THE "PRINCIPLE OF PUBLICITY" AND POLICIES OF THE INFORMATION AGE

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Introduction

This paper will hold that the democratic struggle for the just and free society as derived from the political philosophy of the Enlightenment persists in our time as a serious human concern and remains valid even in the face of criticism directed at some of the reprehensible social consequences of positivist reasoning (Laclau 1988; Lefort 1986; Lyotard 1984; Rorty 1983) and in the face of complacency that the Cold War has been definitively settled in favour of liberal democracy (Knutson 1991; Sakamoto 1991; Fukuyama 1989). It is argued that problems and conditions of the information age have re-centred a set of moral and political arguments which have been at the heart of modernity's core enterprise and yet continue to remain unresolved: namely, the proposal that communication and knowledge are crucial to the progressive emancipation of all social groups and hence the conditions of public space for deliberation, participation, and political practice are irrevocably tied to the quality of human life and to the universalisation of political freedom.

The analysis here will identify the normative grounds of the responsibility of public policy with respect to communication in a way which carries the problem beyond the conceptual limits of utilitarian liberalism and its highly qualified, even incongruous rationale for communication in democratic societies as a market or as identical to the free circulation of contractual and proprietary structures. The notion of a substantive normative foundation for communication policy has in large part been denied both in policymaking and in scholarship over the course of this century during which period public space policy traditions have been established by the principles of capitalist market competition, proprietary rights and freedoms, totalitarian domination by the state, or by cultural-nationalist collective interest (see Venturelli 1995).

This paper will therefore introduce a theoretical-historical argument that a substantive moral basis for guaranteeing public space in the common interest exists at the core of liberalism's political project for self-determination and participatory inclusion.

It is further argued that this foundation must be revived and reconstructed in light of the continually valid concerns regarding the collapse of this promise articulated by Marx and Weber, and an attempted reconstruction by Habermas who identifies the conditions of the public realm as the measure of the reality of freedom, although Habermas's theory is still unable to engage with the question of policy and political practice as I have discussed elsewhere (Venturelli 1995). Finally, recovering this foundation has become imperative in view of the contemporary global policy debate over the information infrastructure and the significance of the debate's outcome for human development and for the future of democratic community.

Communication and Modernity's Conception of Freedom: The Moral Defence of Participation

Because individual rights, freedom, free speech, and the free market comprise a specific normative system, the essential grounds of modern liberal democracy can be said to be primarily moral. As Rawls (1971) argues in his treatise on the moral foundations of liberalism, the most significant articulation and justification of these values is furnished by Immanuel Kant. The first full expression of the modern view of freedom, emancipation, and a just social order, according to MacIntyre (1966), are discovered not so much in the civil society thesis of Hobbes (1991) as is sometimes maintained (Gray 1989; Oakeshott 1975), but in Kant's defence of liberal democratic values, the "supreme representation of the Enlightenment" (MacIntyre 1966, 190). This argument arises from:

> *... his [Kant's] belief in the power of courageous reasoning and in the effectiveness of the reform of institutions (when all states are republics there will be no more war); supreme because in what he thought, he either solved the recurrent problems of the Enlightenment or reformulated them ... for emerging liberal individualist society in a way that makes the individual morally sovereign. And it leaves the individual free to pursue whatever it is that he does ... His wish is to exhibit the moral individual as being a standpoint and a criterion superior to and outside any actual social order (MacIntyre 1966, 190-98).*

The central value in modernity's enterprise, namely the cause of freedom, is defined within a Kantian moral framework whereby "Man is a free being only in the sense that he is meant to find his paradigm purposes within himself, and not out of the order in which he is set" (Taylor 1985, 319). Hence, in the political realm, human freedom is assured prior to legitimate order and is part of the natural condition of man's reason — the "state of nature"; political structures come later.

The unhooking of the notion of freedom from all social context, in contrast to the ancient view of the preconditions of political society (Aristotle 1981), renders it non-contingent, absolute, and unalienable, thereby transforming the hope of emancipation effectively into a promise. The promise of universal human rights, directly drawn from the Kantian moral framework, also distinguishes itself from Hobbes's (1991, 38-9 and 90-1) freedom as purely naturalistic self-love which is similarly delinked from social context. This is because the Kantian doctrine of freedom

as reason is uncompromisingly part of the moral order, therefore, normatively inscribed in the historical ascendancy of liberal democracy, whereas Hobbesian freedom has nothing to do with moral law for it is simply part of the state of nature as perpetual desire and supposedly justifying the imposition of political power.

According to Kant (1990, 52), individuals are morally sovereign, therefore ends in themselves because they are endowed with reason (as opposed to passion, or desire, or competitive self-interest). Persons do not have a market value but possess intrinsic worth, that is, dignity, from the **a priori** capacity to give themselves their own laws (Kant 1990, 38). Thus for Kant, the condition of membership and the communal end, is rationality where "each man is left free to make use of his reason in matters of conscience" (Kant 1990, 88). While this elevation of the individual to unqualified eminence in the natural hierarchy forms the body of Kant's moral framework for liberalism's rights-based theory of freedom, it becomes substantively extended, perhaps even transformed by his political philosophy. In the political domain, Kant insists on a set of conditions accounting for the reality of the practice of freedom as reason, and it is at this level, the one that also concerns the discussion here, that freedom involves certain fundamental prerequisites of communication and a set of public policies guaranteeing its necessary structure in order for political legitimacy to prevail.

Requirements of social reality in the actualisation of freedom — whether religious freedom, freedom of expression, freedom to participate or be included — for Kant, is not private autonomy as one might infer from his metaphysics, but public autonomy. Kant's (1990, 38) abstract "categorical imperative" with its emphasis on freedom of the will, subjective consciousness, and a transcendental ego which grasps and synthesises the world through private categories of reason (see Kant 1990 and Taylor 1985), is a view of freedom largely independent of the empirical world and thus remains a matter of ongoing theoretical debate (Wolff 1973). But in terms of social validity, I argue, what Kant means by freedom is public freedom. In ***What is Enlightenment?*** (1990, 84-5), he writes that the promise of self-determination is essentially contingent on using one's reason in public.

Only the public practice of reason constitutes freedom for Kant and he goes so far as to assert that social and political arrangements as well as public policies which create obstructions to knowledge, information, and progressive public participation amount to a violation of the **moral-political rights of mankind**. Any

> *contract made to shut off all further enlightenment /knowledge/ from the human race, is absolutely null and void even if confirmed by the supreme power /sovereign head of state/, by parliaments, and by ... treaties. An age cannot bind itself and ordain to put the succeeding one into such a condition that it cannot extend its knowledge ... and progress in general enlightenment (Kant 1990, 87).*

The origin of liberalism's political and moral philosophy as articulated in this view, does not cast the question of liberty to be autonomous from contingency as Kant would have us believe in his metaphysics where freedom stands above contingent factors. Rather, the practical problem of freedom is one of public communications: the preconditions of access to knowledge, to public space, to ever-extending forms of participatory experience.

As Velkley (1989) observes, without the meaning of freedom as public reason liberal values work only in individual relations, not in social-political relations nor in resolving the question of public policy in democratic states. Kant's approach to civil society and the state in his essay ***On the Relationship of Theory and Practice in Political Right*** (Kant 1970), argues that citizenship requires of the individual autonomous rational judgement, but this is only possible in a particular kind of political order and within particular kinds of public arrangements without which freedom remains a mere ideal, an aspiration, or worse, an ideology. Consistent with liberalism's framework, Kant is not interested in inequalities and social justice; however, he is deeply interested in political conditions which guarantee the public practice of freedom. Thus citizenship is not neutral with respect to the social order, as may be suggested from Kant's metaphysics alone.

The roots of freedom in the moral system of the modernist movement contain, therefore, a necessary concept of communication expressed as the "**principle of publicity**" — that is, the principle of independent thought, normally addressed in liberal political theory under the heading of "freedom of expression." Beyond the negative concept of liberty which the conventional free speech right invokes, the "principle of publicity" bears an ethical force in Kantian liberalism, for its rule requires widespread inclusion of citizens in public debate as well as their rights to be informed without which the state forfeits its legitimacy. It thus represents the very first principle of a democratic order:

> *The citizen must ... be entitled to make public his opinion on whatever of the ruler's measures /law or policy/ seem to him to constitute an injustice against the commonwealth. ... for in all matters concerning universal human duties, each individual requires to be convinced by reason that the coercion /social contract/ which prevails is lawful, otherwise he would be in contradiction with himself (Kant 1970, 84-85).*

In his essay on ***Perpetual Peace*** (1970, 93-130), Kant describes the principle of publicity as a "transcendental /i. e., universal/ concept of public right" (Kant 1970, 126). By this he means, Williams (1983) explains, that any political issue or state policy which cannot be adequately and fully debated in public cannot also be made compatible with the idea of justice. The fundamental legitimacy of liberal democracy in the Kantian defence, rests on the level of transparency and degree of non-distortion in the structures of public space for sustaining knowledge and debate, which permits lines of common interest to emerge under conditions of political pluralism. The state's legitimacy is linked to the principle of publicity since, from a normative standpoint, the government only holds authority over people if it represents the general will of the community: "Whatever a people cannot impose upon itself cannot be imposed upon it by the law-maker either," and what a people would impose upon itself can only be determined according to the idea of publicity. Therefore, a guardian of the general interest (public/political authorities) has no reason to fear "independent and public thought" (Kant 1970, 85).

The basic case made in modernity's philosophy of freedom of expression is that it is more likely to render the claim of democratic government valid where it allows the

public (as against private) practice of freedom for most citizens. The principle of publicity reconciles the requirements of general interest or public interest with the requirements of political legitimacy, a reconciliation exacted by Rousseau's (1973, 135) first fundamental rule of democratic government, that it "follow in everything the general will." The general interest through publicity in this framework is essential to the recovery of self-determination and can never be democratic if arrived at through paternalism or authoritarianism or, as in contemporary instances, through unaccountable structures of proprietary governance over the public realm. However, these are the alternatives which automatically arise in the absence of the regulation of public communications for widespread inclusion and undistorted opportunities for participation.

When we join Kant's idea of publicity with contemporary notions of democracy, we arrive at a deliberative theory of democratic legitimacy. Rather than pure consent based on the necessity of state power to contain social anarchy, in the way Hobbes (1991, 138) justifies the existence of the civil state, this moral defence of liberal democracy stresses the deliberative processes leading to consent and to the reason which underpin consent. The central idea is that citizens should be "convinced by reason" and deliberation in the public realm — not by appeals to desire and entertainment or by false debate, distortion, and inadequacy of information — that the institutions and norms of their political community are in the general interest. Conversely, the social order of a political community, including its institutions, policies, and norms, is not in the public interest when citizens cannot be convinced by reason in the public realm, or else when they encounter barriers to widespread inclusion within public communications structures for deliberating on matters of common concern and government policy.

Thus the test that reconciles politics with democratic legitimacy is the test of the modes of public space. Politics is coercion (Kant 1990, 85) and democracy is the moral basis of association. They can only be reconciled by fundamental rights, the foremost being publicity, the right of knowledge and public participation. Publicity says you are free when you are living under laws you would give yourself. Publicity is therefore a liberal theory of citizenship and asks that citizens evaluate the justice of their policies and laws which is decided by the creation of consensus through structures of deliberation. Public space, therefore, is the context where the moral legitimacy of democracy is established for it is only in the participatory structures of public communications that the basis of general interest can emerge. It is not enough to come up with policies and laws, just or otherwise, through the procedures of representative government, voting rights, or benevolent oligarchy. Citizens must be convinced by reason in the exercise of public debate that public policies are just.

As with Mill (1974, 71), this is an argument for freedom of conscience and of speech. Yet Mill defends this first principle of democratic relations on the utilitarian grounds that freedom of expression is functional to peaceful coexistence and to individual self-interest: "I regard utility as the ultimate appeal on all ethical questions" (Mill 1974, 70). In contrast, Kant's notion of publicity (in his essay on ***Perpetual Peace***) is founded on the grounds of the fundamental dignity, the moral sovereignty of individual citizens. Only governments who are not acting in the public interest fear

open and encompassing structures of public space and conditions of widely available, undistorted, substantive knowledge: "All actions affecting the rights of other human beings are wrong if their maxim is not compatible with their being made public" (Kant 1970, 126).

The promise of modernity as judged by its powerful ideal of universal self-determination is inherently integrated into the promise of specific modes of the public realm without which self-determination can never be actualised. The obstructions to freedom are not because of a flaw inherent in our make-up as human beings (the natural vices argument), but because of flaws in the make-up of the social order, particularly with respect to the structures and forms of communication. This is the sense in which the moral foundation of liberalism can be said to hold forth a hope for emancipation in the political context of "publicity" — the responsibility of the democratic state in guaranteeing the conditions of public communications. Thus the policies of the public realm are inseparable from the primary postulates of the liberal democratic social order.

The right to publicity — or right of public freedom of speech, knowledge, information, and participation — is a moral and political right, not a mere ideological construction or a right constrained to the domain of private conscience. Therefore, the "right of publicity," unlike the utilitarian right of freedom of expression, has important social consequences. Properly defended, Kant's ideal of the right to participation in public space demands the existence of a set of structures, guaranteed by the policies of the democratic state, in which there is progressively enlarging possibilities for the public exchange of ideas. It is through this public realm maintained in the public interest that citizens and social groups can press for social improvements in the direction of the fulfilment of the promise of emancipation for all.

The Kantian defence serves both as the positive proposition as well as the grounds of social criticism of modernity's development. It has thus worked as a ferment, Taylor (1985) notes, to stimulate critical assessment of modernity's social forms, eventually emerging in revolutionary theories of liberation. In the argument presented here, the standard of freedom as public reason through participation establishes the normative grounds of social criticism for the institutional formations of the modern world, including the fundamental responsibility of democratic governments and the value and place of the citizen. These grounds help to mediate the criticism of Marx and Weber who evaluated the contrast between the promise and the reality of modernity's social order. This polarity, explored next, is relevant to the next stage in elaborating the central problem of this paper.

Communication and the Reality of Modernity: The Collapse of Hope

The shift to post-eighteenth century social thought is a shift in defining the agency of modernisation: namely, from the ideal of political agency for individual citizens through participation in knowledge, to the reality of global agency by particular forms of economic forces permeating all modes of life — social, cultural, and political — in enlarging oligarchic systems, some claiming the status of "democracies." Modernity's economic form, monopoly capitalism, not accounted for in the normative standard of

its political form, progressively appropriates the state in a set of interrelations that is rationalised by an ideology of emancipation though based on the reality of dependency. In the context of this transformation of the social organisation of modernity and the salience of the social criticism of Marx and Weber for understanding the general forms of transformation, the dialectic between freedom's hope and actuality becomes directly relevant to the constitution of the public realm and the policies which sustain it.

The collapse of the possibilities for a concept of freedom contingent on the public sphere parallels the social ascendancy of civil society as a private sphere, privileged in practice as the primeval site of individual being. Thus entailed in the reorganisation of modernity's social forms is a transformation in the value and status of the individual and a reordering of the relation of the democratic state to that value. The social criticism drawn upon here pertains to this transformation, i.e., to the dramatic degeneration of democratisation suggested against liberalism's normative test of the authentic circumstances of freedom as public (as compared with private) practices of self-determination.

In his ***Contribution to the Critique of Hegel's Philosophy of Right***, Marx recognises the ideal of modern individualism as its own **telos** when he writes that "Present-day society is the realised principle of individualism; the individual existence is the final goal; activity, work, content, etc., are mere means" (in Marx and Engels 1975, 81). Modernity's social form has cast up the individual as solitary and abstract rather than an agent of participation in self-determination, for the latter would inherently conflict with the maintenance of a social order whose essence is domination. Modernity's doctrine of individualism is in reality one in which "individuals appear to be independent ... appear to collide with one another freely and to exchange with one another in this freedom" (Marx 1974, 100), with no reference to the particularities of concrete circumstance. It is to this doctrine that Marx assimilates the significance of equality and freedom in the ***Rights of Man*** (1789) which he regards as the ideology rationalising the conditions of subordination and inequality that prevail in the guise of citizenship.

Marx's critique suggests that the grounds of practice of individual freedom in modernity are essentially contradictory even irreconcilable with its moral contract, since this freedom derives not from participatory rights of knowledge and agency in the public realm but from the structures of dependency inherent in forms of productive social relations. For Marx, this renders modern freedom "merely imaginary," and individual independence "merely an illusion" (Marx 1974, 100). Fromm (1992) argues that Marx does not dismiss human rights altogether for that would be inconsistent with the hope implicit in his criticism for recovering modernity's promise of development and emancipation for mankind (Fromm 1992, 42). Marx's point is simply that given the social reality of the modern age, freedom and other rights of the individual remain largely chimerical because, in Sayer's words, "they do not extend to that arena which he considered the foundation of being, the production of life" (Sayer 1991, 65-6).

In this argument, the "abstract individual" who is claimed by modern democracies to enjoy political and civil rights is just that: a representation, a subject whose existence

remains merely an ideal. However, this subject serves powerfully as a universal reference point for distracting from the conditions of power and structural inequality essential to the maintenance of the existing social order. Elaborating Marx's critique of modern individualism, Sayer observes that "Modernity constitutes individuals as subjects not through but in opposition to the real sociality which concretely defines and differentiates them" (Sayer 1991 72). Thus the conception of emancipation through participatory self-determination remains an assurance unrealised.

If the constitution of freedom is in contradiction to its ideal, the constitution of the modern state is in substance as much a form in which social power is secured through domination as the pre-capitalist mode of rule from which the political project of modernity struggled to articulate the grounds of liberty. The continuity of power is made possible from the joint domination of class and public power through the democratic state: "Civil society as such only develops with the bourgeoisie; the social organisation evolving directly out of production and commerce, which in all ages forms the basis of the State and of the rest of the idealistic superstructure..." (Marx 1978a, 63). The notion of liberty is institutionalised by securing the conditions under which the dominant social class can operate privately as individuals in civil society. This market freedom is less intrusive than the visible sites of power in premodern societies and rests upon the organisation of social power in the shape of the democratic political state ostensibly independent of relations based on the ownership of capital.

Thus the free society dreamed by liberalism is in reality an oligarchy where the maintenance of personal power depends on having to maintain that the power holds good for everybody, and where the ruling class must "represent its interests as the common interest of all the members of society" (Marx 1978a, 174). The notion of the public realm as a realm of progressive inclusion which serves to give rise to consensus regarding the common interest by deliberative, participatory means, becomes irrelevant, perhaps even a serious hindrance to the determination of the public good by the private self-interest of capital. The state thus "is the form in which the individuals of a ruling class assert their common interests" (Marx 1978a, 187) through the political illusion that these interests are the result of the general will. Public power must logically assume impersonal forms such as the rule of law, and representative democracy must function as a strict expression of this exigency. This mode of civil society requires abstractly equal individuals independent of any contingent factors or preconditions, such as rights of knowledge and access to public space which the moral liberalism of Kant conceives for authentic self-determination.

Fundamental to the modern representative democracies is a separation of "public" and "private" whereby the public domain is defined by private categories allowing the growing displacement of issues from the public sphere where they must be addressed collectively, into the private sphere where they are transformed into matters of personal preference. The systematic moral confusion of the public interest and the private interest has a substantive bearing on the value and status of the citizen, the role of public policy, and the place of communication within the modern social order.

Since the citizen is not a normative category, but a "sheer, blank individuality, a subjectivity without social content" (Marx 1975, 77), the state is effectively able to extract legitimacy from the plausibility of its claim to represent the private interests of

individual competing entities. Marx's point here is that, given the social conditions of modernity, in fundamental ways the democratic state is hardly the guarantor of the conditions of participatory citizenship. Rather, it is an ideological project, "a collective misrepresentation whose real content remains the inequities of capitalism" (Sayer 1991, 83). The political citizenship articulated in modernity's democratic struggle, and the moral, civil, and human rights which go with it, have never extended to all members of civil society.

Exclusion from the public realm, from access to knowledge, information, and deliberative relations, are exclusions which are fundamental to the construction of the "freedom of the market" and of private self-interest as the basis of public policy and of membership. The absence of limitations, "barrier's", regulations, and obstructions to competition in international trading, and the commercialisation of all spheres of modern life demands an assumption regarding citizenship and the public interest whereby the democratic state is expected to service the domain of private proprietary rights.

It is argued here that Kant's social understanding (Goldmann 1971) of the preconditions of political practice imbues the moral foundation of liberalism with a standard by which to measure its actualisation. Marx, however, points out that this sense of progress in the modernist movement is flawed because the social circumstances of modernity's economic formations prevent individuals, citizens, or social groups from attaining the promised goal. Marx does not, however, deny the need to strive for the ideal in the sphere of political self-determination — contingent on knowledge and public participation — but even more, in the sphere of material self-determination — contingent on authentic autonomy of the individual's labour (Marx 1978b, 70). Both, of course, are necessarily related (Fromm 1992). In democratic societies we strive under the ideals of modernism for information and access to the public realm, as well as for autonomy in our labour, but this is denied us by the exploitative nature of integration between capital and the state. As Goldmann (1971) argues, Marx and Kant are at one in thinking progress is possible and can be accelerated by the notion of intervention, or the public practice of reason, i.e., political practice. Yet Marx's criticism implies that the promise of modernity has given individuals a goal it is scarcely possible to realise in the context of the circumstances of modernity.

Even Marcuse (1972, 80), who in general adheres to Marxist disapproval of Kant's liberal philosophy because it does not intend to criticise modern capitalist society in a revolutionary way, recognises the substantive ideal inherent in the "principle of publicity" which requires that members of political society be allowed to make public use of their reason in all matters which concern them, i.e., in all matters of public policy and law by which they could be governed.

Marx's critique suggests that the political reality of the governed is illusory, whereas Weber's (1946, 224-6) critique in his essay on bureaucracy supports this thesis in the argument that "democratisation," in the sense intended in liberalism's ideal, does not necessarily mean an increasingly active share of the governed in the authority of the social structure. In his essay, ***Science as a Vocation***, Weber (1946, 151-2) recognised the major historical relevance of the theory of natural rights which he

affirms as the necessity to "account for the ultimate meaning of one's own conduct." But he believed that under modern conditions the theory had progressively lost its significance and was being replaced by positivistic, formal-legal norms (Weber 1946, 216; Weber 1930, 25), requiring that fundamental rights be interpreted anew in relation to the concrete social relations of late capitalist industrial societies. Thus the idea of self-determination seemed to Weber to have become largely meaningless under the conditions of advanced industrial societies. The structure of domination that had become inherent in the democratic system for Weber could be distinguished from that of Marx in the emphasis placed on the irrevocable progress of rationalisation essential to the abstract commodification processes of late capitalism.

Weber's precise analysis of the historical reality of capitalist economic and social organisation, following to a large extent Marx's classical analysis (Mommsen 1989), offers little, if any, emancipatory hope, both in terms of modernity's processes and in terms of its ultimate consequences. Modernity as the process of progressive rationalisation signified for Weber (1947, 123, 184-86) an increase in formal rationality in all spheres of life, somewhat similar, in a manner of speaking, to the way in which Marx inferred the gradual assimilation of all social experience to exchange value relations. The public practice of reason as a practice of self-determination affirmed in the moral foundation of liberalism is observed by Weber to have been paradoxically transformed in late modernity into a powerful source of domination:

> One of the fundamental elements of the spirit of modern capitalism, and not only of that but of all modern culture: rational conduct ... building the tremendous cosmos of the modern economic order. This order is now bound to the technical and economic conditions of machine production which today determine the lives of all the individuals who are born into this mechanism, not only those directly concerned with economic acquisition, with irresistible force (Weber 1930, 180-81).

The transformation of reason into rationality or **Zweckrationalität** (Weber 1947, 115) for Weber implies purposive rationality, or the choice of the most efficient means for realising final goals. "Rationalisation" as domination is therefore tied up with the increase of economic or administrative efficiency.

Yet implicit in Weber's theory is a notion of freedom which must derive from rationalisation's antinomial social conditions, i.e., from those which give rise to possibilities of participation free from distortions of illusion and self-deception. Thus rationalisation also implies its opposite: the experience of authentic modes of participation and an optimum degree of individual self-determination for all. His use of the term "disenchantment" parallels Marx's "alienation" in reference to the realisation of these circumstances in modern liberal democracies: "The fate of our times," Weber (1946, 155) writes, "is characterised by rationalisation and intellectualisation and, above all, by the 'disenchantment of the world'."

One might say that Weber privileges the role of public reason in modern life and develops his critique of modernity based on the circumstances of its deformity which points to an increasing imprisonment of modern experience in dehumanised systems of a new historical kind (Weber 1930, 181-83). The tendencies of increasing formalisation, instrumentalisation, and bureaucratisation according to an internal systemic logic, steer toward a state of society in which liberalism's ideal of

participatory rights becomes more and more of an anachronism, and in which the possibility of public communication structures which could support the formation of consensus based on political practice has disintegrated into communication structures supporting self-interested pluralism and privatised value choices (Weber 1946, 151-52).

There is a profoundly pessimistic — though not determinate — philosophy of history implicit in Weber's theory of modern rationalisation. The increasing rationalisation of humanity by an internal logic triggers historical processes which tend, as elaborated in ***The Protestant Ethic***, to depersonalise social relationships, to atomise substantive-rational communication, and to subject human life to the impersonal logic of rationalised, anonymous administrative systems (Weber 1946, 230-31). In short, Weber's account of historical processes characterises modernity as the rendering of human life into mechanised, free, and meaningless modes of order and experience; in other words, into an "iron cage" of rationality, rather than into the possibility of liberty through public reason (Weber 1930, 182).

The decision whether to submit to the iron rule of formal rationality or not is simply no longer in the hands of citizens and social groups to whom reason was supposed to be applicable, nor in the hands of workers, or individual entrepreneurs. It is simply enforced by market competition, a basic regulative principle of the world capitalist order. Thus the innate tendency of the workings of this principle is to shackle members of political society in a system of unbroken dependence (Weber 1977, 138), even further accentuating Marx's thesis of substantive irrationality in the modern economic order.

Weber's argument that the hope and expectation of liberalism had turned into a bitter and ironic illusion, therefore, is structured on the premise of the normative grounds of the social practices of reason whereby its forms and modes are necessarily linked to human liberty. He poses this problem in the opposition and irreconcilability of substantive rationality with purposive-instrumental rationality (Weber 1946, 129-56), the former fundamentally essential to individual self-determination, the latter to continuity of modernity's social order. The hope of recovering substantive reason in the public life of liberal democracies is becoming progressively less and less leaving no possibility whatsoever of revolutionary transformation of the social order under the "iron cage" of capitalism.

This sobering thesis has been lately disputed by Habermas (1984) who challenges Weber's fatalism that all hope of emancipation in the structures of substantive reason has been lost to modernity. Habermas recenters the principle of communication into the emancipatory project of modernity by means of a theory of communicative action which redefines the problem of reason and rationalisation. While the historical processes of social modernity are by necessity oriented to the "iron cage" and to the nullity of human life, he argues that instrumental rationality has its legitimate place, but only in the "systems world." In Habermas's view, the boundary of instrumental rationality in the service of the systems world is **only** "overstepped when systemic imperatives force their way into domains of cultural reproduction, social integration, and socialisation" (Habermas 1987, 374) — in other words into the core zones of the "lifeworld" of self-determination where a non-repressive form of rationalisation ought to prevail. The redemption of Weber's iron cage of rationalisation into differentiated

forms appropriate and legitimate to distinctive realms of human life thus allows Habermas to return to the spirit of Kant's emancipatory model in his reconstruction of modernity's hope critical both of contemporary social sciences and of the social reality they are supposed to grasp (Habermas 1987, 375).

To address the fundamental problem of redeeming the hope of reason and to differentiate rationalisation in various historical contexts, Habermas's theory of communicative action moves to restore the principle of public reason in modern liberalism by isolating, identifying, and clarifying the normative conditions required for the practice of social and political communication. The process is accomplished by grounding a theory of rationality in intersubjective relations, or discourse, that no longer entraps us, he argues (Habermas 1987, 62), in the monological perspective of the philosophy of the subject whose consequence is the sacralisation of the atomised individual. Communicative action is intrinsically dialogical, a distinctive type of social action oriented to mutual understanding, as opposed to other types of social action oriented to "success" or the efficient achievement of ends as constitutive of means-ends rationality (Habermas 1987, 46).

Ideally, the only force that should prevail in public communications is the force or condition of uncoerced argumentation. While everyday life is certainly characterised by disputes and breakdowns in communication and mutual understanding, Habermas's major point is that a form of rationalisation is in fact **necessary** to this "lifeworld" of intersubjective relations in order that the human struggle to overcome presumably irreconcilable differences may provide the rational foundations for the emergence of common interests. The mode of public reason he proposes is the notion of universal "validity claims" (Habermas 1987, 69) set in the general structures of public communications and in the intersubjective structures of social reproduction. "In these validity claims, communication theory can locate a gentle, but obstinate, a never silent although seldom redeemed claim to reason, a claim that must be recognized de facto whenever and wherever there is to be consensual action" (Habermas 1979, 97).

The pragmatics of everyday reason are stressed further in his assertion that "again and again this claim /to reason/ is silenced, and yet in fantasies and deeds it develops a stubbornly transcending power, because it is renewed with each act of unconstrained understanding, with each moment of living together in solidarity, of successful individuation, and of saving emancipation" (Habermas 1982, 221).

One of the conceptual strategies Habermas employs for legitimising rationalisation and of rescuing the idea of reason in the process, is to categorically distinguish the rationalisation of communicative action from that of purposive-rational action (with two different aspects — the empirical efficiency of technical means and the consistency of choice between suitable means; Habermas 1982, 117). The rationalisation of communicative action is thus radically and categorically different from **Zweckrationalität**, the form of rationalisation process Weber took to be basic to modernisation:

Rationalization here means extirpating those relations of force that are inconspicuously set in the very structures of communication and that prevent conscious settlement of conflicts, and consensual regulation of conflicts, by means of intrapsychic as well as interpersonal communicative barriers. Rationalization means

overcoming such systematically distorted communication in which the action-supporting consensus concerning the reciprocally raised validity claims ... /can be measured/ against the intersubjectivity of understanding achieved without force (Habermas 1982, 119-20).

Thus the significance of Habermas's theory of communicative action is closely linked to, one might even say determined by, the way he addresses Weber's notion of rationalisation by differentiating it into two distinct types. The empirical implications of this turn are that it allows him (a) to demonstrate that a theory of communicative action and an adequate theory of modernity to explain the dynamics of historical processes are not two independent endeavours — they are conceptually and inextricably related; and (b) develop an approach to social analysis that can discriminate the different forms of rationalisation processes. Habermas's support of the notion of selective differentiation in rationalisation is to recover the possibilities for empirical analysis in the Marxian tradition which has from the very first stressed the fusion of both philosophical and scientific-empirical dimensions of analysis. In an important sense, his approach to this recovery almost **requires** an inversion of Weber's thought.

In the theory of communicative action, Habermas (1984) supports this basic thesis by showing how both classical social theorists (Marx, Weber, Durkheim, Mead, and Parsons) as well as critical theorists (Lukacs, Horkheimer, and Adorno) have all either neglected the significance of rationalisation or been blinded from aspects of a comprehensive theory of modernity grounded in a full understanding of the dynamics of public reason and rationalisation processes in modernity's social forms. By developing his concept of rationalisation's selective differentiation Habermas is then able to propose two mutually exclusive but jointly exhaustive categories to explain modern life, viz., "systems world" and "lifeworld."

Habermas's diagnosis of the historical problem of collapsed substantive reason in the public communication practices of liberal democracies leads him to formulate what Wellmer calls "the paradox of rationalisation":

The paradox of rationalization is that a rationalization of the lifeworld is the precondition and the starting point for a process of systemic rationalization and differentiation, which then becomes more and more autonomous vis-à-vis the normative constraints embodied in the lifeworld, until in the end the systematic imperatives begin to instrumentalize the lifeworld and threaten to destroy it (Wellmer 1985, 56).

The argument that rationalisation is a precondition to the normative development of the lifeworld implies there would be no possibilities for conceptualising the existence of a lifeworld in modernity without a prior conceptualisation of a legitimate role for rationalisation in the systems world. The lifeworld is only threatened when forms of rationalisation valid for the systems world begin to systematically instrumentalise the form of normative public reason valid and necessary to lifeworld processes (Habermas 1987, 186). Strictly speaking, for Habermas, there is no logical, conceptual, or historical necessity that systemic rationalisation imperatives **must** destroy the lifeworld. While he recognises that early critical theorists highlighted the real threats modern industrialised societies pose to the communicative integrity of the

lifeworld, he veers away from the void to which this must lead and proposes in its place a selective process of differentiated rationalisation. In this conceptual transformation of a Marxist-Weberian social criticism, purposive-instrumental rationalisation must inevitably prevail in its quite valid domains of state and economy. It only becomes problematic and deserves negation when it encroaches upon and deforms the public sphere, the lifeworld of the citizen's participatory prospects. Habermas suggests this deformation is at present occurring at an alarming rate. As Wellmer (1985, 56) tells it:

> *Against Weber and Horkheimer/Adorno ... Habermas objects that this paradox of rationalization does not express an internal logic (or dialectic) of modern rationalization processes; it is, strictly speaking, not a paradox of rationalization ... we have to substitute for Weber's restricted conception of rationality. From an action theory in Weber's sense, there would neither be a paradox of rationalization nor a dialectic of enlightenment for Habermas; rather it would be more adequate to speak of a selective process of rationalization, where the selective character of this process may be explained by the peculiar restrictions put upon communicative rationalization by the boundary conditions and the dynamics of a capitalist process of production.*

The thesis of the selectivity of rationalisation suggests that despair and disenchantment is not inevitable. All lines of Habermas's emancipatory reflections on modernity lead to, and are intended to clarify and support, this thesis. It is only when we grasp the different **forms** of action and reason, he stresses, can the colonisation of the public sphere be explained by analysing the causes and dynamics of systemic differentiation of reason (Habermas 1987, 304-05).

Among the controversial aspects of this argument, according to Jay (1985), is the suggestion that we can accept this differentiation and still seek new ways to integrate participation into our everyday lives, and that we can still seek to restore a **proper balance** between the legitimate demands of social systems and the public reason of the lifeworld. The prospect of furthering the communicative rationalisation of our everyday lifeworld is still, for Habermas, a real historical possibility. The aspirations of modernity are transformed into rational grounds for hope by dealing with the conceptual problem of Weber's disenchantment, inverting it, and redirecting its tendencies. The explanatory power of a theory of communicative action will endure, Habermas claims, because communicative rationality in our everyday social practices has a "stubbornly transcending power ... renewed with each act of unconstrained understanding, with each moment of living together in solidarity, of successful individuation, and of saving emancipation" (Habermas 1982, 227).

Wellmer argues that Habermas's conceptual strategy for redeeming the potential of reason points to the importance of adequate "objectification" of communicative rationality in new social and political institutions; i.e., "by institutions which, on the one hand, would represent the normative anchoring of the system in the lifeworld, and on the other, would protect the communicative structures of the lifeworld themselves, and secure a rational and democratic control of the system by the lifeworld" (Wellmer 1985, 58). According to this view, the institutionalisation of rationality in modes

appropriate to its social context provides a new meaning for Weber's notion of the discontents of modernity. These discontents, in Habermas's thought, are not rooted in rationalisation as such, but in the failure to develop and institutionalise different dimensions of public reason in a balanced way.

Thus owing to the absence of institutions that could protect the private and public spheres from reifying dynamics of the economic and administrative systems (the systems world), participatory relations drawn from the public practice of reason have been increasingly pushed to the margin. Due to lack of feedback relations between a differentiated modern culture and impoverished conditions of public space, the lifeworld has become increasingly desolate. In Habermas's view, the constant attack on the public communication infrastructure of society to serve only instrumental rationality poses a growing threat to the very legitimacy and moral basis of liberal democracy (Habermas 1987, 361), for it instrumentalises everyday cultural life which requires widespread inclusion in communicative participation in order to function in the democratisation of social life.

The more deeply this life is penetrated by systemic imperatives, the greater the danger of democracy's effective collapse, both in ideal and historical terms. The struggle toward a balanced institutionalisation of different modes of reason demands a de-colonisation of the public sphere, but not in the sense of insulating it altogether from processes of reason. There is a type of reason proper to the public sphere of the lifeworld which Habermas explicitly defends, viz., an expansion of the areas in which action is co-ordinated by way of deliberative-communicatively achieved agreement and therefore chances for consensus over the terms of associational life between citizens and social groups (Habermas 1987, 119).

Normative Grounds of Communication Policy in the Information Age

Discussion here of the conceptual basis of modernity's democratic project has attempted to argue that the core of its struggle for freedom has been inextricably linked to the progressive democratisation of the public realm. Liberal ideals of personal autonomy and individual self-development originate both explicitly and implicitly in a root principle of "publicity" embedded in the moral basis of liberal thought defended by Kant whose moral framework for universal human rights legitimises modern democracies (Baynes 1992; Dworkin 1978). While the utilitarian origins of liberalism derived from Locke, Hobbes, and Mill have left us with an incoherent concept of the human self and society from an antipolitical equation of civil society with the private sphere, the moral origins of liberalism instead provide a substantive equation of civil society, individual rights, or the notion of freedom, with the public sphere. No doubt, moral liberalism is fraught with ambiguity and, in historical terms, has not been as successful in articulating the interrelation between self-determination and participatory public space. Yet the principles of public reason it expounds stand in direct contradiction to utilitarian liberalism's claim that no necessary interrelation exists other than through the market-oriented economic system.

This latter reasoning has served as grounds for communication policy-making throughout the modern period, experiencing a deepening justification since the 1980s

(Ungerer and Costello 1988; Fowler and Brenner 1982) and serving as the conceptual-normative basis for a world-wide movement of deregulation and privatisation ever since the end of the Cold War (Mansell 1993; Porter 1989). Because the public interest is the private interest, it is argued, the role of the state must be to further proprietary rights and private governance of public communications, mediate conflicting proprietary claims, and further competitive practices in the design of policies for the public communication networks of liberal democracies (Fowler and Brenner 1982; Bork 1978).

Contrary to misleading liberal conceptions of policy as guarantees solely of the private interests of individual entities against public interference in their commercial freedoms, the discussion here has attempted to show that communication policy in free societies possesses in fact a substantive normative foundation emerging from the very core of modernity's political project for individual self-determination and for the progressive expansion of knowledge and participation to all social groups. The social criticism offered by Marx and Weber demonstrates that the political project of participatory rights is far from complete and that attempts to deny or suppress the substantive grounds of this ideal or its realisation reflects the ideological governance of civil society by private interests claiming validity as the public interest.

This trend, intensified in recent decades, has derailed the emancipatory movement and constitutes historical modernity's primary pathology. More recently, as shown in the preceding discussion, Habermas (1989) has attempted to reconnect liberalism's principles of individual rights with the political precondition of normative requirements in the structure of public space. Though there may be some conceptual problems (Venturelli 1995; Benhabib 1992; Fraser 1992) in the theoretical procedures by which he attempts this reconstruction, yet the broader issue Habermas raises for the recovery of the public realm if modernity's ideals are not to collapse altogether is the point considered relevant to this study and to its examination of the historical problem of contemporary communication policy.

The argument in this paper has attempted to establish the normative, substantive grounds — as opposed to either unitary, neutral, procedural, or competitive grounds — of communication policy, and its place at the heart of modernity's promise of freedom as citizenship rights in knowledge and participation. These normative grounds suggest a way of questioning the policy design of communication networks in the "information age" on the basis of the normative criteria of publicity and the issues of historical reality raised in the preceding discussion.

In June 1994, the European Council of Ministers adopted a report (Commission of the European Communities, 1994, henceforth referred to as the Bangemann Report) recommending a complete transformation of the social and economic structure of public space in the European Union (EU). Growing out of the "Delors White Paper" (Commission of the European Communities, 1993) which embodies the notion of a revised social contract in European public policy for the next century, the Bangemann Report asked member governments to endorse a fundamental overhaul of public policies and laws in the information and communication industries sector. The origin of this policy trend can be traced to publication of the European Commission's Green Paper on Telecommunication Services in 1987.

The report represents a synthesis, perhaps an apotheosis, of a particular historical direction in policy thought for reconceptualisation of both the public realm and the projected role of democratic states which has been evolving and gathering momentum in Europe since the late 1980s. Following a series of policy initiatives in a wide range of public communication spheres — from broadcasting and telecommunications to audio-visual production, copyright, and ownership regulation — the Commission has offered a more consolidated vision for a "European information space" in the interests of citizens and consumers that would constitute a "a new industrial revolution ... based on information, itself the expression of human knowledge ... and ensure the cohesion of the new society" (Commission of the European Communities 1994, 7-8). The proposals also effectively concretise the direction of existing policies recently laid in place, institutionalising them within an overarching framework that sets the boundaries of legitimate debate over the meaning of the "information society" revolution. The Bangemann Report followed within less than a year of US National Information Infrastructure (US Congress 1994; US Government 1993) proposals for bringing about a broadband multimedia nation-wide network. As reflected in the Bangemann Report, US policy reasoning also employs rationales of revolutionary innovation in information technology to argue for radical restructuring, in the public interest, of policies governing public space in most information and communications sectors.

Policy design of the information age articulated in these proposals is indicative of a century of contradictory and confused (Porter 1989; Rowland 1986) debate over the fundamental social-political value of public communications in a democratic society and the responsibility of government in ensuring the public realm as a democratic good. Further, the policy framework emerging for the "information superhighway" in the EU — as in the US — signifies transition of the communication regulation debate to a new level. This trend appears to culminate in the institutionalisation of a particular approach to communication policy which suggests the historical end of the place of the principle of publicity in the normative legitimacy of liberal democracies. As such, it would effectively bring to closure modernity's long struggle for citizenship as participatory inclusion, remove the promise of knowledge and emancipation from liberalism's ideal of the meaning of progress, and substitute in its place the aspiration of commercial development and enforcement of contract law as the solitary rationale and normative grounds of the democratic polity.

While this is clearly foreseen in Marxian-Weberian analysis as the preceding discussion shows, the precise mode by the which the principle of publicity as the moral basis of liberalism moves from the condition of ideology Marx describes to political disestablishment in contemporary policies of the public realm, suggests investigation. Examination is needed of the policy basis by which democratic legitimacy is amended from the promise of participation to the promise of technological progress for sustaining competition and consumption.

In the contemporary prevailing vision of legitimacy which new information society policy initiatives show, the central principle of modern civil society is composed of two premises: first, the unqualified autonomy of proprietary interests from even minimal standards of obligation in the common interest, and second, a conception of

democratic legitimacy in which the primary end of government and public policy is to serve as unqualified instrument of players in the economic marketplace. The first premise is offered as a required precondition for technological innovation without which, it is argued, the "information age" will elude us indefinitely (Ellul 1990) while the second further minimises the public accountability of economic institutions thereby forcing both the state and citizens to retreat from civil society, leaving its space of social action almost entirely to market players (Schumpeter 1991; Hayek 1982, 1976; Gray 1989).

A crucial element in this theory of economy and the state (Barro 1994) is the predominant role played by technological innovation, particularly with respect to communication technology, in creating economic growth. Above and beyond any other socio-economic factor, including investment or lower government tax rates, technological progress is required to fuel economic expansion. This progress is slowed by all government policies, even the most marginal, except for economic policies furthering privatisation and liberalisation. The reasoning claims that proprietary rewards of monopoly power and higher prices above the competitive level must be permissible as the prize for innovation of the products of improved technology in a commercial sense or else innovators will have no incentive to carry out costly and often unsuccessful research.

Accordingly, it is argued, technological change and growth are contingent on the transformation of the state into an economic instrument for protecting compensation structures in property rights, maintaining free markets by keeping market regulation to a minimum, even taking a more favourable view of monopoly in technological sectors such as communications; and finally, eliminating all expenditures in the social sector since these are thought to distort the market by shifting resources to non-productive human capital.

While this approach to liberal social organisation has been constitutive of the historical reality of modernity all along as Marx and Weber have shown, yet liberal democracies in this century have evolved within a relatively broader understanding of the need for institutions for mediating between the private and public spheres, between civil society and the state, between private property and common welfare, and between the demands of political participation, communication or citizenship, on the one hand, and those of a pure market-oriented social order, on the other (Dahlgren and Sparks 1991). It is this mediating, nuanced, often contradictory approach that accounts for traditions of the public interest (Bauby and Boual 1994) that have developed in advanced industrialised democracies over the course of this century. The result has been a dichotomous policy framework for establishing a balance of private and public rights in communication regulation which, while paradoxical and ideological in many respects, has nevertheless incorporated a set of political struggles over democratising principles in public policy, foremost among them being the principle of publicity or participatory rights (Curran 1991; Garnham 1990).

But the technological form of an information society now offered in the policy proposals of the European Union (Commission of the European Communities 1995, 1994), closely following tendencies gathering momentum in the United States (US Congress 1994; US Government 1993), is an explicit rejection of evolved traditions of

public interest policy in the modern age that, till recently, preserved a minimal concept of publicity and participatory rights in the regulation of the public spheres of liberal states. Even though the function of these traditions may have been none other than to invoke democratic legitimacy and to marginalise alternative political conceptualisations of a public realm, yet the explicit rejection of the moral foundations of liberalism which emphasises progressive democratisation through the principle of publicity, and its substitution with a technological model of economic growth that allows little, if any, place for democratic objectives in public policy, provides a strong basis for inquiry.

It is argued that the goal of policy studies of the information age, therefore, should be to resurrect from the dust of policy debate the normative basis of communication policy as introduced here, and to examine its workings, contradictions, and modifications manifest in the policy design for the "information superhighway." Such an understanding is conspicuously absent from contemporary policy analyses of the information infrastructure (Ciborra 1992; Ungerer and Costello 1990; Lanvin 1989; Antonelli 1985) which, as Mansell (1993) suggests, are dominated more often by debates over economic and technical issues in the diffusion of technical systems, and by efficiency and performance assessments or aggregate statistical indicators, than by the recognition that there is something fundamental at stake in the evolution of the intelligent network involving the further development of democratic political community, the practice of political self-determination, and the values and possibilities of participatory citizenship.

Conclusion

This paper has attempted to refocus the policy debate by proposing that the structure of public communications, and not merely procedural voting rights, is one of the original problems of democratic freedom. The argument has been grounded in a set of principles holding that the deliberative and participatory conditions of electronic public space ought to rank among the foremost policy criteria in global negotiations over regulatory architecture for the design and implementation of the "information superhighway."

Because this approach to public policy emphasises a participatory concept of public space as the basis of civil society, analysis should address the information infrastructure policy debate by means of the following objectives: (1) examine the validity and legitimacy of policy and legal assumptions in the regulation of the emerging broadband infrastructure and video services against fundamental democratic principles of public space and citizenship; (2) assess conceptualisations for regulating the advanced digital multimedia network with particular attention to political struggle over the architecture of information space as shaped by the competing interests of multinational competition, pressures on governments to create economic growth, and social requirements for equal access, education, information, and political participation for citizens of free societies; (3) recognising that there is a great deal at stake in profits for the industry, in central definitions of the responsibilities of modern democratic states, and in political freedom for members of democratic communities resulting from any reconstruction of speech, information, and

copyright laws for the multimedia network, analysis should critically examine approaches to transformations in the legal and constitutional foundation of rights of information, speech, and copyright (or intellectual property rights) under new legislative proposals for guaranteeing the commercial conditions of the "information superhighway"; (4) and finally, examine transformation in notions of public goods and common interests as they define the changing role of the state and reconstruct the value and meaning of citizenship as evidenced in the new public interest models emerging from policy frameworks.

The principle of publicity indicates parameters that are essential to questioning the modes by which the information "superhighway" is being conceived as a policy design choice, and to assessing whether policy instruments are in fact — not merely in rhetoric — moving in a direction toward enabling an advanced, information-rich public communication network for all citizens. With this in mind, identification of policy characteristics, modes, provisions, and transformations in legal foundations should be undertaken by means of substantive critique of policy and law.

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SHALINI VENTURELLI

"NAČELO JAVNOSTI" IN POLITIKE INFORMACIJSKE DOBE

POVZETEK

Problemi in razmere informacijske dobe vnovič postavljajo v ospredje moralna in politična vprašanja, ki so bila v jedru razsvetljenskih prizadevanj za pravično in svobodno družbo in ki so vse do danes ostala nerazrešena. Predvsem gre za idejo, da sta komuniciranje in znanje bistvena za napredujočo emancipacijo vseh družbenih skupin, zato so pogoji za razpravljanje, participacijo in politično prakso v javnem prostoru nepreklicno povezani s kakovostjo človeškega življenja in univerzalizacijo politične svobode. Moderno načelo demokratične legitimnosti temelji na načelu pravic kot "javnih svoboščin", kar se izraža tudi v sodobnih prepričanjih, da "informacijska avtocesta" omogoča novo vrsto javnih svoboščin, ustrezno pluralnosti decentraliziranih, interaktivnih okolij. Demokracija je veljavna le, če obstajajo popolnoma javni komunikacijski procesi, ki jih ne omejujejo socialne in ekonomske sile. Javni prostor multimedijske dobe mora biti javen tudi v pomenu participativnega dostopa vse večjega števila državljanov in družbenih skupin ter dejanskih možnosti za znanje in ne le razvedrilo ali komercialno koristnost. Kant najbolj izčrpno utemeljuje etični temelj liberalne demokratične politike. Njegovo načelo javnosti je lahko temelj razlikovanja med legitimnimi in neligitimnimi normativnimi temelji komunikacijske politike. Legitimnost države je povezana z načelom javnosti, kajti vlada ima lahko oblast nad ljudstvom le, če predstavlja občo voljo skupnosti. "Pravica publicitete" je moralna in politična pravica, ne le ideološki konstrukt ali pravica, omejena na zasebno sfero. V kritiki degenerativnih teženj, značilnih za transformacijo družbene organizacije moderne, sta Marx in Weber jasno pokazala, da moderna ni razvila načela javnosti in participativnih pravic v resnično demokratični smeri. Tudi Habermas poudarja načelo javnosti kot načelo legitimnosti, in podobno kot Marx in Weber ugotavlja, da je institucionalizacija načel formalne demokracije, splošne volilne pravice, vladavine večine, svobode tiska, združevanja in izražanja mnenj, vse bolj seleketivna v smeri lastninskih socialnih interesov. Videti je, da tudi nastajajoče komunikacijske politike v informacijski družbi

poudarjajo kontrafaktični značaj normativnega načela demokratične legitimnosti, namesto da bi revolucionirale informacijski in participativni potencial javne sfere in zaustavile nedemokratične težnje v modernih demokracijah.