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Jürgen Habermas and the Idea of Legitimation Crisis

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Abstract

This paper explores one aspect of the recent work of Jürgen Habermas on *Legitimation Crisis*. It focuses attention on Habermas's claim that the pre-capitalist moral values on which capitalism has hitherto relied have become progressively displaced by the growth of the capitalist economy. This has produced central problems for the state management of the economy, in the absence of an established internalized set of values which could act both as restraints upon economic demands and as reinforcements to an ethic of work. Various attempts to solve this problem proposed by Hayek and Luhman are discussed together with Habermas's own proposal for a rational consensus view of morality which could lead to a new *Sittlichkeit*. The conclusion of the paper is that while rational discussion of values is important, this does not entail that the possibility agreement is required to make sense of this activity. Habermas's notion of undistorted communication as a way of recommending a moral foundation for politics is not feasible.

> This conflict (within capitalist society) has the following form: on the one hand, the priorities set under economic imperatives cannot be allowed to depend upon a discursive formation of the public will – therefore politics today assumes the appearance of a technocracy. On the other hand, the exclusion of consequential practical questions from discussion by the depoliticized public becomes extremely difficult as a result of the long-term erosion of the cultural tradition which had regulated conduct and which, until now, could be presupposed as a tacit boundary condition of the political system. Because of this, a chronic need for legitimation is developing today. (Habermas, 1974, 5)

Are there fundamental crisis tendencies in the modern liberal democratic welfare state? Habermas's *Legitimation Crisis* is an extraordinarily fertile work for seeking some kind of answer, however tentative, to this question. However, the fertility of the work, embracing as it does argument and speculation from a number of areas – political science, systems theory, cultural history, Greek tragedy, ego psychology, to name but a few, makes it an achievement of labyrinthine complexity, and in the present paper I can do no more than to look at some of the arguments which seem to me to be particularly important. Obviously some things are not fully discussed – his relationship to Marx, Kant, Hegel and critical theory; and other things fall out of the scope of the paper, for example, the usefulness of the idea of legitimation crisis as applied to specific states.

The tendency for the modern capitalist state to develop a legitimation deficit is, in Habermas's view, the fundamental problem for such societies and the most obvious

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threat to their survival. The concept of legitimation is therefore central for Habermas and he means by it that there are good arguments for a political order's claim to be considered right and just, a political order's worthiness to be recognized. It should be noted at the very beginning of this discussion that this central crisis in the capitalist state is not primarily economic but rather political or even cultural, concerning as it does the problems caused by the continuing and growing attempts on the part of liberal capitalist states to steer the economy. The problem posed by legitimation crisis is how the growing intervention of the state in economic activity can be rendered legitimate to those who are affected by the authority of the state in this sphere. The central question is: are there normative resources in society on which the state can draw to justify and sustain the degree of intervention required to avoid some of the dysfunctional effects of the economic market while at the same time securing the conditions necessary for the market to operate?

> Recoupling the economic to the political . . . creates an increased need for legitimation. The state apparatus no longer, as in liberal capitalism, merely secures the general conditions of production . . . but is now actively engaged in it. It must therefore – like the precapitalist state – be legitimated . . . (Habermas, 1976, 36).

If the state attempts to steer the economy, what effect is this likely to have on the work motivations of citizens? Can the economy be steered effectively without provoking a motivational crisis, that is without undermining incentives to work and produce which are necessary to maintain the system? Habermas sees these problems as being identified first of all in the work of Hegel, particularly in his account of how civil society is 'lost to particularity' and 'lost to morality' but comes under the governance of the universal in the state. How can the state in its regulative activities in the market appear other than external, imposed and arbitrary to economic actors in the system of needs? What resources are there within privately orientated market activity to legitimize the universal role of the state?

It can be argued that the difficulty posed by Habermas has come into prominence in recent years because of the failure of the liberal state to maintain rising living standards for all. Under Conservative and Social Democratic governments the economic position of all sectors of the population has been improved without severe ideological conflict because economic growth has enabled the better off to maintain their living standards in absolute terms even during periods of redistribution. A good example of this view is to be found in the work of Hayek when he argues that gradual equalization through time as the result of economic growth avoids the difficulties of redistribution according to some contentious criterion of distributive justice, and this echelon growth bypasses the problem of legitimation:

> If today in the United States or Western Europe the relatively poor can have a car or refrigerator, or airplane trip or radio at the cost of a reasonable part of their income, this was made possible because in the past others with large incomes were able to spend on what was then a luxury. The path of advance is greatly eased by the fact that it has been trodden before. It is because scouts have found the goal that the road can be built for the less lucky and less energetic. . . . Many of the improvements would indeed never have become a possibility for all if they had not long before been available for some. If all had to wait for better things until they could be provided for all, that day would, in many instances, never come. Even the poorest today owe their relative material wellbeing to the result of past inequalities. (Hayek, 1960, 44)

On this view, economic advance takes place in echelon fashion, and while this promise of increased living standards for all is held out, of levelling up and not

levelling down, ideological problems about the legitimacy of government steering the economy and thus the government's having a hand in the structure of rewards, of the distribution of benefits and burdens, is dissolved. However, the problems encountered at the moment about economic growth, problems which Habermas regards as intractable, have made this bypassing of the question of legitimacy, which was traded on extensively by both social democrats and economic liberals, no longer available. The work of Anthony Crosland is important here. Crosland argued that economic growth is a necessary condition for democratic redistribution in favour of equality, but at the same time he was a non-cognitivist in moral philosophy – we cannot give an objective basis for our convictions about equality (Plant, 1981). If echelon-type improvement as envisaged by thinkers as diverse as Hayek and Crosland cannot now be sustained, then the actual role of the government in steering the economy and its role in the reward structure, either by allowing the market greater freedom (Hayek) or by redistribution in favour of 'democratic equality' (Crosland), cannot fail to be the focus of attention.

In addition, it would be argued that in some respects at least, the view that fundamental problems of legitimation could be dissolved by the dividend of economic growth was always flawed. If we accept Hirsch's view, in *The Social Limits to Growth* (1977), that there are certain goods, positional goods, which depend for their character as goods on the fact that others are *not* consuming them, e.g. quiet country cottages, beaches, etc., then there must be limits to echelon advance. When all stand on tiptoe, no one can see, and any positional advantage which an individual may have evaporates – so it is with the class of positional goods which Hirsch identifies. Such goods cannot be widely distributed without altering their value as goods, and if this is so, questions about the legitimacy of their consumption are going to arise. Of course, there might be answers to such questions. Hayek, for example, might argue that the consumption of a positional good might be seen as a reward for entrepreneurial effort, whereas a social democrat of the Crosland variety might argue that they are only legitimately consumed as a 'rent of ability', without the exercise of which the poorest section of society would be worse off than they are. However, the point is that we cannot turn our backs on the question 'how to distribute socially produced wealth inequitably and yet legitimately'. We cannot avoid these distributive dilemmas by the practical solvent of economic growth.

It is at this point that we make contact with the detail of Habermas's thesis, because in his view problems of this sort have become exacerbated by the very success of capitalist development, by the very processes to which Hayek referred in the passage cited earlier. Capitalism has built up expectations about consumption, and these have increased pressures on governments to steer the economy to produce more goods. The non-provision of goods to meet expectations becomes a dysfunctional feature of the market which it has become a task of government to correct. In earlier stages of capitalist development, in Habermas's view, the operation of the capitalist market rested upon a range of internalized restraints upon demand and consumption which the very success of capitalism has destroyed. He argues in both *Theory and Practice* (1974) and *Legitimation Crisis* (1976) that capitalism 'depended upon a cultural tradition which formerly had regulated conduct and which till now, could be presupposed as a tacit boundary condition of the political system'. Among the cultural factors which Habermas regards as crucial to the underpinning of capitalism are: civil privatism, familial and vocational privatism, the religion-based

achievement ethic of the middle class, the fatalism of the lower classes, the Protestant ethic and renunciation of immediate gratification. All of these factors made for both economic and political restraint and industrial stability. In addition, they provided a range of resources in terms of which individuals defined their attitudes, and thus gave them a sense of their own identity. These factors constitute the cultural boundary conditions of capitalist society, but paradoxically capitalism cannot itself reproduce these features but its success destroys them, with the result that capitalist societies come to 'feed parasitically upon the remains of a tradition' which capitalism itself has depleted:

> Bourgeois culture as a whole has never been able to reproduce itself from itself. It was always dependent upon motivationally effective supplementation by traditional world views. (Habermas, 1976, 77)

Capitalist society requires a shared set of cultural attitudes as boundary conditions without which it will be unstable and in the absence of which government will be unable to find the resources to legitimate its steering activity. Paradoxically, capitalist society undermines the range of attitudes which are necessary for its own effective functioning. This has consequences for individuals and society: individuals lose a sense of moral identity with the collapse of these cultural attitudes and at the same time this loss of identity and a sense of meaning has its effect on social integration. Social integration presupposes shared meaning; the cultural attitudes which secure an integration within capitalism are being lost.

These assumptions are crucial for Habermas's argument and we need to look at them in some detail. However, before going on to discuss them, it is worth noticing that precisely this argument has become characteristic of a good deal of writing on modern capitalist society from the radical right as much as from the neo-Marxist left. Indeed, as Goldthorpe has argued:

> Capitalism's lack of a moral basis of its own and its reliance on the – weakening – morality of an earlier era, have of late been taken up in a remarkably similar fashion by both Marxists and economic liberals. (Goldthorpe, 1978, 213)

Examples of the same kind of argument as that displayed by Habermas at this point can be found in Kristol, 'When Virtue Loses All Her Loveliness' (1978); Hirsch, *The Social Limits to Growth* (1977); Bell, *The Cultural Conditions of Capitalism* (1978); and Brittan, *The Economic Consequences of Democracy* (1970). The problem as Brittan sees it is that:

> Early capitalist civilization was living off the moral heritage of the feudal system under which each man had a superior to whom he owed obligations and from whom he received protection in a great chain of duties. For a long time capitalist civilization was able to live off this feudal legacy and the aura of legitimacy was transferred from the feudal lord to the employer . . . but this feudal legacy was bound to be extinguished by the torchlight of secular and rationalistic enquiry which was itself so clearly associated with the rise of capitalism. (Brittan, 1978, 264)

In Habermas's interpretation of this problem we can clearly see the influence of Hegel: Habermas wants to argue that capitalism will exhibit crisis tendencies when the state seeks to steer the economy in the absence of a shared concrete morality which will reinforce attitudes of restraint in the pursuit of economic demands. Hegel argues in *The Philosophy of Right* (1952) that the system of needs is devoid of this concrete morality, it is the 'realm of otherness' dominated by the pursuit of self-interest; at the same time, the state as the universal has to act through the Public Authority to regulate the economy. In Hegel's view, in wider civil society there are

mediating links – the family, corporations, class identities and solidarities – which would provide the mediating link between the particular and the universal, between politics and the economy. In Habermas's view, however, these links have become fragmented by the subsequent development of capitalist society.

Habermas sees the pre-capitalist cultural tradition as fulfilling a number of functions in securing social integration and building up a sense of moral identity among individuals. The first general point is that capitalist economic activity rests upon certain moral expectations such as trust, truth, honesty, fair-dealing and promise-keeping without which the economic system cannot operate. The moral basis of exchange cannot become part of the process of exchange and trade-off. This idea was perhaps most succinctly put by Durkheim's dictum that 'all in the contract is not contractual'. Economic activity depends upon agreement about this range of values to work effectively. Without such a *Gemeinsamkeit* to contribute what Habermas calls the socio-cultural life world, there would be no basis for economic exchange. However, in his view these social virtues were originally grounded in religious belief, but the development of capitalism has itself eroded the religious basis of these beliefs and has replaced them with a form of moral individualism. To trace this theme in detail is beyond the scope of this paper, and in Habermas it seems more a piece of speculative cultural history than an empirical claim. Nevertheless, some points might be made. The growth of free economic activity has led to the development of moral individualism, the acids of which in Habermas's view have eaten away the lineaments of traditional beliefs. Moral individualism has brought with it moral subjectivism and non-cognitivism, and this is an unstable basis for the moral values to flourish which are central to market activity. If we lack a convincing account of how norms of actions can be validated, those norms will be at the mercy of individual interest and interpretation. This is the position we are currently in as Habermas sees it, although as we shall see, it is central to his theory that it is possible to develop a theory about how norms may be inter-subjectively validated, and this he attempts in his theory about undistorted communication.

Habermas also discusses the cultural role of several specific attitudes although he does not really go into any detail. The arguments here are listed in summary form:

1. *Restraint*: The internalization of religious attitudes encouraged restraint in the early periods of capitalist development, and certainly some of the early defenders of liberal capitalist society saw self-interest and its pursuit to be hedged around with all sorts of social and religious restraints. In some respects this brings up the disputed relationship between Adam Smith's *Wealth of Nations* and his *Theory of Moral Sentiments*, in which Smith clearly argues that the pursuit of self-interest is subject to internalized constraints derived from morals, religion, custom and education. The extent to which these have been stripped away by the very action of capitalism makes any appeal to restraint by government very difficult for it to justify. With the removal of inner restraints on demand and consumption, the economic system will become very unstable and at the political level is going to produce severe problems of co-ordination in seeking to meet the conflicting demands made upon it (for a view of this from a different perspective see Brittan, 1978).

2. *Achievement and Fatalism*: In Habermas's view these two attitudes have been central to the establishment and maintenance of the liberal capitalist economic and political system, and both sets of attitudes have been sustained by religious beliefs.

Achievement and the belief that the market rewards effort have been central to maintaining the incentive motivation of the system, whereas fatalism was necessary to secure a docile and stable workforce. These attitudes were grounded in religion and mediated in child-rearing and family life in ways which Habermas regards as class-specific ways:

> The repressive authority of conscience and an individual achievement orientation among the bourgeoisie and to external super ego structures and conventional work morality among the lower classes. (Habermas, 1976, 27)

Here we see the dual nature of these attitudes: they secure relationships to an economic system, and they generate a sense of personal identity and identity among individuals. Identity and legitimation go together in Habermas's mind.

3. *The Work Ethic*: Again the same argument is put to work here. The Protestant Ethic gives individuals a sense of dignity and value in their work and at the same time produces integration with and provides work motives for the prevailing economic system. However, as the designation 'Protestant Ethic' implies, it is Habermas's view that this kind of work orientation is sustained by religious belief and that this belief system has been eroded and the work motivations secured by them cannot be renewed. Again the thesis is that bourgeois culture is unable to reproduce itself from itself. It has always been dependent upon motiviationally effective supplementation by traditional world views.

4. *Civil Privatization*: The orientation to private norms is characteristic of capitalist society. Citizens are encouraged to look for fulfilment in private pursuits, particularly, in Habermas's view, in the area of career, leisure and consumption. Along with this privatization has gone a general decline in political activity. Although capitalist societies usually embody at a political level formal democratic rights, the net effect of this, allowing political participation only at period elections and not through active participation in the public realm, elicits mass loyalty but avoids mass involvement. Any further politicization of the public realm would bring into the open the contradictions between the various demands the political system seeks to meet – the most basic of which according to Habermas is between socialized production and the appropriation and use of surplus value. Civil privatism again allows for a sense of personal worth – giving one dignity in terms of private pursuits and family life – and it sustains the economic system just because of its restriction on political demands. From the point of view of classical political thought and of Marxism, however, this sense of dignity is illusory because it is based upon an attenuated conception of human powers.

Again, civil privatism is sustained by the range of cultural attitudes which have been mentioned, and with the erosion of these and the attenuated view of the nature of man associated with them, we are likely to see greater demands for participation and self-determination which are likely to provoke more severe problems in the administration of the politicized economy. Indeed the debate with Luhmann is precisely on this issue.

All of this is rather speculative and it must be remembered that *Legitimation Crisis* is a research programme, not a final report, and obviously the cultural history here is rather sketchy and one would want to see much more work done in this area of Habermas's work. However, despite this the thesis is provoking and gains in plausi-

bility by being supported for the right as much as the left. It is one more example of the pattern noted by Robert Paul Wolff in the *Poverty of Liberalism* (1968) that both conservative and those of the left are convinced that liberal bourgeois society cannot sustain itself because it possesses no *Sittlichkeit*. The demand for *Sittlichkeit* is likely to be seen on the right as a need for authority and the crisis of bourgeois society is a crisis of moral authority caused by the decline in the range of supportive values discussed by Habermas, while on the left the crisis is seen as a crisis of community or social integration. The phenomenon seen as producing the crisis – the collapse of the depleting moral legacy on which capitalism has lived – is the same in both cases. At the same time, this point detracts to some extent from the originality of Habermas's thesis because we seem to be back with the claim which is common in the history of the social and political thought of the past 150 years that liberal society has no substantive normative resources of its own.

To put the issue in this way, however, neglects one solution to the problem which, at least in terms of practical politics, seems to have gained the most ground. If the legitimation problem is exacerbated, or brought into the open by the growing coupling of the economic and the political, with the state being concerned with steering the economy and with distribution rather than with merely securing the general conditions of production, then the most obvious solution would seem to be to try to uncouple them, to attempt to bring the state back to securing the procedural setting for the pursuit of capitalist enterprise. This of course is the view which has been taken by Hayek in *Law, Legislation and Liberty* (1976). We have to abandon state intervention in the economy in terms of the search for social justice, and have to endorse the naturalistic outcomes of the market as being in principle unprincipled. This seems to solve the problem in a number of ways: the state is removed from the distributive arena and ceases to be a source of resentment to those whose distributive share does not fit their subjective notion of merit or desert, and it avoids the so-called depleting moral legacy upon which capitalism is based by abandoning the view that the market is constrained by any particular substantive moral principles. On the face of it, this attempt to depoliticize the capitalist economy looks to be the most promising answer to the legitimation problem. However, there are central difficulties with the Hayekian view which are recognized even by those who seek to defend the market and, I shall argue, by Hayek himself. In his essay *When Virtue Loses All Her Loveliness*, Kristol points out the extent to which Hayek's argument differs from traditional justifications and he doubts whether citizen loyalty can be linked to a system which detaches differences in wealth and income from considerations of principles such as merit, desert, achievements, effort and so forth:

> The distribution of power, privilege and property must be seen as in some profound sense expressive of the values that govern the lives of individuals. An idea of self-government, if it is to be viable, must encompass both the public and private sectors. If it does not you have alienation and anomie. (Kristol, 1970, 250–1)

On this view, luck and the naturalistic outcomes of the market are not sufficient for legitimation – the market must be rendered legitimate by some kind of normative regulation. However, in the light of views developed by Habermas, Kristol seems to neglect the secular decline in the range of norms which in his view ought to constrain economic activity and humanize it. The problem still remains: are there valid, non-traditional norms which could be vindicated as a basis for humane economic activity? Hayek seems to recognize the issues at stake here, and in *The Mirage of*

Social Justice (1976) he regrets the fact that a good many popular views about the justification of a liberal capitalist society have falsely stressed the role which the idea of rewarding merit plays in arguments in favour of the market, and he comments that 'it bodes ill for the future of the market order that it seems to be the only defence of it which is understood by the general public'. However, he does confess to puzzlement about whether 'without such erroneous beliefs the large numbers will tolerate actual differences in rewards which will be based only partly upon achievement and partly on mere chance' (Hayek, 1976, 74). A Great Society (Hayek's phrase) in which luck plays such a large part may well be unstable because it lacks a reference to an integrated moral basis, and Hayek recognizes this in the suggestion that false beliefs about the relationship between the market and merit may be functionally necessary. However, this is hardly satisfactory and it concedes the basis of Habermas's critique. Hayek implicitly allows that such a society would have a legitimation problem and may well depend for its survival on a legacy of outmoded beliefs about the nature of the rewards which unconstrained markets would produce. In Habermas's view the functional weakness of the market, coupled with the fact that an unconstrained market would reveal too clearly the exercise of social power, would be sufficient to cause the collapse of any ideological underpinning in terms of fair exchange:

> The precondition for this is equal opportunity to participate in a competition that is regulated so as to neutralize external influences. The market was such an allocation mechanism. Since it has been recognized even among the population at large that social force is exercised in the form of economic exchange, the market has lost its credibility as a fair ((from the perspective of achievement) mechanism for the distribution of life opportunities. (Habermas, 1976, 81)

An achievement ethic is not compatible with the operation of a free market and a purely Hayekian justification will not do because, and here Kristol agrees with him, it offers too attenuated a view of human nature and morality. Such a view of the market could:

> . . . offer no support in the force of the basic risks of existence . . . to interpretations that overcame contingency, in the face of the individual need for wholeness they are disconsolate
>
> (they) do not make possible human relationships with an objectified nature
>
> (they) permit no intuitive access to relations of solidarity within groups or individuals
>
> (they) allow no real political ethic. (Habermas, 1976, 78)

On this view a justification of the market which trades on contingency and luck will not allow individuals a sense of their own dignity and worth, and builds up no relationship between individual and identity and the form of social life in question.

The other practical alternative to the legitimation problem within the theoretical confines of the liberal capitalist state is to accept the coupling of the political and the economic but attempt to transform the issue of economic management into a purely instrumental, tactical, administrative exercise which, if it could be understood in this way, need not trade off any substantive normative resources in society. Steering problems would become technical difficulties to be solved by economists and administrators. Habermas discusses this solution in the light of the work of Nicklas Luhmann who advocates just this solution to the problem. Luhmann sees this as the only solution and any attempt to secure a normative basis for the steering process would be 'out of step with reality'. Complex societies are no longer held together and integrated through normative structures; their unity is no longer secured through

communications penetrating the minds of socially related individuals. In Luhmann's view, system integration – the coupling of the political and the economic – is independent of social integration. Such a theory based upon systems theory seeks to secure the *autonomy* of decision from the *sittlich* world of values, interests and attitudinal reactions. This is the only solution to the maintenance of highly complex societies – administration, planning and decision must be comprehensive in order to encompass the complexity of society, but cannot be open to active participation. A good example of this development is the continuing process of seeking *technical* solutions to political, economic and social problems. Issues such as these are often turned over to quangos, commissions, social workers, etc. The idea which this implies is that in the absence of agreed normative structures, decisions still have to be made and in the circumstances there is pressure to look for 'experts' to deal with them. However, this embodies various illusions about the nature of technique and its applicability to these sorts of issues. As Habermas makes the point: 'The reproduction of highly complex societies leaves no choice but that of anchoring the required reflexivity in an administrative system shielded from parties and the public instead of a democratically organized public domain' (Habermas, 1976, 34). However, not surprisingly, Habermas rejects this view because he cannot see how it can avoid normative problems. If administrative decisions can be regularly implemented against the interests of those affected by them, then this *must* be considered as the fulfilment of recognized norms. If this is so, Habermas argues, it raises the possibility that those norms could be defended against critique – that is, it depends upon a world view which legitimizes the authority of the administrative system. We are then back with the central issue: what are these norms and how in a modern secular world are they to be validated?

Neither the neo-liberal Hayekian nor the attempt to avoid legitimation problems by an appeal to administrative competence, technique and instrumental rationality can do justice to the complexity of the problems which Habermas has raised. We seem to be driven to finding some normative basis for the coupling of the economic and the political, and even a sceptic like Samuel Brittan has pointed to the difficulties if we fail:

> If it is true that people do have, as Kristol argues, an emotional yearning for some final theological justification for differences in position, power and wellbeing; if the rational arguments for accepting a system that does not aim at complete distributive justice are too abstract or sophisticated to command connset; and if there is an emotional void that cannot be met by rising incomes and humanitarian redistribution unrelated to merit, then the outlook for liberal democracy is a poor one. (Brittan, 1978, 272)

It is at this point that Habermas's commitment to critical theory becomes more central. Habermas is convinced that it is possible to secure normative agreement on an intersubjective basis by appealing to the notion of undistorted communication. We can establish some normative agreement in terms of which state activity can be rendered legitimate. Not that this is likely to secure the legitimacy of the liberal capitalist state; rather the needs and interests which would be the basis of normative agreement and which could be established in a situation of undistorted communication would point the way to a transformation of capitalist society whose patterns of domination lead individuals systematically to mistake their needs. Habermas's point here is both ethical and meta-ethical. The ethical point is that he believes that he has shown that social life does depend upon some kind of moral agreement both to

provide a basis for personal identity, dignity, worth and purpose and to provide a basis on which intersubjective economic and political activity can be conducted. Traditional morality fulfilled this role, but liberal capitalism faces a crisis of authority because it has caused a crisis of community. The traditional moral ties have been broken down by capitalism and there are no resources to provide for its authority. We need a new *Sittlichkeit* (*vide* Taylor, 1979), an agreement on norms and values to secure social integration. However, modern moral thinking is highly subjective and non-cognitivist, reflecting an individualism which is itself the product of capitalism, and Habermas is forced to deploy a meta-ethical theory to demonstrate how a new *Sittlichkeit* could be formed. This is done through the idea of undistorted communication. The basis of the new normative agreement would be the needs and interests which human beings would come to believe that they have in common *if* they were able to reason about their lives and their ends in a position free of social power and domination. Such reasoning must be about ends, because needs are fundamentally means to ends.

On the face of it, this argument might look very idealist and, as Luhmann says, 'out of step with reality', and Habermas himself says that the notion of undistorted communication is counterfactual; but it is crucial to his argument to deny that it is abstract or idealist. The whole point is to secure a new basis for normative agreement and if this has to be done through an appeal to the counterfactual notion of agreement reached in a situation of undistorted dialogue, then somehow this has to be made to appear as not utterly abstract and removed from common sense and everyday experience. (It might be instructive to compare what Habermas says about undistorted communication and what Rawls says about the 'original position' in *A Theory of Justice* and the relationship between the decisions made behind the veil of ignorance and our considered moral judgments). In Habermas's view the idea of undistorted communication, although counterfactual, is *not* an abstraction from ordinary speech and discourse, because the commitment to truth and rationality are contained within or presupposed by ordinary discourse:

> No matter how the intersubjectivity of mutual understanding may be deformed, the design of the ideal speech situation is necessarily implied in the structure of potential speech, since all speech, even intentional deception, is orientated towards the idea of truth. This idea can be analysed with regard to a consensus achieved in unrestrained and universal discourse. In so far as we master the means for the construction of the ideal speech situation, we can conceive the ideas of truth, freedom and justice which interpenetrate each other – although a cause only as ideas. (Habermas, 1970, 372)

All speech implies a commitment to certain universal standards – truth, validity, rationality, etc., and we can get some grip on what we are to understand by these notions from the idea of discursively agreed consensus free from domination in which all members of the dialogue have equal access to the dialogue, all are treated with respect, and in which there is no domination and in which the only compulsion is the commitment to argument and dialogue. If all speech presupposes certain values in speaking, the attempt to try to specify the conditions under which these values would be achieved is not abstract in a defeatist sense; it is an attempt to specify the conditions under which the regulative ideals embodied in speaking could be achieved, and this in discursive dialogue undistorted by power. The normative claims which would emerge from such a discursive consensus would be valid. Such an account could generate norms which could be accepted by all. The problem posed in *Legitimation Crisis* becomes therefore for Habermas the question:

How would the members of a social system, at a given stage in the development of productive forces, have collectively and bindingly interpreted their needs (and which norms would they have accepted as justified) if they could and would have decided on the organization of social intercourse through discursive will formation, with adequate knowledge of the limiting conditions and functional imperatives of society? (Habermas 1976, 113)

It is Habermas's conclusion that if the distributive norms of capitalist society could come up for rational domination-free consideration, they would not be endorsed by those who are currently committed to such norms. The problems of legitimation, as we have seen, cannot be solved without a new *Sittlichkeit*, a development which can only be secured by the kind of rational consensus which Habermas points to. If we cannot do this, we are left with some kind of non-cognitivist view of moral discourse based upon persuasion and propaganda with the basis of normative agreement not being discursive dialogue and a commitment to truth, but rather a non-rational process which opens up the possibility of the exercise of power in the crucial area of normative agreement and thus the basis for personal identity, social integration and legitimation. Practical politics, ethics and meta-ethical issues are all closely related in Habermas's mind:

Our excursion into the contemporary discussion of ethics was intended to support the assertion that practical questions admit of truth. If this is so, justifiable norms can be distinguished from norms that merely stabilize relations of force. In so far as norms express generalizable interests, they are based on a *rational consensus* (or they would find such a consensus if practical discourse could take place). In so far as norms do not regulate generalizable interests, they are based upon force. (Habermas, 1976, 111)

Habermas's rational consensus theory of morality is highly suggestive and ought to be considered very seriously by moral philosophers in the analytical tradition. It seems to show a way out of what might be seen as the formalism and subjectivism of a good deal of modern moral philosophy, and at the same time it is a theory developed with practical interest and claims to generalize certain presuppositions which are already present in our language. Indeed, some philosophers within the analytical tradition have shown some awareness of these features. Findlay (1964), Strawson (1963), Peters (1966) and Ackermann (1981) have all emphasized the ways in which speech and dialogue involve commitments of the sort which Habermas recognizes, and have recognized that speech presupposes certain implicit moral requirements.

However, there are difficulties with Habermas's notion, not the least of which is explaining how his undistorted speech situation could be brought about. However, apart from this there is a more deep-seated difficulty. In the undistorted speech situation citizens will be concerned with reasoning about norms which can become the basis of a new *Sittlichkeit*, and they will be guided in this activity by the implicit values in speaking which I have mentioned. The difficulty, however, is that the dialogue will be about the identification of needs, interests, the common good, community, etc.: but it is arguable that complex concepts such as these are always going to be contestable, drawing upon different views of human nature and circumstances of human life. The terms in which dialogue is to be conducted may therefore embody radically different perspectives on human life. It may well be, as Habermas argues, that in a society marked by the unconstrained use of social power, one interpretation of these notions becomes dominant and becomes an 'ideology' (Plant 1974; 1978), but this is not to say that if the sources of domination and power were to be removed we would be able to reason our way to a single and ideologically neutral set of terms to define a new *Sittlichkeit*. There may be a number of ways in which a set

of social and political terms may be understood and it may be that a coherence rather than a consensus view of truth does more justice to this complexity and essential contestability than Habermas's views.

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