable from unacceptable forms of power" (Fraser 1981:286; see also Bernstein 1989; Honneth 1991).

In reaction, Foucauldians have emphasized the difference between the form of critique in the tradition of critical theory and Foucault's method of genealogy. According to David Owen, it is a categorical mistake to interpret Foucault's writings as a form of ideology critique (Owen 1999, 2003). Instead, it is a form of critique that shows, not our ideological captivity and therefore the falsehood of our beliefs, but rather their aspectual captivity. The difference between these two modes of critique is that the latter is no longer searching for an Archimedean point as the normative ground. For Foucauldians, such a point simply does not exist. However, what can be shown is the contingency of those discursive structures, which are fundamental for the reproduction of society. Thus, genealogy "opens a space in which what are experienced as immobile, irreversible and stable limits to reflections are re-experienced as mobile, reversible and unstable bounds" (Owen 1999:36; see also Dean 1999:183). James Tully goes even a step further and argues that, in comparison with Foucault's writing, the work of Habermas "is a less effective critique of limits of the present" and that "Habermas' normative analysis is [in a negative sense] utopian whereas Foucault's is not" (Tully 1999:91).

We do not wish to resurrect this more philosophical debate. Our aim here is rather to use some basic insights of Foucault for a discussion of the epistemic turn in Habermas's theory, especially with regard to his model of deliberative democracy. What can central concepts of Foucault contribute to the understanding of the democratic promises of deliberative procedures? To answer this question, we begin with a brief reconstruction of the links between discourse, power, and knowledge in his work and then try to develop the implications of such an approach for a Foucauldian understanding of deliberative practices. In Foucault's view, they are instruments for the fabrication of subjects and social consent which coordinate perfectly with the power structures of the disciplinary society. However, in his later writings, Foucault slightly moved away from such a one-dimensional concept of power. Especially in his lectures about governmentality, we can find an analysis of policy practices that is able to cast new light on the interplay of power and freedom in modern societies. Later in the chapter, in a part of our discussion that is more empirical, we adopt the concept of governmentality for an analysis of deliberative policy making, where the interplay between techniques of domination and techniques of the self can be seen eminently and clearly.

Discourse, Power, and Knowledge

One of the central but also one of the most problematic concepts in Foucault's work is that of "discourse." It is central insofar as his oeuvre can be read as analyzing those discourses that are constitutive for the modern world. In Foucault's view, discourses or discursive formations produce the modern understanding of truth, rationality, subjectivity, and legitimacy. Discursive formations are also constitutive for practices that reproduce those understandings of truth, subjectivity and the like, such as telling the truth or acting like a democratic citizen. Thus, many scholars argue that he never described the relationship between so-called discursive and nondiscursive practices in a convincing way. Nevertheless, it is this ambiguity of "discourse" that is so inspiring for social scientists when they analyze the structure of modernity or the contemporary world.

For Foucault, discourses are not "a mere intersection of things and words: an obscure web of things, and a manifest, visible, colored chain

of words." They are rather "practices that systematically form the objects of which they speak" (Foucault 1972:48–49). In other words, discourses are historically located systems that construct the social world through the practices of subjects. But, according to Foucault, subjects should not be considered as autonomous and unconstrained actors; they are rather themselves the product of discourses. The subjects are not speaking; the discourse is speaking through the productions of speaking subjects. Thus, Foucault breaks with the idealistic notion of a transcendental ego or consciousness as something that is before society.

Foucault differs from the philosophical tradition in general and the philosophy of enlightenment in particular in another crucial way, namely, in his contextualization of truth and rationality. For example, in *The Order of Things* (1970), Foucault analyzes different regimes of rationality and the discursive practices that are constitutive for these regimes. In that book, he distinguishes between the classical order and the modern order of knowledge. For Foucault, one cannot conceptualize the succession of these two orders as a growth in rationality or say that one order is truer than the other. Rather, there are simply different forms of rationality that can only be described and analyzed but that should not be categorized in a narrative of progress.

In *The Archaeology of Knowledge* (1972), which reflects his theoretical assumptions, Foucault declares that social practices, located in "different bodies of learning, philosophical ideas, everyday opinions," as well as in moves, institutions, and commercial and policy activities, all refer "to a certain implicit knowledge" special to a certain regime of rationality (261). This implicit knowledge, which is produced and reproduced in daily practices, decides what is intelligible and what is not, what can be articulated according to the rules of rationality and what is considered as a senseless or even insane utterance. However, how does discourse create the order of things? How is implicit knowledge produced? Finally, and importantly, where does discourse come from? To answer these questions, Foucault in the early 1970s developed his genealogical method, a method that more complements than substitutes for the archaeological method of his earlier writings.

In his genealogical writings such as *Discipline and Punish* (1977) and the first volume of *The History of Sexuality* (1982a), Foucault crucially enlarges his earlier method with his concept of power. For Foucault,

power is not something possessed by individuals or a class. Rather, power is exercised in myriads of actions and has no center. Power, therefore, does not flow from top (e.g., the state) to bottom (e.g., the individual) but is actualized at the microlevel of individual actions. And, most crucial, power for Foucault is primarily not repressive but productive (see Kelly 1994:374). Power is productive insofar as it constitutes the order of things, the regimes of rationality, and the subjects and their daily practices. Thus, in *Discipline and Punish*, Foucault gives a detailed description of the fabrication of the modern subject and modern society through disciplinary institutions such as the prison, the school, and the army. In these institutions, a “microphysics of power” is at work through daily routines aiming to produce bodies and minds that are needed in a capitalist society; for example, bodies that stand up early in the morning, care for their health, and enjoy at least to the necessary degree, their work.

It is the punch line of Foucault’s genealogy that power and knowledge are complementary. On the one hand, the use and concentration of power in disciplinary institutions needs knowledge about effective strategies for the fulfillment of the disciplinary goals. On the other hand, knowledge is itself produced in institutions that are constituted by power. For example, the university is structured by constitutive rules that lay down who has the right to speak in the name of science and who does not, what is a scientific utterance, and so on. According to Foucault, these and many other rules are not the precondition for a never-ending scientific progress but are instruments for the regulation of “the great proliferation of discourse” (Foucault 1971:21). Therefore, Foucault’s aim is to scrutinize this politics of truth, that is, “the types of discourse which [a society] accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true” (Foucault 1984:73).

In other words, telling the truth and trimming the discourse, for Foucault, are the obverse and reverse of the same coin. To be productive, the discourses have to be structured by procedures of control and scarcity. And here power comes into play, insofar as it draws the line between those statements that can claim to be scientific and those that

cannot. Thus, the sciences are themselves constituted by a politics of truth that establishes the very precondition of scientific knowledge. At the same time, the human sciences in particular are powerful insofar as they constitute, legitimate, and foster those social technologies and disciplinary practices that establish the difference between the normal and the abnormal.

What are the implications of this theory of discourse, power, and politics of truth for Habermas’s epistemic understanding of deliberative democracy? As seen in Habermas’s theory of deliberative democracy, institutions and policy practices come to the fore to sort out all those interests that cannot be justified in a universal discourse. This model is epistemic insofar as, for Habermas, political issues and policy conflicts can be solved in a rational way. In other words, the use of reason through the give-and-take of arguments can and should guide political action. Therefore, political actions should be regulated by institutions so that their outcomes will be “rationally acceptable.” For Habermas, “the democratic procedure no longer draws its legitimating force only, indeed not even predominantly, from political participation and the expression of political will, but rather from the general accessibility of a deliberative process whose structure grounds an expectation of rationally acceptable results” (2001:110). Habermas is eager to sort out all those political actions and policy demands that cannot be justified in a universal way. But why is this epistemic understanding of democracy problematic?

First, one can ask whether this is an adequate theory of policy and politics in modern societies. As some scholars following Foucault have argued (see, e.g., Butler 1990; Connolly 1991), policy and politics is about power and difference and not about reason. Against this, a Habermasian may argue that it is the role of power in politics that is the starting point of deliberative democracy insofar as it tries to check unjustified forms of power. But this misses the point of the criticism. The objection is not against undertaking to regulate the use of power, but against the assumption that this can be done in a rational and nonpolitical way. Every institutional framework is the product of past political struggles and therefore always a contingent and historical discursive order. This is also true for the liberal-democratic framework that is the reference point of Habermas’s deliberative account.

From a Foucauldian point of view, the institutional design of Habermas’s

mas's two-track model of politics is also problematic insofar as it leaves only a limited space for political action that does not correspond to the hegemonic understanding of politics and society. In consequence, Habermas's political theory, against all presumptions or claims to the idea of "radical democracy," becomes conservative. This, in particular, is the case with the center of the political system, where according to Habermas a system of sluices (*Schleusen*) should guarantee the moral and epistemic character of political decisions. Such sluices are the main institutions of representative democracy, such as the party system, elections, the decision-making process in the parliament, and the opportunity for a juridical review of the laws. However, these liberal institutions and their policy practices work like a filter, sorting out those political initiatives that are not formulated by the powerful players of liberal democracy, for example, political parties or constitutional courts. Therefore, the "rationally acceptable results" are mainly a mirror of the power structure or—in Foucault's terms—the discursive formation of the society. They reflect the accepted assumptions about the "common good" and the main goals of politics, for example, economic growth or the protection of the capitalist order. In other words, the institutional channels of liberal democracy are biased insofar as they privilege mostly those political demands that are already hegemonic in the society.

The Government of Modern Freedoms

In a famous and often-quoted passage, Foucault speaks of the disciplines as the other side of modern liberal democracy: "although, in a formal way, the representative regime makes it possible, directly or indirectly, with or without relays, for the will of all to form the fundamental authority of sovereignty, the disciplines provide, at the base, a guarantee of the submission of forces and bodies. The real, corporal disciplines constituted the foundation of the formal, juridical liberties" (1977:222). However, in the years after the publication of *Discipline and Punish* and the first volume of *The History of Sexuality*, he slightly moved away from this gloomy image of modern societies.⁹ Especially in his lectures in 1977–78 and 1978–79 (2007, 2008), he sketched a theory of governmentality in which power is no longer a disciplinary entity but rather works in and through individual freedom. According to this new theory, the individual is not simply a product of power. Foucault also no

longer grasped modern society as only disciplinary. Now, it is the interplay between freedom as the technologies of the self and freedom as the technologies of power that at the same time generates the basic structures of modern societies and individual identities. Through the technologies of the self, one shapes his identity and habits, for example, the identity of a good democrat and the corresponding habits of voting, reading the newspapers, and being engaged in civil society or in political parties.

Foucault has developed his concept of the technologies of the self mainly in the examination of antique cultures. However, in his lectures on governmentality, he has also shown how modern identities are shaped by practices that originate in the pastoral techniques of leading a fold on the one hand and hearing confession on the other hand. In modern societies, these practices have loosened their connection to Christianity: They are mostly habitual structures that can be filled with other goals, for example, the already-mentioned goal to be a good democrat. Thus, for Foucault, power in the sense of shaping individual mentalities and habits and individual freedom—the technologies of the self—are two sides of the same coin. The crucial difference from his former, one-dimensional theory of power as disciplinary is that there is more space for individual choices and also more space for resistance in liberal regimes. But he still understands individual freedom and power not as opposites, but rather as the prerequisite of each other.

The medium that binds individual freedom and power is government. One "has to take into account the interaction between two types of techniques—techniques of domination and techniques of the self. . . . The contact point, where the individuals are driven by others is tied to the way they conduct themselves, is what we can call, I think, government. Governing people, in the broad meaning of the word, is not a way to force people to do what the governor wants; it is always a versatile equilibrium, with complementarity and conflicts between techniques which assure coercion and processes through which the self is constructed or modified by himself" (Foucault 1993:203–4).

According to Foucault, government is the sum of those institutions, practices, and belief systems through which people are directed. The subject of this government can be the children, your partner, your employees, the members of a party, or the whole society. Thus, the concept of governmentality is not tied to the state. Foucault also regards

the state not as an unchangeable entity but as a shifting ensemble of institutions, practices, and knowledge. The liberal state is therefore a historical, contingent way to govern modern societies. The liberal state has developed from two separate traditions: the sovereign state of the seventeenth and eighteenth centuries and pastoral techniques: "Newer, I think, in the history of human societies—even in the old Chinese society—has there been such a tricky combination in the same political structures of individualization techniques and of totalization procedures" (Foucault 1982b:782). The goal of the pastoral techniques is the government of the soul; the goal of the political techniques of the sovereign state is the welfare and the security of the whole society. Together they are constitutive of the modern, liberal state whose main focus is the government of freedom.

To govern the society, liberal regimes do not, or only in exceptional cases, coerce. They rather try to lead the behavior and thoughts of the individuals through incentive structures, through the creation of likelihoods and possibilities. For Foucault, modern power "is a total structure of actions brought to bear upon possible actions; it incites, it induces, it seduces, it makes easier or more difficult; in the extreme it constrains or forbids absolutely; it is nevertheless always a way of acting upon an acting subject or acting subjects by virtue of their acting or being capable of action. A set of actions upon other actions" (1982b:789). Modern power, thus, is a soft power, and it is a form of power that is compatible with different ways of life, different religious belief systems, and different political convictions. Its goal is the welfare and the security of the society, which is to be achieved while maintaining and using the liberties of the individuals. However, Foucault did not develop a coherent and complete theory of governmentality. But the lectures from 1977 to 1979 and some connected interviews and essays have stimulated a whole branch of inquiry, so-called governmentality studies (see Barry, Osborne, and Rose 1996; Burchell, Gordon, and Miller 1991; Dean 1999). And this approach has thrown a new light on policy practices in general and deliberative procedures in particular.

The Government of Mentalities through Deliberative Practices

Habermas's discourse ethics has inspired many scholars to shift the focus from ordinary party politics and institutionalized legislative bod-

ies to smaller deliberative arenas where citizens directly participate. There is a still growing literature on discursive policy arenas such as deliberative opinion polls, planning cells, and consensus conferences (e.g., Brown 2006; Dryzek 2002). Habermas himself considers these new forms of citizen participation at least as a complement to more ordinary forms of party politics. The hope is that these new models of citizen involvement can lead to an improvement of both democracy and policy decisions in two ways. One way is to foster the legitimacy of political decisions through the participation of ordinary citizens. Some authors also argue that the consideration of as many different views as possible will raise the rationality of the outcomes. The second goal refers to the educational effects on the involved people (Fishkin 2009). The experience of deliberative processes will contribute to a better understanding of democratic rules, norms, and policies in the citizenry. Proponents of deliberative democracy argue that the experience of real participation will increase the democratic skills and attitudes of the citizen. For example, they will learn to follow the arguments of the other parties or will get an insight in the complexities of policy making. The more citizens participate in deliberative settings, the more widespread these democratic virtues will be.

The increase of deliberative procedures in the field of policy making can be seen as a model case of the interplay between technologies of the self and technologies of power. The political beliefs of the participants are guided in these arenas by the give-and-take of arguments. In the following, we will illustrate this understanding of deliberative practices as governmental technologies with the help of two examples. The first is from Alexis de Tocqueville's *Democracy in America*; the second is taken from a recent policy study about bioethical regimes.

In his famous book about American democracy in the middle of the nineteenth century, Tocqueville not only outlines the main political institutions but also focuses especially on the "habits of the heart" of the citizens. The main thesis of the book is that these habits are even more significant for the reproduction of the democratic order than the institutional design of American politics. According to Tocqueville, these democratic virtues are on the one hand established by religious feelings of guilt and shame; they are necessary for behaving as a reasonable citizen in public. On the other hand, these feelings are strengthened and completed by the respect and honor created by deliberative institutions

such as New England town meetings or citizen juries. These deliberative settings are schools for democracy where “school” can be read in a Foucauldian sense as a governmental institution. Indeed, Tocqueville does not characterize the citizen jury as an egalitarian, participative setting; rather, he stresses the positive role of the judges in the forming of democratic habits: “the jury, and more especially the civil jury, serves to communicate the spirit of the judges to the minds of all the citizens” (1990:284). The judges with their knowledge and their habits govern the micropolitics of the deliberative setting and in this way function as a role model for democratic citizenship. Indeed, “the jurors look up to him with confidence and listen to him with respect; for in this instance, his intellect entirely governs theirs” (285–86).

Viewed through Foucault, these deliberative settings are governmental procedures to foster those habits of the heart that are the necessary foundation of liberal democracy. The participating citizen learns to argue correctly and to listen to the policy experts (the judges), who are the possessors of the better argument. In reading this passage from Tocqueville through the lens of Foucault, one gets an insight into those soft powers that work beneath the surface of the give-and-take of arguments. The forging of consent is thus scarcely free of power. Rather, it is the interplay between the political goals of the experts and the aim of the citizen to become a good democrat.

Much the same can be seen if we take a look at an empirical study about new bioethical regimes. In an inquiry into bioethical debates, Herrmann and Könninger (2007) explicitly refer to Foucault’s concept of governmentality to explain the rise of deliberative procedures in this policy arena. The starting point of the inquiry is the development of human genetics and biomedical technologies such as in vitro fertilization (IVF). These scientific developments raise ethical questions about the degree to which artificial reproductive techniques should be allowed or even fostered by the state. These questions are highly controversial because they are deeply connected to our idea of humanity and to our religious feelings. Thus, many citizens face these new biotechnologies with unease and even resistance. Herrmann and Könninger delineate how in this policy field deliberative procedures such as consensus conferences and the inclusion of the public in ethics bodies such as the French Comité Consultatif National d’Ethique pour les Sciences de la Vie et de la Santé and the German Nationaler Ethikrat aim to govern the

thoughts and the knowledge of the people. Like the jury in Tocqueville’s *Democracy in America*, these bodies try to educate the citizen by initiating public dialogues. This new ethical regime is especially at pains to widen the appropriate knowledge and the habits of deliberative debate through the public. Thus, they are often eager to gain disseminators, who expand the ethical knowledge and deliberative habits through their social environment.

Central to the desired deliberative habits is the premise that “each (even the most troublesome) perspective is worth the deliberation, that everyone has to have an opinion on each and every issue, and that each and every opinion is equally valid and has to be taken into account” (Herrmann and Könninger 2007:218). The participants of public debate have to be modest, tolerant, and informed. The paradoxical effect of such regimes is, of course, the exclusion of “fundamentalist” positions and people; they simply lack the “appropriate knowledge” and the “appropriate ways of deliberation” (219). Against this background, it is no accident that the conclusions of the deliberative settings in the field of bioethics are mostly moderate and open to the new biotechnologies. However, according to the authors it is more the educational result than the direct impact on policy making that is remarkable. The new ethics regime “establishes a mentality, a guiding frame for self-government as regards individual bodily existence as well as the participation in public debates on bioethics” (210).

Through participation in those deliberative settings, one surely is not dominated by policy experts or governmental authorities. Participation is voluntary, and often it is seen as an honor to have a role in a deliberative arena. Members might even get the impression that they are taken seriously as citizens. One can argue with other citizens and policy experts about crucial issues. In other words, one is acknowledged as a self-governed person. On the other hand, the participant learns in these settings to deliberate like a good democrat. She learns to reflect on her beliefs, to discuss in a moderate way, and to be open to scientific progress. It is exactly this interplay between individual freedom and the shaping of mentalities and habits that can be seen using the concept of governmentality. In this way, deliberative settings are a particularly smart technique for governing modern societies.

Looking at other empirical research about deliberative procedures, the findings of Herrmann and Könninger are confirmed. For example,

John Parkinson in studies about the reform process of the British health care system has shown that the adoption of deliberative procedures in the context of new public management results in a dual gap between normative theory and political practice. One gap is that the scope of deliberation is limited from the beginning. At the outset, the policy experts define the realm of possible outcomes: "Thus people find themselves deliberating about topics that are constrained by larger forces over which they have no control" (Parkinson 2004:392). The other gap refers to "the collision between the deliberative concern for rationality and the public management construction of that concern" (391), which leads to a separation between knowledgeable experts and "ordinary" citizens. The experts try to regulate the opinions of the citizens through deliberative processes. In deliberative processes, the use of speech, as well as the way one presents the arguments, is crucial. And it is crucial who is speaking, that is, who has the authority to start, manage, and determine the process of deliberation. This gives room for the manipulation of these processes by administrative and policy elites. In other words, deliberative settings can be used for a managerial fabrication of consent and legitimacy. In accordance with Foucault's writings and lectures about governmentality, one can view deliberative democracy as a government technology that tries to guide the conduct of the participants. But what is the lesson of these Foucauldian insights for democratic politics? Because deliberation is constitutive for democracy, one should not see in deliberative procedures only an insidious power game. Rather, it is necessary to use Foucault's concept of governmentality as a reminder of the fact that no human interaction is powerless, even if the participants are oriented toward communicative action.

Habermas and Foucault on the Use of the Better Argument in Deliberative Decision Making

To show what this could mean for the practice of deliberative democracy, we now view some later writings of Foucault and then argue for a recombination of Habermas's normative theory and Foucault's insights in the strategic character of deliberative policy making. In his later works, Foucault's attention not only shifts from the investigation of the power effects of discourses and the different dispositives to an inquiry into the technologies of the self. He also mentions in some interviews a

closeness of his work to that of the Frankfurt School, even to the work of Habermas. And as Thomas McCarthy (1990) has shown, Foucault's differentiation between three comprehensive social techniques, namely, those of production, of signification, and of domination, resembles the program that Habermas developed in his inaugural lecture, "Knowledge and Human Interests." In addition, in Foucault's "What Is Enlightenment" lecture, delivered in 1984, he comes close to a neo-Kantian notion of critique, which may lead a hasty reader to wonder whether there is in the end any difference between him and Habermas.

However, Foucault did not make a turnaround; rather, he moved his focus of attention from discourse and power to the technologies of the self and governmentality. As a consequence, he slightly changed his evaluation of the interplay between power and freedom. Regarding the latter point, he now distinguishes between relations of domination and relations of power. Relations of domination on the one hand are a given when there is no leeway, no opportunity to act in a different way. Relations of power on the other hand leave space for resistance, that is, one can reject the wishes of others or their social expectations: "a power relationship can only be articulated on the basis of two elements which are each indispensable if it is really to be a power relationship: that 'the other' (the one over whom power is exercised) be thoroughly recognized and maintained to the very end as a person who acts; and that, faced with a relationship of power, a whole field of responses, reactions, results, and possible inventions may open up" (Foucault 1982b:789). Thus, for Foucault, power and freedom are no antipodes; rather, one is the precondition of the other. Using power is to enhance the probability, but not the necessity, of certain kinds of behavior of others. Person B is to a certain degree also able to refuse A's aim to direct his conduct and B can even try himself to influence the behavior of A. "There is always a strategic game between actors, regardless of whether they are located in the political sphere, the academic realm, or the field of family relations. What are the implications of this new concept of power and freedom for democratic practices and institutions? First of all, Foucault is still convinced that a powerless discourse is unrealizable. In one of his last interviews, he states with explicit reference to Habermas, "The thought that there could be a state of communication that would be such that the games of truth could circulate freely, without obstacles, without constraint and without coercive effects, seems to me to be Utopia" (Fou-

cault 1988:18). It is utopian insofar as there never could be a give-and-take of arguments free from power relations. A Habermasian may reply that the noncoercive discourse is only a regulative ideal and that the challenge is to frame real deliberations in a way that the influence of power is restrained as much as possible. Nevertheless, there remains a crucial discrepancy between Habermas's and Foucault's social ontologies.

Habermas's central differentiation between communicative and strategic speech acts is according to Foucault not sustainable. There are only strategic acts: even if the speaker tries to give arguments, he still operates in the field of power insofar as he tries to influence the beliefs as well as the acts of others. Deliberative settings are a certain way to govern the conduct of the participants and the relations of power as strategically oriented speech acts such as rhetoric or the holding back of information, which are an essential part of this game: "Relationships of communication imply finalized activities (even if only the correct putting into operation of elements of meaning) and, by virtue of modifying the field of information between partners, produce effects of power. They can scarcely be dissociated from activities brought to their final term, be they those which permit the exercise of this power (such as training techniques, processes of domination, the means by which obedience is obtained) or those, which in order to develop their potential, call upon relations of power (the division of labor and the hierarchy of tasks)" (Foucault 1982b:787).

Again, we do not wish to resuscitate the Habermas-Foucault debate on a philosophical level. Nevertheless, regarding Foucault's axiom that all human interactions are strategic, one may ask whether this is not too one-sided. As has already been shown, Foucault in his last writings moved from a monolithic theory of discursive and disciplinary power to a more differentiated conception of freedom in and through power. And this led him not only to a separation between power and domination, but also to a normative understanding of politics that is not so far away from the program of Habermas's discourse ethics. Foucault formulates an ethos for strategic interaction that shares common ground with Habermas's discourse ethics: "I don't believe there can be a society without relations of power, if you understand them as means by which individuals try to conduct, to determine the behaviors of others. The problem is not of trying to dissolve them in the utopia of a perfectly transparent communication, but to give one's self the rules of law, the

techniques of management, and also the ethics, the ethos, the practice of the self, which would allow these games of power to be played with a minimum of domination" (Foucault 1988:18).

Of course, on a rhetorical level Foucault still distances himself from Habermasian discourse ethics. But what are the institutional consequences of Foucault's claim to limit relations of domination in the field of public policy? Is it not to give the people a voice in those political fields where the social conditions of their life are decided? And is this not the aim of Habermas's theory of deliberative democracy? In other words, Habermas's ethical and political theory offers a normative foundation for those institutions and practices that Foucault postulates to minimize the relations of domination. This thesis gains strength if we look at the beginning of his last lectures at the Collège de France, in which he reconstructs the development of the Greek concept of *parresía* (Foucault 2010).

According to Foucault, *parresía* is not just the right but also the courage to tell the truth. It is to speak, whereof one is deeply convinced, even if this act evokes the anger of the powerful. Foucault shows in detail through an interpretation of Euripides' *Ion* that a democratic order is a precondition of the use of *parresía*. Only in a democratic order does one not have to fear being persecuted for telling the truth. At the same time, a democratic order depends on the praxis of *parresía*, insofar as the political decisions are to be taken by deliberative practices. It is, in other words, the give-and-take of arguments that should result in decisions. Thus, the right of telling the truth is a fundamental constituent of democracy and of deliberative politics. But the other side of Foucault's lectures is that *parresía* is also a concept that goes in dual ways beyond democracy. First, even if everybody has the right to tell the truth, not everybody is able to do that. As he shows, only the best citizens are able to tell the truth, and for this reason there is a small but crucial difference between *parresía* and *isgoria*, or democratic equality. A well-functioning democratic order requires advice from wise people. But, "only a few can tell the truth" (Foucault 2010:183). Second, there is always the danger of a false *parresía*, namely, the practice of demagoguery. Foucault argues in a reconstruction of the work of Thucydides, Socrates, and Plato that the antique democracy was haunted by a populist style of politics: "The bond between *parresía* and democracy is problematic, difficult, and dangerous. Democracy is in the process of being overrun

by a bad *parrésia*" (Foucault 2010:168). And to Foucault, it was this false *parrésia* that fostered the decline of the Athenian democracy.

What are the normative and even institutional implications of Foucault's reconstruction of the antique concept of *parrésia* for political debate and deliberation in modern democracies? Surely, there is a large gulf between the antique democracy of Athens and our modern democratic practices. And it is not very obvious whether or not Foucault regards the antique concept of *parrésia* as an archetype for a contemporary deliberative politics. But maybe it is not too audacious to argue that Habermas in *Between Facts and Norms* provides a comprehensive theory of exactly those liberal-democratic institutions that are the precondition for the use of *parrésia* in modern societies. According to Habermas, the institutions of the democratic constitutional state afford not only the opportunity of collective self-legislation through deliberative practices, but also some shelter against a populist takeover. Therefore, one can argue that the difference between Habermas and at least the later Foucault is not implacable. On the contrary, beyond rhetorical statements, which may be owed to academic rituals, Habermas's political theory seems to be a necessary complement of Foucault's conceptions of freedom as nondomination and *parrésia* as the courage of telling the truth.

Notes

1. For the relevance of the work of Habermas in the early phase in the formation of the argumentative turn, see Bernstein 1978; Dryzek 1990:11–21; Fischer 1980:36–40, 91–95; and Healey 1993.
2. See, e.g., the contributions by a number of international scholars in Brunhvorst 2009.
3. For Habermas's role as a public intellectual, see Holub 1991.
4. This article has not yet been translated into English. At least one crucial paragraph is worthy of being quoted: "Democracy, as we can learn from Franz L. Neumann, is not a form of state like any other. It aims at far reaching social changes which enhance and finally fully realize freedom. Democracy aims at the self-determination of mankind. Only when this has become real, democracy is true" (Habermas 1988:12). As the source for Habermas's reference to Neumann, see Neumann 1957.
5. See Habermas 1980 and 1993a. For this debate on methodology, see Bernstein's classical study (1978).

6. These early changes and revisions are reconstructed by McCarthy 1978.
7. On Habermas's concept of rational reconstruction, see Pedersen 2008 and Gaus 2009.
8. On the role of rhetoric in democratic discourses, see Dryzek 2010.
9. The development of Foucault's thought in the late 1970s and early 1980s is shown by Lemke 1997.

Bibliography

- Arato, A., and J. Cohen. 1992. *Civil Society*. Cambridge: MIT Press.
- Barry, A., T. Osborne, and N. Rose, eds. 1996. *Foucault and Political Reason: Liberalism, Neoliberalism and Rationalities of Government*. Chicago: University of Chicago Press.
- Benhabib, Seyla. 1996. "Towards a Deliberative Model of Democratic Legitimacy." In *Democracy and Difference*, edited by Seyla Benhabib, 67–94. Princeton: Princeton University Press.
- Bernstein, Richard J. 1978. *The Restructuring of Social and Political Theory*. Philadelphia: University of Pennsylvania Press.
- . 1989. "Foucault: Critique as a Philosophical Ethos." In *Zwischenbetrachtungen im Prozeß der Aufklärung*, edited by Axel Honneth, Thomas McCarthy, Claus Offe, and Albrecht Wellmer, 395–425. Frankfurt am Main: Suhrkamp.
- Bohman, James. 1996. *Public Deliberation*. Cambridge: MIT Press.
- Brown, M. B. 2006. "Survey Article: Citizen Panels and the Concept of Representation." *Journal of Political Philosophy* 14(2):203–25.
- Brunhvorst, Hauke, ed. 2009. *Habermas-Handbuch*. Stuttgart: Metzler.
- Buchstein, Hubertus. 1994. "Von den Neuen Sozialen Bewegungen zum zivilgesellschaftlichen Akteur." *Forschungsjournal Neue Soziale Bewegungen* 11:104–8.
- . 2009. "Jürgen Habermas and Critical Policy Studies." *Critical Policy Studies* 3(3–4):421–25.
- Buchstein, Hubertus, and Dirk Jörke. 2007. "Redescribing Democracy." *Redescriptions* 11:178–202.
- Burchell, G., C. Gordin, and P. Miller, eds. 1991. *The Foucault Effect: Studies in Governmentality*. Chicago: University of Chicago Press.
- Butler, Judith. 1990. *Gender Trouble*. London: Routledge.
- Chambers, Simone. 1996. *Reasonable Democracy: Jürgen Habermas and the Politics of Discourse*. Ithaca: Cornell University Press.
- Connolly, William. 1991. *Identity/Difference*. Ithaca: Cornell University Press.
- Dean, Mitchell. 1999. "Normalising Democracy: Foucault and Habermas

- on Democracy, Liberalism and Law." In *Foucault Contra Habermas: Recasting the Dialogue between Genealogy and Critical Theory*, edited by Samantha Ashenden and David Owen, 166–94. London: Sage.
- . 2009. *Governmentality*, 2nd ed. London: Sage.
- D'Entreves Passerin, M., ed. 2006. *Democracy as Public Deliberation*. New Brunswick, NJ: Transaction.
- Druckman, James. 2004. "Political Preference Formation." *American Political Science Review* 98(4):671–86.
- Dryzek, John. 1990. *Discursive Democracy: Politics, Policy, and Political Science*. Cambridge: Cambridge University Press.
- . 2000. *Deliberative Democracy and Beyond: Liberals, Critics, Contestations*. Oxford: Oxford University Press.
- . 2010. "Rhetoric in Democracy: A Systematic Appreciation." *Political Theory* 38(3):319–39.
- Elster, John. 1997. "The Market and the Forum." In *Deliberative Democracy: Essays on Reason and Politics*, edited by James Bohman and William Rehg, 3–34. Cambridge: MIT Press.
- Fischer, Frank. 1980. *Politics, Values and Public Policy: The Problem of Methodology*. Boulder, Colo.: Westview.
- Fischer, Frank, and John Forester, eds. 1993. *The Argumentative Turn in Policy Analysis and Planning*. Durham: Duke University Press.
- Fishkin, James. 2009. *When the People Speak: Deliberative Democracy and Public Consultation*. Oxford: Oxford University Press.
- Foucault, Michel. 1970. *The Order of Things: An Archaeology of the Human Sciences*. London: Tavistock.
- . 1971. "The Order of Discourse." *Social Science Information* 10(2):7–31.
- . 1972. *Archaeology of Knowledge*. New York: Pantheon.
- . 1977. *Discipline and Punish*. Harmondsworth: Penguin.
- . 1982a. *The History of Sexuality*. Vol. 1. Harmondsworth: Penguin.
- . 1982b. "The Subject and Power." *Critical Inquiry* 8(4):777–95.
- . 1984. *The Foucault Reader*. Edited by Paul Rabinow. Harmondsworth: Penguin.
- . 1988. "The Ethic of Care for the Self as a Practice of Freedom." In *The Final Foucault*, edited by James William Bernauer and David M. Rasmussen, 1–21. Cambridge: MIT Press.
- . 1993. "About the Beginning of the Hermeneutics of the Self: Two Lectures at Dartmouth." *Political Theory* 21(2):198–227.
- . 2007. *Security, Territory, Population: Lectures at the Collège de France 1977–1978*. Basingstoke: Palgrave Macmillan.
- . 2008. *The Birth of Biopolitics: Lectures at the Collège de France 1978–1979*. Basingstoke: Palgrave Macmillan.
- . 2010. *The Government of Self and Others: Lectures at the Collège de France, 1982–1983*. Basingstoke: Palgrave Macmillan.

- Fraser, Nancy. 1981. "Foucault on Modern Power: Empirical Insights and Normative Confusions." *Praxis International* 7(3):272–87.
- Gaus, Daniel. 2009. *Der Sinn von Demokratie*. Frankfurt am Main: Campus.
- Habermas, Jürgen. 1958. "Zum Begriff der politischen Beteiligung" (On the concept of political participation). In *Kultur und Kritik*, 9–60. Frankfurt am Main: Suhrkamp.
- . 1970. *Toward a Rational Society: Student Protest, Science, and Politics*. Boston: Beacon.
- . 1971. *Knowledge and Human Interests*. Boston: Beacon.
- . 1973. *Theory and Practice*. Boston: Beacon.
- . 1975. *Legitimation Crisis*. Boston: Beacon.
- . 1980. "The Hermeneutic Claim to Universality." In *Contemporary Hermeneutics*, edited by Josef Bleicher, 181–211. London: Routledge.
- . 1982. "A Reply to My Critics." In *Habermas: Critical Debates*, edited by J. B. Thompson and David Held, 219–83. Cambridge: MIT Press.
- . 1984. *The Theory of Communicative Action*. 2 vols. Cambridge, England: Polity.
- . 1986. *Autonomy and Solidarity: Interviews*. Edited by Peter Dewes. Cambridge: Verso.
- . 1987. *The Philosophical Discourse of Modernity*. Cambridge: MIT Press.
- . 1989. *The Structural Transformation of the Public Sphere*. Cambridge: MIT Press.
- . 1993a. *On the Logic of the Social Sciences*. Cambridge: MIT Press.
- . 1993b. *Justification and Application: Remarks on Discourse Ethics*. Cambridge, England: Polity.
- . 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge: MIT Press.
- . 2001. *The Postnational Constellation*. Cambridge: MIT Press.
- . 2003. *The Future of Human Nature*. Cambridge: MIT Press.
- . 2005. "Concluding Comments on Empirical Approaches to Deliberative Politics." *Political* 40(3):384–92.
- . 2006. "Political Communication in Media Society." *Communication Theory* 16(4):411–26.
- . 2008. "The Constitutionalization of International Law and the Legitimation Problems of a Constitution for World Society." *Constellations* 15(4):444–55.
- . 2009a. "Einleitung." In *Rationalitäts- und Sprachtheorie*, vol. 2 of *Philosophische Texte*, 14–46. Frankfurt am Main: Suhrkamp.
- . 2009b. "Einleitung." In *Politische Theorie*, vol. 4 of *Philosophische Texte*, 14–58. Frankfurt am Main: Suhrkamp.
- . 2010. "Wir brauchen Europa." *Die Zeit*, May 20.
- . 2011. *Die Verfassung Europas*. Frankfurt am Main: Suhrkamp.

- Healey, Patsy. 1993. "Planning through Debate: The Communicative Turn in Planning Theory." In Fischer and Forester, *The Argumentative Turn in Policy Analysis and Planning*, 233–53.
- Hegel, Friedrich Wilhelm Georg. 1952. *Philosophy of Right*. Oxford: Oxford University Press.
- Herrmann, S. L., and S. Könninger. 2007. "... But You Can Not Influence the Direction of Your Thinking": Guiding Self-Government in Bioethics Policy Discourse." *Advances in Medical Sociology* 9:205–23.
- Holub, R. 1991. *Jürgen Habermas: Critic in the Public Sphere*. London: Routledge.
- Honneth, Axel. 1991. *The Critique of Power*. Cambridge: MIT Press.
- Iser, Mathias. 2009. *Empörung und Fortschritt*. Frankfurt am Main: Campus.
- Joerges, Christian. 2002. "Deliberative Supranationalism—Two Defenses." *European Legal Journal* 8(2):133–51.
- Joerges, Christian, and Jürgen Neyer. 1997. "From Intergovernmental Bargaining to Deliberative Political Processes: The Constitutionalization of Comitology." *European Law Journal* 3(3):273–99.
- Jörke, Dirk. 2009. "The Epistemic Turn of Critical Theory: Implications for Deliberative Politics and Policy-Making." *Critical Policy Studies* 3(3–4):440–46.
- Kelly, Michael. 1994. "Foucault, Habermas, and the Self-Referentiality of Critique." In *Critique and Power: Recasting the Foucault Habermas Debate*, edited by Michael Kelly, 365–400. Cambridge: MIT Press.
- Koller, A. 2009. "Kontraktische Voraussetzungen." In *Habermas-Handbuch*, edited by Hauke Brunkhorst et al., 338–43. Stuttgart: Metzler.
- Lenke, Thomas. 1997. *Eine Kritik der politischen Vernunft: Foucaults Analyse der modernen Gouvernementalität*. Berlin: Argument.
- Majone, Giandomenico. 1989. *Evidence, Argument, and Persuasion in the Policy Process*. New Haven: Yale University Press.
- McCarthy, Thomas. 1978. *The Critical Theory of Jürgen Habermas*. London: Hutchinson.
- . 1990. "The Critique of Impure Reason: Foucault and the Frankfurt School." *Political Theory* 18(3):437–69.
- Mutz, Diana C. 2006. *Hearing the Other Side: Deliberative versus Participatory Democracy*. Cambridge: Cambridge University Press.
- Neumann, Franz L. 1957. "The Concept of Political Freedom." In *The Democratic and the Authoritarian State*, edited by Herbert Marcuse, 160–200. New York: Free Press.
- Niesen, Peter. 2006. "Deliberation ohne Demokratie? Zur Konstruktion von Legitimität jenseits des Nationalstaats." In *Transnationale Verrechtlichung*, edited by Regina Kreide and Andreas Niederberger, 240–59. Frankfurt am Main: Campus.
- Owen, David. 1999. "Orientation and Enlightenment: An Essay on Critique and Genealogy." In *Foucault Contra Habermas: Recasting the Dialogue between Genealogy and Critical Theory*, edited by Samantha Ashenden and David Owen, 21–44. London: Sage.
- . 2003. "Kritik und Gefängnishaft: Genealogie und Kritische Theorie." In *Michel Foucault: Zwischenbilanz einer Rezeption*, edited by Axel Honneth and Martin Saar, 122–44. Frankfurt am Main: Suhrkamp.
- Parkinson, J. 2004. "Why Deliberate? The Encounter between Deliberation and New Public Managers." *Public Administration* 82(4):377–95.
- Pedersen, J. 2008. "Habermas' Method: Rational Reconstruction." *Philosophy of the Social Sciences* 38(4):457–85.
- Ryfe, David M. 2005. "Does Deliberative Democracy Work?" *Annual Review of Political Science* 8:49–71, 122–44.
- Saretzki, Thomas. 2009. "Habermas and Critical Policy Studies: Legitimation, Judgment, and Participation." *Critical Policy Studies* 3(3–4):426–33.
- Scheuerman, William E. 1999. "Between Radicalism and Resignation. Democratic Theory and Habermas's *Between Facts and Norms*." In *Habermas: A Critical Reader*, edited by Peter Dews, 153–77. Oxford: Blackwell.
- . 2004. "Critical Theory beyond Habermas." In *The Oxford Handbook of Political Theory*, edited by John Dryzek, Bonnie Honig, and Anne Phillips, 228–38. Oxford: Oxford University Press.
- Schmalz-Bruns, Rainer. 1995. *Reflexive Demokratie*. Baden-Baden: Nomos.
- . 2007. "An den Grenzen der Ernststaatlichkeit: Bemerkungen zu Jürgen Habermas' Modell einer 'Weltpolitik ohne Weltregierung.'" In *Airarchie der kommunikativen Freiheit: Jürgen Habermas und die Theorie der internationalen Politik*, edited by Peter Niesen and Benjamin Herberth, 269–93. Frankfurt am Main: Suhrkamp.
- . 2009. "Habermas' Theory of Democracy and Critical Policy Studies: An (Undistorted) Elective Affinity?" *Critical Policy Studies* 3(3–4):447–52.
- Schweitzer, Eva. 2004. *Deliberative Poling*. Wiesbaden: Verlag für Sozialwissenschaften.
- Strecker, David. 2012. *Logik der Macht*. Weilervirst: Velbrück.
- Sunstein, Cass. 2003. "The Law of Group Polarisation." In *Debating Deliberative Democracy*, edited by James S. Fishkin and Peter Lasslett, 80–101. Oxford: Oxford University Press.
- Tocqueville, Alexis de. 1990. *Democracy in America*. Vol. 1. New York: Vintage.
- Tully, James. 1999. "To Think and Act Differently: Foucault's Four Reciprocal Objections to Habermas' Theory." In *Foucault Contra Habermas: Recasting the Dialogue between Genealogy and Critical Theory*, edited by Samantha Ashenden and David Owen, 90–142. London: Sage.
- Warren, Marc E. 2009. "Governance-Driven Democratization." *Critical Policy Studies* 3(1):3–13.

- White, Stephen K. 1988. *The Recent Work of Jürgen Habermas: Reason, Justice and Modernity*. Cambridge: Cambridge University Press.
- Young, Iris Marion. 2000. *Inclusion and Democracy*. Oxford: Oxford University Press.
- . 2001. "Activist Challenges to Deliberative Democracy." *Political Theory* 29(5):670–90.

10. Poststructuralist Policy Analysis

Discourse, Hegemony, and Critical Explanation

A number of contemporary innovators in the field of policy studies draw sustenance from the "discursive turn" in the human and social sciences, as well as from the ideas of poststructuralism that often accompany this trend. This turn to discourse focuses our attention on the need for understanding, interpretation, and critical evaluation in social and political analysis, rather than the search for lawlike or causal explanations. A range of discourse analysis and interpretivists thus privilege the political construction of meanings and identities in and through the policy process, and they question the sharp separation between questions of fact and questions of value. In pursuing these ideals, they have developed notions such as narratives, story lines, framing, discourse coalitions, interpretation, rhetoric, and argumentation to critically explain the initiation, formation, implementation, and evaluation of public policies in various contexts and settings.

Yet the injection of poststructuralist ideas and techniques into the field of policy studies has been diverse and complex, causing discursive policy analysis to assume various shapes and sizes. It includes those who wish to break radically from positivist perspectives (Fischer 2003), as well as those who seek mainly to supplement positivist viewpoints by treating discourses as particular systems of belief or conceptual frameworks for apprehending the world (Dryzek 1997:8; Weale 1992). In this chapter, we demonstrate how one particular type of discursive policy analysis, poststructuralist policy analysis, when articulated with elements of critical discourse analysis and rhetorical political analysis, can contribute important tools and concepts to the conduct of critical policy studies. Our approach goes beyond a minimal and cognitive conception of discourse, in which the concept of discourse is reduced to simply another variable that can be subjected to empirical testing, and which often gives rise to what we might term "discourse-like" forms of explanation and interpretation (Torfing 2005:25). Rather, we employ a "thicker"