Discourse, Democracy (and Socialism?): A Reading of Habermas's Between Facts and Norms

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In his 1990 article "What Does Socialism Mean Today?," Jürgen Habermas claims that:

> the revolutionary changes taking place before our eyes teach us an unambiguous lesson: complex societies are unable to reproduce themselves if they do not leave the logic of an economy that regulates itself through the market intact.[1]

In our library's copy of the article, someone has scribbled in the margin "Wow! How did you get to this point?" How indeed. The events of the late 1980s yield few, if any, "unambiguous lessons," and certainly none that can be generalized to all modern societies. So far as I know, Habermas has never presented a well-developed case for his claim; a striking lacuna for a thinker so renowned for systematic argumentation.

Many are untroubled by this silence but a central aspiration of socialism has been to vanquish the anarchy that capitalism loosed upon the world. The life for which socialists have struggled was to be marked not only by equality, but by freedom from that implacable power that "hovers over the earth like the fate of the ancients, and with invisible hand allots fortune and misfortune."[2] What happens to that aspiration, if one believes that the logic of the market economy must be left intact? For those resigned to the market, what does socialism mean today?

This paper will read *Between Facts and Norms*[3] *(BFN)* as Habermas's extended answer to this question. Since the book is sub-titled "Contributions to a Discourse Theory of Law and Democracy" rather than "My Vision of Socialism," it may seem that I am committing the error against which Gadamer warns, of "relating the author to a question that he does not intend."[4] Yet Habermas suggests in the preface that socialism be viewed as "the set of necessary conditions for emancipated forms of life about which the participants 'themselves' must first reach an understanding" and the rest of the work tries to lay out those conditions. It is therefore legitimate to read *BFN* from the viewpoint of those interested in the meaning of socialism and its prospects, though this reading—indeed any reading—must bypass many fruitful elements of the work.[5]

The first section will link *BFN* to Habermas's early and more recent works, and introduce the discourse principle. The next section will examine the sketch of a democracy built upon this principle. The following section will consider the practical import of Habermas's project, while the final section will consider the relation between socialism and that project.

The Discourse Principle *BFN* reunites two key concerns in Habermas's work. In *The Structural Transformation of the Public Sphere*, Habermas formulated a critique of contemporary political life by tracing the evolution of the "bourgeois public sphere."[6] The book provided an early delineation of conditions of ideal dialogue. Habermas detected common characteristics in English coffee houses, French salons, and German table societies where status was disregarded. In principle, the public was inclusive and anything could be brought up for the discussion. This interest in the ideal conditions of communication was to become one of Habermas's central concerns. At this stage it was clearly linked to social critique. For many readers, this link was to become tenuous with subsequent works. Richard Bernstein noted that many critics were perplexed that for some time Habermas had been more concerned with an "ambitious research program of a theory of communicative action or universal pragmatics than with engaging in the practice of emancipatory critique." This focus was justified, Bernstein argued, because "emancipatory critique—if it is to escape the charge of being arbitrary and relativistic—requires a clarification and justification of its normative foundations."[7]

Habermas recognized that those foundations could not be taken for granted, given the evolution of both theory and society. Much modern theory suggests that our values are ultimately grounded in arbitrary choices, or even in "errors, false appraisals, and faulty calculations."[8] Yet Habermas is not content to engage in political critique grounded in apparently arbitrary choices, and has expended much energy against the tendency to reduce norms to decisions.[9]

Nevertheless the theoretical shaking of our certainties is amplified by social changes: the advance of modernity leads to the disappearance of shared convictions that do not require argumentative support.[10] We are in a situation of post-metaphysical pluralism, in which "recourse to collectively binding religious or metaphysical world views is no longer available."[11]This seems to be a surprising assertion: some might answer that this one-dimensional society of ours has altogether too many shared convictions. Habermas acknowledges the power of ideology, yet his position can be saved with a question and an observation. First: to what can the person who would contest dominant ideology appeal? Here the loss of common beliefs hits with full force. One can no longer plausibly invoke human nature, natural rights, the direction of history, and so on as grounds for one's critique Second, the sway of neoliberal dogma has not eliminated powerful expressions of difference, both within and between societies. In the face of difference, Habermas argues that we do not always have the option of "just going off in peace. That's not a meaningful alternative choice. There are problems that are inescapable and can be solved only in concert."[12] When a Green Party parliamentarian declares that "Obviously no Islamist, Turkish nationalist or PKK activist will be allowed to become German," there is really no just way of avoiding a debate on the meaning of citizenship and democracy, a debate that can count on few shared convictions at the outset.[13]

Habermas's trajectory, then, can be viewed as a reasonable attempt to lay secure foundations for norms, and to clarify the conditions under which differences may be addressed in an uncoerced way. Yet there are serious concerns about where this has led him. For some, the whole search for secure foundations is a foolhardy enterprise, leading either to an infinite regress or to the eventual embrace of some arbitrary starting point. But Habermas believes that he has hit solid ground in supposedly unavoidable presuppositions of argumentation.[14] This is, needless to say, a controversial claim, yet if Habermas's work yields a fruitful starting point for

social and political critique, the avoidable or unavoidable nature of that starting point matters less than Habermas seems to believe.[15]

Which brings us to a second concern: is Habermas's work a fruitful starting point for anything? An exasperated reviewer of Habermas's 1993 *Justification and Application* wrote: "Should he return to the investigation of more institutional processes and movements for change he might be able to demonstrate the broader relevance books like this undoubtedly have."[16] *BFN* represents that return to institutional matters, and Habermas returns arguing that one can develop a theory of democracy grounded in what he calls the discourse principle:

> Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses... [and] "rational discourse" should include any attempt to reach an understanding over problematic validity claims insofar as this takes place under conditions of communication that enable the free processing of topics and contributions, information and reasons.[17]

Three observations are in order here. First, the conditions of communication referred to remain close to those discerned in Habermas's early study of the public sphere. Second, Habermas's definition of rational discourses continues a shift from his earlier principle of discourse ethics. While he once focused on moral discourses, Habermas now stresses that legitimate democratic decision-making draws on what he calls pragmatic and ethical discourses as well, and on legitimately established bargaining procedures.[18] Third, the choice of tense is deliberate: valid norms are those to which people could agree. One might complete the thought with the implied "were such discourses to take place." This helps clarify what Habermas is up to here: he is not hoping to write some constitution *de novo*. We are already immersed in social orders with a multitude of laws, regulations, and customs. Whatever the *de facto* level of acceptance of these action norms, their legitimacy or rational acceptability, Habermas believes, rests on their potential to be endorsed by rational discourses that may or may not take place in reality.[19] Habermas's discourse theory thus provides grounds for a critique of existing constitutional and social arrangements. At the same time, however, it is a call for a social order more responsive to the results of real-world discourse, as real discourses merit greater trust than hypothetical ones.[20]

Habermas's Democratic Project Habermas sketches the outlines of a democracy in which "nothing is given prior to the citizen's practice of self-determination other than the discourse principle."[21] His sketch focuses on a system of basic rights, on discursive processes within the state and around the state in the public sphere, and on the interplay between the state and this public sphere. We can begin a summary of his approach with what he calls its dogmatic core: "the idea of autonomy according to which human beings act as free subjects only insofar as they obey just those laws they give themselves in accordance with insights they have acquired intersubjectively."[22] But the retrieval of this Rousseauian idea implies that the people rule and impose laws on themselves. What on earth can this mean today?

What it does not mean is that the people as a whole must come together to decide matters. We err on the side of excess concreteness if we think of the people gathered at the local ballpark to decide public affairs, or huddled around a million interactive TV sets in a teledemocratic utopia. Rather, if it is to exist at all, popular sovereignty can only exist in a network of discourses that traverses society and formal legislative bodies. Popular sovereignty, argues Habermas, is "sublimated into the elusive interactions between culturally mobilized public spheres and a will-formation institutionalized according to the rule of law."[23] What does this mean? Popular sovereignty needs rights and institutions to bring it into effective being: we must focus on the means by which a people may create and maintain a network of discourses on public matters, and by which binding collective decisions are made responsive to that network of discourses, and may thus legitimately be viewed as decisions of the people itself.

Basic rights This gives Habermas a criterion for identifying basic rights, which are the rights citizens must reciprocally recognize to order legitimately their life together through law.[24] Habermas divides these rights into various categories: rights to equal individual freedoms; membership rights such as protection from unilateral deprivation of citizenship; rights to legal protection; rights to equal opportunities for political participation; and rights to living conditions that will equalize the opportunities to make use of the previous categories of rights.[25]

Habermas insists he is not playing Solon here. He is presenting a skeletal system of rights, whose concrete details must be filled in by legislatures. Thus "the constitutional state does not represent

a finished structure but a delicate and sensitive—above all fallible and revisable—enterprise, whose purpose is to realize the system of rights anew in changing circumstances."[26] This formulation allows Habermas to argue that, far from being in conflict, human rights and popular sovereignty are mutually sustaining. Human rights "cannot be paternalistically imposed on a sovereign legislator."[27] On the other hand, a state unconstrained by rights would quickly make popular sovereignty an implausible fiction. A rights-free state "takes advantage of a silence which it prevents from being broken," as Rousseau put it,[28]and a silent people is not an autonomous one. Thus, effective popular sovereignty itself is brought into being in part via rights. Rights are necessary enabling conditions of sovereignty, and "enabling conditions do not impose any limitations on what they constitute."[29]

This coordination of human rights and popular sovereignty also allows Habermas to link private and public autonomy. The right to be left alone within a certain sphere to pursue one's individual interests and life project, and the right to collective self-determination, mutually presuppose one another. Citizens can only exercise public autonomy if they enjoy guarantees of private autonomy (p. 408): this private autonomy makes it near-impossible for a government that "has lost the confidence of the people...to dissolve the people and elect a new one," as Brecht put it.[30] Nevertheless, the legitimacy of private liberties requires that they be fleshed out via public autonomy, and not imposed upon the people.[31] Thus, for example, a collective specification of rights is required so that communication rights are not reduced to the right of owners of means of communication to act as their greedy hearts desire.

State Institutions To this point, we have a set of rights that members of a community might grant one another, rights that shape their relations with each other and with the state. But the outlines of this state have yet to be sketched. Habermas devotes significant space to the problem of state institutions in *BFN*, and one of the book's goals is to refute the view that his theory ignores institutional realities. The institutionalization of discourse and decision-making is essential, Habermas argues. The people cannot rule directly, as "responsibility for momentous decisions demands clear institutional accountability."[32]

Habermas's general approach to democratic institutions can be illustrated by his treatment of parliamentary bodies. He notes that

procedural questions such as the manner in which representatives are elected, decisions taken, and work organized, must be worked out in consonance with the discourse principle, so that citizens can find in their parliament a reasonable approximation to the conditions of discourse and fair bargaining.[33] This reasonable approximation also requires that all majority decisions be preceded by competent debate.[34]

Habermas believes that democratic procedures that are reasonably faithful to the discourse principle can filter out illegitimate contributions to institutional decision-making.[35] A legislator can be beholden to special interests, but usually private interests must be decked out in the garb of public values. If debate is public, and if citizens expect consistency and coherence from their representatives, then even hypocrisy can bind the legislator: that which is first invoked hypocritically cannot simply be tossed aside, lest the legislator be exposed as inconsistent and duplicitous. Yet these rather heroic ifs show that the discursive rationality of institutional decision-making depends upon conditions outside the institution itself, which brings us to the question of the public sphere.

The Public Sphere The rationality of practices within state institutions, their relative fidelity to the discourse principle, does not depend upon those institutions alone: there must be interaction between institutionalized decision-making and the network of informal political communication within which well-grounded opinions may be formed.[36] Popular sovereignty requires a "suspicious, mobile, alert, and informed" public sphere. Many society-wide problems can only be identified within the public sphere.[37] The social location of state actors easily isolates them, hence deliberations within state institutions must remain "permeable to the free-floating values, issues, contributions, and arguments of a surrounding political communication."[38]

Habermas thus accepts that the discursive rationality of state action depends in large part upon the networks of reflection that surround the state. His democratic project requires "resonant and autonomous public spheres...anchored in the voluntary associations of civil society."[39] Yet he recognizes that such associations are not the first thing that spring to mind when one thinks of modern public opinion formation, dominated by media chains and spin doctors, kneaded through focus groups and polls "aimed less at learning what citizens truly desired from their government than at discovering what catch phrases and gimmicks would appeal to

their fears and prejudices."[40] Habermas suggests that the public sphere is in fact more vulnerable to the effects of concentrated social power than are formal parliamentary bodies. In particular, mass media dominated by market imperatives undermine the autonomy of the public sphere. That autonomy thus requires constraints on media power, among other protections.[41]

To the extent that autonomous public spheres exist, their influence should not be brought to bear upon the legislative arm of the state alone, since classical views of the separation of powers are increasingly untenable. With the expansion of state tasks comes an inescapable "influx of blanket clauses, general clauses, and indefinite statutory language" that undermine the subordination of administration to legislature.[42] Similarly, much current law augments judicial discretion. In response, Habermas suggests that public influence be brought to bear directly upon these branches of the state, rather than being mediated by a legislature that can no longer bind these branches. Public participation and deliberation can be built into administrative decision-making on a trial-and-error basis.[43] Habermas also advocates an intensified public critique of judicial decision-making, which will impose "more-intense justificatory obligations on a judiciary engaged in further developing the law."[44] In all of this, Habermas concludes, "I am certainly not offering anything original at the level of particular details. Yet this paradigm can provide a certain coherence to the reform efforts that are either under discussion or already under way."[45]

A Mere Ideal, a Mere Intention? Scientific management "pays," Frederick Taylor once declared. If it did not, it would be "the rankest kind of nonsense."[46] Perhaps it is unfair to ask of a critical social theory that it "pay," but it is fair to demand that a trip into the land of Habermasian thought come with a return ticket. Has Habermas painted "a mere ideal, a mere intention, having its place outside reality, nobody knows where?"[47]

Habermas grants the surface implausibility of an approach "so freighted with idealizations." He accepts that his deliberative democracy depends upon conditions that may not obtain: "constitutional democracy depends on the motivations of a population accustomed to liberty." In a telling remark in an appendix to *BFN*, Habermas says that his aim is "simply to determine how a radically democratic republic might even be conceived today,

assuming we can reckon on a resonant political culture that meets it halfway."[48] We noted above, for example, that the quality of parliamentary debate is improved if citizens demand some consistency of their legislators. But what if they don't, what if they merely want a particular position to prevail, and have no commitment to the rationality and transparency of decision-making as such?[49]

Habermas appears caught in a dilemma here. Anxious to avoid the trap of theorists such as Rousseau, whose project seems more appropriate for angels than people, Habermas emphasizes the need for institutions that can bring self-interest and the civic virtues required by a discursive democracy into harmony. But how do we get there from here? Where are the actors who would be motivated to advance this project? (For myself, I would be happy to have an open-ended and mutually-respectful chat with Conrad Black on the role of mass media in a democracy, but I'm not sure how to get him to the table.) If we cannot identify plausible bearers of this project, does it not represent a bad utopianism that enervates rather than energizes?

Here Habermas can play a card frequently played in his theoretical career: he can ask for an alternative to his model. In particular, he can challenge his critics' own realism, and their appreciation of pressing problems that cannot be dispelled through neglect:

> In complex societies, the scarcest resources are neither the productivity of a market economy nor the regulatory capacity of the public administration. It is above all the resources of an exhausted economy of nature and of a disintegrating social solidarity that require a nurturing approach. The forces of social solidarity can be regenerated in complex societies only in the forms of communicative practices of self-determination.[50]

This final claim is the most difficult one, and its adequate defence would require a lengthy summary of earlier works such as the *Theory of Communicative Action.* Even if one accepts the claim, however, it would still be highly unsatisfactory if we had to choose between an idealistic theory devoid of applicability and alternative approaches that only appear pragmatic because they ignore fundamental problems that they can never solve.

Yet Habermas's approach may "pay" after all. Consider one of his uncharacteristically accessible comments: "Of course, I too

look at American television. When I see debates between presidential candidates, I get sick. But we at least have to explain why we get sick."[51] We get sick because of some violated expectation, and we must pay close attention to our feelings of violation. In the case of televised debates, there is a violation of the expectation that politics should involve serious debate and informed choice. Habermas is not alone in holding this expectation. Consider, for example, public reaction to Brian Mulroney's contemptuous dismissal of those who demanded the legal text of the Charlottetown Accord prior to voting on it, or to Kim Campbell's comment that election campaigns are no time to discuss social policy. Political elites usually recognize this expectation and take it into account, at least rhetorically. Thus, the project of deliberative democracy can be advanced vía critique on the basis of widely-held values, values whose rejection is quite dangerous for political elites.[52]

The work to make these values more explicit also helps to identify bearers, not of the project as a whole, but of crucial components thereof. Habermas often raises the question of normative self-understanding: various social actors experience a tension between what they are doing and what they feel called to be doing. Thus, while mass media can undermine the autonomy of the public sphere, there are also contrary tendencies within the media itself.[53] These are in part the result of at least some journalists' self-understanding of their role. Thus, the democratic project can be advanced by pressure on and within the mass media. This pressure can include efforts to increase the weight of professional standards vis-à-vis commercial imperatives. In the same way, the normative self-understanding of (some) educators and civil servants suggests the promise of pressure on and within educational institutions and state administration. We thus see a project with multiple bearers, chipping away on various fronts: a war more of position than of movement.

This vision does not require that progressives drop whatever they are doing and take up the banner of radical democracy. Habermas recommends rather a dual orientation that pursues direct political objectives while being concerned with revitalizing the public sphere. This dual orientation will no doubt influence the understanding of immediate objectives and the strategy with which they are pursued. In particular, for progressives inclined to emphasize the particularism of their struggle and to construe difference as an unbreachable gulf, Habermas's vision represents an important

challenge. It may also, surprisingly, provide valuable resources for specific struggles: the discourse principle can provide a hinge to link widely shared values in modern democracy with a range of issues such as affirmative action and multiculturalism.[54]

And Socialism? What does socialism mean today? If one accepts Habermas's discourse principle, is the struggle for socialism replaced by chit-chat? Such a dismissal forgets the necessary element of communication in any struggle. This element was not ignored in the Marxist tradition. Whatever one's reservations, for example, about the concept of the "class-for-itself," it does highlight that classes as "agents," like all collective actors, are intersubjectively constructed. Hence, it is not a departure from the socialist tradition to view communication as an essential moment in ongoing struggles. To emphasize "discourse" is simply to hold that this communication should be as egalitarian and as serious as possible.

Conversely, the realism of Habermas's own approach is enhanced if we recall that struggle is also an essential moment in an ongoing process of communication. When effective, it is struggle that can provide taciturn elites with incentives to communicate and to bargain. The motivation dilemma discussed above is resolved once one views Habermas's project not as a replacement of struggle, but as a resource for reflection within it.

While the emphasis on discourse is consistent with the socialist tradition as a whole, it is a radical departure from the vision of mute struggle often associated with Leninism, and the reasons for that departure must be noted. In his "What is to be done?," Lenin offers the following image: "We are marching in a compact group along a precipitous and difficult path, firmly holding each other by the hand. We are surrounded on all sides by enemies, and we have to advance almost constantly under their fire."[55] One might grant that such a circumstance is not conducive to wide-ranging discussion, yet question whether the image is representative of the usual context of political action. The assumption that it is representative has had a strong influence on political practice, and provided a convenient rationalization of tyranny.

Lenin's image makes an implicit epistemological claim. The claim that we can know all sorts of things about objective interests, optimal strategy and tactics, and so on, that we really can know what is to be done, "prior" to dialogue, underwrites the

claim to legitimacy of a radically centralized political practice.[56] Habermas has consistently rejected such epistemological claims, urging that practice be freed of "illusory certainties."[57] Habermas would replace those illusory certainties with a blend of fallibilism and commitment to the provisional results of rational discourse. This blend resists not just dogmatic certainties, but a post-modern indeterminacy that seems to leave us without resources or reasons for struggle.[58]

Habermas's rejection of the epistemological claims of one socialist tradition helps clarify his discomfort with the conjunction of socialism and central planning. As noted at the outset, Habermas seeks to identify the preconditions for "emancipated forms of life about which the participants themselves must first reach an understanding."[59] To assume in advance that these forms of life must involve central planning deflects us from the more important project of developing the collective capacity to choose the society we want.[60]

One might put the matter this way: for Marx, socialism is both: (a) a realm of human freedom; and (b) an idea sketched out fairly concretely, involving *inter alia* social ownership of the means of production; the end of market anarchy; and attenuation of the social division of labour and of alienated labour. For his part, Habermas wishes to focus our attention on the practical meaning of (a): under what conditions would people be free to make decisions? All sketches (e.g., b) would then be viewed as hypothetical goods that could be assessed within a process of free decision-making, not as goods identified *a priori*.

We can identify a tactical implication of this shift in focus by asking: where does each approach leave one's opponents? Consider the classroom today, where assertions about organizing the economy around human needs or addressing alienation often meet with: "but that's so subjective"; "who gets to define needs?"; "who says there's anything wrong with alienated labour?" In an economics class, I once cited a Sandinista leader who declared "we cannot import dog shampoo while our children starve and are infested with lice and fleas." An economics Ph.D. candidate quickly blurted out, "but maybe people really needed that dog shampoo." The responses mirror a fundamental ideology of our time, which sharply separates a world of objective facts from arbitrary norms, and "guarantees an autonomous sphere beyond the reach of binding argument."[61]

Starting from the discourse principle, I believe we can shift terrain, by pointing out that visions of human well-being, however arbitrary they may be, are already built into the fabric of our society. Claims about "efficiency" and "progress" generally presuppose a broad value judgment about how our society should evolve, a judgment grounded in a consumerist vision of human happiness. The democracy we advocate merely asks that we be allowed to talk about what we seek as a society and as persons, to reflect together on the needs that our society should fulfill. The opponent of this project must stand on a less congenial terrain than the opponent of any concretely imagined socialism, the terrain, essentially, of Burkean conservatism. The charge of paternalistic imposition, so often levelled against socialists, now falls upon other shoulders.

The approach sketched here implies that we cannot know in advance that socialism will overturn the market. By the same token, we cannot know in advance that emancipated forms of life will leave the logic of a market-regulated economy intact. Habermas does accept the need to tame the capitalist economic system.[62] He seeks a network of different communicative forms that "impose social and ecological limits on the economic system."[63] In keeping with the discourse principle, one cannot posit in advance just where those limits will be drawn. Habermas, despite our opening quotation, appears to agree: "the economic system is not a holy of holies but a testing ground," and the welfare state itself is "an attempt to find out how much strain the economic system can be made to take in directions that might benefit social needs."[64]

Thus the "unambiguous lesson" cited at the outset is an instructive mistake on Habermas's part. Though confident we live in a post-metaphysical age, Habermas cannot quite free himself of metaphysics: it is not the market, or the economic system, that must be left intact, but its logic, or even "its inner logic."[65] Confidence in such assertions requires confidence in metaphysics. "The end of metaphysics," writes Habermas, "is the end of an objective coordination of things and representations that is performed by language itself and thus remains unproblematic."[66] Hence, a "post-metaphysical" thought recognizes that the referent of a concept must be intersubjectively established. In the case of a particularly problematic concept such as the inner logic of an economy, the referent would be established not just intersubjectively but recursively as well. We cannot know once and for all

just what the inner logic of the economy might be, or even if one exists, much less whether that inner logic must be preserved for ever and always.

In conclusion: is Habermas's democratic project also a socialist one? It is, for better and for worse. For worse, because it shares a blind spot with classical socialism: while Habermas believes that our "scarcest resources" are "an exhausted economy of nature" and "social solidarity,"[67] he seems to assume that attention to the latter will somehow take care of the former. Though persuasive on the importance of institutions, Habermas is silent on the possibility of giving institutional expression to the interests of nature and of future generations. As it did with Marx, the crisis of nature seems to play the role of catalyst for Habermas's critical reflection, a catalyst that vanishes within that reflection itself.

Habermas's project is also socialist in a positive sense, however. Like classical socialism, it aspires to resolve antagonisms "arising from the social conditions of life." Habermas does not believe we can identify all such antagonisms in advance, nor is he inclined to arrange those antagonisms in a tidy hierarchy. But surely no reader of this journal will quarrel with him on this point!

Notes

1. *New Left Review* 183 (1990), p. 16-17.
2. Karl Marx and Frederick Engels, The *German Ideology* (New York: International Publishers, 1970), p. 55.
3. Jürgen Habermas, *Between Facts and Norms*, William Rehg, (trans.), (Cambridge: MIT Press, 1996).
4. Hans-Georg Gadamer, *Truth and Method*, 2d edition (New York: Continuum, 1989), pp. 512, 370.
5. Among these elements are Habermas's engagement with the theories of Rawls, Dworkin, and public choice, *inter alia*. The work also presents some important adjustments in Habermas's position, which suggest that he has met his critics halfway on many points.
6. The original German version was published in 1962. Published in English in 1989 (MIT Press).
7. "Introduction," in Richard Bernstein, (ed.), *Habermas and Modernity* (Cambridge: MIT Press, 1985), p. 17.
8. Michel Foucault, "Nietzsche, Genealogy, History," in *The Foucault Reader* (New York: Pantheon Books, 1984), p. 81.
9. Jürgen Habermas, *Theory and Practice* John Viertel, (trans.), (Boston: Beacon Press, 1973), p. 266. See also Jürgen Habermas, *Autonomy and Solidarity* (London: Verso, 1992), p. 55.
10. *The Theory of Communicative Action II: Lifeworld and System* Thomas McCarthy, (trans.), (Boston: Beacon Press, 1987), p. 353.
11. Jürgen Habermas, *Justification and Application* (Cambridge: MIT Press, 1993), p. 70.

12. Craig J. Calhoun, (ed.), "Concluding Remarks," *Habermas and the Public Sphere* (Cambridge: MIT Press, 1992), p. 467.
13. Arnaud Leparmentier, "Germany Moves to Ease Citizenship Rules," *Guardian Weekly* (24 January 1999), p. 15. A similar point applies to Canadian multiculturalism issues. See Philip Ryan, "Response to Jonathan Kay's 'Explaining the Modern Backlash Against Multiculturalism,'" *Policy Options* (September 1998), pp. 54-55. [http://www.carleton.ca/~pryan/pol-op.htm].
14. Habermas, *Justification and Application*, p. 84. See also *Legitimation Crisis* (Boston: Beacon Press, 1975), p. 110.
15. If we read Habermas as working within what Alasdair MacIntyre terms a tradition of enquiry, the important question is not whether he has discovered anything "unavoidable" or "transcendental," but whether his approach resolves issues that have stymied that tradition of enquiry, and how well that tradition acquits itself against others. Alasdair MacIntyre, *Whose Justice? Which Rationality?* (Notre Dame: University of Notre Dame Press, 1988). To read Habermas this way is perhaps to seek to understand him better than he understands himself, a risky goal, but one that is fair in discussing an author who once declared the same intention with respect to Marx, *Theory and Practice*, p. 212.
16. Nick Stevenson, review of *Justification and Application, Sociology* 28 (1994), p. 1111.
17. Habermas, *Between Facts and Norms*, p. 107.
18. Briefly: pragmatic discourses seek means to attain already-given ends (p. 159); ethical discourses ask whether a value or practice is "in the long run and on the whole 'good for us'" (p. 161), good that is, in light of the collective self-understanding of the relevant community; moral discourses, finally, seek what "is equally good for all" (p. 161). See also *Justification and Application*, (pp. 1-17). In expanding the concept of rational discourse in this way, Habermas acknowledges earlier concerns that his focus on the "moral point of view" ran the risk of banishing vital social matters from the realm of rational debate and reinforcing the public-private divide that feminists in particular had worked so hard to question. With this reformulation, however, a new risk emerges, that of reifying the distinctions between the three forms of discourse. It is not clear that participants in real-life discourses can use Habermas's categories to define the exact nature of the exercise in which they are engaged. Nor is it clear that they need to, as the three types of discourse share key characteristics (p. 180): equality, the inclusion of all relevant voices, and openness in principle to take up any topic.
19. On the use of the discourse criterion as a counterfactual test of norms, see also *Moral Consciousness and Communicative Action* (Cambridge: MIT Press, 1990), pp. 121-22.
20. "A Reply to my Critics," in John Thompson and David Held, (eds.), Habermas: *Critical Debates* (London: Macmillan, 1982), p. 257.
21. Habermas, *Between Facts and Norms*, pp. 128-29.
22. Habermas, *Between Facts and Norms*, pp. 445-46.
23. Habermas, *Between Facts and Norms*, p. 486.
24. Habermas, *Between Facts and Norms*, pp. 122, 182 and 453. To start with the rights citizens grant one another, rather than with the rights they wrest from the state, highlights the view that rights protection governs relations among non-state actors, and that "economic power and social pressure need to be tamed by the rule of law no less than does administrative power" (p. 263).
25. Habermas, *Between Facts and Norms*, pp. 122-123. This inclusion of social rights nuances some of Habermas's negative observations regarding the wel-

fare state. But he adds that these rights "can be justified only in relative terms" (p. 123), and continues to warn against the paternalistic concession of social entitlements (p. 428).

26. Habermas, *Between Facts and Norms*, p. 125. Habermas goes on to argue that "Historical constitutions can be seen as so many ways of construing one and the same practice—the practice of self-determination on the part of free and equal citizens" (pp. 386-87). As is so often the case with Habermas, this claim is hard to interpret. Is he guilty of an idealization that ignores the intent of constitutional provisions to restrain equality, as when James Madison argued the need to protect against "A rage for paper money, for an abolition of debts, for an equal division of property, or for any other improper or wicked project"? [Alexander Hamilton, John Jay, and James Madison, *The Federalist* (New York: Modern Library, 1937), p. 62]. Or is he arguing that, whatever the class interests embodied in constitutions, they are also (imperfect) realizations of basic rights? Or is he setting up a critical standard against which to judge constitutions?
27. Habermas, *Between Facts and Norms*, p. 454.
28. J.J. Rousseau, *The Social Contract* (New York: Washington Square, 1967), p. 106.
29. Habermas, *Between Facts and Norms*, p. 128. This may seem far too tidy, and at odds with many people's own experience of rights. But Habermas can argue that since basic rights are necessary for popular sovereignty to exist in any meaningful sense, when individuals and groups experience these rights as limits, it is not popular sovereignty that is colliding with rights. It is in fact these individuals and groups colliding with popular sovereignty itself. The response assumes that the rights in question could be justified within Habermas's approach, and is thus not relevant to many real-world cases of rights conflict.
30. Cited in Michael Ellman, *Socialist Planning* (Cambridge: Cambridge University Press, 1979), p. 267.
31. An implication of this formulation is that the private sphere "cannot be delimited once and for all" (p. 314). Habermas has thus taken into account Selya Benhabib's concern that his earlier work left "the line between the public and the private pretty much where it has always been." *Situating the Self* (New York: Polity, 1992), p. 13.
32. Habermas, *Between Facts and Norms*, p. 486.
33. Habermas, *Between Facts and Norms*, pp. 170-71.The reference to bargaining is an important qualifier. Contrary to the view of some of his critics, Habermas recognizes that on many theoretical and practical matters, the best one can hope for is a balancing of interests that can be accepted by different parties for different reasons, rather than a true meeting of minds in discourse. Nevertheless, Habermas insists that the discourse principle be brought to bear indirectly upon bargaining: the procedures that make bargaining in general fair must themselves be discursively justified (p. 166).
34. The point is an obvious one, but requires emphasis in light of repeated claims that winning a majority of seats gives governments a "mandate" to do whatever they choose. While someone may heed the advice of their doctor, they expect that advice to be informed by due diligence; there is no reason to expect less of the legislator, in whose case due diligence takes the form of participation in a competent debate. This requirement has won some legal support of late: the judge who struck down parts of Ontario's notorious education Bill 160 criticized the government for acting "with haste and without sufficient analysis." *The Globe and Mail* (23 July 1998), p. A4.
35. Habermas, *Between Facts and Norms*, p. 462.

36. Habermas, *Between Facts and Norms*, p. 275.
37. Habermas's public sphere is an informal network for communicating information and points of view on public matters, a set of social spaces in which citizens engage in rational-critical public debate about political matters. It can range from "episodic publics found in taverns" to an "abstract public sphere of isolated readers, listeners and viewers." Habermas provides a persuasive list of issues first raised on the margins of the formal political system (*Between Facts and Norms*, p. 381).
38. Habermas, *Between Facts and Norms*, p. 485.
39. Habermas, *Between Facts and Norms*, p. 358.
40 Mark Hertsgaard, cited in Joyce Nelson, *Sultans of Sleaze: Public Relations and the Media* (Toronto: Between the Lines, 1989), p. 62.
41. Habermas, *Between Facts and Norms*, p. 442.
42. Habermas, *Between Facts and Norms*, p. 431.
43. Habermas, *Between Facts and Norms*, pp. 441 and 190.Habermas counsels caution here, as such reforms should destroy neither the efficiency of administration nor its (relative) autonomy. In particular, we must find ways of linking administration to the "communicative power" generated by a legitimate public sphere, while "immunizing" it against the illegitimate power of social interests that use pressure rather than discourse (p. 410).
44. Habermas, *Between Facts and Norms*, p. 442. This task is particularly urgent in the Canadian context, with the *Canadian Charter of Rights and Freedoms* having pulled judges into areas of decision-making in which they have no claim to expertise. The Canadian Judicial Council has recognized that "the Charter has tended to blur the distinction between political and legal issues." Cited in Sean Fine, "More Judges Dare to Break Silence away from Bench" *The Globe and Mail* (13 November 1993), p. A1.
45. Habermas, *Between Facts and Norms*, p. 444.
46. "The Principles of Scientific Management" in Jay Shafritz and J. Ott, (eds.), *Classics of Organization Theory*, 2d ed. (Chicago: The Dorsey Press, 1987), p. 77.
47. G.W.F. Hegel, *The Philosophy of History* (New York: Dover, 1956), p. 9.
48. Page 471. Second emphasis added.
49. The prevalence of this manipulative "rationality" among citizens is deemed self-evident by some public choice theorists. Thus, in discussing gerrymandering, William Riker argued that supporters of a party "by definition, want the policies of their party carried out and the gerrymander increases the chance of this happening. That these voters would punish their own leaders for successful ruthlessness is improbable at best." *The Art of Political Manipulation* (New Haven: Yale University Press, 1986), p. 72. But if voters have no objection to "successful ruthlessness," why is the "Notwithstanding Clause" not regularly invoked by Canadians politicians?
50. Habermas, *Between Facts and Norms*, p. 445.
51. "Concluding Remarks," p. 468.
52. Here Habermas may have been inspired by a critical theorist of an earlier generation. He tells of a 1967 meeting between Herbert Marcuse and German students. To one student who dismissed humanitarian arguments, Marcuse answered: "humanitarian and moral arguments are not merely deceitful ideology. Rather, they can and must become central social forces." "Psychic Thermidor and the Rebirth of Rebellious Subjectivity," in *Habermas and Modernity*, p. 76. The democratic project as a whole must of course guide the choice of values that are invoked in its name. If one instead chooses manipulatively to invoke any values that just happen to be available, one is likely to end up with populist movements that "blindly defend... frozen traditions"

(p. 371), appealing to xenophobia, nostalgia, etc..

53. *The Theory of Communicative Action II*, p. 390.
54. On multiculturalism, see Appendix II to *BFN*, "Citizenship and National Identity," and "Struggles for Recognition in the Democratic Constitutional State," in C. Taylor et al, *Multiculturalism* (Princeton: Princeton University Press, 1994).
55. James Conner, (ed.), *Lenin on Politics and Revolution* (Indianapolis: Bobbs-Merrill, 1968), p. 35.
56. The claim is a recurring one: "The government junta," one Sandinista leader declared upon taking power, "does not need a congress to tell it what problems of the workers and peasants need to be solved." The interests of the people being self-evident, those parties that disagreed with the Sandinistas must be either "treasonous or ignorant," as another leader put it. Cited in Philip Ryan, *The Fall and Rise of the Market in Sandinista Nicaragua* (Montreal: McGill-Queen's University Press, 1995), p. 36. The epistemological claim helped shape the very culture of a certain socialist practice: The speakers all had things called "analyses" which they maintained were absolutely correct. The only way of arguing was to knock one analysis down with another. They came ready-made and you learned them by rote from pamphlets or articles. Their analyses were nicely all-embracing but I was always left with a sense of not knowing what had happened. Sheila Rowbotham, *Woman's Consciousness, Man's World* (Harmondsworth: Penguin, 1973), p. 19.
57. "A Reply to my Critics," p. 223.
58. Habermas, *The Philosophical Discourse of Modernity*, Frederick Lawrence, (trans.), (Cambridge: MIT Press, 1987), p. 284.
59. Habermas, *Between Facts and Norms*, p. xli.
60. With Marx's "'control model' of pure social relations," Habermas comments in an endnote: "the core problem of social self-organization—the constitution and self-stabilization of a community of free and equal persons—disappears" (p. 552).
61. *Autonomy and Solidarity*, p. 55.
62. Habermas, *Between Facts and Norms*, p. 410.
63. Habermas, *Between Facts and Norms*, p. 505.
64. "What Does Socialism Mean Today?," p. 18. The view of the economy as a "testing ground" points to Habermas's reformist instincts, as do his references to "cautious experimentation" (p. 441) and "experience-guided precautionary measures" (p. 39). "[C]onfidence in the dialectic of reason and revolution... has been exhausted—and only the reformist path of trial and error remains both practically available and morally reasonable" (p. 57). But it would not be "morally reasonable" to discount the possibility that a political revolution may be required in certain circumstances to remove a particularly weighty impediment to a people's communicative development. Even a recent Pope recognized the right to revolution in situations of "manifest and long-standing tyranny" (*Populorum Progressio*, § 31), and I doubt if Habermas wants to be outflanked on the left by that particular institution.
65. Habermas, *Between Facts and Norms*, p. 505.
66. Habermas, *The Philosophical Discourse of Modernity*, p. 260.
67. Habermas, *Between Facts and Norms*, p. 445.