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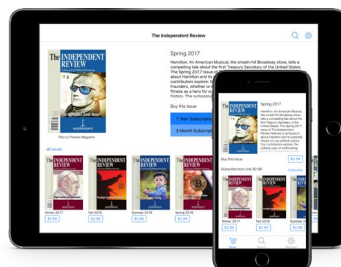
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# The Communicative Character of Capitalistic Competition

## *A Hayekian Response to the Habermasian Challenge*

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MICHAEL WOHLGEMUTH

Politics steps in to fill the functional gaps opened when other mechanisms of social integration are overburdened. . . . In filling in for social processes whose problem-solving capacities are overtaxed, the political process solves the *same kind* of problems as the process it replaces.

—Jürgen Habermas, *Between Facts and Norms*

We are only beginning to understand on how subtle a communication system the functioning of an advanced industrial society is based—a communications system which we call the market and which turns out to be a more efficient mechanism for digesting dispersed information than any that man has deliberately designed.

—Friedrich A. Hayek, “The Pretence of Knowledge”

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“Ideal speech situations,” “domination-free discourse,” and “deliberative communities” describe political ideals that many sociologists cherish proudly. Their sometimes explicit, sometimes implicit motivation is to mobilize political discourse as a means of taming or transforming the capitalist “system” according to alleged needs of “society.”<sup>1</sup> Most economists and defenders of capitalistic competition, however, express no concern about communicative communities. We assume that the individual market actor chooses among given alternatives that satisfy given preferences subject to given constraints. Why, then, should *Homo oeconomicus* argue (Aaken 2004)? Not “communicative action” but “commutative action” takes place among the individuals who populate economic textbooks. Only a few economists, most of them “Austrian,” have recognized that the exchange of goods and services within the spontaneous order of the “catallaxy” involves an exchange of knowledge, ideas, opinions, expectations, and arguments—that markets are indeed communicative networks (see, for example, Hayek [1946] 1948; Lavoie 1991; Horwitz 1992; Davis 1998). In fact—and this claim constitutes my thesis in this article—market competition is more “deliberative” than politics in the sense that the market process generates more information about available social problem solutions and their comparative performance and about people’s preferences, ideas, and expectations when that information is spontaneously created, disseminated, and tested.

This idea is anathema to followers of Habermasian discourse ethics. The intellectual thrust and political clout of their vindication of deliberative democracy depends critically on a mostly tacit assumption that markets fail to meet social needs and to regulate social conflicts. Political discourse therefore “steps in to fill the functional gaps when other mechanisms of social integration are overburdened” (Habermas 1996, 318). I claim that the argument should be the other way around: politics and public deliberations are overburdened mechanisms, unable to deal with an increasingly complex and dynamic society. Moreover, the requisites of ideal speech communities are so enormous that functional gaps are inevitable. Some gaps can be closed if market competition occurs. In other cases, reorganizations of the political system are needed. Hence, I am not arguing that Habermas is wrong when he stresses the virtues of open discourse in order to reach informed agreement among citizens who seek to realize mutual gains from joint commitment by contributing to common (public) goods and by submitting to common rules of conduct (Vanberg 2004). I am challenging his neglect of capitalistic competition as a communicative device and his disdain for the classical-liberal conception of bounded democracy under the law (Habermas 1975, 1998).

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1. Habermas (for example, Habermas 1985, chap. 6) develops a bifurcated model of society composed of “system” (market economy and state administration), on the one hand, and “lifeworld” (personal life and the public sphere), on the other. The task of political deliberation is to protect “lifeworld” and to mobilize it against the “colonializing” encroachments emanating from the “system,” with its authoritarian means of “money” and “power” that offer nothing but “rewards” and “punishments.”

I would be bold to try to convince discourse philosophers that capitalism is an arena of pure “communicative action” as characterized by Habermas himself in two thick volumes (Habermas 1984, 1985), but I make no such claim.<sup>2</sup> As with his separation of “system” and “lifeworld,” his distinction between ideal-type concepts of action suggests seemingly obvious but misconceived assignments to real-type social environments. This article is not the place to analyze more than one thousand pages of Habermasian philosophy and speech-act sociology. Simply put, Habermas distinguishes three concepts of action: (1) “Instrumental action,” which is nonsocial and oriented solely toward success (the economist’s textbook example of a utility-maximizing Robinson Crusoe may be an example); (2) “strategic action,” which is oriented toward success in social interaction (think about the economist’s players in noncooperative game-theoretic models) and in which acts of communication are often among the players’ stratagems; and (3) “communicative action,” which in its pure ideal-type form represents social interaction aimed at reaching an understanding about the recognition of “validity claims” irrespective of personal interests in individual success (1984, 285; 1990, 58). Obviously, according to Habermas, instrumental and strategic action drive the “system” (state and market), whereas “communicative action” takes place out there somewhere in the “lifeworld” or among the “public” (1996, 429).

This last form of social action is certainly the most idealistic. I cannot claim that markets are a preserve of “communicative action” in this very demanding form, but I wonder whether any other arenas for social exchange can ever come close to the ideal of a disinterested interest in achieving understanding about claims to truth or rightness? Neither TX politics nor TX markets qualify; and even TX science may be dominated by strategic interests and instrumental communication. The “wild” complex of public-opinion formation is, as I show later, plagued even more by (preference) falsification, radicalization, and inconsistency with no empirical claim to truth or rightness.

Mainstream economists and most sociologists may easily form an understanding that human action in competitive markets is overwhelmingly instrumental and strategic. Economists may claim that this condition does not preclude social outcomes that are welfare enhancing (given an “invisible hand” model), whereas sociologists (and Habermasians) may claim that bad motives produce bad results and that strategic action using power and money leads to social oppression. In this article, I take sides with the sociologists and argue that communication is important (something that economists find difficult to incorporate in their models), but at the same time I show the sociologists (and mainstream economists) that markets serve as forums of communication that generate valuable knowledge about human valuations of alternative problem solutions.

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2. I thank an anonymous referee for urging me to clarify this important point and for helping me to avoid an exaggerated claim that would have caused severe misunderstanding.

My basic assumption rules out any angelic actors engaged in disinterested discourse, earnestly seeking a truth even if it be an uncomfortable one. Still, different rules and procedures shape the action and communication in the realms of politics, public opinion, and markets, and hence lead to different results even if we keep our model of human behavior constant (instead of insinuating “communicative action” in its idealistic sense to be absent in some arenas and present in others). From this point of departure, I proceed to show that capitalistic competition may be even more communicative than politics with respect to results and procedures. First, I present some of the most prevalent ideal types of deliberative democracy or ideal speech situations. The procedural postulates of ideal-type political communication serve as a foil for bringing out the functional characteristics of market exchange and competition that to a remarkable degree live up to discursive demands. Discourse-theoretical ideal types also serve to highlight limits and predicaments of real-type political discourse. Next, I draw policy conclusions with the intention of allowing political systems to cope with these predicaments better. Finally, I briefly summarize comparative strengths and weaknesses and preferable application areas of political and economic “discourse.”

### **Deliberative Democracy as a Political Ideal**

Reading Habermas can be both overwhelming and confusing. At the same time, however, it can be challenging and even stimulating for someone who learned most of his political economy from reading Hayek and similar-minded scholars (see Pennington 2003 or Prychitko 2000 for a similar Hayekian approach to Habermasian issues). Especially in *Between Facts and Norms* (1996), Habermas’s late endorsement of the rule of law activates interpretative frames that have formed over years of reading classical-liberal texts. The only “economist” that Habermas seems to know and take seriously, however, is Karl Marx. Hence, his old-fashioned, if still popular, misapprehension of capitalistic competition. Hence, too, perhaps, his insistence on sheltering his romantic ideal of a spontaneously self-organized “public” from a coercive “system” of colonizing market forces (Habermas 1985, 196). And hence my impression that Habermas’s *ideal* of a deliberating public has more in common with *real* market processes than meets Habermas’s own eyes.

According to Habermas, the public sphere cannot be conceived as a hierarchical, purpose-driven organization; it “is not even a framework of norms and competences and roles, membership regulations, and so on. . . . The public sphere can best be described as a network for communicating information and points of view (i.e. opinions expressing affirmative or negative attitudes)” (1996, 360). The same is true for the market process. Similarities appear not only on the level of coordination and communication, but also on the level of rules of conduct that shape this “spontaneous order.” Discourse theory is a procedural theory that lays the stress on general rules that allow an open-ended discourse and that promotes the legitimacy of binding

decisions that result from such discourse. The general attributes of the rules of a fair “discourse” game resemble those of a fair market game of “catallaxy” (Hayek 1976, 115ff.): abstract rules of conduct that apply equally to every citizen and prescribe no material content, but proscribe only certain modes of behavior, such as coercion, manipulation, threats, and harassment. Consequently, every opinion can be brought to the “marketplace of ideas,” but one must accept that dissenting opinions have the same right to enter the competition for the better argument (Weissberg 1996). Somewhat more concrete (and much more idealistic) concepts of the deliberating public are presented with labels such as “ideal speech situations” or “ideal communication communities.” These ideals are well captured by Cohen’s postulates of a deliberative procedure (1989, 22ff.), which Habermas endorses and summarizes as follows:

- (a) Processes of deliberation take place in argumentative form, that is, through the regulated exchange of information and reasons among parties who introduce and critically test proposals.
- (b) Deliberations are inclusive and public. No one may be excluded in principle; all of those who are possibly affected by the decisions have equal chances to enter and take part.
- (c) Deliberations are free of any external coercion. The participants are sovereign insofar as they are bound only by the presuppositions of communication and rules of argumentation.
- (d) Deliberations are free of any internal coercion that could detract from the equality of the participants. Each has an equal opportunity to be heard, to introduce topics, to make contributions, to suggest and criticize proposals. The taking of yes/no positions is motivated solely by the unforced force of the better argument. (1996, 305–6)

Such ideal conditions of open communication, as I argue later, are satisfied more naturally by real competitive market conditions than by real democratic decision procedures. The case is more ambivalent with the last three conditions, which, according to Habermas, “specify the procedure in view of the *political character* of deliberate processes”:

- (e) Deliberations aim in general at rationally motivated agreement and can in principle be indefinitely continued or resumed at any time. Political deliberations, however, must be concluded by majority decision in view of pressures to decide....[M]ajority rule justifies the presumption that the fallible majority opinion may be considered a reasonable basis for a common practice until further notice, namely, until the minority convinces the majority that their (the minority’s) views are correct.
- (f) Political deliberations extend to any matter that can be regulated in the equal interest of all.... In particular, those questions are publicly relevant that concern the unequal distribution of resources on which the actual exercise of rights of

communication and participation depends. (g) Political deliberations also include the interpretation of needs and wants and the change of prepolitical attitudes and preferences. (1996, 306, emphasis in original)

Other idealizing assumptions of a communication community are more or less strict than this one.<sup>3</sup> Ideal types, political programs, or normative ambitions cannot be “falsified” by stating that they fall short of reality. They have to do so; otherwise they would not be ideal types in the sense of normative demands. Still, one has to realize just how endemic and strong the predicaments of realizable political speech situations are, as I show in the following section, where I argue that the ordinary market process—and thus the “colonizing subsystem” that, according to Habermas (1975), is responsible for the “legitimation crisis” of a “late capitalism,” which political discourse ought to tame and re-regulate—comes closer in many respects to the Cohen-Habermasian ideal of a deliberative procedure than politics ever can. At least for an “Austrian” economist, most of the principles in the Cohen-Habermas list of very demanding *prescriptions* of an *ideal*-type democracy can be translated easily into *descriptions* of *real*-type market processes.

## The Market Processes as “Domination-Free Discourse”

### *Regulated Exchange of Information, Critical Testing of Proposals: Markets as Argumentative Networks*

Voluntary exchange on competitive markets entails as an unintended but valuable consequence of the search for mutual gains from trade a “regulated exchange of information among parties who introduce and critically test proposals” (postulate *a*). Single market transactions obviously involve varying intensities of communication, from anonymous, simple supermarket shopping to complex face-to-face negotiations over employment contracts or investment projects. The same is true for political “exchange,” which also involves more or less “delinguistified media of communication” (Habermas 1985, 356): from anonymous, simple voting at general elections to complex face-to-face negotiations over international relations or political programs.<sup>4</sup> As I argue later, decision costs,

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3. See, for example, Dewey ([1927] 1954, 143ff.); Mills (1956, 303ff.); Mead (1964, 144–45), Alexy ([1978] 1990); and Dahl (1998, 37ff.)—all of whom are much more demanding or “idealistic” in their definitions of democracy than public-choice scholars following Schumpeter ([1942] 1987, 269ff.) or Downs (1957, 22ff.). Habermas is not content with empirical (or normatively less-demanding) definitions of democracy. He blames Bobbio (1987, 40ff.), for example, for using only a “procedural minimum” based on less-demanding elements, such as guarantees of basic liberties (participation and communication rights), competing parties, periodic elections with universal suffrage, and collective decisions that are usually preceded by public debates between different factions. This minimalist concept is, as Habermas disapprovingly remarks, close to a description of the status quo in Western democracies and lacks normative zeal (1996, 303).

4. Habermas characterizes only “money” and “power,” the “media” of the economic and the administrative “systems,” as “delinguistified” (1985, 356), but votes, the ultimate “currency” for the allocation of power in a democracy, do not as such “tell” much (Wohlgemuth 2002).

opportunity costs, and free-rider incentives restrict collective modes of deliberation. The more effective and intensive political communication intends to become, the more it has to be limited to forms of elite discourse, with the general public remaining an apathetic and bored audience unable and unwilling to understand the performance or even to participate and communicate its own desires.

Does deliberation via markets really take “argumentative form”? Viewed in isolation (as in microeconomic textbooks), single acts of buying or selling a given good certainly involve choices without much communication, whereas more complex market transactions often involve demanding “speech acts” before mutual agreement and commitment are achieved. Moreover, on a more general systems level, *all* expressions of market competition can be interpreted as continuous “argumentation.” In Habermas’s own words, argumentation “is characterized by the intention of winning the assent of a universal audience to a problematic proposition in a noncoercive but regulated contest for the better arguments based on the best information and reasons” (1996, 228). Entrepreneurial behavior on competitive markets is characterized by the same intention (winning the broadest possible assent of consumers to a proposed problem solution, a good or service) in a noncoercive but regulated contest called competition. Here the buying or nonbuying public decides who provides the better argument and reasons.<sup>5</sup>

In other words, the successful entrepreneur incorporates other actors’ consent conditions into the formulation, articulation, and enactment of his own projects (Davis 1998, 26). These other actors do the same, projecting possible buyers’ or sellers’ consent conditions and other sellers’ or buyers’ rival offers. An important part of these consent conditions is reflected in price offers being made with respect to other price offers to be found on the market. As a consequence, “each agent who engages in these communicative acts unintentionally dissipates knowledge and preferences that reflect the consent conditions of agents who[m] he-she has rarely or never directly encountered” (Davis 1998, 27), and each agent has to adjust his projects continuously to the projects of an unknown number of potential partners to trade.

### *Entry, Sovereignty, Persuasion: The “Unforced Force” of Voluntary Exchange*

In the market arena of interpersonal exchange, “no one is excluded in principle” (postulate *b*). As long as no legal barriers to entry exist, all who believe that they have something valuable to contribute—especially new, more attractive problem solutions that may be valuable for others—have a chance to take part. Voluntary agreement is based on contracts among legally equal citizens who remain “free of coercion” and

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5. Adam Smith wrote: “The offering of a shilling . . . is in reality offering an argument to persuade one to do so and so as it is for his interest” ([1896] 1978, 352).



are “sovereign insofar as they are bound only by the presuppositions” of the abstract rules of just conduct (postulate *c*). Each entrepreneur has, under the law, “equal opportunities” to introduce alternatives, to “suggest and criticize proposals.” What ultimately counts is the “unforced force of the better argument” (postulate *d*)—that is, the more persuasive offer as judged by the “public” in its “taking yes/no positions” (buying or not buying).

Habermas and his followers typically look down on mass consumption, advertising, and other forms of “commercialization” as supposedly coercive forces that undermine individual self-fulfilment by “generating” wants (Habermas 1991, §20). It is unclear what kind of economic “system” Habermasians would prefer when they allude to concepts such as “socially” (democratically) controlled production for the satisfaction of discursively determined “social” needs and wants. At any rate, Habermasian proceduralists and Hayekian market-process theorists may join forces in rejecting the naive mainstream economics that portrays both politics and markets as instruments for the aggregation of given preferences toward given alternatives.<sup>6</sup> An open-minded Habermasian should be able to detect the discursive role of market competition. On markets, too, no “given” or collectively determined demand exists; preferences and economic problem solutions are not *data*, but rather results of a discovery process involving trial and error tested by competition (Hayek [1968] 1978). Moreover, the market is ultimately a “forum for *persuasion*” (Palmer 1991, 304); producers of new goods or fashions use the “force” of persuasion—that is, the force of the better argument tested by means of voluntary adoption by agents who prefer these new options to potential alternatives, including the status quo. In order to vitalize this “unforced force of the better argument,” advertising is indispensable. In a world where alternatives are many and attention is scarce, it is not enough to make new problem solutions available; potential users must be made aware of their availability (Kirzner 1979, 10), and they must be *persuaded* that they might find useful or enjoyable something that they never (knew they) wanted previously.

I am not saying that advertising is anywhere near disinterested “communicative action” that seeks universal understanding over claims of truth. It is “only” a way to inform people about available alternatives that can be voluntarily chosen and to give reasons why new products should be tested as potential individual problem solutions. Political campaigning does not differ much, but it ends with the production of policies that cannot be chosen individually, but have to be “consumed” and “bought” by all members of society irrespective of differences in preferences. Even Habermas’s own offers to the marketplace of ideas—although much more verbose, complicated, and elite oriented than capitalistic marketing campaigns—“advertise” an interest in

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6. Arrow, for example, reduces *both* economic and political competition to pure aggregation mechanisms, each being a “procedure for passing from a set of known individual tastes to a pattern of social decision making” (1951, 2). In Wohlgemuth 2002, I offer a critique of Arrowian social-choice and Downsian public-choice approaches that assess political and economic exchange processes according to their ability simply to transform given and known preferences into a collective “will” or social-welfare function.

particular policies that do not guarantee that people will get what is true or right (for example, his plea for a European constitution to protect his favored model of a European welfare state against American “neoliberalism” [Habermas 2001b]).

*“Delinguistified” Communication:  
Prices as Signals and Incentives for Opinion Formation*

In a world where neither wants nor potential problem solutions are given, market coordination is driven by persuasion, although much of this communication is expressed nonverbally through direct human *action*: making offers and making choices. Many consumer responses to the persuasive efforts of competing firms are simple “choice acts” without verbal expressions of underlying reasons. Albert Hirschman’s paradigm case of “exit,” the “private, ‘secret’ vote in the anonymity of a supermarket” (1970, 16), amounts to a signal of business success or failure, but it gives no direct information about *reasons and motivations* for consumers’ satisfaction (or lack thereof). Market deliberation makes continuous use of a “delinguistified medium”: prices inform the process of market deliberation and report the current state of the “debate” continuously; they reflect participants’ changing subjective preferences and expectations as well as the changing real-world capacity to provide the participants with alternative problem solutions. At the same time, they offer incentives to respond to and to anticipate unknown others’ needs and wants.

In a constant but most parsimonious fashion, changes in relative prices communicate among market participants information on the consent conditions or “social” acceptability of competing proposals. Changes in relative prices reflect changing needs as expressed in current or anticipated human *action* (not just words). The market process thus allows individuals to bring to bear the local knowledge available only to them that never could be communicated to a central planning agency. Beyond serving in such a fashion as a device for utilizing dispersed knowledge, the market serves also as an arena for the continuous competitive exploration of new and potentially better solutions to meet human desires and to reduce scarcity, thus inducing the discovery and creation of new knowledge (O’Driscoll and Rizzo 1985, chap. 6).

Therefore, as Hayek has written, “Competition is essentially a process of the formation of opinion: by spreading information, it creates that unity and coherence of the economic system which we presuppose when we think of it as one market. It creates the views people have about what is best and cheapest, and it is because of it that people know at least as much about possibilities and opportunities as they in fact do” ([1946] 1948, 106). In this “Austrian” interpretation, prices are not merely constraints that *Homo oeconomicus* takes as given for solitary utility maximization (Habermas’s “instrumental action”); they are a means to communicate the expectations, wants, and capabilities of actors who seek reciprocal actions of known or unknown others in an arena of voluntary exchange.

Concerning the general attributes of communication, I have argued so far that capitalistic competition “naturally” (in terms of its innate working properties rather than in terms of inadequate idealizations) approximates elementary prerequisites of an “ideal” communicative community. One might expect more fundamental differences to become obvious with regard to conditions (*e*) to (*g*) of the Cohen-Habermas list, which emphasize the *political* task of deliberation. Such differences, however, are the case only in part.

### *Mutual Adjustment Without Centralization: Domination-Free Market Coordination*

Postulate (*e*) demands a process much more akin to market communication than to collective decision making—namely, that deliberations “aim in general at rationally motivated agreement and can in principle be indefinitely continued or resumed at any time.” Politics, in order to serve its function of enforcing binding decisions concerning common rules and activities, must bring deliberations on a matter to a (preliminary) conclusion by letting a majority of power holders have their way. In contrast, price-driven market processes in principle know of no determinate conclusion and of no need for minorities to wait for their “turn” to have their views respected on condition of majoritarian support. Only price-driven communication involves millions of different decisions that can be carried out and changed at any time.

The crucial difference is that markets “help to utilize the knowledge of many people without the need of first collecting it in a single body, and thereby make possible that combination of decentralization of decisions and mutual adjustment of these decisions which we find in a competitive system” (Hayek [1952] 1979, 177). In other words, systems of collective choice (including Habermasian ideals of direct democratic governance based on political deliberation) in the end have to “reduce the manifold wills of millions, tens or even hundreds of millions, of scattered people to a single authority” (Sartori 1987, 15). In contrast, market discourse must inform no *single* authority, nor must it help to determine any *common* good *before* effective individual action and ordered social interaction can begin.

Market communication helps to coordinate and control the manifold plans of scattered people without condensing its message for any *one* public authority or decision. Only markets provide opportunities and incentives continuously to create and select competing problem solutions that can be individually used and simultaneously tested. On competitive markets, alternatives do not have to melt into one “homogenous good” or one collective decision, which one would hope to be beneficial or at least acceptable for all.<sup>7</sup> Politics, in contrast, is the art of compromise in the process of

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7. The “homogenous good” assumption makes sense only in a neoclassical static context where “perfect” competition requires that suppliers be passive “price takers.” In a “discursive” and evolutionary interpretation of market processes, it makes no sense, as Hayek noted long ago: “because of the ever changing character of our needs and our knowledge, or the infinite variety of human skills and capacities, the ideal state cannot be one requiring an identical character of large numbers of products and services” ([1946] 1948, 104).

producing goods that have to be “consumed” (and financed) also by those who never demanded them in the first place and never would have chosen them.

### *The Extent of the Market Is Limited by the Pretensions of Politics*

Postulate (f) lends itself to similar distinctions. In a way, it is the most demanding because neither market coordination nor political deliberation can “extend to any matter that can be regulated in the equal interest of all.” I discuss the “equality” condition later and argue that under real conditions political deliberation does not have a comparative advantage in securing equal participation. Here I simply note that neither markets nor politics can claim complete mastery over matters of common interest. Even most classical liberals grant the existence of public goods and services whose consumption is in the common interest of all, but whose production does not reward entrepreneurs because of free-rider incentives. There are good reasons to have a protective state that enforces property rights and provides public security, and good reasons to have a productive state that collects coercive contributions to finance certain other public services (Buchanan 1975).<sup>8</sup>

The “limits of liberty” and the limits of market coordination, however, are not determined by experts in the theory of public finance, but by experts in using the state apparatus for their own purposes. Politics (discursive or not) ultimately defines its own agenda. Thus, it also defines by default what matters remain to be regulated through voluntary market “discourse.” At the same time, however, the political system is obviously overburdened when it tries to “extend to any matter that can be regulated in the interest of all” (or in the interest of those who press for regulation and privileges). The difficult task, to be discussed later, is to mobilize forces and to identify procedures that set reasonable limits on the extent of political governance. It is easy to call for the state to rectify (true or alleged) “market failure.” Who other than political actors, however, can be called to rectify “policy failures”?

### *The Justification of Nonjustificatory Discourse: Markets and Private Autonomy*

Additional qualifications apply to postulate (g). Market prices do reflect entrepreneurs’ “interpretations of [the] needs and wants” of their potential partners in transactions. However, market discourse relates to the anticipation, discovery, and satisfaction of needs and wants, not to their *justification*. Transactions are “justified” because both parties consent to the proposed terms of trade (so long as legally relevant externalities are absent). The underlying “needs and wants” and “attitudes and preferences,”

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8. **Editor’s note:** These longstanding classical-liberal claims have been and continue to be contested. For recent contributions to the debate, see Holcombe 2004 and the exchange that followed between Leeson and Stringham (2005) and Holcombe (2005).

as well as the individual choices themselves, need be neither explained nor justified to anyone. No one has to subject to public scrutiny his underlying reasons for making a voluntary exchange. In the course of market interaction, “one does not have to defend one’s judgements, show that they are based on reason that applies more generally or endorsable as a general matter. One simply has a veto over the choices and judgements of others. . . . And this is what . . . makes it different from the deliberative ideal. . . . Markets allow for the maximum amount of cooperative interaction among individuals without first requiring a deep agreement among them. . . . That is their chief virtue” (Coleman 2001).

Again, the market exchange of goods has to do with the mutual increase of expected benefits among individuals, whereas the political exchange of arguments pertains to the legitimization and justification of binding norms for a group of individuals. In this respect, Habermas rightly states that “private rights safeguard a sphere in which private persons are absolved of the obligation to account publicly for everything they do” (1996, 313). But Habermas wants to rectify this situation by “opening up an unrestricted spectrum of public issues” and allowing the “thematization” of initially private matters or “visions of the good life” (1996, 313) in both the unregulated public sphere and in the legislative process that produces binding decisions.

I show later why “privatization” is one way to cope with most compelling predicaments of politicized discourse. In this context, I reemphasize the classical-liberal position that private property serves as an indispensable safeguard of individual autonomy, including autonomy of judgment: property grants independence from domination by coercive elites and protects the diversity of opinion and of voluntarily chosen forms of life (Hayek 1960, chap. 3; Shearmur 1988, 46). Private property is not only the backbone of a capitalistic market “system,” but also the basic resource that the “lifeworld” needs for the uncoerced competition of ideas, forms of life, and communities that characterize “domination-free discourse” in a free society based on private autonomy.

### *Division of Labor and of Knowledge: The Utopian Ideal of Equally Effective Participation*

Finally, let us consider the “inequality” issue highlighted in the last two postulates of an “ideal discourse.” Equally effective opportunities for citizens to take part in deliberation are “domination-free discourse” and “ideal speech”—among the proudest and most demanding postulates. Discourse theorists have a point when they argue that coordination and communication on markets is not subject to equally distributed and equally effective participatory power. However, they have no reason to claim that this condition differs substantially in real political discourse. Robert Dahl presents five criteria for a democratic process, all of which relate to equality and effectiveness of citizens’ political influence:

*Effective participation*...all the members must have equal and effective opportunities for making their view known to the other members as to what the policy should be. *Voting equality*...every member must have an equal and effective opportunity to vote, and all votes must be counted equal. *Enlightened understanding*. Within reasonable limits to time, each member must have equal and effective opportunities for learning about the relevant alternative policies and their likely consequences. *Control of the agenda*. The members must have the exclusive opportunity to decide how and, if they choose, what matters are to be placed on the agenda.... *Inclusion of adults*. All, or at any rate most residents have the full rights of citizens that are implied by the first four criteria. (1998, 37–40, quoted at length in Habermas 1996)

Most modern Western democracies come close to satisfying the second and the fifth criteria (although some voting rules and foreign-resident regulations may be debatable in this regard). These two criteria (one citizen, one vote; equality before the law) can be warranted and enforced by (constitutional) law relatively easily and clearly. The realization of the other three conditions depends on incentives, opportunity costs, and the distribution of communicative talents. Analogous categories influence the unequal distribution of power in market communication. Monetary incomes—the unplanned distribution of which reflects unequal effort, luck, and talent employed in persuading others during the game of catallaxy (Hayek 1976, 115ff.)—necessarily entail unequal effectiveness in communicating and satisfying one’s wants. If the success of both real-life “commutative action” and real-life “communicative action” depends on unequally distributed effort, luck, and talent, however, the same shortcoming plagues effective participation in political discourse.

As Habermas himself concedes, his idealizations of pure communication abstract from the “unequal distribution of attention, competences, and knowledge within a public” (1996, 325). This simple fact of life also qualifies the ideal of citizens’ equally effective opportunities to acquire “enlightened understanding” of political alternatives and consequences and to control the political agenda. Markets do not differ much with regard to an unequal distribution of individual effectiveness or power within the process, although the rights to participate and to enter the economic market of ideas are just as equal. In some respects, markets are even more intrinsically “egalitarian” than political deliberation. As I argue in more detail later, real political deliberation aimed at binding decisions almost necessarily takes on the form of elite discourse within a small group of more or less representative agents who make *their* view known, use *their* “enlightened” understanding, and follow *their* agenda. The political arena in a large jurisdiction necessarily reserves the stage to a chosen few professionals; the public enters and leaves the auditorium, watching some shows and disregarding others, and occasionally applauding (based for the most part on what professional critics have published previously).

The more complex the political issues to be decided and the larger the polity, the more unavoidable such a division of labour and of knowledge becomes, thereby greatly impairing equal and effective opportunities for deliberation. Market communication is in this regard more open and inclusive. Complexity and size of the market do not reduce consumers' opportunity to satisfy their wants; on the contrary, they increase the number and variety of alternative problem solutions that can be freely chosen. In addition, competitive markets not only provide *opportunities* to participate, learn, and place proposals on the agenda, but also establish the respective *incentives*. More active and better-informed market participants can expect rewards in terms of higher incomes or more satisfying results of their expenditures. In contrast, the policy-consuming citizen as member of a wider public who faces ordinary opportunity costs of activities—such as participating in political discourse, following political agendas or controlling political agents—is “rationally” apathetic (absent and ignorant). These and additional organizational and incentive problems inherent in even the most modest concepts of political deliberation I now proceed to discuss more systematically.

### **Deliberative Trouble: Predicaments of Real-Type Organized Discourse**

I cannot compare here all the issues mentioned in the Cohen-Habermas list of “ideal deliberation” with the intrinsic functional properties of realistically “possible deliberation.” I discuss some fundamental aspects to show the most critical presuppositions of idealist versions of the political “marketplace of ideas”: problems of achieving participation, “enlightenment,” and representation by those affected by political decisions; problems of critically assessing, testing, and selecting political opinions; and problems of reaching “nonopinionated” political decisions.

#### *Opportunity Costs: The Rationality of Abstention, Ignorance, and Delegation*

Communication requires time and resources. The “inclusion of the other” (Habermas 1998) in political deliberation sounds not only reasonable, but also respectful, altruistic, and charitable. Yet it need not be so. What if “the other” does not want to be included in collective decision making or in burdensome justificatory discourse either because he likes to be subject to political rule or because he has better things to do than deliberating in public? As Norberto Bobbio has argued, “parallel to the need for self-rule there is the desire not to be ruled at all and to be left in peace” (1987, 56). The technicalities of our public-finance definitions of “public goods” (nonexcludability and nonrivalry) are useful for identifying reasons for the “invisible hand’s” comparative disadvantage in providing certain goods and services, but they may be seriously misleading if they suggest that (*a*) no one ever *wants* to be excluded

from the consumption of a “public” good or service that (*b*) is qualitatively “good” for everyone—and the more, the better. Even the paradigm case of a public good—public defense—illustrates this point. The pacifist cannot exclude *himself* from consuming what he regards as a public “bad”; he cannot even exclude himself from paying for it with parts of his income (taxes) or perhaps even with his (soldier’s) life.

Just as public-good provision entails opportunity costs and externalities, so does political deliberation. Even if Dahl’s demanding condition of equal *opportunities* for effective participation in political deliberations were realized, opportunity *costs* would still differ, and therefore the incentive and willingness to participate would also differ. It is no coincidence that public servants and teachers are overrepresented among writers of letters to the editor, participants in public-discussion events, political party members, and parliamentarians. Others, who lack the same job security and leisure (self-employed entrepreneurs, manual workers), have higher opportunity costs for such actions. In fact, “the man on the street” who does not expect to receive “expressive utility” (Brennan and Lomasky 1993) from political activity should be “rationally apathetic.” An important prerequisite for mass participation is to keep opportunity costs and intellectual demands extremely low. General elections do so: voting—marking a piece of paper and putting it in a box—is cheap and easy. Otherwise, one could hardly bring millions of people to participate even though their probability of affecting the outcome is miniscule.

The collective-good problem characterized by obviously small incentives to make costly contributions and by great incentives to free ride on others’ contributions in the absence of private (“selective”) rewards (Olson 1965) also applies to the more demanding expressions of political discourse. Individuals have little incentive to invest in political participation, the development of “enlightened understanding” of political alternatives, or the control of political agents’ behavior so long as the group is large and the individual’s contribution makes little difference in determining the outcome. Such is the tragedy of collective choice in mass democracies: voter and non-voter, zealous discussant and political illiterate in the end have to live with the very same political outcomes regardless of the extent of their participation. Some people do invest in political information and do engage in “networks of noninstitutionalized public communication” (Habermas 1996, 358) because they have other kinds of incentives, such as self-respect or the respect of others or some sort of entertainment value (Hirschman 1989). However, as I argue later, “reputational” utility, when it serves as a major motivation for engagement in public discourse, carries the great danger that indoctrination and self-enforcing false beliefs will infect public opinion. Obviously, by the nature of individual choice and accountability, market discourse offers much stronger incentives to participate and to invest in information about existing and potential needs of unknown potential partners to transaction. The entrepreneur has a self-interest in enlightening himself about what might be useful for others and in communicating convincing reasons for buying his product; and the consumer has



a self-interest in considering alternative offers and claims critically in order to make informed, effective choices.

The capitalist “system” differs from the political public sphere not only with regard to the opportunity costs of searching and communicating information, but also with regard to barriers to entry and decision making or transaction costs. Just as goods (the objects of interactive price formation) are not given in a market process, political issues (the objects of interactive opinion formation) are not given in the political process. Issues have to be discovered or created and then pushed onto the agenda. This activity entails costs and requires skills because the public’s attention is fundamentally scarce and ephemeral; people cannot deal with many issues at a time.<sup>9</sup> In the competitive marketplace, everybody who has a personal interest in the matter is free to supply or to demand goods and services. The “issues” and the parties involved in the market exchange are the results of voluntary human action and not of human design. Because of the scarcity of political attention, the organization of *decisive* discourses in a political “marketplace” (that is, the debates that precede final political decisions) cannot rely on equal spontaneity. Political discourse cannot deal with many issues at once; the political system has to “dispatch” certain issues currently on the agenda in order to clear space for new issues. This disposition often has to be accomplished too quickly for appropriate and inclusive discourses—certainly within an arena of freely deliberating citizens, but also within regulated arenas such as parliaments. The more directly political discourse aims at reaching decisions, the more urgent becomes the problem of political decision-making costs, which renders a reduction of the number of issues or the number of discussants unavoidable.

In principle, the process of political opinion formation is open to the contributions of all affected or interested citizens. Also possible is allowing specific political alternatives to be decided directly by the interested public via referenda and initiatives. In a large body politic, however, the vast majority of political decisions is not and cannot be organized as “continual voting discourses” that include the general public. At best, the public can watch more or less representative agents who engage in an elite discourse among themselves. Habermas moreover makes a crucial distinction between “decision-oriented deliberations, which are regulated by democratic procedures, and the informal processes of opinion-formation in the public sphere” (1996, 307). In the former, official arena, will formation is structured “with a view to the cooperative solution of practical questions, including the negotiation of fair compromises.” The parliamentary discourse and its procedural rules are concerned with “justifying the selection of a problem and the choice among competing proposals for solving it,” thereby providing the “context of justification” (307) because only recognizable decision makers can be held accountable by voters and judges.

At the same time, however, the official arena should be responsive to a “context of discovery” provided by “a procedurally unregulated public sphere that is borne by

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9. In Wohlgemuth forthcoming, I discuss in more detail opinion formation under conditions of the public’s scarcity of attention, stressing the political entrepreneur’s indispensable function, which is to push issues onto the agenda and to keep them there until they reach the final stages of legislation.

the general public of citizens” (Habermas 1996, 307). This second type of discourse remains “uncoupled from decisions” (307); here, problems are supposed to be discovered and new ways of looking at things developed “more or less spontaneously” (307). This spontaneous order is supposed to consist of an open network of communication inside and among more or less overlapping publics with “fluid temporal, social, and substantive boundaries”; it is a “‘wild’ complex that resists organization as a whole” (307). However, purposefully “arranged publics” are indispensable for the organization of public choices in a democracy under the rule of law. The necessity of representative bodies is not just a concession to decision costs. Organized discourse among elected agents also reduces principals’ costs of control, and, by increasing the visibility of actors, or the publicity of arguments and commitments, it increases political accountability. Habermas acknowledges this reality when he states that at the end of the day, free-floating public discourses “must take shape in the decisions of democratic institutions of opinion- and will-formation, inasmuch as the responsibility for momentous decisions demands clear institutional accountability” (1996, 486).

If continual political discourses and informed decisions delegate final responsibility to specialized groups of representatives, severe problems of identifying the “affectedness” of social groups and of formalizing the representativeness of differently affected interests necessarily emerge. The notorious differences among groups in their ability to organize at all and the differences among *organized* groups in their capacity to deploy power resources in the bargaining process can turn the political discourse at this decisive stage into a “bargaining democracy,” in Hayek’s sense, that is not guided by common values or generalizable views of public opinion, but rather becomes the “playball of group interests” (1979, 99). The continuous realization of mutual gains from vote trading makes it necessary that the same players (interest groups) can engage in a sequence of bargaining games over time. Entry into this game is open only to well-organized pressure groups; as a consequence, discourse (especially if orchestrated by governments) degenerates into deliberation among elites in which inequalities of opportunities to promote particular interests effectively are unavoidable. All the circumstances mentioned so far indicate that political deliberation under real-world conditions may have an inherently interventionist, collectivist, and (however irrational the proceedings may be) rationalist bias, but the foregoing reasons are not the only basis for this supposition, as I now proceed to argue.

### *Asymmetric Incompetence and the Interventionist Bias of Political Deliberation*

The primary task of political deliberation in more or less inclusive arenas is to assemble people in order to define what they regard to be a common will. The idea that “institutions which serve the common welfare and are extremely significant for its development come into being without a common will directed towards establishing them” (Menger [1883] 1985, 146) may be inconceivable to activists engaged in organized political

discourse. Instead, an attitude of “rationalistic constructivism” in Hayek’s sense ([1970] 1978) almost naturally emerges from the self-understanding of a deliberating public as soon as it becomes aware of its “communicative power” over coercive means of politics. The closer that the representatives of a deliberating public come to defining collective goals (and the less they are held directly accountable for sobering results), the more these kinds of deliberation attract zealots with ambitious plans in mind for society. Moreover, the closer the representatives are being watched by a public audience that expects bold ideas and visionary projects (instead of humility or political self-restraint), the more likely the deliberating players are to surpass each other in calls for collective planning and action. This action may reinforce a natural tendency to adhere to the “doctrine . . . that we should only accept as binding what we could recognise as a rational design for a recognisable purpose,” a purpose defined by deliberating bodies that claim to represent a society that almost necessarily will be treated as a “deliberate construction of men for an intended purpose” (Hayek [1970] 1978, 5–6).

The interventionist bias of political discourse can be inferred also from only two assumptions: (1) (rational) public ignorance of adequate means for effective policies and of unintended consequences, and (2) the focus of Habermasian deliberation on legitimizing collective ends. Everyone can be assumed to have some understanding of his preferences, interests, and values, and, if only on an abstract level, most people can infer from them (or from prevailing norms or demands of political correctness, as discussed later) an idea of “legitimate ends”—“the right to work,” for example. In the perspective of normative individualism, no a priori grounds exist for attributing different weights to different individual preferences and values, but not everyone has equal technical knowledge a priori about the effectiveness of political alternatives in the pursuit of what is regarded as a social value.

Empirical evidence of voter incompetence (Popkin 1991; Delli Carpini and Keeter 1996) shows that average citizens lack even the most rudimentary knowledge of “which policies will promote their preferences and how candidates stand in relation to them” (Somin 1998, 440). As Hoffman has observed, “By sidestepping the question of public ignorance of means (effective policies) in favor of the question of the legitimacy of ends towards which they should be directed, Habermas overlooks the issue of whether his ideal is realizable in a world of imperfectly informed individuals” (2001, 88). The additional consequence is that the more this Habermasian discourse is realized through speech-act agendas such as “let us define legitimate ends and beautiful visions of a solidary society, then we leave it to the ‘system’ of state administration to ‘rationalise’ our visions by finding adequate means, and finally let us see if the market ‘system’ can cope with unintended consequences,” the more irresponsible the whole deliberation project becomes. In the following section, I present even more evidence of “cheap talk” and insincere deliberation from a “microeconomic” logic of opinion exchange.

*Cheap Talk: Preference Falsification,  
Opinion Cascades, and Enclave Deliberation*

In markets for goods and services (not protected by government privileges from the entry of new rivals), no entrepreneur can afford for long to act on systematically biased beliefs, to ignore simple facts (such as scarcity and human nature), or to disregard competing alternatives or dissenting expectations. Whereas such behavior is costly and risky in the economic marketplace, however, it is often “cheap” or even rewarding in the marketplace of ideas. To ignore realities and dissenting views in the latter market often entails no significant material costs for the stubborn. It is even rewarding because it reduces “psychological” costs of cognitive dissonance (Weissberg 1996, 113) and may increase comfort in communicative communities of like-minded partisans.

Self-serving selective perception and storage of information based on established perception filters in an attempt (conscious and unconscious) to verify one’s preconceptions is a pattern of behavior constantly identified by psychological research. Such verificationistic perceptions are ubiquitous elements of the “all-too-human” condition. In the political arena, however, they are also “all too cheap” as long as deliberating citizen-voters—but also, if to a lesser degree, professional opinion leaders, such as interest-group representatives and parliamentarians—bear little or no personal responsibility for collective decisions and their effects. Selective use of media and communication partners further support self-assuring delusions (Akerlof 1989; Huckfeldt and Sprague 1995). As a consequence, one must expect closed, or at best partly overlapping, publics instead of one wide-open forum for (self-)critical debate. “Enclave deliberation” (Sunstein 2001, chap. 1) has three uncomfortable consequences: preference falsification, cascade effects, and polarization.

In Timur Kuran’s theory of preference falsification, public opinion reflects not the aggregation of private preferences, but the “distribution of public preferences” (1995, 17)—that is, of publicly articulated views that may differ significantly from the form in which they would be expressed in the absence of social pressures. Individuals appraise their own opinion articulation by reference to their estimate of the opinions held by those with whom they presently communicate. Driven by a yearning for approval or “reputational utility,” we opportunistically “falsify” our beliefs, keeping our true views as inner secrets. The “fear of isolation” motivates individuals constantly to check which opinions and modes of behavior are approved and which are disapproved in their environment (Noelle-Neumann 1993, 37ff.; Kuran 1995, 27). This referencing, in turn, leads into self-reinforcing “frequency-dependency-effects” as major propagation mechanisms of public opinion (Witt 1996). The problem is the likely production of snowball or cascade effects, “as small or even large groups end up believing something—even if that something is false—simply because other people seem to believe that it is true” (Sunstein 2001, 20). In addition, because people

prefer to deliberate with like-minded others, because people with more radical views are more likely to be active in political deliberations, and because the latter people influence less radical like-minded others with additional arguments that are less tractable and more confidently held, enclave deliberation predictably leads to more radical views created within communicative communities.<sup>10</sup>

To be sure, fads, fashions, and snowball effects also emerge in the marketplace (stock-market “bubbles” being perhaps the leading case), but irrational cascade effects and a radicalization of views are less likely to occur there and less likely to harm uninvolved others. Deliberative political talk is “instrumentally cheap” in the sense that one’s individual voice is not responsible for the collective outcome. Moreover, it may become “reputationally costly” to dissent from “politically correct” public opinion. Following an economic “fashion” (such as buying stocks because others buy stocks) can be very rewarding or very costly, but in this realm reputational aspects and social pressures to adopt given attitudes are usually less relevant than the instrumental aspects. An individual’s success (profit or loss) depends on his own personal decision (buy or sell), and this dependency provides a high-powered incentive to consider risks and opportunities and to consult various sources of information. Compared to the incentives associated with political talk, the incentives of economic action may differ only in degree. The substantial difference is, again, that communication through action in market processes never results in collective decisions that *coerce* dissenting minorities to “consume” goods (laws and regulations being the political products of deliberation) that they dislike and to pay for them (taxes). Market communication—exactly because of its somewhat “delinguistified,” anonymous, and nonverbal mode of communication and the absence of any need to give “reasons” for one’s choices as consumer or investor—is more candid and less susceptible to social pressures to disguise one’s true beliefs and interests.

Considering all the predicaments of political discourse presented in this section, a radical consequence seems to suggest itself: “If people are shifting their position in order to maintain their reputation and self-conception, within groups that may or may not be representative of the public as a whole, is there any reason to think that deliberation is making things better than worse? ... [T]he product of deliberative judgements may be far worse than the product of simply taking the median of predeliberation judgements” (Sunstein 2001, 42). To deal with deliberative trouble by “simply taking the median of predeliberation judgements,” however, would be to replace the nirvana of “ideal speech” with the nirvana of “given preferences” that come from nowhere (the economist’s heaven) and parade themselves on a “given issue space” that has the same divine origin. As I have argued at length elsewhere (Wohlgemuth 1999, 2002, 2003),

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10. There is strong experimental evidence for this process of “group polarization” so that “members of a deliberating group predictably move toward a more extreme point in the direction indicated by the members’ predeliberation tendencies” (Sunstein 2001, 15). Group polarization happens within feminist groups, pro- and anti-abortion groups, even courts and juries, and (I might add) meetings among like-minded libertarians.

mainstream public-choice and social-choice theories cannot deal with the most valuable virtue of democracy as a process of forming opinion and as a procedure for the discovery of issues, alternatives, preferences, and problem solutions that otherwise (absent an omniscient benevolent dictator) would not be known to anyone, or at least would not be used (paraphrasing Hayek [1968] 1978, 179). I have argued that market competition serves this knowledge creation and communication function better than political discourse. Given a need for political action, however, the task is not to dispense with public deliberation and leave the matter to paternalistic elites who decide behind the backs of an unsuspecting citizenry. Rather, the tasks are to focus public discourse on realms where it can perform its necessary function of finding and legitimizing solutions to problems that markets (by themselves) cannot solve and to find ways to improve the workability and responsibility of public discourse and political decision making.

### Policy Conclusions

If my misgivings so far are valid, deliberative politics under the conditions of modern welfare states is intrinsically overburdened (and bound to increase the burden endogenously through its own interventionist logic). Even Habermas acknowledges as “evidence” that “discursive opinion- and will-formation governed by democratic procedures lacks the complexity to take in and digest the *operatively necessary* knowledge. The required steering knowledge no longer seems capable of penetrating the capillaries of a communication network whose structures are predominantly horizontal, osmotically permeable, and egalitarian” (1996, 320, emphasis in original). Habermas’s conclusions, unfortunately, remain cloudy. Sometimes he seems to argue that empirical evidence does not affect his normative intentions; sometimes he refers to the “institutionalized political process” with professional brokers of opinion and expertise; sometimes he relies on the law to reduce complexity to a degree that makes it digestible for a two-stage process of unorganized “lifeworld” discourse feeding public opinion into organized democratic and legal deliberation (320ff.). The idea of a political division of labor and the idea of engaging the “legal community” (326) in the task of making the complex world more reliable and more responsive to generalizable interests and values have great merit. This important insight notwithstanding, I stress three somewhat different policy conclusions. All three have one idea in common: simplification. If deliberative politics is overburdened, the obvious remedy is to relieve the burden by reducing the complexity and scope of politics (instead of reducing the scope and complexity of the private sphere, including the market). My recommendations are: privatization (depoliticization), decentralization, and constitutionalization.

### *Privatization*

The basic rationale of privatization is simple: reduce “the number of issues to be decided by government to a level voters would find more manageable” (Somin 1998, 433). If

the deliberating public's attention is necessarily ephemeral and scarce, and if the legitimacy of political action depends on the general public's ability at least possibly to know what is at stake, depoliticization should be among discourse theorists' most urgent demands. Especially for largely "socialized" welfare states, privatization would be an adequate means to increase the efficiency of the economic "system," unburdening it of taxes, bureaucratic waste, and paternalism. More important in the present context, privatization would also serve as an adequate means to increase the workability of political discourse, unburdening it of an overtaxation of scarce cognitive resources and allowing it to concentrate on issues of general interest in the production of services that markets cannot provide. In addition, "capitalism" (innovative entrepreneurship) itself produces good reasons for privatization in the form of new technologies. Many goods and services that for technical reasons formerly could be provided only (or at least better) by the state because of nonexcludability and free-rider incentives can now be easily brought under market regimes (Foldvary and Klein 2003), with the price mechanism controlling the allocation of the use of these goods and services and with internalizable profits encouraging the production of competing market solutions.

Habermasians themselves sometimes feel uneasy about the manageability of their claims on public deliberation and acknowledge that "discourses... can develop their problem-solving force only insofar as the problems at hand are sensitively perceived, adequately described, and productively answered" (Habermas 1996, 324). However, they feel even more uneasy about market capitalism's "colonializing" effect on society—a post-Marxist claim that, I have argued, is not a necessary conclusion of a generalized (and less idealized) theory of communicative action that also acknowledges the market as a subtle and efficient communications system for digesting dispersed information and for discovering solutions to social problems.

The problem is that professional politicians, the representatives of Habermas's "administrative system," derive power and discretion not from privatization and depoliticization, but from politicization, from "colonializing" the private "lifeworlds," including private-market societies. By orchestrating public discourse and exploiting the interventionist bias inherent in the asymmetric competence of political discourse, political entrepreneurs mobilize communicative power in their favor if needed. At the same time, however, Leviathan's self-serving communicative power has limits, especially if citizens are in a position to compare and choose among different Leviathans. In decentralized, federal political bodies with overlapping communicative communities (or at least with some information about the comparative performance of comparable political units), deliberating citizens are less likely to talk in terms of interventionist "categorical imperatives" and more likely to argue in terms of a sober empirical "categorical comparative." In other words, they will be more likely to discuss alternative effective means (such as privatization) instead of "legitimizing" utopian ends.

### *Decentralization*

Habermas and his followers typically refrain from determining or even discussing the scope of the relevant group—that is, the size of the “public” they have in mind when demanding open public discourse. The general impression one gets from, say, Habermas’s discussions of globalization and European constitutionalism (Habermas 2001a, 2001b) is that the more encompassing the deliberating public and the political union, the better—if only in order to engage global capitalism’s “colonializing” impact on the same level. Many globalization critics must be extremely frustrated that Habermasians realize that political communicative communities can never reach the scope of capitalistic communication. Exactly because market competition relies on a “delinguistified” medium—prices—it transcends language barriers. And because the “propensity to truck, barter and exchange one thing for another . . . is common to all men” (Smith [1776] 1981, 25), cultural barriers also are much less relevant for persuasion and agreement in global markets.

Market competition as the most decentralized mode of interaction and communication is also the most inclusive. Competitive capitalism knows no predefined borders; there is no need to define a “relevant market.” For capitalistic communication, the relevant “public” and the “issue space” are spontaneous “results of human action, but not of human design” (Hayek 1967). If human action in terms of offering and choosing alternative proposals for solving specific needs is limited to a specific locality, so be it: the “communicative community” for persuading consumers to purchase a haircut is more or less limited to a neighborhood. If, in contrast, competition takes place worldwide, then the capitalistic communicative community spans the globe.

For political deliberation that seeks to reach and legitimize binding decisions, it is indispensable to define who is entitled to propose binding commitments for whom *before* the deliberation begins in earnest. By failing to stipulate who will be “included,” with a right to participate and a duty to abide by a collective decision, discourse theorists overlook Buchanan and Tullock’s (1962) simple but fundamental insight that with expanding group size, the decision-making costs (of achieving tolerable consensus) increase together with the external costs (the probability that an individual must endure a collective decision that is not in his interest). The larger the group, the more far-fetched becomes the ideal of inclusive and equally effective participation and consensual agreement. This problem by itself increases the likelihood that individuals will be coerced to live with binding decisions to which they object. Larger groups or more centralized deliberation and decision making also lead naturally to more unified public-good provision based on “one size fits all” policies that cannot reflect the variety of and changes in individual or subgroup preferences and beliefs.

Although public decisions are thus more likely to affect citizens negatively, citizens are likely to be more apathetic in larger communicative communities and jurisdictions than they are in small communities. The opportunity costs of participation



and information rise with the unlikelihood of having one's voice heard, and the larger or more inclusive the deliberating group, the "cheaper" the talk because of its distance from accountable decisions and their individual consequences. Even systematically biased, "irrational" beliefs may be held with great conviction if those beliefs have no practical impact on the consequences of deliberation and political decision making (Caplan 2001). Growing group size increases the number of "men on the street" for whom it personally does not matter if their political beliefs are irrationally biased; in the aggregate, however, systematically biased voters can have a devastating effect on political results.

Decentralization and the possibility of "exit" to jurisdictions that compete for mobile factors not only decrease the "external costs" of those who can leave an oppressive community in favor of one closer to their political preferences (Tiebout 1956; Mueller 2001), but also may help to change attitudes in political deliberation from nonconsequentialistic utopian *Gesinnungsethik* to more responsible and realistic expressions of *Verantwortungsethik*.<sup>11</sup> As indicated earlier, overlapping intergroup deliberations (or at least intragroup observations of comparative performance) may encourage statements based on "comparative institutional analysis" to enter the "argumentation pool" of political deliberation and therefore to "rationalize" the debate and bring it closer to a choice among rules that have proved their workability and effectiveness in practice. In a single jurisdiction with its "natural" monopoly of government, only one set of political problem solutions is being tested at a time; political discourse is basically limited to learning from consecutive trials and errors. Real competitive market processes, in contrast, allow for an ongoing, simultaneous, spontaneous, and parallel testing of the adequacy of effectively competing trials (Vanberg 1993, 15). Interjurisdictional competition combines the two modes of discovery: economic and political. It sends out signals based on the communicative power of market transactions that involve, as a by-product for the most part, an "individual choice of rules" among different suppliers of institutional infrastructure (using, for example, different tax bases or direct investments). For a political discourse that aims at discovering new solutions to problems, these signals about comparative economic and political performance may be more valuable than isolated "cheap" talk about a "legitimation crisis" of "late capitalism."

Given the heterogeneous character of individual preferences, beliefs, and value systems (of "lifeworlds," if you like), together with different capacities to provide adequate problem solutions, decentralization and the "unforced force" of individual choices among alternatives (competition) suggests itself as an adequate reflection of that very fact of life. Also, Jeremy Shearmur argues that in the face of diversity, "the most plausible path for an approach like that of Habermas... [should be] to endorse a view in which limited dialogue about general principles and minimal conditions of

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11. See Weber on the distinction between an "ethic of ultimate ends (*Gesinnungsethik*)" and an "ethic of responsibility (*Verantwortungsethik*)" ([1921] 1978, 576ff.).

well-being is supplemented by the freedom of individuals to engage in experiments in living” (1988, 47). This argument points to the virtue of the rule of law as a way to unburden and at the same time to focus political deliberation.

### *Constitutionalization*

Because the cognitive and organizational capacity of political discourse has its limits, organized political decision making ought to respect those limits; it should be focused on general procedural rules of just behavior, an area where the discursive creation of consent is most likely and necessary (Hayek 1979). In order to make binding these limitations of the political “issue space” or of political parameters in the field of devising binding decisions, the players of the political deliberation game must submit to common rules of the game—that is, to “constitutionalization.”

Classical-liberal constitutions accomplish several tasks that are relevant here. Constitutional guarantees of freedom of speech, assembly, and the press, equal voting rights, and so forth are acknowledged by Habermasians and classical liberals alike as preconditions of a free society and of domination-free discourse.<sup>12</sup> At the same time, however, a constitution of liberty has other virtues that post-Marxist discourse ethicists do not recognize so readily: the rule of law reduces complexity by removing (more or less) authoritatively possible political actions from the agenda of political decision making and, as a consequence, in most cases from the agenda of political deliberation. Thus, the rule of law guarantees a protected domain in which personal liberty and the “experiments in living” that it may engender are possible without affording any justification to politicians, judges, media, or deliberating publics. It also relieves the political process of unreasonable demands of public opinion that may become “fashionable” at a given time, but that tend to overtax the abilities of political means.

The rule of law that is basically founded on *proscriptions* of specified state actions (in contrast to welfare-state *prescriptions* of uncertain kinds of actions in the name of unspecified ends of state activity) also relieves the legal discourse taking place in (supreme) courts. As a former German Supreme Court judge explained: “Unterlassen ist nicht knapp” (Grimm [1987] 1991, 47)—that is, omission, or the compliance with *proscriptions*, is not subject to the availability of scarce resources. This statement refers not only to the fiscal resources on which the availability of welfare-state provisions or social rights depend critically, but also to scarce social resources such as attention in the public sphere and the capacity to reach consent. Especially in large jurisdictions and open societies that comprise groups and individuals who have many different

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12. Habermasians should have no problem in endorsing Hayek’s claim that “The central belief from which all liberal postulates may be said to spring is that more successful solutions of the problems of society are to be expected if we do not rely on the application of anyone’s given knowledge, but encourage the interpersonal process of the exchange of opinion from which better knowledge can be expected to emerge. . . . Freedom for individual opinion was demanded precisely because every individual was regarded as fallible, and the discovery of the best knowledge was expected only from that continuous testing of all beliefs which free discussion allowed” (1978, 148).

political preferences and cherish many different values and traditions, it should be easier to agree on general, abstract rules that proscribe certain harmful modes of state conduct than to agree on the active pursuit of “society’s” specific purposes.

Compared to programmatic prescriptive welfare-state provisions, proscriptive norms that forbid certain kinds of state action are also easier to enforce. By defining the state’s limits, classical-liberal constitutions form a salutary check on government behavior. Citizens’ expectations are stabilized because the rules of state conduct, if adhered to, inform them about the acts that governments may not choose or that, if chosen anyhow, independent courts are likely to invalidate. At the same time, proscriptive rules have the advantage that by *not prescribing* and imposing particular purposes on society, they “assist in the pursuit of a great many different, divergent and even conflicting purposes” (Hayek [1966] 1967, 163) of groups and individuals within society. Thus, proscriptive, universalizable rules of just conduct leave the door open for desirable experimentation with various modes of conduct, including innovation in the realms of individual as well as collective action.

To be sure, from both a Habermasian and a classical-liberal perspective, it is difficult to justify “taboos” involving the general public of citizens, the media, the communicative communities of science, and so on—at least for potential deliberations taking place in the procedurally unregulated public sphere. Participants in *organized*, political *decision-oriented* deliberation—that is, in the political “system”—would have to be convinced that depoliticization and self-binding commitments serve their own interests. Unlimited politicization of society by means of unrestricted powers of political decision making is bound to overburden the cognitive and organizational capacities of the public and undermine the capacities of economic “discourse” taking place on open markets. As Peter Boettke concludes, the “political economy task is one of finding a constitutional structure that empowers, yet disciplines, public discourse” (1997, 91).

## Conclusion: The Use of Knowledge in Society

An “Austrian” perspective on the market process, as explicated in the foregoing discussion, reveals important properties of competitive market exchange as a “communicative” device. I have not sought, however, to present a simplistic analogy between political and market discourse based on a playful use of metaphors. As in some of my earlier articles (Wohlgemuth 2000, 2003, forthcoming), I have used analogies as heuristic tools in order to highlight *functional* similarities *and* differences between economic and political institutions and procedures with regard to fundamental social problems (such as the use of knowledge or the control of power) with which both political and economic systems have to deal.

Here I have focused on how opinions (preferences and views of the world) are formed and communicated and how they can affect the economic and political sys-

tems.<sup>13</sup> Both political and economic decision-making procedures face the fundamental problem of how to make the best use of knowledge in society. The character of the problem is determined in both cases by “the fact that the knowledge of the circumstances of which we must make use never exists in concentrated or integrated form but solely as the dispersed bits of incomplete and frequently contradictory knowledge which all the separate individuals possess” (Hayek [1945] 1948, 77). In other words, once a social (economic or political) order of interactions goes beyond a certain threshold of complexity and variability, it transcends the ability of any single mind or collective group to collect, integrate, and evaluate the knowledge that must be used if social coordination and control are to succeed.

The market order, with its spontaneous communication system of relative prices and its dynamic processes of simultaneous experimentation and discovery, copes with complexity and ignorance far better than any political system can. This situation, however, does not present a case of “policy failure” that can be cured easily by substituting markets for politics. Much of the difference is owing to the innate differences between individual and collective action and to the fact that politics has different kinds of problems to solve and different kinds of knowledge to use (Wohlgemuth 1999).

As Hayek points out, the kind of knowledge that can be discovered and disseminated most readily by means of market competition pertains for the most part to “particular facts relevant to the achievement of specific, temporary purposes” of individuals who pursue different self-chosen aims ([1968] 1978, 181). Herein, Hayek argues, lies an important difference from the discovery procedures that science employs. The scientific method (ideally the undistorted competition among scientific conjectures) aims at the discovery of generally valid regularities of events, of permanent patterns of causation (Hayek [1968] 1978, 181). In terms of generality and permanence, the kind of knowledge of greatest value in political discourse belongs to a category that lies somewhere between the ephemeral knowledge about changes in scarcity and opportunity costs produced by the price system and the empirically tested, durable “truth” sought scientifically. Political discourse aims at creating common opinions, ideas, and views (preferences and understandings) about common purposes and the ways and means (policies and institutions) that will be most effective and acceptable

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13. In Wohlgemuth 1999, 2002, and 2003, I focus on the evolutionary merits of political competition in the forms of party competition (democracy) and interstate competition (federalism, “globalization”) as processes of forming opinion and as learning devices (in short, as “discovery procedures” in a Hayekian sense). I deduced these merits from an evolutionary or “Austrian” approach to politics that highlights important aspects of competition that static equilibrium models almost necessarily ignore. The desirability of competitive politics, I argue, cannot be shown by using “nirvana” approaches that define unrealizable states of affairs derived, for example, from models that assume perfect information. Instead, I use comparative institutional analysis, the comparison with realized or realizable *political* institutions, incentives, and coordination devices that effectively bar political competition (nondemocratic, nonfederal, closed political systems). In this article, the comparison is between real or (given a system of open markets based on universalizable rules of just conduct) realizable *economic* systems and not only unreal but even utterly idealistic processes of *political* deliberation.

in their pursuit. To put it somewhat simplistically, market discourse helps to discover preliminary changes of economic conditions, such as the desirability and availability of goods and services (what is “new”); scientific discourse aims to discover permanent causes of observable facts (what is “true”); and politics ideally discovers semipermanent consent conditions for tentative solutions to collective action problems (what is “right”).

In some respects, therefore, the kind of knowledge that political discourse aims to create is more demanding than the kind of knowledge that markets can provide (but less demanding than scientific “truth”). As Karen Vaughn points out, in order for an individual to use the market to achieve his self-chosen aims, “it is not necessary for him to know why it works; he only needs to know how to use it” (1984, 132). Otherwise, the most talented economists, purporting to know why the market works or fails, would be the richest entrepreneurs (but obviously they are not). Contrast the kind of knowledge on which political discourse must build *before* questions of common purposes and suitable means can be debated usefully: the ideally deliberating citizen would have to know why and how policies and institutions work. In order to arrive at reasonable views about changes of political rules, the citizen would have to “try to understand the rule, determine its possible consequences, assess the impact of these consequences on him, and then make a moral judgement about the desirability of the new rule” (134).

In other words, much political deliberation is, or rightly ought to be, about the competitive discovery and communication of “best reasons.” Market deliberation pertains much more to the competitive creation, selection, and communication of “best practice.” With voluntary exchange of private-property rights, the production and selection of alternative problem solutions on markets do not depend on the articulation and concurrence of “best reasons” in the sense of moral judgments about the desirability of the practice for a collective group.

The main difference between the political knowledge and the economic knowledge required in their respective social communication arenas is thus that political deliberation aims at a more demanding ideal: to find moral grounds (judgments, views, legitimate interests) that can be communicated and agreed on among all citizens and then be defined operationally as a mandate in a principal-agent relationship among citizens and their representatives. No such demands are made in the market arena, and no such demands can be met by means of bilateral exchange informed and coordinated by the price system. Therefore, “deliberation” via markets is not a complete substitute for political deliberation because the respective systems aim at the discovery of somewhat different kinds of knowledge useful for the solution of different kinds of social problems.

This condition, however, does not warrant discarding the epistemological value of market interaction. To the contrary, in “ideal” circumstances, political discourse should be able to discover its own limitations and to recognize the systematically overburdened task of discursively defining common purposes and generally accept-

able means in many areas. Real-type political discourse is subject to severe and insurmountable limitations. Privatization, decentralization, and constitutionalization are means of coping with these limitations and of focusing political deliberation on the problems for which political action is the most effective (or even an indispensable) solution. Leaving a field of social coordination and control open to capitalistic markets and competition does not entail abandoning the ideal of domination-free discourse and spontaneous interaction in autonomous “lifeworlds” to an ugly “colonializing system.” If properly understood, the competitive market order, with its spontaneous communication mechanisms, should elicit the admiration of all who seek domination-free discourse and persuasion, regulated and critical exchange of information, mutual adjustments of expectations, and unrestricted effective participation.

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