

# Morality and Modernity: A Critique of Jürgen Habermas's Neo-Marxist Theory of Justice

By Douglas B. Rasmussen

In the wake of the apparent collapse of orthodox Marxism, radical intellectuals have been in pursuit of an alternative theoretical basis from which to critique capitalism. One influential standard-bearer of the Neo-Marxists is Jürgen Habermas, a philosopher of the "Frankfurt School" of critical social theory in West Germany. Jürgen Habermas has set out to correct what he sees as a serious flaw in Marxist theory, the lack of a firm normative foundation from which to legitimate the struggle against capitalism. Whereas orthodox Marxism relied entirely on the privileged standpoint of the proletariat from which to criticize capitalist society, Habermas believes this view to be philosophically inadequate, especially in light of the fact that social problems of advanced capitalism are increasingly less about matters of material distribution than about the ability of individuals to organize their own lives in the face of increasingly powerful economic and political-administrative systems. Habermas's proposed alternative is his theory of "discourse ethics."

Discourse ethics is to be used to assess the validity of a conception of justice and in turn the legitimacy of the political institutions and public policies based upon it.<sup>1</sup> Though Habermas is reluctant to make specific public policy proposals, he clearly sees his ethics as endorsing what he calls "the democratic form" of political decision-making:

There is one form of political decision-making according to which all decisions are supposed to be made equally dependent on consensus arrived at in discussion free from domination — the democratic form. Here the principle of public discourse is supposed to eliminate all force other than that of the better argument.... This principle, that — expressed in the Kantian manner — only reason should have force,

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1 See John Forester, ed., *Critical Theory and Public Life* (Cambridge, Massachusetts and London, England: MIT Press, 1985) for various essays which seek to draw out the social and political implications of Habermas's theories.

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links the democratic form of political decision-making with the type of discussion to which the sciences owe their progress.<sup>2</sup>

Whether this understanding of democracy is accurate or not, it is clear that Habermas understands his discourse ethics to require that anyone whose interests are foreseeably affected by the institutional adoption of a policy not be excluded from the process by which policy is determined. The implementation of this requirement is called "democratization," and it applies to nongovernmental as well as governmental institutions. Though there is plenty of room for interpretation when it comes to spelling out what democratization specifically involves, the following seem likely: a) the democratization of representative democracy, b) the establishment of greater forms of economic democracy, and c) the creation of a "true" public sphere in society – where discursive testing of policies might occur – through the institutionalization of as many democratic forms as possible, e.g., direct, representative, industrial, territorial, central, and federal. In this essay I will evaluate the theoretical foundations of Habermas's discourse ethics.

### The Problem of Legitimacy

Habermas holds that "legitimacy means *a political order's worthiness to be recognized.*" According to Habermas, there are different levels of justification – for instance, myths of origin, religious/cosmological world views, philosophically argued ontologies (e.g., "natural law") and finally, "discourse ethics." Habermas views these levels of justification as hierarchically ordered such that the myth stage of justification is superseded by the religious/cosmological stage which in turn is superseded by "ontological modes of thought," and so forth.

Habermas holds that natural law has become increasingly untenable as a source of legitimacy in the modern world and that the new source of legitimacy must ultimately lie in the *social processes* by which legitimacy is acquired:

The procedures and presuppositions of justification are now themselves the legitimating grounds on which the validity of legitimations is based. The idea of an agreement that comes to pass among all parties, as free and equal, determines the procedural type of legitimacy of modern times.

"Modernity," he claims, "can and will no longer borrow the criteria by which it takes its orientation from models supplied by another epoch; *it has to create its normativity out of itself.*" The social contract theories from Hobbes to John Rawls and the transcendently

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2 Unless indicated otherwise, quotations are from one of the following works of Jürgen Habermas: "Diskursethik – Notizen zu einem Begründungsprogramm," *Moralbewusstsein und kommunikatives Handeln* (Frankfurt: Suhrkamp, 1983); "Legitimation Problems in the Modern State," *Communication and the Evolution of Society* (Boston: Beacon Press, 1979); *The Philosophical Discourse of Modernity* (Cambridge: MIT Press, 1987); "A Reply to My Critics," *Habermas: Critical Debates* (Cambridge: MIT Press, 1982); *Legitimation Crisis* (Boston: Beacon Press, 1982); *The Theory of Communicative Action* (Boston: Beacon Press, 1984); "The University in a Democracy: Democratization of the University," *Toward a Rational Society* (Boston: Beacon Press, 1970).

oriented theories from Kant to Karl Otto-Apel<sup>3</sup> represent traditions in which "it is the formal conditions of possible consensus formation, rather than ultimate grounds, which possess legitimating force."

Habermas's "discourse ethics" is based on two propositions: 1) norms which are used as guides for human action can be justified only if they are universalizable and 2) it is rational for anyone who argues about norms to accept the principle of universalizability. Section I of this essay will examine Habermas's principle of universalizability: what it involves, and why it is rational to accept it. Section II will confine itself to a criticism of Habermas's understanding of the principle of universalizability. It will be argued that Habermas fails in terms of his own account of human action and rationality to show that it is rational to accept the principle of universalizability *as he understands it*.<sup>4</sup>

## I

### The Principle of Universalizability

Discourse occurs for Habermas when the participants in communicative action take up the issue of whether a contested claim of truth, normative legitimacy, or authenticity can be vindicated or criticized through arguments. Discourse does not necessarily occur in a formal way but is continuous with the everyday questioning, puzzling, interpreting, and clarifying that make up social life. Practical discourse is the form of argumentation "in which we can hypothetically test whether a norm of action, be it actually recognized or not, can be impartially justified." "Discourse ethics" is concerned with reconstructing the procedural norms that are implicit in the communicative process.

Habermas believes that a valid norm for answering moral questions has the quality of impartiality and that impartiality is expressed by a version of the principle of universalizability. Universalizability is defined, by Habermas, as a condition in which "the consequences and side-effects which would foreseeably result from the universal subscription to a disputed norm, and as they would affect the satisfaction of the interests of *each* single individual, could be accepted by all without *constraints*."

Habermas seeks to defend this version of the principle of universalizability by means of a transcendental argument or, at least, a transcendental argument of sorts. A transcendental argument seeks to show that something — in this case, universalizability — cannot be rejected and must be accepted as true because the very process of rejecting it depends on something else — in this case the activity of argumentation — and that argumentation could

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3 Karl Otto-Apel, a colleague of Habermas, is also a neo-Marxist and an advocate of "discourse ethics."

4 Habermas's account of human action and rationality as well as "consensus theory of truth" will not, however, be intensively examined or directly challenged. Such an examination and challenge are well beyond the scope of this presentation. It should suffice to note that Habermas rejects the model of an isolated individual actor who can on his own relate to the world either cognitively or practically. Rather, Habermas upholds as fundamental the model of human beings interacting for the purpose of reaching an understanding. He calls this "communicative action." Truth, for Habermas, is not the correspondence between the contents of the mind of an isolated knower and some independently existing reality but instead the possibility of argumentative corroboration of a truth claim that is falsifiable in principle.

not exist without the principle of universalizability. For this transcendental argument to work two things must be true: 1) argumentation must be something unavoidable; and 2) universalizability must indeed be necessary for the very possibility of argumentation. I will assume that argumentation is indeed something unavoidable and concentrate on whether there is no possible way to engage in argumentation other than through the acceptance of the truth of Habermas's version of universalizability.

### **Universalizability: The Rules of Argumentation**

Habermas claims that "everyone who participates in the universal and necessary communicative presuppositions of argumentative speech, and who knows what it means to justify a norm of action, must assume the validity of a principle of universalizability (either in its above form or in some other equivalent formulation)." He insists that "one who seriously makes the attempt to redeem normative validity claims *by way of discourse* engages intuitively in conditions of procedure which are equivalent to an implicit recognition of [universalizability]." Yet, just what are the universal and necessary presuppositions of argumentation?

The universal and necessary presuppositions of argumentation or discourse can be stated in terms of rules. These rules constitute discourse — that is to say, they determine just what it is for someone whose interests are possibly affected by the adoption of a certain norm to, without constraint and only through the force of the better argument, consent to it. These rules express what universalizability requires.

The first rule is simply that if one is a participant in communicative action, then one is under the obligation to provide a justification for the different sorts of claims one makes and to apply any norms one proposes *equally to oneself as well as to others*. This obligation is regarded as the minimal normative content that is inherent to communicative action.

The remaining rules result from reconstructing our intuition of what it would be like to resolve conflicting claims to normative rightness<sup>5</sup> by the force of the better argument alone. This reconstruction is called the "ideal speech situation" and these rules provide the formal properties of a situation in which rationally motivated agreement could be reached. These rules are:

- (a) everyone who is capable of speech and action ought to be allowed to participate in discourse;
- (b) everyone ought to be allowed to question any proposal;
- (c) everyone ought to be allowed to introduce any proposal into discourse;
- (d) everyone ought to be allowed to express his attitudes, wishes, and needs; and
- (e) everyone ought not to be hindered by compulsion — whether arising from inside the discourse or outside of it from making use of the moral claims implied by (a) - (d).

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5 This applies to claims to truth and authenticity as well.

Finally, since the argumentation process by which norms are evaluated is dialogical and not monological, Habermas holds that each individual's interpretation of his needs or interests must be something which is *generalizable* — that is, it must in principle be possible for every participant in the argumentation process to *exchange roles with the other* when it comes to the expression of a need or interest that a proposed norm affects. As Habermas states: "The point of discourse-ethical universalization consists...in this, that only through the communicative structure of a moral argumentation involving all those affected is the *exchange of roles* of each with every other forced upon us," and "impartial formation of judgment is expressed in a principle that compels *each one* in the circle of those affected to assume in the weighing of interests the perspective of *every other*." Further, he notes that "argumentation is expected to test the *generalizability* of interests, instead of being resigned to an impenetrable pluralism.... It is not the fact of pluralism that is here disputed, but the assertion that it is impossible to separate by argumentation generalizable interests from those that are and remain particular."

This final rule shall be called the "generalizability of interests" rule. Generalizability is an important rule for practical discourse, because without it, it is doubtful that consensus could ever be achieved or the context for legitimate compromises determined. Habermas claims that insofar as any one takes up practical discourse, they unavoidably "suppose an ideal speech situation that, on the strength of its formal properties, allows consensus only through *generalizable* interests." Generalizability does not require special justification, Habermas claims, because the expectation on the part of others that one will offer reasons for one's normative claims is contained in the intersubjective character of discourse, and for Habermas the only principle in which practical reason expresses itself is one that obliges each participant in discourse "to transfer his subjective desires into generalizable desires."

To briefly summarize, Habermas holds that 1) argumentation or discourse is something that is unavoidable; 2) that argumentation cannot exist unless universalizability is true; and 3) universalizability is expressed in the rules of discourse (the major ones having been presented above). Anyone who argues against these rules or the norms that have been justified by following these rules, is guilty of a performative<sup>6</sup> self-contradiction and is thus rationally defeated.

## II

### "Generalizable Interests": A Critique

Of the many aspects of Habermas's view of what argumentation requires that might be challenged, his claim that generalizability is one of the rules required seems particularly vulnerable. Let us see how generalizability enters into Habermas's discourse ethics by considering the following proposed norm: "Wealth is to be equally distributed unless unequal distribution is to the advantage of the least well-off members of society." We shall

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<sup>6</sup> This is called a "performative self-contradiction" because the existence of the *very activity* of arguing against universalizability conflicts with the argument's rejection of universalizability.

call this norm the “difference principle.” Can Habermas’s “discourse ethics” justify the difference principle?

According to Habermas’s theory, the difference principle is justified (and the political institutions and policies which implement it are legitimate) only if it “could be accepted” without constraint by each individual whose interest satisfaction is foreseeably affected by it. Yet, why would someone who possesses more so-called “natural assets,” e.g., Michael Jordan, be inclined to agree to a principle whose implementation would foreseeably affect the satisfaction of his interests adversely? Indeed, how could any proposed norm “be accepted by *all*”? And if the difference principle, which from a neo-Marxian perspective is an anemic principle of social justice, cannot be justified, what political “punch” does Habermas’s discourse ethics really offer?

It will be replied that this objection does not hold because it does not take into account that one’s understanding of his interests or needs is something that must be tested by the discourse process, and that only through discursive testing will one realize his *true* interests or needs. Thus, when one considers how a proposed norm will affect the satisfaction of his interests or needs, it must ultimately be the case that this consideration be something dialogical, not just monological – that is to say, these interests must be capable of being discussed with others. One cannot merely assert that one has an interest or need with which a proposed norm, e.g., the difference principle, conflicts and then justifiably refuse to accept the norm. One’s understanding of his interests or needs must be “communicatively shared.”

Let us grant Habermas’s claim that no interest can be “real” unless it can be “communicatively shared.” There is still, however, a logical gap between all members of the discourse process being able not only to communicate to each other that “E is an interest of Smith” but also to agree that E is indeed an interest of Smith and E being a *generalizable* interest, that is, an interest not only of Smith but also an interest Jones and everyone else could have. In fact, it seems perfectly possible for Smith to have an interest or need that is uniquely his and for this to be acknowledged by everyone and it still not be the case that this interest is generalizable. Yet Habermas has no place in his system for any interests which are not generalizable. To quote again: “Argumentation is expected to *test* the *generalizability* of interests, instead of being resigned to an impenetrable pluralism of interests....It is not the fact of pluralism that is here disputed, but the assertion that it is impossible to separate by argumentation generalizable interests from those that are and remain particular.” Habermas does not deny that there is a pluralism of interests, but the point of the discursive process is to separate those interests that are generalizable from those that are not, and it is only the former that can be regarded as capable of rational justification. Thus, Habermas’s conception of discourse has a principle for filtering out interests that are unique to individuals and not capable of being shared by everyone.

Yet, why must discourse confine itself only to those interests that can be shared by all? Habermas does not see any need for a special justification for this. As noted before, Habermas states: “In taking up a practical discourse, we unavoidably suppose an ideal speech situation that, on the strength of its formal properties, *allows consensus only through generalizable interests.*” What is it, however, about the formal properties of the ideal speech situation that places this limitation on what interests may be used in achieving consensus?

Since the very activity of proposing a norm is a communicative act and thus establishes an interpersonal relation which requires of its participants the abilities to be open to consensus and to willingly take the perspective of the other person and not confine themselves to merely their own point of view, and since the rules of discourse require participants to sincerely reflect on their understanding of their interests, Habermas believes that one is obligated to consider only those interests which are generalizable in determining whether a norm is to be accepted. Concretely, this means that any discourse participant ought to be flexible and modify his understanding of his needs if they are not as generalizable as alternative ones. Yet, this is but another instance of the very reasoning that has already been called into question. Even if everyone takes what Habermas calls a "decentered understanding of the world," and thus can look at the world in an impersonal or agent-neutral manner, this by no means shows that only generalizable interests ought to be used in trying to form a consensus regarding a proposed norm. Neither the moral superiority of the generalizability of interests rule nor the obligation to follow it is established.

At this point in the argument, it might be replied that the foregoing criticism misses its mark, because the principle of generalizability has been misinterpreted. Generalizability does not require that "E" be an interest everyone could have but rather that "E" be found *acceptable* by everyone. In other words, it is not enough that everyone recognize that "E is indeed an interest of Smith" and then determine whether "E" could be an interest had by all. Instead, "E" must also be acceptable from the perspectives of everyone else. To say an interest is acceptable is, however, either to say it is normatively acceptable or it is not. If it is not, then 'acceptable' means nothing more than "an interest others from their own perspective judge they could have," and we remain with the interpretation that has already been given to the generalizability of interests rule. If 'acceptable' means "normatively acceptable," then there is the problem as to what the discourse participants are to appeal in order to determine whether someone's interest is acceptable? Since Habermas considers his discourse ethics to be only a "procedural ethics," there can be no appeal to any substantive understanding of human interest. Rather, the discourse process, and that alone, must be the basis for determining what is an acceptable interest. Generalizability is, therefore, not defined by some normative understanding of what is acceptable but is, instead, one of the rules of a process which determines whether an interest is normatively acceptable. So, the interpretation given to generalizability stands, and we return to the question of what justifies it.

### **The "Moral Point of View" Versus the Personal Point of View**

Despite his vast theoretical machinery, Habermas does not produce any satisfactory answer to the question: What justifies the generalizability of interests rule? It might be said, however, that generalizability is, in effect, nothing other than Habermas's version of *the moral point of view*,<sup>7</sup> and the moral point of view is the one and only view point from which moral reasoning occurs. This point of view requires one to consider the satisfaction of his needs or interests not from a personal point of view — that is to say, from a view that gives

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7. Habermas makes it very clear that he sees universalizability as expressing what the moral point of view requires.

extra weight or importance to one's needs or interests because they are one's own needs and interests – but from an impersonal point of view – that is to say, from a view that treats the fact that some interests or needs are uniquely yours as of no moral consequence. Accordingly, the moral point of view could allow one's needs or interests to become part of moral deliberation only insofar as they could be shared by others. It could not allow unique interests and needs to become part of moral discourse.

There are, however, four problems with the invocation of the “moral point of view” as a justification for the generalizability of interests rule. First, it is simply not true that the moral point of view, at least as presented above, is the one and only view from which moral reasoning occurs. Moral reasoning can appeal to needs or interests, let us simply call them “values,” that are agent-relative. There could be a basis for why I, and no one else, ought to help my brother or why it should be me, and only me, who picks out a gift for my spouse. The very moral obligation to act in certain ways toward my brother or my spouse could stem from a value which is not generalizable. In fact, the possible examples of moral obligations that are based on values that are not generalizable is by no means limited: my obligation to tend to my children, my obligation to keep my promises, my obligation to act in a manner which upholds my integrity, and so forth.<sup>8</sup>

Second, even if we appeal to a different understanding of the principle of universalizability from the one Habermas uses and understand this principle to hold “that if a consideration of so-and-so sort is a reason for person A to act, then a consideration of the same sort is *ceteris paribus* also a reason for person B to act,”<sup>9</sup> the moral point of view is not implied. This understanding of the principle of universalizability says nothing about the character of the values or reasons for actions that are universalized. The principle of universalizability operates even in the case of agent-relative values or reasons. For example, if the production of *his* own well-being is a reason for A to act, then the production of *his* own well-being is a reason for B to act. A cannot claim that his well-being provides him with a good reason for acting without acknowledging that B's well-being provides him with an equally good reason. Yet, this does not mean that A's well-being is B's well-being or that A's well-being provides B with a reason for action or vice-versa. There is, then, nothing about the principle of universalizability that requires the adoption of an impersonal point of view regarding values or reasons for acting.

Third, the moral point of view as so described is, in fact, not even compatible with the moral reasoning of real persons in real situations. One cannot recognize his own life and own reasoning as his very own if in order to play the moral game one must forego all special attachments to ends that are uniquely one's own. Personal projects with the partial attachments they entail are an important way of understanding what it is to be a person. As Loren E. Lomasky writes,

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8 These are not obligations which result from merely a "selfish" calculation of interests.

9 Habermas does endorse this understanding of the principle of universalizability. However, he wants to understand it to involve more than this.



when we wish to understand or describe a person, to explicate what fundamentally characterizes him as being just the particular purposive being that he is, we will focus on his projects rather than his more transitory ends.<sup>10</sup>

Yet,

Project pursuit... is partial. To be committed to a long-term design, to order one's activities in light of it, to judge one's success or failure as a person by reference to its fate: these are inconceivable apart from a frankly partial attachment to one's most cherished ends. An individual's projects provide him with a *personal* – an intimately personal – standard of value to choose his actions by. His central and enduring ends provide him reasons for action that are recognized as his own in the sense that no one who is uncommitted to those specific ends will share the reasons for action that he possesses.

Being a project pursuer and adopting the moral point of view, as previously described, are incompatible, and to the extent project pursuit characterizes how real people conduct their lives, the moral point of view is not something that is relevant to their moral reasoning.

Fourth, despite what has been said, if the foregoing account of the moral point of view does in fact capture the nature of moral reasoning, then the classic question “Why be moral?” appears. What agent-relative *reason* is there for adopting the moral point of view? More specifically, why is the agent-neutral or impersonal point of view superior to the agent-relative or personal point of view?

If we consider what Lomasky notes about the foregoing characterization of the moral point of view – namely, that it “renders ends perfectly socialized, the completely common property of all active beings” and that “the price to be paid for this evaluational socialism is... the metaphysical breakdown of the person”<sup>11</sup> – then morality seems, to say the least, something one can reasonably do without. Indeed, “if all ends *qua* ends are impersonally determined and impinge on agents equally, then no agent is individuated as the particular purposive being with just those projects to pursue. Agents are dissociated from their ends because the ends are no longer, in any significant sense, theirs.”<sup>12</sup> If destruction of personal identity is the price of morality, then Habermas can hardly claim that it is rational to be moral!

### **Morality and Modernity**

It should be recalled that Habermas understands his discourse ethics as exemplifying the type of normativity that is appropriate to modernity. The openness to criticism, the willingness to challenge any and all beliefs and, when warranted, to reflectively reconsider one's most cherished ones, and to do so in a manner which excludes no one and allows only

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10 Loren E. Lomasky, *Persons, Rights, and the Moral Community* (Oxford: Oxford University Press, 1987), p. 26.

11 *Ibid.*, p. 34.

12 *Ibid.*

the force of the better argument to prevail are certainly values that are associated with modernity. There are, however, other values that are also associated with modernity: pluralism, diversity, self-directedness, and above all the inherent dignity and worth of the *individual* human being. Indeed, the Lockean idea that there are no natural moral slaves or sovereigns and the more contemporary "libertarian" claim that "no one's purposes and goals take moral precedence over the purposes and goals of any other person in a way that would justify the complete and or partial subordination of any individual to other individual or any group of individuals"<sup>13</sup> are expressions of a deeply held moral value and are not mere expressions of "possessive individualism." These values are also part of what a modern world view values. Such a modern view, then, does not call for theoretical attempts to paper over the real and legitimate differences between individuals by attempting to artificially induce consensus through a generalizability of interests rule or by appealing to the so-called "moral point of view." Rather, it requires that one accept the moral propriety of pluralism and individualism and from this starting point attempt the difficult task of constructing a theory of justice. Despite his desire to theoretically exemplify the norms that are inherent to modernity, Habermas's discourse ethics misses one of modernity's central values. This is ironic, to say the least, in a thinker who sees himself as trying to capture in theoretical form modernity's expression of itself.<sup>14</sup>



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13 Eric Mack, "The Ethics of Taxation: Rights Versus Public Goods," *Taxation and the Deficit Economy* (San Francisco: Pacific Institute for Public Policy, 1986), pp. 489-490.

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