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# Truth beyond Consensus - *Parrhesia*, Dissent, and Subjectivation

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## 1. Introduction

Freedom of speech certainly is among the most important and precious values of democratic societies. Moreover, we seem to believe in freedom of speech as one of the primary and necessary conditions of democratic societies, in the sense that we would not call a society democratic if it overly restricted or barred the possibility to hold, utter, propagate and disseminate dissensual opinions or critical claims. However, this fundamental democratic principle has always been endangered, and is probably nowadays more than ever imperiled: from the prominent cases of the prosecution of whistleblowers such as Edward Snowden or Bradley Manning<sup>1</sup> across the repression of free journalistic reporting and news coverage in the context of the present wars<sup>2</sup> up to new forms of Internet censorship<sup>3</sup> - to name just a few examples -, we observe a wide and differential variety of highly problematic cutbacks and restrictions to freedom of speech. These restrictions often consist in or go along with the exclusion of certain subjects or groups from the realm of legitimate, audible and intelligible discourse.

How are we to evaluate and effectively criticize those restrictions and exclusions? What possibilities and options can political philosophy provide in order to understand, assess, and eventually oppose developments of this kind that we may deem illegitimate or violent? Is it sufficient to advocate the revision or alteration of existing legal norms and restrictions in order to make them more open and inclusive to dissensual or contestatory discourse? Certainly, claims for the inclusive opening and extension of boundaries of legitimate forms of discourse are of viable importance in many contexts where democratic articulations and contestations take place. However, if we are to engage in demands for the extension and the inclusiveness of rights of

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1. Cf. POSSELT 2013.

2. Cf. BUTLER 2009.

3. Cf. DOWELL 2006.

free speech, do we then necessarily have to accept the limitations of pre-given legal and institutional frameworks in order to become able to pose such demands? And are we then not from the very beginning condemned to lose the very possibility of putting into question those juridical or institutional frameworks themselves, as they regulate the distribution of valid and legitimate discourse and subject positions? How can democratic states that rely on the rule of law deal especially with those forms of dissensual expression that do not articulate dissent from *within* the legal borderlines authorized by that state, but that rather challenge precisely those juridical and institutional frameworks that guarantee or inhibit the very exertion of subjective rights - such as freedom of speech?

In what follows, I read Michel Foucault's late lectures at the *Collège de France* on the ancient concept of *parrhesia* (designating the risky act of publicly telling an unacknowledged truth) as providing insightful and thought-provoking material for an analysis of these questions, especially concerning the problematic relationship of legality and freedom of speech. I aim to show that Foucault's analyses on *parrhesia* makes it possible to understand how legality and discursivity never overlap and that we have to acknowledge a gap between the power of law and the power of speech, in the sense that there is always a certain surplus of speech over any legal frameworks that regulate it. I proceed in five steps. After a brief outline of the theoretical context of deliberative, consensus-oriented democracy (Habermas, Rawls) and its prominent critics (Rancière, Lyotard) (2), I introduce the basic features of the Foucauldian approach to *parrhesia* as an alternative critical framework to consensus-theoretic approaches (3). A more detailed look on *parrhesia* as a form of telling the truth will bring forward the differences between this notion and our contemporary concept of freedom and show how it can inform our contemporary understanding of practices of free speech and subjectivation (4). The discussion of the subjectivizing aspects of *parrhesia* opens out into a reflection of the relation of freedom, plurality, and otherness (5). A short conclusion (6) deals with possible institutional consequences of the established notion of a truth-telling that exceeds legality as such.

## **2. Theoretical Context: Deliberative Democracy and its Critics**

An important theoretical anchorage point for questions such as the above can be found in models of deliberative democracy, most prominently elaborated by John Rawls and Jürgen Habermas. Habermas builds his conception of democratic deliberation on discourse-pragmatic reflections about the necessary conditions of all rational argumentation.<sup>4</sup> He aims to provide a powerful theoretical edifice that can explain in a normatively relevant way how dissensual positions are to be incorporated within social procedures of consensus-building. Habermas argues that democratic processes of deliberation always have to imply the structural possibility of criticizing and eventually revising the very discursive norms and rules that govern these processes themselves.<sup>5</sup> Thus, according to Habermas, it is a necessary condition for the legitimacy of deliberative processes that it is always possible to switch from the level of material argumentation, focused on a specific content in question, to the meta-level of an argumentation that concerns the very principles of the argumentative discourse at hand.<sup>6</sup>

In this way, Habermas tries to account for the necessity of procedurally revising norms of discourse in procedures of consensus-building that may unjustifiedly exclude certain subjects or certain deliberative moves and possibilities from the realm of rational argumentation.

In critical distance to Habermas, philosophers such as Jean-François Lyotard and Jacques Rancière argued that this consensus-theoretic approach fails to account for forms of dissent that differ in a fundamental way from the conditions of rationality or intelligibility given and legitimized in specific discursive frameworks. They both focus on possible situations where an incompatibility of an expression with regard to a given normative discourse is at stake. This incompatibility does not derive from the propositional *content* of the expression, but rather from a radical heterogeneity in its discursive *form* or *performance*. In this way, its expression leads to the impossibility of unobstructedly reconciling it with (or incorporating it in) the prevalent discursive framework.

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4. Cf. HABERMAS 1996.

5. Cf. SCHMIDT 2008, 236-253.

6. Cf. BÖHLER and RÄHME 1994.

Lyotard coins the term *differend* for cases of «conflict between (at least) two parties that cannot be equitably resolved for lack of a rule of judgment applicable to both arguments».<sup>7</sup> Lyotard distinguishes the *differend* from 'litigations', that is, in a wide sense, 'legal' disputes that can be judged and decided within a single rule-governed system, following and simply applying this system's discursive rules. In cases of *differend*, it becomes an 'injustice' or a 'wrong'<sup>8</sup> to apply the rules of one discourse in order to comprehend the other and to thereby compound the conflict. What is at stake, according to Lyotard, is the task of 'finding idioms'<sup>9</sup> for the expression of the *differend*. This task, now, cannot consist, as in Habermas, in an immanent reconsideration or self-inspection of the norms of one discourse. On the contrary, it has to take place in a precarious *in-between* of discourses, where distinctive rules and discursive procedures cannot in any way be presupposed or taken for granted.

Jacques Rancière critically responds both to Habermas and to Lyotard when he elaborates his central notion of *disagreement*. Whereas Lyotard remains ambivalent about the exact political status of the *differend* and about the possibility to conceive of the *differend* as a primary scene of political subjectivation,<sup>10</sup> Rancière not only situates his concept of disagreement at the heart of politics proper, but stages it even as the very essence of the political. In its «extreme form», a disagreement in the sense of Rancière occurs «where X cannot see the common object Y is presenting because X cannot comprehend that the sounds uttered by Y form words and chains of words similar to X's own». And he adds: «This extreme situation - first and foremost - concerns politics».<sup>11</sup>

A disagreement in this most fundamental sense concerns, thus, again not the propositional *content* of an expression, but rather the very possibility of appearing as a speaking subject, the possibility of

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7. LYOTARD 1988, xi.

8. LYOTARD 1988, xi.

9. LYOTARD 1988, 13.

10. «What is at stake in a literature, in a philosophy, in a politics *perhaps*, is to bear witness to differends by finding idioms for them» (LYOTARD 1988, 13, emphasis added).

11. RANCIÈRE 1999, xii.

being intelligible and recognizable as a *zoon logon echon*. Politics, in this emphatic sense, consists for Rancière not only in a critical revision of the norms inherent in deliberative procedures, but more radically in a redistribution of the realm of the sayable and the unsayable, a restructuration of that which can be recognized as intelligible discourse, and a transformation of the ways in which political subjects can appear.

### **3. *Parrhesia*: The Risky Act of Telling the Truth**

I wanted to recall these theoretical and political preliminaries in order to situate the following remarks on Michel Foucault's recently edited late lectures in the context of efforts to rethink the political apart from consensus-theoretic approaches. I aim to show that Foucault's reflections and analyses on truth-telling that focus on the ancient Greek notion of *parrhesia* can be read as proposing what I would like to call a 'dissensual conception of truth.' Foucault's both historical and systematic considerations in his last courses at the *Collège de France* perform an emphatic turn against Habermasian discourse pragmatics. Foucault turns there to an ancient form of *free speech* that is not so much 'free' in the sense of being unconstrained by inner or outer coercions, but rather 'free' in the sense of not being entirely governed by pre-existing rules of discourse: *parrhesia*. As Foucault states, the conventional English translation of *parrhesia* simply is 'free speech'. Originally, the Greek word *parrhesia* just meant «to say everything», deriving etymologically from «*pan* (everything) and *rhema* (that which is said)»,<sup>12</sup> and occurs for the first time in the plays of Euripides. «To say everything» - this can mean, on the one hand, in a pejorative sense, «saying everything, saying anything, saying whatever comes to mind without reference to any principle of reason or truth», but on the other hand, *parrhesia* also designates a kind of speech that «consists in telling the truth without concealment, reserve, empty manner of speech, or rhetorical ornament which might encode or hide it. 'Telling all' is then: telling the truth without hiding any part of it, without hiding it behind anything».<sup>13</sup>

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12. FOUCAULT 2001, 11-12.

13. FOUCAULT 2011, 10.

Throughout his lectures, Foucault concentrates on the positive form of *parrhesia* and apparently sees no trouble in the possibility of reliably discerning the ‘good’ version of *parrhesia* from its ‘bad’ shadow or counterpart:

To hide nothing and say what is true is to practice *parrhesia*. *Parrhesia* is therefore ‘telling all,’ but tied to the truth: telling the whole truth, hiding nothing of the truth, telling the truth without hiding it behind anything.<sup>14</sup>

In his analyses of *parrhesia*, Foucault thus tries to intrinsically tie together truth and freedom, in the sense of «receiving truth and freedom *in actu* from the event of speech itself, without relying upon speculative, normative, or pragmatic preconditions».<sup>15</sup>

What ties together truth and freedom is not, to be sure, any positively pre-given regulative instance, but rather an essential aspect of *risk* inherent in any parrhesiastic discourse. One of the primal scenes of the enactment of *parrhesia* is the example of Socrates, who risks his life in criticizing his fellow citizens for their ignorance and their lawlessness. As a constitutive feature throughout the ancient texts Foucault analyzes, *parrhesia* involves putting oneself at risk vis-à-vis someone who is more powerful than oneself. In monarchic contexts, *parrhesia* is paradigmatically uttered in front of the king, while in democratic contexts the one who uses *parrhesia* puts himself at risk in front of the public assembly. In any case, *parrhesia* implies a gesture of unreserved exposition to the other. This other who is a necessary prerequisite as the addressee of parrhesiastic discourse, may always react to the provocative truth of *parrhesia* not with a linguistic response, but with mere physical violence. In extreme situations, the speaker of *parrhesia* risks his life in the exposition to the other. As an essential feature, the parrhesiast’s risk is a bodily risk that precisely concerns his status as a speaking subject. In the same gesture in which the speaker constitutes himself as a speaking subject in the event of *parrhesia*, this subjectivity is always already precarious, vulnerable, and exposed to the other whose reaction to the unacknowledged truth cannot in any way be fully controlled.

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14. FOUCAULT 2011, 10; cf. POSSELT and SEITZ 2017.

15. WALDENFELS 2015, 410, my translation.

#### **4. *Parrhesia* and *Isegoria*: The Gap Between *Aletheia* and *Nomos***

It becomes clear from these short remarks that *parrhesia* cannot simply be equated with our modern concept of the right of freedom of speech. In fact, Foucault insists at various instances on the necessity of distinguishing *parrhesia* from legally granted rights. This becomes most obvious in his analysis of the distinction between *parrhesia* and *isegoria* in ancient Athens. Here, we can clearly observe the heterogeneity of *parrhesia* with regard to the juridical and the institutional realm. In the political context of Athens's democracy, *isegoria* designates the institutionally warranted right of telling one's own opinion. On the contrary, *parrhesia* is characterized as a form of speech that testifies to a subjective freedom, a freedom that can have institutional consequences but that cannot in itself be fully institutionally tamed, restrained or enclosed.

With regard to *isegoria*, Foucault remarks:

*Isegoria* is related to the structure of equality which means that right and duty, freedom and obligation are the same, are equal [...] for those who are part of the *demos* and so have citizen status.<sup>16</sup>

The ancient concept of *isegoria* is thus somewhat analogous to our modern democratic right to free speech, as it designates «the legal right given to everyone to speak his own opinion».<sup>17</sup> If you belong to the *demos*, you have a part in the same rights as all the others and you assume the same commitments and obligations as your fellow citizens. *Isegoria* exerts in this way an identity of freedom and obligation within the institutions of a *demos* and leads to symmetric relations between the citizens. *Parrhesia*, on the contrary, represents a surplus or an excess of freedom that is not definitively regulable within juridical or institutional boundaries. This surplus or excess of freedom becomes possible through a direct and immediate relation between the subject and the truth that is being uttered:

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16. FOUCAULT 2010, 171.

17. FOUCAULT 2001, 72.



There are formal laws of valid reasoning, but no social, political, or institutional laws determining who is able to *speak* the truth.<sup>18</sup>

In other words: It is always possible to refer to the rules of formal logic or grammar in order to evaluate the truth of a given statement, but truth-telling as an emphatic *act* does not rely on similar institutional or juridical rules. *Parrhesia* thus points to, as Foucault concisely formulates, «a problem in the relation between *nomos* and *aletheia*».<sup>19</sup>

Because of its specific performative mode of operation, the truth (*aletheia*) that is uttered in *parrhesia*, can never be fully incorporated or appropriated by any given body of laws or rules (*nomos*). In *parrhesia*, the speaker does not rely on pre-given norms or rules of discourse, but rather constitutes himself as a free subject in the act of an exposition in face of the other, where, paradoxically, the freedom he enacts always consists in staging this freedom as precarious and as being in the hands of the other. Therefore, *parrhesia* does not take place in a purely non-normative space, but rather points to a kind of normativity of social relations *prior* to any specific normative and discursive frameworks. The expression of truth, in *parrhesia*, is not the plain raising of a seemingly neutral truth-claim, but rather a precarious appeal to truth that is intrinsically bound up with the staging of one's own vulnerability and precariousness. In this sense, the constitutive gap to which *parrhesia* points, the gap between *aletheia* and *nomos*, is the gap in which ethical and political subjectivation can take place. *Parrhesia* shows that I can *become* a subject precisely in putting at risk and staging my being a bodily, vulnerable subject whose freedom never finds its origin in itself, but is from the very beginning bound up with the other.

## 5. Precarious Freedom and the Discontents of Consensus

«Existence is not in reality condemned to freedom, but is *invested* as freedom».<sup>20</sup>

This last sentence is a quotation by Emmanuel Levinas from his *Totality and Infinity*, in a chapter entitled *The Investiture of Freedom*,

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18. FOUCAULT 2001, 72.

19. FOUCAULT 2001, 72.

20. LEVINAS 1979, 84.

containing a critical reference to Jean-Paul Sartre's conception of freedom as condemnation. According to Levinas, we have to conceive of freedom not as a condemnation, but as being 'invested', as being installed and preceded by an intrusion of otherness that cannot be controlled or prevented in any way. *Parrhesia*, now, as an act of precarious and risky truth-telling makes explicit precisely that freedom is always already 'invested', installed by the other to whom I am exposed from the very beginning of my occurrence as a speaking subject. The allusion to Levinas is all but random in this context. Although Foucault himself never explicitly mentions the name of Levinas, his focus on the other involved in the act of truth-telling leads to possible connection-points between the two: Foucault stresses that the other, who is «necessarily present in the practice of telling the truth about oneself», has already «caught and imprisoned me [*cet autre [...] m'a retenu et arrêté*]».<sup>21</sup>

Telling the truth is a risky act, but not so much in the sense that we cannot foresee its consequences. Rather, its risk lies in the explicit gesture of an exposition to the other. In fact, Foucault's very last words in his last lecture emphatically stress the connection, revealed by *parrhesia*, between truth and otherness:

There is no establishment of the truth without an essential position of otherness; the truth is never the same; there can be truth only in the form of the other world and the other life.<sup>22</sup>

Bernhard Waldenfels is right to remark that Foucault should have been more precise here: instead of speaking of a 'position of otherness' in the establishment of truth, one should rather speak of an intrinsic connection between truth and an *exposition to* otherness: I do not *posit* the other, but rather am I always already *exposed to* the other, and *parrhesia* points to the irreducibility of this exposition in the staging of my vulnerability and precariousness as a speaking being.<sup>23</sup>

In this way, we can read Foucault's remarks on *parrhesia* as elaborating a conception of free speech, truth, and political truth-telling that is heterogeneous to procedural normative conceptions aiming

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21. FOUCAULT 2011, 5; altered translation, cf. FOUCAULT 2002, 5.

22. FOUCAULT 2011, 356.

23. Cf. WALDENFELS 2015, 428.

at establishing consensus within already pre-given (although always revisable) norms. Foucault himself hints to this by terminologically discerning his investigation in *parrhesia*, which he calls ‘dramatics of discourse’, from Habermasian discourse pragmatics.<sup>24</sup>

Andreas Hetzel concisely summed up this crucial distinction:

Whereas pragmatics aims at uncovering conditional relationships, [Foucault’s] dramatics [of discourse] points to an *unconditional aspect of every expression* that simply becomes most evident in *parrhesia*: its potential for the rejection and redefinition of established discursive regimes.<sup>25</sup>

But not only does Foucault deliver insightful material to criticize discourse-pragmatic frameworks. In his emphasis on the role of the body, of bodily vulnerability and exposition to the other, he also goes beyond Rancière and Lyotard who seem to underestimate, if not to repress, the corporal aspect of political articulation.

If the fundamental exposition to otherness in *parrhesia* is irreducible, insofar as my vulnerability to the other cannot in any way be overcome, we may indeed infer that the heterogeneity of *parrhesia* with regard to given normative frameworks is not something that occurs ‘now and then,’ but insofar as all speech acts are bodily acts, insofar as in every speech we stage our body as vulnerable and as exposed to the other,<sup>26</sup> we may understand *parrhesia* as a «*surplus* of otherness within» all linguistic events and all «conventional speech acts».<sup>27</sup>

*Parrhesia*, thus, does not just happen at times when courageous men enter the scene of political articulation, but rather does it intrinsically destabilize and irritate all rule-governed linguistic activities such as practices of building consensus. In this way, we can conceive of *parrhesia*’s heterogeneity not as a mere exteriority with regard to normative linguistic procedures, but as an immanent provocation to all normative discourse. *Parrhesia*, in this sense, would then mark the constitutive ‘discontent of consensus:’ the impossibility of practices of building consensus to close themselves, and an imperative of openness:

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24. Cf. WALDENFELS 2015, 68-70.

25. HETZEL 2012, 237, my translation.

26. Cf. FELMAN 2003.

27. WALDENFELS 2015, 415.

Openness not merely for *other norms* and certainly not an openness to mere non-normative chaos, but rather for the *unnormed*, the *not-yet-normed*, or, say, of *normativity-in-becoming* that nonetheless imposes itself in our constitutive vulnerability and exposition to one another.

## **6. Open Questions: Normativity-in-Becoming and Institutions**

What is the exact status of this openness and of the immanent provocation to normative discourse that *parrhesia* hints to? In the beginning, I outlined the insufficiency of approaches to free speech that would just focus on the realms of the juridical and the institutional in order to deal with the question of criticizing and revising exclusionary norms of discourse. But does not the account I just gave on the relation of *parrhesia*, freedom, and subjectivation run the opposite risk of leaving aside important questions of the constitution of just institutions? I think indeed that it indeed does not. On the contrary, it points to the necessity for political institutions to become self-reflexive, in the sense that institutions need to implement procedures to recognize and acknowledge that there are forms of emerging normativity that cannot be incorporated in their mode of functioning. In a political sense, *parrhesia* marks a paradox of seizing the word, in the sense that every institutionally warranted intervention in a given political order presupposes structurally an intervention that claims, demands, and stages this institutional warrant, without being authorized in the institutional framework at hand. If we concede that it is not a legitimate option to simply silence those forms of normativity-in-becoming that are testified to in practices of truth-telling, then perhaps we would have to envisage institutions that do not just treat the unsettlement by those practices as exterior disturbances, but that actively engage in a translational dialogue with those emerging kinds of normativity. At least, this would mean to renounce from attempts of institutional closure in the sense of immunizing institutions against exterior modes of articulation and to self-critically reflect on the exclusions implied in any institutional constitution. The pressing question would then be how to re-think political and juridical institutions not as closed operative frameworks centered on their constant self-reproduction, but as contingent points of stabilization in a flux of competing forms of emerging *and* continuous forms of normativity.

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