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JUSTIFICATION IN CRITICAL THEORY

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A Thesis

in

The Department

of

Philosophy

Presented in Partial Fulfillment of the Requirements

for the Degree of Master of Arts at

Concordia University

Montreal, Quebec, Canada

April, 2003

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ABSTRACT

Justification in Critical Theory

Mario Wenning

Concordia University, 2003

This study is a critical examination of the role of justification in Critical Theory. In particular I will raise the question in what way Critical Theory can be confirmed or disconfirmed, which is important in order for Critical Theory to be more than a moralizing theory without any objective basis. Special emphasis is placed on Jürgen Habermas's attempt to ground normative social criticism in terms of a theory of communicative action. I show that his argument concerning an ideal speech situation is circular and that his foundationalist assumption of speech as being oriented towards consensus faces serious difficulties. By comparing Habermas's defence of deliberative democracy to that of John Rawls's construction of a just society, I challenge the view that democratic liberalism, a position that both Rawls and Habermas share, can be seen as a "freestanding" or "autonomous" conception. Given the importance of problems concerning value pluralism and growing nihilism in modern societies, I argue that Critical Theory should adopt a concern for meaning complementing its concern for justice. Radical self-reflective normative theory, as we paradigmatically find it in the work of Theodor W. Adorno, I conclude, have to take an ambivalent stance towards the possibility of justifying a conception of justice in positive terms.

Acknowledgements

Although I owe my gratitude to all of the people around the philosophy department, who have contributed in making my stay in Montreal an academic as well as personal invaluable experience, a few deserve special mentioning. It would have been impossible for my thesis to reach its final form without the intellectual dedication, support and challenge, which I received from my main supervisor Kai Nielsen, who is a constant reminder that life and philosophy are not two discrete endeavors. Andrew Wayne, who calmly endured that my mastery in using commas hasn't improved, and who taught me to value the genuine North American combination of efficiency and optimism, has been a great pleasure to work with. I regret that I didn't make more use of the chance to profit from discussions with Matthias Fritsch, who embodies the rare combination of analytical rigor and hermeneutic depth. Eudene Whittaker's spirit, smile and unique persistence have been comforting. My biggest debt of gratitude, however, I owe to my family and especially Daniela for being who they are.

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Introduction

I am primarily concerned with presenting what I see to be deficient in contemporary debates in Critical Theory, of which Habermas is the main spokesman. Moreover, I shall suggest some corrections that I take to be necessary for theories to develop and sustain criticism with emancipatory intent under modern conditions. My analysis breaks into four separate parts. In the first chapter I will analyze the epistemic structure of Critical Theory. In particular I will address the role and relationship of reflectiveness, motivation and emancipation. I will argue that Habermas's attempt to develop a theory of justification for Critical Theory in terms of an ultimate or fundamental grounding (*Letztbegründung*) is circular. Hence I will show that Habermas presupposes methodologically what he wants to justify. Moreover, I argue that his dependence on a discourse theory of justification, which is intended to derive a universalistic ethics, misses its goal and makes Critical Theory vulnerable to the Hegelian objection, which he leveled against a Kantian emphasis on the priority of principles, as being an empty formalism. It is not the (main) purpose of Critical Theory to elaborate a strong theory of justification. Consequently forms of Critical Theory should not be dismissed as "performative contradictions" that don't live up to the task of outlining a theory of justification. As Albrecht Wellmer put it: "morality and reason do not stand or fall with the absolutism of ultimate agreements or fundamental groundings." (Wellmer 1991, p. 116)

The second chapter critically assesses the normative basis of the two most prominent forms of recent social criticism. By comparing Habermas's justification of deliberative democracy to that of Rawls's construction of a well-ordered society, I show that their positions presuppose a richer semantic content than their idea of a "freestanding" or "autonomous" conception of justice allows for. On the other hand this content remains too vague, as well as uncritical towards basic assumptions of liberalism. Rawls and Habermas fail to adequately answer the problem of nihilism in modern societies by taking *de facto* pluralism as a sufficient basis for expelling questions of ethical substance outside the scope of Critical Theory. They conceive of Critical Theory, mistakenly I argue, essentially in terms of aiming at a certain kind of justificatory discourse, i.e. a kind of discourse that excludes reflections on substantial tensions inherent in that discourse. It is these tensions which I set out to identify by way of reconstructing arguments that have been developed by Carl Schmitt and Chantal Mouffe among others.

Having set the basis of my argument by having outlined the weaknesses of recent "theories of justification" in epistemic (chapter one) and practical political terms (chapter two), chapter three is intended to be constructive in character. As an alternative to Habermas's attempt to ground Critical Theory in a transcendental conception of language as oriented towards understanding, I suggest that Adorno's methodological reflections on the relationship of justice, language and radical selfreflection point towards a viable alternative to Habermas's emphasis on the priority of the discourse of justification. By

construing the relationship between theory, language and justice as a dialectical one, Adorno consequently shows that the quest for a foundation, be it in substantive or procedural terms, should be left behind in favor of carrying out a form of radical critique that self-reflectively questions its own foundations and doing so uncovers the resources necessary for continuing the critical project of enlightening reason about itself. I show that a concern for justice, which is the rationale behind much of Habermas's work, should be regarded as equiprimordial with a concern for meaning and reflections on the limits of a theory of justice and justification, in order not to be vulnerable to the Hegelian objection outlined earlier.

One general note of importance remains to be said. I am well aware that Habermas himself is cognizant of many of the epistemic problems I will point to. Although on a superficial level I do refer to Habermas's work in a critical tone of voice, I don't understand this study to be primarily a critique of Habermas. Neither is it intended to be exegetic in character, which justifies why I did not aim to accurately present the latest twists and turns Habermas's work has undertaken. Nevertheless it is important to note what is obvious for any reader of Habermas. Habermas's ability to acknowledge and critically confront many of the weaknesses I mention makes him one of the most interesting contemporary social theorists. If one wants to read the following pages as a critique than as one that aims at showing that recent Critical Theory has not paid sufficient attention to what one might call the limits of a theory of justification. My systematic interest, however, for which this study can only be a prelude, is to reconstruct a form of

negative social criticism with substantive practical intent. Practical intent of Critical Theory understood in reference to its roots in the Hegelian notion of a developing spirit as a process of emancipation that makes it distinct from traditional conceptions of theory. At the same time it has to remain negative for reasons I explicate in Chapter four, reasons that have manifested themselves in Critical Theory's heritage reaching back to the Kantian claim that critical philosophy, if it wants to be serious, has to become aware of the limitations of what we can (positively) know about the world and Adorno's further development of this thesis in terms of negative dialectics that attempts to approach the traditional question for the good life in terms of reflections from or on what he calls damaged Life.¹ It has to abandon any strong commitments to necessary progress in history without giving up the ideals of enlightening.

¹ For an account of the two traditions of Critical Theory I refer to see David Rasmussen's "Critical Theory and Philosophy" (1996). "Reflections from Damaged Life" has been the subtitle of Adorno's collection of aphorisms *Minima Moralia* (1974).

1. Critical Theory As An Epistemic Object

Critical Theory is a complicated epistemic object. It requires an engagement with central problems in epistemology as well as practical philosophy. It is distinct from natural science and positivist social science in that it does not claim to strive for value neutrality. Freud, Marx and members of the Frankfurt school aimed at giving us normatively informed and binding knowledge of society. They aimed to give us knowledge about true interests, social oppression and of things that are legitimate or illegitimate. The body of knowledge it presents is supposed to be critical and practical, critical about the structures that create and sustain social injustice and practical as immanently guiding emancipatory action. As such Critical Theory does not easily fit into the deductive-nomological model of natural science. It also differs from recent post-Kuhnian accounts of natural science that stress the role of paradigm shifts and constructivism. Neither does Critical Theory confine itself to being just explanatory and interpretative as does Charles Taylor's or Max Weber's theories. It has a radically distinct epistemological status in that it claims to be inherently *emancipatory*. Critics of Critical Theory, mainly by employing a pragmatic conception of truth, have argued that it is a moralizing recommendatory theory or critical critique without any way of confirming its truth claims (Popper 1945, Albert 1969, Rorty 1988, Walzer 1987).

This raises the further question whether and if so how one can show that normative critique can be in a (yet to be specified) sense "objective". Secondly one would have to show that emancipation is inherently linked to Critical Theory.

Since Critical Theory is no "natural kind" I would also like to raise the question what features a theory that possesses critical normative force and emancipatory potential should possess under conditions of modernity.

In what follows I will give an account of the role that justification has played in Critical Theory. I focus my attention especially on arguments developed by Jürgen Habermas since he is not only the most important representative of contemporary Critical Theory, but he also addresses the issue of justification, if sporadically, in an explicit way. His incorporation of methodological self-reflection from psychoanalytical theory and traditional Marxism as well as his consensus theory of truth plays an important role here. After having put the issue in perspective, I shall argue that Habermas's theory of justification has major weaknesses and that his consensus theory of truth is based on a circular argument that is deeply rooted in forms of residual foundationalism. Although, most prominently in his discussions with Karl Otto Apel, he explicitly distances himself from philosophical foundationalism, his incorporation of a universal pragmatics of language speaks to the contrary. Contrary to Apel, Habermas acknowledges that norms can only be justified in real life discourse and not by a philosophical theory:

moral theory is competent to clarify the moral point of view and justify its universality, but it can contribute nothing to answering the question "why be moral?" whether this be understood in a trivial, an existential, or a pedagogical sense. (Habermas 1993, p. 76)

However, as I will show later, his treatment of language in terms of a characterization of speech acts as inherently aiming at understanding is a foundationalist assumption.

Unlike many critics of positivist social science (Habermas, Taylor, Gadamer), my strategy is not to show that justification should not play any major role in critical social science, because it is hermeneutic and thus concerned with actors' or individuals' self-understanding. Rather, I want to suggest that an informed collaboration with sociology, political economy and psychology is an important confirmation device for the "descriptive aspects" of Critical Theory.

1.1 The Role of Psychoanalysis and Reflectiveness in Habermas's Reformulation of Critical Theory

One of the central chapters in *Knowledge and Human Interest* (Habermas 1968) aims at a metatheoretical foundation of Critical Theory by elaborating a conception of the unity of knowledge and interest. In it Habermas discusses psychoanalysis as a paradigm case of Critical Theory. The conditions of possibility for emancipation, Habermas argues, can be located in the unity of knowledge and interest. Habermas's strategy changed in the seventies in that he officially distanced himself from any attempts of ultimate foundation or justification and "came to the conclusion that it was of secondary significance to defend or establish critical social theory in epistemological terms." (Habermas

1986, p. 197) Later on I will show that Habermas's project as it stands does indeed move away from methodological individualism that is typical for epistemological approaches. He does, however, still apply foundationalist arguments in his recourse to (communicative) language as the source of normativity. Although Habermas distanced himself from epistemology, he still carries with him the standard problems connected with it.

The function that psychoanalysis plays in *Knowledge and Human Interest* has been replaced in Habermas's later work by the argument according to which human interaction necessarily presupposes the possibility of rational consensus. Habermas distanced himself from the concept of self-reflection *tout court* and introduced the concept of reconstruction instead.

Habermas's early discussion of psychoanalysis addresses the problem of confirmation in Critical Theory most explicitly. Unfortunately, Habermas's early reflections on psychoanalysis have not received a large amount of scholarly attention. One reason for this might be the at that time ideologically blurred confrontation that came to be known as the positivist dispute (Adorno 1969). Because the debate, which was mainly carried out between Popper and Adorno and later continued by their students Albert and Habermas, turned into an ideological dispute about differences in basic moral and political orientation, was the reason for Habermas's attempt to outline methodological issues in Critical Theory by referring to psychoanalysis as a paradigm case. Habermas's later work did not encourage an ongoing discussion on the methodology of psychoanalysis, because he did not continue to deal with it in any detail. As I

indicated above, a discussion of the theory of justification in *Knowledge and Human Interest* is important because it is there that Habermas articulates the main motifs of sketching a theory of justification in terms of what he later called communicative action. In *Knowledge and Human Interest* Habermas aims at developing Critical Theory out of the *cul de sac* of cultural pessimism that dominated the later stages of the first generation of Frankfurt school thinkers. Self-reflection plays an important role in two distinct senses. First it is supposed to situate Critical Theory in the context of society as a whole. Second it aims at opening up a space for potential emancipation.

On the one hand, self-reflection in Critical Theory is regarded to be the activity of making conscious its own presuppositions, i.e. the presuppositions of a form of theory that is able to identify conditions of injustice. Critical theorists stand in the tradition of Marxism in so far as they adopt Marx's interest in grounding a theoretical reflection that locates itself historically in time and thus accounts for the possibility of its own standpoint. It has been eager to show that critique is legitimated by pretheoretical experience of injustice and feasible in light of its application in a future praxis.

Indeed, most of Habermas's early work is a methodical self-reflection on the foundations of Critical Theory that sees a process of rationalization as the framework that makes a critical social science possible. Habermas has moved in a direction that places less emphasis on critique that is aware of its own historical conditioning. His theory of truth, which I will discuss later, hinges on the ahistorical social conditions of consensual inquiry into normative claims rooted in

language. In contrast to the objectifying speech of positivist science, Critical Theory aims at a clarification of its normative presuppositions. Thus Critical Theory emancipates itself from the scientific self-understanding of traditional theory.

The role of self-reflection is, however, not confined to methodical self-reflection of that kind. It is also an attempt to strip the theory of any form of "scientific self-understanding." In contrast to natural science, Critical Theory has a distinct epistemic structure in that the subject of investigation is at the same time part of the object of investigation. While "objectifying" natural science generally allows distinguishing between the theory and the objects to which it refers, Critical Theory is itself always part of the object domain it describes. Self-reflection is taken to be the tool for a large-scale emancipation of society. It is this notion of self-reflection that will interest us here.

1.2 From Self-Reflection to Emancipation

Habermas claims that self-reflection of the addressed agents' is the medium through which emancipation takes place. As the case of psychoanalysis suggests, Habermas claims, self-reflection "releases the subject from dependence on hypothesized powers. Self-reflection is determined by an emancipatory cognitive interest." (Habermas 1968, p. 310) Habermas suggests that a Critical Theory of society aims at emancipation in form of collective

formative processes (*kollektive Bildungsprozesse*). Self-reflection is taken to be the mode of critique and the tool for such emancipation.

In natural science confirmation is ideally regarded to be provided through empirical observation and predictive adequacy. The standard model of confirmation in natural science is the hypothetico-deductive model. According to this model a theory is confirmed if the observational predictions deduced from it are confirmed through the observation of empirical instantiations and is disconfirmed if the predictions turn out to be false (counterexamples). In contrast to natural science Critical Theory denies any form of prediction and denies a clear-cut distinction between theory and praxis. While natural science confines itself to causal explanation and hermeneutics confines itself to interpretative understanding, Critical Theory has always regarded itself to be a form of (social) science with practical import. In a superficial sense natural science has a huge practical import. It can hardly be denied that the role of technical appliances in modern societies is caused by the development of physics and chemistry during the last five hundred years. Critical Theory on the other hand claims that it gives agents a kind of knowledge that is inherently productive of enlightenment and emancipation. It makes hypothetical claims of the following form: If you (your community) reflectively accept theory A as your self-consciousness and A is true, it will lead to your (your community's) emancipation. But what is the justification for this causal chain? Critical Theory makes genuine truth claims about issues concerning "social pathologies", "alienation" or "systematically distorted communication." In contrast to anthropological approaches it does not try to

record or understand what agents regard to be pathological. It claims that certain institutions, structures, collective self-interpretations etc. are pathological (Nielsen 1993, Geuss 1981). Thus it makes perfect sense to raise the question under what conditions these claims can be verified or falsified, or at least confirmed or disconfirmed.

It is not convincing to say that confirmation in Critical Theory is not possible by pointing to the fact that there cannot be any form of *decisive* testing or absolute confirmation through prediction since this is true of a lot of science. However, it would also be misguided to say that since there is no decisive way, we should accept any kind of confirmation. A more promising strategy is to ask under what conditions a Critical Theory would be *incrementally* confirmed.

Habermas's discussion of the metatheory of psychoanalysis is important because "[p]sychoanalysis is relevant to us as the only tangible example of a science incorporating methodical self-reflection." (Habermas 1968, p. 214) Psychoanalysis is used by Habermas as a paradigm to lay bare the epistemic structure of Critical Theory. At the same time, it is used as an example to criticize the "scientistic self-understanding" that has been common in positivist social science. Psychoanalysis, Habermas argues, proves that the official self-understanding of science is opposed to its praxis:

The birth of psychoanalysis opens up the possibility of arriving at the dimension that positivism closed off, and of doing so in a methodological manner that arises out of the logic of inquiry. This possibility has remained unrealized. For the scientific self-understanding of psychoanalysis inaugurated by Freud himself, as the physiologist that

he originally was, sealed off this possibility. (Habermas 1968, p. 214)

While psychoanalysis opened up the dimension of methodical self-reflection on its everyday practice, Critical Theory aims at replacing its "scientistic self-understanding" by self-reflective knowledge. It wants to retain the emancipatory force that is purported to be typical of psychoanalysis by showing that the seemingly law-like conditions that lead to pathologies are in reality not lawlike.

I see two major reasons to doubt whether the argument from self-reflection to emancipation is convincing as it stands. One concerns the notion of causality it employs, while the other concerns motivation. Lets look at them one by one.

First I don't see why Critical Theory is concerned with a concept of causality that is different from the standard conception of causality. Habermas claims that the lawlike character of phenomena in the natural world does not inhere in the therapeutic dynamics of the psychoanalytic process of self-reflection. Although psychoanalytic therapy aims at identifying law-like behavior, e.g. the rigidly repetitive occurrence of neurotic behavior, in a second step it claims that through the lifting of the patient's pathogenic repressions her compulsion is dissolved and overcome. The causal connection that had previously linked the pathogen to the neurotic behavior is replaced by self-reflection. Habermas uses Hegel's concept of "causality of fate"² to refer to the

² Hegel's concept of the causality of fate captures the dialectical processes of the recognition of one's freedom in form of a process of intersubjective emancipation. He emphasizes the logical

fragile causal linkage that is dissolvable through the therapeutic power of self-reflection. This contrast between strict natural scientific and dissolvable social laws is hardly sound. Indeed, the patient of a "successful" therapeutic treatment has overcome his pathogenic repression A and his neurosis B. He did not, however, abolish the *causal* linkage between A and B. Far more he undermined and abolished A through *illustrating* and *articulating* A and its *causal* linkage to B. He terminated the recurrence of B by preventing A from happening. Let me illustrate this point with an example. A society in which exploitation is secured by social cohesion through religious practices could be described in causal terms. Economical stability (B) is caused and secured through the instantiation of a religious belief system (A) together with the cohesive practices that go along with it. If self-reflection of actors leads them to abandon holding belief system A, because it was a means of repression it might be the case that the society is no longer stable (-B), loses its social glue and disintegrates. This hardly shows that the causal linkage between A and B does not exist. It is just not instantiated anymore since A is prevented from occurring. Indeed it is a corroboration of the causal linkage. It shows that it was not emancipatory or necessary to adopt the religious belief system and that, if it was abandoned, stability would no longer be granted through the religious practices. What has been abolished is the veil that made it hard to see through the actual function of religion as a means of

moment of overcoming of what has previously been seen as totally other as being part of one's self as a form of emancipation (*Bildung*). See chapter four in Hegel's *Phenomenology of Spirit* (Hegel 1977).

repression as opposed to a theory of revelation.

The second weakness of the argument from self-reflection to emancipation is based on Habermas's taking for granted an idealist picture of social reality. Habermas presupposes that by knowing the real history of a pathological state of mind or society, the state would disappear. To put it in slightly less radical terms: although Habermas is well aware that one cannot judge from generated actions to the validity of the belief that was the causal trigger he still believes that agreement to beliefs or norms automatically generates certain actions that bring about the desired state of affairs. Let us look at some essential problems with this line of argumentation. While it is reasonable to expect that self-reflection "effects the reorganization of the action-orienting self-understanding of socialized individuals" (Habermas 1968, p. 247) it does by no means follow that this change in actor's self-understanding necessarily generates *emancipatory* action. Therapy might achieve only a transformation of illness into suffering.

Freud believed that the distinct emancipatory structure of psychoanalysis was that "in its execution research and treatment coincide." (Habermas 1968, cited p. 252) At the same time Freud believed psychoanalysis to have an empirical basis like natural science. Habermas challenges this equivocation: "The model of the psychic apparatus is so constructed that metapsychological statements imply the observability of the events they are about. But these events are never observed- nor can they be observed." (Habermas 1968, p. 253) There has not been any successful observation of the existence of the ego, id or

superego with their attributed relation.³ Freud seems to have regarded the "successful" analytical situation of dialogue as a sufficient substitute for direct experimental verification:

Freud unwaveringly retained analytic dialogue as the sole empirical basis not only for the development of metapsychology but for the validity of psychoanalytic theory as well, and this betrays consciousness of the real status of the science. Freud surely surmised that the consistent realization of the program of a "natural-scientific" or even rigorously behaviorist psychology would have had to sacrifice the one intention to which psychoanalysis owes its existence: the intention of enlightenment, according to which ego should develop out of id. But psychology as the only thing it can be in the system of reference of self-reflection: a general interpretation of *self-formative processes*. (Habermas 1968, p. 254)

Freud's theory is justified pragmatically by pointing to its emancipatory effects. Habermas does not dismiss empirical confirmation in general but argues for a theory of indirect confirmation through the direct or indirect assent through participants in unconstrained communication. Clearly this approach is distinct from empirical confirmation in natural science. Particles or planets cannot assent or dissent to a theory, they are just being observed. Contrary to Habermas one can say that reflective assent by rational actors is empirical even if introspection plays an important part in it. What else should, or even could it be? Even after having turned away from his early methodological individualism, Habermas continues to employ the argument from self-reflection to emancipation:

³ This is true for a number of entities (e.g., quarks or genes) in modern natural science, too.

[T]he fact that norms are taken to be right has immediate consequences for the regulation of action essential to norms. As soon as a norm-governing action gains sufficient recognition among, and is adhered to by, its addressees, a corresponding practice is generated, regardless of whether the norm can be justified and deserves recognition or whether it is merely *de facto* recognized for the wrong reasons, for example, or is adhered to out of sheer habit (Habermas 1993, p. 160).

Habermas claims that natural science ultimately aims at knowledge of ahistoric, context-free laws. In psychoanalysis and Critical Theory in general, "theoretical propositions are translated into the narrative presentation of an individual history in such a way that a causal statement does not come into being without this context[.]" (Habermas 1968, p. 272-273) What is important for the verification of psychoanalytical interpretations is the insight that the patient sees that the psychoanalytical interpretation is a *correct* interpretation of *his* behavior. The patient has an epistemic monopoly in the testing of the particular interpretations: "analytic insights possess validity for the analyst only after they have been accepted as knowledge by the analysand himself" (Habermas 1968, p. 261). This is hardly convincing. Let me turn to a suspicion about this reliance on individual interpretations about their own well-being or state of emancipation.

If the analysand were the ultimate judge about the validity of the psychoanalytic interpretation that would leave us with some consequences that seem highly problematic. Suppose the analysand reflectively accepts an

interpretation as true. He identifies the interpretive narrative that was either offered by the therapist or developed by him as empirically true and normatively right. I am inclined to think that it is highly doubtful whether his conviction should have any epistemically privileged merit. If we take psychoanalysis seriously, we should expect that defense mechanisms in the form of rationalizations of the analysand make him least likely to objectively judge the validity of an interpretation that concerns among other things his state of mental health (Grünbaum 1993).

Habermas seems to have anticipated this and similar problems and distanced himself from methodological individualism of the kind outlined above. Since Critical Theory is concerned with the general validity⁴ of the normative statement it wants to defend, and valid norms are something intrinsically intersubjective, i.e. supposed to be acceptable by all rational agents alike, Habermas developed his discourse theory of truth (Habermas 1984, 2001).

⁴ For reasons of simplicity I will follow Habermas in using the notion of validity as equivalent to normative rightness or truth, although validity is normally conceived of as a (purely syntactic) quality of arguments that is distinct from truth and rightness of sentences.

1.3 The Discourse or Consensus Theory of Truth

Habermas, especially in his later work, suggests that the validity of a Critical Theory is dependent on its success in being *freely* assented to by the addressees of Critical Theory under ideal conditions. Let us analyze his argument closely. Critical Theory stands in the tradition of enlightenment philosophy in that it aims at providing *real* self-consciousness of social actors that allows them to emancipate themselves from forms of social oppression in order to gratify their *real* desires and satisfy their *real* interests. According to Critical Theory, it is reasonable to regard that theory as a potential truth candidate that leads subjects to emancipation. Given the premises of psychoanalytic methodology one has to show that it was actually the self-reflective adoption of the theory that let actors to emancipate themselves and not something else. One might respond that the insight the theory provides is either true or false. The identification of social pathologies and unfulfilled needs are either true or false independent of the self-reflective justification that led to its acceptance. In fact the theory could be true or false without having been reflectively endorsed by any actor. One clearly has to distinguish between questions of validity and procedures of justification and acceptability.

Note that Critical Theory does not claim that emancipatory social transformation is inevitable. But it seems to suggest that it is inevitable if the theory it offers is first true and secondly reflectively adopted (i.e. justified) by rational agents. Accordingly, the point of Critical Theory is not to make

predictions, but to enlighten agents about how they ought rationally to act to realize their own best interests. As in psychoanalysis, Habermas claims, the only kind of confirmation Critical Theory can offer is the self-reflective adoption of the theory through the social actors. Practically speaking, the agents' self-identification with theories about suppressed real needs and desires and real understanding of social exploitation counts as (at best) a corroboration of Critical Theory. This needs to be distinguished from the orthodox Marxist claim that it is inevitable for people to whom the theory is directed to adopt it, if it is true (Nielsen 1993b).

Although Habermas follows Max Weber in taking for granted that there is a certain "developmental logic" (*Entwicklungslogik*) and real formative processes (*Bildungsprozesse*) that lead to our modern rationalized society and its critical standards of argumentation, he dismisses any form of prediction about future states of society. This reservation is justified by pointing to the fact that it can never be clear whether the agents in fact will adopt the theory and not another one or whether they stick to their current belief systems. At most, Critical Theory claims that there is a "practical necessity", i.e. the fact that social actors have a real interest in emancipating themselves. Thus the skeptic could raise the question how it is possible to determine what "real interests" are.

Can we know whether Critical Theory can figure out these real interests? Habermas consensus theory of truth claims that what is justified to count as a real interest is what agents would agree on under ideal conditions (conditions of unconstrained communication and freedom). Granted that confirmation in Critical

Theory is always dependent on (although never reducible to) intersubjective agreement of agents we are still left with a bundle of problems. It remains open if and how the theory can be corroborated or falsified if there should never be anything close to "conditions of unconstrained communication." The only way out of this practical problem would be to take an elitist stand. We would have to accept that the critical theorist has epistemic privileged access so he can anticipate what the coerced actors would assent to were they under ideal conditions. Habermas certainly does not want to defend that position, as we will see in his discussion with Rawls. It is important to note that unless we have strong reasons to believe that we are the objects of deeply pervasive illusions and ideologies, it seems to be fair to say that we are reasonably sure about what could be called conditions of fair discourse. Being open to other arguments and potential revisions of ones believes as well as sincere and not coercive are at least necessary conditions of successful communication. But even if these conditions are more or less implemented, it hardly seems reasonable to expect that consensus is a necessary telos or factual outcome of these situations. Habermas's theory of justification is strongly dependent on a transcendental argument that is based on what he calls "communicative rationality."

Habermas differentiates the concept of purposive rationality further into instrumental and strategic forms of rationality and sharply distinguishes these from forms of *consensus*-oriented, or communicative rationality. The latter form of rationality, as the key utopian concept of his overall theory, is supposed to be

derived from a transcendental⁵ argument, which was first developed by Karl-Otto Apel, and consists in showing in how far every speech act presupposes validity claims concerning the comprehensibility, the truth, the relevance and the sincerity of the speaker attributes to his validity claims. The regulative ideal or counterfactual presupposition of the ideal speech situation in which *only* the force of the better argument will decide about controversial issues is the vantage point from which systematically distorted communication is supposed to be criticized. If we go back to the problem I outlined earlier, i.e. how we can differentiate between real and only apparent conditions of free assent, we would have to conclude that Habermas's version of a critique of ideology would take on the form of pointing out in how far actual socio-political processes do not fulfill these criteria of ideal discourses. But how are the discourse ethical criteria themselves justified? Habermas's answer leads us either into an infinite regress or a methodological circle, as I will demonstrate.

Let me follow Ernst Tugendhat's criticism of the circular structure of Habermas's basic argument in favor of a consensus theory of truth (Tugendhat 1993). By supposing that, seen from the moral point of view, only that action is acceptable which under ideal conditions could be decided upon by anyone affected, one would have to specify the conditions of such an ideal speech situation. The decision about what counts as such a condition, as well as who is

⁵ This argument is often described as being "quasi-transcendental" rather than "transcendental" by Apel and Habermas. Since it is unclear what distinguishes a quasitranscendental from a transcendental argument I will stick with the latter.

supposed to be regarded as affected and thus a member of it, is presupposed and not agreed upon by equal participants of discourse. In the last resort, arbitrarily chosen criteria ruin the transcendental endeavor. How do we judge the force of the better argument? What kind of evidence can we regard to be pertinent? It is not convincing to claim that every speech act anticipates something as abstract as an ideal speech situation in which everyone is accredited with equal rights and will ultimately arrive at a consensus about questions of validity without presenting a more convincing and detailed story. Habermas's theory, as currently elaborated, leaves these questions and concerns if not unaddressed, at least open.

1.4 The Empirical Basis of Critical Theory

There are claims in Critical Theory that can be empirically confirmed as good as claims in natural science. Unfortunately, this empirical side of Critical Theory has been neglected for quite some time through the domination of a discourse of justification of norms. The claim that ten percent of the population holds eighty percent of the global wealth can be confirmed or disconfirmed to a high degree by a large scale empirical investigation. The claim that the other ninety percent of the population are being unjustly deprived of potential wealth is less easy to confirm. Saying that the agents themselves have to be the final judges raises problems such as the ones indicated by Raymond Geuss in his *The Idea of a*

Critical Theory:

To say that the agents themselves must be the final judges of their own freedom or coercion is, however, most decidedly not to say that their own immediate judgments about conditions of freedom or coercion are definitive. If that were the case, *Ideologiekritik* would be superfluous. The point of a theory of ideology is that agents are sometimes suffering from a coercion of which they are not immediately aware. The agents are the final judges of their own freedom or coercion only in that there is no appeal from their perfectly free, fully informed, and thoroughly considered judgment. (Geuss 1981, p. 78)

Critical Theory is left with the factual agreement of the agents it addresses under more or less ideal conditions. Falsification, or better disconfirmation, in the strict sense is not possible here. In any actual attempt to disconfirm an emancipatory theory one could make the *ad hoc* claim that the agents were still sufficiently deluded so as not to reach agreement on their objective interests, etc., since, as I outlined above, there is no objective yardstick at hand with which it would be possible to measure what counts as emancipation or ideal conditions not to talk about anticipation of ideal conditions by the critical theorists in her role as representative of the real needs and real interests of deluded actors.

If the actors would agree, this would hardly count as confirmation since it remains unclear whether they really decided under at least nearly ideal conditions. In each case we end up in a vicious circle. Geuss states it as follows:

The Critical Theory itself, of course, contains full and clear specifications of what counts

as conditions of perfect information and complete freedom, but to use these specifications at this point would seem to involve circularity. If I don't from the start agree that the conditions are conditions of freedom, I may be unimpressed by the fact (if it is a fact) that if I were to be in conditions C, I would then agree that they are conditions of freedom (Geuss 1981, p. 79).

One could add that if we agree right from the start on conditions of freedom it might still be the case that we have indeed agreed on conditions that are nothing near to conditions of freedom.

Contrary to the hypothetico-deductive model in natural science, Critical Theory is not principally concerned with prediction. It wants to understand and criticize social pathologies and self-interpretations in order to enlighten agents about how to act rationally according to their real interests. Doing so is irreducibly normative. By that I mean that Critical Theory in contrast to positivistic social science does not confine itself to empirical "is" statements about the normative beliefs of agents. It makes normative remarks about what is unjust, oppressive or pathological itself. Critical Theory is, among other theories, a theory about social justice and injustice. For this alone there is no need to make predictions. Still prediction plays a role when we consider Habermas's reflections on normative action arising out of agreement on norms. If we accept the basic axioms of Habermas we get the impression that Critical Theory's main objective is to give us a picture of what a just socio-political order and praxis *would* look like if there the conditions specified by his discourse ethics were be implemented.⁶ Discourse

⁶ Earlier critical theorists have refrained from giving such a "positive" picture of justice. They

Ethics does not only claim that its findings have to be rationally agreed upon by actors that are free of any relevant kind of bias. It argues that the self-reflexive theories, if adopted by social actors, will lead to real emancipation. This line of hypothetico-predictive reasoning is, however, counterintuitive. As I pointed out earlier, even if we grant that changes in the self-understanding of actors has action-guiding effects, there is no convincing reason to regard these effects to be necessarily emancipatory. Strong predictions of that sort might just not be possible in theories dealing with any social phenomena.

1.5 Dialogical Theory of Justification

Let me review the criticism against Habermas's overtly strong emphasis on the role of free assent and consensus. Even if the early positivist belief that we can reach rational agreement over what the world is like (descriptive judgments) were true, it seems to be much harder to defend the moral cognitivist claim that rationally motivated agreement about questions of morality (prescriptive judgments) is even in principle possible. It is sometimes claimed that there are no *a priori* reasons why consensus on at least basic norms should not be possible or the weaker claim that it should not be a heuristic ideal guiding speech. While there might not be any logical inconsistency that would legitimate opposing

believed that all we can do is present justice in negative terms by pointing to actual experiences of injustice. I will argue later that there are good reasons for doing so (see chapter 3).

consensus orientated approaches, it seems reasonable to expect the burden of proof to be on the side of discourse ethics to show that the emphasis on consensus does provide a reasonable normative starting point. This proof has not successfully been made. Given Habermas's starting point of normative impartiality (and his emphasis on the assent of the person the theory is about), he would have to show that his normative commitments (consensus orientation) don't *just* resemble subjective preferences. If he cannot do that, which I think he cannot, he is vulnerable to the line of criticism that regards Critical Theory as being - in a pejorative sense - a moral recommendational theory without any objective basis. In my opinion it is the starting point of methodological impartiality towards ethical commitments, which makes Habermas susceptible to this kind of criticism. The criticism that normative informed critique is in the last instance based on an arbitrary choice what value standards one chooses to criticize social institutions misses the mark and applies unreasonably high criteria of value neutrality, impartiality and justification. The values Critical Theory presupposes might have arisen in a certain historical surrounding. That, however, is not enough to show that they are arbitrary. Since values such as self-responsibility and enlightened actions are not just deeply embedded in our culture but also justified through compelling reasons, the burden of proof seems not to be on the side of the critical theorist, to put it minimally. If this is the case it becomes hardly reasonable why critical theorists should engage in a discourse of justification that starts with consensus orientation as a methodological ideal, as Habermas and others have done it. Obviously one can defend Critical Theory in terms of a self-

reflective theory with normative intent without having to commit oneself to a variant of the consensus theory of truth or justification.

Habermas's strategy to defend a cognitivist reading of basic moral principles (norms) proceeds in a negative way. He brings forth arguments that try to refute moral noncognitivism. According to Habermas moral noncognitivism consists of the idea that norms are less susceptible to rational justification than beliefs. Habermas's use of the notion of noncognitivism is not primarily concerned with questions concerning the truth-aptness of moral judgments, as is the case in analytic metaethics, but focuses on questions of justification (Heath 2001, p. 179f.). While discussions about desires might lead to irreducible agreement, discussions about norms as well as beliefs show that intuitively agents tend to come up with justifications of which they hold to be true or right. Discussions about norms generally arise when background certainties that are embedded in the lifeworld of agents are problematized. This alone, however, does not suffice to show that these discourses ideally aim at consensus. Justificatory practices don't prove that rationally binding justification is possible - or desirable - in the moral realm. Noncognitivists and relativists⁷ base their critique of cognitivism on the modern experience of disintegration of moral worldviews. In the end, it is often claimed, moral convictions are culturally relative or even purely subjective.

⁷ Habermas fails to make the - in my view important - distinction between noncognitivism and relativism.

Habermas rightly responds to these positions by arguing that the fact of actual disagreement on moral questions does not show that the ongoing "discussion" will not *eventually* lead to agreement. Some arguments have been carried on for hundreds of years until agreement was reached. Joe Heath poignantly observes that

[t]o claim in advance, that an argument is not resolvable is to make a rather special kind of philosophical claim, one that presupposes a certain kind of external knowledge about the epistemic status of the argument. Thus the informal defense of relativism, while it may provide the intuitive motivation for the position, comes nowhere near establishing its truth. To defend the position, the relativist must actually produce an epistemological theory, one that specifies in general how we come to have well-justified beliefs, and why moral judgments in particular fail to be well justified by these criteria. (Heath 2001, p. 196)

This challenge to the relativist's critique has some force. Relativism cannot assert the truth of its own position anymore than moral cognitivism can.

Relativists, however, often do present seminal epistemological arguments that aim at undermining cognitivist approaches, and I would like to discuss the most forceful one. Habermas is right in observing that when we try to justify a norm, we usually present arguments in favor of the norm. To determine the soundness of the argument's premises we lay out chains of reasons that support them. To justify basic reasons or statements inferentially, however, i.e. by referring to other statements, leads to an infinite regress, circularity or to the adoption of one "foundational" premise. As I have shown in the previous pages,

Habermas employs a combination of methodological circularity, foundationalism and infinite regress. The basic premise that determines his approach is a belief in consensus as a foundation for the justification of Critical Theory. It is often claimed that a class of basic beliefs are noninferentially justified, i.e. justified intrinsically or in virtue of their content. Since there is almost nothing substantive everyone agrees on (not to talk of certainty), radical foundationalism (Descartes, Plato) turned into an extremely implausible position. But weaker forms of foundationalism that derive universal theories from assumptions about the state of the world or the constitution of man have also come under attack. Foundationalism, it has been forcefully argued, does not offer a persuasive justification of any kind of norm or belief, including empirical ones (Rorty 1980). This skeptical claim is often thought to face the problem that it undermines itself since it cannot account for the truth of its own standpoint. While this is true on epistemic grounds, the normative conclusion that is often derived from epistemic skepticism in terms of social theories, i.e. the belief that social criticism in light of epistemic skepticism loses its normative commitment to (moral) reason, is problematic. It is important to distinguish between the latter form of moral skepticism which is moral problem and deserves the name of cynicism⁸ and a form of epistemic skepticism or radicalized self-reflective fallibilism. It is only the latter that shall interest us here.

⁸ For an analysis of the moral problem of cynicism see Peter Sloterdijk's *Critique of Cynical Reason* (Sloterdijk 1988).

Habermas suggests that we look at the act of justification itself. He does not explicitly deny that justification involves that kind of regress, circularity or contested commitment of the form I described. Discourse ethics has to be seen as an attempt to lay out the way in which every moral argumentation has to proceed. According to Habermas a belief or a norm is justified if it can be justified to others within the boundaries or procedural constraints of the ideal speech situation. At the same time, however, Habermas thinks that discourse works in a fixed way. He stipulates that practical discourses will lead, or at least aim at, forms of consensus.⁹ Without that belief, as I will show later, he will not be able to address the crucial problem of securing stability under conditions of our modern disintegration of the world (see chapter 2).

Even if we would accept the highly contested position that in a situation of ideal discourse between rational and reasonable persons consensus would be inevitable on basic moral questions, it remains open in what way this should have any operational value for a Critical Theory. Suppose we live in a society in which the actors are living an extremely unjust life. They are subdued to the point where they cannot even minimally make use of reasoned judgment. In this world the people are not even aware of the fact that they are suppressed and exploited. They seem to be quite satisfied with their condition and might even regard themselves to be happy. Under such conditions people cannot develop desires

⁹ A similar line of argument has been developed by Joe Heath (1995, 2001) concerning value hierarchies. Contrary to Heath I don't think the tension can be resolved easily given the basic intuitions of Habermas's approach that link consensus to questions of fairness.

they would have developed in a more just society. According to this Orwellian picture it would not be of much use to consult the agents in finding out what a good life is. Confirming a theoretical hypothesis in reference to the actors, either on an individual or on an intersubjective basis, will not get us any further here. On the other hand it seems intuitively right to claim that it is this scenario that calls for emancipatory theory. Although factual agreement on the insights of Critical Theory through the deluded agents cannot be achieved, the critical theorist does pose a challenge to the existing order in that he preserves what is left to preserve and does not give up what is left of the ideals of enlightenment understood as radical self reflection. As Adorno once put it, under such conditions Critical Theory takes on a role of a "message in a bottle". It is customary to point to the impossibility of carrying out critique under conditions of total delusion. This "problem of the critic's standpoint", as it is often referred to, only seems to arise if we adopt a picture of reality in which we don't allow for emancipatory spaces within the larger context of delusion. These emancipatory spaces, which Adorno sees present in modernist autonomous art, are always endangered but allow for prismatic experiences and articulations of the deluding whole. In fact Adorno sees the deluding forces, be it in the form of the commodity fetishism or social alienation, to the conscious mind of the consumer. The real problem he diagnoses was the fact that - in spite of this obviousness - the behavior of those who are entrapped does not significantly change.¹⁰

¹⁰ I am referring here to Adorno's essays and analyses of mass perception and delusion present in everyday experiences such as listening to music or watching television in *The Culture Industry*

The skeptic who asks how the critical theorist can emancipate himself from the deluded mass can only be defeated by looking at historical Critical Theories and judging for oneself, if they have something important and enlightening to contribute. Of course, neither agents nor the critical theorist derives his insights from a standpoint of perfect knowledge. This means that there are no fixed criteria - or foundations - for what counts as enlightening or deluding. Showing that the critical theorist cannot be "certain" about the validity of his observations does, however, hardly show that Critical Theory should be abandoned because it is a, in the negative sense, utopian project. This is not to deny that Critical Theory does sometimes lose its contact not just to the actors it is about but also to its own emancipatory ideal.

To develop perfect knowledge, agents would have to live under optimal conditions. Maybe perfect knowledge is too much of a requirement here. Although we don't live in conditions of perfect freedom, we can recognize how we can abolish some of the coercion we can already identify. Total freedom, or even the anticipation of a perfectly free and equal speech situation might be too much to ask or interpret into actions that can be defined by having an emancipatory interest.

Critical Theory, according to Habermas, claims that the transition to a better state of society is likely to occur under certain conditions when the agents adopt Critical Theory as their self-consciousness. Above I tried to argue against that belief. It is hard to show that Critical Theory is necessary, in the strong

sense, for emancipation. Nonetheless one could show by looking at certain cases that it has been very conducive to, or at least useful for, emancipation. Although it cannot be expected that emancipation is a necessary outcome of "successful" Critical Theory, it seems to be important that one does not lose sight of the need for *actual* transformation or *actual* enlightenment.

The incorporation of a certain kind of empirical knowledge could be of great use for Critical Theory if it would try to be more effective in having emancipatory outcomes. In order to trigger emancipatory action it is essential to become aware of the actual mechanisms of policy making. A Critical Theory has to assess the feasibility of its action-guiding imperatives. A stronger incorporation of findings of empirical science can help to estimate the efficiency of policy making and the soundness of the empirical claims Critical Theory makes. Social structures that are unjust can be criticized effectively only if it becomes apparent how injustice is incorporated in social structures. Furthermore, Critical Theory, if it wants to warrant the possibility of emancipation through reflection, has to incorporate as a methodological requirement an account of the state of consciousness or emancipatory readiness of those to whom the theory is directed (Honneth 1999, p. 322).

Emancipatory narratives of the form Foucault, Adorno and Horkheimer have developed can help to trace back forms of oppression. This tracing back that makes use of sociology, mass psychology and political economics is the key to any form of successful emancipatory theory, even if it proceeds negatively, i.e. by pointing towards experiences of cruelty, destitution, shame, anger and

indignation.

After having clarified some weaknesses of Habermas's theory of confirmation one crucial point remains to be discussed. If we look at the actual history of the impacts of Critical Theory one might think that the evidential support for Critical Theory is rather slim. Here I mean 'evidential support' in both senses: the incorporation of empirical findings into the composition of Critical Theory and the testing of actual emancipatory outcomes of Critical Theory. Looking at the latter sense of 'evidence' it becomes apparent that there has not been any transformation from a state of bondage and delusion to a state of freedom. Thus neither confirmation nor disconfirmation through the free assent or dissent of social actors to a theory has been actually possible. Today it does not seem plausible anymore, if it ever has, that such a state would come about. Still I think one can show that Critical Theory opened up spaces for emancipation. The civil rights and especially the feminist movement grew out of the critical strand of the liberal-Marxist tradition. The transformation of civil society that took place at the end of the sixties is largely due, although not in accordance with, the writings of Marx, Freud and the Frankfurt school. This is not to say that it has been merely emancipatory. Social processes tend to develop in a dialectical fashion. Habermas's notion of formative processes does not acknowledge this lesson from history appropriately as I will point to in the third chapter.

Another strong objection to Habermas's belief that the free assent of agents secures the validity of normative theories can be made by challenging a conviction that is basic to Habermas's approach. First it is rather doubtful why we

should accept the egalitarian consensus-oriented starting point. Habermas failed to show that all acts of communication inherently anticipate a situation in which all kinds of power are taken away. If we accept this view, a conversation between lord and serf, employer and employee, father and son would violate the conditions of ideal discourse. Why should we only consider egalitarian discourses as ideal discourses? It seems to be rather question begging to justify egalitarianism through an ideal discourse that was construed according to egalitarian principles. Even if we could accept the egalitarian starting point, Habermas does not provide convincing arguments to show that consensus is always the necessary outcome or inherent telos of discourse.

Moreover, it is not evident why those affected should be the ultimate judges. This view is not just poorly justified; it also seems to be rather counter intuitive (Tugendhat 1993, Geuss 1981). Let us look at a standard example of utilitarianism. Suppose two patients in a clinic are desperately waiting for a life-saving organ transplant. A third person comes along who has the needed organs. There is no other conceivable way to get the organs from any other source. Should his life be sacrificed to save that of the other two? Certainly referring to the majority decision strikes us as deeply immoral. We would argue that the doctor or other "impartial" persons would be better judges. All things considered I think that the prospects of finding generally binding valid norms to judge society is far more problematic than Habermas makes us believe. Although Habermas claims that "postmetaphysical thinking" has to accept that we have to live in an epistemic situation in which we will not find any ultimate justification or

knock down arguments, he assumes that practical discourses will generate consensus at least with regard to basic norms - be it the norms of rational discourse itself.

As I pointed out earlier, Habermas overestimates the impact of self-reflection on emancipatory action. Self-reflection does at best create a necessary condition for emancipatory action in modern societies. We have, however, plausible reasons to believe that the material conditions that are at the basis of many social pathologies cannot be overcome through mere self-reflection. We are facing material forms of injustice that do not even permit the possibility of rational self-reflection in large parts of society. The point of departure of Habermas's endeavor is utopian in a bad sense in that he does not deal with the material sources of injustice and delusion in a sufficient manner. A change in the material conditions, i.e. a fundamental change in the way our society is structured, is crucial if we want to have a Critical Theory and create a more just society. Critical Theory can do a large part in understanding how such a change is not just in the interest of most people but also practically possible. It can also help to generate motivational force to engage in actions that abolish forms of structural injustice. The validity of such a theory is dependent on the way it fits with the world. Our way to incrementally test it is through asking if self-reflective understanding as informed social actors is possible, as well as the way it fits with the most up-to-date theories in diverse areas such as social psychology and political economics. In order to engage in emancipatory critique we should realize that all we can do is rebuild our ship at sea.

2 Habermas's and Rawls's Ideal of a "Freestanding" Conception of Justice

My aim in the following chapter is to present what I take to be the moral basis of contemporary social theories with normative intent. In the larger context of addressing the role of justification in Critical Theory, I try to compare the relative merits and weaknesses of Rawls's and Habermas's attempt to set social criticism on a firm normative footing.

Max Weber picked up Nietzsche's diagnosis of nihilism and famously pointed out that in modern times individuals find themselves in a "disenchanted" world. Sources of meaning and significance have vanished together with the traditions that once nourished communal life. Since ultimate human purposes are no longer believed to be pre-given by nature, and living a good life seems to depend on taking it to be valuable or purposeful, individuals have to create meaning for themselves without any ultimate framework that would allow them to judge what counts as significant. The "iron cage", in which we find ourselves, holds out a promise, which it at the same time subverts. In a system that claims to be instrumental to human wants but at the same time does not offer any purposes that are intrinsically valuable, individual frustration of those trapped in the cage can only deepen.

It has often been argued that under these conditions existing law can provide stability and a framework that makes life at least predictable. Existing law

is, however, not by itself legitimate, i.e. recognized as morally right by all or at least most citizens. Political associations have the monopoly over coercion. Regimes tend to be stable only when they are recognized as legitimate. Thus the modern predicament is by no means overcome but just regenerated on the level of the political as long as it is not clear what regime can be perceived as valuable and to rest on the "free and equal consent of its citizens."

According to Weber, the only solution or alternative to this modern predicament would be to revive the traditions and purposes that existed before the world was disenchanting or, alternatively, for charismatic leaders possessed with normative binding force to emerge (Weber 1989, p. 181). In order to escape the disenchanting power of rationality, he saw the flight into a form of arationality as the only way out. Neither of these alternatives seems to be plausible in our modern, deeply divided societies. They conflict with deeply entrenched value commitments and reasonable political expectations.

A "reactionary" revival of normatively binding traditions that could provide meaningful resources seems to be highly unlikely in light of the disintegration of deeply entrenched worldviews. The second alternative, the emergence of a charismatic leader, seems to be dismissible not only in light of the experience of the 20th century, but also on the ground that charismatic authority alone does not entail political legitimacy. Moreover history has shown that at least tyrannies don't tend to be stable and long living.

Both, Jürgen Habermas and John Rawls respond to Weber's diagnosis of

the modern predicament in politics and law.¹¹ Both are concerned with answering the question of how stability can be possible in disintegrated societies and what a just, i.e. legitimate political order would have to look like in a time in which we cannot rely on the truth of any particular view of the world or "comprehensive doctrine" as Rawls calls it.

Habermas and Rawls are important in this context because both of them try to answer the charge that social criticism or ideal theory necessarily remains subjectivist. Thus they share the general conviction that one has to justify the normative grounds that are necessary to carry out meaningful criticism (Baynes 1992).

The central differences between Rawls and Habermas become especially obvious in the discussion they carried out in *The Journal for Philosophy* in 1995 (Habermas 1999, Rawls 1996). There, Habermas restates his discourse ethical defense of a strictly procedural account of justice and radical democracy. Both Rawls and Habermas aim at "freestanding" or "autonomous" conceptions of political justice. In that respect Habermas and Rawls are far closer to each other than they realize.¹² In what follows I will discuss what they hold to be their differences.

¹¹ The importance of Weber for contemporary conceptions of justice is rightly emphasized by David Dyzenhaus (1997).

¹² Charles Larmore (1999) and Christopher McMahon (2002) and Christina Lafont defend the

2.1 Rawls's Freestanding Conception of Justice as Fairness

Rawls is particularly concerned with giving a rational and reasonable answer to the issue of the organization of a just society. Rawls's philosophy, at least from *Political Liberalism* onwards, is informed by the hope that in western constitutional democracies an overlapping consensus about the basic principles of liberalism can be reached. Such a basic agreement, he claims, would ensure political stability. Rawls wants to refrain from basing political liberalism on any comprehensive doctrine. His conception of justice is supposed to be distinct from other liberal accounts such as Kant's or Mill's that rely on ideas of autonomy and individuality, ideas that are part of a comprehensive doctrine. Instead he wants to offer a "freestanding" conception of justice (Rawls 1996, p. 374). Such a conception, Rawls claims, could be accepted by all people in liberal societies despite their, or in accordance with their, reasonable comprehensive doctrines. While Rawls wants to develop his conception of justice within the boundaries of western liberal democracies, Habermas wants to establish a conception of procedural justice that is valid for all cultures at all times. The strategic advantage of Rawls's strategy is obviously that he does not try to meet the skeptic who tries to put to him the question whether his conception of justice is true for all societies at all times.

Political Liberalism marks a decisive shift from the earlier universalistic conception of justice in *A Theory of Justice* in that it introduces a division of the

same claim, although for different reasons.

burdens of justification. Political philosophy is relieved from the metaphysical justification or even epistemological justification of moral truths. Constitutional essentials are derived only in reference to the heuristic device of the original position and only in reference to considered judgments of people holding reasonable comprehensive worldviews. The idea of an "overlapping consensus" is supposed to establish the internal connection between a political conception of justice and the morally laden worldviews. Its strategic advantages notwithstanding Rawls's conception can be criticized on a number of grounds. The most obvious way to do so is to charge him with engaging in armchair philosophy without looking at the real problems of fundamental injustices in the world (e.g., Wolin 1996). According to this kind of "external" criticism, Rawls's use of the notion of reasonability is a means of excluding any unpleasant position. "Reasonable citizens", for Rawls, are citizens who are willing and able to live in a "well-ordered" society. If a just structure of society is one that every person holding a 'reasonable comprehensive doctrine' can accept and a part of the definition of a 'reasonable comprehensive doctrine' is that it is able to accept the basic tenets of liberalism such as toleration of other world views, impartiality, equal rights, freedom of choice etc., then we are obviously moving within a circle. All that Rawls is doing is restating the position of liberalism. People are seen as reasonable once they have been acculturated so that they see through Rawlsian categories such as "reasonable," "free and equal," and "democracy". According to this line of critique, Rawls is engaged in the disguise - under the banner of neutrality - of an ideological project in the pejorative sense. Although I do think

this kind of criticism from the left is forceful and pertinent, this criticism hardly lives up to the meaning Rawls himself assigns to the notion of reasonability. It hardly lives up to the self-imposed restrictions of what Rawls's theory set out to achieve, i.e. a form of justice that refrains from any sorts of ideological commitments. Rawls explicitly distances his position from espousing a mere *modus vivendi*. He wants to engage in ideal theory in order to construct an impartial account of justice that best fits with our considered judgments and an understanding of citizens seen as free and equal. This is why he is often interpreted as claiming that none of our contemporary societies even gets close to fulfilling the standards of his conception of justice, although he never fully developed an account in what way they do not live up to his notion of a well-ordered society.

2.2 Rawls's and Taylor's Criticism of Habermas

As we have just seen Rawls does not want to presuppose any comprehensive or contested notions of the good. He does, however, criticize Habermas for presupposing such contested commitments. Commenting on Habermas he states:

The more equal and impartial, the more open that process is and the less participants are coerced; also, the more they will be ready to be guided by the force of the better argument. Then it is more likely that truly generalizable interests will be accepted by all

persons relevantly affected. Here are five values that offhand seem to be values of the procedure-impartiality and equality, openness (no one and no relevant information is excluded) and lack of coercion, and unanimity- which in combination guide discussion to generalizable interests to the agreement of all participants. This outcome is certainly substantive, since it refers to a situation in which citizens' generalizable interests are fulfilled. (Rawls 425)

In that respect Rawls's critique of Habermas is very similar to Charles Taylor's (Taylor 1986). Both try to argue that there is no empty, value free, and context transcendent procedure to carry out discussion. Taylor shows that we don't just need comprehensive notions of the good life, but that Habermas, and for that matter Rawls, implicitly rely on such notions. If one would be asked, why one should conform to the norms of ideal discourse one would have to respond that reasonability is an important value in our culture. Part of living a good life is to be open to reasonable argumentation. The same holds for theories with normative intent. In order to carry out meaningful social criticism we have to commit ourselves to (sometimes deeply contested) values. This is a reiteration of the claim that Critical Theory is normative all the way down, which I have defended earlier.

Taylor points to some weak aspects of modern moral theories such as discourse ethics in that they "leave us with nothing to say to someone who asks why he should be moral or strive for the "maturity" of a "post-conventional ethic." (Taylor, p. 87) The problem appears to be as follows: if accepting a discourse-ethical procedure depends on the prior acceptance of some hypergood or

constitutive conception of the good life, then it would seem that discourse ethics depends on prematurely settling a competition among conceptions of the good.

Taylor regards Habermas's attempt as a pragmatic contradiction because he tries to abstract morality from questions of the good (Taylor 1986 p. 35-53/ Rehg 1994 p. 115-123/ Larmore 1987, p. 53-65). A consistent theory based on impartiality towards comprehensive views of the good, it seems, would undermine its very claim to neutrality if its justification rested on nonneutral grounds, for example, if it presupposed the acceptance of one of the competing conceptions of the good. In his response to Taylor and in the last paragraph of *Between Facts and Norms* Habermas makes large concession in confessing that discourse ethics is not a purely formal or procedural theory.

Rawls's argument consists of two steps. He claims that crucial elements of the picture he draws in the original position are already embedded in the public culture of the societies to which the theory is addressed. That is the idea of the overlapping consensus. Secondly, he argues that this consensus is not a mere overlap, as Habermas accuses him of, but one with a justificatory structure, which could command the assent of all citizens. In modern liberal democracies we might ask whether citizens can be expected to endorse the constitution because its values are justified values and therefore it is reasonable to have this expectation? Or is the expectation reasonable because they already accept the values and so endorsement does not depend on justification? The second option is certainly not convincing. Even if it would be the case that this picture of legitimation could ensure stability (which I don't think it does), justifying a

constitution because it fits with considered judgments conflicts with some of our deepest intuitions about the nature of justified constitutions. Both our considered judgments as well as our justification of a constitution refer to reasons external of it. The considered judgments themselves seem acceptable only in light of the reasons supporting them. Rawls might respond that we don't just take the considered judgments as the justificatory basis but we have to bring them into a coherent whole by employing the method of general and wide reflective equilibrium. Although this argument has some force, it is informed by a conservative bias and has a tendency to regard describe as world-disclosing totalizing social critique, as I will allude to in my discussion of Adorno, as unjustified. Rawls, although he explicitly states not to be primarily interested in methodological discussions, but his asides on the method of reflective equilibrium has caused a lot of debate (Mandel 2000, p. 45-55, Scanlon 2003). If we were to accept, as Rawls argues, that we should hold confident those principles of justice that best fit with our considered judgments after bringing them into a coherent whole, it hardly leaves open room for being skeptical about the possibility of outlining principles of justice in times of fundamental injustice. One can hold the reasonable position, as Marx, Adorno and others have done, that starting from considered judgments about morality is in fact not much different than prolonging already existing stereotypes. Rawls sometimes seems to say that the method of reflective equilibrium is only a reformulation of self-reflective research and that there is no way around it. One can respond that often we improve our view of the world by stipulating new principles in order to

experience injustice, which hasn't been realized or articulated before. To look at the world in terms of a totally administered society, as Adorno proposes, opens up phenomena of injustice that would not have been apparent when approaching social reality from our already existing principles and convictions. Because a theory does not fit with the inductive method of reaching some kind of stable balance by carefully weighing existing beliefs, which Rawls proposes, does not mean that it is not justified. It seems to be even more justified and necessary in situations of deeply pervasive ideologies.

Habermas criticizes Rawls for attempting to specify, in his role of philosophical expert, what social arrangements individuals would accept in a hypothetical original position, rather than simply presenting his proposals as the contribution of a participant in argumentation. If it is inappropriate for philosophers to make assumptions about what individuals would accept, we can argue with Habermas against Rawls (and Habermas himself in terms of the "principles of free and equal deliberation"), it is just as inappropriate to make assumptions about what they would reject. Neither the design of the original position nor the rules of discourse as necessarily aiming at consensus is something that is likely to be agreed upon by all those involved.

Neither Rawls nor Habermas on their own standards of reasonableness and rationality can secure the acceptance of their "freestanding" procedures. Although Habermas's version of a purely proceduralist project that does not settle disputes about constitutional basics *a priori* is somewhat superior to Rawls, he faces the problem how to secure basic stability and legitimacy by failing to show

that ideal rules of deliberation can in principle be accepted by the majority of social actors. Thus if we take Habermas seriously even the equal liberty principle and the fair opportunity principle are open for public debate as they are for Rawls. One might argue that this criticism hardly captures Habermas's theory of justification. We have seen earlier that Habermas bases his political theory on his larger attempt to develop a pragmatic speech act theory that locates assent to basic discursive norms within speech itself. We would be committing a performative contradiction, his argument goes, if we would question the basics of discourse. It can be responded, as we have seen in chapter one, that it is question begging whether we can extrapolate any basic norms of discourse that are not merely formal in character.

Rawls's attempt to construct a freestanding conception of justice as fairness hardly squares with some of our deepest intuitions about at least some "comprehensive doctrines". Bracketing one's differences with regard to "comprehensive doctrines" when it comes to public deliberation deprives actors from articulating their needs and aspirations. Neither does it become clear why participants in actual discourses would *ex post* be willing to agree and act upon a form of social contract that has been decided upon by hypothetical "representatives". Raymond Geuss captures this weakness poignantly when he criticizes the methodological assumption of the contractarian tradition in political philosophy:

Philosophers who try to derive legitimacy from consent claim, then that I am bound by political obligations because I have promised, or have entered into, or could be thought of

as having entered into, a social contract with the other members of my society by which we bind ourselves to mutual obedience (under appropriate circumstances, i.e. when the orders are correctly issued). Despite its historical (and contemporary) influence and visibility, this line seems such a non-starter that it is hard to keep one's attention focused on possible grounds for it rather than on trying to determine for what historical or sociological reason something so implausible could ever have been taken seriously for such a long time. (Geuss 2001, p. 64f.)

Since it is question begging to derive the legitimacy of constitutional essentials from a form of (hypothetical) consent - even if interpreted as a "model device of representation - procedural accounts of justice are more plausible because they refer to actual processes of legitimation, not just hypothetical agreement with abstract contracts. The core intuition behind proceduralism is that a necessary condition of legitimacy of norms is that they have been adopted by reasonable and fair processes.

Habermas's emphasis on consent, however, even if interpreted as a regulative principle (Wellmer 1986) imposes unjustified constraints on decision-making processes. I cannot see why norms should only be legitimate because the procedures that brought them about incorporated consensus as a telos. As we have seen in chapter one, consent alone - even if under ideal conditions - cannot be a criterion of anything, neither of truth nor of moral validity. It might be the case that consensus reached by deliberative procedures is instrumentally good in reaching a feeling of authorship. Given the epistemic difficulty with this line of argument (as outlined in chapter one) and the political unlikelihood of the

implementation of consensus-oriented procedures of deliberation, it seems perfectly reasonable to dismiss it.

Habermas's procedural doctrine purports to leave questions of substance to be decided by the outcome of actual free discussions engaged in by free and rational, real life participants. He only wants to specify the procedural constraints for any just decision-making process. Habermas believes that, contrary to Rawls's self-understanding, Rawls fails to construe political liberalism as absolutely freestanding. One can understand his strategy of avoidance only when one discusses his limited conception of the "political". While Habermas grants Rawls that his conception might be freestanding in the sense that it should not refer to a specific moral theory but to be able to form a coherent whole with different comprehensive world views, he thinks it is less plausible that a theory can be freestanding in the sense that it "leaves philosophy as it is." Especially the conception of the person seen as free and equal goes beyond political philosophy (Parfit 1973, Siep 1997, Baynes 1992, p. 125-135).

Habermas picks up the Kantian project of giving a rational answer to the question of what is good for all persons. As we have seen he ties validity to discursively reached, or communicative agreement. He leaves the horizon of individual consciousness in favor of communicative or intersubjective rationality. Accordingly Habermas's discourse ethics can be seen as a revitalization of Kant's categorical imperative in terms of communicative reason. Rather than providing values grounded in an account of human nature or reason, discourse-based approaches offer a set of procedures that if applied are purported to lead

to legitimating social practices and institutions. Habermas's reformulation of Kant's categorical imperative shifts the emphasis from what each individual can will without contradiction to what all can agree to in rational discourse. The universalization principle U, which - according to Habermas - is supposed to be embedded in all speech acts, states that a norm is valid "if and only if all affected can freely accept the consequences and the side effects the general observance of a controversial norm can be anticipated to have for the satisfaction of everyone's interests." (Habermas 1990, p. 65) Impartiality is reached through each actor's adoption, adjustment and integration of multilateral perspectives. Habermas's localization of the moral point of view as a necessary presupposition of speech acts has been characterized as "a protracted examination of the psychological, cultural, and institutional preconditions of, and barriers to, the implementation of practical discourses." (McCarthy, p. 48)

Habermas is well aware that part of our intuition about a well working liberal, that is voluntaristic and autonomous society is based on a process of self-legislation: "Without religious or metaphysical support, the coercive law designed for legal behavior can preserve its socially integrative force only insofar as the addressees of legal norms may at the same time understand themselves, in their collectivity, as the rational authors of those norms" (Habermas 1996, p. 33). Although Habermas's criticism of Rawls as not paying sufficient emphasis on actual legitimating or will formation processes is pertinent, a feeling of authorship for the law, however, is something that both Rawls's and Habermas's accounts seem not to be able to secure. Since social actors did not choose to live in the

structure of any society, be it (according to liberal conceptions of justice) just or unjust, but are born into it, they might favor a different system and never be able to identify with the political structure. Living in a political structure with which they might not identify is likely to cause either neglect of the political realm or social upheaval. Thus the problem of stability remains not just unresolved but unaddressed. By ignoring the fundamental fact of deeply entrenched skepticism with regard to basic norms of political participation in contemporary societies, Rawls and Habermas are not able to deal with the consequences of deeply rooted political struggle and dissatisfaction.

2.3 Pluralism and the Problem of Stability

Given the fact of pluralism, i.e. the multiple and highly diverse notions of the good individuals don't just hold to be true for themselves but also for the communities of which they are members, sometimes even of all of humanity, it seems highly implausible that consensus on what is the common good can be achieved through deliberation alone. The standard response stating that this seems to be rather a problem of application than a problem of a conception of justice seems to be quite ironic given the fact that Rawls and Habermas try to address the problem of stability as a "practical" problem of contemporary societies. Since Habermas sees questions of justice as linked to questions about what is equally good for all, disagreement about what is right or just might just as well be an

expectable outcome of any deliberation, given the plurality of conceptions of the good. The distinction between the theoretical and the practical is of little use here.

Often we see that public discussion does not lead to rationally motivated consensus on general interests, but sharpens disagreement by revealing particular interests to be ungeneralizable or particular values to be neither generally sharable nor consensually orderable. In these cases, Thomas McCarthy claims, we can still reach a reasonable agreement by moving discussion to a higher level of abstraction (McCarthy, p. 56). Insofar as the moral-political significance of reasoned agreement hinges on its providing an alternative to open or latent coercion as means of social coordination, there is clearly room for alternatives to substantive consensus. As McCarthy points out, Habermas himself has recently emphasized democratic decision-making procedures rather than the outcome of such processes points in such a direction. Although these reflections of McCarthy point into a promising direction in that they call into question the possibility of substantive consensus, they don't go far enough in that they regard the consensus model as providing a viable alternative to the modern predicament.

Although Rawls's approach is to dismiss certain questions from the political agenda "once and for all" makes some sense given the fact of deeply rooted pluralism, Habermas's conception has the advantage that "it leaves the task of finding common ground to political participants themselves." (McCarthy 61). Although it is highly questionable that these questions can be worked out in

terms of consensus as opposed to agreement, he goes on, the emphasis on democratic procedures seems to match one of our most deeply rooted intuitions, the one of self-legislation. If we would "implement" Rawls's suggestions it is not unreasonable that it would freeze ongoing processes of public political communication whose outcomes cannot be settled in advance by political theory.

Because there is no fixed set of criteria that determines what is to count as a rationally motivated agreement, only an open-ended set of justificatory practices that are structured by rather broad procedural constraints, one cannot decide "monological," or *in foro interno* what rational agents would or would not accept; one must actually carry out the attempt to persuade them. According to Rawls the principles of liberal constitutional democracy were to be given by deliberation between individuals situated behind the veil of ignorance. Deliberation, however, can according to this picture be merely the solipsistic thought of the liberal philosopher, since the individuals were so stripped of individuality that they appeared similar to Kant's intelligible I in the sense that any one of them could undertake the deliberation by himself. Each member of the original position only consists of the same kind of rationality. This picture could not account for the way in which individuals are constituted by attachments not necessarily of their choosing.

Based on the above mentioned criticism of Rawls's incorporation of the original position, Habermas sees his own discourse theory as dialogical all the way down, because all citizens of a society are supposed to reach agreement on basic question of political justice by carrying out real life discussions. He wants to

rule out the possibility that the political philosopher is the one who judges what is just and what is not. Rawls defends himself against Habermas's accusation that the original position is monological by claiming "it is you and I - and so all citizens over time, one by one and in associations here and there - who judge the merits of the original position as a device of representation and the principles it yields." (Rawls 1993, p. 383) Rawls also stresses the resemblance of outcome of the method of wide reflective equilibrium and Habermas's universalization principle of rational acceptance in the ideal discourse situation. In both cases the device functions like a regulative ideal.

Habermas is convinced that "participants in argumentation must reach a rationally motivated agreement, if at all, for the same reasons" (Habermas 1996, p. 86), while Rawls believes that "all the reasonable doctrines yield the right conception of justice, even though they do not do so for the right reasons as specified by the one true doctrine" (Rawls 1993, p. 128).

Although Habermas's proceduralist position favors radical democracy over anything else and Rawls takes liberalism as his starting point, both sides share the basic intention that "our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may be reasonably expected to endorse in the light of principles and ideals acceptable to their common human reason." (Habermas 1999, 49)

The difference here is a difference of emphasis rather than anything else. This makes sense since political liberals often argue that liberalism and

democracy, far from excluding one another, create a coherent whole (Larmore 1989). Liberalism is a complex bundle of beliefs. If we follow Geuss's suggestion and leave conceptual analysis to look at the history of theories that claimed to be liberal we see that it always encompassed commitments to comprehensive doctrines. One can trace these commitments in Habermas's defense of radical democracy. Liberalism is committed to some version of a principle of toleration. Secondly, individual conceptions of freedom play a central role. Only those (political) actions are regarded to be just that have free consent as their ground. Individual autonomy and a persistent suspicion of any kind of merely coercive power are central to liberalism. Even the (foundationalist) reference to "binding reason" as a source of inevitable consensus is a case in point.

It is also important to note that the difference between Rawls and Habermas vanishes if we look at what they see as a major point of disagreement. Rawls wants to fix a constitution once and for all with his two principles of justice. The equal liberty principles intends to provide each member of a society with equal basic rights and the difference principle is intended to secure that social inequalities are justified only as long as positions are assigned fairly and existing inequalities are to the overall benefit of the least well of members of a society (Rawls 2001, p. 42f.) Habermas on the other hand says that even basic rights and liberties (the content of the first principle) should be open to democratic decision making procedures. If we, however, reformulate Habermas's position we see that he is presupposing something like a basic inalienable right, too. One can formulate that right along the following lines: every person has the right to be

bound only by political principles whose justification he can rationally, i.e. *via* unconstrained public deliberation, accept according to the universalization principle U (Larmore 1999, p. 621).

2.4 Criticism of Discourse Ethics

Habermas's approach is in another respect more limited than that of Rawls's, because he believes that moral philosophy cannot make any substantive contribution in that it does not have any form of privileged access in discussions concerning moral truths. Although the Rawlsian model of a hypothetical agreement of parties in an original position is inadequate to capture our intuitions about the acceptance of just norms, because it fails to provide scope for the reflexivity and feeling of authorship that is essential to the idea of morality, I think he is right to believe that in certain situations philosophers or other people with sufficient expertise do have privileged access in saying what is just and unjust.

Let's assume with Habermas that normativity is implicit in everyday speech acts and that challenges to the validity of particular norms yield processes of moral argumentation. The question arises why such argumentation should lead to any results. Even McCarthy's (McCarthy 1994, 54f.) proposal to replace the notion of consensus by the notion of agreement that is more adequate to the real world of politics does not seriously improve discourse ethics. McCarthy's move into the direction of an aggregated model of democracy that

looks at democratic decision making processes less in terms of expressing the discursively derived "will of the people" by way of a consensus in terms of an aggregational model, as it can be found in Joseph Schumpeter's seminal work of 1947, *Capitalism, Socialism and Democracy*, which sees democratic decision making procedures as compromises of interests, seems in my view to be based on a basic and problematic conviction of discourse ethics. That is the conviction that discourse leads to some kind of justified and generally acceptable outcome.

Habermas anticipated the objection that participants in discourses might not reach consensus. Thus he limits moral discourse to determining the acceptability of norms or the rules that we have duty to observe, as opposed to the values or ends that we pursue. The former involve questions of justice, the latter reflect views of what constitutes a good life. While it is true that norms in order to be considered to be just require that they are universalizable, it does by no means follow that they are universal, or that the universalization principle yields any substantive outcomes. On a very abstract level it might be the case that one can identify certain generalizable interests that could allow to generate basic norms. "Causing unnecessary pain is bad", or "don't lie if you really shouldn't" might be a case in point. These norms remain so general, however, that it is not even clear whether they have any truth content or are merely pleonastic. Albrecht Wellmer captures the emptiness of the categorical imperative when he observes that:

the categorical imperative requires that I should only act according to maxims, which I can will to have the validity of a universal law. But as a *rule*, what I can will as a universal

law will in fact be determined by my own, pre-existing normative convictions, especially by the socially determined normative expectations I have of *others*. In so far as this is the case, what the categorical imperative is ultimately saying is this: 'Do what you think *one* must do,' or even 'Don't do what you think *one* must not do.' In other words, 'Make no exceptions for yourself where normative matters are concerned, ' or simply '? Do what you ought to do.' (Wellmer 1991, p. 121)

Habermas would respond that the categorical imperative remains an empty formalism only as long as one remains within a subjectivist paradigm and does not allow for intersubjective, i.e. public deliberation about what norms to adopt. But why should we think that there are substantive norms on which agreement is possible and why should we think that these norms have to be valid? Although we might not be able to deny that normativity is embedded in speech acts altogether without engaging in a performative contradiction, that hardly shows why there should be something like universally valid and acceptable norms. Even if there were such norms, the generalization or universalization principle, as proposed by Habermas, does not guarantee the generation of moral norms for the simple reason that normative rightness is logically independent of agreement and processes of justification.

Suppose a norm is taken to be valid because it was freely assented to by all those affected. A group of people unanimously decides that a certain number of people should be sacrificed because the medical utility for the group at large is immense. If we accept the presuppositions of discourse ethics, the resulting law has to be freely accepted to by all. Either something is normatively right, because

it has been freely assented to by all affected or something is supposed to be accepted, because it seems to be rational to accept it. In the latter case we need material or substantial criteria to decide what we should recognize to be right or valid. These material criteria seem to be more central than for the sake of impartiality adopting some kind of wishful thinking that rationally reached consensus will come about. The material values in Habermas's discourse ethics are mutual recognition of equality and the importance of taking seriously all participants of discourse. In that sense discourse ethics does indeed have (substantive) normative implications and is not just deontological. But I doubt whether these are not too thin or general to address the problem of nihilism or carry out any form of informed critique of ideology with practical import, the original aim of Critical Theory.

Accepting material normative criteria that are backed up by deeply entrenched moral convictions - if we are at all to be able to decide between a reasonable and an unreasonable consensus - seems to be the only plausible way to go. But how can we get such material or substantive criteria given the fact of pluralism and the methodological starting point of neutrality towards comprehensive conceptions of the good. I don't think we can. The only way out is to drop the liberal ideal of neutrality towards those conceptions and to abandon the idea of an overlapping consensus.

Max Weber's and Carl Schmitt's suggestion to limit the basic liberties of individuals by granting competent leaders or dictators the right of sovereign rule in a time of global crisis and self-destruction is one plausible alternative we

should not rule out from the start because of the terrible experiences of the twentieth century. The danger is obviously that those leaders will ascribe intelligence and competence to themselves in order to misuse the power they have for personal or immoral reasons. This danger could be limited by having a system of checks and balances. The alternative we face is not tyranny or liberal mass democracy. Recent communitarian defenses of civil republicanism and Carl Schmitt's views about forms of constitutional monarchies, to name just a few examples, point into an interesting direction beyond those alternatives.¹³ The conviction that there are no reasonable alternative beyond the basic tenets of liberal democracy abstracts from the metaphysical content that the methodological ideal of neutrality attempts to cover up.

2.5 Metaphysical and Moral Presuppositions of Liberalism

As I have tried to illustrate, both Rawls and Habermas miss to adequately address the moral basis of modern liberalism and democracy. Indeed, one could claim that they have to downplay their (contested) moral commitments in order to hold up the promise of constructing their theory of political justice in a "freestanding" or "autonomous" way. Charles Larmore insightfully observes that:

Habermas has misidentified the feature of modern experience that is crucially relevant to

¹³ On this subject see Carl Schmitt's *Political Theology: Four Chapters on the Concept of Sovereignty* (1988) and David Dyzenhaus's *Legality and Legitimacy* (1997).

the basis of political association. The decisive element is not the waning of metaphysical and religious worldviews (though that has occurred). It is instead the recognition that such worldviews, as well as the recurrently postmetaphysical efforts to do without them, are an enduring object of reasonable disagreement. (Larmore 1999, p. 615)

The liberal principle of legitimacy states: Our exercise of political power is fully proper only when it is exercised in accordance with a constitution the essentials of which all citizens as free and equal may reasonably be expected to endorse in the light of principles and ideals acceptable to their common human reason. These issues touch the heart of political liberalism itself. Reference to reasonable agreement will not bring us much further here. Larmore rightly points to the impossibility of construing political liberalism as fully freestanding. Liberalism rests on moral presuppositions such as the acknowledgement of the principle of respect for persons. Larmore rightly observes that: "Respect for persons lies at the heart of political liberalism, not because looking for common ground we find it there, but because it is what impels us to look for common ground at all." (Larmore 1999, p. 608) The readiness to seek fair principles of cooperation, for Rawls a basic criterion to enter the original position, is already a highly morally laden presupposition. If Rawls's and Habermas's concept of the person is not universally shared in a society, then - given their own standards - their theories of justice cannot serve as the basis for a moral community. Those whose voices are excluded will experience their exclusion as an imposition and thus as unjust. They might not see themselves as citizens of the political order they happen to live in. Carl Schmitt forcefully argued that there is no way around the political

logic of inclusion and exclusion. It is my conviction that it is necessary today to confront these most disturbing challenges to the self-asserted legitimacy of liberal democracy. Indeed it is Schmitt who can help us become aware of the tension between liberalism and democracy. Chantal Mouffe in acknowledging the challenge posed by Schmitt points out that

there is an opposition between the liberal 'grammar' of equality, which postulates universality and reference to 'humanity', and the practice of democratic equality, which requires the political moment of discrimination between 'us' and 'them'. [...] The democratic logic of constituting the people, and inscribing rights and equality into practices, is necessary to subvert the tendency towards abstract universalism inherent in liberal discourse. (Mouffe 2000, p. 44)

Even if one refrains from drawing the Schmittian conclusion that a democracy that is not homogeneous enough - a situation we obviously face today - is bound to collapse, this logic of inclusion and exclusion poses a serious challenge to the legitimacy of a liberal democratic society if seen in universalistic terms.

It is sometimes claimed that refusing to accept the concept of the person or citizen seen as free and equal and society as a system of cooperation is the basic condition to enter moral discourse. By referring to Wittgenstein's conception of logically independent language games, it is claimed, if we deny these presuppositions, we are just not talking from a moral point of view, but reasoning from some other perspective. This interpretation of moral theory as a

fixed language game with certain boundaries hardly lives up to the constant change of paradigm of what counts as moral discourse. Moral discourse in its basic historical configurations is a product of ever changing human self-interpretations. The belief that the notion of social cooperation and equal rights and liberties constitutes the framework by which moral discourse can be defined has to be dismissed in light of the bundle of other, sometimes conflicting self-interpretations of the person as fellow human being, as a bearer of our sympathy, as a potential enemy etc. "The equality of all persons as persons", Schmitt writes, "is not democracy but a certain kind of liberalism, not a state form but an individualistic-humanitarian ethic and *Weltanschauung*. Modern mass democracy rests on the confused combination of both." (Schmitt 1985, p. 13)

According to mainstream liberal discourse we are facing the problem that metaphysical worldviews, i.e. worldviews that assert the existence of entities that are neither physical nor psychological in nature, and postmetaphysical positions have to be accommodated by the legal structure of modern societies. This starting position, however, seems rather self-defeating. First of all the distinction between metaphysical and postmetaphysical is not very convincing. If we take the above definition of "metaphysical" one could argue that the liberal individual self that is interested in reasonable agreement and presupposes the existence of the possibility of reasonable consensus is highly metaphysical. The liberal person (seen as free and equal) is neither physical nor psychological in nature. Habermas's attempt to leave the metaphysical tradition is itself deeply embedded in metaphysical categories. Reason itself is neither physical nor psychological in

character. Especially the strategic reduction of the human being to a speaker governed by universal rules of discourse displays a one dimensional categorization that remains bound with a kind of essentialism that has long been superseded by earlier "metaphysical" thinkers.¹⁴

Habermas's commitment to what he calls radical democracy is rather ambiguous. Since he does not specify the way by which decision making processes are to be carried out, we are left with an empty formula. As Weber and Schmitt point out, one of the characteristics of modern states is that they have to claim to be legitimate in the sense that they embody the will of the people. Thus we could imagine dictatorships, dynasties or monarchies to function according to the principle of "self-rule by the people" as long as the ruler embodies the sovereignty and the will of the people (Schmitt 1985, p. 28). It could be objected that this form of "democracy" would indeed not be a democracy at all, but rather some form of populism. Only if we accept Habermas's principle U interpreted as entailing democratic forms of deliberation to establish normative validity does it seem reasonable that alleged "metaphysical" worldviews that don't accept democratic deliberation procedures should not play any important role in the political arena. But why, one might ask, should we not accept a form of utilitarianism that wants to maximize well-being of the majority or biggest number of people? Why should we not accept a fundamental Islamic theocracy? Habermas does not provide convincing answers that could persuade citizens why they should adopt one of the alternatives to impartial forms of public

¹⁴ Dieter Henrich's "What is Metaphysics - What is Modernity? Twelve Theses against Jürgen Habermas" (1999) provides an informed and illuminating criticism of Habermas's alleged attempt

deliberation.

Any political theory needs to commit itself to certain fundamental principles, which are taken to be valid without any reference to generalizability and the like. I agree with Larmore that it makes perfect sense to implement some political principles that need not be acceptable to everyone. It seems far more important that it is justified and rationally transparent. It is not necessary to bother whether it would be acceptable for everyone (Larmore 1999, p. 621).

Contrary to Larmore I don't think it is a worthwhile strategy to defend the moral basis of liberalism in form of the "principle of respect for persons". This principle remains empty until it is filled with some discernable content.¹⁵ The concept of respect and especially the concept of the person as we find it in liberalism and egalitarian theories of justice is highly context dependent and should be considered as such. This is not to say that one should not use it at all. Pointing to its historical embeddedness does not make it wrong. Neither is it to say that generalizations are dismissible. It is only to say that any sophisticated attempt to talk about justice has to take these issues into account and present a more contextualized and substantive story. Larmore, even though he acknowledges the moral basis of liberalism, unfortunately follows Rawls and Habermas and wants to pursue the project of liberal democracy in a politically freestanding way (Larmore 1999, p. 623). Given the fact that he made the case for the contested "moral basis of political liberalism" this does not seem a convincing strategy to follow.

to progress into a form of postmetaphysical theory.

¹⁵ An attempt to spell out what is meant by respect for persons and human flourishing can for

2.6 Summary

We have seen that both Rawls and Habermas fail to pursue their project in a "freestanding" or "autonomous" way. Habermas's discourse ethical approach cannot be carried out on neutral grounds and faces serious weaknesses, part of them being epistemic problems as I discussed them in chapter one, part of them problems of application to modern, pluralist democracies.

Moral relationships hold between concrete or particular selves, rather than merely "abstract" individuals that are seen as instantiations of persons seen as free and equal citizens. Traditional universalism with its emphasis on principles is oriented to the "generalized" other. When we look upon other people only from the standpoint of the "generalized other," we replace the concrete plurality of acting subjects with a "definitional identity" that is either too wide or too narrow for concrete applications. Too wide in the sense that it tends to appear as an empty formalism that is totally abstract to concrete situations. Too narrow, because it often appears to incorporate ideas of reasonable and rational deliberation that are not the main forces determining our concrete decision-making processes.

Further, the role of conflict and struggle, inclusion and exclusion and its relationship to theories of justice is being widely ignored by Rawls and Habermas. This is a lack that any Critical Theory of society has to fill.

example be found in Martha Nussbaum's account of what central human capabilities (2000).

3. Critique, Normativity and Language

While much of what has been said can be read as a criticism of liberal attempt of developing a theory of justification in form of a justification, be it in the form of discourse ethics or by way of employing representational devices like the original position, I would now like to give a tentative diagnosis of what I take to be the reason and the possibility of overcoming for the methodological problems I indicated in the preceding chapters. Doing so I will shift my attention to Habermas's theory of justification. *In nuce* I argue that Habermas's attempt to ground morality in a foundationalist conception of language as being equipped with an orientation towards mutual understanding is not just doomed to fail on epistemic and socio-political grounds, as I have argued, it is furthermore based on a problematic conception of the relationship between normativity and language. I will suggest certain corrections, which are intended to outline a form of Critical Theory that remains faithful to the ideal of self-reflectiveness and emancipation all the way down. This is also intended to extend the discussion on self-reflectiveness of Critical Theory, which I started in the first chapter. At the same time it presents the framework for a viable alternative to the Habermasian project. I wish to show that going back to the first generation of critical theorists, especially to Adorno's views on language and the vocation of critical philosophy as being committed to not loose sight of what he calls the total of society (*das Ganze der Gesellschaft*), presents a viable alternative to Habermas's approach. In particular I defend the claim that a self-reflective radical criticism is conducive

to disclose fundamental forms of structural injustice.

3.1 Critical rather than Transcendental Philosophy

Almost from the beginning of his career Habermas has been anxious to argue that the growth of rationality does not entail a regress into barbarism, as Adorno and Horkheimer had claimed in *Dialectic of Enlightenment*. According to Habermas it is necessary to reestablish Critical Theory's link to forms of widely shared intramundane transcendence. As we have seen in the first chapter, this incorporated situating the historically grown possibility of emancipatory critique as well as the possibility of future implementation of emancipatory processes. The concept of communicative rationality is supposed to ensure an emancipatory potential that at the same time gives a justification for the bindingness of normativity in terms of norm-governed action. As I have argued earlier, communicative rationality can, *pace* Habermas, not claim to be transcendently binding for a number of reasons. Even if - for the moment - we accept that we have to make certain "normative" presuppositions in order to speak, Habermas is begging the question by failing to show why this bindingness is in any sense sufficient to ground the rightness of those norms involved, as well as the necessity of resulting emancipatory action. Even if for example the validation of claims through argumentative procedures might be binding for more and more cultures under conditions of modernity, we still can raise the question why this

development should yield normative binding outcomes that should be considered to be in the name of justice. As Seyla Benhabib writes:

the constituents of communicative rationality like decentration, reflexivity, and the differentiation of value spheres can be said to have "universal significance and validity" only in a weak sense. One cannot claim that they are "quasi-transcendental," only that they are the outcome of contingent learning processes whose internal evolution we can cogently reconstruct. (Benhabib 1986, p. 279)

Accordingly it seems perfectly reasonable, and I think important, to defend communication that is aiming at understanding as a very important good or regulative ideal we should strive at. But to claim that it is inherently always already present in language, and that by basing a theory of justification on that claim, falls back to making foundationalist assumptions. The point I would like to make here concerns the role and implicit conception of language in Habermas's philosophy. Communication and thus a certain understanding of language as inherently aiming at understanding is the indispensable means to sustain Habermas's framework of deducing universal norms. However, the idea that language is originally and fundamentally intended to convey understanding (*Verständigungsthese*) and that other forms of (e.g., instrumental, ironic, aesthetic) or ways of using language are in some sense derivative and subordinate is a dogmatic - and in my view detrimental - assumption.

Reflections on language are agreeably not only the natural thing any moral theory after the linguistic turn has to deal with, they also pose one of the most

important things to do if we see Critical Theory as self-reflective. It is in the medium of language that social criticism is carried out. Thus it is natural to reflect on the possibility to grasp justice conceptually. I believe that a more radically dialectical account of the relationship between language and normativity is needed if the process of critical self-reflection should not be arbitrarily suspended. It is Adorno, Habermas's teacher, whose reflections on language point into an interesting direction here.¹⁶

In his comprehensive history of the Frankfurt School, Rolf Wiggershaus recounts what might be seen as an ironic fact of history. In the 1940s Adorno and Horkheimer discussed the possibility of basing universal reason in language. Horkheimer wrote to Adorno in 1941:

Language intends, quite independently of the psychological intentions of the speaker, the universality that has been ascribed to reason alone. Interpreting this universality necessarily leads to the idea of a correct society. [...] To speak to someone basically means recognizing him as a possible member of the future association of free human beings. Speech establishes a shared relation towards truth, and is therefore the innermost affirmation of another existence. (Cited in Wiggershaus 1994, p. 505)

According to this equivocation of language and reason, existing injustice is to be criticized from the vantage point of language. The process of reification and functionalization of language itself was supposed to symbolize the "totally

¹⁶ My Adorno interpretation is indebted to the seminal and path breaking attempts of articulating Adorno's philosophy of language (although probably against Adorno's own willingness) in a clear, coherent and sustained manner by Albrecht Wellmer (1985) and Peter Uwe Hohendahl (1995). Adorno's seminar texts in which he unfolds his views on language and philosophy are "The

administrated society". Since the commodification has permeated all aspects of society, language has not been spared: "There is no longer any available form of linguistic expression which has not tended toward accommodation to dominant currents of thought; and what a devalued language does not do automatically is proficiently executed by societal mechanisms." (Adorno 1993, p. xi, xii).

Adorno fully agreed to an equivocation of (ideal) language and reason and affirmed the immanent relationship between language and (normative) truth or rightness. What sounds like a blueprint for the later Habermasian project was not carried out, because Adorno and Horkheimer decided that the relationship between language and justice had to be construed in a sustained dialectical way. Adorno's dialectical account of language implied more radical consequences than Habermas is willing to concede. This radical conception of language as being dialectical captures one important point that seems to me essential when addressing the problem of justification in Critical Theory, i.e. the justification of the norms applied by Critical Theory in recourse to a theory of language. Let me elucidate what is meant by a "dialectical account of language". Instead of constructing a "positive" account of justification, be it in terms of a discourse or consensus theory of truth as in Habermas or employing the method of reflective equilibrium as in Rawls, Adorno discloses the tension between particularity and universality, between what is just and unjust, between positive and negative accounts of justice as a constitutive feature of language itself.

The structure of society permeates the structure of language. Language

itself is not a resource that is inherently aimed at understanding. It functions as a medium that mirrors certain aspects of society. A form of Critical Theory that is built on this insight would, as Jaimey Fisher phrased it, "entail and incorporate a very different grounding, one that cultivates, in the grounding itself, a sensitivity to both positive norms and their (negative) limits." (Hohendahl/ Fisher 2001, p. 272) In "Essay as Form" Adorno sketches a dialectical account of language according to which language as an expression of justice and injustice is interwoven. In language we are trying to express the particular, but by using concepts, i.e. by employing prefabricated generalized forms, we always lose part of the particularity of that which we are trying to express.

By constructing and working with theories we tend to take the concept as a placeholder for the token it is supposed to denote. Doing so we abstract from the individual cases in their particularity. A theory that claims to be about justice has to take these considerations into account. Thus Adorno's reflections on language help to elucidate the dialectical relationship between justice and injustice.

3.2 The Tension between Justice and Critical Theory

The relationship between justice and Critical Theory is one of fundamental tension. This tension reiterates in the history of Critical Theory itself. On the one hand there is a tradition of strong disavowal of any reliance on considerations of

justice. On the other hand critical theorists have made widespread use of arguments considered to be *in the name of* justice. Emancipatory critique of domination (*Herrschaft*), the original motivation behind Critical Theory, I argue, has to take an ambivalent stance towards attempts to delineate a (positive) concept of justice, be it in procedural or substantive terms. This negative approach is often criticized to be a form of “anti-theory theory” that points to the challenge of carrying out moral theory without offering any viable alternative. It is true that this kind of philosophical endeavor does not easily square with standard accounts of (moral) theory understood as depicting what is good or what is right. Contrary to abandoning this project as being pessimistic, I believe it offers a pertinent alternative to traditions in contemporary theories with normative intent, as that of Rawls and Habermas. What it does do is enlighten critical thinking about itself. The central insight of *Dialectic of Enlightenment* is that myth is already enlightenment and that enlightenment reverts to myth. Only a form of reason that calls into question the possibility of its own foundation takes the idea of emancipation seriously. It sacrifices the idea of foundation and reconciliation of concept, rule and particularity without giving up the possibility of criticism. Contrary to many interpretations, the textual basis leaves no doubt that the alleged pessimistic turn in Adorno's thinking from *Dialectic of Enlightenment* onwards has been overstated by reducing this emancipatory narrative to an epistemic theory.¹⁷ Critical Theory that questions its own possibility to outline a theory of justice remains committed to the program of enlightenment:

¹⁷ The kind of epistemological criticism I am referring to is stated most famously in Habermas's *The Philosophical Discourse of Modernity* (1990, p. 106-131).

The dilemma that faced us in our work proved to be the first phenomenon for investigation: the self-destruction of the Enlightenment. We are wholly convinced-and therein lies our *petitio principii*- that social freedom is inseparable from enlightened thought. Nevertheless, we believe that we have just as clearly recognized that the notion of this very way of thinking, no less than the actual historic forms- the social institutions - with which it is interwoven, already contains the seed of the reversal universally apparent today. If enlightenment does not accommodate reflection on this recidivist element, then it seals its own fate. (Adorno/ Horkheimer 1993, p. xiii)

It is the articulation of this dilemma that is part of the purpose of Critical Theory. Instead of renouncing enlightenment altogether, the critique of reason calls to our attention that values and ideals even if embedded in language, often direct and control the dynamics of domination and self-preservation. It is the constant self-reflective questioning of Critical Theory's (normative) foundations, which stands out as an ideal of a truly human existence and which Critical Theory should strive for. The quest for searching transcendental foundations is unmasked as yet another attempt to force critical thinking into an inductive or deductive methodology common to (at least the pre-Kuhnian picture of) natural science. The search for a theory of justification is not just open to rejections of an epistemic kind, as they are presented by post-Kuhnian and post-Quineian epistemology. Foundationalist approaches are an expression rather than a solution to the problem of grounding a conception or theory of justice in times of fundamental structural injustice. The critique of foundationalism does not need to be relativistic with regard to morals as is often claimed. The epistemic problem of

relativism versus foundationalism, as I noted earlier, has to be distinguished from moral skepticism or cynicism. Thus it seems to be more appropriate to formulate the modern predicament not in terms of a problem of value pluralism, as some Weber interpretations propose, but in terms of the vanishing of convincing meaning resources that leads to moral skepticism and cynicism. Albrecht Wellmer rightly observes, "ethics needs to advance beyond the false antithesis of absolutism and relativism, which is to say that morality and reason do not stand or fall with the absolutism of ultimate agreements or fundamental groundings." (Wellmer 1991, p. 116)

3.3 The Equiprimordiality of Justice and Meaning

This leads me to end on a programmatic note by addressing what I see as the constructive aspects or purpose of contemporary Critical Theory of society with emancipatory potential that cultivates skepticism towards its own possibility. As I have argued in the preceding chapter, the kind of liberal social criticism, as one finds it in Habermas's and Rawls's work, does not adequately answer the problem of stability which is caused by the absence of binding meaning resources, problems that are often downplayed by the liberal hope for posttraditional reflectively reached consensus on basic norms of social cooperation. I have argued that this hope is sociologically and politically naive and is open to important epistemic objections. These objections only arise if I

start arguing in an epistemic framework, which Habermas's intersubjective turn still remains in. Nevertheless Critical Theory has to address the problem of meaning and look for more convincing answers than the liberal model provides. Jim Bernstein convincingly argues that Critical Theory has to mediate between a concern for the problem of justice and the problem of nihilism. Only by limiting its focus to the problem of justice, Bernstein argues, did Critical Theory turn into a discourse of justification. He observes that

if you believe that the problem of modernity, the incomplete project of the Enlightenment, is the problem of justice, then you might consider an intersubjective turn toward grounding human interactions in reciprocity and mutuality the most important. This is one road out of Marx, where the phenomena of domination, exploitation and the like are the most salient. If however, with Nietzsche and Heidegger, you believe that alienation, loss of meaning, demotivation, and the like are the really troublesome phenomena of our time, then a project that explicates these in terms of a suppressed creative dimension to human activity will appear the most salient. (Bernstein 1995, p. 199)

Critical Theory needs to combine both, the concern for justice and the concern for meaning in a complementary way. By letting considerations of validity trump over questions of meaning Habermas fosters the meaning-destroying mechanisms of modernity. His treatment of language and rationality pursued only in accordance with procedural requirements allows only for reflective rationality that is inherently skeptical about the prospects of entailing substantive resources of meaning. The main task that Critical Theory faces today is to overcome this skepticism and critically recover and extend traditions that provide meaning. The

Romantic Marxism of earlier Critical Theory as it can be found in Adorno is

the defense of meaningfulness against subsumption under the meaning-destroying mechanisms of an Enlightenment geared towards the expansion and rationalization of power and embodied in the reified economic and political structures of the modern world (cited in Bernstein 1995, p. 199).

Habermas's interpretations of Adorno, Heidegger and Nietzsche, which he mainly carried out in *The Philosophical Discourse of Modernity*, that reduces their attempts to recover and generate ethically binding traditions to "negative metaphysics", "aestheticism" and "irrationalism" assumes that these traditions have only private, as opposed to public value. By assimilating the liberal position of neutrality towards the good by way of privatizing it and by assigning to philosophy the meager role of a mediator between modernity's differentiated value spheres, Habermas's model of Critical Theory unnecessarily restricts the role of critical philosophy (Habermas 1990, p. 1-20).

The aim of critical philosophy is twofold. On the one hand it offers, although in a self-critical way, a criticism of domination, alienation and other forms of injustice. It deals with questions concerning normative validity. On the other hand, as I have argued, it provides a utopian, creative dimension, which I want to refer to as the dimension of truth or world disclosure.¹⁸ Both dimensions

¹⁸ Although the idea of world disclosure is developed most prominently by Heidegger, Adorno's reflections on aesthetic mimesis and the expressive dimension of language point into similar directions. For an account of Heidegger's conception of truth as disclosure and its implication for Habermas's idea of a Critical Theory see Nikolaus Kompridis "Heidegger's challenge and the future of Critical Theory" (in: Dews 1999) and James Bohman's "Welterschließung und radikale Kritik" (1993).

are present in language. Habermas's theory of communicative action limits the role of language to questions of validity. Each utterance for him is a validity claim with regard to what is being said. Validity claims, Habermas argues, are determined by a yes or no stance. They bear a moment of unconditionality from the perspective of the participant in discourse. The idea of such a binary conception of language-world relationship only makes sense if the object of speech - that what is being talked about - is conceived as utterly determinate. Contrary to traditional conceptions in the philosophy of natural science the relationship between language and world is, however, not determinate in this sense. What I referred to as the world disclosing dimension of language attributes a certain creative character to language. The object of speech acts is not determinate but is also partially created through the act of speaking itself.¹⁹ Although Habermas acknowledges this creative dimension of language in the case of works of art, he does not acknowledge its wider implications in his transformation of Critical Theory. Potential validity and world disclosure have to be seen as the two complementary dimensions of language that are interwoven in each speech act. Critical Theory has to address both in order to face the two big challenges of modernity.

¹⁹ This insight has recently been stressed and elaborated - although in a different terminology - in postanalytic philosophy following Quine and Goodman and in the works influenced by Kuhn's application of *Gestalt* psychology to the development of the natural sciences.

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