

be interesting to examine from the perspective of interpersonal dynamics. The issue of the analogous relation between interpersonal dynamics and architectural structures, however, goes far beyond the limits of this article, as well as beyond the explicitly expressed writing of Fuller himself.<sup>21</sup>

It seems, then, that Buckminster Fuller offers a very interesting framework within which to consider the issue of the structure of a philosophy of sex complementarity. By his rigorous reflection on recent developments in the physics of nature he described some fundamental principles that appear to have some valid application to issues in the philosophy of sex identity. They provide a structure for thinking about the concept of woman and the concept of man. The particular application of these general non-mirror imaged and complementary concepts needs to be worked out in individual situations and individual cultures. Some factors such as the female basis in xx chromosomes, hormones, and anatomy or male basis in xy chromosomes, hormones, and anatomy will remain more or less constant from one culture to another, while the masculine and feminine psychic components will have a wider variation. The particular application becomes the challenge of individual women and men in relationship with others to formulate and live in real "synergetic twoness," "synergetic threeness," or "synergetic fourness," and so forth which Fuller so much admired.<sup>22</sup>

<sup>21</sup>I have attempted to develop these implications for theology in "Integral Sex Complementarity and the Theology of Communion," forthcoming in *Communio: International Catholic Review* 17 (Winter 1990).

<sup>22</sup>This paper was presented at Lonergan University College, Montréal, in March 1988 as part of a year long study of the works of R. Buckminster Fuller. It was also presented at The World Congress of Philosophy, Brighton, England in August 1988. I am very grateful for the suggestions for revision which have come from these discussions. In addition, research for this paper has been partially funded by the Social Sciences and Humanities Research Council of Canada.

## Political Legitimacy and Discourse Ethics

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IN THE WAKE of the apparent collapse of orthodox Marxism, Marxian intellectuals have been in pursuit of an alternative theoretical basis from which to critique capitalism. One influential standard-bearer is Jürgen Habermas. Habermas has set out to correct what he sees as a serious flaw in Marxist theory, the lack of a firm normative foundation from which to legitimate the struggle against capitalism. Habermas proposes his theory of "discourse ethics" as the way to assess the validity of a conception of justice and in turn the legitimacy of the political institutions and public policies based upon it. This essay seeks to explain the exact character of Habermas's "discourse ethics" and to show that it not only does not succeed in establishing a normative basis from which to assess conceptions of justice, but fails to express one of modernity's central values—the moral propriety of pluralism and individualism.

### I

#### 1. The Problem of Political Legitimacy

Legitimacy claims pertain to a political regime or order, and Jürgen Habermas holds that "legitimacy means that there are good arguments for a political order's claim to be recognized as right and just; a legitimate order deserves recognition. *Legitimacy means a political order's worthiness to be recognized.*"<sup>1</sup> Habermas thus distinguishes between a legitimate political order and what is held to be a legitimate political order.

Jürgen Habermas is a cognitivist regarding social and political ethics. He does not believe that the differences between theoretical and practical discourse are sufficient to exclude argumentation about social and political matters from the realm of rationality. Yet, he does not believe that normative claims can be justified by any appeal to the nature of a human being—no matter what form it may take.<sup>2</sup>

According to Habermas, there are different levels of justification—for instance, myths of origin, religious/cosmological world views, philosophically argued ontologies, and the formal conditions of justification itself (which Habermas calls

<sup>1</sup>Jürgen Habermas, "Legitimation Problems in the Modern State," *Communication and the Evolution of Society*, trans. Thomas McCarthy (Boston: Beacon Press, 1979), p. 178.

<sup>2</sup>Paul Schuchman has suggested that this claim is too strong. Habermas's "discourse ethics" might be understood as making an appeal to the social nature of human beings—not, to be sure, an appeal which tries to discover theoretically norms in this nature, but instead one which tries to see what norms are implied in the active, intersubjective expression of this nature. Given Habermas's adamant rejection of all "philosophically argued ontologies," however, such a characterization does not seem to be one which he would endorse.

"reconstructive" justification).<sup>3</sup> Habermas views these levels of justification as hierarchically ordered such that the myth stage of justification is superseded by the religious/cosmological stage which in turn is superseded by "ontological modes of thought," and so forth. Habermas does not believe that this hierarchy is ordained or that all societies must go through this process. Rather, he conjectures that the process of providing reasons for claims of legitimacy is a social-evolutionary process which renders certain kinds of reasons once thought sufficient in a society to establish legitimacy now no longer so, e.g., descent from a certain family would not in a Western democracy be a sufficient reason for a claim to political power. "Modernity," he claims, "can and will no longer borrow the criteria by which it takes its orientation from models supplied by another epoch; it has to create its normativity out of itself."<sup>4</sup>

Habermas holds that as the ontological foundations for natural law became more and more problematic, the problem of legitimating political regimes in post-conventionalistic,<sup>5</sup> modern times became more reflective. "The procedures and presuppositions of justification are themselves now the legitimating grounds on which the validity of legitimations is based. The idea of an agreement that comes to pass among all parties, as free and equal, determines the procedural type of legitimacy of modern times."<sup>6</sup> The social contract theories from Hobbes to John Rawls and the transcendently oriented theories from Kant to Karl Otto-Apel<sup>7</sup> represent traditions in which "it is the formal conditions of possible consensus formation, rather than ultimate grounds, which possess legitimating force."<sup>8</sup>

Habermas's "discourse ethics" is "formalistic" in the sense that he seeks to show that norms which are used as guides for human action can be justified only if they are universalizable and that it is rational for anyone who argues about norms to accept the principle of universalizability. Showing why Habermas believes that it is rational to accept the principle of universalizability as well as what he thinks this principle involves will be the object of analysis in the following sections of part I of this essay. Part II will confine itself to a criticism of Habermas's understanding of the principle of universalizability. It will be argued that Habermas fails in terms of his own account of human action and rationality to show that it is rational to accept the principle of universalizability as he understands it.

Habermas's account of human action and rationality as well as "consensus theory of truth" will not, however, be intensively examined or directly challenged. Such an examination and challenge are well beyond the scope of this essay. It should suffice to note that Habermas rejects the model of an isolated individual

<sup>3</sup>"Legitimation Problems in the Modern State," pp. 183-85 and 203-205. See note 18 below for an account of the "reconstructive" process.

<sup>4</sup>Jürgen Habermas, *The Philosophical Discourse of Modernity*, trans. Frederick Lawrence (Cambridge, MA: MIT Press, 1987), p. 7.

<sup>5</sup>"Post-conventionalistic" refers to moral claims that are not based on the tribe, tradition, or social mores but on the argumentation process itself. See Jürgen Habermas, "Moral Consciousness and Communicative Action," *Moral Consciousness and Communicative Action*, trans. Christine Lenhardt and Sherry Weber Nicholsen (Cambridge, MA: MIT Press, 1990), pp. 116-94.

<sup>6</sup>"Legitimation Problems in the Modern State," p. 185.

<sup>7</sup>Karl Otto-Apel, a colleague of Habermas, is also a neo-Marxist and an advocate of "discourse ethics." See note 10 below.

<sup>8</sup>"Legitimation Problems in the Modern State," p. 184.

actor who can on his own relate to the world either cognitively or practically. Rather, Habermas upholds as fundamental the model of human beings interacting for the purpose of reaching an understanding. He calls this "communicative action." Truth, for Habermas, is not the correspondence between the contents of the mind of an isolated knower and some independently existing reality but instead "the possibility of *argumentative corroboration* of a truth claim that is falsifiable in principle."<sup>9</sup> Karl Otto-Apel, a colleague of Habermas and also an advocate of a discourse ethics, has noted that truth understood as consensus "cannot be attained by finite individuals and that, for this reason, membership in the argumentative community of scholars incorporates a basic transcendence of the egoism of finite beings—a kind of self-surrender in terms of [what Peirce called] a 'logical socialism.'"<sup>10</sup>

Discourse occurs for Habermas when the participants in communicative action take up the issue of whether a contested claim of truth, normative legitimacy, or authenticity (called a "validity claim") can be vindicated or criticized through arguments. Discourse does not necessarily occur in a formal way but is continuous with the everyday questioning, puzzling, interpreting, and clarifying that make up social life. Practical discourse is the form of argumentation "in which we can hypothetically test whether a norm of action, be it actually recognized or not, can be impartially justified."<sup>11</sup> "Discourse ethics" is concerned with reconstructing the procedural norms that are implicit in the communicative process.

## 2. Discourse Ethics

Regarding Marxian social theory, Habermas claims that "from the beginning there was a lack of clarity concerning the normative foundation."<sup>12</sup> He further claims that such a foundation is possible "only if we can reconstruct general presuppositions of communication and procedures for justifying norms and values."<sup>13</sup> He thus aims to provide a normative foundation for Marxian critical social theory and to do so by means of a discourse ethics.

Three general features of Habermas's discourse ethics should be initially noted. First, it is not concerned with questions of prudence or the good life but only with so-called questions of morality, and, in true Kantian fashion, the latter are differentiated from the former because they are answered from the standpoint of universalizability. The function of a discourse ethics is to justify norms that will determine the legitimate opportunities for the satisfaction of needs.<sup>14</sup> It deals primarily with questions of institutional justice. Second, it is a proceduralist

<sup>9</sup>Jürgen Habermas, "A Postscript to *Knowledge and Human Interests*," *Philosophy of the Social Sciences* 3 (1973), 166 (emphasis added).

<sup>10</sup>Karl Otto-Apel, *Towards a Transformation of Philosophy*, trans. Glyn Adey and David Frisby (London: Routledge & Kegan Paul, 1980), p. 262.

<sup>11</sup>Jürgen Habermas, *The Theory of Communicative Action*, vol. 1, trans. Thomas McCarthy (Boston: Beacon Press, 1984), p. 19.

<sup>12</sup>"Historical Materialism and the Development of Normative Structures," in *Communication and the Evolution of Society*, p. 96.

<sup>13</sup>*Ibid.*, p. 97.

<sup>14</sup>Discourse ethics does, however, involve a moral-transformative process in which a participant's understanding of his needs is changed. See section entitled "Personal Identity" of this essay for a discussion of this process as it relates to a person's conception of himself.

ethics. It does not offer any substantive theory of goodness or principles of justice. Rather, it provides a procedure that ought to be followed in determining the validity of a norm. In other words, it tells us how the practical discourse which seeks to adjudicate between conflicting norms ought to be conducted. In this regard, it is important to understand that Habermas sees the principle of universalizability as a rule of argumentation that belongs to the logic of practical discourse which enables moral actors to generate rational consensus whenever the validity of a normative claim is in dispute. As such, it should not be confused with the content of any abstract normative principle.<sup>15</sup> Just as there is a difference between the concept of justice and a conception of justice for Rawls, so for Habermas there is a difference between the principle of universalizability as the principle upon which the process of discourse is based and the content of the norms which real discourse determines. Third, and unlike Rawls, the discourse is actual, not merely hypothetical. It is something that is carried out by real people.<sup>16</sup>

Habermas believes that a valid norm for answering moral questions has the quality of impartiality, that impartiality is expressed by some version of the principle of universalizability, and that this principle can be rationally defended.<sup>17</sup> He seeks to defend a version of the principle of universalizability by means of a transcendental argument or, at least, a transcendental argument of sorts.<sup>18</sup>

Before describing this kind of argument, some idea of Habermas's version of the principle of universalizability should be gained. Habermas holds that a norm is justified only if it fulfills the following condition (hereafter "U"): "The consequences and side-effects which would foreseeably result from the universal subscription to a disputed norm, and as they would affect the satisfaction of the interests of *each* single individual, could be accepted by all without *constraints*."<sup>19</sup> Habermas endorses Thomas McCarthy's summarization of the difference between the discourse ethics' account of the principle of universalizability and Kant's: "The emphasis shifts from what each can will without contradiction to be a universal law, to what all can will in agreement to be a universal norm."<sup>20</sup>

As already said, Habermas seeks to defend his version of the universalizability principle by means of a transcendental argument. A transcendental argument

<sup>15</sup>Jürgen Habermas, "Diskursethik—Notizen zu einem Begründungsprogramm," *Moralbewusstsein und kommunikatives Handeln* (Frankfurt: Suhrkamp, 1983), pp. 103–104.

<sup>16</sup>Jürgen Habermas, "A Reply to my Critics," *Habermas: Critical Debates*, edd. John B. Thompson and David Held (Cambridge, MA: MIT Press, 1982), p. 257. Also, "Diskursethik," p. 104.

<sup>17</sup>"Diskursethik," p. 75.

<sup>18</sup>Habermas sees philosophy as collaborating with the empirical sciences, especially those which make strong universalistic claims resulting from attempts to reconstruct intuitive knowledge that competent judges, actors, and speakers reveal. Reconstruction is the process of taking what is implicit—the know-how of competent judges, actors, or speakers—and turning it into explicit rules—a theoretical knowledge, a knowledge-that. Unlike classical transcendental analysis, the theoretical account of the implicit know-how that the reconstructive process provides is hypothetical, empirical, and fallible. Thus, Habermas's claim that certain norms are "always-already" present in communicative action is defeasible. Whether this undercuts his discourse ethics and whether the notion of reconstructive science is tenable are crucial questions which cannot be answered here. Yet, see C. Fred Alford, "Is Jürgen Habermas's Reconstructive Science Really Science?" *Theory and Society* 14 (1985), 321–40.

<sup>19</sup>"Diskursethik," p. 103.

<sup>20</sup>"A Reply to my Critics," p. 257; and Thomas McCarthy, *The Critical Theory of Jürgen Habermas* (Cambridge, MA: MIT Press, 1978), p. 326.

Transcendental Argument

seeks to show that something, call it X, cannot be rejected and must be accepted as true because the very process of rejecting X depends on something else, call it Y-ing, and Y-ing could not exist unless X were the case. For a transcendental argument to work two things must be true: (1) Y-ing is something unavoidable; and (2) X is indeed necessary for the very possibility of Y-ing—that is, the universal negative proposition, "No Y-ing is possible unless X is the case," must be true. A transcendental argument, then, attempts to show that anyone who rejects "X is the case" is caught in a contradiction. For Habermas this is specifically a "performative contradiction." The rejection of X (where X is "U") is inconsistent with the existence of the activity Y-ing (where Y-ing is argumentation), the only way in which the rejection of X exists. The contradiction is between the existence of the *activity* of rejecting X and the necessary conditions for that activity existing. Thus, the contradiction that is involved is not semantic, but practical in nature.

The history of philosophy, as well as contemporary philosophy, is full of complicated uses of transcendental arguments,<sup>21</sup> and Habermas's "discourse ethics" adds another page to this history. A transcendental argument, however, is no better than the unavoidability of Y-ing and the truth of the universal negative proposition it implicitly affirms. In Habermas's case, (1) is argumentation (Y-ing) something that is unavoidable and (2) is there no possible way to engage in argumentation other than through the acceptance of the truth of "U" and all that it involves? An answer to question (1) cannot be provided here, because determining whether argumentation is truly unavoidable depends on the overall adequacy of Habermas's "consensus theory of truth" and account of communicative action and rationality. For the sake of the argument, it will be assumed that argumentation is indeed something unavoidable. Regarding question (2), a more detailed consideration will occur below in part II. For now, we shall confine ourselves to grasping Habermas's position regarding question (2).

### 3. The Rules of Argumentation

In response to question (2), Habermas claims that "everyone who participates in the universal and necessary communicative presuppositions of argumentative speech, and who knows what it means to justify a norm of action, must assume the validity of a principle of universalizability (either in its above form or in some other equivalent formulation)."<sup>22</sup> He insists that "one who seriously makes the attempt to redeem normative validity claims by way of discourse engages intuitively in conditions of procedure which are equivalent to an implicit recognition of 'U'."<sup>23</sup> Habermas thus has no doubt about the claim that anyone who engages in argumentation accepts the truth of "U." Yet, just what are the universal and necessary presuppositions of argumentation?

The answer to this question can be found in unpacking the following lengthy description of discourse from Habermas's *Legitimation Crisis*.

<sup>21</sup>John Finnis's *Natural Law and Natural Rights* and Alan Gewirth's *Reason and Morality* are two contemporary examples of this way of arguing.

<sup>22</sup>"Diskursethik," p. 97.

<sup>23</sup>*Ibid.*, p. 103.

Discourse can be understood as that form of communication that is removed from contexts of experience and action and whose structure assures us: that the bracketed validity claims of assertions, recommendations, or warnings are the exclusive object of discussion; that participants, themes and contributions are not restricted except with reference to the goal of testing the validity claims in questions; that no force except that of the better argument is exercised; and that, as a result, all motives except that of the cooperative search for truth are excluded. If under these conditions a consensus about the recommendation to accept a norm arises argumentatively, that is, on the basis of hypothetically proposed, alternative justifications, then this consensus expresses a "rational will." Since all those affected have, in principle, at least the chance to participate in the practical deliberation, the "rationality" of the discursively formed will consists in the fact that the reciprocal behavioral expectations raised to normative status afford the validity to a common interest ascertained without deception. The interest is common because the constraint-free consensus permits only what all can want; it is free of deception because even the interpretations of needs in which each individual must be able to recognize what he wants become the object of discursive will-formation. The discursively formed will may be called "rational" because the formal properties of discourse and of the deliberative situation sufficiently guarantee that a consensus can arise only through appropriately interpreted, generalizable, interests, by which I mean needs that can be communicatively shared.<sup>24</sup>

The universal and necessary presuppositions of argumentation or discourse can be stated in terms of rules.<sup>25</sup> These rules constitute discourse—that is to say, they determine just what it is for someone whose interests are possibly affected by the adoption of a certain norm to consent to it, without constraint and only through the force of the better argument. These rules express for Habermas what "U," as a rule of valid argumentation belonging to the logic of practical discourse, requires.

The first rule is simply that if one is a participant in communicative action, then one is under the obligation to provide a justification for the different sorts of claims one makes and to apply any norms one proposes equally to oneself as well as to others. This obligation is regarded as the minimal normative content inherent in communicative action.<sup>26</sup>

The remaining rules result from reconstructing our intuition of what it would be like to resolve conflicting claims to normative rightness<sup>27</sup> by the force of the better argument alone. This reconstruction is called the "ideal speech situation,"<sup>28</sup> and these rules provide the formal properties of a situation in which rationally motivated agreement could be reached. The rules are:

<sup>24</sup>Jürgen Habermas, *Legitimation Crisis*, trans. Thomas McCarthy (Boston: Beacon Press, 1975), pp. 107–108.

<sup>25</sup>These rules are discussed in "Diskursethik," pp. 97–99. It will not be necessary to discuss the logical-semantic rules.

<sup>26</sup>Habermas holds that when the illocutionary force of a speech act is examined, one finds that the speaker is implicitly offering to redeem his claim of truth or normative rightness or sincerity and is thus under an obligation to provide a justification to the listener. See "What Is Universal Pragmatics?" *Communication and the Evolution of Society*, pp. 63–65. Also, see "Diskursethik," p. 68.

<sup>27</sup>This applies to claims to truth and authenticity as well.

<sup>28</sup>Habermas claims that the concept of communicative rationality "carries with it connotations based ultimately on the central experience of the unconstrained, unifying, consensus-bringing force of argumentative speech, in which different participants overcome their merely subjective views and, owing to the mutuality of rationally motivated conviction, assure themselves of both the unity of the

- a) everyone who is capable of speech and action ought to be allowed to participate in discourse;
- b) everyone ought to be allowed to question any proposal;
- c) everyone ought to be allowed to introduce any proposal into discourse;
- d) everyone ought to be allowed to express his attitudes, wishes, and needs; and
- e) no one ought to be hindered by compulsion—whether arising from inside the discourse or outside of it from making use of the moral claims implied by (a) – (d).<sup>29</sup>

Since discourse is something actual and not merely hypothetical, that is, as noted earlier, since it is something that real people carry out, rule (e) implies a general obligation with respect to the context of action from which the discourse is taken up—namely, that this context have moral features similar to those of the ideal speech situation. In other words, it should be a situation in which everyone affected by a proposed norm has free access to all the discourse activities, and opportunities to participate should be equally distributed. Further, it should be a situation in which everyone can openly express his true feelings and intentions. Indeed, it should be so open that a person's very interpretation or understanding of his needs can be examined and questioned. "Only at the level of a universal ethics of speech [*Sprachethik*] can need interpretations themselves—that is, what each individual thinks he should understand and represent as his 'true' interests—also become the object of practical discourse."<sup>30</sup> Only when needs or interests can be communicatively shared is there a possibility of reaching a more truthful interpretation of an individual's particular needs. Negatively stated, the situation should not be one in which there are hidden agendas or motives or where there are any obstacles to discourse created by deception, power, and ideology.

Finally, since the argumentation process by which norms are evaluated is dialogical and not monological and thus requires the consent of all affected by a proposed norm, Habermas holds that each individual's interpretation of his needs or interests must be something that is generalizable. The interpretation must express a need or interest that can be common to all concerned. Indeed, it must in principle be possible for every participant in the argumentation process to exchange roles with the other when it comes to the expression of a need or interest which a proposed norm affects. As Habermas states: "The point of discourse-ethical universalization consists . . . in this, that only through the communicative structure of a moral argumentation involving all those affected is the exchange of roles of each with every other forced upon us,"<sup>31</sup> and "impartial formation of judgment is expressed in a principle that compels each one in the circle of those affected to assume in the weighing of interests the perspective of every other."<sup>32</sup> Further, he notes that "argumentation is expected to test the

objective world and the intersubjectivity of their lifeworld" (*The Theory of Communicative Action*, p. 10).

<sup>29</sup>"Diskursethik," p. 98.

<sup>30</sup>Jürgen Habermas, "Moral Development and Ego Identity," *Communication and Evolution of Society*, p. 90. Also, "Diskursethik," pp. 77–78.

<sup>31</sup>"A Reply to my Critics," p. 257.

<sup>32</sup>"Diskursethik," p. 75.

generalizability of interests, instead of being resigned to an impenetrable pluralism of ultimate value orientations (or belief-acts or attitudes). It is not the fact of pluralism that is here disputed, but the assertion that it is impossible to separate by argumentation generalizable interests from those that are and remain particular."<sup>33</sup>

This final rule shall be called the "generalizability of interests" rule (hereafter, "G"). "G" is an important rule for practical discourse because without it, it is doubtful that consensus could ever be achieved or the context for legitimate compromises determined. Habermas claims that insofar as anyone takes up practical discourse, he unavoidably "suppose[s] an ideal speech situation that, on the strength of its formal properties, allows consensus only through generalizable interests."<sup>34</sup> "G" does not require special justification, Habermas claims, because the expectation on the part of others that one will offer reasons for one's normative claims is contained in the intersubjective character of discourse, and for Habermas the only principle in which practical reason expresses itself is one that obliges each participant in discourse "to transfer his subjective desires into generalizable desires."<sup>35</sup> Karl Otto-Apel states that "this necessary readiness to justify personal needs qua interpersonal claims represents an analogy to the 'self-surrender' demanded by Peirce in that 'subjectivity' of the egoist assertion of one's interests must be sacrificed in favour of the 'transsubjectivity' of the argumentative representation of interests."<sup>36</sup>

To summarize, then: Habermas holds that argumentation or discourse is something that is unavoidable and that argumentation cannot exist unless "U" is true, and "U" is expressed in the rules of discourse (the major ones having been presented above). Anyone who argues against these rules or in favor of norms that fail to meet these rules is guilty of a performative self-contradiction and is thus rationally defeated. Habermas thus offers a non-naturalistic, cognitivist, proceduralist account of morality which can be used to assess the validity of proposed conceptions of justice.

## II

## 1. Generalizable Interests: A Critique

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

"U" is only a necessary condition for the legitimation of any proposed justice norm and so cannot be used to justify the "DP," but it can be used normatively to reject it. According to "U," the "DP" should be rejected (and the political

<sup>33</sup>Legitimation Crisis, p. 108.

<sup>34</sup>Ibid., p. 110.

<sup>35</sup>Ibid., p. 109.

<sup>36</sup>Towards a Transformation of Philosophy, p. 277.

but I do justify some norms in stepped.

institutions and policies which implement it are illegitimate) if it is not the case that it can be accepted without constraint by each individual whose interest satisfaction is foreseeably affected by its universal adoption. Since discourse for Habermas must be real and not hypothetical, "DP" is not evaluated from behind some Rawlsian "veil of ignorance." Yet, if this is so, how can the "DP" avoid rejection? Why would someone who possesses more so-called "natural assets," e.g., Michael Jordan, be inclined to agree to a principle whose implementation would foreseeably affect the satisfaction of his interests adversely? Indeed, how can the acceptance of any proposed norm "be accepted by all"?<sup>37</sup> And if the "DP," which from a neo-Marxian perspective is an anemic principle of social justice, cannot avoid rejection, what political "punch" does Habermas's discourse ethics really offer? → the opposite! - see Kopp!

One might reply that this objection assumes that one's understanding and commitment to the satisfaction of certain interests or needs<sup>38</sup> are privileged, and, as already noted, Habermas does not grant this assumption. One's understanding of his interests or needs is something that must be tested by the discourse process, because it is only through discursive testing of one's understanding of his interests or needs that a truthful understanding of them might be achieved. Thus, when one considers how a proposed norm will affect the satisfaction of his interests or needs, it must ultimately be the case that this consideration be something dialogical, not just monological—that is to say, these interests must be capable of being discussed with others. One cannot merely assert without providing reasons to others that one has an interest or need with which a proposed norm, e.g., the "DP," conflicts and then justifiably refuse to accept the norm. One's understanding of his interests or needs must be "communicatively shared."

Let us grant the thrust of Habermas's "consensus theory of truth" when it comes to determining whether an understanding of one's interests is correct and thus not suppose that any individual's understanding of his interests or needs is privileged. Further, let us even suppose that no interest can be "real" unless it can be "communicatively shared." There is still, however, a logical gap between all members of the discourse process being able not only to communicate to each other that "E is an interest of Smith" but also to agree that E is indeed an interest of Smith, and E being a generalizable interest, that is, an interest not only of Smith but also an interest Jones and everyone else could have. It seems perfectly possible for Smith to have an interest or need that is uniquely his and for this to be acknowledged by everyone, that is, for consensus regarding "E is an interest of Smith" to be achieved and thus communicatively shared, and it still not be the

<sup>37</sup>Habermas does consider the situation where the participants in discourse have not been able to find needs or interests that they all share. Habermas holds that in this situation a compromise is called for, and a compromise is defined as follows: "A normed adjustment between particular interests . . . [which] takes place under conditions of balance of power between the parties involved" (Legitimation Crisis, p. 111). He further notes that "compromises stand under restrictive conditions because it is to be assumed that a fair balance can come about only with the participation by equal right of all concerned" ("Diskursethik," p. 83). A compromise, then, cannot be achieved between persons in unequal bargaining positions, and the burden of proof is on the person whose bargaining position affords him greater power to demonstrate that his advantage can be discursively justified. See Stephen K. White, *The Recent Work of Jürgen Habermas* (Cambridge: Cambridge Univ. Press, 1988), pp. 75-77.

<sup>38</sup>Habermas uses these terms interchangeably.

case that this interest is generalizable. There seems to be a conflation of the mode in which an interest for Smith is known—in Habermas's case, the operative term is "discussed"—and the mode in which the interest for Smith exists.

Though Habermas is quite insistent that his discourse process is a real one which has no need of hypothetical constructs like the "veil of ignorance," it is instructive to consider how he envisions the discourse process actually working:

Practical discourses are always related to the concrete point of departure of a disturbed normative agreement. These antecedent disruptions determine the topics that are up for discussion. This procedure, then, is not formal in that it abstracts from content. Quite the contrary, in its openness, practical discourse is dependent on contingent matter being fed into it from the outside. In discourse this content is subjected to a process in which particular values are ultimately discarded as being not susceptible to consensus.<sup>39</sup>

Habermas thus does not deny that there is a pluralism of interests, but the point of the discursive process is to separate those interests that are generalizable from those that are not, and it is only the former that are regarded as capable of rational justification. Thus, Habermas's conception of discourse already has a principle for filtering out interests that are unique to individuals and not capable of being shared by everyone. Though not materially the same, "G" has a function in Habermas's discourse ethics which is not unlike the function that the "veil of ignorance" has in Rawls's theory of justice.<sup>40</sup>

Yet, why must a discursive consideration of the foreseeable consequences of the universal adoption of a proposed norm to the satisfaction of interests of individuals confine itself only to those interests that can be shared by all? Having "G" as the rule by which to separate generalizable interests from particular ones does not seem to be warranted by "U."

Habermas does not, however, see any need for a special justification of "G." As noted before, he states: "In taking up a practical discourse, we unavoidably suppose an ideal speech situation that, on the strength of its formal properties, allows consensus only through generalizable interests."<sup>41</sup> He even goes so far as to describe "U" as "a rule that eliminates as nongeneralizable content all those concrete value orientations with which particular biographies and forms of life are permeated."<sup>42</sup> What is it, however, about the formal properties of the ideal

<sup>39</sup>"Discourse Ethics: Notes on a Program of Philosophical Justification," *Moral Consciousness and Communicative Action*, p. 103. Also, to repeat a statement previously quoted: "Argumentation is expected to test the generalizability of interests, instead of being resigned to an impenetrable pluralism of interests of apparently ultimate value orientations (or belief-acts or attitudes). It is not the fact of pluralism that is here disputed, but the assertion that it is impossible to separate by argumentation generalizable interests from those that are and remain particular" (*Legitimation Crisis*, p. 108, first emphasis added).

<sup>40</sup>After noting the conditions that characterize practical discourse, Habermas observes that "like Rawls's original position, it [practical discourse] is a warrant of the rightness (or fairness) of any conceivable normative agreement that is reached under these conditions. Discourse can play this role because its idealized, partly counterfactual presuppositions are precisely those that participants in argumentation do in fact make. That is why I think it unnecessary to resort to Rawls's fictitious original position with its 'veil of ignorance'" ("Morality and Ethical Life: Does Hegel's Critique of Kant Apply to Discourse Ethics?" *Moral Consciousness and Communicative Action*, p. 198).

<sup>41</sup>*Legitimation Crisis*, p. 110 (some emphasis added).

<sup>42</sup>"*Moral Consciousness and Communicative Action*," p. 121.

speech situation that places this limitation on what interests may be used in attempting to achieve consensus?

Since the very activity of proposing a norm is a communicative act and thus establishes an interpersonal relation which requires of its participants the abilities to be open to consensus and willingly to take the perspective<sup>43</sup> of the other person and not confine themselves merely to their own point of view, and since the rules of discourse require participants to reflect sincerely on their understanding of their interests, Habermas believes that one is obligated to consider only those interests which are generalizable in determining whether a norm is to be accepted. As Habermas notes, "Only the claim to general validity confers on an interest, a volition, or a norm the worth of moral authority."<sup>44</sup> Concretely, this means that any discourse participant ought to be flexible and modify his understanding of his needs if they are not as generalizable as alternative ones. Yet, this is but another instance of the very reasoning that has already been called into question. For even if anyone who communicatively acts must have the ability to take what Habermas calls a "decentered understanding of the world,"<sup>45</sup> and thus can look at the world in an agent-neutral manner, this by no means shows that only generalizable interests ought to be used in trying to form a consensus regarding a proposed norm. Neither the moral superiority of "G" nor the obligation to follow it is established.

## 2. Alternative Interpretations of "G"

At this point in the argument, one might reply that the foregoing criticism misses its mark, because "G" has been misinterpreted. "G" could be construed in at least two ways different from the previous interpretation.

1) "G" does not require that E be an interest everyone can have but rather that E be found acceptable by everyone. In other words, it is not enough that everyone recognize that "E is indeed an interest of Smith" and then determine whether E could be an interest had by all. Instead, E must also be acceptable from the perspectives of everyone else. To say that an interest is acceptable is, however, to say either that it is normatively acceptable or that it is not. If it is not, then "acceptable" means nothing more than "an interest others judge they could have," and we remain with the interpretation that has already been given to "G." If "acceptable" means "normatively acceptable," then there is the problem as to what the discourse participants are to appeal in order to determine whether someone's interest is acceptable. Given Habermas's assumptions, there can be no appeal to any substantive understanding of human interest. Rather, the discourse process, and that alone, must be the basis for determining what is an acceptable interest. "G" is, therefore, not defined by some normative understanding of what is acceptable but is, instead, one of the rules of a process which determines whether an interest is normatively acceptable. So, the interpretation given "G" stands, and we return to the question of the justification of "G."

<sup>43</sup>Ibid. pp. 122, 163. Also, see *Communication and the Evolution of Society*, p. 88.

<sup>44</sup>"Diskursethik," p. 59. Habermas makes this claim while explaining and endorsing P. F. Strawson's claim that we can explain such moral phenomena as guilt feelings only if we have damaged a normative expectation that is valid not only for one person but for all persons.

<sup>45</sup>See "Moral Consciousness and Communicative Action," pp. 168-70.

2) Yet, might it not be that we see a need for a justification of "G" because we have interpreted "G" too strongly? Instead of holding that "G" requires that only interests which could be shared by all be used in trying to form consensus regarding a proposed norm, one should understand "G" as merely requiring that we assume the perspectives of other affected parties. It is not necessary personally to subscribe or adhere to the interests of others or even to try to find out what it feels like to have those interests. All that is necessary is that one come to understand what the interests of others mean for them. This procedure is similar to what George H. Mead called "ideal role taking" where, in Habermas' words, "any morally judging subject put[s] itself in the position of all who would be affected if a problematic plan of action were carried out or if a controversial norm were to take effect."<sup>46</sup> According to Habermas, "practical discourse can be viewed as a communicative process *simultaneously* exhorting *all* participants to ideal role taking. Thus, practical discourse transforms what Mead viewed as *individual, privately enacted* role taking into a *public* affair, practiced intersubjectively by all involved."<sup>47</sup>

According to this weaker interpretation of "G," one assumes or tentatively adopts the interests of others so as to achieve ideal communication—where everybody knows the interests and evaluations of everybody—and this shared knowledge is used to provide the context in which consensus regarding proposed norms is sought. Yet, on this interpretation of "G," there is nothing to prevent one from treating his interests and evaluations as of more importance to him than those of others. "G" thus does not provide any basis for resolution of normative dispute, and, given that discourse begins when there is a disruption of normative agreement, it is difficult to see how, on this interpretation of "G," there could ever be any proposed norm that a discourse ethics using "U" would not reject. But there could be more to this weaker interpretation of "G"; Habermas states:

Repairing a disrupted consensus can mean one of two things: restoring intersubjective recognition of a validity claim after it has become controversial or assuring intersubjective recognition for a new validity claim that is a substitute for the old one. Agreement of this kind expresses a *common will*. If moral argumentation is to produce this kind of agreement, however, it is not enough for each individual to reflect in this way and then to register his vote. What is needed is a "real" process of argumentation in which the individuals concerned cooperate.<sup>48</sup>

For Habermas, a "real" process of argumentation goes beyond every discourse participant merely coming to understand the value perspectives of every other and then still consenting only to those norms which best promote his needs or interests. This process of argumentation requires that the discourse participants not give greater weight or importance to their own interests or needs than to anyone else's interests or needs when it comes to consenting to a proposed norm, e.g., the "DP." Thus, even if "G" does not require discourse participants to forsake their personal interests or needs for generalizable ones, this weaker interpretation of "G" still requires every discourse participant to adopt a disinter-

<sup>46</sup>"Morality and Ethical Life: Does Hegel's Critique of Kant Apply to Discourse Ethics?" p. 198.

<sup>47</sup>Ibid.

<sup>48</sup>"Discourse Ethics," p. 67.

ested or impartial perspective when it comes to determining whether to consent to a proposed norm. Yet it can and should be asked: Why should someone engaged in communicative action adopt such a perspective? Whether "G" be interpreted weakly or strongly, the logical gap in Habermas's argument remains.

### 3. The Moral Point of View versus the Personal Point of View

Despite his vast theoretical machinery, Habermas does not produce any satisfactory answer to the question: What justifies "G"? It might be, however, that "G" is, in effect, nothing other than Habermas's version of *the moral point of view*,<sup>49</sup> and Habermas assumes that the moral point of view is implicit in communicative action. "The moral point of view cannot be found in a first principle, nor can it be located in an ultimate justification that would lie outside the domain of argumentation. . . . The sought-after moral point of view that precedes all controversies originates in a fundamental reciprocity that is built into action oriented towards reaching understanding."<sup>50</sup> This certainly seems to be the reason why Habermas does not provide any explicit justification of "G." The moral point of view provides the justification for "G."

The moral point of view is, for Habermas, the one and only view point from which moral reasoning occurs. This point of view requires one to consider the satisfaction of his needs or interests not from a personal point of view—that is to say, from a view that gives extra weight or importance to one's needs or interests because they are one's own needs or interests—but from an impersonal point of view—that is to say, from a view that treats the fact that some interests or needs are *uniquely* yours as of *no moral consequence*. Accordingly, the moral point of view could allow one's needs or interests to become part of *moral* deliberation only insofar as they could be shared by others or if they were given no more weight or importance than those of others. It could not allow unique interests and needs or greater weighting of them to become part of moral discourse.

There are, however, four problems with invoking the "moral point of view" as a justification for "G":

1) It is simply not true that the moral point of view, at least as described above, is the only view from which moral reasoning occurs. Moral reasoning can appeal to needs or interests, let us simply call them "values," that are agent-relative.<sup>51</sup> "A state of affairs  $S_1$  is valuable relative to an agent  $A_1$  if and only if  $S_1$ 's distinctive presence in [world]  $W_1$  is a basis for  $A_1$  ranking  $W_1$  over  $W_2$  even though  $S_1$  may not be a basis for any other agent ranking  $W_1$  over  $W_2$ ."<sup>52</sup> The value of  $S_1$  to me provides me, and only me, with a reason for action. Thus, neither the value of  $S_1$  nor the reason it provides me is something that must be

<sup>49</sup>See *The Theory of Communicative Action*, p. 19. Also, see "Diskursethik," pp. 54, 75–77.

<sup>50</sup>"Moral Consciousness and Communicative Action," p. 163.

<sup>51</sup>It should be noted that to say X is an agent-relative or personal value is not necessarily to say that X is merely a subjective value—that is, valuable solely because it is desired or chosen—and to say that X is an agent-neutral or impersonal value is not necessarily to say that X is an objective value—that is, something which is desired or chosen because it is valuable.

<sup>52</sup>Eric Mack, "Moral Individualism: Agent-Relativity and Deontic Restraints," *Social Philosophy and Policy* 7 (Autumn 1989), 84. Also, see Douglas B. Rasmussen, "Liberalism and Natural End Ethics," *American Philosophical Quarterly* 27 (1990), 153–61, for a discussion of the concept of agent-relativity in natural end ethics and the limitations this concept sets on theories of justice.

shared by others.<sup>53</sup> They are not impersonal or agent-neutral.  $S_1$  could, however, be the basis for the reason why I, and no one else, ought to help my brother or why it should be me, and only me, who picks out my gift for my spouse. The very moral obligation to act in certain ways toward my brother or my spouse could stem from a value which is not generalizable or impersonal. In fact, the possible examples of moral obligations that are based on agent-relative values are by no means limited: my obligation to tend to my children before those of others; my obligation to keep my promises before assisting others in keeping theirs; and, in general, my obligation to act in a manner that upholds my integrity.

2) Even if we appeal to a different understanding of the principle of universalizability from the one Habermas uses<sup>54</sup> and understand this principle to hold "that if a consideration of so-and-so sort is a reason for person A to act, then a consideration of the same sort is *ceteris paribus* also a reason for person B to act," the moral point of view is not implied. This understanding of the principle of universalizability says nothing about the character of the values or reasons for actions that are universalized. The principle of universalizability operates even in the case of agent-relative values or reasons. For example, if the production of his own well-being is a reason for A to act, then the production of his own well-being is a reason for B to act. A cannot claim that his well-being provides him with a good reason for acting without acknowledging that B's well-being provides him with an equally good reason. Yet, this does not mean that A's well-being is B's well-being or that A's well-being provides B with a reason for action or vice versa. There is, then, nothing about the principle of universalizability that requires the adoption of an impersonal point of view regarding values or reasons for acting.

3) The moral point of view is, in fact, not even compatible with the moral reasoning of real persons in real situations. One cannot even recognize his own life as his and his own reasoning as his very own if in order to play the moral game one must forego all special attachments to ends that are uniquely one's own. Personal projects with the partial attachments they entail are an important way of understanding what it is to be a person. As Loren E. Lomasky writes, "when we wish to understand or describe a person, to explicate what fundamentally characterizes him as being just the particular purposive being that he is, we will focus on his projects rather than his more transitory ends."<sup>55</sup> Yet,

Project pursuit . . . is partial. To be committed to a long-term design, to order one's activities in light of it, to judge one's success or failure as a person by reference to its fate: these are inconceivable apart from a frankly partial attachment to one's most cherished ends. An individual's projects provide him with a *personal*—an intimately personal—standard of value to choose his actions by. His central and enduring ends provide him reasons for action that are recognized as his own in the sense that no one who is uncommitted to those specific ends will share the reasons for action that he possesses. Practical reasoning is essentially differentiated among project pursuers, not merely contingently differentiated by the various causal constraints that each person faces from his unique spatiotemporal location. That end  $E_1$  can be advanced by B and may provide B overwhelmingly good reason to act; that C

<sup>53</sup>This is not to say that it could not be understood by others.

<sup>54</sup>Habermas does endorse this understanding of the principle of universalizability. He wants to understand it to involve more than this, however.

<sup>55</sup>Loren E. Lomasky, *Persons, Rights, and the Moral Community* (Oxford: Oxford Univ. Press, 1987), p. 26.

could be equally effective in advancing  $E_1$ , may merit vanishingly little weight in C's deliberations concerning what to do.<sup>56</sup>

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

4) Despite what has been said, if the previous account of the moral point of view does in fact capture the nature of moral reasoning, then the classic question "Why be moral?" appears. It should be recognized that this question is not merely a motivation-request but rather a validation-request. It is specifically an agent-relative validation request—that is, it is asking what agent-relative value, and thus reason, is there for adopting the moral point of view. As long as the agent-relative point of view is maintained, there is nothing self-contradictory about this request or anything the advocate of the moral point of view can reply.

Further, this request can be made not merely by the moral skeptic but by a participant in communicative action, who is thus capable of taking an impersonal point of view, but who sincerely does not see why this viewpoint must be superior to the agent-relative view when it comes to determining what values are to be consulted or what weighting of them is to be used in evaluating proposed norms. Thus, Habermas's recent claim that "to know the right answer to a moral problem means that nobody has good reason to act otherwise, . . . [and] that moral judgments do possess just the degree of motivating force which the reasons possess on which they rest"<sup>57</sup> does not suffice, because it is Habermas's assumption that the moral point of view exhausts moral reasoning which is the point at issue.

In fact, if we consider what Lomasky notes about the foregoing characterization of the moral point of view—namely, that it "renders ends perfectly socialized, the completely common property of all active beings" and that "the price to be paid for this evaluational socialism is . . . the metaphysical breakdown of the person"<sup>58</sup>—then morality seems, to say the least, something one can do without. Indeed, "if all ends *qua* ends are impersonally determined and impinge on agents equally, then no agent is individuated as the particular purposive being with just those projects to pursue. Agents are dissociated from their ends because the ends are no longer, in any significant sense, theirs."<sup>59</sup> If destruction of personal identity is the price of morality, then it seems irrational<sup>60</sup> not to avoid morality.<sup>61</sup>

<sup>56</sup>*Ibid.*, pp. 27–28.

<sup>57</sup>Jürgen Habermas, "Kohlberg and Neo-Aristotelianism," 1988, p. 20 of manuscript which is forthcoming in *New Directions for Child Development*. This statement is cited by David M. Rasmussen, *Reading Habermas* (Oxford: Basil Blackwell, 1990), p. 70.

<sup>58</sup>*Persons, Rights, and the Moral Community*, p. 34.

<sup>59</sup>*Ibid.* Cf. "It is only in so far as you can identify your own motive and actual end with the common good that you reach the moral end and so get to moral happiness. As human nature is essentially social in character, moral ends must also be social in their nature." George H. Mead, "Fragments of Ethics," *Mind, Self, and Society* (Chicago: Univ. of Chicago Press, 1934), p. 385.

<sup>60</sup>Despite Habermas's division of evaluative judgments into judgments of prudence and morality, it is by no means obvious that "irrational" should be understood here to mean merely instrumentally or strategically irrational.

<sup>61</sup>Seyla Benhabib, in *Critique, Norm, and Utopia* (New York: Columbia Univ. Press, 1986), pp. 327–43, argues that the discursive process can be expanded to include a consideration of an



## 4. Personal Identity

One might reply, however, that the preceding objections fail to consider Habermas's views regarding personal identity. As a result, these objections make the discursive testing of a person's needs or interests appear as something alien to him. Habermas holds, on the contrary, that a person has an incentive to participate in discourse; for discursive testing of one's needs or interests is part of the process by which one establishes a sense of identity.

According to Habermas, there are three basic stages of individual identity development: "natural identity," "role identity," and "ego identity."<sup>62</sup> "Natural identity" is formed when a child can distinguish himself from his environment. "Role identity" is formed when an adolescent can distinguish himself from physical objects and understands himself as a member of a social group—family at first and then wider groups. "Ego identity" is formed when a person can distinguish himself and his obligations from particular social roles and from the norms of action they involve, and understand himself as someone who can think according to principles and overcome identities that are tied to concrete roles and particular systems of norms.

This ability is paradigmatically exercised when the growing child gives up its earlier identities, which are tied to familial roles, in favor of more and more abstract identities secured finally to institutions and traditions of the political community. To the extent that the ego generalizes this ability to overcome an old identity and to construct a new one and learns to resolve identity crises by reestablishing at a higher level the disturbed balance between itself and a changed social reality, role identity is replaced by ego identity.<sup>63</sup>

individual's unique interests and needs by having discourse participants adopt the standpoint of the "concrete other"—that is, recognize the very individuality of each other. It is hard to see, however, how this form of communicative action could ever be accomplished. It seems as difficult as trying to plan an economy centrally. Putting aside this doubt, this expanded form of discourse still faces other difficulties. According to Benhabib, solidarity, friendship, love, and care are the norms of such interaction. By knowing that one will be treated in accordance with these norms, one will feel "recognized and confirmed as a concrete individual with specific needs, talents, and capacities" (ibid., p. 341). But this still falls short of truly recognizing the individuality of the other. We do not give or receive solidarity, friendship, love, and care in the abstract but in the concrete. For each individual, the worth of the values which these norms call us to create is found only in how they meet and fit with his concrete needs or interests. The problem for this expanded discourse ethics is, then, not merely that such ethical/moral norms allow for great diversity in these values; rather, it is that these values become determinate—fully real—only in the concrete, in relation to and through the judgment and conduct of an individual human being. There is an ineliminable pluralism and individualism to the ethical/moral life, and this puts severe limitations on what can be interpersonally achieved. This is, however, to call into question the whole model of communicative action that we said we would not question, but would assume in this essay. So, it will have to suffice to note that this pluralism underscores the importance of *phronēsis*, and the importance of the individual determining for himself how to achieve, maintain, and coherently integrate his values. See Douglas J. Den Uyl, *The Virtue of Prudence* (New York: Peter Lang, 1991), especially chapters 7 and 8; and "Teleology and Agent-Centredness," *The Monist* 75 (January 1992).

<sup>62</sup>See "Moral Development and Ego Identity" and "Historical Materialism and the Development of Normative Structures," in *Communication and the Evolution of Society*.

<sup>63</sup>Ibid., p. 110.

The notion of "ego-identity" primarily refers to the ability to integrate an old identity into a new identity; for what is currently the new identity may later be old. "Ego identity proves itself in the ability of the adult to construct new identities in conflict situations and to bring these into harmony with older superseded identities so as to organize himself and his interactions—under guidance of general principles and modes of procedure—into a unique life history."<sup>64</sup> Thus, it is not the specific content of a person's self-concept that is crucial to "ego-identity."

Further, a person's understanding of who he is, for Habermas, is necessarily related to how others recognize him. "No one can construct an identity independently of the identifications that others make of him. . . . [I]n communicative action the participants must reciprocally suppose that the distinguishing-oneself-from-others is recognized by those others. Thus, the basis for the assertion of one's own identity is not really self-identification, but intersubjectively recognized self-identification."<sup>65</sup>

When faced with changing social and cultural traditions and the problems this creates for one's self-concept, that is, when one's social environment undergoes a change which causes the intersubjective identification of one's identity to conflict with one's own, there is a disequilibrium which requires the exercise of one's "ego-identity." In this situation, a person develops a flexible and reflective attitude toward his need interpretations and an awareness of how future fulfillment of his needs might be frustrated by the new environment. As part of the process by which the integration and construction of a new self-concept takes place, a willingness to test discursively and even to revise one's need interpretations develops. Discursive testing of one's need interpretations is thus part of the very process by which one constructs a new identity and is not alien to the person. Rather, it is the very process by which a person tries to meet the concrete difficulties that the new situation presents.

Assuming that this account of how one forms a sense of personal identity is true and assuming that a person does indeed have an incentive to test discursively his need interpretations in order to construct a self-concept during times of social and cultural turmoil, can one thereby establish the claim that the only needs or interests that ought to be used in assessing a proposed norm are those that can be shared by all or that their evaluation should be treated in an impersonal or agent-neutral manner? Has "G" been established? The answer is clearly, "No." Further, even if it is the case that many of the unique interests or needs which one holds dear turn out not to be crucial to the understanding of who one is, and even if a person must, through the many twists and turns of his life, abandon certain central understandings of himself for new ones, it does not follow that discursive assessment ought to eschew consideration of needs or interests unique to a person or to refrain from giving them extra weight. Nor does "G" follow from Habermas's account of "ego-identity"; for as we have seen, the ability to take a universal perspective is consistent with values and reasons being agent-relative and does not require one to adopt an impersonal point of view.

One might, however, still object that the central point of Habermas's account

<sup>64</sup>Ibid., pp. 90–91.

<sup>65</sup>Ibid., p. 107.

of personal identity has been missed—namely, that there simply are no needs or interests that are unique, but only need interpretations that are considered unique and, as has been shown, that are by no means fixed. Yet, even if all one's unique needs or interests are culturally shaped, this does not mean that there are not needs and interests that are regarded as unique and of special importance at the time of discourse. Indeed, Habermas introduces "G" precisely because he recognizes this fact. If there were no needs or interests that were regarded as unique or of special importance, there would be no point to "G." But if this is granted, then the problem of what justifies "G" remains.

No matter how you analyze it, there is a *non sequitur* at the very heart of Habermas's discourse ethics. His discourse ethics does not provide an adequate procedure of legitimating proposed conceptions of justice.

### 5. Morality and Modernity

One should recall that Habermas understands his discourse ethics as exemplifying the type of normativity that is appropriate to modernity. The openness to criticism, the willingness to challenge any and all beliefs and, when warranted, reflectively to reconsider one's most cherished ones, and to do so in a manner which excludes no one and allows only the force of the better argument to prevail are certainly values that are associated with modernity. There are, however, other values that are also associated with modernity: pluralism, diversity, self-directedness, and above all the inherent dignity and worth of the *individual* human being. Indeed, the Lockean idea that there are no natural moral slaves or sovereigns and the more contemporary "libertarian" claim that "no one's purposes or goals take moral precedence over the purposes and goals of any other person in a way that would justify the complete or partial subordination of any individual to any other individual or to any group of individuals"<sup>66</sup> are expressions of a deeply held moral value and are not merely expressions of "possessive individualism." These values are also part of what a post-conventionalist, modern world view values. Such a modern view, then, does not call for theoretical attempts to paper over the real and legitimate differences among the values and projects of individuals by attempting artificially to induce consensus through a generalizability of interests rule or by appealing to the so-called "moral point of view." Rather, it requires that one accept the moral propriety of pluralism and individualism, and from this starting point attempt the difficult task of constructing a theory of justice.<sup>67</sup> Despite his desire to exemplify theoretically the norms that are inherent to modernity, Habermas misses one of modernity's central values. This is ironic, to say the least, in a thinker who sees himself as trying to capture in theoretical form modernity's expression of itself.<sup>68</sup>

<sup>66</sup>Eric Mack, "The Ethics of Taxation: Rights Versus Public Goods," *Taxation and the Deficit Economy* (San Francisco: Pacific Institute for Public Policy, 1986), pp. 489–90.

<sup>67</sup>See Douglas B. Rasmussen and Douglas J. Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (La Salle, IL: Open Court, 1991) for one such attempt.

<sup>68</sup>The time to do research for this essay was made possible by the support provided by the Earhart and Heritage Foundations. Douglas Den Uyl, Tibor Machan, Eric Mack, James Marsh, Martin Schwab, Jeremy Shearmur, Paul Schuchman, and Henry Veatch provided helpful comments on earlier versions of this paper.

## Nonduality and Daoism

R. P. Peerenboom

THE ENIGMATIC poetry of Lao Zi and enraptured prose of Zhuang Zi permit an extraordinary range of philosophic interpretation. One of the most popular, "nonduality," has unfortunately also been one most resistant to clear explication. For this reason, David Loy's lucid, philosophically sophisticated treatment of nonduality in Asian traditions, including Daoism, is most welcome.<sup>1</sup>

I will make use of Loy's analytical framework to explore further nonduality as a philosophic position and as a reading of Daoism. In part one, I provide a general discussion of nonduality; in part two, an overview of the epistemologies of Lao Zi and Zhuang Zi; in part three, an examination of nonduality in light of the explicated epistemologies.

While this study builds on Loy's work, it goes beyond Loy in several respects. First, whereas Loy takes nonduality to be beyond the purview of philosophy, I do not. As a consequence, I present a philosophical critique of nondualist epistemic claims lacking in Loy. Secondly, Loy treats Lao Zi and Zhuang Zi as all of a piece. In contrast, I contend that there are important differences in their epistemologies which bear directly on nonduality. Finally, Loy, while sensitive to the central role of meditation in many nondual traditions, confines his discussion primarily to nonduality in post-meditative practice. An examination of Daoist meditation will not only rectify this deficiency but prove instrumental in the clarification of the respective epistemologies of Lao Zi and Zhuang Zi.

### I. NONDUALITY

Loy seeks in *Nonduality* to present a hermeneutic theory about Asian philosophy in general and Daoism in particular. His task is to provide a philosophical interpretation of nondualist claims, not to offer arguments for or against the possibility of such experience: "This work is not an attempt to establish . . . whether our experience is or can be nondual" (6).<sup>2</sup>

This is not to suggest that nondualist claims are completely unwarranted. Loy identifies at least three lines of support (none of which he considers philosophically sound): direct intuition of reality by the enlightened; report of others who claim to be enlightened; personal experience in meditation (6–7). Because reliance on the reports of self-proclaimed enlightened beings constitutes argument from

<sup>1</sup>Loy, *Nonduality* (New Haven: Yale Univ. Press, 1988). See also Chang Chung-yuan, *Creativity and Taoism* (New York: Harper and Row, 1963); John Blofeld, *Taoism: The Road to Immortality* (Boulder, CO: Shambhala Press, 1978); Alan Watts, *Tao: The Watercourse Way* (New York: Pantheon Books, 1975).

<sup>2</sup>The numbers in parentheses after citations of Loy refer to page numbers in *Nonduality*.