



# Max Weber and the Problematic Issue of Confidentiality in International Politics

**RESEARCH****CRISTIANA SENIGAGLIA** **HUP** HELSINKI  
UNIVERSITY  
PRESS

## ABSTRACT

What are the reasons that lead Max Weber to be a convinced promoter of publicity in the practices of internal politics and, by contrast, advocate secret procedures in international affairs? The analysis aims at clarifying the different arguments utilised by Weber for justifying his apparently contrasting points of view and explains the reasonable motivations that are adduced to legitimate both issues. Since admitting confidential practices does not mean the acceptance of arbitrariness and bare demonstrations of power, it also highlights how Weber accompanies his considerations on the opportunity of the use of confidentiality with the determination of corresponding criteria that have to regulate and circumscribe its use. The present analysis is completed with a comparison with the positions formulated respectively by Immanuel Kant and Jürgen Habermas, who both plead for a public course of politics to be also applied in international affairs and, as a consequence, explicitly reject confidentiality as a legitimate form of dealing with political issues. Finally, it faces the question whether and in which form Weber's standpoint contrasts with their positions and what are the reasons motivating his different assessments.

## CORRESPONDING AUTHOR:

**Cristiana Senigaglia**

University of Passau, DE

[senigaglia@gmx.de](mailto:senigaglia@gmx.de)

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Max Weber's political theory presents an evident contrast between internal politics and international affairs. While internal politics, in his view, expressly requires publicity, which is instated by public and free debates as well as by a form of control over the institutions regulated by law, international affairs can be correctly and successfully pursued only by maintaining forms of high confidentiality. Weber's standpoint raises several questions. Is it justified to make such a neat distinction between internal politics and international affairs? What are the reasons for pleading for publicity in domestic politics and, by contrast, for appealing to the principle of confidentiality in foreign affairs? Are the reasons advocating confidentiality legitimate and justified by the specific exigencies of this determinate realm, or do they only obey particularistic advantages that collide with the opportunities of a good and successful general outcome?

The present study first highlights Weber's reasons for emphasising the importance of publicity in internal politics and the institutionalised forms that are applicable. Then the reasons adduced by Weber for taking up a contrasting position in international affairs are analysed and subsequently weighed up with reference to the accompanying criteria of regulating and limiting the applications of confidentiality. Additionally, Weber's explicit reference to the principle of confidentiality is confronted with two other philosophers' issues, which oppose in general the idea of confidentiality and explicitly plead for the use and significance of publicity: Immanuel Kant and Jürgen Habermas. Kant expressly refers to the formula of publicity in order to judge about political affairs, and he does it in the work *Toward Perpetual Peace*, which is explicitly dedicated to the substantial question of peace in international affairs. Habermas frames his theory of communication and his understanding of ethical and political issues in contexts and procedures that are definitely public. The intent is to position Weber's assessments by also confronting them with Kant's and Habermas' issues and to evaluate whether and in which respect they oppose Weber's statements and if there are well-founded reasons for legitimating a certain form of confidentiality.

## PUBLICITY AS A FUNDAMENTAL CONDITION FOR INTERNAL POLITICS

As is well-known, Max Weber engages in a systematic argument in order to limit the, in his view, constantly growing excessive power of bureaucracy. The reasons for his assessments are not only circumstantial, that is, related to the role and composition of the Federal Council (*Bundesrat*) in the German state, which was formed by appointed high public officials convening in secret meetings and strongly partaking in legislative competences, but also structural, since bureaucracy was compared by him with a sophisticated machinery working in a highly specialised and formal-rational way (Palonen 1998, 100). The continuative and systematic work provided the public officials with a high-level expertise that was not easy to compete with, since they possessed specialised knowledge, work experience, and also inside knowledge that enhanced their powers and their position. In Weber's view, this represented a handicap for an effective democracy, since citizens and even professional politicians or representatives were excluded from fundamental inside information.

In order to obviate this structural disadvantage, Weber insisted on the necessity to pursue the publicity of the administration and in general to implement a politics

explicitly done in public and openly subjected to reply and supervision (Weiß 2007, 90, 94–95). The principle of publicity is for him a substantial condition of democracy, because it allows discussions about the most relevant political issues with a thorough knowledge of the facts. In this sense, publicity includes two stages: the publicity of information and the publicity of debate. The publicity of information constitutes a preliminary aspect, because without the possibility of access to the pertinent data, the condition of an equal and fair debate is precluded. This does not imply that all will be informed and expert at the same level, but it entails the equal possibility of information, at least for the members of parliament, and more awareness for the interested public due to the presence of the media and the interweaving of public opinion. The publicity of debate is therefore an essential integrating component, because it affords the chance of perceiving different opinions, arguments, and objections and, in doing so, enriches and articulates the personal point of view of the individuals. Naturally, this has to be completed with a decisional process that applies to the members of parliament and, in several cases and especially in time of elections, to the citizens themselves (Palonen 2017, 147–48).

Then, the politico-practical question connected with the publicity issue is to find adequate instruments in order to promote its implementation. Being an advocate of the representative democracy model and of the enhancement of parliament, Weber intentionally selects the technical tools that can enable the publicity of administration (and, more extended, of the Executive), and he especially selects two of them: the formation of committees and the right of enquiry (Senigaglia 2017, 303ff.). The formation of committees enables the members of parliament to be systematically and enduringly informed about a specific topic, the acquisition of the whole pertinent documentation, and the inspection of records. In this way, committee members are provided with the necessary knowledge and enabled to acquire the required expertise in order to keep up with the technical and highly specialised skills of government and administration. Moreover, the right of inquiry, which Weber conceives of as entailing cross-examination and a duty of accountability, also enables politicians to raise sensitive questions and to compulsorily receive an answer. In Weber's view, this favours the development of political skills and forges leaders oriented towards relevant political issues, thus actuating not demagogically, but professionally and objectively (*sachlich*):

The outwardly quite modest chance which would be produced here in Germany by having parliamentary committees which cooperated with the administration and used the right of enquiry to ensure continuous control of the officials, is the fundamental precondition of all further reforms aimed at enhancing the positive role of parliament as an organ of state. More practically, it is also an indispensable prerequisite if parliament is to become the place where political leaders are selected. [...] Only this school of intensive work with the realities of administration which a politician goes through in the committees of a powerful *working* parliament, and in which he has to prove his worth, turns such an assembly into a place for the selection of politicians who work objectively (as opposed to mere demagogues) (Weber 1917–1918, 490–91; Weber 1994, 180–82).

Interestingly, Weber underlines the importance that both the formation of committees and the right of enquiry entail a minority right, that is, the possibility for minority parties (later to be endowed with precise numerical limits) to

participate in committees and to instate enquiries themselves. This is thought to enhance the chances of representative democracy by also giving minority parties the opportunity to make their voice heard (Berger 2014, 30–31). Simultaneously, he is keen on creating or enhancing the preliminary conditions for a democracy led by political personalities, who can also make use of rhetorical means, but are expected to prove in front of the public their political competence and to found their positions through reasonable arguments and the ability to answer objections. This way of proceeding makes, in his opinion, the distinction between a merely speaking parliament and a *working* one that correspondingly enables politicians to propose well thought out solutions and to demonstrate at the same time sound decision-making. Furthermore, publicity also makes for more supervising power by parliament and more integrity in officialdom. In this sense, Weber does not merely conceive of the relationship between members of parliament and officials as based on opposition, but he also outlines a form of possible and fruitful cooperation. However, this cooperation has to rest on a systematic form of control over the activity of the Executive, and this can only be realised if the principle of publicity is successfully instated by juridical measures guaranteeing it as an irrevocable right of political representation.

Although Weber focuses his attention on the parliamentary system and attributes to the representation of the people the task of securing publicity and to exert control over the executive and administration, he also highlights that publicity is fundamental for improving the political consciousness of the people. The perspective assumed by Weber is that the fact of strengthening and securing publicity in governmental and administrative affairs increases the interest of the people in politics and simultaneously makes them more involved and responsible:

The degree of interest which the people take in the daily routine of the administration stands in direct proportion to the degree of publicity which is attributed to administration. [...] And no particular proof is needed in order to confirm that the degree of political education and maturity of a nation is not denoted through party programmes and electioneering, but through the measures in which this nation cares about the *current administration* of its affairs (Weber 1917a, 274).

Also in the case of people's engagement in politics, systematic attention to political affairs is due to steady information and the possibility of access to real knowledge, and only by substantiating them is political awareness made able to prevail over the transitory emotional engagement in elections and to produce a mature political consciousness in the citizens. As in the case of professional politicians and members of parliament, it is the constant involvement with political affairs, even in their daily routine that provides the individuals with the necessary knowledge and capacity of judgement in relation to the major questions. The capacity to ensure publicity in a constant and thorough way through the openness of political and parliamentary debates to the public as well as the opportunity of their diffusion through the media determines a form of stable connection between the institutions, the representatives and their parties, and the people. A realised democracy needs successful and stable cooperation among these different components, and this can be accomplished only on the basis of comprehensive information and detailed reports accompanied by an institutional as well as a diffusive and media-supported public debate.

Surprisingly, Weber takes a different way concerning foreign affairs and diplomacy. NB: his pleading for objective (*sachlich*) reflective politics is maintained. He asserts that foreign politics must not be directed by hate, revenge and other strong negative emotions. By contrast, it has to be inspired by a rational weighing of pros and cons and also to avoid empty vanity and power presumption, which would only irritate and displease international interlocutors or counterparts (Kirch 2018, 304). However, he proposes an alternative strategy based on meditated and far-sighted consideration, but above all qualified by the capacity to instate, when needed, a prudent and “*silent agency*” (Weber 1916, 165). This attitude of secrecy is unavoidably required for him, when international interweaving and negotiations are in play or also when relevant technical, industrial and military knowledge has to be protected. Trade and military secrets are for Weber admissible, because they concern survival strategies. In the case of diplomacy and delicate negotiations, similarly, private talks and parleys are legitimate and admissible since they concern vital questions for the existence and well-being of states and nations.

An essential argument refers to the knowledge of sensitive data and the possibility and limits of their diffusion. With respect to this, Weber is surely influenced by a general conception that considers national states as the main political actors in the international scene. Additionally, he expresses his standpoint on this topic at the time of the world conflict, which leads him to stress the importance of confidentiality and the necessary processes for the guarantee of its maintenance. From a nowadays perspective, his standpoint naturally raises the question of the legitimacy of keeping back information that could be fundamental for the survival of people or of the planet as a whole. Yet Weber's perspective admits that there is also a right to safeguard sensitive confidential information that could endanger or damage the security or economic development of one nation or a group of states.

Another significant argument is the gap that exists between the option to accept some arrangement in a private and unspectacular way and the official approval and recognition when it is officially declared and made public by the media. From a historical point of view, Weber's considerations make reference to some of the monarch's statements on international issues that had been published with detrimental consequences at the diplomatic level (Weber 1917–1918, 507ff.; Weber 1994, 196ff.). His criticism especially concerns the functionaries who had made them public without previous consultation with experienced politicians. Weber remarks on this subject: “The critical aspect is not in the first place the fact of the utterance, but its publicity. Some of the mentioned utterances could have even provoked, if privately done or privately having come to the notice of other governments, a really positive effect” (Weber 1917a, 286). Thus, there is a noticeable difference if a declaration or a proposal is made behind closed doors or if it is made public and spread by the international press, since it constrains the states and other relevant interlocutors to take for their part an official position, which naturally implies saving face and avoiding endangering one's own international position. This element reveals itself to be particularly relevant in the case of negotiations concerning conflict settlements. In this context, “transparency may raise conformist pressures, strengthen the incentives for public posturing and ‘plebiscitory rhetoric,’ [...] and increase the risk for negotiation breakdown” (de Fine Licht & Naurin 2015, 138). The fact that proposals are made at first in private talks

gives room for more extended possibilities of bargaining, counterweighting and adjustment. Refusals do not assume the dramatic tone that they would acquire if conveyed to the public, and potential objections or suggestions between the lines can be fruitful in order to pursue the dialogue and even to outline a compromise. Also, the details of the bargaining can be treated in a more objective and detached way and can be elaborated in different phases of the negotiations, so that single aspects that could irritate the public or provoke polemical reactions can be mitigated and made less visible and less provocative if they are, for instance, integrated into a comprehensive solution that entails advantages and compensations for all political actors concerned. In synthesis, the procedure of private and repeated talks allows for the possibility of creating a more distended climate and an enduring process of mediation, which facilitates the chances of reaching a balanced and altogether acceptable compromise (Palonen 2019, 264).

Confidentiality is also expressly required, following the Weberian argument, because questions in international affairs often raise intense emotionality. This kind of emotionality affects the politicians, but even more acutely and enduringly, the people. Weber was deeply conscious of the importance of states and nations in contemporary history and specifically of the community of destiny between states or nations and their members (Lebow 2017, 19), since individual lives were strongly influenced by their belongingness. Because of this binding connection and the inevitable consequences conditioning personal destiny and life, themes and arguments concerning international politics affected people in a striking way and provoked intense emotional reactions. According to Weber, even isolated sentences and utterances were capable of kindling awkward debates whose damaging effects lasted over time and impaired relationships among nations.

The high emotional impact of international affairs therefore provided fuel for a demagogic turn in politics. As Weber remarked, the content was not the main problem, but the misuse and sensationalism that often accompanied it. In international matters, therefore, Weber was more critical of the uncontrolled diffusion in the media and the press. While they exerted a primary role in educating the public and informing it about internal affairs, the echo produced by them in international matters and the chain of reactions installed, especially when using them demagogically, was counterproductive for the peaceful living together of the nations and the efforts of diplomacy. Thus, Weber did not hesitate about proposing some limits concerning the diffusion in the media of state authorities' utterances of international relevance, which had to be for him inexorably complied with. However, he was at the same time aware that blocking the diffusion in matters that concerned more states could not be an efficacious means in the long run, since the international press was not to be supervised and held back. Thus, it was more realistic and appropriate to ascertain preventive instruments that could be effectively used in order to prevent unwanted tensions and escalation.

His politico-technical proposal essentially consisted of creating a restricted counselling organ (Mommesen 2004, 192) that had to be at the disposal of the German Kaiser, who was also the Prussian king (at the time the political set-up was a monarchic system), and of the prime minister. Weber argued that such a little council was unrenounceable in time of war, and useful and recommendable also in time of peace, although he partly criticised the specific criteria used at the time to form the "Seven Man Committee" in that they embraced all main political positions without excluding the extreme ones. Regardless of the persisting doubts, he stated:

At any rate, only a small committee bound by the rule of confidentiality can *prepare* truly *political* decisions in a highly charged situation. For the duration of the war, it was perhaps appropriate to create this committee which brought together representatives of *all* the major parties and representatives of the government. In peacetime, too, it could perhaps be useful to consult party representatives of *all* major parties and representatives of the government (Weber 1917–1918, 493; Weber 1994, 183).

However, Weber was seeking a more effective and empowered organ, for instance, a kind of *state council*, with politicians belonging to the governing majority and endowed with decisional power, or at least with the faculty of being entitled to exert it through a party council that could assemble and take decisions in a very short time. He admitted the possibility that experts could be included, but he insisted on the necessity to maintain the small number in order to let the council be rapidly operational and capable of making decisions. Fundamentally, it had to be formed by politicians provided with experience and willing to treat questions in an objective and responsible way, by simultaneously respecting the item of confidentiality. The main task that Weber ascribed to this council was to weigh up in advance official position statements concerning foreign politics and foreign countries; additionally, it had to exert a counselling function for the declarations made by the members of government and officials with institutional high appointments. A clever and reflected agency, and especially a well-pondered form of utterance, were for him ineluctable premises for successful international interweaving and entailed an indispensable component of confidentiality and prudence.

## CRITERIA REGULATING THE RECOURSE TO CONFIDENTIALITY

Although Weber advocates the necessity of confidentiality and the avoidance of publicity for questions regarding delicate international affairs, he simultaneously focuses his attention on the issues of avoiding secretiveness and arbitrariness underpinned by secrecy. Therefore, he also adduces some orienting criteria that should help regulate confidentiality and reduce the possibility of its abuse.

First of all, he refers to an ethical attitude concerning politicians, which recalls the later ethic of responsibility formulated as an essential basis for the profession of politics. In an article of January 1918 on “International situation and foreign policy,” he strikingly states: “Anyone who speaks about foreign policy, has the duty of the *ethical self-discipline* and of the *sense of measure* (*Augenmaß*)” (Weber 1918, 417). NB: in his well-known text on *The Profession and Vocation of Politics* of 1919, Weber will define the three fundamental qualities for a professional politician (and a possible leader) as follows: passion for the cause, sense of responsibility, and sense of measure (Weber 1919a, 227). This shows that, also before expressly conceiving of an ethic of politics, Weber was not unaware of the importance of ethical behaviour in a sphere that he nevertheless considered as directed by dominance and will to power. The duty of ethical self-discipline therefore means once more to avoid emotional reactions as well as a demagogic use of political contents and shifts the focus to a politics of contents, centred on real and concrete interests and bent on the safety and well-being of the nation (Müller 2007, 222–23). This implies the capacity to control one’s

immediate impulses and, by contrast, a reflective attitude weighing pros and cons. In this reflective procedure, the sense of measure suggests the attitude to be taken in a more conscious way, since it stresses the capacity of distancing, the consideration of alternatives, and the judgement on the appropriateness of the position to be taken in public.

Beyond the personal attitude to be taken by the politicians themselves, it is also necessary to specifically consider the contents of the questions at play. With respect to this, Weber formulates a general criterion of judgement, which was originally used by him to define which contents the administration was not authorised to keep secret. Nevertheless, this criterion can also apply to questions concerning international affairs (previously mentioned by Weber himself):

In every situation in which a very particular objective reason for secrecy does not exist and cannot be substantiated, it must be consequentially required, as the most fundamental claim of all administrative supervision, the *publicity* of the administration (Weber 1917a, 273).

Translated into the language and context of international affairs, this means that confidentiality has to be founded on reasons and has to be capable of justification if it is questioned by competent authorities or institutions and, in a later moment, also by the public. Thus, confidentiality is subject to a process of legitimization, which has to be proved with arguments and reasonable motivations. If the reasons adduced do not suffice and they show some inconsistency or unsoundness, secrecy is not justified any longer and has to be removed. Weber does not specify which arguments can be used that stand for or against publicity, but it is not very difficult to evince some examples from the context of his discourse. For instance, a piece of information about national security, which could earnestly endanger the safety of the population and create hardly calculable risks for their physical integrity, could be temporarily held back (this does not exclude the necessity of its adjustment to the existing rules). By contrast, the perception that secrecy about sensitive data could create tensions and complicate international relationships in the future would furnish strong support and a good argument for the idea that the issue has to be made public, or at least other nations have to be informed.

Regardless of the decisions that can be taken in one or the other direction, Weber stays firm about one specific clause: parliament has to be informed and to co-author in some form the decision (Palonen 2022, 121). Certainly, if delicate international questions are at stake, this cannot always be a matter of the plenary assembly and of open debates, since this would be equivalent to providing the full publicity of the affairs. In this sense, Weber rather refers to the existence of a specific committee or to the institution of an appropriate new one, in which confidential international affairs have to be treated and whose members are bound to the constraint of secrecy (and, in Weber's view, punishable if they transgress their obligation). In this way, Weber ensures the issue of representative democracy by conferring on representatives elected by the people the function of supervising and accepting or refusing the decisions taken by the government. This can be considered as a form of sharing responsibility between government and parliament, which partly relieves the executive of its responsibility, but it is also an occasion for guaranteeing legality and correctness by ensuring a form of external and independent survey (Brückler 2016, 56). Also in this case, Weber thinks of a committee of politicians with expertise about international affairs, or alternatively of representatives who are enabled through the right of inspection



of records, access to the pertinent documentation, the right of enquiry and cross-interrogation to acquire by practice the necessary knowledge. By being at the same time members of a specific committee and representatives belonging as a rule to different parties, the commissioners exert a fundamental role in connecting state institutions, representative organs, parties, and people. They represent an instance of democracy, by letting technical expertise and independent decision, unity of the state and the pluralism of positions converge with each other. Through their relation with the parties represented in parliament, they can also contribute to helping political decisions without exposing it to emotional and demagogical fluctuations (Llanque 2000, 258).

In relation to international affairs, this secures a more reflected and considered judgement on the part of the single nations, but it does not yet provide criteria to be applied to negotiations and parleys as such. In this specific topic, Weber expresses a further criterion concerning agency in international affairs, which differentiates between the diverse phases of their development.

The view, widespread in democratic circles, that *conducting things in public*, particularly diplomacy, is a panacea and above all, one which will always operate in favour of peace, can be misleading when expressed in such general terms. It has some justification for final *statements* of a standpoint which has been considered carefully in advance. As long as states are in competition with one another, there is as little justification for publicising the deliberations *themselves* as there is in the case of competing industries. In direct contrast to questions of domestic administration, making things public at this stage can seriously *interfere* with the *objectivity* and unprejudiced character of current deliberations, thus actually endangering or preventing peace (Weber 1917–1918, 496–97; Weber 1994, 186).

In his statement, Weber suggests that there is a neat distinction between proceeding with negotiations and their final result. This process concerns at first the definition of the specific positions of the political actors concerned by separating the course of their formation from their official political utterance and position, but it can also apply to the different phases of negotiations. When negotiations and deliberations are in progress, private talks and parleys can help to highlight the different positions, make claims more understandable, and also define priorities and willingness to a possible compromise. All these aspects are not necessarily fixed in advance, and the criterion of confidentiality allows for more flexibility and makes more room for mediation. However, when negotiations come to an end, they have to become stable and reliable, and they need an official frame and publicity as a form of guarantee. Publicity then contributes to their implementation and also allows for an open debate, which can entail criticism and pointing to possible deficits and mistakes.

## DOES WEBER'S STANDPOINT CONTRAVENE KANT'S ARGUMENT FOR PUBLICITY?

In his short, but outstanding work, *Toward Perpetual Peace*, Kant pleads for the paramount significance of complying with the principle of publicity, especially in international affairs. Indeed, Kant pursues a different objective from Weber, since he depicts the general conditions for a possible future world peace, whereas Weber writes his remarks while experiencing the world war and the lasting conflict among

nations. Nonetheless, the criteria that Kant proposes claim general validity, and therefore this allows confronting them with Weber's statements.

Already in the first preliminary article, Kant mentions secrecy as a negative quality hindering peace: "No peace settlement which secretly reserves issues for a future war shall be considered valid" (Kant 1795, 5; Kant, 2006, 67). The word "secretly" refers to the unworthy and therefore unspeakable intent of not respecting the official peace settlement and of using it only with the purpose to gain an immediate or future advantage from it. The impossibility to make this intent public has to do with the secret intention to deceive one or more political actors concerned, and it therefore makes every treaty or agreement *de facto* void.

In the final part of the work, Kant returns to the issue of publicity and explains that the form of publicity is fundamental in order to guarantee justice and to secure the validity of the right itself, which according to Kant, rests on justice. The principle of publicity rises in rank to the transcendental formula of public right, for it establishes what can be judged as consistent with the concept of right on principle. Kant expresses it as follows:

All actions that affect the rights of other human beings, the maxims of which are incompatible with publicity, are unjust (Kant 1795, 93; Kant 2006, 104).

Indeed, Kant's formula concerns not the simple actions as such, but the maxims that inspire them. Thus, it is not an individual circumstance that is here at play, but the rule that stands behind it and which is expected to scrutinise and legitimate the motivation leading to action; by contrast, its unfulfillment shows the impossibility to demonstrate that the maxim was inspired by justice, or at least, to say it with a less substantial word, by correctness. In effect, warns Kant, this principle can only be used in a negative form, which implies that the possibility to make the maxim public does not necessarily entail its correspondence and consistency with the right. Yet the negative form makes it applicable not only in the sphere of morals, but also in that of right, since it defines a limit that should not be exceeded and whose violation legitimates the resistance of others:

This principle is to be understood as being not only *ethical* (as belonging to the doctrine of virtue), but also *juridical* (as concerning the right of humans). If I may not *utter* my maxim explicitly without thereby thwarting my own aim, if it must rather be *kept secret* if it is to succeed, if I cannot *admit it publicly* without thereby inevitably provoking the resistance of all others to my plan, then the necessary and universal and hence *a priori* understandable opposition to me can be due to nothing other than injustice with which my maxim threatens everyone (Kant 1795, 93–94; Kant 2006, 104–05).

Hereby Kant also adduces a strong argument to the issue of publicity with regard to international affairs, since he demonstrates that the impossibility of the publicity of the maxim used does not simply invalidate the moral intention of the subject, who in this case could appeal to a condition of force majeure or to state reason, but to the condition of right, which pertains to the other subjects as such. In the case of a contract or an argument, the violation of one or more rights of the others and the infringement itself of the conditions declared represent a violation of the elements

that make arrangements valid and applicable. The impossibility to manifest one's own intent or maxim indicates that the basic conditions are already violated, at least in the intention, since the contract or agreement is not accepted in its fundamental of being an official declaration concerning future agency and valid for all.

Indeed, Kant also attributes a positive function to the principle of publicity, when this is considered as a necessary instrument in order to reach a beneficial aim or condition being advantageous for all. In its positive significance, publicity is a necessary and useful as well as powerful means for reaching an aim that demonstrates through its usability its validity, and this aim is explicitly political (Keienburg 2011, 26–27); however, its fulfilment is not compelling in the sense of a requirement complying with the right and is rather entrusted to the performance of a good will pursuing a common or universal interest. The positive principle says:

“All maxims that *require* publicity (in order that they not miss their aim) are in agreement with both politics and right” (Kant 1795, 103; Kant 2006, 109).

Kant also gives an explanation concerning this statement:

For if they can attain their end only when that end is made public, then they must also conform to the general end of the public (happiness), and it is the proper task of politics to attain this harmony (to make the population satisfied with its condition). But if this end can be reached *only* through publicity, that is, by dispelling all mistrust toward the maxims of politics, then these maxims must also be in harmony with the right of the public, for it is in public right alone that the ends of everyone can be unified (Kant 1795, 103–04; Kant 2006, 109).

Kant postpones the analysis of the positive principle to a later moment. However, the fact of imagining these general aims is not difficult. For instance, the safeguard of the planet, peace and the overcoming of poverty are general and common aims, and it is true that they need publicity and a general effort in order to be promoted. The problem is nevertheless that their realisation or even their promotion is not feasible without requiring sacrifices, and that this necessary condition touches on conflicting or at least diverging interests.

From this vantage point, Weber presents a much more disenchanted and gloomy position, also due to the external influence of the war. Does he, for that reason, really negate Kant's assessment of publicity? In the sphere of domestic affairs, he clearly advocates the existence of publicity as an indispensable means of survey, which helps to improve correctness and to engage people in politics, increasing their interest and their chance of being better informed and of formulating a reflected judgement, as Kant's principle entails (Deligiorgi 2002, 148). Concerning international affairs, his pleading for confidentiality is rather engendered by the preoccupation that a too emotional reaction or a demagogic misuse could impair an objective analysis of the state of things and also create useless and damaging tensions among the nations, and does not entail the intent of cheating the others. In this sense, Weber does not suggest entering into negotiations or making agreements with the intention to invalidate them in a later and more self-advantageous period of time. After the end of the war, he will also criticise mobilisation while negotiations to prevent the war are still taking place (Weber 1919b, 184). Thus, he does not counsel to negotiate or to

subscribe to arrangements with a backhanded intent. Also, his advice of conducting private talks and parleys in the course of the negotiations concerns the circumstance of their implementation and not the maxims that orient their actuation. This allows him to admit, for these talks, a maxim inspired by fairness, or at least one where fair behaviour can be distinguished and separated from an unfair one. For instance, it could be said that private talks and parleys can be allowed and promoted if and as long as their existence is led by the intention of facilitating fair agreements, by giving more room to bargaining, exchange of views, and better knowledge about the priorities of the counterpart, and is to be blamed if it is instated with the will of humiliating, exerting pressure or bringing the other into line. At any rate, Weber's clear distinction between the preparatory phase and the final arrangement, where the first should be confidential and the second, on the contrary, public and universally known, observes Kant's formula that what is incompatible with publicity cannot be just or correct or fair, and it implies that the arrangement officially decided has to be made public and therefore made the object of possible criticism and judged by the public (Lipping 2020, 121). Rather, the difference between Kant and Weber concerns the possibility of reaching positive results by means of publicity in terms of universal happiness. As already mentioned, Weber is more sceptical about this subject, and he tends more to stress the conflictive interests that are defended by different nations than to engage in the perspective of convergent and general positive issues.

## DOES WEBER'S CONFIDENTIALITY INFRINGE THE CLAIMS OF HABERMAS' COMMUNICATION THEORY?

As is immediately evident, international affairs and especially diplomacy are based on communication. This does not imply denying the relations of power, which play an indisputable role in international relationships, but recognising that they are accompanied by and uttered through language even in their most conflicting moments (one thinks of the rhetoric of war). Habermas' theory of communication presents the advantage of not ignoring the possible aspects of power entailed in linguistic acts, although perceiving them as derived and not original use of communicative forms. In this sense, Habermas distinguishes between strategic action, in which language is subjected to merely instrumental use, and communicative action. The strategic actor deceives about his or her purposes and makes an instrumental use of language and also of other people in order to reach the wanted results. However, argues Habermas, this use of language (and people) is not its fundamental function, since, in everyday interweaving, language is primarily used to communicate with other people and to interact with them. By analysing the basic aspects of communication in its unsophisticated form, Habermas points out four universal validity claims that pertain to it: comprehensibility, truth, rightness, and veracity (Habermas 1984, 98–99; Habermas 1988, 148–49). As a matter of fact, “comprehensibility” entails a more substantial and general issue, since it concerns the reciprocal effort to understand and to be understood, which characterises the possibility itself to instate a communication. The other three claims are more specific: “truth” entails the communication of true (at least according to the knowledge of the moment) content, “rightness” refers to the respect of the existing social rules, and “veracity” concerns the personal attitude of the speaker holding him or her back from deceit. It is important to note that incomprehension, false assertions, mistakes, lies and deceit are not excluded, but traced back to a deviation from original genuine

communication. Furthermore, communication in a basic everyday sense entails significant aspects such as equality of position (all are equally entitled to speak and to listen) and a cooperative attitude (the attempt to reciprocally understand each other) aiming at reaching a consensus (at least about the meaning of the communicative, locutionary, as well as illocutionary, tools to be used). Habermas infers from these considerations that only the communicative model of action presupposes language as a medium of unreduced comprehension, in which speakers and listeners “refer simultaneously to things in the objective, social, and subjective worlds in order to negotiate common definitions of the situation” (Habermas 1984, 95; Habermas 1988, 142). The participants in the process of communication are conceived of as preserved from asymmetries and reservations, at least as a normative ideal. Although they are inscribed in a cooperative interaction, they also maintain their individual perspective and their particular sphere of interests: “Their participation in cooperative processes of interpretation serves to establish a consensus on the basis of which they can coordinate their plans of action and achieve their aims” (Habermas 1984, 113–14; Habermas 1988, 167). The basis for instating a process of communication that has to resolve controversial questions is then the principle of discourse ethics (D), which says:

Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as *participants in a practical discourse* (Habermas 1983, 76; Habermas 1990, 66).

Valid norms are only the ones that are accepted by all concerned, and in the case of conflict, the debate takes the form of a cooperative effort based on the proposition and discussion of founded arguments, when the participants are all equally entitled to make their proposals, to justify them by the use of arguments, and to make objections in the case of dissent. The acceptance of this kind of debate does not rest on the specific contents, but on the guarantee that the participants are ready to (at least) partially redeem and modify their assessments, when valid arguments are presented. In the special case of agreements and contracts, the willingness to incur into obligations has to be “symmetrical, holding for both parties” (Habermas 1983, 69; Habermas 1990, 59) or for all parties affected, thus confirming the equality of position and consideration of all participants.

The process depicted by Habermas for ethical controversies is further developed and specified in relation to political questions. The principle of discourse ethic is reformulated as a principle of democracy, in which it is determined how the discourse about political affairs “can be institutionalised, namely, through a system of rights that secures for each person an equal participation in a process of legislation whose communicative presuppositions are guaranteed to begin with” (Habermas 1994, 142; Habermas 1996, 110). In the political sphere, the aspect of guarantee furnished by the rights becomes fundamental and confers on the process of communication an institutionalised frame, although this does not exclude that informal forums take place and integrate the officially institutionalised debate (Breitenband 2019, 238). The criteria of participation do not differ with respect to the status of the participants, but they refer in the norm to a more concrete and restricted circle of participants, since the number of people concerned varies depending on the questions; furthermore, political issues are often more circumstantial and specific than moral ones. Moreover, Habermas admits that in the sphere of politics, interests are conflictual and cannot be solved only by attaining consensus, but rather through bargaining and searching for compromises. Yet also in this case, negotiations can

be successful only if there is a willingness to cooperate among the participants. However, this does not necessarily imply moral commitment, but all the same the fairness which resides in the equality of chances, since relations of power continue to be present and cannot be annulled, but this should not impede that the different participants possess the chance to defend their interests and to bargain some significant results. Habermas specifies:

The negotiation of compromises should follow procedures that provide all the interested parties with an equal opportunity for participation and an equal opportunity to influence one another during the actual bargaining, so that all the affected interests can come into play and have equal chances of prevailing. To the extent that these conditions are met, there are grounds for presuming that negotiated agreements are fair (Habermas 1994, 205–06; Habermas 1996, 166–67).

Transferred into international affairs, this would signify that all concerned (countries, nations, and other actors) should have the chance to participate, to explain their point of view, and to be taken into account. This should happen in an institutionalised frame (Lundestad & Koch Michalsen 2011), although complementary informal forums are not excluded. According to Habermas, arguing and bargaining are both used in international affairs, and power relations play a more relevant role, but they nevertheless require communicative criteria and well-founded arguments in order to be implemented (Habermas 2007, 422). Therefore, they can be considered as a border case of communicative processes entailing strategic action, but being still subject to the principles of communication as a rule (Habermas 2007, 423–24). In order to strengthen the process of communication and democratic deliberation in international affairs, Habermas also outlines a post-national order based on supranational and transnational institutions, yet avoiding the formation of a world state (Habermas 1998; Habermas 2004).

If Weber's position on international affairs is judged in comparison with Habermas' theory of communication and its peculiar extension to politics, it can be clearly specified in advance that Weber does not stress in the same way the aspect of communication, although he criticises demagogic utterances and emphasises the fundamental significance of parliamentary debate. As a matter of fact, Weber underlines more decisively the process of decision-making and the key-role of leadership (Llanque 2000, 248), while Habermas rather points to a cooperative process of deliberation (Senigaglia 2019, 223). However, Weber himself does not subscribe to a merely strategic and instrumental use of power over other people, and he is also a convinced advocate of a politics qualified by clarity, objectivity, the correctness of the procedures and the sincerity of the declarations. What rather distinguishes Weber from Habermas, is his insistence on the relations of power and his conferring on the political leaders more personal decision-making (although associated with accountability), yet seeing in democracy the chance to control leaders and to vote them out of office, if they have lost consensus. In this sense, it can be affirmed that the right of enquiry and cross-interrogation represents a way to make politics more communicable, although the method chosen tends to be controversial rather than cooperative and keen on a converging consensus (Palonen 2010, 177).

In relation to international affairs, Weber was also sensitive to the criteria of fairness and prudence. It is sufficient to mention that during the war he pleaded for a negotiated peace (*Verständigungsfrieden*) (Weber 1917b, 726–27), and this implied

the perspective of talks including all political actors concerned (Palonen 2019, 264). Once again, while Habermas follows the strategy of debates qualified by publicity, Weber preferred a mediation phase through private talks. This did not exclude the possibility to give the chance to all political subjects to explain their position and to represent their interests. On the contrary, the preliminary form of confidentiality was intended by Weber to be a more adequate form to express the different positions and to enable a fairer process of weighing and bargaining. On the other hand, the existence of pertinent parliamentary committees had the task to ensure the interchange with the representative institutions and to put a stop to arbitrary decisions by the existing leadership. And the publicity concerning official positions and the final negotiations of the treaties was meant to give room to the public debate, once the preliminary phase had laid the foundations.

## CONCLUSION

If it is true that Weber reevaluates confidentiality at the level of international affairs, it has nevertheless to be recognised that this does not signify a rough contraposition between the criteria respectively qualifying internal and foreign politics. Also in the latter one, in effect, Weber is interested in instating an objective and reasonable politics able to by-pass emotionality and the demagogic misuse of strong sentiments. Thus, public debate and the publicity of administration in domestic politics and secrecy in international negotiations pursue in different ways the same objective of attaining a more reflected and equilibrated decisional process. Confidentiality and silent agency in foreign affairs, at least in Weber's understanding, are affirmed with the intention of actuating a more reflected international interweaving mediated by diplomacy and possibly promoting a policy of distension. Also, the criteria and expedients that are conceived of in order to regulate confidentiality demonstrate the intention of improving international relations. In effect, the idea of a counselling organ discussing in advance the opportunity of momentous declarations, the acceptance of secrecy only in accordance with substantial and justifiable reasons to be presented later to the public, and the distinction between the preliminary phase of international negotiations, which can or should be confidential, and the late phase, which has to be conveyable to the public, meet the core of that intention. The distinction between these phases and the fact that Weber admits confidentiality for circumstances and not for maxims appear to safeguard Kant's formula of publicity, although they reveal a more disenchanting consideration of politics on Weber's part and less confidence in a common and convergent human aim of happiness. Weber also shows himself to recognise the importance of increased communication in politics and to avoid a merely strategic use of people and nations, still preferring a more controversial use of the debate that distinguishes his position from that of Habermas. In Weber's view, however, confidentiality does not impair the chances of a fair communication, but enhances the possibility to consider all interests at play in a process of negotiations. In this sense, Weber does not disown the possibility of obtaining better compromises by means of communication, but he underlines the importance of also supporting it with private and confidential talks in the display of its working process.

## COMPETING INTERESTS

The author has no competing interests to declare.

## AUTHOR AFFILIATIONS

Cristiana Senigaglia  [orcid.org/0000-0002-8621-6448](https://orcid.org/0000-0002-8621-6448)

University of Passau, Geistes- und Kulturwissenschaftliche Fakultät, Innstr. 40, 94032 Passau, DE

Senigaglia  
Redescriptions: Political  
Thought, Conceptual  
History and Feminist  
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