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**A Gendered Analysis of Habermas and the Underrepresented  
Narratives of Domestic Migrant Claims**

K.C. Abalos-Orendain

**Abstract:** This paper explores the limitations and possibilities of Habermas' critical social theory and discourse ethics by utilizing the analyses of two of his former students, Nancy Fraser and Seyla Benhabib. Fraser shows us the limitations of Habermas' position because it fails to take into consideration the female perspective and contribution to the labor force. This raises the question of migration within the gender framework. On the other hand, Benhabib argues for the potential of Habermas' philosophy by reminding us of its universalist stance.

**Bio:** Karen Connie (K.C.) Abalos-Orendain, PhD, completed her graduate and doctoral studies at Kobe University under the Monbukagakusho (Japanese Government Scholarship). In 2018, she returned to the University of the Philippines, Diliman, where she teaches socio-political philosophy, contemporary philosophy, and comparative/Japanese philosophy. Her research interests focus on cosmopolitanism and migration.

**Keywords:** communicative action, critical social theory, domestic helpers, Habermas, migration

To what extent can concepts such as communicative theory and intersubjective processes translate into action? This paper explores the limitations and possibilities of critical social theory as formulated by Jurgen Habermas. Specifically, it analyzes his concept of communicative action by applying it to the question of migrant rights. When applied to the narratives and claims of female migrant domestic workers, how does Habermas' theory fare?

The paper begins with a brief account of Habermas' theory. What can critical theory offer as a framework of Habermas' concept of communicative action? The paper utilizes the analyses of two of Habermas' former students, Nancy Fraser and Seyla Benhabib. Fraser shows the limitations of Habermas' position because it fails to take into consideration the female perspective and contribution to the labor force, as well as to society in general. Fraser's analysis strengthens this paper's claim that migrant narratives are not heard because of their othered status, thereby confirming the tension between the material and symbolic activities *à la* Habermas. Because of this framework, we are left with a convoluted understanding of the rights and claims of migrant

workers. How are migrant domestic workers' rights different from other rights claims? This paper argues that, in the case of domestic workers, feminist issues also translate into migrant claims within the nuclear home. Not only does this raise the question of migration within the gender framework but also the importance and limitations of narratives in understanding philosophical issues.

On the other hand, Seyla Benhabib argues for the potential of Habermas' theory by reminding us of its universalist stance, which can be advantageous when applied to migrant workers. This paper delves deeper into the question of rights as moral claims and as legal entitlements. Is the gap between the two simply a matter of recognition? Benhabib helps us understand this problematic by using the fundamental concerns of critical theory once again. The paper concludes with a brief summary of these concerns.

### **Behind the Curtain of the Private Sphere**

Every morning, Rowena wakes early on the pile of blankets where she sleeps, curled up against a desk in the corner of the office she used to clean. It's not yet 7:00 a.m., but if her manager catches her alone in her pyjamas, he'll try to grope and stroke her, as he's tried to do several times a week for the past six months (Redfern 2021).

Rowena is only one of the "11.5 million migrant domestic workers scattered worldwide" (ILO, xi). While we have made strides in establishing the rights of migrant workers with the establishment of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (1990), and more transparent bilateral agreements among nation-states, we still have a long way to go. This was harshly evident at the onset of the COVID-19 pandemic. As an example, along with three of her fellow migrant workers, Rowena's case took

an even graver turn when their employer stopped paying their salaries. This happened between 2019 and 2020.

Let us multiply Rowena's narrative by these numbers. "About 73.4 per cent (or around 8.5 million) of all migrant domestic workers are women" (ILO, xiii).<sup>1</sup> We are thus left with a staggering number of vulnerable individuals whose tales we have only begun to hear as the world slowly recovers from the ravages of the pandemic. This helps ground our work here as we turn to the social sciences, specifically Habermas' critical theory and its practical applications.

In her article, "What's Critical about Critical Theory? The Case of Habermas and Gender," Nancy Fraser examines Jurgen Habermas' minimal consideration of the gender problem. For Fraser, this is a "serious deficiency" (1985, 205) because of the very schema that undergirds critical theory. "A critical social theory," Fraser observes, "frames its research program and its conceptual framework with an eye to the aims and activities of those oppositional social movements with which it has a partisan, though not uncritical, identification." Based on this definition, Habermas' failure to include the feminist question is antithetical to critical social theory. Hence, even if Habermas has articulated a view of knowledge and language that attempts to bridge theory and practice through a meticulous method of historical materialism, he cannot truly defend his aim of "the theory of communicative action as the beginning of a social theory concerned to validate its own critical standards" (*Theory of Communicative Action 1*, Preface) without acknowledging the gender problematic.

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<sup>1</sup> "South-Eastern Asia and the Pacific host the largest share, with 24.0 per cent of the world's female migrant domestic workers, followed by Northern, Southern and Western Europe, with 22.1 per cent of the total, and the Arab States with 19.0" (*ibid.*).

Fraser begins her inquiry with an important distinction which Habermas makes in the second volume of the *Theory of Communicative Action*, i.e., symbolic and material reproduction. According to him, the distinction between the two can be summarized as “the dualism between cultural requirement and survival imperatives” (TCA II, 231-232). In order for society to maintain its system (both biological and social)--in other words, in order for it to survive--these two social activities have to be sustained. Put simply, material reproduction is social labor. It maintains our biological survival or what Hannah Arendt would refer to as activities that pertain to labor as opposed to work and action. It relates to the “material substratum, every lifeworld is in an exchange with its surroundings... This substratum has to be maintained by social labor drawing upon scarce resources” (*ibid.*). Its main purpose is that of *functional integration* with the environment. What is essential with regard to material reproduction is “the aspect of *purposive activity*” (*ibid.*) whereas in symbolic reproduction “the aspect of social action most relevant to (it) is that of *mutual understanding*” (*ibid.*). “*Social integration*, the reproduction of memberships (or solidarities) is dependent upon cultural traditions and socialization processes” (*ibid.*) that belong to the category of symbolic reproductions.

Though material vs. symbolic reproduction serves as a clear delineation of the interactions present in the lifeworld essential to Habermas’ project, Fraser observes that there are inherent problems with dualism. First, this delineation creates essential boundaries that fail to consider activities which do not strictly fall under either of the two categories. Second, it inadvertently reestablishes ideological pedagogies which critical social theory is supposed to be able to theoretically deconstruct or, at the very least, challenge. Basically, these distinctions hide ideological tendencies and systems that are the very issues critical theory is supposed to overcome.

For example, seen from this perspective, “childbearing activities and practices, which in our society are performed without pay by women in the domestic sphere, count as symbolic reproduction activities since, in Habermas’ view, they serve socialization and the function of symbolic reproduction” (1985, 206-207). Fraser emphasizes that this work is “women’s unpaid childrearing work.” With regard to the first challenge abovementioned, she argues that childrearing is not strictly a symbolic reproduction activity only. It can also “equally and at the same time” be classified under material reproduction because it is not merely the “construction of children’s social identities but also their biological survival at stake.” She explains that it is not only the case that mothers teach their children how to speak or how to behave (thereby passing on the language/s, values, metaphors, etc. that are part and parcel of this multilayered activity), but caregivers also maintain the physical well-being of the child. This physical responsibility translates into the child’s interaction with the material domain—feeding, bathing, playing, and even protection from the harms that can be inflicted by the world. It is also the case that the child is now a part of this physical world. Caring and rearing is and will be even more integral in the formation of the material world as well as the social sphere, thereby cementing the material reproductive element in such activity. This is connected to how economics compartmentalizes labor into problematic categories, leading to socially prescribed gender roles and even racial biases. Fraser insists that we call this “women’s unpaid childrearing work” as a “dual-aspect activity” as opposed to a strictly symbolic reproduction activity.

The second criticism which pertains to the ideological potential of such a distinction, “could be used, for example, to legitimate the institutional separation of childrearing from paid work, a separation which many feminists, [Fraser included], consider a mainstay of modern forms

of women's subordination" (208). It is at this juncture that we can expand Fraser's argument to include domestic migrant workers' claims.

If we frame the status of domestic migrant helpers and include their narratives as extensions of the feminists' claim of being confined within the household, then it is easy to see how it is both a private and public form of female subordination. Women who can afford to hire migrant workers are able to enter the work force, pursue their passions, engage in the activities of the public sphere, and, at the same time, are able to maintain a household. Simply put, women from host countries who can afford migrant helpers are able to transfer their duties to "other" women. This transfer of activities belies the neat categories that Habermas poses, and challenges our notion of what we consider as material/symbolic or private/public. This in-between status serves as a temporary solution to a systemic problem.

The supply and demand of domestic workers only serves to perpetuate the problematic without addressing it at its core. It is not so much that women can pursue a public life; it is rather that they can pass their socially proscribed duties to other women. These women are doubly vulnerable because they are not only women trapped in the home but they are also migrants whose jobs are contained within the private sphere. Using the words of Habermas himself, domestic migrant workers engage in symbolic reproduction activities but, at the same time, they are part of the material reproduction system.

This leads to other concerns which are intricately linked to the migrant question, including the fact that human rights violations and other claims happen within the privacy of the household.<sup>2</sup>

In addition, most domestic helpers who serve as nannies or maids are women:

Filipinos find employment as service or production workers. These two categories comprise 80 per cent of all OFWs. The largest concentration of OFWs is in domestic work. Overseas employment was mostly male in the 1970s and 1980s, but females are now the majority of the newly-hired land-based OFWs, mainly because of the number of household workers. After a momentary decline in 2007 and 2008, soon after the implementation of the Household Service Workers Reform Package, domestic workers have increased and more than doubled between 2009 and 2012. With the decline of the Japan market for foreign entertainers since 2005, nurses are the number one category among professionals which is also female-dominated” (*Country Migration Report: The Philippines 2013*, 4).

That is why it seems prudent to frame the question of this particular migrant problem using Fraser’s gender-based analysis.

The case of domestic helpers is interesting in that their work is done within the confines of the private sphere, that is, the household, but the mechanism that brought them there is a transnational system, which include both private entities (e.g., employment agencies) as well as public institutions (e.g., government agencies, consulates & embassies, trade agreements between the host and the home countries, etc.). The fact that domestic helpers are being paid is an acknowledgement that this is indeed a type of activity that is necessary, both in the symbolic and material reproductive sense, thereby proving once again that the distinction between the two concepts is not as clear as previously thought. The most important fact that needs to be underscored, however, is that most migrant rights violations happen within the household. There are other classifications of migrant workers’ rights violations: factories that do not comply with

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<sup>2</sup> Women OFWs (Overseas Filipino Workers) face specific vulnerabilities because they are women: sexual discrimination and other gender-specific abuses, as well as exploitation and violence in the sorts of work where they tend to predominate. This is especially the case when women OFWs migrate for work that is in line with their traditionally-defined reproductive roles in society, i.e., domestic workers, nurses, caregivers, etc. (Migrante International 2015).



safety measures for employees, salary deductions and passports being kept from their owners, and so on. Nevertheless, the ones that happen in other work environments, aside from the privacy of the home, usually get reported eventually and receive more media attention.<sup>3</sup> Meanwhile, the cases that happen within the privacy of the home typically get reported only when the situation is potentially criminal (e.g., when the domestic helper is hurt or murdered or is accused of committing a crime). These issues are indicative of the same problem that Fraser is referring to, only made worse by the added complexities of immigration.

On the one hand, domestic workers are part of the household and the private sphere. On the other hand, they are part of a network that supports the capitalist-economic system. It is important to note here that this domestic labor force makes it possible for the other half, i.e., women--mothers from host countries of the workforce, not only to contribute to the economy and thus help maintain the lifeworld, but it also allows more time for participation in the public sphere. Thus, this migrant system adds to the productivity--again in the two ways that Habermas uses them--on various levels. It would be interesting to determine how these domestic laborers affect the so-called symbolic reproductions as well, given the fact that there are cross-cultural, transnational practices at issue. This labor force is a prime example of what Fraser means by dual-aspect activity. According to her, Habermas' approach

...posits two distinct 'systems' of human activity and, correspondingly, two distinct systems of 'oppression': capitalism and male dominance. But this is misleading. These are not, in fact, two distinct systems but, rather, two thoroughly interfused dimensions of a single social formation. In order to understand that social formation, a critical theory requires a single set of categories and concepts which integrate internally both gender and political economy (perhaps also race) (*Fortunes of Feminism* 2013, 23).

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<sup>3</sup> The most publicized case recently was in Qatar where hundreds of migrant workers supposedly perished or suffered from inhumane working conditions in the rush to finish infrastructures for the 2022 World Cup (Ingraham 2015).

What we can ascertain here is how domestic workers and, perhaps, certain aspects of the migrant system of labor, introduce new ways of applying and expanding some of Habermas' important distinctions. A critical social theory should be able to challenge its own methodologies and reflectively allow for the addition of previously overlooked members and social movements that are on the fringes of the democratic social world. In this increasingly globalized world, migrants are on the forefront of this dilemma facing democratic nation-states. How do these analyses help us formulate a more constructive view of migrant claims, then?

### **Earning the Right to have Rights**

According to Seyla Benhabib, they reveal the political possibilities of a discourse ethics. We focus not on the justifications for universalizability principles but instead explore the socio-political possibilities that can be realized with the procedures that Habermas laid out for a true discourse. In her earlier works, Benhabib was "concerned with the problem of universalism" and "developed a critique of communicative rationality" (Gomez-Muller 2011). Later, she rethought "the project of universalism via the program of discourse or communicative ethics by moving it increasingly away from what (she), along with many others, considered Habermas' at times extreme rationalism in articulating his ethical project" (*ibid.*). Benhabib attributes this to Habermas' "excessive emphasis on consensus" (*ibid.*). Again, the recurring theme here is to question how Habermas' discourse theory, despite its many virtues, still manages to exclude voices from various members who are on the fringes of society. I believe that the projects Fraser and Benhabib posited, while challenging the current understanding of critical theory, also recognize what this theory can accomplish with a few requisite revisions.

We discuss Benhabib on two fronts: first, her critique of the principle of universality and second, the Arendtian proclivity in her discussion of rights. These are insightful conceptualizations

that thematize the question of migrant claims. We begin with how Benhabib views communicative action, just as we did with Fraser. According to Benhabib,

the basic insight of communicative ethics are: the fairness of moral norms and the integrity of moral values can only be established via a process of practical argumentation, which allows its participants full equality in initiating and continuing the debate and suggesting new subject matters for conversation. Thus understood, communicative ethics is a theory of moral justification. Justification in ethics should be considered a form of moral argumentation” (*Situating the Self: Gender, Community and Postmodernism in Contemporary Ethics* 1992, 73).

Here Benhabib emphasizes the discursive, practical elements of communicative action, the elements which embody its political and active nature. By putting discourse at the center, critical theory comes quite close to establishing a lacuna between theory and practice and herein lies the appeal of Habermas’ version. However, one of the criticisms of Habermas is his emphasis on consensus. In the case of domestic helpers, obviously the context does not satisfy the conditions for an ideal speech situation. If there are concerns by the employees, the literal and the figurative close quarters of the home is hardly the forum to raise them.

To return to Rowena’s plight, when her boss told her that he cannot pay her salary anymore, there was not much she could do or say other than to accept her circumstance. Later on, “He could no longer pay her monthly salary of 120 Bahraini dinar, or BHD (£240). Instead, he would provide her and the three other migrant domestic workers he employed with 10 Bahraini dinar (or £20) for food every fortnight, to be split [among] four” (Redfern 2021). Later, even the promised allowance ceased, leaving Rowena and her compatriots dependent on their boss for their very survival. We have to understand that since Rowena only arrived in Bahrain in 2019, she is probably still paying off debts she acquired simply for the opportunity to work abroad. Thus, not only is she unable to fend for herself in a foreign land but she has familial and financial obligations back home. By the

time that the Philippine embassy could help her, her dependence on her employer made her circumstances even more subordinate.

In these cases, the line between the private and the public spheres is a challenge. The principle of universalizability does not help us in the actual application, despite the *United Nation's Declaration of Migrants' Rights* of 1990, for example. Universal, or even local or national, norms enacted by sovereign nations notwithstanding--given the points we made earlier about the opacity of the conditions that happen within the home--human rights violations still happen. Even if the issues are brought to light in the public sphere, the discussions do not progress beyond the initial shock of what migrant workers undergo. Hence, the horrific and sad narratives of domestic workers only serve as warnings and the possible consequences, simply put, of bad luck. If you are a domestic helper, you are a success if you happen to be assigned to a family which invites you into its fold as a family member or simply as a fairly treated employee, and not as a personal slave or worse iterations of that scenario. In this system, where employees serve a role not only within the private, but the material, public realm, it seems only right that the narratives of these individuals should also be heard. If these cases were somehow documented or, even better, their status monitored, they could offer a rich contribution to the discourse and validate norms that would further enhance the process of protection and empowerment. Benhabib articulates a perspective worth noting:

Benhabib is not suggesting that the concrete other should be the discursive subject only at the level of discourses of applicability, but that she should be the discursive subject *in toto*. To this end, Benhabib proposes that the principle of universalization (U) in Habermas' scheme be abandoned and that the discourse principle (D) be the sole principle for validation of norms (Hudson 2003, 169).

Benhabib's focus on discourse implies two key points that are essential to this project. First, the discursive subject is central to the discourse, thereby not leaving *anyone* behind because the process acknowledges the individual as a key player in the discussion. More importantly, it emphasizes the importance of the discursive subject as a moral and a *political* agent capable of articulating her concerns and also possibly able to contribute to the political process of the validation of norms. This recognition of her *otherness* is not just a phenomenological plea; it has actual impact when viewed from the perspective of an actor whose presence in this context is a product of transnational and international treaties and obligations. If the move towards the validation of such types of norms is slowly gaining ground as cosmopolitan laws, then her narratives should be viewed as studies in, for example, professionalizing the home situation. The objective is *transparency*, i.e., to make apparent the conditions that will ensure that any dual-aspect reproduction activity unfolds without any dignities and freedoms being sacrificed. This transparency is again a major challenge in the case of domestic migrant workers because they work within the privacy of the home. Not only do they not have representation in this structure, but there are also challenges to ensuring transparency in how employees are treated by their employers.

The second implication of Benhabib's view is that it leaves room for adjustments in the creation of norms that justify practices. The first point has to do with the Arendtian thrust in Benhabib's work, the "right to have rights" in her own words. The second point is imperative if we attempt to put into practice the cosmopolitan theory of the idea of the right to have rights. In centralizing discourse, it accords the activity as

the critical criterion by which to judge existing institutional arrangements, insofar as these current arrangements suppress a generalizable interest... But one can use this criterion as a critical yardstick by which to uncover the underrepresentation, the exclusion and silencing of *certain kinds* of interests... The assumption is that institutions can function as channels of illegitimate exclusion and silencing (1992, 48).

This exclusion is inexcusable when applied to the case of migrant workers in general. The very nature of the business of immigrant workers is already rife with possible problems and that is why there are private contracts, agreements, and international obligations put in place. The fact that violations still happen despite the “system” requires stricter application of norms and more transparent means of checks and balances. Critical social theory, with its emphasis on the importance of social movements that are able to balance these odds, seems promising but, again, only if it allows these others voices to be heard.

### **Conclusion**

Migration is not a new phenomenon. Many people are driven to move. Whether the desire to move should be validated in a cosmopolitan norm that pertains to the virtue of hospitality in the Kantian sense, for example, is beyond the scope of this project. However, the existing practices of migrant workers demand an examination of the systems and norms put in place because migrant workers are essential components of the global workforce. The demand for the workforce is part of this system; hence the institutions that uphold the system, and benefit from it, should be held accountable. Again, this includes not just the host country but also the home country (i.e., where the migrants originally come from).

If Benhabib is right in claiming that “communicative ethics promotes a universalist and post conventionalist perspective on all ethical relations: it has implications for familial life no less than for the democratic legislatures” (*ibid.*, 39), then discourse ethics is a good place to start. Based on what was discussed, however, the promises of discourse theory become more compelling if narratives are taken into consideration. If narratives can be utilized as our parameters for judgments

on the plight of domestic migrant workers, maybe we will have more robust norms and practices that will ensure their safety.

The points made by Benhabib confirm that

the core intuition behind modern universalizability procedures is not that everybody could or would agree to the same set of principles, but that these principles have been adopted as a result of a procedure, whether of moral reasoning or of public debate, which we are ready to deem 'reasonable and fair'. It is not the *result* of the process of moral judgment alone that counts but the *process* for the attainment of such judgment which plays a role in its validity, and I would say moral worth (*ibid.*, 37).

In my paper, this process or system was analyzed and was found wanting if we take into consideration the narratives of migrant workers. However, these narratives are hardly listened to and this is because of the unique problems that migrant domestic workers face. We have seen how this problem is founded on the gaps and overlaps between material and symbolic activities. Because the type of work that domestic migrant workers perform is a confusing mix of the two, or perhaps more accurately, their labor cannot be categorized using Habermas' distinction, their narratives are thus sidelined. These narratives neither belong to the private nor the public sphere. The points presented by Fraser show how these narratives are not given due attention and importance because we fail to recognize the validity of activities that pertain to a significant aspect of our social and political life. Due to the inherent paternalistic structure of the nuclear home, there are inherited issues when seen from the situation of domestic laborers. This context is essential in understanding the human rights claims of that marginalized sector.

Once again, the discourse we referred to is the ongoing milieu of migrant narratives and consequent claims. While there are significant strides being made both on the cosmopolitan level, which come in the form of transnational conventions for the protection of migrant workers, as well as the international level, which come in the form of bilateral agreements between host and home

countries, there are stories and agents that remain invisible. Seen from the point of view of gender and using the enclosure of the home to underscore the challenges that face the claims of domestic helpers' rights, we are at least able to pose questions within the framework of critical social theory. The questions we ask are not new ones but the structure of critical social theory is being challenged by posing them. As this globalizing, migrant-facing world expands, there will be individuals, whose voices are not heard. In order to remain relevant, critical social theory will have to address those who are caught on the fringes.

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