

Noumenal Power

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In political or social philosophy, we speak about power all the time. Yet the meaning of this important concept is rarely made explicit, especially in the context of normative discussions. But as with many other concepts, once one considers it more closely, fundamental questions arise, such as whether a power relation is necessarily a relation of subordination and domination, a view that makes it difficult to identify legitimate forms of the exercise of power. To contribute to conceptual as well as normative clarification, in what follows I suggest a novel way to conceive of power. I argue that we only understand what power is and how it is exercised once we understand its essentially noumenal nature. On that basis, I defend a normatively neutral notion of power that enables us to distinguish more particular forms of power, such as rule, coercion, or domination. The analysis aims to prepare the way for a critical theory of power.

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1) In political or social philosophy, we speak about power all the time. Yet the meaning of this important concept is rarely made explicit, especially in the context of normative discussions.¹ But as with many other concepts, once one considers it more closely, fundamental questions arise, such as whether a power relation is necessarily a relation of subordination and domination, a view that makes it difficult to identify legitimate forms of the exercise of power. To contribute to conceptual as well as normative clarification, in what follows I suggest a novel way to conceive of power. I argue that we only understand what power is and how it is exercised once we understand its essentially noumenal nature. On that basis, I defend a normatively neutral notion of power that enables us to distinguish more particular forms of power, such as rule, coercion, or domination. The analysis aims to prepare the way for a critical theory of power.

The title “noumenal power” might suggest that I am going to speak about a certain form of power in the world of ideas or of thought, and that this will be far removed from the reality of power as a social or institutional phenomenon. In Joseph Nye’s words, one might assume that I have only the “soft power” of persuasion in mind and not the “hard power” of coercion.² Real and hard power, a “realist” might say, is about the empirical world, it is made of material stuff, like political positions, monetary means or, ultimately, military instruments of force.

However, this would be a misunderstanding. For I want to claim that the *real* and *general* phenomenon of power is to be found in the noumenal realm, or better—to avoid misunderstandings about Platonic ideas or a Kantian metaphysics of “things in themselves”—in the “space of reasons,” to borrow Sellars’s famous phrase, understood as the realm of justifications. Here is what Sellars says: “The essential point is that in characterizing an episode or a state as that of *knowing*, we are not

¹ There are of course exceptions, such as Philip Pettit’s work—see his recent book *On the People’s Terms* (Cambridge: Cambridge University Press, 2012)—as well as Ian Shapiro’s writings, in particular *Democratic Justice* (New Haven: Yale University Press, 1999) and *The Real World of Democratic Theory* (Princeton, NJ: Princeton University Press, 2011). The work of Iris Young also remains essential in this context, especially *Justice and the Politics of Difference* (Princeton: Princeton University Press, 1990) and *Responsibility for Justice* (Oxford: Oxford University Press, 2011). An important contribution is also Frank Lovett, *A General Theory of Domination and Justice* (Oxford: Oxford University Press, 2010). I discuss the difference between my discourse-theoretical and Pettit’s neo-republican conception of domination in my “A Kantian republican conception of justice as non-domination,” *Republican Democracy*, eds. Andreas Niederberger and Philipp Schink (Edinburgh: Edinburgh University Press, 2013), pp. 154–68.

² Joseph S. Nye, Jr., *The Future of Power* (New York: Public Affairs, 2011), pt. 1.

giving an empirical description of that episode or state; we are placing it in the logical space of reasons, of justifying and being able to justify what one says.”³ To adapt this insight for my purposes, I suggest that the essential point about power is that in characterizing a situation as an exercise of power, we do not merely give an empirical description of a state of affairs or a social relation; we also, and primarily, have to place it in the space of reasons, or the normative space of freedom and action.⁴ Power is not only exercised by and over free agents; it is also the word for what is going on when someone acts for certain reasons for which others are responsible—that is, reasons that he or she would not otherwise have had and that still characterize him or her as an agent for whom alternatives of action remain open, though possibly less than before (though it may also be the case that the number of options has increased). To be a subject of power is to be moved by reasons that others have given me and that motivate me to think or act in a certain way intended by the reason-giver. Hence, while in political philosophy we usually inquire into the justification of power, in what follows I am interested in the *power of justifications*.

It is important to note that my use of the term “justification” in the following will be primarily descriptive. When I speak of justifications as “moving” persons through “acceptance,” I do not imply that they are “acceptable” from a critical perspective. Likewise, my analysis is a cognitivist one, but that does not mean that the reasons and beliefs that I refer to are reflexively constructed or tested. Ideological justifications also count as justifications when it comes to understanding how power works. The noumenal space that I think is relevant here is an “impure” space that includes what persons see as justified, for good *or* bad reasons.⁵ We need criteria to distinguish the two, but the general concept of power itself does not contain these criteria.

³ Wilfrid Sellars, *Empiricism and the Philosophy of Mind*, ed. R. Brandom (Cambridge, Mass.: Harvard University Press, 1997), p. 76.

⁴ On the idea of such a normative space, see Robert Brandom, “Freedom and constraint by norms,” *American Philosophical Quarterly*, 16 (1979), 187–96, as well as Brandom, *Reason in Philosophy: Animating Ideas* (Cambridge, MA: Harvard University Press, 2009), chs. 1 and 2.

⁵ This is discussed in Amy Allen, Rainer Forst, and Mark Haugaard, “Power and reason, justice and domination: a conversation,” *Journal of Political Power*, 7 (2014), 7–33.

2) Where it is addressed, the concept of power is heavily contested and there is a huge panorama of strikingly different views and definitions of power in the literature, if we compare, for example, Weberian, Foucauldian, Habermasian, or Arendtian approaches. Steven Lukes in his important discussion of power argued that it is an “essentially contested” concept, for it is irreducibly evaluative and is thus a matter of political debate. Every definition of power, Lukes argues, has some normative notion of social relations and non-dominated interests in mind—including his own “radical view.”⁶ But here I would like to take issue with Lukes, for while I agree that his definition is a normative and contestable one, I think a better definition is available that avoids essential contestation.

Here is Lukes’s original definition: “A exercises power over B when A affects B in a manner contrary to B’s interests.”⁷ Yet in line with his own subsequently revised view, I believe that this is much closer to a definition of *domination*, which is “only one species of power,” as Lukes now acknowledges.⁸ What his analysis revealed were the many ways of exercising power as the “imposition of internal constraints” that lead to the acceptance of certain forms of domination—thereby neglecting “the manifold ways in which power over others can be productive, transformative, authoritative and compatible with dignity.”⁹ Thus we need a broader definition of power that is more general than the notion of domination.

Most definitions of the concept of power either explain it as a negative phenomenon, as a form of domination, or, failing that, they at least follow Max Weber’s lead in using a conflictual model. Weber famously defined power as “the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance, regardless of the basis on which this probability rests.”¹⁰ Weber took this notion to be “sociologically amorphous” and preferred the more precise notion of *Herrschaft*, by which he meant the possibility that an order is

⁶ Steven Lukes, *Power: A Radical View*, 2nd ed. (Houndmills: Palgrave, 2005), pp. 29 ff. and 123 f.

⁷ *Ibid.*, p. 30.

⁸ *Ibid.*, p. 12.

⁹ *Ibid.*, p. 109.

¹⁰ Max Weber, *Economy and Society*, trans. and ed. G. Roth and C. Wittich (Los Angeles: University of California Press, 1978), p. 53.

being followed by a defined set of persons.¹¹ Yet while an imposition of the will in a given conflict of wills is clearly an exercise of power, it need not provide the paradigm for power; it is in fact closer to a certain form of domination. Power is a more inclusive concept that can also refer to the formation of and rule by a common will.

Approaches which focus on the exercise of power as an imposition of will, or as constraining others by external or internal means, often have equally one-sided positive counterparts that focus on communicative forms of power. An example is Hannah Arendt's conception of power as "acting in concert," as being based on free and equal consent, and hence as different from violence or force.¹² Arendt's insights are important, but the conceptual contrast she draws is too stark; we should reserve the concept of power neither for a negative nor for a purely positive phenomenon. Power can be either constraining or liberating.¹³

The most important insight of Arendt's that needs to be preserved for a conception of noumenal power is derived from her analysis of revolutionary events. It is here that one can see that the power of a government is not reducible to the means of institutional or ultimately military power at its disposal; for there may come a time when people no longer either obey the law or fear the tanks, and when those who drive the tanks are no longer willing to obey orders to shoot at people in the street. What gives people reasons to act in a certain way at that precise moment is a complicated issue. But any analysis of power must leave room for a distinction between the cases where you welcome a tank as liberating, where you fear it, and where you see it as an enemy but nonetheless no longer fear it. In the latter case, the tank can still be a major force and an objective threat when viewed from an observer's perspective, but it has lost its power over you. It has physical force over you, but no longer any human, normative power guiding your thoughts. So if we want to explain whether it has power over others or not, we need to understand what goes on in the heads of those who are subjected to its power or who have freed themselves from it—and that is where the noumenal realm of power lies.

¹¹ It is unfortunate that *Herrschaft*—which means rule—is usually translated as "domination," which corresponds to the German *Beherrschung*. To identify rule with domination in this way would seem to imply that the exercise of power is invariably a matter of domination, thus ruling out the possibility that legitimate rule is also an exercise of power (which is, of course, what Weber meant).

¹² Hannah Arendt, *Crisis of the Republic* (Orlando, FL: HBJ, 1972), pp. 143 and 140.

¹³ For a very clear discussion of the ethical neutrality of the concept of power, see Robert E. Goodin, *Manipulatory Politics* (New Haven, CT: Yale University Press, 1980), pp. 1–7.

Noumenal power is thus, to reiterate, not a separate form of power alongside threats of force; rather, it is the very core of such threats as exercises of power.

3) In order to understand how an exercise of power moves persons, we need a cognitive account of power that is neutral with regard to its positive or negative evaluation. Let us begin by defining power as *the capacity of A to motivate B to think or do something that B would otherwise not have thought or done*.¹⁴ Power exists as the capacity (“power to”) to be socially effective in this way, that is, to “have” power, which leads to power as being *exercised* over others (“power over”), where it is open whether this is done for (and by using) good or bad reasons, and whether it is done for the sake of or contrary to B’s interests—and by what means.¹⁵ The means in question can be a “powerful” speech, a well-founded recommendation, an ideological description of the world, a seduction, an order that is accepted, or a threat that is perceived as real. All of these are exercises of noumenal power. A threat gives the person who is threatened a reason to do something, but as long as a relation of power exists, at least one alternative way of acting is open to the person threatened. Otherwise this person would be a mere object, like a stone or a tree that is being moved. Thus, a case of pure force, where A moves B purely by physical means, by handcuffing him or her and carrying him or her away, is no longer an exercise of power, for the handcuffed person doesn’t “do” anything; rather, something “is done” to him or her. Thus the above definition no longer applies. At that point, power as a relation

¹⁴ The definition has affinities with the “formal definition of power” suggested by Robert A. Dahl, “The concept of power,” *Behavioral Science*, 2 (1957), 201–15, at pp. 202 f.: “A has power over B to the extent that he can get B to do something that B would not otherwise do.” In his analysis of the use of a certain “base” of power, such as institutional positions or resources, as a means of exercising power, Dahl focuses on the extent or “scope” of a change in the behavior of others and does not thematize, as I do, the mode of any such exercise of power—that is, that it involves a change in the space of justifications for a person or group of persons.

¹⁵ Since I do not think that “power over” should be defined negatively as “the ability of an actor or set of actors to constrain the choices available to another actor or set of actors,” as Amy Allen does in her book *The Power of Feminist Theory: Domination, Resistance, Solidarity* (Boulder, CO: Westview, 1999), p. 123, I do not see any need to introduce the notion of “power with” as the “ability of a collectivity to act together for the attainment of an agreed-upon end or series of ends” (*ibid.*, p. 127) either. This ability is a case of a collective “power to,” generated through consent and common aims, whereas the attainment of the end, if achieved in political conflict, requires a form of “power over.” Democratic rule (sometimes also defined as “power with”), as I will explain below, is a form of “power over” based on generally justified norms. For further discussion, see Allen, Forst, and Haugaard, “Power and reason, justice and domination: a conversation.”

between agents turns into brute physical force and violence, and the noumenal character vanishes. The person moved by sheer force is thus completely under the control of the other, as a mere physical object, and so, seen in isolation from noumenal-social contexts, is no longer an agent in the relevant sense. But such isolation is artificial, for most of the time an exercise of physical force is meant to have a noumenal effect either on the person subjected to it (for example, of instilling fear) or on others who witness what is going on.

In contrast to the exercise of physical force or violence, power rests on recognition. This is, to repeat, not necessarily a reflexive or consensual form of recognition, for the threat that is perceived as real is at that very moment also recognized and gives one a reason for action intended by A—in that sense, to point a gun at someone is to “give” him or her a reason. But if, as sometimes happens, the threat by the blackmailer or the kidnapper is no longer taken seriously, their power disappears. They can still use brute force and kill the kidnapped person, but that is rather a sign of having lost power (either over those who are not willing to pay or over the kidnapped person, who refuses to recognize the kidnapper as dominant and in turn threatens him or ridicules him or whatever else). The exercise and effects of power are based on the recognition of a reason—or better, and more often, of various reasons—to act differently than one would have acted without that reason. This recognition rests on seeing a “good enough” reason to act; it means that you see a *justification* for changing how you were going to act. Power rests on recognized, accepted justifications—some good, some bad, some in between. A threat (or a gun) can be seen as such a justification, as can a good argument. But power exists only when there is such acceptance.

Even though the kinds of acceptance sufficient for subjection to power all have a cognitive character, there is a spectrum of kinds of acceptance ranging from explicit acceptance based on critical reflection and evaluation, through cases where one feels “forced” to accept a certain argument, though one would prefer not to, or cases where one is forced to accept a threat or an order by a superior as a reason for compliance, up to, finally, cases where one accepts certain justifications almost blindly without further question—for example, by conforming to social meanings of what “befits” a woman, a “decent” or “deviant” person or someone who is supposed to play a certain social role as demanded by tradition. All of these forms of being moved by justifications are “noumenal” in the relevant sense insofar as they involve a certain relation in the space of justifications. But the cognitive and

normative character and quality of these justifications varies greatly. An analysis (and critique) of power must reconstruct these different modes and their possible combinations in a given social situation. As the major theorists of power like Machiavelli knew, it is useful to combine some of these modes when it comes to generating power and support for a particular kind of rule.¹⁶

Thus the phenomenon of power is noumenal in nature: *to have and to exercise power means to be able—in different degrees—to influence, use, determine, occupy, or even seal off the space of reasons for others.*¹⁷ This can occur in the context of a single event, such as a powerful speech or an act of deceit, or of a sequence of events or in a general social situation or structure in which certain social relations are regarded as justified, reflexively or not, so that a social order comes to be accepted as an *order of justification*. Relations and orders of power are relations and orders of justification; and power arises and persists where justifications or social relations arise and persist, where they are integrated into certain *narratives of justification*.¹⁸ In the light of such narratives, social relations and institutions and certain ways of thinking and acting appear as justified and legitimate, possibly also as natural or in accordance with God's will. These can be relations of subordination or of equality, whether political or personal, and the corresponding justifications can be well-founded and collectively shared with good reasons, or they can be merely “overlapping,” or they can be distorted and ideological—that is, they can justify a social situation of asymmetry and subordination with bad reasons that could not be shared among free and equal justificatory agents in a practice of justification free from such asymmetry and distortion.¹⁹ Such a notion of ideology does not necessarily involve a conception of “objective” or “true interests”; all it implies normatively is a *right to*

¹⁶ See especially Niccolò Machiavelli, *The Prince*, ed. Q. Skinner and R. Price (Cambridge: Cambridge University Press, 1988), ch. 17.

¹⁷ I leave the issue of having power over oneself undiscussed.

¹⁸ For the notions of orders or narratives of justification, see Rainer Forst and Klaus Günther, “Die Herausbildung normativer Ordnungen,” *Die Herausbildung normativer Ordnungen: Interdisziplinäre Perspektiven*, eds. Forst and Günther (Frankfurt: Campus, 2011), pp. 11–30, and Rainer Forst, “Zum Begriff eines Rechtfertigungsnarrativs,” *Rechtfertigungsnarrative. Zur Begründung normativer Ordnung durch Erzählungen*, ed. Andreas Fahrmeir (Frankfurt: Campus, 2013), pp. 11–28.

¹⁹ Here I am in agreement with the central insight of Jürgen Habermas' version of critical theory. See esp. his *The Theory of Communicative Action*, trans. T. McCarthy, 2 vols. (Boston: Beacon, 1984 and 1987).

justification of social and political relations between free and equal persons.²⁰ This right implies that all those who are subjected to a normative order should be its co-authors as equal participants and normative authorities in adequate justificatory practices that critically reflect on and constitute that order. In the present context, this means that those subjected to forms of power have the right and the requisite “normative powers”²¹ (that is, social and institutional discursive power) to make implicit or “tacit” justifications explicit, to question given justifications (as well as dominant or hegemonic ways to construct justifications),²² to reject faulty ones, and to construct better ones as well as demand the existence of proper practices and institutions of justification in the first place. This is the first demand of justice of those subjected to a normative order: to have standing as equal normative authorities within such an order.

In general, an account of power need not accord a central role to the notion of interests, be it the interests of the power-holders or of those who are subject to power. For an account of reasons for beliefs is better suited to explaining why people act in a certain way and how power functions. Religion, for example, is a very powerful motivating force in many societies and for many people. Religiously based reasons are often combined with other considerations and they often lead people to act in certain ways and to see social relations as more or less justified; but it is not always clear what kinds of “interests” someone pursues when he or she is motivated by religion. In any case, reasons explain beliefs, and beliefs explain interests and actions; thus the deeper one digs, the more one needs to inquire into people’s

²⁰ I discuss the moral foundations and political implications of this right in Rainer Forst, *The Right to Justification: Elements of a Constructivist Theory of Justice*, trans. J. Flynn (New York: Columbia University Press, 2012), and Forst, *Justification and Critique: Towards a Critical Theory of Politics*, trans. C. Cronin (Cambridge: Polity, 2013). In a historical perspective, I discuss the dynamic of justification in Forst, *Tolerance in Conflict: Past and Present*, trans. C. Cronin (Cambridge: Cambridge University Press, 2013). The relation between power and toleration is the main topic of Wendy Brown and Rainer Forst, *The Power of Tolerance: A Debate* (New York: Columbia University Press, 2014).

²¹ James Bohman, *Democracy Across Borders: From Demos to Demoi* (Cambridge, MA: MIT Press, 2007), p. 5 and *passim*, uses this term for the capacity of persons or groups or states to influence their legal and political standing in a political system to which they are subject.

²² For a discussion of the aspects of critique (and critical theory) relevant here, see Rainer Forst, *Justice, Democracy and the Right to Justification: Rainer Forst in Dialogue* (London: Bloomsbury, 2014), particularly: Amy Allen, “The power of justification,” pp. 65–86; Kevin Olson, “Complexities of political discourse: class, power and the linguistic turn,” pp. 87–102; Anthony Simon Laden, “The practice of equality,” pp. 103–26; and my reply “Justifying justification: reply to my critics,” pp. 178–205.

reasons. This is the basic level of explanation of their actions as *their* actions—as what they see as justified. Justifications are basic, not interests or desires.²³

A noumenal account of power relations is more “realistic” than theories which locate power in material or physical means, be it money or weapons. For, on the one hand, it explains all those forms of power which cannot be explained by recourse to such means—the power of speech, of (again, good or bad) arguments, of seduction, of love, of “acting in concert,” of commitments, of morality, of personal aims, and so forth. More importantly, on the other hand, it also explains the power of such means, since money only motivates those who see its use as being justified in general and in a particular case, and who have aims which make money necessary; and weapons, as I explained above, only serve their function if they are seen as reason-giving.²⁴ If they are not, one can still use them to shoot, but then power is transformed into physical force, and the real intention for using them—being recognized as superior and threatening—may remain unrealized. Punishment, by using violence, is often a sign of the failure of power, not of the successful exercise of power.

4) An important test of the realism of the theory of noumenal power is whether it can explain the power of “structures,” be it general social structures or more particular organizational structures within, say, a university or a school. Every social order consists of such structures, and in modern societies they are highly differentiated and complex, if one thinks, for example, of the components of an economic structure, from a property regime to a certain organization of production and distribution of goods through a (more or less regulated) market, and so forth. It is often assumed that such structures causally determine the actions of those who “function” within them and are subject to the “structural forces” (or even the “structural violence”) of institutionalized social systems. Thus Habermas analyses

²³ From the view of a particular social theory, this is stressed by Luc Boltanski and Laurent Thévenot, *On Justification: Economies of Worth*, trans. C. Porter (Princeton, NJ: Princeton University Press, 2006).

²⁴ Thus it is not the case that political power must ultimately be backed by means of sanctions and force, as many argue. See, for example, Talcott Parsons, “Power and the social system,” *Power*, ed. Steven Lukes (New York: New York University Press, 1986), pp. 94–143, and John Searle, *Making the Social World: The Structure of Human Civilization* (Oxford: Oxford University Press, 2010), p. 163. In his general analysis of various forms of power, however, Searle stresses its reasons-based character.

the development of such systems in terms of the establishment of social spheres of strategic or instrumental, rather than communicative, action that work through the non-discursive media of money and power.²⁵ The subsystems of the modern economy and the administrative state increasingly leave the normative contexts of the communicative lifeworld and “congeal into the ‘second nature’ of a norm-free sociality that can appear as something in the objective world, as an *objectified* context of life.”²⁶

If we inquire further into what this process of objectification involves, the role that noumenal power plays within social structures of that sort becomes apparent and we arrive at a different picture from the one presented by Habermas. A “second nature” of acting (or “functioning”) within certain structures presupposes acceptance of the rules of these structures, as well as of certain justifications offered for them, such as ideas about property, cooperation, or efficiency, but also notions of fairness, desert, and the like (and again, it must be added that such acceptance need not be based on critical reflection but can also be of an ideological nature). Thus, such structures are not “norm-free”;²⁷ rather, the norms and justifications they rest on allow for certain forms of strategic action that disregard traditional and ethical norms, potentially “colonizing” the lifeworld (in line with Habermas’s analysis).

We can distinguish four aspects of noumenal power when it comes to social structures:

- (I) Every social order in general, and every social subsystem in particular, is based on a certain understanding of its purpose, aims, and rules—in short, it is a normative order as an *order of justification*. An economy rests on very general ideas of value, labor, nature, and productivity, but also on notions of fair exchange, for example, and as a result it is open to criticism in how it interprets and realizes such values or norms. Thus there are certain justification narratives on which such an order or system is founded. One could think here of the great reconstructions of such narratives by social theory, such as Max Weber’s analysis of the contribution of a Protestant ethic to the development of the spirit of capitalism. Still, a modern economy is not

²⁵ Habermas, *Theory of Communicative Action*, vol. II, pp. 183 and 196.

²⁶ *Ibid.*, p. 173.

²⁷ See Axel Honneth and Hans Joas, eds., *Communicative Action: Essays on Jürgen Habermas’s The Theory of Communicative Action* (Cambridge, MA: MIT Press, 1991).

based on a single grand narrative alone but on many others as well; and even though they form an order as part of a more comprehensive social order, there are many possible tensions and contradictions between its components, such as ideas of fairness of opportunity, on the one hand, and libertarian freedom, on the other, or the idea of personal desert, to name but a few.²⁸ So, even though a social structure can be reduced neither to its narrative foundations nor to a narrow set of such justifications, it does rest on such foundations.

- (II) Structures that are accepted on the basis of such narratives and justifications often find their main support in the idea that, despite tensions in their justificatory basis and despite perceived shortcomings, no alternative to them is available. So these structures not only rely on certain noumenal power constellations; they also *produce and reproduce* such constellations by affirming them and suggesting that how they function is “natural,” so that a “second nature” can develop. Through their everyday workings, these structures limit what can be imagined as possible and—*pace* Habermas— themselves attain a certain lifeworld status as the way things are and will be. The normative power of the factual is constituted by these structures, and it is a form of noumenal power—namely, justification through everyday practice and socialization into a certain frame of mind.
- (III) In this way, structures that rest on and reproduce noumenal power have a certain *influence* over persons that appears to be a form of power. Within a patriarchal structure, for example, women may conform to patriarchal rules even where the patriarch leaves things implicit or is absent, or no longer tries to dominate. That means that the noumenal power structure that supports social power relations is still in place, with the result that a certain order of action is upheld. It is, however, more appropriate to speak of “influence” rather than “power” in cases where power is not intentionally exercised by persons over others. Structures do not “exercise” power as persons do; rather, they rely on and provide opportunities for exercising it.
- (IV) This brings us to the way in which power is *exercised within* structures. Given that the essential power of such structures is of a noumenal kind, defining values, norms and rules and social positions, such power structures enable

²⁸ See Boltanski and Thévenot, *On Justification*.

persons with sufficient *noumenal capital*²⁹ in the appropriate sphere—such as a priest, an officer, or an entrepreneur, for example—to use their social recognition and standing³⁰ within the structure as a *resource* to exercise power over others who duly follow an admonition, obey an order, or accept an employment contract and its implications. In this way, structures serve as important background resources for the exercise of power, because within them persons have a power status that is perceived as implying the justifications that lead others to do certain things. Normative roles, offices, and functions are noumenal power statuses that facilitate the exercise of certain forms of power over others by “unburdening” social action within such institutional spheres from the explicit requirement of justification, so that justification can be taken as a given. However, the question of justification can reappear as soon as someone is seen to overstep the limits of his or her function or role.

To illustrate the four aspects of noumenal power within social structures—the aspects of grounding, of reproduction, of influence, and of resource—a brief look at Marx’s analysis of the fetish character of commodities is useful. In his critique of social alienation, Marx tries to show how a certain “mystical”³¹ idea of commodities dominates the noumenal realm of the capitalist economy and transforms social relations into relations between things, thus veiling the truth of social relations and establishing a false justification narrative for them. Furthermore, this narrative makes it impossible to gain collective control over the system of production and distribution: “The character of having value, when once impressed upon products, obtains fixity only by reason of their acting and re-acting upon each other as quantities of value. These quantities vary continually, independently of the will, foresight and action of the producers. To them, their own social action takes the form of the action of objects, which rule the producers instead of being ruled by

²⁹ This concept is broader than the related one of “symbolic capital” coined by Bourdieu, as it applies to all forms of power means, including “material” ones. See Pierre Bourdieu, *Practical Reason: On The Theory of Action* (Stanford, CA: Stanford University Press, 1998).

³⁰ This is also the point where a discursive notion of *authority* can be developed: having authority means having a certain standing within a normative order, such that one disposes over particular noumenal capital with regard to certain areas of social life, for example, in exercising the function or role of a teacher or a judge.

³¹ Karl Marx, *Capital*, vol. I, ch. 1, section 4, cited from Marx, *The Portable Karl Marx*, ed. and trans. E. Kamenka (Harmondsworth: Penguin, 1983), p. 445.

them.”³² Founded on a particular notion of value, the capitalist economy produces a second nature of persons who see each other as market participants and are held captive by certain conceptions of commodity, labor, and exchange which form a justification complex that influences and controls people’s lives and, finally, enables some to exploit others and leads those exploited to accept their position as natural or unavoidable. Therefore, a critique of that kind of political economy must begin in the noumenal realm by describing social life differently and dispelling the “whole mystery of commodities, all the magic and necromancy that surrounds the products of labour(. . .).”³³ Any social structure can thus only be as firm as its justifications are firmly grounded—and a critique of power has to target the core of these justifications.

The real site of power struggles, as all of the great theoreticians (and practitioners) of power recognized, is the discursive realm—the realm where justifications are formed and reformed, questioned, tested, and possibly sealed off or reified. It is the site where interests and preferences are formed, and where ideological acceptance of subordination finds its hegemonic justification, as Gramsci emphasized and as Lukes addressed with his third dimension of power.³⁴ But we need not assume that such acceptance is based on only one narrative, and we need not assume that such a formation is without “cracks,” that is, that it is accepted without doubt or partial resistance. Also, in most cases the social situation cannot be reduced to a single set of antagonistic class interests; an analysis of power can allow for more social and discursive pluralism of reasons, interests and—often temporary—social alliances.

5) There are important parallels and differences between a theory of noumenal power and Michel Foucault’s theory of discursive power. Parallels consist in his attempt to define power as a general social phenomenon that is not modeled on the paradigm of domination and in his emphasis on power as operating on free

³² Ibid., p. 451.

³³ Ibid.

³⁴ Lukes, *Power*, pp. 143 f., defines the third dimension as the “capacity to secure compliance to domination through the shaping of beliefs and desires, by imposing internal constraints under historically changing circumstances.”

subjects,³⁵ his insight that power can be productive as well as disciplining, and, most of all, that power works by way of truth regimes, i.e., in the cognitive realm: “What makes power hold good, what makes it accepted, is simply the fact that it doesn’t only weigh on us as a force that says no, but that it traverses and produces things, it induces pleasure, forms knowledge, produces discourse.”³⁶ Still, by focusing on large-scale truth regimes (*epistemes*) or constellations of power (*dispositifs*), Foucault had a (neo- rather than post-structuralist) tendency to describe such regimes as much more homogeneous than they in fact are. In any given historical epoch, a mixture of religious, scientific, and institutional practices constitutes certain forms of “subjectivation”; but every such form comes in a number of versions and is reproduced in multiple ways in the minds of subjects that leave much room for variation—and critique.³⁷ Furthermore, despite many avowals to the contrary, Foucault did favor a negative view of power as disciplining and as governing subjects—as structuring, and thereby also limiting, possibilities of thought and action, and thus (often) prompting reactions of resistance: “This form of power that applies itself to immediate everyday life categorizes the individual, marks him by his own individuality, attaches him to his own identity, imposes a law of truth on him that he must recognize and others have to recognize in him. It is a form of power that makes individuals subjects.”³⁸ Power forms the self-image of the subject, but it remains an “imposition.” But why, we may ask, does this have to be the case? Why not think of forms of power that *empower* and ground a different practice of freedom that is powerful because it leaves the definition of freedom to the individuals themselves, a freedom that is not “free from power” but is more free from given forms of subordination and normalization? This is very much in line with important arguments of the later Foucault, though he did not offer a

³⁵ “Power is exercised only over free subjects, and only insofar as they are ‘free.’” Michel Foucault, “The subject and power,” in Foucault, *Power*, ed. J. Faubion, trans. R. Hurley et al., *Essential Works* (New York: New Press, 2002), vol. 3, p. 342.

³⁶ Michel Foucault, “Truth and power,” interview with A. Fontana and P. Pasquino, in Foucault, *Power/ Knowledge: Selected Interviews and Other Writings 1972–1977*, ed. C. Gordon (New York: Pantheon, 1980), p. 119. See also Foucault, *The History of Sexuality*, vol. I, trans. R. Hurley (New York: Vintage, 1978), pt. 4. Compare also the analysis of “pastoral power” in “The subject and power,” p. 333: “Finally, this form of power cannot be exercised without knowing the inside of people’s minds, without exploring their souls, without making them reveal their innermost secrets. It implies a knowledge of the conscience and an ability to direct it.”

³⁷ This is discussed by Wendy Brown and myself in Brown and Forst, *The Power of Tolerance*.

³⁸ Foucault, “The subject and power,” p. 331.

comprehensive theoretical account of the forms of “counter-power” he envisioned, usually referring to them as an “ethos” of critique.³⁹

There is another important point that needs to be made with respect to Foucault. Whereas his stress on the linkage between power and truth makes a cognitivist analysis of power necessary—as an analysis of the justifications that are accepted for ordering society and “forming” subjects—his emphasis on the discipline of the body as the site of subjectivation may speak against a cognitivist approach. Foucault showed, according to some interpreters, how power “imprints” itself “directly on the bodies and affective investments” of subjects.⁴⁰ But that would be an incorrect conclusion to draw. For the body is “normalized” only through the adoption of certain categorizations and “truths” about its inner self, as Foucault pointed out in his genealogy of sexuality, for example. Thus the body should not be seen as a reality beyond justification, as on a neo-Cartesian or Freudian conception, for example; rather, it is the result of a certain order in the realm of social justifications that makes persons think *and* feel about themselves in a certain way. Viewed from this perspective, bodies (and feelings) are not separate, non-cognitive entities with a truth of their own. They are products of discursive power. Otherwise the critical approach of genealogy⁴¹ favored by Foucault would not be appropriate, as it reconstructs the history of subject-formation in order to understand and reject the self-images and truth-constructions that have been imposed on “docile” subjects: “We have to promote new kinds of subjectivity through the refusal of this kind of individuality that has been imposed on us for several centuries.”⁴²

6) So how should the analysis of power relations proceed? It needs to operate on at least two levels: first, it should provide a discursive analysis of the dominant or

³⁹ See especially Michel Foucault, “What is Enlightenment?” in *The Foucault Reader*, ed. P. Rabinow (New York: Pantheon, 1984), pp. 32–50. Also, Foucault’s later work on ancient ethical practice has to be seen in this light. See Paul Patton, “Foucault’s subject of power,” *Political Theory Newsletter*, 6, 1994, 60–71. For an elaboration of an ethos of freedom along Foucauldian lines, see James Tully, *Public Philosophy in a New Key* (Cambridge: Cambridge University Press, 2008), vol. 1.

⁴⁰ Thus Amy Allen in Allen, Forst, and Haugaard, “Power and reason, justice and domination: a conversation,” p. 17.

⁴¹ For an analysis of that method, see Martin Saar, *Genealogie als Kritik* (Frankfurt: Campus, 2007), and David Owen, “Criticism and captivity: on genealogy and critical theory,” *European Journal of Philosophy*, 10 (2002), 216–30.

⁴² Foucault, “The subject and power,” p. 336.

possibly hegemonic justifications for certain forms of thought and action that eventually materialize into a social order as an order of justification; and, second, it should identify the power positions within a society: Who has which possibilities to influence the dominant order of justification? What is the current arrangement of the *relations of justification* within various social spheres and in political life generally?⁴³

In order to perform such an analysis, we need to keep in mind the different degrees of the exercise of noumenal power that I referred to above. We call *power* generally the capacity of A to influence the space of reasons for B and/or C (etc.) such that they think and act in ways they would not have done without the interference by A; moreover, the move by A must have a motivating force for B and/or C (etc.) that corresponds to A's intentions and is not just a side effect (i.e., a form of influence). Such power can be the power of a good or of a bad teacher, it can be the power of a liberating revolutionary or a dictator who convinces or seduces the masses, and it can be the power of a kidnapper whose threat is taken seriously. The concept of power itself determines neither the evaluation nor the means used to move someone to think or to do something.⁴⁴

Rule I call a form of power where the power-holder does not only use his or her capacity to decisively influence the space of justifications for others, but where certain comprehensive (religious, metaphysical, historical, or moral) justifications (and usually a mixture thereof) determine the space of reasons within which social or political relations are being framed—relations which form a structured, durable, and stable social order of action and justification. Again, this rule can be well-justified or can rest on bad justifications (that are perceived as good by those who are governed). Democratic rule exists where those subject to a normative order are at the same time the normative authorities who co-determine this order through democratic justification procedures. Thus their standing as justificatory equals is secured by the rights and institutions of a democratic political order. Democratic power is exercised through the rule of reciprocally and generally justifiable reasons

⁴³ For the idea of relations of justification, see my *Justification and Critique*, esp. pp. 1–13.

⁴⁴ An important further case of the exercise of power should be mentioned here, namely influencing the space of reasons of someone by withholding important information with the aim of steering him or her in a particular direction. This is a form of interference that is included in my definition. I am grateful to Pablo Gilabert and to an anonymous reviewer for alerting me to this case.

when it comes to basic questions of justice.⁴⁵ Further political issues are decided through fundamentally just (and legitimate) justificatory procedures in which all subjected can participate as justificatory equals.

In cases of unjustifiable asymmetrical social relations which rest on a closing off of the space of justifications such that these relations appear as legitimate, natural, God-given, or in any way unalterable and leave hardly any alternative for those who are subjected, we encounter forms of *domination*. These are backed by a combination of one-sided, hegemonic justifications and do not give those who are subjected the possibility of or, normatively speaking, the right to reciprocal or general justification and critique. The realm of reasons is sealed off, either because the situation of domination is (more or less) accepted as legitimate or because it is backed by serious threats. This means that *coercion* or *force* looms in the background—that is, forms of power which increasingly deny the right to contestation and justification and severely restrict the space of reasons. Thus a discourse-theoretical notion of (non-)domination, unlike a neo-republican version, does not focus on the robustness of the protection of secured spheres of individual freedom of choice.⁴⁶ Instead, it focuses on the normative standing of persons as justificatory equals and normative authorities within a political and social order as an order of justification. Political domination has two important dimensions: the rule by unjustifiable norms and, reflexively speaking, the lack of appropriate discursive arenas and institutional structures of justification to contest given justifications and to discursively construct generally and reciprocally acceptable justifications that lead to authoritative norms.

We encounter *violence*, finally, where the exchange of justifications is denied entirely and the space of reasons is supplanted by means of sheer physical force. When this happens, a relation of noumenal power turns into a relation of overwhelming physical facticity: the person subjected to violence is not made to do something any longer; he or she is a mere object. At that moment, power as a normative force moving an even minimally free agent fades away; it might reappear when those subjected to violence begin to act as the power-wielder wills, either out of fear or because they are traumatized, but in any case no longer as mere physical

⁴⁵ See my *The Right to Justification*, ch. 7.

⁴⁶ See Pettit, *On The People's Terms*, ch. 1. I elaborate on this in my “A Kantian republican conception of justice as non-domination” and in “Transnational justice and non-domination. A discourse-theoretical approach,” *Domination Across Borders*, eds. Barbara Buckinx, Jonathan Trejo- Mathys, and Timothy Waligore (forthcoming).

objects.⁴⁷Power is a way of binding others through reasons; it breaks down when the other is treated as a mere “thing” and no longer as an agent of justification whose compliance rests on some form of recognition. Thus we have to analyze power relations along a spectrum extending from its exercise through the justificatory quality of reasons shared among deliberating persons, at one end, to the limiting case of its exercise by way of physical force, at the other, which in its extreme form lies outside of the realm of power, being instead a reflection of the lack of power.⁴⁸ The reality of the exercise of power usually falls somewhere in between, and the main object of analysis is the noumenal character of the social relations or events in question: What are the justifications that move persons?

To analyze power relations, we thus need to develop a method of analysis in the two dimensions named above: the level of discourse and its specific content (dominant reasons and narratives of justification) and the different positions and normative powers (or “noumenal capital”) of agents with respect to their ability to generate and use discursive power (status, competence, institutional structures, etc.). This is a complicated matter for a number of reasons. First, the reasons why certain rules or normative orders are accepted and followed are most often plural and cannot be subsumed under just one category of reasons. Think, for example, of the variety of reasons for accepting patriarchal authority—reasons of love, admiration, self-interest, convention, religious upbringing, fear, or despair, for example. Usually, it is a mixture of these, and the question of the entry of critique along one or more of these lines is complex as well. Still, in order to do justice to the power formations in a society, an appropriate matrix must be worked out.

Second, even though I warned at the outset against the metaphysical idea of noumenal “things in themselves,” there is some truth to this way of speaking. For, as Kant remarked, we cannot look into the heads of people in order to discover which reasons actually motivate them. Thus, in a way, any analysis of noumenal power has to accept ambivalence and contestation; it can never be final and completely objective.

Third, when it comes to positions of discursive power and their holders, we also need to construct a matrix for such positions, whether they be in the media, the

⁴⁷ Power, of course, as remarked before, remains present in acts of violence when they have a certain effect on others who witness it.

⁴⁸ Here I agree with Arendt in her remark about “sheer violence”: “Rule by sheer violence comes into play where power is being lost . . .,” in *Crises of the Republic*, p. 152.

church, politics, education, and so forth. In all of these contexts, justifications are produced and questioned. But again, there is indeterminacy here, for a public position of discursive power need not correspond to an institutional position. There are institutionally “weak” persons or groups who can generate a lot of power (the phenomenon of “charisma” is important in this context), and there are people in strong positions whom hardly anyone takes seriously. They lack noumenal power. In other words, they are not sufficiently capable of maneuvering within or influencing the public space of reasons. But even the most powerful individuals or groups cannot determine or close off the space of reasons entirely—that would be a task for the gods or a Leviathan as Hobbes imagined it. To have power means to rule in the space of reasons; but, given the plurality of human life, this is not absolute rule. If we want to develop our analysis of power into a critique of power, we need to develop a *critical theory of relations of justification* along the lines I mentioned.⁴⁹ This theory has a material component—namely, a critical understanding of dominant justifications for particular social relations—and critique aims specifically at false, or at least one-sided, justifications for asymmetrical social relations that fall short of the criteria of reciprocity and generality, in short, relations of domination. In the political sphere, to repeat, domination should be defined as rule without adequate justifications, and, reflexively speaking, as rule without adequate structures of justification being in place. Hence a critique of relations of justification aims at a survey of the various social and political positions of generating and exercising discursive power in different social and political spheres. Normatively speaking, such a critique aims to establish a basic structure of justification among free and equal persons as the first demand of justice, or fundamental justice, as I call it.⁵⁰ The question of power is the first question of justice.

⁴⁹ Cf. Forst, *Justification and Critique*.

⁵⁰ See Forst, *The Right to Justification*, chs. 4, 8, and 12, and Forst, *Justification and Critique*, chs. 1 and 5. See also Simon Caney, “Justice and the basic right to justification” in Forst, *Justice, Democracy and the Right to Justification*, pp. 147–66, and my “Justifying justification: reply to my critics,” pp. 205–15.