

PROCEDURES OF EXCLUSION AND RESERVES OF INCLUSION IN THE "PUBLIC SPHERES"

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RESUMO:

Neste ensaio procuro problematizar o conceito da esfera pública como elaborado por Jürgen Habermas. Faço uma crítica orgânica à concepção imaculada desta como também dos conceitos-chaves do agir comunicativo e do mundo vivo. Ao mesmo tempo, quero evitar uma queda tanto em posições foucaultianas, que absolutizam a tal ponto os procedimentos de exclusão que a idéia de um agir interativo que não se submeteria aos tentáculos do poder se encontra anulada, como também em posições luhmannianas, que desubstancializam a esfera pública ao chamá-la uma auto-tematização da sociedade. Sem querer idealizar as reservas inacabadas do projeto da modernidade (concebido como emancipação do homem através da sua razão - Kant), pleiteio

uma visão da tensão entre poder e o magma do Imaginário social (Castoriadis) que admite a porosidade da esfera pública como reino ambivalente: alvo de colonização por parte do poder, e, também, espaço no qual os atores sociais buscam influenciar o sistema, que se desloca cada vez mais do mundo vivo.

The intertwining of the "public sphere" with modernity, lifeworld and communicative action

A reading of Habermas which takes into account both his earliest and his most recent reflections may reveal a remarkable consistency and continuity. In *Structural Change of the Public Sphere* (1962) he engaged with the historical evolution of the bourgeois "public sphere" as a space in

which social actors could, through their own use of reason free of constraint, form opinions and influence power. In *Faktizität und Geltung* (1990) Habermas has, in terms of a theory of legality, embedded the bourgeois state based on the rule of law (*Rechtsstaat*) in a normative framework of legitimacy. These norms are central to his understanding of the Enlightenment project and the project of modernity which he, in an explicit critique of post-structuralism, considers unfinished (Habermas, 1980).

Like few other contemporary thinkers, Habermas has invested considerable tenacity in his critique of the Enlightenment whilst studiously steering clear of the Scylla of a negativistic instrumental reason (Horkheimer, Adorno) and the Charybdis of reductionistic Foucaultian power/knowledge. In both cases he perceives a tendency to narrow the view of Enlightenment thought to its dark side and complains that such negativism has obfuscated the counter-discourse always inherent in the Enlightenment. For this reason, as it were, modernity must remain an unfinished project for its unused reserves reside precisely in its innate ability to overcome itself. Habermas even goes as far as to read *The Dialectic of Enlightenment* as a "performative contradiction" since Adorno and Horkheimer use the tools of rational critique in order to criticize reason (Habermas, 1985).

Despite the frequent charges that his theories are idealistic (Axel Honneth), ahistorical (Albrecht Wellmer) or even terroristic (Jean-François Lyotard), Habermas has never been blind to the countervailing

forces in the Enlightenment project and the modern age it has spawned. In a modification of Max Weber's theory of the differentiation of expert cultures in modern capitalism (economic, religious, and artistic, for example), he views modernity in the cultural sphere of human intersubjectivity as being quite distinct from the modernisation processes of administrative-technological capitalism. Technical - administrative modernisation is articulated by teleological action (Habermas, 1981), that is, a form of action constrained by ends (thus rationalisation should be opposed to rationality). By contrast, modernity does not obey the same dictates. As a cultural sphere disengaged from the nefarious influence of bureaucratic capitalism it is uniquely placed to provide a realm for action based on principles of intersubjectivity. In this dialectic he locates his model of society based on the system/lifeworld distinction. The system (more than the facticity of institutions) is the realm of teleological (instrumental) reason moulded by technical - administrative modernisation. The lifeworld is a distinct sphere in which, liberated from the autism of system imperatives (that is, system survival), social actors can engage with each other in the formation of norms, values and other social conventions. Because the system perpetually seeks to colonize (Habermas) the lifeworld, the "public sphere", as a "sphere that mediates between civil society and the state in which the public arises as the carrier and transmitter of public opinion" (Habermas, 1973: 62), becomes a realm of mediation and negotiation between a system which requires at least

the simulacrum of public opinion for its own legitimacy and a lifeworld which, in order to press for change, seeks a place in that sphere. Action in the lifeworld is not ends-motivated; rather, it constructs a permanent quest for social understanding processes ("horizontbildender Kontext und Verständigungsprozesse" - Habermas, 1984: 590-591). The lifeworld is then the privileged realm of communicative action. The notion of communicative action, which Habermas conceives as being nothing less than a synthesis of Mead's symbolic interactionism, Wittgenstein's language games, Austin's speech-act theory and Gadamer's hermeneutics, always presupposes an intersubjective action between at least two social actors. Its normative content is located in the affirmation that "actors seek agreement about an action situation in order to give their action plans and thus also their actions binding force (Habermas, 1981:128)." Whereas teleological action and dramaturgical action (Goffmann) represent no more than marginal forms of communication, communicative action is rooted in a rational consensus which continually renews the lifeworld.

System, power and procedures of exclusion

Apart from his reception in the Anglo-Saxon community and his remarkable resonance in Brazil ⁽¹⁾, Habermas has been somewhat isolated from intellectual debates

frequently dominated by post-structuralism and (at times vapid applications of) theories of the postmodern. His system/lifeworld distinction could not be further removed from Foucault's continually influential power theories. But are their positions necessarily antinomial or are there opportunities for a critical synthesis? ⁽²⁾

The term "exclusion procedures" derives from Foucault's memorable and highly performative inaugural lecture in the Collège de France in 1970, subsequently published as *L'Ordre du discours*. When he broke with academic protocol and stated at the outset his desire to be effaced, carried away by discourse, he was being more than merely ironic. He was alluding to the institutional control of discourse (transparent in such a venerated centre) and also to the effacement of the subject in the order of discourse itself. Thus Foucault conceived of both external and internal exclusion procedures. The external procedures included prohibition (of putatively deviant sexuality, for example), division and rejection (the reason versus madness manicheism) and the true/false opposition. The internal controls include commentary, the rarefication of the author (to which attention will return) and the imposition of disciplines (which this essay seeks to resist). With this address Foucault was elaborating a theory of power and discourse which cast off the self-confessed timidity of his analysis of the mad in *La folie à l'âge classique* (1962).

1 - I should like to acknowledge the work of Barbara Freitag and Flávio Beno Siebeneichler in particular. The absence of a translation of *Theorie des kommunikativen Handelns* is to be lamented.

2 - Luhmann sees the lifeworld as nothing more than the basis and horizon which appear to the observer; these observations are, by nature, polycontextual - in accordance with systems theoretical premises.

His theory of an all-pervading power which could not be restricted to repression, but which created and produced discourse and knowledge, was refined in *Surveiller et punir* (1975) and *La volonté de savoir* (1976). It is well known that Foucault considered Bentham's Panopticon as the culmination of power/knowledge - an instrumentalisation of reason which sought to replace the ethical judgement of the infractor with an accumulation of knowledge about him and therefore maintained him in a state of permanent visibility. Not only was power conflated with knowledge in a Nietzsche-inspired reaction to the events of 1968, the pervasiveness of power in discourse itself was held to be so microbotic that the notion of the subject and the author became meaningless. The author and, concomitantly, the subject was to be seen as a mere "function of discourse" (Foucault, 1977: 130), that is to say, a convention and function of power "stripped of its creative role" (Foucault, 1977: 137).

It is instructive that in his most recent preface to the German edition of *Structural Change of the Public Sphere* (1990) Habermas explicitly uses Foucault's term of "exclusion procedures" when he reviews critically his rather too immaculate conception of the bourgeois "public sphere". The investment of faith in the progressive capacity of Kant-inspired rational interaction did not lead him to overlook the predominance of men in the café society of eighteenth century England, but certainly did lead him to exaggerate the democratic potential of a "public sphere" which was at that time

leaving the interstices of literary clubs and occupying a larger political sphere. For Habermas, the reading public constitutes itself as a kind of bourgeois "public sphere". However, the marginalisation of women into the salons raises serious doubts about the credibility of such a postulate. More recently, the North-American sociologist, David Zaret, has pointed out that the location of the genesis of the "public sphere" in enlightenment idealism obscures the public communication practices of the petitioners in revolutionary England (Zaret, 1996) ⁽³⁾.

Even if we accept that Habermas was writing about a specific historical epoch and that the dearth of analysis about the exclusion of social actors on grounds of ethnicity or gender can be better understood today, the inflation and immaculate view of the "public sphere" remain at odds with its very precariousness. At the same time, Foucault's conflation of power and knowledge and his anathematization of the Enlightenment flatten this precariousness. As Peter Dews has pertinently observed, "Foucault's dogmatic elision of the subject robs coercion of its object, leaving domination dematerialized" (Dews apud During, 1993: 118).

Habermas accuses Foucault of retreating "into the reflectionless objectivity of a nonparticipatory, ascetic description of kaleidoscopically changing practices of power" (Habermas, 1985: 275-276). In essence, Foucault's power theory falls prey to a relativism in which any counterpower is incarcerated within the horizon of the power it

opposes. In terms of a positive critique of modernity, Habermas argues that this aporia negates the inherent counter-discourse of the Enlightenment which always provides the potential for renewal in the communicative action contexts of the lifeworld. The normative contents of Modernity, such as legality, validity and legitimacy cannot be subsumed under power/knowledge. In more concrete historical terms, the Panopticon should be understood not as a manipulatory instrument, but as a relative progress rooted in morality and law (although here, Habermas' contentions surely verge on the side of a faith gone blind.):

"(Foucault) lets drop the threads of the legal organization of the exercise of power and of the legitimation of the order of domination. Because of this, the ungrounded impression arises that the bourgeois constitutional state is a dysfunctional relic from the period of absolutism" (Habermas, 1985: 290).

It appears that we are confronted with two mutually exclusive positions here: the power infiltration of Foucault and the real remainder of the normative content of Modernity in Habermas. But the recognition of an antinomy is far from being a theoretical position in itself. Of all the critics of Habermas and Foucault, Axel Honneth in *Kritik der Macht* (1985) indicates a path between these two extremes by criticizing the dualism of the system/lifeworld distinction which serves merely to divorce communication from power:

"Ultimately, the distinction is based upon two theoretical fictions, namely, that an action system can occur independently of the normative building of consensus, and that a communicatively integrated action sphere, the lifeworld, can occur

independently of domination by relations of power" (Honneth, 1985 cited in Rasmussen, 1991: 51).

What conception of the "public sphere" can be developed which does justice to the real tensions between power and social actors, between system and the social imaginary? What is the nature of the interstices of the "public sphere" which do not obey exclusion procedures but instead permit the inclusion of competing discourses which articulate social interactions?

The "public spheres" as negotiating space: the untapped reserves of counter-discourse as clandestine infiltration

Let us remain within Habermasian terminology for the meantime, if only to clarify a dynamic at play: an idealized "public sphere" does injustice to the real tensions between system and lifeworld. At the same time, an immaculate conception of the lifeworld and privileging of communicative action within this lifeworld fails adequately to acknowledge the opacity of communication, its turbulence, its noise factors. Jean-François Lyotard (whose name is not coincidental at this stage in my argumentation) argues that Habermas' reduction of communicative interaction to the search for consensus "does violence to language games" (Lyotard, 1991: XXV). In a selective interpretation of Wittgenstein's concept of language games (Wittgenstein, 1988), Lyotard tends to regard communication as strategic: each language move elicits a countermove and communication encounters itself in perpetual motion. Moreover, the dynamics of

move and countermove inevitably mean that communication is agonistic, that is to say, it undergoes transformation as it occurs. While Lyotard is right in arguing that communication is far less immaculate than the theory of communicative action suggests, his enshrinement of strategic games tends to vitiate the possibility of shared social values and thus to atomize social communication. Once again, a recognition of the difference provides also the first step toward a new position, formed from a communicative interaction with the ideas in question.

Cornelius Castoriadis' theory of the social imaginary may provide a solution to this problem (Castoriadis, 1989). Society is not, as Habermas argues, created by communicative action, for language is always a "fundamental institution". Whereas Foucault grasps power as absolute and Habermas tends to abstract the lifeworld, Castoriadis speaks in terms of a relative heteronomy of social institutions. He distinguishes two types of "instituting heteronomy": the psychical - the "social fabrication of the individual" which makes recognition of the individual psyche possible only in pathology and transgression (echoes of Foucault here), and the social - the rites and rituals of the *paideia*, for example qua "cognitive providers" (Castoriadis, 1989: 455). However, such heteronomies are always relative: there is a constant tension between what has been instituted and what is being instituted. The process of instituting flows from a form of power (perhaps 'energy' would be a more appropriate choice of words) which cannot

be reduced to explicit power (Gewalt or Macht). This power is the "radical" or "instituting ground-power" of the "magma of the social imaginary". If society is conceived of in terms of heteronomies already given, what place is left for autonomy, for the enlightened counter-discourse of lifeworld energies?

"Autonomy does not consist in acting according to a law discovered in immutable reason and given once and for all... It is the reflexive activity of a reason creating itself in endless movement, both as individual and social reason" (Castoriadis, 1989: 473).

Castoriadis' concept of heteronomies which do not crush the radical ground-power which emanates from the social imaginary (which is always generated by interaction) may help us to overcome the decoupled lifeworld of Habermas' model of society without denying that the energies of the formation of the imaginary are not reducible to Foucaultian power/knowledge complexes. Instituted heteronomy excludes radical individuation. Here then, the notion of cognitive autonomy, postulated by the constructivist Ernst von Glasersfeld, reaches the full extent of its reach.

The "public sphere" as legitimation and risk for power institutions (4)

Kant realised at an early stage how the throne became increasingly dependent on the support of the citizens with the advent of bourgeois society. Public reasoning was therefore both the exercise of the power of the learned and the strategic willingness

of the holders of institutionalised power. This willingness to countenance the exercise of power from below, as it were, can be attributed to the new legitimation procedures that emerged with the transition from courtly to bourgeois power. It was no longer possible to leave the citizens in obscurantism. The system of institutionalised power requires the "public sphere" (or, at least, the simulacrum thereof) for the purposes of its own legitimation. At the same time, the citizens wish to make use of the "public sphere" in order to pressurize the holders of power. This becomes all the more evident with the transition of reasoning and debate from the café society into the political clubs from which the first political parties will subsequently spring. The faith in the legitimacy of a power system can only be generated by that illusion of willingness to negotiate. However, the use of illusion as an instrument of power comes at a cost: by creating a plausible illusion of publicness ⁽⁵⁾, the institutions of power accept the need to cede some power for the sake of their own legitimacy. In other words: the institutionalization of power proceeds only when the selection procedures of power are made transparent (Luhmann, 1970). Power requires visibility (Luhmann) or the "public sphere" in order to generate legitimacy.

Niklas Luhmann has tried to introduce a concept of the "public sphere" distinct from both public opinion and the system of the mass media. To this end, Luhmann reconstructs the classical legal definition of the "public sphere" with its emphasis on un-

restricted access and exclusion of control. The definition of classical legal discourse is however presumed; the central question about the illusion of a somehow power-free access is simply not raised. Luhmann thus makes it easy for himself when he proposes that we shift from an actor-dependent to an observer - dependent concept of publicness (Luhmann, 1995: 184). As a result, the public sphere is construed as a general medium of social self-reflection which merely registers the observation of observations (Luhmann, 1995: 187):

"The concept of accessibility indicates, either literally or metaphorically, space and action. This limitation can be corrected by switching from action to observation. Taking up an idea by Dirk Baecker one can then define the public sphere as a reflection of any internal system frontier, or alternatively: as an internal environment of social subsystems, that is, of all interactions and organisations, but also of all social function systems as social movements" (Luhmann, 1995: 184-185).

Without abandoning the spatial conception of a "public sphere" of communications, the German theorist Robert Weimann also seeks to eschew the positions of Habermas and Foucault. In his reflections on literary discourse and power Weimann defended the "precarious position of the subject" against the effacement of the subject proposed by Foucault. The author subject cannot be a dimensionless function of conventions and power, but is an actively appropriating subject. Naturally enough, the appropriating power of individual social actors ineluctably enters into conflict with the

5 - The fact that illusions of a hypostatized public sphere acquire a virtual character will not be lost on the reader.

appropriating power of the system (understood as instituted heteronomies). At the same time, Weimann rejects Habermas' equation of reason and communicative action, citing the frequency of sex and violence in mass culture (recent example: *Mortal Kombat*: agora a porrada é pra valer!) and the simulated realities of "real existing socialism" (Erich Honecker: there is no acid rain in socialism!) as indications of the impossibility of an immaculate communicative reason based of necessity on mutual understanding. It is worth quoting Weimann at length for the Brazilian reader, in order to do justice to his acute insights:

"It is of course a justified observation that the 'project of modernity' still conceals within itself certain unexhausted potentials and reserves. Nevertheless the contemporary western world, and also the 'Third World' and what at the time termed itself the socialist world cannot be adequately comprehended, in all their cultural complexity and discursive activities, as long as the concept of reason, albeit reformed to encompass the concept of communication, remains the point of departure Insofar as this is the case, I believed, and still do believe, that Habermas' concepts of reason and communication are still rooted in a grand hope for advancement, beginning with the Enlightenment and reaching beyond it into the present. It is a very beautiful and very admirable hope which, however, unfortunately fails to take account of the actual embroilment of linguistic activities in a system of declared or concealed constraints and preconditions of communication" (Weiman, 1992 apud Grant, 1992: 17).

For a profanization of the "public spheres": conclusion

On serious grounds, the concept of a truly "public sphere" can no longer be taken for granted. Habermas himself concedes that this sphere is not an autarkic realm, but is subject to exclusion procedures. By identifying the "public sphere" closely with reason and a communicative action located in a dislocated lifeworld, Habermas offers us an all too immaculate conception of a space which is under threat. As a negotiating space, the "public sphere" operates with procedures of exclusion, but does not entirely foreclose all communicative space. However precarious the position of the communicating social actor may be, the "radical ground-power" of the social imaginary has succeeded in forcing upon hegemonic power new reflections which articulate agendas long denied access to the "public sphere". This is true of ethnic and non-ethnic minority rights, of the ecology movement in Northern Europe, of feminism. In other words, the "public sphere", riven with power struggles and peppered with dark spots, still enables social actors to pressurize the system and resist its constraints. By the same token, because the "public sphere" is an intermediate instance between system and lifeworld/ groundforce of the social imaginary, it is far from immaculate. To act in the "public sphere" is to negotiate, mediate and deal (a form of strategic language game, but not in the absolute sense in which Lyotard uses the term) with power. This negotiation tends, in turn, to domesticate new

discourses (as in the hijacking of the environmental agenda by the mainstream parties in Europe or by the token ministries for women set up in several countries).

If the "public sphere" is to be more than a simulacrum the non-sistemized social actors must seek forms of action which constantly challenge the instituted heteronomies. Only a "public sphere" which is understood as the place of negotiation and mediation will do justice to the very real constraints and dissimulations. Institutional power retains at least a vestigial "public sphere" as a kind of minimum condition for legitimacy. This is true of the capitalist and the post-Stalinist systems in Eastern Europe. Even in closed systems (Popper), whether theocratic or secular, the attempt to destroy the "public sphere" (analysed by Hannah Arendt, in her anatomy of Stalinism) often forces the diversification of public spaces. Thus, the immaculate "public sphere" becomes a regulated, or semi-public sphere subject to a more or less flexible censorship (as in the post-Stalinist system) while a clandestine realm of limited publicity also emerges - the sub-public realm⁽⁶⁾ of samizdat publications⁽⁷⁾, for example. The reserves of inclusion are indeed precariously small, but our need to communicate (in order to impose or resist power) makes public interaction essential for a humane survival.

6 - I develop these terms in Grant, 1995 a

7 - These refer to clandestine publications which circulated in the Soviet Union, particularly during the Stalinist Era.

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