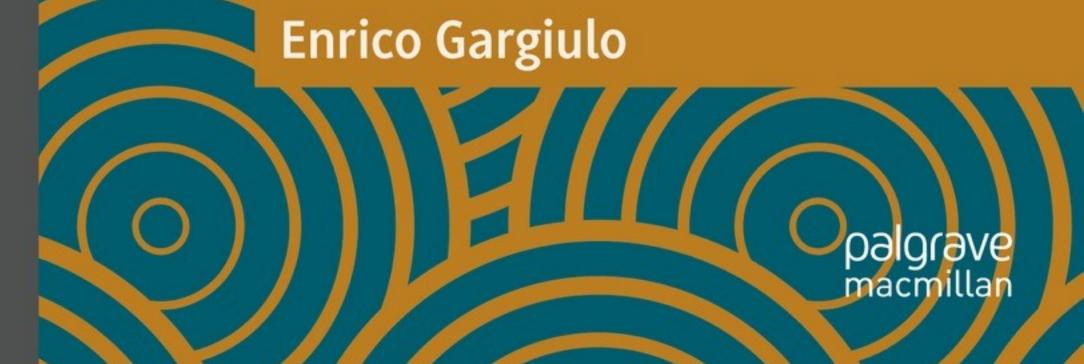# Protocols as a Tool for Government

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INTRODUCTION

Protocols are everywhere. At bottom, many of the things we do in our lives are regulated, more or less explicitly, by some protocol or other. Whether or not we realise it, we live in a world of protocols. The Covid-19 pandemic has shown this unequivocally. But the spread of protocollary devices, especially in certain professional fields, is not totally new.

Protocols are strange objects, apparently easy to define but actually hard to capture in all their nuances and implications. The word 'protocol' has ancient origins and various meanings, which have frequently overlapped over the course of history. At the same time, different items called 'protocols' have existed, and their various paths have often crossed.

This book aims to draw a genealogy of the concept of 'protocol' and its various meanings. By showing the different semantic paths taken by this one term and the stories of the diverse items which share an identical name, this book seeks to emphasise the main function of protocols in the contemporary world: namely, law-like devices which regulate delicate and strategic fields in society. Protocols, as will be shown, are employed as flexible and informal tools of government, which are particularly suitable to managing emergency and crisis situations, as well as administering ordinary ones. They allow the maintenance of a certain degree of centralisation of power in, among other places, organisational and political environments, which appear to be highly decentralised. Moreover, they make it possible for political actors to delegate to experts not only the concrete task of drafting protocols but also the risk of being criticised for them. Protocols, therefore, are government devices and useful political

shields from the perspective of decision-makers, and resources, as well as constraints or even inconveniences, from the point of view of the technical actors who write and apply them.

My interest in the concept of protocol, its meanings and its implications, stems from several paths of research which I have conducted over the last fifteen years (Gargiulo, 2016, 2017, 2021, 2022, 2023). In the variety of their aims, these paths share a common focus: the analysis of specific instruments for government, namely, of opaque, seldom eye-catching, and apparently technical devices such as ordinances, circulars, and manuals. Basically, these tools have caught my attention for a simple reason: they seem banal and harmless, even though they actually play a key role in governing our existence. Among them, protocol began intriguing me several years ago. Besides taking some scattered notes and collecting some initial material, however, I had not actually launched a research project on it—that is, at least, until Covid-19 entered the world scene. When this happened—and more specifically, the moment that an actual pandemic of protocols exploded, following upon the health pandemic—I quickly decided that the time had come to focus on these strange devices.

This is a book of theory. By resorting to the conceptual tools provided by several disciplines—especially, social, political, and legal theory, and the history of ideas—it aims to grasp the nature of protocols. More specifically, this book focuses on a certain political use of these devices and its implications. To this end, it tries to follow different semantic paths and diverse stories, using the lens of theory to connect a variety of different elements and to light up new paths of understanding. In order to give more substance to theory and to put it to work, it analyses the use of protocols in certain professional fields. In this way, it resorts to ongoing research on the role of protocollary device in medicine and schooling. This does not mean, however, that the book has the ambition of being an innovative empirical study on these topics. Rather, it aspires to provide the reader with a new and systematic look at a device that is powerfully—albeit often quietly and invisibly—affecting our lives. For this reason, this book could be of interest to scholars who study public policies and who are, more specifically, focused on governmentality, power, discretion, and the government of emergency. It is therefore addressed to researchers of sociology, theoretical and political philosophy, political theory, theory of law, science of administration, and political science. Furthermore, it could

also intrigue—at least, I sincerely hope it will intrigue—lawyers, political actors, and political activists, as well as students and laypersons who are seriously concerned about the legal and administrative means through which their rights are restricted but, at the same time, who are reluctant to yield to the siren call of disinformation and conspiracy theories.

The book is structured as follows. The first chapter is focused on the historical origins of the word 'protocol' and its various meanings. It begins by drafting a genealogy of the various items that have been called 'protocols', it goes on to propose a typology of the varieties of protocols, and it ends with an analysis of the functions of protocols. The second chapter stresses the ways protocols are meant to be, and are, employed as governing devices. A section aimed at providing an analytics of policy instruments, and hence at situating protocols within them, is followed by another section which shows the role of protocols within capitalism. In the conclusion to this part, the various nuances and characteristics of the power of protocols are discussed. The third chapter deals with protocol as a method for managing many aspects of social life. An illustration of the politics of protocols is followed by some considerations on the use of these devices within a crisis and emergency scenario, with specific regard to the field of medicine and with some references to the Italian case. The last section focuses on the dilemmas presented by protocols—namely, on the more controversial aspects of these devices, especially in terms of professional autonomy and legitimation and with regard to the deeper implications of their use within the sphere of production and, more generally, society overall.

Protocol: The Word and the Concepts

Abstract This chapter draws a genealogy of the word 'protocol' and its various meanings. It shows that this word, since its origins, has meant both a material object and the function of certifying the authenticity of something or someone. A typology of the varieties of protocols made of five types is then proposed, which shows that the different items called 'protocols' historically appear as alternative expressions of normative power. In order to grasp these expressions and their implications, the ways protocols regulate several spheres of social life are explained in their main features. As will emerge, the 'essence' of the function of protocollary devices is basically made of three actions: formalising, standardising, and certifying.

Keywords Normative power • Formalisation • Standardisation • Certification

A GENEALOGY OF PROTOCOL

The word 'protocol' has Greek origins. It is composed of two words—πρῶτος, meaning 'first', and κόλλα, meaning 'to attach'—and refers therefore to the fact that something is attached first. Originally, πρωτόκολλον was the first sheet stuck on a papyrus roll. Basically, this ancient form of writing paper was made of sheets gummed together on the assumption

that the inside of the roll would carry the writing. When two sheets were pasted together, one of them was inevitably slightly taller than the other. Consequently, the joints between the two sheets had to be carefully managed by the manufacturer: since there was usually an overlap of one to two centimetres, the joints were smoothed over after pasting, to the extent that they could not normally be detected on the back of a roll. In an entire papyrus roll, only one sheet—the first—did not obey this rule, being gummed with its inside fibres running vertically: this sheet was called *protocollon*. While it was at first usually left blank to serve as a protection, in Byzantine times it was used for writing the authentication of the document (Turner, 1968, p. 5).

The word 'protocol' crosses its semantic path with those of other terms, which are employed and spread throughout several contexts. Following the unfolding of this path thus means trying—without any pretention of completeness or philological correctness—to grasp what is held in common and what is different between 'protocol' and other terms which are semantically linked to it. It also means to proceed historically through different scientific disciplines and various fields of the modern state administration and the management of public goods and affairs. By retracing this historical and semantic itinerary, the various functions of protocol emerge.

Since its origins, the word 'protocol' has meant both a material object—a *surface of inscription*—and a function—*certifying* the authenticity of something or someone. A protocol therefore is a passive substance and, above all, an active matter, provided with a performative power that can affect various and different things. Historically, it was often official written texts, namely, *documents*, which were certified. According to the Oxford Dictionary, a 'document' is 'an official paper, book or electronic file that gives information about something, or that can be used as evidence or proof of something'. Originating from the Latin term '*documentum*', it stems from the verb '*docere*', meaning 'to teach', and in the course of time has come to mean 'proof' and become widespread within the legal lexicon (Le Goff, 1978, p. 38).

The document has to do with collective memory and its public—and especially legal and political—uses. The meaning of this word is similar to that of the term *monument*, linked with the Indo-European root *men* which denotes one of the fundamental functions of the mind (*mens*): memory (*memini*) (Le Goff, 1978, p. 38). Within the field of historical studies, both the document and the monument are signs of the past. However, while the second appears intentional and voluntaristic—namely,

grounded on the choice of those who decide to make a certain object a sign of the past—the second seems to be more objective: being mainly constituted by a written text, it is stronger as historical testimony or evidence (Le Goff, 1978, p. 39).

The importance of the document is therefore tightly linked to the passage from orality to writing (Ong, 1982), and consequently to a more 'objective' way of recalling the past and preserving information. As stressed by Jack Goody, accumulating documents is an activity which is scarcely possible without writing (Goody, 2000, p. 116). In oral cultures, indeed, there are organising processes at work, but they do not turn into the reorganisation of information by recovering its material and tangible traces: 'What I cannot do is to call up from memory a letter I wrote to a relative some years back and read it through again. Something (a trace?) is lodged in the memory. But that is subject not only to the process of forgetting (you can mislay a document but the contents cannot in a concrete sense be "forgotten"), but also more especially to a process of reorganization' (ibid.). More explicitly, Goody, by recalling the British psychologist Frederic Bartlett, states that

> The oral memory, as we know in others but do not always recognize in ourselves, may be treacherous and recall is selective, often influenced by individual and social pressures. So too custodians may be, selecting among this document and that, acting as gatekeepers of history, but the documents themselves have a material existence outside the individual of a very different kind than the memory of the spoken word; the trace is of another order […]. (Goody, 2000, p. 116)

As it is able to stock memories, the document as an object plays a major role in two fields of human activities which are different but strictly intertwined. The first is *diplomacy*, 'the process of dialogue and negotiations by which states in a system conduct their relations and pursue their purposes by means short of war' (Watson, 1982, p. 11), and where the focus in on the relations between actors more than the actors themselves (Hocking, 2016, p. 67). The second is *diplomatica*, the science which critically studies the authenticity and legitimacy of documents (Pratesi, 1999).

The name of both the disciplines comes from the Latin word *diploma*, which originates from the Greek verb δίπλόω, meaning 'to make something double', and the substantive δίπλωμα, indicating 'an object folded in two'. In classical antiquity, it denoted the documents written on two

small wooden boards hinged together (*diptychs*). Starting from the imperial age, it began to refer to the provisions issued by the senate or the emperor which were aimed at conferring permissions and rights. Basically, *diploma* was a written paper containing details about the task of the mission and conferring some sort of official privilege to its bearer. During the Middle Ages and the humanist period, it indicated written acts issued in solemn form (Pratesi, 1999, p. 13). The word '*diploma*' thus also shifts from simply denoting an object to making reference to a function: that of authenticating a document through an official and formal path.

In the fields of diplomacy and diplomatica, the material item which is able to certify something and/or someone to be authentic or suitable for certain purposes is called 'protocol'. In the Byzantine diplomatic environment, this name was given to 'the first part of the solemn written documents wherein the participants were enumerated' (Wood & Serres, 1970, 18), while in the field of diplomatica the same term denotes the opening formulas that precede the core of the text—invocation, designation of the author and the recipient, greetings, wishes, etc.—and, by extension, its final formulas (more correctly called *escatocollo*; Pratesi, 1999, p. 74). Again, protocol is an item which likewise certifies the authenticity of the role played by specific actors.

The shift from an *object* to a *function* is also evident in the field of public administration. With the transition from the Middle to the Modern Age, written texts have acquired great importance. Specifically, the functioning of modern states has gradually come to hinge on documents and their systematic *registration*, namely, the act of producing a written *record* (Breckenridge & Szreter, 2012). In medieval European history, *registrum*—a Latin word coming from *regesta*, which meant things 'thrown back'—was the act of 'recording, usually in a book or a scroll, of copies of the contents of other important documents such as land-titles or letters' (ibid.). Registers were strategic in medieval England, as they allowed the reproduction and proliferation of documents by copying them into books (Clanchy, 1979, p. 93). But they also played a major role in the territories ruled by Federico II (Groebner, 2007), in Spain and for the Roman Church (McCrank, 1993). These devices 'provided fragile documents a measure of security for posterity' but were also, from the beginning, a way of 'abstracting from a larger body of information' (Breckenridge & Szreter, 2012, p. 4).

Registration produced *selective* lists of things: registers contained only selected letters, and therefore were not a measure of an office's total

output: 'The primary purpose of registration was to retain precedents for future reference, not to keep a record for historians of all letters sent out' (Clanchy, 1979, p. 63). Registering was also meant to authenticate documents. To this end, a major role was played by the *legal act* that turns a mere piece of paper into something that transmits memory and acquires a more official meaning (Carucci, 2005, p. 26). This act had a 'probatory' value: especially after the twelfth century, the lists of documents registered served as tests of authenticity (Clanchy, 1979; McCrank, 1993).

Since the early medieval ages, the registers in which notaries copied the most important acts were called 'protocols' (Carucci, 2005, pp. 29–30). With the Modern Age and the establishment of states, registration has become less selective, and has attempted more to keep track of *all* the information and documents received by a public office. The project of a detailed and all-embracing 'protocolling' was particularly developed after the beginning of the nineteenth century. It was mainly due to Napoleon Bonaparte's idea of changing and renewing the organisation and functioning of the administrative machinery. The establishment of protocol in all the Empire allowed civil servants to streamline the bureaucratic practices that kept track of the movements of incoming and outgoing documents. Basically, the protocol was a device for rationalisation and simplification, as well as for controlling, in terms of efficiency and accuracy, the way civil servants worked. Since then, in the public administrations of many countries, it therefore means three different things: a path or procedure (the act of protocolling); the office appointed for registering documents (the protocol office); and the register itself.

Besides the field of bureaucracy, that of diplomacy (and partially domestic affairs) shows other semantic developments of 'protocol'. Here, this word means codifying and putting into practice the *rules* of *ceremonial* and supervising their application (Wood & Serres, 1970, p. 18). It 'is employed in working out the multiple details of extraordinary ceremonies as well as those of the daily life of diplomatic missions. It governs both negotiation and settlement, and activates international contracts, enhancing, by a display of pomp and splendour, the value attached to them and the respect due their special provisions' (ibid., p. 19).

The initial codification of diplomatic protocol was consolidated in 1815 at the Congress of Vienna (Sofer, 1988, p. 195), and then was reformulated and modified by the international community in 1918 and in the early 1960s (ibid., p. 197). This codification was a necessary step in order to keep up good relations among state actors. Diplomacy is indeed 'the

process of dialogue and negotiations by which states in a system conduct their relations and pursue their purposes by means short of war' (Watson, 1982, p. 11). Thus, a certain degree of regulation and formalisation of the ways the different actors are expected to interact is needed. Diplomacy, for that matter, 'focuses on interactions between actors rather than the actors themselves, which is the focus of foreign policy' (Hocking, 2016, p. 67).

In regulating the ways states relate to each other, protocol acts as a sort of *means of communication*. Being 'the body of customs governing the procedure and choreography of diplomatic intercourse', it 'is a convenient medium for non-verbal signalling. All deviations from ritualized forms and expressions send subtle signals' (Jönsson, 2016, p. 83). Moreover, it contributes to maintaining a certain order. Historically, diplomatic protocol is a product of European culture and tradition and was ratified by the 'reactionary powers' of the Holy Alliance (Sofer, 1988, p. 201). Yet, paradoxically, its rules and its formal, ceremonial, and traditional roles are accepted and espoused also by those states that profess a revolutionary ideology: even new nations have not proposed substantial changes in diplomatic practice (ibid.).

In diplomacy, therefore, protocol has the function of preserving order and hierarchy among states. More precisely, it is meant as 'a form of hierarchical order, the expression of good manners among nations, and just as politeness is one of the basic rules for everyday life, [… protocol] is the set of rules of conduct for governments and their representatives on official and on private occasions' (Wood & Serres, 1970, p. xv). In other words, it is perceived as the gateway to legitimisation and participation in international society (Sofer, 1988, p. 201). Only those actors who are able to 'stay within' specific rules are allowed to be part of an international community.

Diplomacy and consequently domestic affairs thus show an enlargement of the semantic field of protocol, which now includes two new important elements: a detailed *prescription* of how to behave in certain situations; a way of *communicating* among different actors. These elements have become strategic matters of political life, to the extent that even though the political function of things such as glory, acclamations, and doxologies appears to have declined, 'ceremonies, protocols, and liturgies still exist everywhere, and not only where monarchical institutions persist. In receptions and solemn ceremonies, the president of the republic continues to follow protocol rules the observance of which is ensured by special functionaries, and the Roman pontiff continues to sit on the

cathedra Petri or on the *sedia gestatoria* and wears paraments and tiaras, whose meaning is largely lost to the memory of the faithful' (Agamben, 2017, p. 602).

Actually, diplomacy brings more innovations, giving protocol also the meaning of an *agreement* among different states about something to do—for instance, the fulfilment of a certain purpose (Constantinou et al., 2016). The Kyoto Protocol, which was adopted on 11 December 1997 and operationalises the United Nations Framework Convention on Climate Change with the aim of committing industrialised countries and economies to transition to limit and reduce greenhouse gases (GHG) emissions in accordance with agreed individual targets, is quite representative of a form of 'understanding' which links states and pushes them to act in a certain way. More specifically, a protocol attests the achievement of an agreement among states and produces the same legal effects as international conventions and treatises. It is thus a document that is drawn up and signed after a process of conciliation among different interests and standings.

Again, protocol is an object and at the same time a function: that of certifying something. In this case, to be certified is not the validity of a procedure or the originality or appropriateness of an item, but rather the achievement of an agreement. This implies that protocol fosters communication, as it gives not only prescriptions on how to do something and store information but also on how to establish a dialogue and produce the conditions of possibility for actors to change their ideas and positions.

The idea of making two or more subjects agree, clearly expressed by formulas such as 'protocol' or 'memorandum of understanding', is widespread not only at the international but also at the domestic level. Within the field of public policy, a protocol is a form of *negotiation* of interests among different bodies and authorities which is specifically regulated by the law. In Italy, for instance, the '*protocollo d'intesa*' is a device of government belonging to so-called 'negotiated' or 'participated governance' (Rhodes, 1996; Salamon, 2002), which allows public authorities to agree with each other or with private actors in order to reach certain objectives (Barbera, 2001). In France, many cultural policies carried out by the Ministry of Culture and Communication are fulfilled through contracts, conventions, and protocols of agreement between public and private actors (Boltanski & Esquerre, 2017).

The word 'protocol' also has other meanings, which come from different fields of social life and human knowledge. In science, particularly since

the 'scientific revolution' of the seventeenth century, it has had to do with the methodical observation of nature and society. Basically, a protocol is a procedural method in the design and implementation of an experiment (Hinkelmann & Kempthorne, 1994). It initially concerned only natural and physical sciences, but later it spread within social sciences as well (Poovey, 1998). To this regard, William Petty seems to have played a key role: 'as both a founding member of the Royal Society and the architect of political arithmetic, Petty served as a literal go-between, carrying natural philosophical protocols into the exploration of social and economic issues and social and economic concerns into the discussions of the Royal Society' (ibid., p. 94).

In defining what protocol is in the scientific field, the *standardisation* of methods and procedures is a key element. Following a protocol ensures successful replication of results (Selwyn, 1996), and also facilitates *communication* among scientists. Especially within laboratory activities, a standard in behaviours and methods improves the efficacy and efficiency of experiments, as it clarifies roles and functions. In science, therefore, the concept of protocol acquires new meanings. It is no longer a simple procedure but becomes a method to make procedures more standard and, hence, effective and efficient. Moreover, it becomes a sort of procedural *language* through which different professionals are able to relate with one another.

These two dimensions are still more evident if one looks at twentieth-century philosophy of science. According to logical positivism, a protocol is a statement describing immediate experience or perception, which, as such, constitutes the ultimate ground for knowledge. 'Protocol sentences' are propositions 'for which no other protocol sentences are needed' (Sigmund & Hofstadter, 2017, p. 269). They are therefore strategic in linking the level of language with that of empirical observation (Parrini et al., 2003). Basically, a protocol sentence expresses facts; it is conceived as a proposition containing the individual account of a personal experience upon which any following elaboration has to rest (Parrini et al., 2003).

Within the Vienna Circle, however, there was no agreement about the meaning of protocols, to the extent that an 'infamous debate on "protocol sentences"' took place (Sigmund & Hofstadter, 2017). It started when Rudolph Carnap published a paper entitled 'The Physical Language as Universal Language of Science', claiming that all scientific theories were ultimately based on propositions that described facts 'in all their plainness' and which 'needed no further confirmation'. To this proposal, Schlick

replied that this definition seemed circular, while Neurath 'took over and, in a written essay, tried to supply a more precise definition. A protocol sentence is not itself an assertion, but a report on an assertion. It has to contain the exact time of day, and the name of the person reporting' (Sigmund & Hofstadter, 2017, p. 269).

It is not possible here to report all the shades and articulations of the debate. However, the concept of protocol, 'filtered' by logical positivism, appears even more as a way of strictly indicating procedures to follow and, at the same time, as a language allowing communication among people and the reaching of a certain degree of 'objectivity', understood as inter-subjectivity, of knowledge. Otto Neurath, for instance, believed that scientific knowledge 'must be communicable. Science has no room for subjective expressions. Rather, unified science ought to use a "universal slang," so to speak (by which he probably meant jargon or interlingua)' (Sigmund & Hofstadter, 2017, p. 270).

Protocol as a language also plays a key role in the field of information technology. It has to do with the way the Internet is conceived and concretely structured. Specifically, the concept of protocol is at the core of networked computing, being 'a set of recommendations and rules that outline specific technical standards' (Galloway, 2004, p. 6). According to Alexander R. Galloway, the term 'protocol' has slightly changed its meaning with the advent of digital computing. Now, it refers 'to standards governing the implementation of specific technologies' which, like their diplomatic predecessors, establish 'the essential points necessary to enact an agreed-upon standard of action' and 'are vetted out between negotiating parties and then materialized in the real world by large populations of participants (in one case citizens, and in the other computer users)' (Galloway, 2004, p. 7). Yet, in contrast to diplomatic protocols, instead of governing social or political practices, they govern how specific technologies are agreed to, adopted, implemented, and ultimately used by people around the world. What was once a question of consideration and sense is now a question of logic and physics (Galloway, 2004, p. 7).

In order to better illustrate the concept of computer protocols, Galloway uses the highway system as an analogy.

> Many different combinations of roads are available to a person driving from point A to point B. However, en route one is compelled to stop at red lights, stay between the white lines, follow a reasonably direct path, and so on. These conventional rules that govern the set of possible behavior patterns

within a heterogeneous system are what computer scientists call protocol. Thus, protocol is a technique for achieving voluntary regulation within a contingent environment. (Galloway, 2004, p. 7)

In the field of information technology, therefore, protocol is a government device for standardising communication and procedures which is specifically internal to technology and technological systems. This meaning of protocol is quite relevant today, as it allows capturing the complexities of contemporary modes of governing the social and not only machines and programmes.

The same relationship between language and procedures characterises the meaning of protocol in the field of medicine. Here, protocol is a channel of communication among specialists and professionals of various kinds and is also an operational path to follow. Strongly promoted within the approach of *evidence-based medicine*, medical protocols regard the clinic as well as research. They thus regulate how studies have to be conducted or the ways pharmacological or surgical interventions have to be carried out (Berg & Mol, 1998; Timmermans & Berg, 2003).

Varieties of Protocols

Considering protocols as *norms* seems sensible at first glance. However, on closer inspection, this impression appears to deserve a more in-depth analysis, as the word 'norm' has various meanings, each quite different. It is necessary therefore to identify them and try to understand whether or not they fit with the various meanings of protocol.

According to the logician and philosopher of language Georg Henrik von Wright, 'norm', in English as well as in other languages, 'is used in many senses and often with an unclear meaning' (Von Wright, 1963, p. 1). It has several partial synonyms: for instance, 'pattern', 'standard', 'type', 'regulation', 'rule', and 'law'. At first sight, it might seem that the last synonym is able to precisely capture the primary meaning of 'norm'. But this impression, whether true or not, does not in itself help to circumscribe what a norm is. Indeed, following Von Wright's argument, the word 'law' is used in at least three typically different senses: we can speak of *laws of the state*, *laws of nature*, and *laws of logic (and mathematics)* (Von Wright, 1963, p. 2). While the first is clearly *prescriptive*—such laws lay down regulations for the conduct and intercourse of human beings, and as such have no truth-value, because their aim is to influence behaviour—the

second is not. Laws of nature describe the regularities which human beings think they have discovered in the course of nature, and therefore are true or false: nature does not 'obey' them, and hence they are only *descriptive* (Von Wright, 1963, p. 2).

Apparently, the contrast between 'prescriptive' and 'descriptive' can be used for distinguishing norms from non-norms: since they are not prescriptive, laws of nature do not have a normative status. 'Prescriptive' is therefore the attribute most suited to a general characterisation of norms, and consequently a normative discourse is a prescriptive discourse. This distinction, however, is questionable, as 'there are things which we may without hesitation wish to call norms, but to which the attributes "prescriptive" and "descriptive" both appear equally inappropriate' (Von Wright, 1963, p. 3). The 'laws of logic (mathematics)', which in the past were often called the 'laws of thought'—as for instance the 'law of contradiction' or the 'law of excluded middle'—are nor descriptive neither prescriptive. Being a priori statements, they do not describe how people actually think, and at the same time they do not prescribe how 'we *ought to* think and how we *may* and *must not* think' (Von Wright, 1963, p. 4). The laws of logic (mathematics) are rather *rules of a game* as they 'determine which inferences and affirmations are "possible" (correct, legitimate, permitted) in thinking' (Von Wright, 1963, p. 5). Consequently, we say of a person who does not infer according to the rules of logic that she/he infers incorrectly or that she/he does not 'infer' at all.

In short, Von Wright identifies three major groups or types of norms: *rules*, *prescriptions* (or *regulations*), and *directives* (or *technical norms*). The norms of the first kind are internal to a game, namely, to a human activity which is performed according to standardised patterns called 'moves'. Rules determine moves or patterns, giving shape to the game itself and the activity of playing it. Specifically, they determine which are the correct and which are the permitted moves: 'it is understood that moves which are not correct are prohibited to players of the game, and that a move which is the only correct move in a certain situation in the game is obligatory when one is playing the game' (Von Wright, 1963, p. 6).

The norms of the second kind are instead commands or permissions, as they are given by a person who is in a position of authority, to another person who is in the position of a subject. They are therefore given or issued by someone, have their 'source' in the will of a norm-giver; they 'flow' from an authority, and are addressed or directed to some agent or agents (norm—subject[s]) (Von Wright, 1963, p. 11). Basically, subject(s)

are expected to adopt a certain conduct by the authority of a norm. The act of giving a norm is therefore tantamount to the act of manifesting the authority's will to shape subject(s)' behaviours in a certain way. 'Promulgation' is the formal gesture through which the authority manifests its will to the subject(s). Moreover, a sanction or threat of punishment is attached to the norm in order to ensure that the will of the authority is made effective (Von Wright, 1963, p. 9). Laws of a state are clearly the most suitable exemplification of these norms.

Lastly, the norms of the third kind are concerned with the means to be used to attain a certain end. Usually, they are formulated by means of a conditional sentence: its antecedent mentions some desired object, while its consequent refers to something that must (has to, ought to) or must not be done. Technical norms are exemplified by 'directions for use', which presuppose 'that the person who follows the directions aims at the thing (end, result), with a view to the attainment of which those directions are laid down' (Von Wright, 1963, p. 10). According to Von Wright, these norms are neither prescriptive nor descriptive. Their basic content is the practical link between ends and means.

Von Wright identifies then other kinds of norms which somehow fall between two of the aforementioned ones. Between rules and prescriptions, we find *customs*. These are a species of habits, which is to say they are acquired and not innate regularities in individuals' behaviours, dispositions, or tendencies to do similar things on similar occasions or in recurrent circumstances. As social habits, customs are patterns of behaviour that are developed by a community in the course of its history and are imposed on its members rather than being learnt by them individually. In a certain way, customs resemble the regularities of nature. However, they are prescriptive more than descriptive. Nature cannot 'break' its 'laws', insofar as these are meant as deterministic or statistic, while human beings can deviate from their habits and the rules surrounding them. Customs therefore 'are "normlike" in the sense that they influence conduct; they exert a "normative pressure" on the individual members of the community whose customs they are. The existence of this pressure is reflected in the various punitive measures whereby the community reacts to those of its members who do not conform to its customs' (Von Wright, 1963, p. 9). At the same time, customs diverge from prescriptions inasmuch as they are not given by any authority to subjects. If anything, they can be considered as anonymous prescriptions. Moreover, differently for instance to legal norms, customs do not require promulgation by means of

symbolic marks. They are rather 'implicit' prescriptions. Hence, in some respects, customs are more like rules than like prescriptions: they determine, or better 'define', the ways of living characterising a certain community. Consequently, 'a member who does not live in accordance with custom is seldom sought out for punishment in the same way as he who breaks the laws. The awkwardness of his position is more like that of a child who stands aside and does not want to join in the games of his playmates. He becomes a "stranger" to his community rather than an "outlaw"' (Von Wright, 1963, p. 9).

Moral principles fall instead between prescriptions and directives. They share the same obligatory feature of the first but lack a source in some clear authority. At the same time, they are a kind of technical norm for the attainment of certain ends. However, there is no agreement on the nature of these ends: is it the happiness of the individual or the welfare of a community? Hence, according to Von Wright, the peculiarity of moral principles 'is not that they form an autonomous group of their own; it is rather that they have complicated logical affinities to the other main types of norm and to the value-notions of good and evil. To understand the nature of moral norms is therefore not to discover some unique feature in them; it is to survey their complex relationships to a number of other things' (Von Wright, 1963, p. 13).

The last kind of norms identified by Von Wright, *ideal rules*, are concerned not with action but with things that ought to or may or must not be, namely, with being rather than with doing. These norms 'are closely connected with the concept of goodness. The properties which we say a craftsman, administrator, or judge ought to possess are characteristic, not of every craftsman, administrator, or judge, but of a good craftsman, administrator, or judge. The person who has the properties of a good so-and-so in a supreme degree, we often call an ideal so-and-so' (Von Wright, 1963, p. 14). Ideal rules appear to be quite similar to directives, as striving for the ideal resembles the pursuit of an end. However, they involve logic and not a practical link: the qualities which determine the goodness of a human being or an object are not causally but conceptually related to the ideal. As the ideal rules determine a concept, they resemble the rules of a game, even though they do not completely coincide with them.

In light of Von Wright's analysis, protocols appear as norms. More precisely, the various kinds of protocollary items can be considered as different expressions of normative power. Basically, by 'filtering' through Von Wright's typology of norms the meanings of 'protocol' which stem from

the brief genealogy outlined in the previous chapter, it is possible to identify a typology made of five types. A protocol can respectively: (1) prescribe something to someone; (2) allow communication between people or technological devices; (3) have the function of archiving something and its outcome; (4) be a set of operative procedures; and (5) be an agreement among different parts. The different meanings of protocol are clearly distinguishable in analytical terms, but in concrete terms they are interrelated and partially overlapping.

First, a protocol can be *prescriptive* in a social, and often legal, sense. This frequently happens in fields of social life where legal norms *stricto sensu* are quite unclear or even lacking because, given the complexity and sensitivity of certain matters, public decision-makers prefer not to issue them. Instead, they leave wide leeway to practitioners and experts, who put their technical and professional knowledge, namely, their discretionary power, to work. In this way, protocols, while they are theoretically simply called to implement laws and regulations which are too generic and general, de facto replace them. They therefore make existing norms more concrete or act as pseudo-norms which innovate the legal field: even though they are not formally laws, they actually behave as though they were. At the same time, depending on the different fields and matters, the missed application of a protocol has legal—specifically, administrative, civil or penal—consequences. When taken in this way, protocol falls completely within the second group of norms identified by Von Wright: rules or prescriptions. The protocols followed by the medical personnel of psychiatric services when they have to immobilise a person who is perceived and labelled as 'aggressive' and 'threatening' are rigidly prescriptive and have legal implications.

Second, a protocol is a *language*, a *code* allowing *communication* among the members of a professional community or those who belong to different communities. Through it, professionals are able to dialogue by sharing a common way of giving names to things and meanings to words. It contributes to creating standards in language as well as in operational procedures, and works therefore as an educational device which establishes shared knowledge and identity within a professional community or among more several communities (Crabu, 2014, p. 182). Protocol is also a language in a more literal sense. Within information technology and computer science, it is the code through which programmes are written. As such, a protocol is able to link not only people but also technological devices. Moreover, in the philosophical field it is a means of

communication, connecting the level of language with the empirical one. Understood in this way, protocol falls within the first group of norms proposed by Von Wright: namely, that of rules. But, when it has to do with the construction of a shared identity or a common system of professional values, it also resembles customs. Protocols of the second kind therefore in some way furnish prescriptions—which however are anonymous as they are not given by any authority—which are able to influence conduct and exert a 'normative pressure' on the members of a professional community.

Third, a protocol is a *function* which, according to specific legal norms, certifies the validity of an archiving procedure and regulates its legal consequences. It is also the *entity* or structure which is bestowed the task of exercising this function, namely, of 'protocolling'. Finally, it is the *register* where the information is archived. More than a mere plan of action or a procedure, protocol, here, is a 'functional entity'—not by chance, it is often called precisely 'protocol office'—which produces 'objects' of documental and not material nature. Specifically, these are items that owe their character to the fact that they are the outcome of the act of keeping track of all the documentation that enter the administrative space of an institution, that is, the act of 'protocolling' all the mail, e-mails, documents, and papers received by a public administration or a private company. In order to exist, the function of protocolling and its outcomes presupposes the existence of a rigid bureaucratic structure within which the acquisition of the incoming information is meticulously regulated. In Von Wright's terms, protocol as a functional entity seems to fall into directive or technical norms, as it has to do with the link between ends and means: protocolling strives to guarantee the validity of the path through which documents are acquired and conserved. However, as it involves logic and not a practical link, it somehow resembles the ideal rules. It aims to certify the validity of the procedures for archiving items, as well as those of the items which have been archived. It is concerned therefore not only with 'doing' but also with 'being'. Specifically, protocol as a functional entity relates to a certain idea of 'goodness': only the documents which have entered the administrative space in a certain way can be 'protocolled' and certificated as 'good' ones.

Fourth, a protocol is a *set of operations* that must be carried out sequentially. It aims to standardise the courses of action which have to be followed in order to fulfil a certain purpose. In some sense, it constitutes the dynamic and procedural side of prescriptive protocols, as it often strives to fill a legal void within fields of social life where legal regulation is scarce or

absent. Specifically, when laws are lacking or completely missing, protocol as a set of operations gives detailed instructions on how to act. In this way, it 'certifies' the validity of certain actions and provides legitimacy to specific conduct. Theoretically, it should also limit the discretion of professional operators as it draws lines demarcating what is possible and suitable from what is not. For these reasons, protocol as a set of operations seems to relate to the prescriptions proposed by Von Wright: it is conceived, designed, and issued by professional experts to meticulously prescribe how to act in given situations. However, as this kind of protocol stresses the practical link between ends and means rather than the authority from which the instructions come, it better falls within the category of technical norms or directives. Albeit often implicitly, it is formulated by means of a conditional sentence, where the antecedent mentions some desired objective and the consequent refers to what to do (or to avoid doing) to achieve the goal. Moreover, in those fields and situations where the procedures to follow are socially well known even though they are not clearly stated by an authority, protocol as a set of operations resembles customs: it is made of anonymous and implicit prescriptions—like the rules of etiquette—which synthetise the ways of living characterising a certain community.

Fifth, a protocol is an *agreement* among different parts which has contractual value. It is the outcome of a path, more or less conflictual but nonetheless quite formalised, involving different actors. It is widespread in the fields of diplomacy and public law. States are involved in the first case while the second concerns both public and private actors, which converge towards a project or a shared methodology. As an agreement among different parts, this kind of protocol is theoretically conceived as equal and horizontal. The subjects participating in it are—at least theoretically—called to give their autonomous and free contribution to the building of a common view about how to do things or how to pursue certain ends. In Von Wright's terms, protocol as an agreement resembles rules. The public and private actors who participate in the 'game' follow certain moves in order to collectively shape new ones. At the end of the process, the participants have determined which patterns and conduct are correct and valid, and which are not.

Formalising, Standardising, Certifying

The various types of protocols constitute different kinds of norms which play several functions. In order to grasp them, it is necessary to understand, as generally as possible, the 'essence' of the function of protocols, namely, to capture the ways protocols regulate the spheres of social life in which they are employed.

First, protocol, in all its meanings and versions, acts by *formalising*. Within social theory, probably the most precise and complete analysis of formalisation has been provided by Arthur L. Stinchcombe. In *When Formality Works. Authority and Abstraction in Law and Organisation*, he defines formalisation as 'creating an abstraction in such a way that it can be taken as a "fact," so that most people, most of the time, do not have to go behind it' (Stinchcombe, 2001, p. 2). From Stinchcombe's perspective, formalisation is not a single event but a *process*: 'unless formality is seen as active, as a direction of change, one cannot understand how it can grasp a rapidly changing reality' (Stinchcombe, 2001, p. 3). For instance, formalising means creating a socially valid rule such as a law which applies abstract requirements to concrete cases. Formalisation, therefore, 'entails the development of an abstraction of a large amount of concrete data […] arrived at in such a way that further social action […] is governed by that abstraction, without in general going back to the original data' (Stinchcombe, 2001, p. 3).

In providing his definition, Stinchcombe inextricably links two different acts, *formalising* and *abstracting*:

> the best intuition to follow is that formality and formalization have to do with abstraction *so as to preserve what is essential in the substance*. When formalization works well, its purpose then *is the same as* the purpose of all the substance. But it has been transformed into an abstraction (for example, the blueprints […]) so that that substance (say, the client's intentions about a building) can govern the activities of others (contractors and craftsmen and craftswomen). (Stinchcombe, 2001, p. 3)

Basically, therefore, formalisation is an *abstraction*, as it is the act of identifying and isolating, within the complexity of reality, the aspects and features which, from a certain perspective and for a given objective, are considered the most important ones. These aspects and features, as they are abstracted and formalised, are given a specific function, that of staying 'in place of reality' and permitting people to refrain from checking the reality itself: 'it is of the essence of formality that most people most of the time do not have to go behind the formality to the substance, because someone else can be trusted to have done so already and to do so again when necessary' (Stinchcombe, 2001, p. 4).

Formality, therefore, synthesises the substance of things by abstracting from them. It works in a suitable way when it is able to 'replace' substance:

> I think understanding formalization is central to understanding the relation of law, or mathematics, or formal organization to the rest of social life. My argument is that when law (or mathematics, or organization) works, it is the same substance as the rest of social life, but formalized for one purpose or another. (Stinchcombe, 2001, p. 3)

Basically, formalisation allows governance of social action without having to go back to the original data. In so doing, it incorporates a certain degree of *informalisation*, of a particular kind. Indeed, Stinchcombe distinguishes 'the kind of informality that chooses among embedded formalities by a somewhat informal process from anarchical formality that pays no attention to the system. I call this sort of informality "informally embedded formality"' (Stinchcombe, 2001, p. 6). His conception of informality differs therefore from the that spread within classical sociology, which fluctuates between denoting on the one hand 'warm' personal relations and on the other hand corruption and uncontrolled power struggles (Stinchcombe, 2001, p. 5). The informality Stinchcombe talks about is quite the opposite, as it refers to 'loose joints between different kinds of formality' (Stinchcombe, 2001, p. 5). It is often the mixture of alternative formalities: the actors involved in a process have the possibility to choose which path to follow among several possibilities. More specifically, informally embedded formality can take two different forms. The first is a hierarchical form, where the 'superiors' have greater and wider autonomy in deciding how to act by choosing among the courses of action carried out by those who are at lower levels. Stinchcombe exemplifies this by referring to research conducted by Karl Llewellyn in 1960, which shows how 'in

about 9 percent of appeals cases the appeals court decides on the basis, not of the reason for the decision in the precedent, but of a reason in the "other reasons" (*obiter dicta*) given as legitimate in the precedent' (Stinchcombe, 2001, p. 5). This means that, even in the decision to overturn a formality, there is still the 'reasoning that was there in the precedent. The appeals court does not go all the way back to the analysis of raw social life to find the reasons for its decision, but only back to what appeals courts of the past gave as legitimate reasons. But the precedent has mentioned more than one valid reason that applies in cases like the one the precedent decided. Thus the precedent itself is (or at least becomes, in the text of the opinion of an appeals court) a mixture of different formalities' (Stinchcombe, 2001, p. 5). The second kind of informally embedded formality is a division-of-labour form, well exemplified by the building sector. Here, an electrical contractor takes on 'the responsibility of meeting the electrical standards of the building code, of the Underwriters' Laboratories testing of the components, and of the standards of the skill, workmanship, and technical adequacy embedded in the world of electricians, electrical workers' unions, electrical engineers, and electrical contractors' associations' (Stinchcombe, 2001, p. 6). In both the cases, the professional 'authority' of the various actors involved in the process is embedded and not formally governed by a central plan or a hierarchical coordinator, because it is specialised. As such, it can be better embedded in the overall design by letting the professionals located in the various ladders of the hierarchy manage the details. Informality, in other words, resides in the different spheres of professional knowledge, which are autonomous and at the same time incorporated within a formalisation.

According to Stinchcombe, formalisation presupposes a *semantic system* that puts together the desires and intentions of those who, for instance, design a blueprint, a plan or a project, with the understanding and abilities of those who turn it into a concrete thing and with the needs and expectations of those who use its result. Finding an agreement among these different perspectives is not a given. Formality, therefore, tries to level divergencies and flatten difficulties. It 'is a discourse and, as in all discourse, the relation between what a statement means to its issuer and its receiver is problematic' (Stinchcombe, 2001, p. 30). As it is a form of cognition, it 'has to be social—that is, effectively communicated—before putting authority behind it makes it effective in governing of social activity' (Stinchcombe, 2001, p. 30). As it is an abstraction it 'needs to be transmissible (in which we will include understandability and

believability), transparent (or incorruptible by interests and ideologies), and durable (resisting degradation by noise and confusion)' (Stinchcombe, 2001, p. 30). In other words, formalisation is a form of communication.

Within his generally theory of formalisation, Stinchcombe explicitly contemplates protocols. He defines them as 'abstract sequences of actions that govern the overall action' and 'of decision making that go to make up a complete line of action for a given purpose' (Stinchcombe, 2001, p. 52). However, he seems to adhere to a narrow definition of protocol, as he restricts its meaning to that of a procedure and, consequently, does not contemplate other kinds of protocolar devices. Yet other examples of formalisation provided in his work could also be called 'protocols'. At the same time, also the other types of protocolar devices analysed in the former paragraph are examples of formalisation.

A protocol, in all its forms, embeds a decision about what is relevant, essential, and sufficient: to provide prescriptions, to establish rules, to set up procedures, to archive documents, to communicate. All the things that are left out by a protocol are as such considered irrelevant or, in any case, not determining. Those who apply a protocol do not have to consider all the information which it does not contain; that is to say, they need not go behind the form. They are not expected to do this because, if they were, the simplification fostered by the formalisation would be ineffective: protocol would be useless and people should be forced to 'go to the substance'.

A protocol is an 'operative abstraction'. Drawing it up consists in abstracting from reality with the aim of identifying, within a wide set of possible things, those which are the most relevant in order to do something. Depending on what 'to do something' means, abstracting signifies differently. When the objective is the certification of the authenticity of a person, an item, or an act, abstracting is tantamount to selecting those aspects and features which are considered relevant in ascertaining what has to be certified as true or authentic. If the aim is setting a rule or establishing a procedure, abstracting is equivalent to individuating those actions, steps, or tasks which are deemed to be key, the most suitable in regulating a certain field of action. When the need is communication, abstracting results in finding a common language that is able to go beyond linguistic and idiomatic differences.

Drawing up a protocol consists also in formalising actions as well as their outcome. All the five types of protocol identified above express a kind of formalisation. Protocol as a prescription formalises the ways people ought to do something: those who follow it do not have to check, every

time they act, whether they are acting 'rightfully' or not. Protocol as a language formalises the modes of communicating by providing a grammar, a syntax, a list of words, etc. which are suitable and correct, so that they can be used without fear of making mistakes. Protocol as archiving formalises how documents have to be acquired and classified: only when they enter the administrative space of an office in a suitable way are they acceptable for 'protocolling'. Protocol as a procedure formalises a course of action by providing a detailed and sequential list of the things to do in given situations: those who stick with the instructions have no doubts about how to behave. Protocol as an agreement states how to carry out a negotiation between different actors, how they must interact in the various phases of the mediation and when this is positively concluded.

As it formalises actions and their outcomes, the concept of protocol crosses its semantic path with that of *standardisation*. The latter comes from the adjective and noun 'standard', which in turn derives from the French term '*estandart*', meaning 'flag' or 'banner'. According to the *Oxford Concise Dictionary of English Etymology*, a standard formerly meant a 'military or naval ensign' or an 'erect or upright object'. Only later did it become an 'exemplar of measure or weight' or the 'level or degree of quality or achievement'.

Historically, standardisation is strictly linked to the spread of the idea of *Modernity*, which 'can be viewed as a process of emphasizing technological standardization and eliminating other established or culture-based standards' (Krislov, 1997, p. 12). Standardisation 'forms a powerful vestige of modernism lingering in an increasingly postmodern world', as 'the notion that predictability, accountability, and objectivity will follow uniformity belongs to the Enlightenment master narratives promising progress through increased rationality and control' (Timmermans & Berg, 2003, p. 8). This does not mean that prior to modernity standards did not exist, but rather that a modern 'standard setting' has taken place, which 'is characterized not by a change of type of standards, but rather by the specificity of the processes created to prescribe them, and by the multiplicity of standards, their ubiquity, and their formality' (Krislov, 1997, p. 16).

Standards have emerged as one of the hallmarks of rationalisation, as Max Weber has explained when he clearly depicted the rise of the bureaucracy as the ideal typical organisational structure of the modern capitalist state: 'through the abstract, written rules of standards, efficiency and control could be documented across diverse organizations' (Timmermans & Berg, 2003, p. 8). Standards have gained an increasing centrality in

contemporary world (Lampland & Leigh Star, 2009). They generate a strong element of global order, to the extent that living without them would be impossible as 'people and organizations all over the world follow the same standards. Standards facilitate co-ordination and co-operation on a global scale. They create similarity and homogeneity even among people and organizations far apart from one another' (Brunsson & Jacobsson, 2002, p. 2). They imply power, as refer 'to a measure established by authority, customs, or general consent to be used as a point of reference' (Timmermans & Berg, 2003, p. 24) and are 'instruments of control' (Brunsson & Jacobsson, 2002, p. 2). Particularly in the economic field, practically all economic activities are currently framed, whether partly or totally, by standards, which extension is strictly linked to economic globalisation and the transformation of regulatory processes at the international, regional, and national levels (Borraz, 2007, p. 57).

In their analysis of the history and contemporary uses of standards and standardisation, Nils Brunsson and Bengt Jacobsson define 'standards' as specific kinds of rules and 'standardisation' as the production of such rules (Brunsson & Jacobsson, 2002, p. 17). They also distinguish standards from other kinds of rules: norms and directives. While the former are implicit and internalised rules which one follows without having to reflect on them, the latter are more explicit rules, generally in written form, which are generally issued by persons or organisations who possess a formal authority and are often able to combine their decisions with sanctions (Brunsson & Jacobsson, 2002, p. 14). Standards differ from norms and resemble directives as they are explicit and have an evident source, but they also diverge from them as they are supposed to be voluntary: the standardisers do not have access to sanctions against those who do not comply with a standard, which is adhered to, not on the basis of the hierarchical authority or power of the issuing source, but on the basis of whether the standard appeals to the adopters for other reasons (Brunsson & Jacobsson, 2002, p. 15). Brunsson and Jacobsson, moreover, identify other meanings of the terms 'standard' and 'standardisation' than the ones they use, which evoke the idea of similarity and uniformity—what is standardised is supposed to be similar—and specify what is proper behaviour— the standard way of doing things is often understood not only as the most usual way, but also as the generally accepted, normal, and even best way (Brunsson & Jacobsson, 2002, pp. 16–17). However, they 'question the notion that standardisation always leads to uniformity and that standards

are, or should be, accepted as defining appropriate behaviour' (Brunsson & Jacobsson, 2002, p. 17).

The terms used by Brunsson and Jacobsson partially diverge from those adopted by Von Wright. For instance, while according to the first authors 'norm' is a *species* of the *genus* 'rule', for the second author it is the contrary—rule is a specific kind of norm. Moreover, Brunsson and Jacobsson consider directives as prescriptions given by an authority to which penalties are attached. From Von Wright's perspective, on the contrary, directives are neither prescriptive nor descriptive, as their basic content is the practical link between ends and means. In this book, I prefer to stick with the definitions provided by Von Wright. However, Brunsson and Jacobsson's analysis and considerations are useful as they are able to bring out some interesting dimensions of protocollary items. Indeed, their questioning of the idea that standardisation leads to uniformity and to the definition of appropriate behaviour proves quite fruitful—as will emerge more clearly in Chap. 3—for grasping how protocols concretely work. Furthermore, their analysis discerns the main features of the various kinds of protocols. As standards and forms of standardisation, these act, de facto rather than *de jure*, as if they were legal norms. In the field of medicine, for instance, standardised patient-centred record-keeping procedures acquire a legal function, serving as evidence for courts (Timmermans & Berg, 2003, p. 45). Protocols also standardise the proper conduct in certain social environments. In the field of diplomacy, keeping peace among states and nations means conforming to certain moral standards (Constantinou et al., 2016, p. 35; Sofer, 1988, p. 198). Moreover, protocols are standardised forms of managing documents and the ways they are received by an office. In the field of diplomatica, archiving means the historical process of standardisation of the procedures through which documentary items are received and stored (Clanchy, 1979; McCrank, 1993).

Framing and defining protocol as a mode of formalising and standardising brings us to another observation: protocols have to do with *certification*. This word, which basically means 'notification', 'demonstration', or 'proof', comes from the medieval Latin noun *certificationem* and the verb *certificare*, meaning 'to make certain'. Certification is closely linked to formalisation. In Stinchcombe's terms, it offers an assurance that, behind, for instance, the informality of the competence of a professional, 'there lies a complex system of abstractions governing his or her activity. It is an assurance that one can let a gap in one's own abstractions be filled by other competent formal government, without having to go behind the

certificate' (Stinchcombe, 2001, p. 34). Certification is also close to standardisation: fixing a standard presupposes the presence of a certifying body which certifies that the requirements of the standard have been met (Brunsson & Jacobsson, 2002; Borraz, 2007). It is somewhat similar to a device for judgement, as it draws its effectiveness from two strictly connected components: 'cognition and trust' (Karpik, 1996, p. 538).

Once framed as a 'certifying' device which formalises and standardises, the concept of protocol shows what is perhaps its most important trait: *performativity*. Stated simply, when it takes the form of a prescription to obey or a procedure to follow, it explicitly aims to shape conduct: no matter whether it is effective or not, it sets the condition of possibility for legitimately acting in a certain way. When, on the other hand, it displays itself as a language, an archiving function, or an agreement, it regulates social relations and raises borders between legitimate and illegitimate modes of behaviour. Protocol 'makes something certain', since it establishes how social reality has to be.

In the field of archivistics, for example, 'archives as institutions and records as documents are generally seen by academic and other users, and by society generally, as passive resources to be exploited for various historical and cultural purposes' (Schwartz & Cook, 2002, p. 1). Yet, they are not neutral and objective items: through them, the past can be controlled as certain stories are privileged while others are marginalised when record-keeping systems are designed in a way to appraise and select only tiny fragments of all possible records (Schwartz & Cook, 2002, p. 1). Archives and registers, therefore, hold a huge power over memory and identity and are actives sites where social power is continuously negotiated, contested, and confirmed. Moreover, they are able to 'institute imaginaries' as a certain montage of fragments of time creates an illusion of totality and continuity that, just like the architectural process, produces a composition (Mbembe, 2002, p. 21). This 'has a political dimension resulting from the alchemy of the archive: it is supposed to belong to everyone. The community of time, the feeling according to which we would all be heirs to a time over which we might exercise the rights of collective ownership: this is the imaginary that the archive seeks to disseminate' (Mbembe, 2002, p. 21). When protocol has to do with the function of archiving, therefore, it is strategically part of this selective process of imaginary-building.

In the field of medicine, as is shown by the history of science, the sociology of science, and science and technology studies (STS), many conventions 'are not simply descriptive (nor do they amount to a mere

infrastructure): they are explicitly performative, as they imply and pre-scribe a commitment to act. As in the case of protocols, they include a distribution of roles and, simultaneously, they transform the objects and entities involved in these practices' (Cambrosio et al., 2009, p. 656). Recalling Searle's categories, protocols are not simply *regulative*, but are *constitutive* rules (Searle, 1995); they do not limit themselves to regulate previously existing activities, but create the very possibility of the activities they regulate (Cambrosio et al., 2009, p. 656). Moreover, protocols are performative, as, recalling Searle's other categories, they turn *empirical facts* into *institutional facts* (Searle, 1995). These exist only within human institutions and arise when an empirical fact is assigned a function (Searle, 1995). Basically, protocols produce institutional facts when they take an empirical fact—a line of conduct, an operational procedure, a sequence of words, the act of archiving a letter or the interaction among states or pub-lic and private actors—and abstract it from its concrete reality by formalis-ing it and making it a standard way of doing things. Protocols, in other words, assign to aspects of reality the function of being typical—which is to say, the function of working as a model.

From this perspective, a protocol belongs to the 'state simplifications' described by James C. Scott (1998, p. 80). These are 'observations of only those aspects of social life that are of official interest' and include different kinds of things: interested (or utilitarian) facts, documentary facts, static facts, aggregate facts, and standard facts (Scott, 1998, p. 80). Specifically, protocols are ascribable to documentary facts, as they are written (verbal or numerical), to aggregate facts—being impersonal and regarding more than the individual—and to standardised facts. By abstracting and formal-ising, they aim to simplify social life in order to make it more 'legible' and manageable to state apparatuses.

As agents of simplification, protocols have a documentary substance. They are material or immaterial artefacts (Riles, 2006) which are the prod-uct of institutional acts: they are the 'effect of practice', but at the same time they have 'effects of practice', meaning that they shape social reality by giving it a documentary form (Weisser, 2014, p. 47). Protocols are therefore *inscription devices*, namely, items of apparatuses, or particular configurations of such items, which can transform something material into a figure or diagram which is directly usable by those who belong to a cer-tain office or play a given professional role (Latour & Woolgar, 1986, p. 51). An inscription device consists of 'any set-up, no matter what its

size, nature and cost, that provides a visual display of any sort in a scientific text' (Latour, 1987, p. 68).

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Governing Through Protocols

Abstract This chapter stresses the ways protocols are meant to be, and are, employed as governing devices. The first section aims at providing an analytics of policy instruments, and hence at situating protocols within them. The following section shows the role of protocols within capitalism, namely, to calculate the needs of capitalist actors, to police populations and territories, and to control productive processes, political activities, and social interactions. Finally, the various nuances and characteristics of the power of protocols are analysed and discussed. These devices are displayed as disciplinary techniques that, being an entanglement of knowledge and power, have performative effects as they normalise social reality and bring a particular configuration of sovereignty into being.

Keywords Policy instruments • Disciplinary techniques • Normalisation • Control

An Analytics of Policy Instruments

Protocol is a device which abstracts social processes and relations, formalises conduct and courses of action, and certifies the suitable way of making things and the appropriateness of various items. As such, it plays a strategic role in managing and regulating several fields of social life, and

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belongs to a broader family of instruments for governing the social and political fields.

Pierre Lascoumes and Patrick Le Gales propose an articulated typology of public policy instrumentation, tools, and modes of operation. They start from the observation that the devices employed in governing 'are generally treated either as a kind of evidence, as a purely superficial dimension (governing means making regulations, taxing, entering into contracts, communicating, etc.), or as if the questions it raises (the properties of instruments, justifications for choosing them, their applicability, etc.) are secondary issues, merely part of a rationality of methods without any autonomous meaning' (Lascoumes & Le Gales, 2007, p. 2). In questioning this approach, Lascoumes and Le Gales propose two arguments. The first is that 'public policy instrumentation is a major issue in public policy, as it reveals a (fairly explicit) theorization of the relationship between the governing and the governed' (Lascoumes & Le Gales, 2007, p. 3). From this perspective, every instrument is 'a condensed form of knowledge about social control and ways of exercising it' (Lascoumes & Le Gales, 2007, p. 3). The second argument is that 'instruments at work are not neutral devices: they produce specific effects, independently of the objective pursued (the aims ascribed to them), which structure public policy according to their own logic' (Lascoumes & Le Gales, 2007, p. 3).

Public policy instrumentation therefore provides devices that, as they mix technical components (measuring, calculating, the rule of law, procedure) and social components (representation, symbol), act as intermediaries in orienting the relations between 'political society (via the administrative executive) and civil society (via its administered subjects)' (Lascoumes & Le Gales, 2007, p. 7). Playing this role, instruments are institutions which are able to partly determine the way in which actors are going to behave, to create uncertainties about the effects of the balance of power, to eventually privilege certain actors and interests and exclude others, to constrain the actors while offering them possibilities, and to drive forward a certain representation of a problem (Lascoumes & Le Gales, 2007, p. 9).

According to Lascoumes and Le Gales, public policy instrumentation can be located at three levels of observation by distinguishing between 'instrument', 'technique', and 'tool' (2007, p. 4). The first is a kind of social institution, exemplified by census taking, map making, statutory regulation, and taxation. The second is as a concrete device that operationalises the instrument: for instance, a statistical nomenclature, a type of graphic representation, or a type of law or decree. The third is a micro

device within a technique: a statistical category, the scale of definition of a map, the type of obligation provided for by a legal text, or the presence/absence of a sanction (2007, p. 4).

At first sight, protocol belongs to the second level, as it is basically a type of device which makes a certain logic operative. However, on closer inspection, it is also ascribable to the third level, considering that in many cases it concretely translates into ultra-operative items—for instance, a protocolled document—or procedures—for instance, the instructions concerning how to wash one's hands in the pandemic era. Moreover, protocol has to do with the first level, given that it expresses a more general view of governing, namely, a style of government centred on technical knowledge rather than political legitimation and, consequently, based on *law-like* and flexible devices rather than rigid legal norms.

Protocol, more generally, symbolises a mode of conducting public affairs and carrying out public policies which has specific characteristics. Within such a style of government, laws and actual legal norms are replaced by administrative and technical devices. Bureaucrats and experts play a major role. This does not mean, however, that political actors lose their centrality. Rather, it signifies that they change their instrumentation. In other words, they fulfil the same purposes through other means.

Analysing protocols as government devices is therefore tantamount to focusing on means rather than ends, with the aim to better understand the dynamics of public policy. Once again following Lascoumes and Le Gales in their argumentation, it appears clearer that stressing how public policy instrumentation works is equivalent to shedding light on 'the set of problems posed by the choice and use of instruments (techniques, methods of operation, devices) that allow government policy to be made material and operational' (Lascoumes & Le Gales, 2007, p. 4). This 'involves not only understanding the reasons that drive towards retaining one instrument rather than another, but also envisaging the effects produced by these choices' (Lascoumes & Le Gales, 2007, p. 4).

Specifically, by focusing on instruments rather than ends, it is possible to grasp two main issues. The first is that devices are unique items, having their specific and exclusive characteristics, and are at the same time versatile and interchangeable. In fact, 'every instrument has a history, of which it remains the bearer, and that its properties are indissociable from the aims attributed to it' (Lascoumes & Le Gales, 2007, p. 6), but it often has a generic scope, which is to say that it can be applied to diverse sectoral problems and hence be mobilised by policies which differ in their form

and their basis (Lascoumes & Le Gales, 2007, p. 6). This means that instruments can be used to fulfil purposes that differ from those for which they have been introduced. In analysing a device, therefore, it is important to go beyond the way it leads to a certain goal and try to prefigure how it could be alternatively used, what effects it could produce, what consequences—intentional or not—are associated to those effects, and what are the political stakes of its action. In an interesting and detailed analysis of drones and their history, Grégoire Chamayou has clearly hit the core:

> What is important is not so much to grasp how the actual device works but rather to discover the implications of how it works for the action that it implements. The point is that the means adopted are binding, and a combination of specific constraints is associated with each type of means adopted. Those means not only make it possible to take action but also determine the form of that action, and one must find out how they do so. Rather than wonder whether the ends justify the means, one must ask what the choice of those means, in itself, tends to impose. Rather than seek moral justifications for armed violence, one should favor a technical and political analysis of the weapons themselves. (Chamayou, 2015, p. 15)

The European Union and its political dynamics also provide interesting examples of how means can be reconfigured to obtain alternative results. A wide set of informal tactics are deployed to facilitate rule-making. EU rules, such as secondary legislation, may be extended in ways that were previously not foreseen or intended; 'the Commission may develop, explicitly or implicitly, new soft or informal institutions that share information with, and monitor, mobilize, or network lobby groups', or 'EU officials may use more covert means to overcome formal institutional obstacles to decision-making and to attain agreements' (Stone et al., 2001, p. 23).

The second issue that might be emphasised in focusing on instruments is that they are employed as means towards ends which operate within given social relations. As such, they entail *power* and are thus intrinsically political. A public-policy instrument, more precisely,

> constitutes a device that is both technical and social, that organizes specific social relations between the state and those it is addressed to, according to the representations and meanings it carries. It is a particular type of institution, a technical device with the generic purpose of carrying a concrete concept of the politics/society relationship and sustained by a concept of regulation. (Lascoumes & Le Gales, 2007, p. 4)

Instruments are therefore institutions with a history that influences the way they can be used but leaves room for other possible uses. Indeed, instruments are technical objects completely embedded within social practices, relations, and conflicts. In order to be fully understood, they have to be *denaturalised*, as their 'substance' lies in how they are employed, and not in their alleged immutable features.

In fact, by denaturalising technical objects, it appears evident 'that their progress relies more on the social networks that form in relation to them than on their own characteristics' (Lascoumes & Le Gales, 2007, p. 7). From the perspective of the instrumentation at work, it is possible to envisage 'first the effects generated by instruments in relative autonomy, then the political effects of instruments and the power relations that they organize' (Lascoumes & Le Gales, 2007, pp. 6–7). In building a political sociology of policy instruments, Lascoumes and Le Gales aim therefore 'to stress power relations associated to instruments and issues of legitimacy, politicization, or depoliticization dynamics associated with different policy instruments' (Lascoumes & Le Gales, 2007, p. 4).

Based on this rich and detailed analysis of what instruments and their implications entail, it is possible to develop a specific analytics of protocols as particular policy devices. These analytics involve unveiling the characteristics of protocols, taking into account their complex, articulated, and plural history and their variety. Depending on the specific meaning of protocol, and hence the particular device one decides to focus on, the implications in terms of governing the social and political fields differ. Also, the interests involved change: the choice to favour a specific protocol is not neutral, but is strictly linked to the concerns and objectives of the actors participating in a given policy.

More generally, interests are strategic in determining how to concretely act in public policy: 'tool choices are also not just technical decisions. Rather, they are profoundly political: they give some actors, and therefore some perspectives, an advantage in determining how policies are carried out' (Salamon, 2002, p. 11). The possibility of choosing which tools to employ can be exploited by resorting to more or less visible and explicit policy devices. If, generally speaking, instruments that are less invasive may be definitely more appealing to politicians as compared to those that are more intrusive, then this is still more true in an era in which the public is highly sceptical of government and favours governments which are as little involved in social and economic life as possible (Peters, 2002, p. 554). The choice of tools, moreover, helps determine how the discretion of

policymakers will be used to advantage specific interests. This is the reason why it is often a central part of the political battle that shapes public programmes: 'what is at stake in these battles is not simply the most efficient way to solve a particular public problem, but also the relative influence that various affected interests will have in shaping the program's postenactment evolution. Indeed, it may well be the case that the need to involve particular actors is what importantly determines which tool is chosen' (Salamon, 2002, p. 11).

Public policy instruments, therefore, 'have their own force of action' and the choice for them is the 'signifier' of more general choices of policies and their characteristics being 'tracers, analyzers of changes in policies' (Lascoumes & Le Gales, 2007, pp. 9–10). From this perspective, choosing protocols as devices for governing a certain field of social life indicates a specific political attitude. Basically, it suggests the will to avoid explicitly and formally regulating a given matter, and to rather leave it to more informal and thinner—to use the words of Lascoumes and Le Gales— techniques and tools.

More specifically, protocols have an ambiguous relationship with techniques as legal norms, which can take two basic forms. The first is that of replacing them by pretending to be something they formally are not. Protocols issued to regulate certain kinds of conduct are often presented and depicted as being binding and mandatory, even though they do not have such prescriptive power. This camouflage effect is fostered by the procedure through which they are issued: they are deployed by technical actors, such as experts and specialists, but are made effective by political actors, who legitimise them through the attribution of a certain role.

Protocols of this kind take the form of *soft law*. In legal literature, this term means an instrument which has extra-legal binding effects: for instance, a principle, a rule or a standard that does not stem from one of the sources of law enumerated in a certain legal framework (Baxter, 1980; Terpan, 2015). Soft law is strictly linked to hard law (Levi-Faur, 2011, p. 608) and is quite common at the European level, where the EU institutions try to persuade national governments to act in a certain way in fields in which these institutions do not have any direct power, but it is also relevant at the state level. Here, in order to more 'informally' regulate specific phenomena, governments issue documents under various names— plans, 'coloured' 'books', or papers—and technical institutions release guidelines and manuals which possess an ambiguous status: *stricto* sensu they stand outside of the perimeter of the law, even though they have an

actual and effective legal normative power, and are capable of deeply affecting several social issues.

The second form of ambiguous relationship with legal norms is that of 'staying within' legal norms with the aim of giving a correct interpretation of them. In this case, protocols seem to be issued exclusively to allow the complete and correct implementation of a law or decree. In this, they are not expected to change their sense. Yet, they often 'innovate' the legal norms they are called upon to simply clarify. Even in this case, technical actors play a major role. In Italy, for instance, ministerial bureaucrats who write down the texts of guidelines and circulars act as if they had a political role and were formally charged with the task of legislating.

Protocols of this kind take the form of *infra-law*. These are disciplines and regulatory commands which act within or beneath the surface of the law (Costa-Lascoux, 1989; Carbonnier, 1978). They are more or less compatible with the law: they can give 'flesh and blood' to legal prescriptions which are too abstract and generic, or, on the contrary, they can change their content from within. In this latter case, a protocol de facto produces new law. Even though ministerial guidelines and circulars are supposed only to make clearer what a law or decree states, they frequently replace them with extra-legal decisions. As in the case of soft law, and probably still more so, infra-law has an ambiguous status: rather than remaining within the borders of the law, it actually oversteps them.

As protocols are policy devices which replace legal norms or change them from within, they can produce significant effects on the social fields they affect. In order to better understand these effects, it is important to deepen our understanding of how instruments shape social reality. According to Lascoumes and Le Gales, they can have three main effects. First, instruments can produce inertia by enabling resistance to outside pressures such as conflicts of interest or political changes: they allow 'heterogeneous actors to come together around issues and agree to work on them jointly' and push them 'to move from one place to another, to make a detour away from their initial conceptualization' (Lascoumes & Le Gales, 2007, p. 10). This dynamic is clearly exemplified by statistical devices: over the course of the nineteenth century, in several European countries and the United States, a statistical framework was imposed on many debates about the social question, affecting even those who were strongly critical towards statistics and its massive use (Desrosières, 1998).

Second, instruments can foster a particular representation of the issue at stake or provide a specific problematisation of it (Lascoumes & Le

Gales, 2007, p. 10). They are able to construct 'agreed realities', for instance, regulating an activity through the imposition of an a priori authorisation or an a posteriori declaration signals that a certain sphere of social life is clearly subject to '"good police" activity, under the supervision of state prescriptions adapted to the risks incurred' (Lascoumes & Le Gales, 2007, p. 10). In this way, instruments engender a representation of reality by offering a framework for describing the social world, a categorisation of the situation addressed. Basically, they work as 'tools of legibility', as they allow representation and 'mapping' of individuals, groups, families, territories, items of various kind, etc. in a way that is useful for government (Scott, 1998).

Third, instruments lead to a particular problematisation of an issue, as they hierarchise variables and can even lead to an explanatory system. As recalled by Desrosières (1998), following the work of Adolphe Quêtelet (1830), some causal interpretations are presented as being always scientifically justified, as they rest on a calculation of averages. In the field of security and delinquency, the interpretative model is grounded on statistics that have regularly led to associations between youth, violence against persons, and areas inhabited by immigrant communities. This model has been fully accepted by police and judicial actors and legitimised by political decision-makers and the media, to the point that it has proved extremely difficult to move away from it.

As particular kinds of instruments, protocols can produce inertia effects. If they are understood as forms of agreement among different actors, they mediate between at least potentially conflicting interests and perspectives. For instance, a common view about doing things, managing situations, and facing emergency events can be reached on the basis of a protocol. This entails identifying and agreeing on shared principles, as well as on ways of acting and following procedures. Consequently, an 'agreed reality' emerges from the process of construction of a protocol. It therefore fosters a particular representation of the issue at stake and leads to a consensus. This is made by sorting and categorising objects, facts, situations, and actions. Indeed, a protocol tells how to behave in certain conditions, face risks, manage threats, or simply administer ordinary processes.

Protocols hence lead to a particular problematisation of an issue by hierarchising variables and, in certain conditions, leading to explanatory systems. They do this, not only in theoretical terms but also in concrete ones. In fact, as stressed by Callon (1986), problematisation doesn't

simply have to do with the conceptual resolution of an intellectual puzzle, but rather involves more practical and 'material' issues. The etymology of

> the word *problem* designates obstacles that are thrown across the path of an actor which hinder his movement. This term is thus used in a manner which differs entirely from that current in the philosophy of science and epistemology. Problems are not spontaneously generated by the state of knowledge or by the dynamics of progress in research. Rather they result from the definition and interrelation of actors that were not previously linked to one another. To problematise is simultaneously to define a series of actors and the obstacles which prevent them from attaining the goals or objectives that have been imputed to them. Problems, and the postulated equivalences between them, thus result from the interaction between a given actor and all the social and natural entities which it defines and for which it seems to become indispensable. (Callon, 1986, p. 228)

Protocols are problem-solving devices, since, on the base of a certain representation of the connections between things and between acts, they prescribe conduct which is considered suitable for managing a situation and fulfilling a certain purpose. To reach their goal, they imply a certain degree of cooperation among different actors and interaction with the external environment—both social and natural.

CALCULATING, POLICING, CONTROLLING

Capitalism is closely linked to the system of colonies (Arrighi, 1994; Wallerstein, 1983). In its genesis, the primitive or original accumulation of capital was made possible by a violent exploitation and separation of colonial subjects from the means of production, as clearly explicated by Marx (1977). The managing of the colonial system hinged on administrative powers and decisions rather than on formal law. Colonies were considered as territories that had to be simply dominated by European conquerors without establishing a parliamentary form of government: the primary need was keeping order and security, especially for the smooth running of trade (Allegretti, 1989, p. 257). To this end, the rule of law was believed to be an impediment rather than a positive factor: the police state was the solution to the needs of government, being as it was centred on the authority of the prince, which acted as though it were law, and on administrative devices (Gjergji, 2020, p. 326).

A complex and articulated system of infra-law was introduced to manage colonies, with the aim of efficiently and efficaciously *calculating* the needs of capitalist actors (Gjergji, 2020, p. 327). This system formally contradicted the *raison d'être* of the state. Indeed, theoretically speaking, this is a legal and political entity where the will of the legislator is sovereign only inasmuch as it is impersonal and objectified in laws, all the activities of public powers are strictly regulated and limited by legal norms, and the executive and administrative bodies of the state are not bestowed with any legislative power (Kriegel, 1995). Yet, the infra-law system of colonial management overrules all the legal and logical premises on which the modern state is grounded. In fact, it maintains an ambiguous relation with absolutistic and premodern forms of power: the new and ultra-modern administrative instruments and bodies are absolutely sovereign and not mere law enforcers, as they should be according to the theory of the rule of law (Gjergji, 2020, p. 328). After all, it is no coincidence that Hannah Arendt, in *The Origins of Totalitarianism*, uses expressions like 'imperialist bureaucrat' and 'administrative massacres'. In a chapter entitled 'Race and Bureaucracy', she, quoting *The Lost Dominion* by Al Carthill, speaks about the administrator in India who 'ruled by reports and decrees in more hostile secrecy than any oriental despot grew out of a tradition of military discipline in the midst of ruthless and lawless men' (Arendt, 1973, p. 186).

The detailed and precise calculation of the interests of capitalist actors within the colonies, inasmuch as it was made possible and fostered by public institutions, reveals the real nature of capitalism. As is clearly shown by some scholars (especially Arrighi, 1994; Braudel, 1983; Dardot & Laval, 2013; Wallerstein, 1983), this is not the realm of the free and absolute action of market forces, but is rather an environment strongly moulded by state actors—and, in the course of time, by other political actors—which have established the legal 'rules of the game' that favour economic accumulation.

The creation of an infra-law which fosters the capacity of calculating the moves that are to be made in order to obtain the best results is a state-led process which involves not only the colonies but also the territories of the European states. This process is strictly intertwined with the semantic path of the concept of *police* and *police powers* (Foucault, 2009). Originating from the Greek word *politeia*, and hence in turn deriving from the term *polis*, the word 'police' was widely used in early modernity to mean different things: a form of community or association governed by a public authority, the set of actions that direct these communities under public

authority or the positive and valued result of a good government (ibid., p. 313). From the seventeenth century on, it has taken on quite a different meaning, namely, 'the set of means by which the state's forces can be increased while preserving the state in good order' (ibid., p. 313).

More specifically, during the first centuries of the Modern Age, the meaning of the word 'police' went beyond the simple contemporary idea of prevention of crime and law enforcement, and rather embraced the task of defining and implementing the good order of society, which is to say, of guaranteeing the happiness, prosperity, and well-being of the population (Neocleous, 2000). The development of this word had to do with the collapse of feudalism, a mode of production based on the unity of economic and political domination, and the resulting affirmation of a society in which the growth of trade and industry was central (ibid., p. 1). The division and mobility of labour, as well as the increasing importance of a money economy that had weakened a social order based on *estates*, all required management and appropriate governance (ibid.).

The changing social and political scenario and its internal conflicts were clearly reflected in a theoretical dialectic between two concepts: *iurisdictio* and *politia* (Campesi, 2016, p. 8). The first notion, which was employed by medieval theorists of public law to sum up the idea of political dominion, came into conflict with the more openly voluntaristic conception of law and politics that modern political and legal thought would gradually crystallise in the second notion (ibid.). The idea of police, therefore, emerged as part of an overall concern with the increasing social disorders which followed the breakdown of the estate-based order, and which were said to be plaguing the state because of the collapse of the feudal world: 'the absolutist state stepped in to impose this order amidst a society of increasingly independent "individuals", free (or at least relatively so) from their historic submission to the direct authority of the lord' (Neocleous, 2000, p. 3).

One of the main concerns of the police was the *discipline* of those categories of people who were believed to constitute a risk for public order: particularly, the 'masterless men' set free from the traditional authority of feudalism (Geremek, 1977). But disciplining as a vertical process actually extended to the entirety of society (Oestreich, 1982), with the purpose of producing subjects who were aware of their new roles and their place in a world which was still considered static and hierarchically shaped (Härter, 1994). Between the sixteenth and the first part of seventeenth centuries, *policing* was constituted by ad hoc reactive measures, aimed at maintaining

'the structure of manners threatened by the decay of the existing Estates and the crisis provoked by the Reformation' (Neocleous, 2000, p. 5). The main concern of police was *negative*: it reacted to emerging social problems and crises by means of an 'emergency legislation', which was passed without breaking with legal tradition (Raeff, 1983).

The main tools of policing were *police ordinances*, which were meant as norms issued by kings and territorial authorities, regulating to a large extent the same social phenomena as medieval law (Härter, 1994; Kotkas, 2014). During the sixteenth century, in German-speaking areas as well as in Sweden, 'the law giving (*gesetzgebung*) of rulers was more akin to "execution of norms" (*Normdurchsetzung*) than "production of norms" (*Normerzeugung*)' (Kotkas, 2014, p. 90). Kings were conceived more as mere custodians of laws (*custos legum*), as such committed to ensuring that norms were abided by, than as legal innovators: by means of ordinances, they 'sought to strengthen and stabilise the old medieval law' (Mannori & Sordi, 2001, p. 155).

From the seventeenth century onwards, the word police began to take on a profoundly different meaning, referring 'to the set of means by which the state's forces can be increased while preserving the state in good order' (Foucault, 2009, p. 313). It came to denote 'the calculation and technique that will make it possible to establish a mobile, yet stable and controllable relationship between the state's internal order and the development of its forces' (ibid.). Between the Thirty Years' War (1618–1648) and the late eighteenth century, the idea of police acquired a *positive* cast, no longer aimed at restoring and correcting abuses and defects, but rather oriented towards the creation of new conditions for social change and innovations (Neocleous, 2000, p. 6). More specifically, police ordinances began to stand in contrast with the medieval law based on customs and traditions (Härter, 1994, p. 640), and gradually eroded the old notion of law, conceived of as something unchangeable and eternal. In this way, they paved the way for a modern view according to which law has to be the product of legislative action, that is positive law (Kotkas, 2014, pp. 8–9).

Police ordinances were basically an 'empty legislation' that could be filled with many kinds of rationales and contents and which mainly included provisions for subjects—that is, peasants, tradesmen, merchants, the clergy, the nobility, and so on—as well as for royal and local authorities, all of these being actors, addressees, and objects of 'good police' (Kotkas, 2014, p. 83). They were also used to specifically discipline weak

and marginal social groups, and hence to modify the general attitude towards them, fostering a widespread mistrust and disdain for poor people, who were perceived as idle and lazy (Härter, 1994, p. 655). By means of police ordinances, 'normal' people were encouraged to work and be active, so as to avoid following the bad example represented by marginal groups (ibid., p. 656).

Early modern ordinances were therefore a strategic component of a disciplinary project fulfilled by state authorities. Within it, the police represented a way of constituting reality as an object of a particular governmental rationality, based on the *measure* rather than the law; based, that is to say, on actions which rest not on legal norms, but on authoritative decisions that ambiguously remain within the space of law without completely conforming to it (Napoli, 2003). The 'police measure' was, and still is, grounded on a 'calculated ignorance' of the law (Napoli, 2009), which proved fruitful in shaping a new social body—one suitable for the production of wealth, as this body was no longer conceived as natural and divine but was increasingly seen as politically structured around the concept of sovereign power (Neocleous, 2000, pp. 6–7). In a scenario characterised by the political affirmation of absolutism, the interests of capitalist actors played a strategic role within a more general conception of state decisions and the calculability of the needs of capitalist actors.

The *Polizeistaat*, which was rising in several European countries, was dedicated to the protection of the population, the welfare of the state and its citizens, and the improvement of society in all its aspects (ibid., p. 9). Part of this idea of protection, which, especially in German-speaking areas, took the form of cameralism (*Cameralwissenschaft*) and meant the rise of a science of the police (*Polizeiwissenschaft*) (Raeff, 1983), was the management of *poverty*. Basically, policing meant administering the class of poor people, especially potential beggars and vagrants, through specific strategies to fulfil this scope (Neocleous, 2000, p. 16). This also implies rationally disciplining the social body through the homogenisation of social behaviour, and the construction of a prototypical individual to whom all would be expected to conform (Federici, 2004, pp. 145–146). This involved building up an 'abstract individual' in Marx's terms, namely, a human being 'constructed in a uniform way, as a social average, and subject to a radical decharacterisation, so that all of its faculties can be grasped only in their most standardized aspects' (ibid., p. 146). This strategy was called by William Petty *political arithmetic* and was based on the idea of studying every form of social behaviour in terms of numbers, weights, and

measures (ibid.). Petty's project was realised with the development of statistics and demography, sciences aiming at knowing the population in order to shape it in a desired manner (Wilson, 1965).

Policing aimed to *immobilise* those elements of society considered disorderly so as to render them harmless, and at the same time was committed to *mobilising* the same elements, in order to turn them into a mobile and active workforce (Neocleous, 2000, p. 17). Towards this end, the measures against vagrants and beggars took the form of a series of strategies to impose work (ibid., p. 19), and later—starting from the closing decades of the eighteenth century—the police were directed towards the construction of a new order, a bourgeois order based on the idea that the former masterless men had to be turned into rational calculating individuals, truly devoted to pursuing defined economic goals. It was expected that the mobilisation of work itself would come from the mobilisation of the workforce 'the policing of prosperity began the process of the making of the working class, a process which would only be completed once a new form of master had properly emerged on the historical stage' (ibid., p. 20).

With the rise of liberalism, policing had to be consistent with the rule of law and a liberal polity. Basically, capital replaced the police in mastering and disciplining labourers and dangerous classes according to the rules of factory and production, while the word 'police' acquired a more restricted meaning, concerning individuals' legal protection and the maintenance of public order (Kotkas, 2014, p. 10). The police as an institution was thus conceived 'as a body of officials charged with preventing and detecting crime—a body charged with enforcing the law while simultaneously limited by it' (Neocleous, 2000, p. 42), but it has remained linked to the transformation of lazy, ignorant, and potentially rebellious people into docile workers.

In the restriction of its meaning, policing has marked the birth of administrative law: the notion of 'police' was basically replaced with the term 'administration' (Kotkas, 2014, p. 10). This process created the conditions for the development of a new activity: *social police*, that is the first form of the contemporary *social policy*.[1] The institutions committed to giving assistance to poor people on the one hand, and the police as a crime prevention agency on the other, have hence become the two sides of the

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[1] The word policy, like that of police, derives from the Greek term *politeia* (Kotkas, 2014, pp. 2–3).

same political economy, aiming at managing part of the population and dealing with the broader issue of *pauperism* (Procacci, 1991).

In a changing scenario marked by liberalism as a new political rationality, the modern art of governing, as shown by Foucault, was criticised and renewed (Dean, 1991). The idea of totally disciplining the life process is not abandoned, but it is rather reconverted and reimagined (Campesi, 2016, pp. 4–5). Foucault calls *biopolitics* the set of techniques that attempts, 'starting from the eighteenth century, to rationalize the problems posed to governmental practice by phenomena characteristic of a set of living beings forming a population: health, hygiene, birthrate, life expectancy, race …' (Foucault, 2008, p. 317). These techniques are quite different from those of the past: 'unlike discipline, which is addressed to bodies, the new nondisciplinary power is applied not to man-as-body but to the living man, to man-as-living-being; ultimately, if you like, to man-as-species. To be more specific, I would say that discipline tries to rule a multiplicity of men to the extent that their multiplicity can and must be dissolved into individual bodies that can be kept under surveillance, trained, used, and, if need be, punished' (Foucault, 2003, pp. 242–243).

Within such a kind of political rationality, the management of the population has become even more the question of how to know its characteristics and shape its form and movements. Consequently, new instruments—such as censuses, registers, and identification documents—have acquired a growing importance (Rose, 1996) and society has been subjected to a process of standardisation (Kertzer & Arel, 2004; Goyer & Domschke, 1992). More generally, innovative techniques and tools were conceived and introduced to manage a population that was somehow recognised as free to move and act autonomously.

However, this does not mean that the control exercised over the population has ceased to be effective. Rather, new devices have been introduced and experimented with. Between the end of the eighteenth century and the beginning of the twentieth century, a key shift in controlling strategies took place. As noted by Gilles Deleuze in the *Postscript on the Societies of Control*, Foucault has identified a timeline of the forms through which individuals and groups are subject to surveillance and shaped in their conducts (Deleuze, 1992, p. 3). The *disciplinary societies* followed the *societies of sovereignty*: while the latter had the function of taxing rather than organising production, ruling on death rather than administering life, the former—the transition to which was mainly due to Napoleon—were organised around vast spaces of enclosure, such as the family, the school,

the barracks, the factory, the hospital, and in some cases the prison. Individuals were expected to pass from one of these to another. The overall logic of the system was clearly show by the factory, the aim of which was 'to concentrate; to distribute in space; to order in time; to compose a productive force within the dimension of space-time whose effect will be greater than the sum of its component forces' (Deleuze, 1992, p. 3).

According to Deleuze, since the beginning of the twentieth century, and especially after World War II, disciplinary societies have started being replaced by another kind of social organisation: *societies of control*. While in the former 'one was always starting again the barracks, from the barracks to the factory', in the latter 'one is never finished with anything—the corporation, the armed services being metastable states coexisting modulation, like a universal system of deformation' (Deleuze, 1992, p. 5). More specifically,

> the disciplinary societies have two poles: the signature that designates the *individual*, and the number or administrative numeration that indicates her or his position within a *mass*. This is because the disciplines never saw any incompatibility between these two, and because at the same time power individualizes and masses together, that is, constitutes those over whom it exercises power into a body and molds the individuality of each member of that body. […] In the societies of control, on the other hand, what is important is no longer either a signature or a number, but a code: the code is a *password*, while on the other hand the disciplinary societies are regulated by *watchwords*. […] The numerical language of control is made of codes that mark access to information, or reject it. We no longer find ourselves dealing with the mass/individual pair. Individuals have become '*dividuals*' and masses, samples, data, markets, or '*banks*'. (Deleuze, 1992, p. 5)

A society of this kind, and the mechanism of control which work within it, are clearly represented by the Internet. This is 'a set of technical procedures for defining, managing, modulating, and distributing information throughout a flexible yet robust delivery infrastructure' (Thacker, 2004, p. xv). Its origins can be found in the American military technology of the 1950s and 1960s and traced to the Advanced Research Projects Agency (ARPA). This was set up in 1958 by the Defense Department of the United States with the aim of surpassing the Soviet Union in terms of military technology. Basically, it was a response to their launching of the first Sputnik satellite (Galloway, 2004, pp. 4–5).

A key role in developing the Internet was played by private actors: in the early 1960s, the concerns about the ability of the US telecommunications systems to withstand nuclear attack were intercepted by Paul Baran at the RAND corporation, who invented 'packet switching',[2] an innovative communications transmission technology (Galloway, 2004, p. 5). This system allowed messages to break apart into small fragments, each of which was able to find its own way to its destination and, once there, had to be reassembled with the other 'packets' to create the original message (Galloway, 2004, p. 5). Basically, Baran proposed developing a communication network that would allow several hundred major communications stations to 'intercommunicate with one another' (Baran, 1962, p. 2). In this regard, the key notion was that of 'survivability', namely, 'the percentage of stations surviving a physical attack and remaining "in electrical connection" with the others, so as to be a measure of their ability to 'operate together as a coherent entity after attack' (Baran, 1962, p. 2).

Baran, moreover, identified two different kinds of networks: centralised (or star) and distributed (or grid or mesh; Baran, 1962, p. 3). In his opinion, the significant difference between them was in the extent to which each was capable of maintaining viable communication channels in case of a targeted assault on military telecommunications infrastructures. Centralised networks have a single central node that hierarchically controls and commands all activities, and are therefore the most vulnerable to attack, as the 'destruction of the central node destroys intercommunication between the end stations' (Baran, 1962, p. 3). A decentralised network is in turn a hierarchical structure, 'a multiplication of the centralized network' (Galloway, 2004, p. 31). Basically, instead of one hub it contains many hubs, each with its own array of dependent nodes. This makes decentralised networks vulnerable as well, given that the destruction of just a small number of nodes can destroy communication (Baran, 1962, p. 3). The distributed network is different both from the centralised and decentralised network: it has 'no central hubs and no radial nodes', and each entity in it 'is an autonomous agent' (Baran, 1962, p. 3). Destroying it, therefore, is definitely more difficult: it is independent of central

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[2] Actually, the term 'packet-switching' was introduced by Donald Davies, a British scientist who worked at the British National Physical Laboratory. He, knowing nothing of Baran's work, invented a system for sending small packets of information over a distributed network. However, even though he was credited with co-discovery, because of Baran's proximity to the newly emerging ARPA network (the first actor to use Baran's ideas), his historical influence was underplayed (Galloway, 2004, p. 5).

command and control and can remain operational even after a number of its components have been destroyed. It is no coincidence that a distributed network was employed in 1969 for developing ARPAnet. This network, developed by the Advanced Research Projects Agency (ARPA) at the US Department of Defense, was the first to use Baran's packet-switching technology (Galloway, 2004, p. 5). The ARPAnet (later renamed DARPAnet) allowed academics to share resources and transfer files and, in its early years, having only a few hundred participating computers, or 'hosts', was not noticed by the world outside the academy (Galloway, 2004, p. 5).

THE POWER OF PROTOCOL

The Internet as a distributed network seems to be the 'native landscape' of protocol (Galloway, 2004, p. 31). Following Deleuze, Galloway considers this kind of network an important *diagram* for our current social formation. If Deleuze defines the diagram as 'a map, a cartography that is coextensive with the whole social field', then 'the distributed network is such a map, for it extends deeply into the social field of the new millennium' (2004, p. 31). The distributed form of the Internet invites many 'contemporary critics to describe the Internet as an unpredictable mass of data—rhizomatic and lacking central organization', leading them to think 'that since new communication technologies are based on the elimination of centralized command and hierarchical control, it follows that the world is witnessing a general disappearance of control as such' (Galloway, 2004, p. 8). According to Galloway, 'this could not be further from the truth', as protocol is exactly 'how technological control exists after decentralization' (Galloway, 2004, p. 8). In his opinion, the false idea that the Internet is chaotic rather than highly controlled originates from the fact 'that protocol is based on a contradiction between two opposing machines: One machine radically distributes control into autonomous locales, the other machine focuses control into rigidly defined hierarchies' (Galloway, 2004, p. 8).

From this perspective, control still exists, even though the diagram of distribution has replaced hierarchical centralisation as the supreme social management style. Protocol is therefore more than simply a synonym for 'the rules', but is instead 'like the trace of footprints left in snow, or a mountain trail whose route becomes fixed only after years of constant wear. One is always free to pick a different route. But protocol makes one

instantly aware of the best route—and why wouldn't one want to follow it?' (Galloway, 2004, p. 244). For this reason, protocol could better be called 'the practical' or even 'the sensible', as it is 'a physical logic that delivers two things in parallel: the solution to a problem, plus the background rationale for why that solution has been selected as the best' (Galloway, 2004, p. 245). In this way, protocol works as political ideology: like liberalism, democracy, or capitalism, it 'creates a community of actors who perpetuate the system of organization. And they perpetuate it even when they are in direct conflict with it' (Galloway, 2004, p. 245). As protocol becomes increasingly coextensive with productive forces, it 'ultimately becomes the blueprint for humanity's innermost desires about the world and how it ought to be lived' (Galloway, 2004, p. 245).

According to Galloway, protocol is a dangerous device in two ways (Galloway, 2004, p. 245). First, it acts to make concrete our fundamentally contingent and immaterial desires—which is to say, to reify them. In so doing, it takes on authoritarian undertones. Second, it is potentially an effective tool that can be used to overcome one's political opponents, as actually happens in the sphere of technology. Protocol therefore holds a 'constitutive' power that resemble that of the fundamental law of a country. In this regard, Galloway quotes his colleague Patrick Feng, who said that 'Creating core protocols is something akin to constitutional law'. This means 'that protocols create the core set of rules from which all other decisions descend' (Galloway, 2004, p. 245). Consequently, having the power to create and control them—as the Supreme Court justices can control and address the interpretation of the American Constitution—means wielding power over a very broad area (Galloway, 2004, p. 245).

Depicted in such a way, protocol appears as a Foucauldian category, although Foucault has never used it explicitly. According to Galloway, indeed, the French philosopher used the words biopolitics and biopower instead of protocol, as they relate to life forms by denoting 'the statistical coding, the making-statistical, of large living masses, such that any singular life-form within that mass may be compared in its organic nature to the totality. This is exactly how protocol functions, as a management style for distributed masses of autonomous agents' (Galloway, 2004, p. 87). In other words, 'Foucault's treatment of biopower is entirely protocological. Protocol is to control societies as the panopticon is to disciplinary societies' (Galloway, 2004, p. 13).

Galloway's reading of protocol is acute and surely fascinating, and one can agree with it almost completely. However, it seems to suffer some

limits, both theoretically and in terms of historical depth. Specifically, the idea that protocol belongs to control societies and not to discipline societies seems quite controversial, as it rests on an interpretation of the notion of protocol which appears too narrow. As has already been shown in this book, the word 'protocol' has various meanings that partly differ and partly overlap, and denotes different items and devices. Considered overall, the diverse and somehow alternative dimensions of protocol express an *image* of how power works in contemporary societies. The 'constitutional' metaphor adopted by Galloway proves quite fruitful in this regard but, in order to be completely employed, it should be better articulated and detailed. Protocol can also exist in a context of centralisation and hierarchy. In this case, it takes specific forms, which deserve to be carefully scrutinised.

Specifically, in order to explain how protocol is not only suitable for describing the main characteristics of control societies but is also perfectly fitting to a world shaped by disciplines as modes of strictly managing and ordering individual actions, it is necessary to recall Max Weber's theory of *bureaucratic power*. As stressed in detail by Danny Rye (2014, pp. 102–104), in addition to *Macht* ('power') and *Herrschaft* ('domination') as legitimate forms of rule and obedience to them, Weber defined a third kind of power, called 'discipline' (Weber, 1948). This is 'a routinised organisational power more structural and impersonal in its operations and possessed of a logic that restricts agency' (Rye, 2014, p. 102). More specifically, according to Weber, discipline is 'the probability that by virtue of habituation a command will receive prompt and automatic obedience in stereotyped forms on the part of a given group of persons' (Weber, 1978, p. 53). This means 'that in as much as there is intentionality it is carefully circumscribed and formulaic: a kind of "tick-box" reasoning reserved for limited calculation of means rather than critical reasoning about ends' (Rye, 2014, p. 103). In Weber's thought, therefore, discipline is different from *Macht* and *Herrschaft* as it is unquestioning, uncritical, unresisting and habitual, and its content 'is nothing but the consistently rationalised, methodically trained and exact execution of the received order, in which all personal criticism is unconditionally suspended and the actor is unswervingly and exclusively set for carrying out the command' (Weber, 1948, p. 253).

Discipline is well exemplified by bureaucracy as it concerns the individual—albeit an individual imagined to be equipped with a rather weak agentic capacity and appearing more as a kind of automaton than a free

actor—but still more so as it concerns organisations in particular: basically, it corresponds to the immanent structural logic of their 'internal rules and mechanisms which directs, suppresses and reorients individual agency and undermines its autonomy' (Rye, 2014, pp. 103–104). As such, discipline has to do with the process of societal 'rationalisation' depicted by Weber. This process refers to how modernity and modernisation are intrinsically marked by rational calculation, which overtakes all aspects of life, from music and art to politics and economics (Weber, 1992). Rationalisation, therefore, is inherent to modern Western societies as they are characterised by rule-based conduct, and 'makes human activity consistent and predictable, bringing calculability to, and a "technicalisation" of, the way in which business is conducted, scientific discovery is made, buildings are built, harmonies are written and so on' (Rye, 2014, p. 102). More specifically, rationalisation allows the accumulation and storage of a technical and specialised knowledge that can be logically structured and reproduced and 'involves a process of documentation whereby calculations are made, tests are conducted, results are analysed, learning documented and abstracted as general rules of conduct which can be taught, learned, practised and improved by others' (Rye, 2014, p. 103).

Understood in Weberian terms, therefore, protocols appear as rigid procedures which are to be followed, even passively. Such an approach to protocols is surely useful in capturing some of the main traits of contemporary bureaucracies and the power they wield, especially in terms of calculability, formalisation, and standardisation. Weber's perspective, however, does not allow us to appreciate how protocols can actually deeply shape conduct to the extent that they are introjected by the social actors and become part of individual ways of acting. From his perspective, 'discipline is a totalising force, which demonstrates its rationality not just in how commands are communicated and carried out, but also in the use of calculation to extract optimum "physical and psychic power" from individuals' (Rye, 2014, p. 104). Like disciplines, protocols abstract, formalise, and calculate—in other words, rationalise—to such an extent that individuals are overcome and 'subsumed' by them.

Discipline, however, can be interpreted in another way. To this end, Michel Foucault's approach, especially that developed in *Discipline and Punish* (Foucault, 2006), proves quite fruitful. It contains—as clearly stressed by Rye (2014, pp. 156–157)—an analytical conceptualisation of power that is quite different and leaves more room to individuals and their intentionality. From Foucault's perspective, discipline has to do with the

extraction of available moments from time and of ever more useful forces from each moment (Foucault, 2006, p. 154). It is a 'political anatomy of detail' (Foucault, 2006, p. 138): within it, 'each individual has his own place; and each place its individual', to the extent that the main purpose is eliminating 'the effects of imprecise distributions, the uncontrolled disappearance of individuals, their diffuse circulation, their unusable and dangerous coagulation' (Foucault, 2006, p. 143).

Compared to the Weberian idea of discipline, the Foucauldian one is more clearly productive: 'rather than totalising, it is individualising, in that it constructs individuals as useful agents, empowered to act within its scheme' (Rye, 2014, p. 157). In other words, agency is conceptualised as an effect of discipline and not an obstacle to it: it is precisely a high rather than a low level of control that empowers individuals. As observed by Rye, this sounds paradoxical, inasmuch as it is a form of meticulous regulation which hinges on devices like timetables that regulate activity, organisational techniques that compose and allocate individuals to appropriate tasks, and targets that provide the basis for monitoring them (2014, p. 157). Moreover, if Weber theorises a 'grand strategy' of rationalisation, namely, a general process of societal reorganisation based on rationality that affects every organisation and institution, Foucault rather imagines specific 'techniques' and *rationalities* which are applied ad hoc, that is, in response to given problems of control and rational organisation (Rye, 2014, p. 157).

More generally, from a Foucauldian perspective, there is a system of *disciplinary techniques* that are alternative, or rather say complementary, to the typical coercive sovereign power and have been historically developed over the Modern Age. These techniques are a kind of infra-law which do not aim to impress the mark of power, extort truth, or obtain guarantees, but seek to correct and train the body (Foucault, 2006).

More specifically, disciplines are not immediately and clearly visible, as they were hidden under the surface of law:

Historically, the process by which the bourgeoisie became in the course of the eighteenth century the politically dominant class was masked by the establishment of an explicit, coded and formally egalitarian juridical framework, made possible by the organization of a parliamentary, representative regime. But the development and generalization of disciplinary mechanisms constituted the other, dark side of these processes. The general juridical form that guaranteed a system of rights that were egalitarian in principle was

supported by these tiny, everyday, physical mechanisms, by all those systems of micro-power that are essentially non-egalitarian and asymmetrical that we call the disciplines. (Foucault, 2006, p. 222)

Foucault continues explaining that disciplines are

a guarantee of the submission of forces and bodies. The real, corporal disciplines constituted the foundation of the formal, juridical liberties. The contract may have been regarded as the ideal foundation of law and political power; panopticism constituted the technique, universally widespread, of coercion. It continued to work in depth on the juridical structures of society, in order to make the effective mechanisms of power function in opposition to the formal framework that it had acquired. The 'Enlightenment', which discovered the liberties, also invented the disciplines. (Foucault, 2006, p. 222)

Disciplines are 'orthopaedic' technologies aiming to shape and mould anthropological types and produce subjectivities: as such they have been the main vehicle of 'normalisation' in the Modern Age (Campesi, 2008, p. 23). Within the works of Georg Canguilhem, who can be considered Foucault's 'master' (Elden, 2019), normalisation is a life-producing dynamic that is tightly linked to economic and social processes: it refers to a sort of 'social norm', namely, to the idea that biological determinants are not able to influence the process of reproduction of social life, but rather that, on the contrary, such a process moulds the essential traits of the living matter (Campesi, 2008, p. 18).

Canguilhem in this way reconstructs the etymology of the word 'norm' and hence of the process of normalisation:

The Latin word *norma* which, etymologically speaking, bears the weight of the initial meaning of the terms "norms" and "normal," is the equivalent of the Greek ὀρθός. Orthography [French, *orthographe*, but long ago *orthographie*], orthodoxy, orthopedics, are normative concepts prematurely. If the concept of orthology is less familiar, at least it is not altogether useless to know that Plato guaranteed it and the word is found, without a reference citation, in Littre's *Dictionnaire de la langue française*. Orthology is grammar in the sense given it by Latin and medieval writers, that is, the regulation of language usage. (Canguilhem, 1989, p. 132)

According to Canguilhem, the normal is not a static or peaceful, but a dynamic and polemical concept:

> When we know that *norma* is the Latin word for T-square and that *normalis* means perpendicular, we know almost all that must be known about the area in which the meaning of the terms 'norm' and 'normal' originated, which have been taken into a great variety of other areas. A norm, or rule, is what can be used to right, to square, to straighten. To set a norm (*normer*), to normalize, is to impose a requirement on an existence, a given whose variety, disparity, with regard to the requirement, present themselves as a hostile, even more than an unknown, indeterminant. (Canguilhem, 1989, p. 239)

The normal is indeed such a polemical concept that it 'negatively qualifies the sector of the given which does not enter into its extension while it depends on its comprehension. The concept of right, depending on whether it is a matter of geometry, morality or technology, qualifies what offers resistance to its application of twisted, crooked or awkward' (Canguilhem, 1989, p. 239).

Besides being polemical, the normal is anything but impolitic. Normalisation has to do with the process of production of 'social normality' which begins with the rationalisation of the means of production aiming to satisfy the political and economic needs of modern industrial societies. Normalising, therefore, does not depend on the biological necessities of a living organism, but on historically defined collective demands (Campesi, 2008, p. 18). From this perspective, normalisation is a process involving various spheres of social life. Many of them concern apparently mundane or technical issues. However, all the different acts of minutely normalising the single aspects of society are part of the same political path:

> In terms of normalization there is no difference between the birth of grammar in France in the seventeenth century and the establishment of the metric system at the end of the eighteenth. Richelieu, the members of the National Convention and Napoleon Bonaparte are the successive instruments of the same collective demand. It began with grammatical norms and ended with morphological norms of men and horses for national defense, passing through industrial and sanitary norms. (Canguilhem, 1989, pp. 244, 245)

As devices of normalisation, disciplinary techniques have an ambiguous relationship with the law:

> In appearance, the disciplines constitute nothing more than an infra-law. They seem to extend the general forms defined by law to the infinitesimal level of individual lives; or they appear as methods of training that enable individuals to become integrated into these general demands. They seem to constitute the same type of law on a different scale, thereby making it more meticulous and more indulgent. The disciplines should be regarded as a sort of counterlaw. They have the precise role of introducing insuperable asymmetries and excluding reciprocities. (Foucault, 2006, p. 222)

In a 'Weberian' world, characterised by the rule of law and a rigid administrative body which is called upon merely to enforce the legal norms, they act in a hidden and somehow hidden way. Within such a scenario, namely, in society of disciplines, protocols play a key strategic role: they often take the form of the infra-law which actually tends to act as a counter-law. The colonial system clearly shows that. But the European states, too, during their rise and their process of consolidation exemplify the same dynamic: protocols pretend to remain within the space of law but rather they subvert or replace it. From this perspective, protocols inherit the legacy of all those devices of power which are consubstantial to the development of the modern state within and outside their territories: police ordinances, police measures, and the various kinds of administrative devices, reports, and decrees that were used to manage colonies. Rephrasing Walter Benjamin, protocol unsettlingly resembles the concept of police power:

> In a far more unnatural combination than in the death penalty, in a kind of spectral mixture, these two forms of violence are present in another institution of the modern state: the police. True, this is violence for legal ends (it includes the right of disposition), but with the simultaneous authority to decide these ends itself within wide limits (it includes the right of decree). The ignominy of such an authority—which is felt by few simply because its ordinances suffice only seldom, even for the crudest acts, but are therefore allowed to rampage all the more blindly in the most vulnerable areas and against thinkers, from whom the state is not protected by law— lies in the fact that in this authority the separation of lawmaking and law—preserving violence is suspended. […] Police violence is emancipated from both conditions. It is lawmaking, because its characteristic function is not the promul-

gation of laws but the assertion of legal claims for any decree, and law-preserving, because it is at the disposal of these ends. The assertion that the ends of police violence are always identical or even connected to those of general law is entirely untrue. Rather, the 'law' of the police really marks the point at which the state, whether from impotence or because of the immanent connections within any legal system, can no longer guarantee through the legal system the empirical ends that it desires at any price to attain. (Benjamin, 1996, pp. 242–243)

In a 'post-Weberian' world, namely, within control societies, the infra-law system tried out in the colonies and de facto characterising the rise of modern state acquires more centrality. The law loses ground to soft-law and infra-law devices, which act as *just in time* tools of calculation of capitalist interests and administrative procedures and hence of regulation of the institutional infrastructures allowing the economic system to work efficiently (Gjergji, 2020, pp. 327–328). In such a scenario, which could be defined as 'neoliberal'—as will be more specifically emphasised in Chap. 3—protocol is even more strategic. When compared to the past, it becomes more flexible and able to elude hierarchy. In its management, new actors are involved, and old actors gain ground. In their hands, protocol is a still more effective *apparatus*, in the sense of the word provided by Foucault; namely, an entanglement of knowledge and power. This scenario somehow resembles the one depicted by Judith Butler when she states that 'the act of suspending the law' is 'a performative one which brings a contemporary configuration of sovereignty into being or, more precisely, reanimates a spectral sovereignty within the field of governmentality' (Butler, 2004, p. 61). Such a kind of sovereignty consists in the 'exercise of prerogative power', which 'is reserved either for the executive branch of government or to managerial officials with no clear claim to legitimacy' (Butler, 2004, p. 54).

Within such a scenario, a 'spectral sovereignty' emerges through the suspension of the rule of law and the 'exercise of prerogative power' (Butler, 2004, p. 54). Basically, 'petty sovereigns abound', as decisions are made over the lives of detainees, not by a singular sovereign authority, but by diffuse managerial authorities (Butler, 2004, p. 56). Sovereignty in this form becomes one element of 'the managerial tactics of governmentality' through which 'populations are monitored, detained, regulated, inspected' (Butler, 2004, p. 97).

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Protocol as Method

Abstract This chapter deals with protocol as a method for managing important aspects of social life. Protocols are analysed as abstracting devices that act as infrastructures of the contemporary world-system and allow strategic operations of capital. It is shown how an actual politics of protocols takes form, which fosters processes of managerialisation and bureaucratic neoliberalisation. The use of protocollary devices within crisis and emergency scenarios is then highlighted and stressed, with specific regard to the field of medicine and with some references to the Italian case. As emerges in the last part of the chapter, the wide spread of protocols and guidelines not only affects professional autonomy and legitimation, but also has deep implications within the sphere of production and, more generally, society overall.

Keywords Professional autonomy • Emergency • Managerialisation • Neoliberal bureaucratisation

THE POLITICS OF PROTOCOLS

Protocols are devices that allow the exertion of power in various ways and are therefore strategic from a political perspective. The pandemic emergency has clearly shown the extent to which the management of social and economic relations can be deployed through these devices. An actual

'politics of protocols' has taken shape. This, however, is not a completely novel phenomenon. As has already been shown in the previous chapters, the use of law-like devices in the place of legal norms has marked the history of capitalism, within the core countries of the modern world-system as well as in its colonial and peripherical territories.

The choice to govern through protocols expresses a certain way of conceiving politics, its function, and its limits. The decision to draw up a protocol, more precisely, means investing in a specific tool in order to achieve a certain result. In this regard, the concept of *investment in forms* proposed by Laurent Thévenot proves quite fruitful. It is not easy to grasp this concept, for it is a quite complex—and somehow obscure—theoretical category. Bruce Curtis, in his work on censuses, has clearly synthetised the three main connotations of this concept:

> *First*, it implies investment in the conventional sense of directing economic resources toward a particular end. *Second*, it preserves an earlier meaning of investment as a military practice of laying hold or seizing: armies invest castles and citadels, diseases invest cities, and statisticians and census makers invest social relations. *Third*, investment connotes the practices that surround investiture, that is, the imbuing of social relations with particular attributes. (Curtis, 2002, pp. 30–31)

Choosing to formalise a certain phenomenon and to govern it through forms means therefore investing and 'invading' it by attributing characteristics that make it more understandable and governable. According to Thévenot, the act of giving forms precedes and is the precondition for other two acts: 'conforming' and 'informing' (Thévenot, 2009, p. 794). This means that the investment the French scholar talks about has strictly to do with the processes of abstraction, formalisation, and certification described in Chap. 1 and exemplified in Chap. 2 as a key part of the dynamics of capitalism.

In the life of contemporary states, a strategic kind of investment is investment in statistical forms. Indeed, the production of statistics 'depends on coding, which is a primitive form of data processing since it implies that the information produced and analysed will be put into standard form' (Thévenot, 1984, p. 3). Coding has to do with the scientific and political dynamics through which, over time, specific instruments of description and of knowledge of reality have been introduced by institutional actors. It is part of the more general process of the *construction of*

the state (Desrosières, 1991, p. 197) and is therefore a normative process: 'statistical coding as a scientific activity is [...] regulated by logical principles which determine the *correct forms* of classification' (Thévenot, 1984, p. 3).

In his analysis of the epistemological and ontological traits of statistics as a form of state knowledge, Alain Desrosières (1991) stresses how the investment in statistical forms involves both cognitive and institutional transformations, as statistical knowledge depends on the establishment of relations of equivalence among categories of objects and on the routine execution of social observations. He begins from a basic research question: why are particular instances treated as *equivalent*? From his perspective, it is necessary 'to find an answer to this question before we can enquire *how many* cases there are in any given equivalence class' (Desrosières, 1991, p. 197). Answering this is a matter of abstraction and formalisation, that is, of understanding why we decide to establish some theoretical connections between different things and to logically connect them. When a certain investment on statistical forms succeeds, *things hold together*: different items are pulled together according to a certain criterion and in view of a given purpose (Desrosières, 1991, p. 202).

In the case of protocols, investment aims to normalise a certain field of social life by spreading, or even imposing, standard behaviours in given circumstances for technical reasons. Normalisation, however, as shown in Chap. 2, is never a purely techno-statistical act but rather rests on moral and political motives. It is part of a *politics of normality* hinging on the idea that some things—as, for instance, practices, habits, and behaviours—are all the more 'normal' the more 'unmarked' and taken for granted they are (Zerubavel, 2018). From this perspective, normalising something means in a certain sense 'unmarking the hitherto marked':

> As we mark things, thus effectively implying that they cannot be assumed by default and therefore taken for granted, we actually "abnormalize" them, thereby tacitly also normalizing what remains unmarked. Marking (and thereby abnormalizing) female ness, blackness, homosexuality, or disability, for example, is thus effectively inseparable from the conventional semiotic tradition of presuming the normality of maleness, whiteness, straightness, and able-bodiedness. (Zerubavel, 2018)

As a 'political normaliser', protocol shapes social reality in a certain way. It is therefore part of the process construction of a specific form of

objectivity, which can be labelled as '*regulatory*' (Cambrosio et al., 2006, p. 189), as it is based on the systematic recourse to the collective production of evidence (Callon, 1991). Within science and technology studies (STS), regulatory objectivity 'consistently results in the production of entities and protocols (both tacit and explicit) […] that are most often produced through concerted programs of collective action' (Cambrosio et al., 2006, p. 190).

Protocols surely owe their performativity to a process of drafting which is not merely individually but rather collectively organised. Yet, this collective organisation is not necessarily concerted; or rather, say, it does not automatically reflect a convergence of interests and views. Rather, a protocol can hide a harsh conflict between different actors over a certain issue. In general, as already stressed in Chap. 2, 'public policy instruments are not tools with perfect axiological neutrality, equally available: on the contrary, they are bearers of values, fuelled by one interpretation of the social and by precise notions of the mode of regulation envisaged' (Lascoumes & Le Gales, 2007, p. 4). Public policy instruments, therefore, constitute a political issue, as their selection—which may form the object of political conflicts—partly structures a process and its results. This means that the decision to use a protocol instead of another device to regulate a given field of social life, or the choice to draw up a protocol in a certain way rather than another, expresses a political orientation. From this perspective:

> the reproduction of codes, of categories, of procedures and taxonomies proper to a system is a form of the exercise of power. This system deploys its domination by extending this mental and social construction. The way of "in-forming beings and events," of grasping the real by retranscribing it into shared "formats" and into "coordination and figures of the collective" is a way not only of normalizing, but also of restricting and dominating, that is the result of relations of force. (Hibou, 2015, p. 89)

The massive use of protocols following the spread of the pandemic emergency reflects a certain way of wielding power, which is part of a broader tendency. Beatrice Hibou has called this *neoliberal bureaucratisation*, as it is 'an elaboration, a process of abstraction aimed at bringing a complex reality within general and formal categories, norms, and rules as they emerge from a way of thinking that rationalizes society and the government of goods, human beings, and territories on the basis of market

and enterprise mechanisms' (Hibou, 2015, p. 27). Within such a 'regime' of social, political, and economic life, the functions of control and command are rethought and reorganised, as they:

> are no longer maintained by vertical relations, but by a system of norms, rules, and contractual relations—in other words, bureaucratic practices. Outsourcing, subcontracting, partnership, and quick turnaround organization are all made possible by a set of practices and arrangements that reinforce this bureaucratization: the adoption of new technologies that rest on ever more intense codifications of information and knowledge; the tyranny of IT that rejects any approximations (and any nuanced assessment) in replies to protocols obliges people to "document" certain rubrics and depersonalizes relationships; processes of certification and standardization of product quality, modes of management and production; the establishment of ever more precise standards and specifications; the defining of objectives to be met and indicators to evaluate them by; the development of auditing; the definition of contracts (for subcontracting, alliance, partnership, etc.) that stipulate in extremely detailed ways the division of tasks, responsibilities, and remunerations; the development of arrangements to coordinate autonomous entities, professions, skills, decentralized profit plans and capital forecasts, and so on. (Hibou, 2015, p. 22)

Neoliberal bureaucratisation not only affects those individuals and institutions which are directly involved in the political and economic processes but also implicates other subjects. The spread of protocols and other kinds of formalisations (such as norms, codes, and procedures) from the business world to the rest of social environments is hence tantamount to a 'codification' not just of the state but also of society as a whole. Basically, neoliberal bureaucratisation is 'understood, translated, and appropriated by all those who live under neoliberalism and make it': it enacts a sort of 'invention of everyday life' which concerns bureaucratic practices inasmuch as it makes 'possible and sometimes indispensable to play with the documents, procedures, and rules' (Hibou, 2015, p. 123). Within neoliberal bureaucratisation, documents have a 'life' and a 'career' (Hibou, 2015, p. 129) which transits from the private realm to the public one.

Protocols are a good example of how the managerial logic of risk management has invaded other spheres of social life (Hibou, 2015, p. 51). For instance, the field of immigration policies has been strongly managerialised as it has been 'protocolised'. The 'politics of compassion', or 'of humanitarianism', aims to administer populations and individuals faced

with situations of inequality or violence by 'managing' them as possible 'victims' who have to 'be treated in medical centers, fed thanks to food "programs," and accommodated in "centers"' (Hibou, 2015, p. 105). Basically, the question of refugees and asylum seekers is depoliticised and demoralised and comes to be expressed rather in terms of management: a specific population is depicted as if it needed to be made manageable and is 'conceptualized in terms of manageable flows by means of numerical figures' (Hibou, 2015, p. 105). To analyse this phenomenon, Didier Fassin (2012) has spoken about 'humanitarian reason' and described the development of an actual 'protocol of compassion', which aims to manage refugees, displaced persons, and asylum seekers in an even more rational, technical, and scientific way. To this end, a whole battery of laws, criteria, and procedures for assessing files and lists (of countries, pathologies that are or are not treated in the home countries, etc.) have been deployed, and a gradual standardisation of treatment has been carried out (Fassin, 2012). 'Forced' migrants in particular are *bureaucratised* (Beneduce, 2010; Taliani, 2011). According to this bureaucratising logic, the victims are called to 'provide very specific documents, go to law, resort to specialized lawyers who will know what criteria to mention, and mobilize medical personnel able to vouch for the reality of scars and marks on their bodies' (Hibou, 2015, p. 106).

As a form of managerialisation, the politics of protocols is closely connected with the spread of a private-law rationality into the public life. Protocols are agents of privatisation in a twofold sense: they legitimise a managerial logic in public policy making and, on the other hand, award decisional tasks to private actors. As a form of standardisation, protocols are part of a system of calculability that is quicker and more flexible to the extent that it is poorly rooted in law. At the same time, they show the presence of a creeping and opaque process of delegation of responsibilities to non-public decision-makers.

In this regard, the worldwide diffusion of technical standards is quite paradigmatic. As protocols, they typically allow some actions and disallow others, enable some uses and restrict others (DeNardis, 2009; Lessig, 1999). Their development is de facto 'a latent and invisible form of policymaking', to the extent that standard organisations are placed 'in both a highly influential and slightly obscure position' (Bigo et al., 2019, p. 173). ISO, the International Organization for Standardization—which was born in 1947 and is named after a Greek word 'ἴσος', meaning 'equal'—is representative of such a dynamic. It appears to be an innocuous and purely

technical organisation. Yet, it has universal ambitions: ISO 'hopes to certify more and more companies and draw an ever larger section of the global community into the management habit. Once this population of players is listening and committed to continually renewing its certification, the management protocol becomes a means of reconditioning any number of organizations with a new message or an inflection of the old one' (Easterling, 2014, p. 167). In other words, 'if law is the currency of governments, standards are the currency of international organizations and multinational enterprises' (Easterling, 2014, pp. 15–16). This means that ISO 'is an extrastate parliament of this global standard-making activity. A private nongovernmental organization, convening both private companies and national representatives, ISO oversees global technical standards for everything from credit card thickness to dashboard pictograms, computer protocols, and the pitch of screw threads' (Easterling, 2014, pp. 15–16).

As they are produced by an organisation of this kind and within such an ambiguous political-economic regime, standards:

> illustrate the tendency of the public authorities to delegate responsibility to private-sector organizations for preparing and monitoring implementation of documents that sometimes have almost the force of law. They are among those low-profile policy instruments that are beyond the reach of the usual political processes developed through consultation between different interests. (Lascoumes & Le Gales, 2007, p. 5)

State legislators thus possess considerable hierarchical authority, as they have the right to regulate certain matters and can impose sanctions of various kinds. However, standardisers, namely, private actors that produce standards, are able to establish rules too (Boltanski & Chiapello, 2005; Boltanski & Esquerre, 2017). Even though they cannot claim hierarchical authority or impose sanctions, they provide 'pieces of general advice offered to large numbers of potential adopters. And since standards are presented as voluntary, standardizers often have to expend considerable effort convincing other people that it is in their interest, either now or in the long term, to accept the standards' (Brunsson & Jacobsson, 2002, pp. 2–3).

Standardisation is therefore a thoroughly political enterprise, as it 'is typified by ongoing negotiations between a host of actors, none of whom is in control or oversees all issues that may be at stake' (Timmermans & Berg, 2003, p. 53). Since World War II, it also reflects specific political

values, namely, those of globalisation and free flow of information (Cambrosio et al., 2006, p. 195). More generally, it is quite representative of the dynamics and transformations of contemporary capitalism. On the one hand, some states, specifically the United States and the United Kingdom, produce the design for the new standards and legalities—mostly deriving from Anglo-American commercial law and accounting standards—which are needed to ensure protections and guarantees for global firms and markets (Sassen, 2007, p. 55). The fact that the functioning of the world market hinges 'on protocols that are mediated by the uneven relations, policy transfers, and power expressions that compose the contemporary *Staatenwelt* is crucial to understanding the role of the state today' (Mezzadra & Neilson, 2019, p. 227). State institutions, in other words, have seen their function partially change. They continue to set the legal rules and the infrastructure for the creation of markets, in order to provide 'positive externalities', to facilitate technological innovation, and to be major risk-takers and entrepreneurs (Mazzucato, 2013). So, they still play a leadership role in the world-system. However, 'in doing so, they are increasingly subdued to capitalist logics and rationality, whether through public-private partnerships, the pressure of powerful private actors, or simply the adoption of market standards and rules' (Mezzadra & Neilson, 2019, p. 90).

In reconfiguring capitalism by acting as forms of standardisation fostered by an ambiguous and partially hidden synergy between states and private actors, protocols appear still more to be abstracting devices. In this way, they display a key feature of contemporary capitalism: the power of abstraction. This characterises for instance the ever more sophisticated financial devices, the preparation of raw materials for commodification, or the systems of standardisation that allow the modularisation of production and labour processes. However, this power is not new at all, but rather characterises the entire history of capitalism (Mezzadra & Neilson, 2019, p. 84). It is an *operation of capital* (Mezzadra & Neilson, 2019), which, especially in the currents dynamics of the world economy, allows the processes of accumulation by connecting hitherto disconnected actors, fostering new kinds of links among public and private institutions and regulating social and economic processes in a subtle and effective way, namely, by acting as law-like devices that are able to produce the same effects as legal norms, even though they are not legal norms. Protocols therefore are a fundamental *infrastructure* of the contemporary world-system. As stressed by Keller Easterling (2014) an infrastructure is, after all, normally

'considered to be a hidden substrate'; however, today, even 'the shared standards and ideas that control everything from technical objects to management styles also constitute an infrastructure' (Easterling, 2014). Far from being hidden, therefore, 'infrastructure is now the overt point of contact and access between us all—the rules governing the space of everyday life' (Easterling, 2014).

Protocols are thus infrastructure precisely because they are so widespread and pervasive that they are able to govern myriad aspects of our lives. More specifically, they are *infra-structuring objects*: as 'socio-material entities that turn scientific-research practices and their organisation into a visible and justifiable disciplinary regime of truth', they are part of an 'ecology of actions that come to be established between knowledge, scientific practices, human subjects and technologies' (Crabu, 2014, p. 135). In other words, a protocol, by virtue of its technical nature and scientific legitimation, is more credible than an actual legal norm in prescribing behaviours that are suitable to face particular situations.

In this way, protocols are, in Marxian terms, a sort of contemporary *fetish*. They are containers that conceal the mechanisms operating within them. In the field of information technology, this dynamic appears particularly clear:

> The material infrastructure of the Internet not only generates new logics of borders and capacities of control that remain often invisible but also protocols and platforms that make people think the Internet is made up of a seamless and invisible flow of information. How are these worlds created and governed? What are the material conditions of possibility, configurations, and stratifications of these worlds? How do these worlds straddle or cross between offline and online worlds? (Bigo et al., 2019, p. 10)

According to Galloway, protocols, within the Internet, are systems of distributed management that facilitate peer-to-peer relationships between autonomous entities, a language that regulates flow, directs netspace, codes relationships, and connects life forms, and a type of controlling logic that operates largely outside institutional, governmental, and corporate power (Galloway, 2004, pp. 243–244). As such, they appear as a 'second nature' which is able to conceal the materiality of the relations underlying protocollary devices and, at the same time, to project it 'into every physical system: Traffic lights become the protocol for successful management of moving vehicles; a grocery store queue is the protocol for a successful

checkout; airport security points are the protocol for prohibiting weapons; and so on. Protocol pops up everywhere' (Galloway, 2004, p. 244).

Outside of the web, however, protocols appear as fetishes, albeit in different ways. Being employed in many fields of social life as law-like devices, they are able to harshly perform social reality without revealing what is the source of the changes that are made. Basically, protocols are agents of *depolicitisation*. According to Pete Burnham, this is a governing strategy hinging on 'the process of placing at one remove the political character of decisionmaking' (Burnham, 2001, p. 128). In many instances, state managers retain 'arm's-length control over crucial economic and social processes, whilst simultaneously benefiting from the distancing effects of depoliticization' and 'shielding the government from the consequences of unpopular policies' (Burnham, 2001, pp. 128–129). In other words, governments try to protect themselves from the political consequences of unpopular policies 'by emphasising an "automaticity" and the necessary nature of relying on a strong, rules-based system that allows governments to rebut demands made by domestic interest groups, indicating "our hands are tied"' (Scott, 2022, p. 328). Consequently, governments, rather than being weakened, benefit from a 'distancing effect' that ends up strengthening their programmes (Scott, 2022, p. 328). Moreover, depoliticisation happens when the issue of the efficacy of policies—'what matters is what works'—obscures or even replaces that of their normative basis and causes a shift of emphasis from justice to effectiveness (Busso, 2017; Martin & Davis, 2001; Sanderson, 2003).

From this perspective, protocols are powerful devices because they are able to conceal political responsibilities by shifting them from the government to the administrative staff, the technicians and the experts who materially draft these instruments. Protocols, therefore, not so differently from borders (Mezzadra & Neilson, 2013), are a *method* of government, which shows its full potential in moments of crisis.

A Pandemic of Protocols

Depoliticisation as a form of technicisation of public decisions particularly happens in times of rapid change. The global pandemic we are still facing constitutes the perfect scenario for governments to resort to quick actions entrusted to technical actors, who theoretically are the only ones that know the best way to act. In Italy as well as in many other countries across the globe, the worldwide spread of Covid-19 has represented an

emergency which was not only health-related but also social and political. It has affected many spheres of society and forced people to rethink and reorganise their life in an unprecedented manner.

To grasp the characteristics and implications of the dynamics of depoliticisation, it is important to focus on the concept of 'emergency'. This is a classical notion of legal and political thought and has gained a growing centrality in the social sciences and the public debate, particularly since the attacks of September 11, 2001, and the economic crisis of 2007–2009. The pandemic of 2020–2022 is the latest global issue in chronological order to which this concept has been applied.

According to the Oxford Dictionary, an emergency is 'a sudden serious and dangerous event or situation which needs immediate action to deal with it'. Etymologically, this word stems from the Latin term '*emergens*', which is the present participle of the verb '*emergere*', meaning 'to rise out or up', 'bring forth, bring to light', and intransitively 'arise out or up, come forth, come up, come out, rise', and comes from the assimilated form of *ex* ('out') and *mergere* ('to dip, sink'). An emergency is an unpredictable circumstance. Generally, a 'state of emergency' is declared when it is thought to be necessary to manage an unexpected event by means of extraordinary measures which temporarily suspend the rule of law. The notion of emergency is therefore strictly intertwined with that of *crisis*. This term and its origins have been explained efficaciously by Rainer Koselleck:

> *Κρίσις* has its roots in the Greek verb κρίνω (krinõ): to 'separate' (part, divorce), to 'choose', to 'judge', to 'decide'; as a means of measuring 'oneself', to 'quarrel', or to 'fight'. This created a relatively broad spectrum of meanings. In classical Greek, the term was central to politics. It meant not only 'divorce' and 'quarrel', but also 'decision' in the sense of reaching a crucial point that would tip the scales. […] But 'crisis' also meant 'decision' in the sense of reaching a verdict or judgment, what today is meant by criticism (*Kritik*). Thus in classical Greek the subsequent separation into two domains of meaning—that of a 'subjective critique' and an 'objective crisis'—were still covered by the same term. Both spheres were conceptually fused. (Koselleck, 2006, pp. 358–359)

For the Greeks the term 'crisis' was employed in the spheres of law, medicine, and theology: in all three, it imposes choices 'between stark alternatives—right or wrong, salvation or damnation, life or death'

(Koselleck, 2006, p. 358). The medical meaning remained dominant and was used technically until the early modern period. From the seventeenth century on, crisis has been translated as a metaphor into politics, economics, history, international relations, and psychology (Eastham et al., 1970; Phillips & Rimkunas, 1978; Wang, 2014). In its application to the events of the French and American Revolutions, the religious and theological connotations emerged again, but the apocalyptic vision of the Last Judgment acquired a secular meaning (Koselleck, 2006, p. 358). Due to its metaphorical flexibility, the concept gains in importance to the extent of entering into everyday language: currently, 'there is virtually no area of life that has not been examined and interpreted through this concept with its inherent demand for decisions and choices' (Koselleck, 2006, p. 358). Crisis, in other words, is conceptualised now as chronic, 'a state of greater or lesser permanence, as in a longer or shorter transition towards something better or worse or towards something different' (Koselleck, 2006, p. 358).

In Italy, the idea of a permanent crisis or emergency comes out in the ways certain fields of public policy—migrations, for instance—are concretely managed. Moreover, the process of depoliticisation has taken place over the last decades, as has been well documented by several researchers (Busso & De Luigi, 2019; De Nardis, 2017; Moini, 2015, 2020). The spread of the Covid-19 virus within the Italian territory, therefore, more than marking a turning point, has rather accelerated a pre-existing tendency. At the beginning of 2020, the declaration of the state of health emergency paved the way for a style of government even more centred on law-like devices.

In a recent article, Stefano Anastasia and Valeria Ferraris (2022) have retraced in detail the sequence of decisions and provisions taken by the Italian public authorities since the beginning of the pandemic. The first act was indeed the declaration of the state of emergency by the Italian Council of Ministers on 31 January, which followed the same declaration by the Public Health Emergency of International Concern (PHEOC) of day preceding. This act laid the foundations for the Civil Protection's issuing of ordinances, which could be adopted notwithstanding the law but within the limits provided by the Italian legal order (Anastasia & Ferraris, 2022, p. 36). The first ordinance, issued on 3 February by the chief of Civil Protection, introduced the first organisational measures, including the establishment of a technical-scientific Committee and a list of the exceptions to ordinary procedures.

With the emergency of the first hotspots of the disease in the Regions of Lombardy and Veneto, however, contagion started appearing to be a legal and material reality (Anastasia & Ferraris, 2022, p. 36). A first Decree-Law, issued on 23 February, established that several containment measures could be adopted and had to be carried out through special decrees issued by the President of the Council of Ministers. These decrees have in turn legally and politically legitimised the use of already existing protocols and the adoption of new protocols in many fields of policy. Since then, protocollary devices have literally mushroomed: a 'pandemic of protocols' has followed upon the health pandemic.

In Italy as in many other countries, medicine is probably the field of knowledge and public policy in which the massive use of protocols is most evident. It is also the field in which the concept of 'protocol' shows many overlaps among its various meanings. This concept reveals itself to be as important as it is ambiguous. First, its semantic field overlaps with those of other related concepts. As noticed by Berg, the tools drawn upon to rationalise the practice of medicine include 'an array of techniques which go by a plethora of names: guidelines, algorithms,[1] practice policies, standards, statements, protocols' (Berg, 1997, p. 52). Many authors claim that there are relevant differences between 'guidelines' and 'protocols', for example. Yet, the terms are de facto used interchangeably and the scientific and professional communities lack a general agreement on the relevance or clarity of the claimed differences.

In Italy, there seem to be both differences and overlaps between guidelines and protocols, which change depending on the various medical fields. In the field of nursing, for example, there are two different kinds of guidelines: the first are clinical guidelines, which are defined by the Institute of Medicine in 1992. These are informed by an *evidence-based* approach and consist in recommendations of clinical behaviour produced on the basis of a systematic review of literature to help professionals to take decisions, while the second are organisational guidelines, which come from an administrative rather than medical language and are mere indications for service delivery. The differences and overlaps between the two kinds of guidelines are efficaciously stressed and explained by a university researcher whom I interviewed. Before starting a career in the university, she had been working for years as a nurse and head nurse. With the benefit of her long-lasting working experience, she has started teaching and doing

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[1] On algorithms and their political implications see the recent Aradau & Blanke, 2022.

research on evidence-based medicine and nursing. As an outcome of her research path, she has come to the conclusion that clinical guidelines 'have to be adapted and interpreted through protocols at the local level', while organisational guidelines do not need any kind of local translation. In the field of epidemiology, on the other hand, there are other differences. As reported by a member of a Reference Centre for Epidemiology and Cancer Prevention whom I interviewed, the word 'protocol' generally denotes the instruction to properly conduct a clinical trial, but can also indicate a therapeutic pattern, namely, a method of administration of medications and treatments. The two protocols are linked: 'the instructions concerning clinical trials are the basis for deciding how to administer a therapy (or carry out a vaccine campaign)'. The concept of 'guidelines', by contrast, is basically foreign to epidemiology, as it concerns the clinical field and means 'a set of recommendations for physicians as well as patients about to behave in specific situations'. Protocols diverge from guidelines also 'because the first is binding while the second is not'.

However, despite the differences that emerge by directly asking people who are involved in the different fields of medicine in Italy, the words 'protocols' and 'guidelines'—as well as other terms mentioned above, such as algorithms, practice policies, etc.—basically 'indicate tools that structure action by providing a written guide for what to do in a specific, circumscribed situation' (Berg et al., 2000, p. 787). As stated by Berg, who recalls and synthesises the works of David M. Eddy (1990a, 1990b), 'protocols are preformed recommendations issued for the purpose of influencing decisions about health interventions', which permit analysis of 'decisions before the fact' so as to 'prevent the mental paralysis or chaos that would otherwise result from having to rationally decide every time again from scratch' (Berg, 1998, p. 227). Basically, they are 'free practitioners from the burden of having to estimate and weigh the pros and cons of each decision'; from a cognitivist perspective, they 'are called upon to support the individual physician's thinking process' (Berg, 1997, p. 34). A protocol, therefore, is a set of instructions that informs the user what to do in a specified situation, thereby allowing a clinician to 'specify the flow of logic in his reasoning' and beginning 'to achieve the reproducibility and standardization required for science' (Feinstein, 1974, p. 6).

In greater detail, we may say that protocols appear as 'procedural standards' that specify processes and 'delineate a number of steps to be taken when specified conditions are met: how general practitioners should proceed when they suspect a new case of diabetes, what steps a nurse should

follow in preventing decubitus ulcers, and what checks the custodians should perform before declaring an operation theater ready for use' (Timmermans & Berg, 2003, p. 25). Protocols are not only the 'ultimate bureaucratic instruments' that explicate 'what to do when, in what way and with what means', but they are also forms of categorisation: they put patients, 'each with their own specific stories, into distinctive, homogeneous categories to ensure uniform treatment of "equal" cases' (Berg et al., 2000, p. 766). As protocols standardise sets of practices, actors, and situations, their main characteristic is that of guaranteeing comparability. Specifically, they consent one to 'intervene in a specified situation and prescribe a set of activities that should be performed in a similar way in order to achieve results comparable over time and space' (Timmermans & Berg, 2003, p. 63).

In the general perception, the main strength of protocols is that they are prescriptions and procedures which are understood to be empirically rooted and evidence-based: they should therefore suggest how to execute a certain task (Timmermans & Berg, 2003, p. 57). Given that, in its simplest form, protocol 'is nothing but a written instruction' (Berg, 1997, pp. 52–53), it is not easy to retrace its history in medical practice. However, it is quite evident that, even though a certain degree of standardisation marks the birth of modern medicine (Foucault, 2003)—in Germany, for instance, physicians were normalised before soldiers and school professors (Foucault, 2021, pp. 37–38)—the spread of this device started after World War II. Especially in the United States, the dramatic increase of funds for all aspects of the medical enterprise 'made the standardization of medical procedures appear both feasible and imperative' (Weisz et al., 2007, p. 703). More specifically, the expansion of biomedical research amplified the pressure for collective forms of evaluation and made many large domains of research sufficiently collaborative to generate standards and protocols, particularly multicentre research, which required standardised categories and practices that allowed for the aggregation of data (Weisz et al., 2007, p. 703).

With the advent of the nineties, the process of standardisation of medicine accelerated. In 1991, leading international emergency medicine researchers gathered in the Utstein Abbey, located on a small island off the southwestern Norwegian coast, with several aims—including that of defining what counts as life-saving first-aid behaviour and how it should be recorded—and, above all, to resolve a problem that was then unresolved: the wide variation of the data concerning the efficiency of CPR, a

cardiopulmonary resuscitation procedure (Timmermans & Berg, 2003, p. 1). In order to explain these variations and fix their negative effects, international researchers proposed 'a set of uniform guidelines to report outcome data for resuscitative interventions' and 'provided a glossary of terms, definitions for time points and intervals, a template for reporting data from resuscitation studies, definitions of outcomes, and recommendations for the description of emergency medical resuscitation systems' (Timmermans & Berg, 2003, p. 2).

The 'Utstein consensus conference' is not an isolated instance of standardisation in medicine, as, over the past decades, an industry of thousands of consensus conferences has flourished in the healthcare field (Timmermans & Berg, 2003, p. 2). The consensus necessary to produce guidelines, furthermore, was made possible by new techniques like randomised clinical trials, which have become the 'gold standard' for evaluating therapies (Marks, 1997), or the Delphi method, which was developed at the RAND Corporation—the same mentioned in Chap. 2 which invented 'packet switching', an innovative communications transmission technology—to generate forecasts from experts (Weisz et al., 2007, p. 704). In this way, 'standardization has penetrated every corner of contemporary medicine: it forms the foundation of collaborative international research protocols, medical information technologies, and reimbursement procedures' (Timmermans & Berg, 2003, p. 3).

The standardisation movement has produced as its main effect great emphasis on evidence-based medicine (EBM), or the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual patients (Sackett & Rosenberg, 1995). This approach has several characteristics, including an orientation towards critical self-evaluation, the production of evidence through research and scientific review, and/or the ability to scrutinise presented evidence for its validity and clinical applicability. Basically, EBM 'mainly denotes the use of clinical practice guidelines to disseminate proven diagnostic and therapeutic knowledge' (Timmermans & Berg, 2003, p. 3). Under it, 'guidelines have become the tool of choice to weed out unwarranted variation in diagnostic or therapeutic practice and to enhance the scientific nature of the medical care delivered' (Berg et al., 2000, p. 766). They have been perceived as a major change in the way of regulating the quality of medical practice, not just in terms of rules and norms produced by governmental and professional organisations, but also with respect to the less formal conventions and standards that are established to make possible many

different kinds of collective activities (Weisz et al., 2007, p. 692). This has gone so far that, nowadays, there are guidelines for the production of guidelines (Eccles et al., 1998) and various protocols for grading them according to quality (Guyatt et al., 2006).

In the field of medicine, therefore, the word 'protocol' clearly shows itself to have at least two of the meanings described in the first chapter: prescription and operational procedure. However, it also displays other connotations. In particular, protocol is often meant as device of communication or even a language. Standardised tools indeed 'strive to make physicians' reports more comprehensive, thus allowing other readers to better judge and draw upon the insurance physicians' actions' (Timmermans & Berg, 2003, p. 57). This seems to be especially true for nurses: as can be seen from an interview to a nursing researcher conducted by Timmermans and Berg, 'NIC [the Nursing Interventions Classification developed at the University of Iowa] is extremely helpful because it provides a language to communicate what we do with a firm scientific base' (Timmermans & Berg, 2003, p. 91). In this sense, protocol functions not only as a communication interface between different social worlds, but also serves as a device of dialogue which connects human actors who have to share the same line of work and resources (Crabu, 2014, p. 137).

As a formalisation, a code, that allows communication, protocol in medicine also works as a tool of coordination. It is able to coordinate individual insurance physicians' activities, and consequently it aligns

> work practices with the legal requirements stated in the law and refined in court discussions about contested cases; with medical-professional discussions about the validity of certain inferences in the evaluation of disability; with the aims of the insurance physicians' profession to reduce practice variations and make its work more evidence-based; and with the demands of third parties and politicians worried about the high number of disability cases. (Timmermans & Berg, 2003, p. 67)

Protocol, therefore, also has the meaning of an agreement among parts, with the parts being, in this case, different physicians as well as diverse professional categories—nurses, surgeons, anaesthetists, etc.—or even actors external to medicine—politicians, civil society organisations, members of the justice system, etc. Indeed, protocols are necessarily written in strict collaboration with those who work in the field (Berg et al., 2000). This would seem to confirm the idea that standardised devices are

'realistic'—namely, that they not only prescribe but also accurately describe how medical professionals concretely work.

In medicine, moreover, the word 'protocol', though indirectly, evokes also the last of the meanings identified in Chap. 1, namely, that of an archiving function. EBM fosters the production of standardised reporting. Reports often 'follow a standard layout, fusing the legal framework within which insurance medicine operates with positivist, scientific notions of a proper investigation, based on available evidence that follows epidemiological principles' (Timmermans & Berg, 2003, p. 66). If research protocols consist in highly detailed prescriptions about what to do, when to do it, and in what sequence, standardised forms 'are a common means to stimulate complete record keeping and enhance transparency' (Timmermans & Berg, 2003, p. 57).

In medicine, in sum, protocols are devices which *make order*. They are vehicles 'through which order can be brought to all those practices where messiness reigns' (Berg, 1998, p. 227). More specifically, they 'coordinate—and thereby transform—the activities of the individuals who work with them' and 'structure and sequence these activities: checking off the sentences or actions to undertake': in this way, protocols 'give shape to and order the activities of the health care worker in a prespecified way' (Timmermans & Berg, 2003, p. 64). Medical personnel have to delegate some of their coordinating activities to a protocol, while the protocol in turn delegates specific tasks to them, so as 'to realign the heterogeneous elements of the medical' (Berg, 1998, p. 232).

This means that medicine as a scientific activity is not in itself the realm of a transparent, optimal, and unified clinical rationality. Within a rather chaotic scenario, protocols allow the achievement of a new order by incorporating the very messiness they contribute to erasing (Berg, 1998, p. 238). Through protocols, the criteria for medical decisions are changed: 'they are increasingly tied up to a limited set of simple, clear-cut variables. Instead of spreading the "proper practice of X", instead of strengthening a "clinical rationality", the protocol silently creates a new order that is as yet waiting to be explored' (Berg, 1998, p. 244).

As ordering devices, protocols in medicine show all their ambiguities. Theoretically, they should be a means and not an end (Timmermans & Berg, 2003, p. 67). Yet, as in other fields, the mere drafting of standardised and prescriptive documents—documents which are supposed to indicate the procedures to follow, allow communication, foster agreement among different actors, and store information—often becomes a goal in itself. The subtle

penetration of the logic of finance even in fields like medicine fosters standardisation and rationalisation as targets per se (Hibou, 2015).

The Dilemmas of Protocols

As emerged in the previous section, the field of medicine is paradigmatic of how protocols, which at first glance appear as mere written instructions that include the old idea of regulating actions through recipes (Goody, 1977), on closer inspection seem to incorporate a more contemporary idea: they are *techniques* which embody a *script* (Berg, 1998). Scripts are sociotechnical practices crystallised into durable material infrastructures which define a vision of the world and prescribe behaviours. (Akrich, 1992; Akrich & Latour, 1992; Latour, 1992). Basically, they define a framework of action, and do so together with the actors and the space in which they are supposed to act (Akrich, 1992). Scripts are embedded in technical objects which constitute the 'end product' of a process of 'inscribing' a 'vision of (or prediction about) the world in the technical content of the new object' (Akrich, 1992, p. 208).

Scripts have to do with power, namely, with the power exerted by prescribing intended practices. They can be approached and managed in various ways: those who encounter a script can adhere to it (*sub-scribing*), mediate and re-negotiate it (*de-scribing*), or completely subvert it (*de-inscribing*) (Akrich & Latour, 1992). In the case of a protocol, if subscribing basically means loyally sticking with the instructions it provides, de-scribing is tantamount to applying these instructions in a more creative way. As stressed by Akrich and Latour, indeed, de-scription allows a more accurate understanding of a certain setting and what the various actors at play in it are doing to one another: it 'is the opposite movement of the in-scription by the engineer, inventor, manufacturer, or designer' and 'is possible only if some extraordinary event—a crisis—modifies the direction of the translation from things back to words and allows the analyst to trace the movement from words to things' (Akrich & Latour, 1992, pp. 259–260).

This marks an interesting point, as de-scription, more than subscription, stresses the difference between two basic roles: the drafter of a protocol and its applier. However, it conceals a third figure, who remains in the background, despite playing a key role in many fields of social life: the political actor who decides to use protocols instead of legal norms. When actors of this kind choose protocol as an instrument of governance,

they de facto delegate to the technical actors who draft it the task of reaching their goals, in this way avoiding directly assuming their political responsibilities. At the same time, they accept the risk that the delegate will write a protocol that does not conform with their ends and interests.

Such a situation resembles Galloway's idea that protocols are devices which by design cannot be centralised, as they tend to elude centralised control (Galloway, 2004, pp. 11–12). However, this demonstrates that protocols are meant to assign technical responsibilities by maintaining political control of the whole process, namely, to obtain a delegation of power without a complete decentralisation. Through protocols, political actors protect themselves by distributing and decentralising decisions: to entrust the task of writing protocols to experts means taking decisions without being directly exposed to the risk of being criticised and openly attacked for them.

This sort of 'dilemma of protocol' does not mean, however, that hierarchy cannot be subverted. This can happen especially when the scripts of protocols are de-inscribed. De-inscription (or dis-inscription) is the opposite of sub-scription: it is a different reaction to what is prescribed or proscribed (Akrich & Latour, 1992, p. 261). Those who de-inscribe, according to their own antiprogrammes, can 'either underwrite [a script] or try to extract themselves out of it or adjust their behaviour or the setting through some negotiations' (ibid.). Generally, de-inscription comes up in moments of crisis, the intensity of which can determine the gap between the prescriptions and the ways users try to manage them.

In this regard, the field of medicine is quite instructive. Within it, crises happen every day. As a consequence, attempts to face them continuously carry the risk of leading to a de-scription of the scripts that are thought up and designed for the different situations. According to Berg, in the medical field, a 'script includes the written text of the protocol, but extends beyond that', as 'many roles and tasks are to alter in ways not explicitly elaborated in the protocol's lines' (1998, p. 230). Moreover, it 'requires many of the diverse elements constituting the medical practices to behave in a uniform, stable, and predictable way. In the script, these heterogeneous elements are thoroughly intertwined' (Berg, 1998, p. 234). However, the construction (and implementation) of a protocol is a process characterised by ongoing, continuing negotiations, within which 'the practices are transformed and the tool itself acquires its final shape' (Berg, 1998, p. 235). More generally, medical practice is not necessarily disciplined enough for the protocol to work, and hence the protocol

undergoes a *redescription* within which 'many heterogeneous elements are transformed to make their behavior definite, uniform, and predictable enough for the protocol to work' (Berg, 1998, p. 234). This implies a process of restructuration of practices which also have to fit formal requirements: basically, 'the diverse elements must indeed subscribe to the protocol's script' (Berg, 1998, p. 234).

As embodying scripts, therefore, medical protocols are not simply operational procedures, but are also prescriptions. Etymologically, after all, the word 'prescription' comes from the Latin *praescriptionem* (nominative *praescriptio*), which means 'a writing before, order, direction' and is a noun of action from past participle stem of *praescribere*, meaning 'write before, prefix in writing; ordain, determine in advance'. Basically, this word is composed by *prae* ('before') and *scribere* ('to write'). The etymology of prescription hence indicates the fact that there is someone who thinks and decides in advance how to do a certain thing and translates their thoughts and decisions into a script embedded by a protocol. This also means that protocols in medicine are political tools (Berg, 1998, p. 236). That is to say, they are the outcome of a process of compromise within which those who write them 'take whatever opportunities they perceive in order to adequately constrain the links between the diverse, constituent elements of the medical practices' in a never-ending way, as 'the required control is never complete: in adjusting a practice to a protocol, the protocol itself is also inevitably transformed. Its final script can be read as reflecting the continual need to "give in" to resistances coming from the different practices in which the tool is incorporated' (Berg, 1998, p. 237).

Protocol, therefore, reflects the diverse and divergent political interests that characterise the field of medicine. First, a conflict between alternative options takes place, and turns into different ends to fulfil. Once this conflict is resolved, the 'winning end' is pursued through a protocol, which is considered as the suitable means, and its drafting is delegated to technical actors, who are called upon to cooperate. At this point, a second kind of conflict arises: it concerns the concrete writing of a protocol. When this conflict too is overcome, the last one regards the application of the contents of the protocol. This involves the operators who are called to apply the instructions and to interpret them.

As emerges from this brief description of the chain of actors, decisions, and interests entailed in the drafting and implementing of a protocol, the prescriptive character of this device is complex and multilevel. In order to

grasp it, it might be useful to consider that, besides embodying scripts, protocols are also *lists*. In other words, they are structured as a catalogue of things to do in a certain sequence. A list is a device that assembles 'disparate items into ordered classes of things, making problems amenable to targeted, cross-boundary intervention in novel ways' (De Goede et al., 2016, p. 3). According to the Oxford Dictionary, it is 'a catalogue or roll consisting of a row or series of names, figures, words, or the like', and comes from *liste*, a term from Old English and French which meant 'border, edging, strip' or 'band, row, group', which usually referred to the section of cloth or paper that bounded particular statements of measurement. 'List' also has a spatial meaning, as it denotes a boundary—as a place within which a combat takes place hence (Goody, 1977, p. 80). Etymologically, 'the list performs a "cut", as it enacts a border around categories of seemingly similar items and performs important work of arbitration', having consequently 'the capacity to create a meaningful grouping and to constitute a record' (De Goede et al., 2016, p. 4).

The concept of list, therefore, has many points in common with that of protocol. Both of them stem from words that denoted parts of old documents and their functions, and both of them connect things by sorting and enumerating them. In so doing, they make order, establish borders, and produce performative effects. As such, protocol and list—or rather say, protocol *as* a list—are intrinsically political concepts that appear to be purely technical.

The list, in particular, having a dual nature of recording and bordering (Eco, 2009), seems to be a practical, pragmatic, and coherent tool, as it is 'assumed to compile entities that already have affinities and obvious familiarities' (De Goede et al., 2016, p. 5). Actually, however, many lists, although they '*disguise* themselves as practical and coherent' and appear as mundane devices 'that purport merely to compile and collect', upon closer examination reveal themselves 'to be much more creative and chaotic than we might think' (De Goede et al., 2016, p. 5). Specifically, the political nature of the list lies in the fact that it can be employed as an instrument of governance that allows one to count, account, and calculate (Goody, 1977). By cutting and reassembling different things, the list 'can reduce complexity by enrolling disparate elements together into the same class, thus rendering them commensurable, quantifiable and governable in novel ways' (De Goede et al., 2016, p. 6). Listing, in other words, is a form of 'legal politics' appearing 'as a simple instrument to execute prior legal decisions' (De Goede et al., 2016, p. 6). But a list does more than

that. It creates legal spaces and connects legal actors in novel ways (Leander, 2016) and 'absorbs uncertainty' from fragmented regulatory environments (Espeland & Stevens, 2008, p. 422). Basically, listing, by 'displacing regulatory alternatives and undermining the possibilities for political challenge' (De Goede et al., 2016, p. 7), participates actively in contemporary governance (Johns, 2016). It is a powerful tool of depoliticisation, as it pretends to be neutral when it is able not only to connect places, individuals, organisations, and practices, but also to '*create* relational spaces that enable novel modes of regulation to unfold' (De Goede et al., 2016, p. 6). In short, in a complex environment, the list provides an appearance of manageability (Stäheli, 2012) and allows one 'to produce seemingly objective accounts detached from the messy contextual narratives' (De Goede et al., 2016, p. 8).

In short, the protocol, like the list, tries to impose a precise sequence of actions by making it appear to be pragmatically the best and most rational way to perform a task and obtain a certain result. However, precisely because it is a list, the protocol can be more chaotic and creative than it appears. As a consequence, it can leave wide room for maneuvering to those who are apparently called to merely apply it.

The various dilemmas of protocol clearly emerge by looking at the problems which arise in the everyday life of these devices. To grasp these, the field of medicine proves quite fruitful again. The first issue concerns the legal status of protocols. Of course, they are not laws *stricto* sensu, but they often act de facto as if they were. In some cases, their legal nature is unclear: 'whether they were guidelines that suggested optimal paths of actions, or whether they held a particular legal status and could be enforced, was not clear' (Berg et al., 2000, p. 772). In other cases, they seem to explicitly acquire a legal status, especially if they are meant as forms of storing information: 'an unexpected side effect of the efforts to improve record keeping was that this made it possible for the records to acquire a legal function' (Timmermans & Berg, 2003, p. 45). Basically, to follow a protocol or a guideline may protect against legal action (Weisz et al., 2007, p. 716).

The Italian case adds interesting elements to this point. As asserted by a former nurse and university researcher in the field of nursing, while violating a procedure provided for by an organisational guideline does not entail a legal penalty, disobeying a clinical guideline may produce different, and more severe, consequences. Indeed, in 2017, law n. 24, denominated 'Provisions on patient care safety and professional liability of health

care providers', was issued. Its explicit and official rationale was that of restoring

> the balance in patient-doctor relationships, staving off liability claims, which have adversely affected the health care system and given rise to defensive medicine practices, i.e. doctors (out of concern that they may be sued for indemnity payments), recommending a diagnostic test or medical treatment that is not necessarily the best option for the patient, but one that mainly serves the function to protect the doctors themselves against possible claims of medical malpractice, by proving that all viable therapeutic options have been used, thus avoiding any possible charges. (Montanari Vergallo & Zaami, 2018, p. 82)

The issuance of this law seems to have somehow 'revolutionised' the field of medicine, or at least, to have formalised what had concretely already happened. While before law n. 24/2017, in the case of a controversy, physicians had to simply prove that they had acted 'in science and consciousness', after this law, in the face of an increase of controversies and as the evidence-based approach becomes established, many judges have started asking, 'does a guideline stating how to act exist?' The researcher interviewed stresses the fact that the Gelli-Bianco Law basically stated the following principle: 'a professional has to mandatorily act on the basis of accredited guidelines, especially when these include "A class" indications, which are explicitly binding'. This means that if the guideline contains this kind of indications, physicians and nurses 'are obliged to know and follow them'. Surely, as professionals, they can—or even are expected to—disregard the indications when these are assessed to be unnecessary or inappropriate. In this case, however, 'they are called to discuss their decision collegially and then to report in the medical record the reasons why they moved away from guidelines'.

The field of epidemiology adds other elements. As has already been clarified, guidelines are basically foreign to that field. The few that strictly concern epidemiological issues are mainly focused on how to write protocols, and therefore are not legally binding. The protocols that give indications on how to conduct clinical trials, on the other hand, could have legal implications, as 'when you ask patients their consent to participate in the trial you create some kind of constraint'.

A second problem is the consistency and the effective usefulness of guidelines and protocols. The extremely high diffusion of these devices

has been considered, in many critical commentaries and analyses, as a way to engender a 'cookbook' approach to healthcare work, which stifles individual contributions to the development of medical science through an excess of generalisation (May, 1985; Oliver, 1985; Tanenbaum, 1994). Protocols and guidelines, more specifically, are often perceived as redundant: if there is theoretically in every clinical case just one guideline that is operative, they actually tend to overlap (Berg et al., 2000, p. 772). In other cases, they seem to have produced as their main—if not even unique—outcome an increase in documents and paperwork, the usefulness of which is yet to be demonstrated: 'in fact, several interviewees stressed that the increased attention to reporting was the main or even the sole effect of the guidelines' (Berg et al., 2000, p. 782). Moreover, too much standardisation within reports risks being considered as a threat to the legibility and informative value of the instruments: 'too many standard phrases, these physicians argued, actually decreased the readability and information value of the reports. Rather than enabling a smooth articulation to the expectations of colleagues and supervising physicians, the reporting protocols might yield "empty reports" and hinder a smooth and fast use of the reports' (Timmermans & Berg, 2003, p. 76). This undermines the function and rationale of protocols and guidelines when they are meant as standards, and does so to such an extent that it creates a paradox: the goal of uniformity is weakened by the abundance of standards which compete with each other (Timmermans & Berg, 2003, p. 20).

In some cases, critiques are even more extreme, and concern a pretextual use of standardised devices, the introduction of which can be primarily considered as 'a means to obtain drugs free of charge (in the case of industry-subsidised trials, for example), or a place where a patient can be sent for whom there is really nothing more to do so that the final verdict can be delayed' (Timmermans & Berg, 2003, p. 72). The Italian researcher mentioned above has highlighted the same critical issues. In the interview, she stressed how important economic interests can be in the decision to produce protocols and guidelines. Before it became mandatory to declare conflicts of interest, these devices could be pretextually used by the pharmaceutical industry, which in certain cases paid the drafters to obtain certain results. Now, there are mechanisms of correction; most importantly, there are organisations which continuously monitor the process of production for standardised devices.

Guidelines and protocols, more generally, are ambiguous objects: on the one hand, they foster the sharing of knowledge among the various

professional categories and legitimise certain specific professions, while on the other hand, they increase the power of control by some actors. Particularly, a key issue is who writes protocols and guidelines. Indeed, those that have the power to determine their content 'are in a position to define their tasks vis-à-vis other, potentially competing professional groups and may in that way strengthen the professional position they already hold' (Berg et al., 2000, p. 766). This can become a more controversial issue depending on the status of the document-writers: in a profession that is already relatively weak, the introduction of a protocol or guideline by an agency that is *not* an association of professionals could raise polemics (Berg et al., 2000, p. 777). Specifically, for professionals like nurses, the introduction of standardised devices is a way to obtain the recognition of a certain professional knowledge by significant outsiders (for instance, hospital managers), but, at the same time, it is tantamount to an increase in control over certain practices by those same outsiders (Timmermans et al., 1998, Wagner, 1993).

This last point is quite sensitive, as it raises the question of professional legitimation. Protocols and guidelines are strategic tools towards this end. Berg, Horstman, Plass, and van Heusten, for instance, see the introduction of standardised devices for insurance physicians as a response to the increasing need for public legitimisation for the profession (Berg et al., 2000, p. 773). A guideline can efficaciously work as a professional self-presentation: through it, 'the profession could show outsiders that they take their task seriously and that they can be trusted to handle claims responsibly and justly' (Berg et al., 2000, p. 774). Moreover, it makes it more visible that physicians have decided something and are 'not just puppets on a string, acting according to the consensus of employers and employees, but they really had a complicated job to do' (Berg et al., 2000, p. 778). Finally, it is, for the insurance physicians, 'something to hold on to', namely, 'an acknowledgement of the complexity of their task, and constituted a means of defending their judgements vis-à-vis intruders' opinions and interests' (Berg et al., 2000, p. 782).

More generally, protocols and guidelines in the field of medicine are strategic for preserving professional autonomy in the face of administrative pressures, and represent a way for groups or institutions to compete in the marketplace (Weisz et al., 2007, p. 692). The issue of professional autonomy, however, raises other questions and dilemmas. Probably, the most important one is the contrast between hierarchy and discretion. On the one hand, protocols seem to reinforce bureaucratic hierarchies. They do

this when protocol builders, in the attempt to prevent a practice's potential obstinacy, implement specific rules to consolidate hierarchical power (Berg, 1998, p. 238). In this way, standardised devices work as tools which oppose discretion and 'help prevent carelessness and arbitrariness in the claim evaluations' (Berg et al., 2000, p. 774). To this end, an interesting role is played by *checklists*, a tool originally introduced in aviation to reduce failure by compensating for the potential limits of human memory and attention. Widely adopted in the field of medicine, these are basically used to ensure that clinical practice guidelines are followed. Checklists, therefore, as also reported in a bestseller book titled *Checklist* (Gawande, 2010), are a sort of list containing meta-guidelines or meta-protocols. The author of this book, Atul Gawande, a general and endocrine surgeon, tells the story of how a specific kind of list, aimed at making certain that a sequence of acts considered strictly necessary has been correctly completed, has become introduced in most clinical settings. Gawande himself has contributed to the WHO Surgical Safety Checklist, a device developed for the World Health Organization, which seems to have had an important effect on improving patient safety.

At the same time, however, these devices do not censure professionals, as they 'leave a space for interpretation and judgement that could only be filled by the specific knowledge and experience of an insurance physician. They did not do away with the "need to think"' (Berg et al., 2000, p. 775). Basically, protocols always have to be adapted, to the extent that the ways they are concretely performed reflect particular 'working styles' (Timmermans & Berg, 2003, p. 71), and have to be 'interpreted, acted upon, and passed on' (Timmermans & Berg, 2003, pp. 72–73). The field of nursing, in this regard, shows that knowing how to manage a protocol is the precondition for using it (Timmermans & Berg, 2003, p. 74). This also means that adjusting protocols by lowering their degree of standardisation is not a form of 'resistance of actors to domination', but is rather the demonstration of how those who manage these protocols have become able to do so—how they 'have become experts in handling, dealing with, and being affected by the standard' (Timmermans & Berg, 2003, p. 76).

Whether or not protocols and guidelines leave enough room for the professionals who are expected to use them also depends on the fact that these devices are able to preserve a certain 'autonomy'. The ends of policymakers and designers, in fact, are not able to 'encapsulate' the overall effects of a socio-technical device, which maintain an 'autonomous' force of action that is developed in relation to the actors who use them

(Lascoumes & Simard, 2011). More specifically, it is the interaction between a user and a device that creates a relation, one which cannot be reduced to the formal rules regulating the functioning of the latter: although 'social actors often have no choice but to make do with compulsory devices, their "ways of operating" are not necessarily passive and entirely guided by established rules' (Amicelle et al., 2015, p. 300).

The fact that devices can somehow keep their 'autonomy' from those who have designed and introduced them does not mean, however, that their introduction does not represent a threat to professional jurisdiction (Abbott, 1988). Although standardised devices are presented as something that professionals can disregard when they have good reason to do so, they still constitute a direct intrusion into the borders of professional autonomy (Berg et al., 2000, p. 766). Moreover, they entail a delegation from the workers to the tool (Timmermans & Berg, 2003, p. 57). This raises interesting questions in terms of the form and content of the working process characterising a profession. Particularly, it seems worthwhile to try to understand whether protocols and their widespread diffusion are the manifestation of one of the main traits of neoliberalism: namely, the formal and real subsumption of society under capital. By applying some Marxian categories to the use of protocols, this issue can be at least partially addressed. According to Marx, *formal subsumption* takes place when wage-labour relations are imposed on particular forms of labour without transforming the mode of production:

> at the start of its formation, we see capital take under its control (subsume under itself) not only the labour process in general but the specific actual labour processes as it finds them available in the existing technology, and in the form in which they have developed on the basis of non-capitalist relations of production. It finds in existence the actual production process—the particular mode of production—and at the beginning it only subsumes it formally, without making any changes in its specific technological character. (Marx & Engels, 2010, pp. 92–93)

Subsequently, something happens: more radical organisational and technological changes foster a qualitative change of the mode of production, so that *real subsumption* takes place:

> Only in the course of its development does capital not only formally subsume the labour process but transform it, give the very mode of production

a new shape and thus first create the mode of production peculiar to it. […] This formal subsumption of the labour process, the assumption of control over it by capital, consists in the worker's subjection as worker to the supervision and therefore to the command of capital or the capitalist. Capital becomes command over labour. (Marx & Engels, 2010, pp. 92–93, emphasis in original)

With the real subsumption of labour under capital,

all the changes we have discussed take place in the technological process, the labour process, and at the same time there are changes in the relation of the worker to his own production and to capital—and finally, the development of the productive power of labour takes place, in that the productive forces of social labour are developed, and only at that point does the application of natural forces on a large scale, of science and of machinery, to direct production become possible. (Marx & Engels, 2010, p. 106)

This means that there is a close interaction between science and technology in qualitatively transforming production process. But it also entails a broader effect: 'to understand how social change is indissociable from technological development […] though not determined by it', namely, that 'the technological is in some sense isomorphic to the social and the political' (Thacker, 2004: xii). Within this scenario, 'protocol consistently makes a case for a material understanding of technology', where 'material' can be taken 'as an ontological category as well as a political and economic one': in short, 'the technical specs matter, ontologically and politically' (Thacker, 2004: xii).

Therefore, while on the one hand protocols seem to be tools that are employed to formalise activities which were already determined in their contents, on the other hand they appear as devices that are able to substantially restructure the whole mode of production and, hence, to reshape professional identities and borders. This raises grave concerns about an issue which, again in Marxian terms, involves the relationship between *exploitation* and *alienation*. It is not possible here to conclusively analyse the role of protocols in this sense. However, it seems clear enough that these devices, in certain conditions, are part of complex and articulated relations between production and forms of domination, which

refers more generally to the missing control by producing subjects of the objective conditions of their lives and labor, of the combination of their

forces and capacities to produce within larger assemblages, where social cooperation meshes with machines, control devices, algorithmic protocols, and logistical coordination systems. It is within these larger assemblages that exploitation ultimately operates and enables the accumulation of wealth and capital. (Mezzadra & Neilson, 2019, p. 203)

Beyond the world of production, however, protocols are able to produce the same effects of domination, exploitation, and alienation on the overall society. Perceiving whether this actually happens or not depends on the critical capacity to understand the deeper and less visible dynamics of power in contemporary societies.

In conclusion, the analysis here deployed advances the existing literature from various perspectives. First, it carries out a genealogical reconstruction of the concept of protocol and its various semantic dimensions which has never been attempted before. Specifically, it follows the changes of the meanings of the word 'protocol' and the history of the different items called 'protocols' for the purpose of identifying the objects and implications of a protocollary mode of governing. Second, in carrying out this analysis, it connects a wide set of studies coming from heterogeneous fields and disciplines and brings different concepts and theoretical categories to work together. Several histories—of law, ideas, political concepts and theories, science, sociological thought—are gathered together with other social sciences—anthropology, international relations, political science, sociology—and disciplines like diplomatica and archivistics with the aim of linking the various semantic and historical paths of the different things called 'protocols'. Third, it puts the diverse concepts and categories, as well as the literature they originate from, in dialogue with the empirical research on protocols, which is basically restricted to the field of health. In this way, the book attempts to add new theoretical insights to the study of public policies and, more specifically, of government processes and dynamics. The expected outcome of this attempt is to show that a protocol is not only a strategic device for taking professional decisions, realising clinical trials, and following medical procedures, but is also a way of governing lives and populations.

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