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## Rhetoric of Conflict Towards A Schmittian Understanding of the Public Sphere

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# **Rhetoric of Conflict**

## **Towards A Schmittian Understanding of the Public Sphere**

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Much of modern scholarship on the public sphere, as well as attempts to refine what is conceptually meant by “the public sphere,” take the form of responses to the seminal works of Jürgen Habermas. This is not incredibly surprising—Habermas “currently ranks as one of the most influential philosophers in the world”<sup>1</sup> and certainly maintains this position in discussion of the public sphere, the subject which placed him on the map. What is surprising, however, is the degree to which the responses to and criticisms of Habermas’s conception of the public sphere unreflexively adopt the Kantian rationalism which drives Habermas’s thought, including those works which attack his theory as “liberal.” Ultimately, while the great many of these attempts succeed in accounting for and even justifying the growing fractures in modern Western “public spheres,” their continued attempt to wed the pre- or preter-rational public to the conceptual ground rules of an idealized neutral public space produce flawed descriptions of and proscriptions for public spheres, something the thought of Carl Schmitt vis-à-vis the philosophical and the conceptual sphere can better describe. In other words, we still lack a philosophically adequate critique and rival conceptualization of the public sphere. My intention in this paper is to engage in such a critique and sketch the beginnings of such an alternative.

To show this, I will begin by briefly reconstructing Habermas’s account of the public sphere as he describes it in *The Structural Transformation of the Public Sphere* and related works. I will then turn to an account of his major critics, showing how they remain committed to problematic conceptualizations of rationality in the public sphere. Finally, I will suggest the beginnings of a rival theory of the public sphere derived from the social and political theory of

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<sup>1</sup> James Bohman and William Rehg, “Jürgen Habermas,” *The Stanford Encyclopedia of Philosophy*, ed. Edward N. Zalta (Fall, 2017), accessed April 26, 2020, <<https://plato.stanford.edu/archives/fall2017/entries/habermas/>>.

Carl Schmitt, showing how this conceptualization succeeds in describing modern public spheres where both Habermas and the post-Habermasians fail to do so.

## 1. Habermas and the Public Sphere

Habermas's conception of the public sphere may be understood in one sense as proceeding from the history of bourgeoisie liberal institutions and societal presuppositions, and at the same time as a reaction to purely liberal concepts of the private individual and their relation to the public. Essentially, Habermas seeks to show how those forces which drove the middle and proto-capitalist classes into political power amid the Industrial Revolution and the decline of the noble aristocracy were coupled with the emergence of a form of political power that reflected the desires and philosophy of this group. Enlightenment philosophy touting the importance of rational-critical debate and the consent of the governed in legitimizing any societal efforts or stately action formed the basis of this movement. Habermas argues that the physical materia of this shift—the newspaper and the encyclopedia—sought to make information accessible to all to further this goal. The social materia—the salon and literary gathering—allowed common access to and participation in the production and societal digestion of this new media. This not merely stemmed from philosophical dedication to the “force of the better argument,”<sup>2</sup> mirroring the meritocratic and self-reflecting impulses of the ascendant middle class which would give rise to capitalism, but also informed the shape of the emerging public sphere, what its ground rules of access would be, and how the parties within would act. But Habermas also believes that a deeper

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<sup>2</sup> R. Stuart Geiger, “Does Habermas Understand the Internet? The Algorithmic Construction of the Blog/Public Sphere,” *Gnovis*, no. 10 vol. 1 (2009): 2.

dive into the history of the public sphere is necessary for conceptually understanding this distinctly modern political phenomenon.

In the historical sense, Habermas begins his study of the public sphere in the Middle Ages, where “‘lordly’ and ‘public’ were used synonymously,” “sociologically, that is to say by reference to institutional criteria, a public sphere... cannot be shown to have existed,” and to the extent that the term “public” in an intelligible sense was employed, only “the attributes of lordship, such as the ducal seal, were called ‘public.’”<sup>3</sup> He then traces several centuries of historical shift that began with the Reformation where the formerly lordly and therefore “public” Church became subsumed by the individual—or at the very least the state in the abstract—via freedom of religion as the “first area of private autonomy.”<sup>4</sup> At the pre-nascent stage of Habermas’s history of the public sphere, the Church represented a community where literal communion was enforced via top-down magisterial rules directly contrary to enlightenment conceptions of reason. The Bishops of the Church were present before God and before their flock—literally, they were the physical embodiment of a mystical body representing those assembled. Representing, here, takes on not our modern conception of representation as a service, but rather as showing power before, claiming to be a sort of ontological prior.<sup>5</sup> In this sense, the Church was a public body. Secular authority was much the same. In the Middle Ages, one would think of the royalty and the nobility as the literal embodiment of the state. Habermas says of the time, “the prince and the estates of the realm still ‘are’ the land, instead of merely functioning as deputies for it,” and that the nobility would “re-present” their power, that is,

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<sup>3</sup> Jürgen Habermas, The Structural Transformation of the Public Sphere, trans. Thomas Burger and Frederick Lawrence (Cambridge, MA: MIT Press, 1991): 6-7.

<sup>4</sup> Jürgen Habermas, “The Public Sphere: An Encyclopedia Article,” trans. Sara Lennox and Frank Lennox, New German Critique, no. 3 (1974): 51.

<sup>5</sup> Habermas, 1991, 8-9.

“present it before the people.”<sup>6</sup> Nobles, Kings, and the Church were involved directly with the common folk, acting as judges in disputes and presiding over celebrations in streets and commons. The public, then, was something which was omnipresent but above the people, in a way unlike any political institution we know today.

However, two processes of what Habermas calls polarization began to take place, completely changing this. The first is that power began to shift away from a decentralized, locally present nobility and Church, and towards a single monarch in the style of absolutism. The nobility “no longer had to represent its own lordliness,” but rather now “served as a vehicle for the representation of the monarch.”<sup>7</sup> This is important because we see a deputization of a stately institution, where a class no longer is an embodiment of power itself but rather is a sort of tool to execute the power of another. At the same time, it also means that a great deal of power was accumulating in the throne of the King, such that this single institution would decide the religion of the country (a blow to the public Church), the laws of the state, and its foreign affairs. The second process of polarization is that the King as a man and his stately authority began to separate. This separation “was visibly manifested in the separation of the public budget from the private household expenses of a ruler.”<sup>8</sup> This left Europe with a system where depersonalized authority enforced stately decisions made by an office, and the persons which inhabited the two were secondary in import, thus allowing the common folk to observe, comment on, and potentially interact with stately decision making in a way which they could not when it was inexorably bound to the personage of the nobility.

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<sup>6</sup> Habermas, 1974, 51.

<sup>7</sup> Habermas, 1991, 10.

<sup>8</sup> Habermas, 1974, 51

At the same time, historical mercantile development and the advent of markets and joint stock companies allowed the emergent bourgeoisie class to slowly rise to a dominant position in the social structure. In their ascendancy, the bourgeoisie brought with them certain institutions—namely newspapers, salons, and other instruments of rational-critical discourse.<sup>9</sup> These institutions would grow in repute and power with their associated class, and would soon form the basis for a public sphere which in the modern sense represented the public. As a “corollary of [the] depersonalized state authority” discussed above, a slow “privatization of the process of economic reproduction”<sup>10</sup> occurred. Slowly, privately-owned industry overtook agrarian feudalism in economic importance. This, combined with private industry becoming “orientated toward a commodity market that had expanded under public direction and supervision,” meant that the economy was no longer a product to be owned by a few embodied members of the nobility, but rather existed in a depersonalized way which common folk could interact with. This forced individuals to conceive of a realm of shared material interest. This realm could be reported on by newspapers—first used by Hanseatic traders in the Baltic Sea, perhaps the idealized form of the early bourgeoisie, to report prices and profits—and commentated on through gatherings, not merely of amassed individuals, but individuals who could form “something approaching public opinion.”<sup>11</sup> This, according to Habermas, defines the public sphere.<sup>12</sup>

In some ways, Habermas’s retelling of the public sphere’s creation mimics certain basic liberal intuitions. Here we find a story of how out of and opposed to the darkness of the Middle

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<sup>9</sup> Habermas, 1991, 21.

<sup>10</sup> Ibid.

<sup>11</sup> Habermas, 1974, 49.

<sup>12</sup> Ibid.

Ages comes a sort of free speech, hand-in-hand with and in fact pushed by market freedoms and economic development. Indeed, it is a story of how regressive, anti-rational institutions such as the Church and monarchy are replaced through common concern in a world-historical achievement of the bourgeoisie. However, Habermas primarily makes a name for himself in his conceptual opposition to certain liberal presuppositions regarding the state and nature of the public sphere. For one, Habermas points out that “a portion of the public sphere comes into being in every conversation in which private individuals assemble to form a public body.”<sup>13</sup> Consider, by contrast, the view of a paradigmatic liberal theorist like John Locke regarding public consent. Locke bases his philosophical system upon the concept that man is “by nature, all free, equal, and independent,” such that all humans naturally and pre-societally possess the ability to make autonomous decisions and enjoin themselves in contracts, and that “no one can be put out of this estate, and subjected to the political power of another, without his own consent.”<sup>14</sup> However, Locke says, “when any number of men have, by the consent of every individual, made a community, they have thereby made that community one body, with a power to act as one body, which is only by the will and determination of the majority.”<sup>15</sup> In essence, Locke claims that men, being free and equal, are always and by essence able to engage in the sort of discourse which allows for individuals to constitute a public and make sweeping decisions on their nature and opinion, up to and including their unity and disunity. In other words, the public square is natural and ready-made. It is not a historical accomplishment via a shift in society’s collective political, economic, and social forms.

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<sup>13</sup> Ibid.

<sup>14</sup> John Locke, Second Treatise of Government, ed. Dave Gowan, Project Gutenberg, last modified September 5, 2017, accessed April 26, 2020, URL = < <https://www.gutenberg.org/files/7370/7370-h/7370-h.htm>>.

<sup>15</sup> Ibid.



But rather than a purely Lockean worldview where some pre-societal space exists always-already for debate and discussion, Habermas conceives of a public sphere which “comes to be” upon the inception and use of consciously-created social arenas, defined by already enjoined individuals discussing “matters of general interest.”<sup>16</sup> And this public is enjoined politically by the state, which “the political public sphere” is “connected to the activity of” as the object of common or general interest.<sup>17</sup> Essentially, Locke’s error is that he maintains a common “identification of the public of ‘property owners’ with that of ‘common human beings’” such that common material interest is assumed for all interlocutors on the basis that they can, in theory, hold property.<sup>18</sup> Because Locke sees the capacity to hold property as that ability which makes man by nature free, he imagines the capacity for two individuals to share a material interest always exists.<sup>19</sup> However, this mistakes potentiality for actuality; indeed, history tells us that land-owners and those who hold no such property very often have conflicting, and not common, material interest. Indeed, that is to say nothing of the conflict which exists between property-owners in the absence of some unifying stately order, which is often even more contentious than the divide between the haves and have-nots. Legitimate common material interest which can be rationally discussed therefore only fully exists where one can expect rules and a common entity to inform the holding and acquisition of property. Rational-critical debate in the political public sphere, then, is a consequent of the state and its intrinsic role as an object of immediate material interest for all those it, in theory, “care[s] for the well-being of.”<sup>20</sup> Pursuant to this, Habermas delineates an “ideal vision of a social world in which the only force

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<sup>16</sup> Habermas, 1974, 49.

<sup>17</sup> Ibid.

<sup>18</sup> Habermas, 1991, 56

<sup>19</sup> Ibid.

<sup>20</sup> Habermas, 1974, 49.

[is] discourse, or ‘the unforced force of the better argument.’”<sup>21</sup> It is only through the existence of the state, then, that this can be achieved.

Habermas defines unforced to include the sort of non-coercive reason which only secular arguments which can be accepted without any prior philosophical support can provide. Religious arguments and even arguments referential to nationalistic and highly ideological value-judgements must be subject to what Habermas dubs the “institutional translation proviso,” such that “in the course of the debate, these religious reasons are adequately translated into secular reasons equally accessible to all.”<sup>22</sup> This latter point shows a crucial debt to the philosophy of Immanuel Kant and his transcendental notion of reason. This crucial point to my overall analysis—which seeks to criticize liberal, transcendental conceptions of political reason—requires a short explanation of Kant’s argument.

As is well known, Kant holds that no group or society should “have the right to commit itself by oath to a certain unalterable doctrine”<sup>23</sup> as such a thing would violate the tenets of free reason. Kant, who argues that “the metaphysics of morals is to investigate the idea and principles of [*a priori* reason], and not the actions and conditions of human volition in general,”<sup>24</sup> maintains that effective and ethical governance and moral guidance must align with rules defined “fully *a priori* merely through reason” and not “from the empirical ones that understanding raises to universal concepts through the comparison of experiences.”<sup>25</sup> What Kant is arguing is that

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<sup>21</sup> Gieger, 2.

<sup>22</sup> Patrick Loobuyck and Stefan Rummens, “Religious Arguments in the Public Sphere: Comparing Habermas with Rawls,” in *Ars Disputandi*, vol. 5 (2011): 238.

<sup>23</sup> Immanuel Kant, *What Is Enlightenment?* trans. Mary C. Smith, Columbia.edu, Columbia University, accessed April 26, 2020, URL = <<http://www.columbia.edu/acis/ets/CCREAD/etscc/kant.html>>.

<sup>24</sup> Immanuel Kant, *Grounding for the Metaphysics of Morals*, trans. James W. Ellington (Indianapolis, IN: Hackett Publishing Company, 1981): 4.

<sup>25</sup> *Ibid.*

nothing which could be different culturally, anthropologically, or perhaps even physically may form the basis of a moral law. Any real moral law, binding all men at all times, must be a “universal maxim.”<sup>26</sup> Cultural or religious duties, which one could have rejected had circumstances been different, do not themselves satisfy this; nor do biologically- or psychologically-informed standards, as these sorts of claims merely describe states of being and do not describe how we ought to act. Rather, only that which must be true in all possible circumstances (for Kant, the first among these is noncontradiction) may give the basis for moral laws. And as reason is the gateway to understanding these laws, none may be deprived of their reason through lying, the use of jargon, or the employment of religious or ideological argument with which one could conceivably disagree, as this forces the individual out of reason and thus out of their ability to discern the moral law.

Just as Kant sees the unrestricted use of reason as vital to a legitimate moral order, Habermas sees the same as vital for a legitimate public order. Indeed, Habermas writes that while the formulas of rationality in political discourse “received its classic formulation in the Kantian doctrine of right,” an understanding of its role in the realm of public opinion “was revealed as problematic by Hegel and Marx.”<sup>27</sup> In other words, the existence of a functioning modern public sphere rests on certain material facts which enable participatory rational-critical debate to occur. Unlike Kant’s purely transcendental view of legitimacy existing where reason is permitted by law, therefore creating a more negative, quasi-liberal view of legitimacy, Habermas sees legitimacy as ensured by material conditions. In Habermas’s view, this sort of legitimacy only exists where commonly accessible rational-critical debate surrounding some singular

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<sup>26</sup> Ibid.

<sup>27</sup> Habermas, 1991, 89.

common interest can exist, committing him to an assessment that such a sphere does not truly exist today. On the one hand, the “barriers to entry associated with radio, television, and print media”<sup>28</sup> separate modern media from true common access, while the “millions of fragmented chat rooms” that make up the Internet prevent a true singular public from forming, instead giving rise to “a huge number of isolated issue publics.”<sup>29</sup> Even if these barriers did not exist, one may wonder if, in the society commentators fall over themselves to point out is more polarized today than ever before, a neutral, agnostic individual of pure reason could engage in truly objective, critical debate. But one must remember that the bourgeoisie class which created the public sphere was that same class, and indeed many of the same individuals, who created the liberal state. Their tools of legitimization, the newspaper, the encyclopedia, the salon and the gathering-hall, served both the state and the public sphere. Habermas writes that, from the seventeenth to nineteenth centuries, “a political consciousness developed in the public sphere of civil society which, in opposition to absolute sovereignty, articulated the concept of and demand for general and abstract laws” which only “itself (i.e., public opinion)” could legitimate.<sup>30</sup> But this process of legitimation would only persist as long as public opinion continued to exist and guide the law as a legitimating force. “The clichés of ‘equality’ and liberty,” Habermas writes, only remain “imbued with life” so long as there exists “secured space” for the individual to engage with public reason “by literary means,” and not merely exist as a passive or compartmentalized viewer of some depersonalized conversation.<sup>31</sup> For if this discussion does not exist in a way the individual could interact with, it becomes again like an authority that does not represent, but

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<sup>28</sup> Loobuyck and Rummens, 246.

<sup>29</sup> Jürgen Habermas, “Political Communication in Media Society: Does Democracy Still Enjoy an Epistemic Dimension? The Impact of Normative Theory on Empirical Research,” *Communication Theory*, vol. 16 issue 4 (2006): 419.

<sup>30</sup> Habermas, 1991, 54.

<sup>31</sup> Ibid.

rather re-presents, shows its status and power before the individual, and informs them of public truth, but does not invite. This leads me to conclude that, for Habermas, those same factors which historically legitimated the liberal state legitimate and indeed are the necessary causes of a functioning public sphere (common accessibility, a dedication to rationality, and a central subject of common interest).

## 2. Critique of Habermas's Theory

So here we have an account of how the modern public sphere formed, the debt it owed to a philosophical commitment to rational-critical debate, and how it has decayed due to a lack of the same. However, a basic philosophical tension emerges from this account—is Habermas providing a prescriptive claim for that which a functioning public sphere must have to arise, or is he providing a descriptive claim for what is ideologically justifying in a bourgeois liberal view of legitimacy, and unreflectively adopting the same in his criteria? Numerous later critics, two of whom we will investigate in depth below, challenge Habermas's views on the centrality of some single public sphere, making the claim that periphery or counter-publics, with their own internal conventions regarding commonly accessible language and what falls within the realm of “public issue” exist separate from, interact with, and oftentimes engage in conflict with some central societal public sphere.

But very little exists in the way of criticizing Habermas's concept of what defines rational-critical debate. Habermas's insistence on religious and ideological arguments being translated into “secular reasons” is itself indicative of a system of evaluation rooted in a specific Western post-Reformation Enlightenment cultural and ideological context and overlooks certain

liberal processes and appeals which themselves are highly ideological and biased. What if Habermas naturalizes certain liberal suppositions of neutrality which themselves are not natural, thus leading to a flawed description of what rational-critical debate looks like, thereby distorting his view of the public sphere? It is possible that Habermas only provides a fully accurate description of the public sphere formed by the liberal bourgeoisie of the seventeenth- and eighteenth-centuries, in which the participants agreed upon and instituted certain rules reflecting their own ideological tradition which held a contestable definition of rational-critical debate. If true, this may have led to a flawed conceptual definition of the sphere itself and a flawed understanding in his later critics of how multiple spheres interact—that the standards of debate within spheres reflect “mere opinions (cultural assumptions, normative attitudes, collective prejudices and values)”<sup>32</sup> and do not stand above history. In my view Habermas’s critics—although bringing important issues to light—do not disentangle themselves from this problem. I intend to here provide an overview of several influential of Habermas’s most prominent critics, delineating their positions, with an emphasis on how their critiques assume Habermas’s definition of rational-critical debate, and then showing why this leads to internal problems and overall weakness in their theories of the public sphere. Habermas’s critics are still, unbeknownst to themselves, in the thrall of Habermas.

Consider the prominent feminist scholar Nancy Fraser who offers a highly influential critique of Habermas. Fraser’s concern is the way that Habermas’s single all-encompassing sphere for the totality of society neglects a system where “a plurality of competing publics”<sup>33</sup>

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<sup>32</sup> Habermas, 1974, 50.

<sup>33</sup> Nancy Fraser, “Politics, Culture, and the Public Sphere: Towards a Postmodern Conception,” in Social Postmodernism: Beyond Identity Politics, ed. Linda Nicholson, and Steven Seidman (Cambridge, UK: Cambridge University Press, 1995): 292.

allow individual segments of a society and those others concerned for their particular wellbeing (women, minorities, and the LGBT) to discuss and deliberate over issues which otherwise might be overlooked by society-at-large due to being seen as merely a private issue. Fraser states that different groups within a single society (that is, identity groups enjoined under one state) may have material interests which cannot be discussed within the context of the dominant public sphere. Fraser imagines that racial identities which *de facto* influence policy and outcomes may be regarded as a non-political issue, thereby not having a space to be debated in the public sphere, or that one's sexual proclivities may be considered a private matter, when to the individual in question (if they are homo- or transsexual, for example) they constitute an important matter of truly public concern. Indeed, Fraser posits that this may be a semiconscious effort to minimize such uncomfortable differences as well as the interests of these groups. As such, Fraser identifies not one "public sphere" enjoined to a matter of common material political concern (the state) as does Habermas, but rather theorizes the existence of many separate "counterpublics,"<sup>34</sup> largely constituting dissidents and minority identity groups, who draw different lines of distinction on matters of public interest and private concern. While Habermas himself does not draw a delineation on what constitutes public concern and what constitutes private concern, his dedication to the concept of common material concern as necessary to generate a public sphere as well as his unitary vision of a single public sphere existing in tandem with the state means his vision is not compatible with a system of counter publics. Fraser also identifies that the relationship between these counter publics and other, more established publics

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<sup>34</sup> Ibid, 291.

(those dominated by the interests of males, Whites, and heterosexuals) is “more likely to be contestatory than deliberative.”<sup>35</sup>

However, Fraser makes two mistakes in her analysis of the situation. Despite her attempt to rebut Habermas in a “*postmodern, postliberal* manner,” Fraser unreflectively imports Habermas’s dedication to liberal standards of rational-critical debate into her analysis. For one, Fraser identifies a discrepancy in social status as the origin for the contestory relationship between public spheres, saying it is merely “relations among differently empowered publics in stratified societies”<sup>36</sup> which are likely to manifest in this way. Fraser supposes that progress towards a “more egalitarian and democratic” system, where the totality of identity issues which individual members of society find publicly relevant are considered in the public sphere, is possible if material disparity is eliminated.<sup>37</sup> Fraser also naturalizes the unforced force of the better argument, believing that absent social dominance hierarchies, better formulations of the public-private distinction will make themselves manifest. But the full error here is only seen in light of an additional error—Fraser assumes that the “expan[sion] of public space” wrought by contestory publics force “assumptions that were previously exempt from contestation” to be “publicly argued out,” creating a “widening of discursive contestation” and therefore a “movement towards greater democracy.”<sup>38</sup> This assumes that counter publics exist as one competing product among many in the liberal marketplace of ideas, forcing dominant public spheres to examine their distinctions and, with a large enough  $n$  of external pressures, force through a veritable marketplace of ideas the triumphant and ideal distinction, won out as the best

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<sup>35</sup> Ibid, 292.

<sup>36</sup> Ibid.

<sup>37</sup> Ibid, 291.

<sup>38</sup> Ibid.



argument. However, this is simply not the case. Even if reason and discourse of this sort can determine which identity features *are* publicly relevant in some time and place, the function of the public sphere must be to determine which identity features *should* be politically relevant. These questions must be referential to some already extant public debate, which itself must be referential to some larger central question. For example, commentators would not find it at all relevant to discuss rules on what hair styles are permitted in our nation's public schools if these questions of identity (hair style) were not already relevant to the larger question of race, which in turn finds its context in the credal, traditional, and economic questions of our state. The full import of this point will be seen further on.<sup>39</sup>

In another influential critique of Habermas, social theorist Craig Calhoun echoes Fraser's position, criticizing Habermas on the grounds of his public sphere not being able to account for the "attempts to affirm or reshape identities" of modern politics, which seem to be legitimately established in public, and not merely private, realms.<sup>40</sup> At the same time, Calhoun labels nationalism as an enemy of the public sphere, saying that it denies "the plurality that was crucial to the idea of democratic self-government through the public sphere" and is thereby "the enemy of rational-critical discourse."<sup>41</sup> In essence, this is to say that an expansion of what can be discussed in the public sphere (at least in relation to the question of what identity is public and what is private) amounts to a proper exercise of rational-critical debate, while a restriction or refinement of it is an abuse of it, even when the people as a whole desire the change. Ostensibly, this is because the public sphere is defined by diversity, and nationalism offers "repression of

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<sup>39</sup> See page 27

<sup>40</sup> Craig Calhoun, "The Public Good as a Social Project," in Private Action and the Public Good, ed. Walter W. Powell and Elisabeth S. Clemens (New Haven, CT: Yale University Press, 1998): 22.

<sup>41</sup> Craig Calhoun, "Civil Society and the Public Sphere," in Public Culture, vol. 5 issue 2 (Winter 1993): 274.

internal difference.”<sup>42</sup> But rationality is not defined by liberality; to suggest such a thing is to naturalize liberal ideas to such an extent that the liberal commitment to inclusivity is prior to truth in terms of reason-making. Indeed, simply because the spaces and materia of the public sphere must be in theory accessible to all does not mean that all possible users must agree to the philosophical foundations of every use of every space. While Habermas and his critics do assume some common philosophical ground must exist, this not merely assumes that empathy in argumentation and the possibility of imminent critique lie outside the bounds of rationality, it also begs the question of why common material concern manifested in a non-religious, non-nationalistic, and in any other illiberal way fall beyond the purview of reason. Perhaps if we assume liberalism is a self-justifying and rational system and all other thought-worlds are not (something I doubt critics like Fraser, and even Habermas himself, would ascent to) this claim holds, but even then we must contend with the questions that non-violent and amaterial debates from before the rise of liberalism (those between the Thomists and Scotists for example) pose for such a position.

But more than this, these rules do not demand substantive political conclusions in support of liberal pluralism. To suppose they do supposes that Mill’s argument for liberal tolerance is a direct result of accepting the rules of logic, and not a heuristic employed to produce the greatest number of true outcomes. Just as it is not at all irrational for a teacher to censor false answers, it is not at all irrational for a nation to do the same, provided the form of arguments provided for doing so is valid. It may be immoral, depending on what arguments are censored (religious, cultural, so on); it may even be unwise, as conflict may strengthen arguments for the truth. But in no way is it irrational, when understood in light of the formal rules of rationality, to shrink rather

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<sup>42</sup> Ibid.

than expand the scope of public concern. As such, it should not be the case that any attempt to establish a counter public or rhetorically accost the dominant public sphere with a restricted conception of the public-private distinction somehow harms the rational validity of the public sphere. Even if an ideal can be reached through some marketplace-type deliberation, it is equally important to have voices advocating for a restriction of the distinction as it is to have voices arguing for an expansion; only then could the latter and indeed the status quo be fully tested and proven out. But it seems as though any restriction in any level or sphere runs contrary to liberal suppositions of total accessibility and the Kantian demand of *sapere aude*, the Kantian motto that in the face of all else one ought dare to know—here, Enlightenment thought sets up contrary goals.

Indeed, is it not the case that those who inhabit insurgent public spheres do not merely seek to educate and debate the dominant coalition, but rather also seek political power to restructure legal and material reality such that others will be brought into and under their understanding of the public-private distinction? And is it not also the case that any discussion between an insurgent and a dominant public sphere member will consist not of one attempting to slowly reconstitute the other's sphere by changing individual features of understanding, but rather that proof or disproof of a particular outlooks conquers the sphere as a whole and delegitimizes the project, such that the prior sphere is consumed or subsumed by the rival? As such, to consider debate between public spheres a rational dispute between members of a society both working towards a singular transcendental truth is to misunderstand the stakes—rather, it is a polemical conflict of rhetoric between political cultures, all vying for material power through the clash of rationally incontestable standards of distinction.

### 3. Schmitt as Critic and an Alternative View

The latter line of critical thought is inspired partly by the political philosophy of Carl Schmitt, whose vision of sovereignty and the state has met with a resurgence of interest with political theorists across the ideological spectrum in recent decades. On the right, one prominent theorist whose work has been heavily influenced by Schmitt would be Adrian Vermeule, who describes Schmitt as the only theorist of constitutional orders capable of conceptualizing the modern administrative state. In his book The Executive Unbound: After the Madisonian Republic, Vermeule describes the modern state as one where “the executive governs, subject to legal constraints that are shaky in normal times and weak or nonexistent in times of crisis,” such that only Schmitt’s theory of sovereignty deriving from the authority to determine an exception to the legal norm holds true for the modern liberal state.<sup>43</sup> A similar voice on the left would be Enzo Traverso, who writes in his historical survey Fire and Blood: The European Civil War, 1914-1945 that Schmitt’s theories “sketch the anatomy of civil war as a cruel conflict without shared rules that is a fairly exact description of the confrontations that ravaged Europe between 1914 and 1945.”<sup>44</sup> For the purposes of this paper, I will focus on Schmitt’s concept of historical neutralization, elaborated on in *The Age of Neutralizations and Depoliticizations*, and his concept of life-spheres, elaborated on in *The Concept of the Political*, will allow me to fully critique the Habermasian and post-Habermasian view of the public sphere, and then to sketch an alternative understanding of the term.

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<sup>43</sup> Eric A. Posner and Adrian Vermeule, The Executive Unbound: After the Madisonian Republic (Oxford, UK: Oxford University Press, 2013): 4.

<sup>44</sup> Enzo Traverso, Fire and Blood: The European Civil War, 1914-1945, trans. David Fernbach (London, UK: Verso, 2017): 77.

I will begin with Schmitt's concept of historical neutralization. In tracing the development of the bourgeois public sphere, Habermas identified two historical processes which the bourgeoisie would later exploit in their social ascendancy—the first a shift from decentralized local power to a unified national power, and the second a shift from embodied personal power to a sort of power of the office or title in the abstract. These changes, Habermas argues, allowed the bourgeoisie to comment on and interact with political power to such an extent that eventually the bourgeoisie themselves and their newspapers and salons would become the directing and legitimating force for political action. Similarly, Schmitt writes on the development of modern discourse, but rather than giving an account of the materia and spaces which developed to discuss ideas, Schmitt focuses on the slow philosophical shift in the age's predominant ideas themselves. A knowledge of Schmitt allows us to introduce to Habermas's two concepts of polarization a third historical process—that of neutralization. Like Habermas, Schmitt begins at the Reformation, but for very different reasons. Arguing that the Wars of Religion scarred and demystified European expectations of the confessor-state, and that Europe began to search for a realm of discussion where cooperation, not conflict, would rule the day. In other words, the prominent minds of the day slowly adjusted their focus in terms of what held political and philosophical import over the proceeding four centuries, searching for a subject of discussion which could solve, or at the very least bracket, all other debate. Whatever subject was said to be of this greatest import Schmitt labels 'the center.' These centers have been the theological, which this reader finds exemplified in the thought of Aquinas and Luther; the metaphysical, which Schmitt finds exemplified in Spinoza; the ethical, which Schmitt finds exemplified in Kant; and the economic, which Schmitt finds exemplified in Marx. As Schmitt

puts it: “the thinking of the active elite which constituted the respective vanguard moved in the changing centuries around changing centers.”<sup>45</sup>

For Schmitt, these centers demarcate the starting-out point of philosophical thought which, for those captivated by them, “constituted their *concept of truth*” such that “if a domain of thought becomes central, then problems of the other domains are solved in terms of the central domain.”<sup>46</sup> Consider how Kant operates as though ethics and logic themselves are synonyms. To the ethics-minded Kantian, even “God appears as a ‘parasite of ethics,’” and all problems of law, morality, and property were referential to universal maxims accessible through the proper practice of ethics.<sup>47</sup> This can be contrasted with the economic mind, which holds that “one needs only solve adequately the problem of the production and distribution of goods in order to make superfluous all moral and social questions.”<sup>48</sup> One can see easily how Marx, who believed the end of property and class struggle would bring with it total solidarity, typifies the concept of an economic center. However, this concept of the center is not merely philosophical and potent in the minds of a select few thinkers, but rather it is also sociological. Individuals, communities, municipalities and nations exist with different centers from one another even within the same age, which is something any observer can recognize; even today there remain Thomists. Schmitt writes that it “would be a misunderstanding to interpret the successive stages in such a way that in each of these centuries there was nothing more than the central domain. On the contrary, there is always a plurality of diverse, already spent stages coexisting.”<sup>49</sup> For Schmitt, the questions of changing centers “concern only the concrete fact that in these four centuries of European history

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<sup>45</sup> Carl Schmitt, *The Age of Neutralizations and Depoliticizations*, trans. George Schwab (Chicago, IL: Univ. of Chicago Press, 2008): 82.

<sup>46</sup> *Ibid.*, 86-90.

<sup>47</sup> *Ibid.*, 83-84

<sup>48</sup> *Ibid.*, 86.

<sup>49</sup> *Ibid.*, 82-83.

the intellectual vanguard changed, that is its convictions and arguments continued to change, as did the content of its intellectual interests, the basis of its actions, the secret of its political success, and the willingness of the great masses to be impressed by certain suggestions.”<sup>50</sup>

To illustrate this, Schmitt identifies how “the theologian and preacher of the sixteenth century was followed by the scholarly systematizer of the seventeenth century” in claiming their ability to produce a system of thought which would satisfy the European philosophical-political desire for a “neutral domain” in which any body of people “could reach common agreement through the debates and exchanges of opinion” that only some legitimizing arena can provide.<sup>51</sup> It should be noted that this is exactly what Habermas has in mind when he describes the public sphere as an arena where public opinion may be formed. But just “as clear and distinct as any unique historical occurrence,” Schmitt describes a process by which each center gives way to another; whether it be evolutionary, devolutionary, or neither, changing historical circumstances and an inability for each center to establish itself as a non-contentious grounding for political and philosophical legitimacy demand that passing generations of thinkers bring the center, which seeks neutrality and to bracket all else, to a new realm of discussion. Just as certainly as how “in the final analysis, Rousseau’s social contract is only a vulgarization of Pufendorf” and how “every word” in Kant’s “*Critique of Pure Reason*- critique, pure, and reason- is polemically directed against dogma, metaphysics, and ontology,” so too has the European mind flowed downhill in search for its resting place of neutral height.<sup>52</sup> For every shot aimed at a preceding center is a shot aimed to destroy the prior’s claim to neutrality: for the metaphysicist Hobbes who admitted a first cause, the God of Aquinas rested on unprovable culturally-derived

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<sup>50</sup> Ibid., 83.

<sup>51</sup> Ibid., 85-89.

<sup>52</sup> Ibid., 83-84.

superstition; for the ethicist Kant, the epistemology and psychology behind *Leviathan* were as flimsy as any non-neutral, contingent *a posteriori* fact; for the economically-minded Marx, who sought ultimate neutrality in describing his work as merely descriptive and himself as a scientist, the philosophy of Kant assumes the bourgeoisie liberal values of his time in its proscriptive elements. And as reading publics slowly grow unsatisfied with a system's ability to provide value-neutral claims to truth, so too do they grow unsatisfied with the legitimacy of those institutions supported by these systems, most notably the state. Thusly, the need for polemics for and against the legitimacy of the state in this new language of neutrality are needed, and the state must either present itself to this public in a new light or perish, bringing about a change in the language and perception of the state- that is, the concept of the state itself.

From here, the true error of Habermas becomes visible. For while Habermas aims to describe the material conditions necessary for a public sphere to arise, he weds these conditions to philosophical proscriptions regarding their proper form and nature. Habermas is correct in arguing that a commonly accessible forum surrounding a domain of common concern is necessary for the formation of a public sphere. But the definitions which Habermas provides for these phrases are not as philosophically neutral as Habermas would believe. For instance, consider how Habermas sees his institutional translation proviso as necessary for a functioning public sphere. Habermas identifies a sort of philosophical accessibility alongside physical and literary accessibility as being necessary for the maintenance of a public sphere. In doing so, he claims that certain arguments, such as the nationalistic or the religious, be "adequately translated into secular reasons equally accessible to all" material interest before they can meaningfully



count as part of public debate.<sup>53</sup> That is, Habermas identifies a topic which brackets all others—the economic—and requires that the concept of rational debate center itself around said topic.

The error here is that Habermas has naturalized an economic center in his philosophical understanding of the public sphere. The issue is not with rationality *per se*, but rather Habermas's equivocation of rational argumentation with the translation of all 'public' arguments into questions of shared material interests, such that questions of alternative centers must be relegated to a decisionistic private realm. Because the bourgeoisie he studies were swept into social power through a historical process of economic change based around property rights, they as a class tend philosophically towards an economic philosophical center, and their justifying arguments for legitimacy rest on the economic. And while the bourgeoisie historically were the creators of the public sphere, Habermas mistakes this fact for the supposition that institutions aligning with the economic concept of truth *must* be the creators of such a sphere. It is true that the institutions of the bourgeoisie were associated with the economic center, but it is mere historical coincidence that 'progression' towards such an economic center was associated with a greater legal capacity to debate and engage in critical discussion. The economic center is inherently no less exclusionary to dissenters than any other. Just as the state, which Schmitt writes "derives its reality and power from the respective social domain" or center, may only tolerate one state religion under a theological center, the modern economic state may only tolerate one economic system.<sup>54</sup> In the socialist states of the last century, adherence to a capitalist perspective was punished via the gulag and the struggle session; in the capitalist states, the reverse was met with McCarthyism and blackballing. The active difference is not the philosophical center, but rather

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<sup>53</sup> Loobuyck and Rummens, 238.

<sup>54</sup> Schmitt, 2008a, 87.

the existence of the materia. A polarizing political, depersonalized political order forming in tandem with a rising class reliant on publishing and open discussion of a common matter of concern is all that is needed. At least in the realm of concept, is it not possible to imagine a history where the social order of Europe circa 1500 AD allowed not a mercantile class reliant on stock-trading papers to rise, but rather a priestly class reliant on publishing as Luther was? And might we not imagine, then, that the analogous salons and journals of this class could give rise to a public sphere? If imagining such a thing is possible in concept, then we can be certain that Habermas is wrong when he identifies his formulation of institutional translation proviso and common material (read: economically-derivative) interest as necessary for a functioning public sphere.

So what, then, does the public sphere look like? It retains its material conditions for existence. It may be stripped of its specific philosophical condition—that is, what Habermas identifies as the only rational subject of common concern—but even if Habermas was mistaken in identifying *what* the philosophical condition was, he is correct in maintaining that there must *be* such a category. For even if it is not an economically minded space of philosophical neutrality, there must exist some realm or object of common interest which legitimately unites participants in a sphere of discourse. What that common interest is depends upon the intellectual and historical conditions surrounding the institutions of the sphere. Habermas identifies the political public sphere with discussion surrounding “objects connected to the activity of the state.”<sup>55</sup> But the state itself is molded by the philosophical center—not only does the state as an institution “derive... its reality and power from the respective social domain,” but the self-

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<sup>55</sup> Habermas, 1974, 49.

identification of the public will be defined in this light as well, considering the fact that “the decisive disputes of friend-enemy groupings are also determined by it.”

This leads into the second Schmittian concept of import, that of the life-sphere. For Schmitt, “the various relatively independent endeavors of human thought and action” each “has its own criteria which express themselves in a characteristic way” by defining an interior and an exterior.<sup>56</sup> This distinction separates the desirable and accepted from the undesirable and refused. For example, the moral endeavor is defined by a distinction between the right and the wrong; the aesthetic between the beautiful and the ugly; the political between the friend and the enemy. That which falls within the sphere is tolerated, while that which falls outside of the sphere is rejected and threatens the sanctity of that which is within the sphere. For example, to those who held to a classical aesthetic sphere at the turn of the century, the work of cubists, surrealists, and others threatened the legitimacy of classic artistic expression and was at the same time unintelligible to their conception of beauty. Decidedly, it fell outside of the sphere, and was therefore perceived as ugly. But primary among these is the distinction between friend and enemy. More than a mere expression of distaste, Schmitt writes that “the distinction of friend and enemy denotes the utmost degree of intensity of a union or separation.”<sup>57</sup> To Schmitt, this is the distinction which decides the political—which individuals lay within the sphere such that one would give their life to protect them, and those who lay without it such that one would kill them to protect one’s friend group. A truly political union exists where individuals are capable of identifying some characteristic among their in-group (tribal identity, religious belief, linguistic heritage, ideological alignment, so on) and determining that they would lay down their lives to protect the

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<sup>56</sup> Carl Schmitt, The Concept of the Political, trans. George Schwab (Chicago, IL: Univ. of Chicago Press, 2008): 25-26.

<sup>57</sup> Schmitt, 2008b, 26.

unity and continuation of this group. A state, then, is legitimated by its protection and representation of such a group. Examples from modern history of this distinction may include the creedal us of American Republicanism, the ethnic us of German National Socialism, and the class us of Soviet Socialism. Members of these societies would die not merely to protect the biological survival of their people, but also the conscious unity which they hold. A tribal warrior, for example, would die not merely so that his people would continue to live, but would also die so that their language, customs, dances and gods would remain with them; it is a defeat to be subsumed by the identity of another just as it is to be erased from biological history.

This is relevant because, as Schmitt writes, the “state wants to be modern—a state which *knows* its own time and cultural situation. It must claim to understand historical development as a whole, which is the basis of its right to rule. In an economic age, a state which does not claim to understand and direct economic relations must declare itself neutral with respect to political questions [the questions of the friend an enemy] and decisions and thereby renounce its claim to rule.”<sup>58</sup> What this means is that the state, which is the product of a life-sphere, must recontextualize and re-legitimize itself amid changing political centers, as the distinction drawn by the life-sphere is redefined in light of new centers, creating a new form of legitimacy which the sphere may bestow upon some outward product (which is for the political sphere, the state). But Habermas readily identifies his public sphere as possessing a legitimizing feature of rationality, and above it has been shown that this rationality is contextualized within a specific philosophical center and could change along with a changing center. What this implies is that the true public sphere is, like the friend-enemy distinction, a Schmittian life-sphere whose

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<sup>58</sup> Schmitt, 2008a, 88.

legitimizing feature is defined by the philosophical center of those present, justifying the outward product of public opinion accordingly.

What does this imply, and what does this allow us to say further regarding the nature of the public sphere? It allows us to understand that just as within one state there may be many aesthetic spheres of individuals who identify certain conflicting distinctions between the beautiful and the ugly, and there may be many moral spheres who identify conflicting distinctions between the good and the evil, there may be many public spheres who identify conflicting distinctions between the public and the private. This is what Fraser identifies as a counter public. Fraser, however, missteps when she claims that the ultimate root of all conflictory spheres is a discrepancy in capital, as this only reflects her economic center. Rather, some but not all economically minded counter publics exist in this way within an economically centered state, but certainly if there exist individuals who do not subscribe to the economic center, there also exist alternatively centered publics. Certainly, these publics are not the sort of interlocutors which are capable of reshaping the views of another sphere, as they lack the language of bracketed interests used to discuss matters of public import by the economically minded spheres. Rather, the sort of contest that exists between these spheres is entirely polemical, where Millsian debate is impossible due to a disagreement on the first things of legitimate public order. But even differing spheres within the same center are not capable of debate regarding what constitutes a legitimate public issue, for again<sup>59</sup> the logic of the economic (or any other center) merely refers to the what-is and not the what-ought. For example, one may ardently argue through the lens of an economic center that racial discrepancies in capital exist, and still rationally argue against the relevance of racial identity as a legitimate public issue (Ben

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<sup>59</sup> See page 15

Shapiro et al. come to mind). The individual public sphere and its distinctions, then, represent a decisionistic realm whose suppositions must be derived from elsewhere, and whose legitimizing logic does not allow for a marketplace of ideas which brings interlocutors towards some singular transcendent truth. Rather, the public sphere is inherently polemical, and debate in this realm represents the rhetoric of conflict.

#### 4. Conclusion

In the preceding pages I have outlined the predominant view of the public sphere, investigated leading criticisms into this view, and then used the thought of Carl Schmitt to illustrate the philosophical errors of both the predominant view and its criticism. I then concluded by using the conceptual framework of Schmitt to reconstruct a view of the public sphere where the prior views have failed, creating a model of the public sphere which is not simply localized to one class, one philosophical framework, and one period in history, but rather allows for an understanding of public debate as a common cultural phenomenon with regards to the philosophical and cultural influences of its given place, group, and period.

This model should concern first and foremost those dedicated to democratic societies in telling them that simple political liberalism is not sufficient to maintain the current democratic order. This is not some rational end-point which majorities will reach or maintain given time and open discussion; rather, the current bourgeoisie democracy which we inhabit is a historical and philosophical product which can only be maintained by a reading public with a strong philosophical background constantly involved in public discussion to defend the philosophical underpinnings of their center and the distinctions they hold within. Indeed, this discussion cannot

be simply at the level of political and empirical observation (that is the realm of political science) but must occur at the level of political theory. Building on this, those committed to certain facts of our modern liberal society such as the freedom of speech, tolerance of religious and political outgroups, and a non-paternalistic public order must strive to preserve a culture of liberalism. It is not enough for us to say that free speech is something for the government to uphold, and we along with the private sector are justified in our canceling and denying a platform to the political other.

Beyond this, this model allows for us to conceptualize the modern state not simply as beholden to one reading public interested in common material dispute, but as a beast of historical creation responding to the cultural and philosophical histories of many disparate public who are capable in theory of expanding their influence and becoming the prime legitimating force of the state. Beyond this, as change has occurred in past, we know that a change of centers is possible in future, and have no reason to imagine that our current state is the end-point of the mind. Indeed, a future shift just as significant for the scope, spirit, and letter of the law as a shift from a theological to an economic center is possible for the West. The questions by which thinkers today bracket other discussions will inevitably determine the energies of the political order tomorrow. If the current great debate is to be between an academic culture of intersectionality and identity politics and an insurgent philosophy of White identitarianism, the stage for the future may very well be set, especially amid the material historical events of demographic shifts, massive global population growth, Donald Trump, the refugee crisis, and mass migration. The proper response to such a possible shift I will leave up to the reader to decide.

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