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Critical Theory: The Los Angeles Years

Thomas Wheatland¹

Abstract: This article is an attempt to re-examine the intellectual history of Critical Theory during the years that Max Horkheimer and Theodor W. Adorno spent in Los Angeles. By focusing on the circumstances of this move to California and relying on professional and personal correspondences from the California years, the article attempts to re-interpret the complex juggling act that Horkheimer and Adorno undertook as they worked simultaneously on *The Dialectic of Enlightenment*, as well as preliminary work leading to *Studies in Prejudice*.

After making an Atlantic crossing from Europe to New York, the Frankfurt School underwent another momentous migration from New York to Los Angeles. Max Horkheimer settled in Southern California in April 1941, later to be joined by Theodor W. Adorno in November. Friedrich Pollock also established a residence nearby, but he ultimately had to split his time between the east coast and west coast due to lingering commitments that the Institute for Social Research had back in New York. Herbert Marcuse, Leo Lowenthal, and Felix Weil were all frequent visitors to the Frankfurt School's Southern California outpost. Thus, while the entire staff of the Frankfurt School did not relocate to California, its key members did make the transcontinental journey and thereby made Southern California the site for the transformation that late Critical Theory underwent during the 1940s.

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The Bi-Polarity of Late Critical Theory: *The Studies in Prejudice* versus *The Dialectic of Enlightenment*

Following in the footsteps of the newly discovered Young Marx and the social psychology of Sigmund Freud, early Critical Theory had harnessed the powers of immanent critique, historical materialism, and psychoanalytic drive theories to develop a comprehensive theory of contemporary society. Late Critical Theory, by contrast, developed a bi-polar identity. On the one hand, it relied on ideology critique, anthropological speculation, and the theory of state capitalism to formulate nightmare visions of instrumental rationality and the totally-administered society; but, on the other hand, its pioneering sociological research on prejudice, also produced during the L.A. years, appeared to contradict the dead-end conclusions of the Frankfurt School's social theorizing. To put things more simply, if the conclusions of the *Dialectic of Enlightenment* were correct what would be the point of utilizing positivistic social research methods in an attempt to comprehend a limited social phenomenon such as prejudice or to give one confidence that such sociological interventions created the potential for combating prejudice?

As I have argued elsewhere, the political and legal theorist, Franz L. Neumann, is crucial for comprehending late Critical Theory's accommodations with the empirical techniques of American sociology.² Neumann's efforts proved to be pivotal in the Frankfurt's quest to find American support for the work that eventually culminated in their famous *Studies in Prejudice*. Although Neumann was unceremoniously terminated as an associate at the Institut für Sozialforschung before the commencement of the research for the five volume series of books began, he was

2 See David Kettler and Thomas Wheatland "'How Can We Tell It to the Children?' A Deliberation at the Institute for Social Research, 1941" *Thesis Eleven: Critical Theory and Historical Sociology*, no. 111 (August 2012); and Thomas Wheatland "Franz L. Neumann: Negotiating Political Exile," in "More Atlantic Crossings? The Postwar Atlantic Community," *German Historical Institute Bulletin Supplement*, eds. Jan Logemann and Mary Nolan (New York: Cambridge University Press, forthcoming).

the chief architect for the grant proposals that established the main aims and framework for the pioneering investigations into the nature of racism (and, more specifically, anti-Semitism). Thus, the empirical work that was undertaken in collaboration with the American Jewish Committee and the Jewish Defense League was not proposed or designed by either Horkheimer or Adorno from their new homes in Southern California.

The current article, by contrast, is an attempt to take a closer look at the primary work that was undertaken in Los Angeles. At the same moment that Neumann was establishing one pole of late Critical Theory in New York, Max Horkheimer and Theodor W. Adorno were laying the foundations for the other pole of late Critical Theory through their collaboration on the *Dialectic of Enlightenment*. This article represents an effort to re-examine the origins and context of this other half of late Critical Theory.

Interpreting *Dialectic of Enlightenment*

Scholarly commentators tend to be split in their assessments of the *Dialectic of Enlightenment*. Consistently, the *Dialectic of Enlightenment* has been viewed as a classic work of exile – a manuscript produced in Southern Californian seclusion, but a work that sometimes is judged as highly prophetic of late capitalist, postwar society and culture, and sometimes as a manifestation of out-of-touch, culturally conservative, German mandarinism. Those who celebrate the work tend to emphasize the dimensions of the exile's experience made famous by Edward Said's "Reflections on Exile."³ Like other great works of exile literature, the authors of *Dialectic of Enlightenment* harnessed their marginal exile status to undertake a critique of Western Civilization in its entirety.⁴ Thus from the margins of

3 Edward Said "Reflections on Exile," *Reflections on Exile and Other Essays* (Cambridge: Harvard University Press, 2000), 173-186.

4 See Martin Jay *The Dialectical Imagination: A History of the Frankfurt School and the Institute of Social Research 1923-1950* (Berkeley: University of California Press, 1996), 255-256; Martin Jay "The Frankfurt School in Exile," *Permanent Exiles: Essays on the Intellectual Immigration from Germany to America* (New York: Columbia University Press, 1986), 28-61; Rolf Wiggershaus *The Frankfurt School: Its History, Theories, and Political Significance*, trans. Michael Robertson (Cambridge, MIT Press, 1994), 314-344; Jürgen Habermas

both German and American societies, Horkheimer and Adorno were able to see the disastrous course of Western Civilization and its fundamental self-alienation from the realities of its own tragedy. As Rolf Wiggerhaus quipped, “Horkheimer’s interests turned finally from the theory of the absent revolution to the theory of an absent civilization.”⁵ Detractors, by contrast, have emphasized the overwhelming despair that permeates every page of *Dialectic of Enlightenment* and judge it to be indicative of the degree to which the authors fundamentally misunderstood America and confused it with their experiences in Nazi Germany. Rather than emphasizing the perceptive power mobilized by exile, the critics of late Critical Theory tend to present the émigré experiences of Horkheimer and Adorno as resulting in a kind of blindness to the unique and virtuous aspects of American society, politics, and culture (in harmony with the “mandarin elitism” manifested by Adorno criticisms of jazz). Until recently, both the admirers and detractors have been more content to over-generalize the exile experience and its significance relying primarily on Adorno’s self-fashioned reflections on the phenomenon.⁶

New Scholarship on *Dialectic of Enlightenment*

In the past few years, scholars have taken a closer and more nuanced look at Horkheimer and Adorno’s exile experiences in America. My own book, with its heavy focus on the Frankfurt School’s experiences in New York, was one attempt to re-examine the Institute’s level of engagement with U.S. intellectuals and U.S. intellectual life. David Jenemann has tried to offer something similar in connection to the Los Angeles experi-

“Bemerkungen zur Entwicklungsgeschichte des Horkheimerschen Werkes,” Max Horkheimer heute: Werke und Wirkung, eds. Alfred Schmidt and Norbert Altwicker (Frankfurt: Fischer Verlag, 1986), 163-179; H. Stuart Hughes *The Sea Change: The Migration of Social Thought, 1930-1965* (New York: McGraw Hill, 1975), 134-188; Douglas Kellner *Critical Theory, Marxism and Modernity* (Baltimore: Johns Hopkins University Press, 1989), 83-101.

5 Wiggerhaus *The Frankfurt School*, 310.

6 Theodor W. Adorno *Minima Moralia: Reflexionen aus dem beschädigten Leben* (Frankfurt: Suhrkamp Verlag, 2003).

ences of Horkheimer and, particularly, Adorno. In introducing the main aims of his book, Jenemann writes:

... it is in rediscovering Adorno's actual encounter with American cultural practices during his exile that one can best understand its continuing importance. Contrary to the widely held belief, even among his defenders, that Adorno was disconnected from America and disdained its culture, I argue that Adorno comes by his criticisms – no matter how biting – honestly and with sensitivity for its material conditions. No ivory-tower aesthete, Adorno was thoroughly engrossed by the day-to-day life of radio networks and studio filmmaking.⁷

The remainder of this article will be an attempt to closely re-examine Jenemann's analysis of Critical Theory's Los Angeles years in light of the archival records that we possess.

Horkheimer and Adorno in Los Angeles: How Context Can Re-Shape an Interpretation

In his analysis of the Los Angeles experiences of Horkheimer and Adorno, David Jenemann is intent on accomplishing two interrelated goals. First, he re-assembles and re-interprets many of Adorno's writings about film from the 1940s to argue that they are far more nuanced than the critics of *Dialectic of Enlightenment* suggest. In a careful examination of *In Search of Wagner* and the *Dialectic of Enlightenment*, Jenemann encourages his reader that

... Adorno's exile writings on film merit reassessment. Instead of the monolithic film text, against which no subject could hope to do anything other than grow 'stupider and worse,' Adorno offers a vision of the motion picture in which subjectivity survives at the margins, just offscreen and out of view... Adorno betrays a belief that even in a supposedly one-dimen-

⁷ David Jenemann *Adorno in America* (Minneapolis: University of Minnesota Press, xviii).

sional and rigorously commercial medium, there are opportunities to tap into expansive interior worlds.”⁸

Second, Jenemann is intent on providing evidence to suggest that his re-reading of the culture industry is justified by a level of engagement and experience with Hollywood that had previously gone unnoted by scholars. Jenemann, thus, tries to show that both Horkheimer and Adorno were far less aloof and detached from the Hollywood film industry. Toward this end, Jenemann tries to push beyond the better known relations that the authors of the *Dialectic of Enlightenment* had with William Dieterle and the salon around Salka Viertel, and instead relies on scattered evidence from Hollywood trade magazines that noted the sporadic presence of Horkheimer and Adorno at film premiers and after-parties.⁹ More significantly, he focuses great attention on a film project designed to be part of *The Studies in Prejudice* intended to solicit unconscious attitudes about race and racism. Although the experimental film, *Below the Surface*, was never made, Jenemann focuses on the numerous scripts and collaborations with studio screenwriters to demonstrate that Horkheimer and Adorno developed some real experience with the process of film making in Southern California.¹⁰ Such experience led them to a far more nuanced view of the culture industry than they are often credited with possessing.

While I strongly endorse Jenemann’s careful re-reading of Horkheimer and Adorno’s analysis of the culture industry and its effects on contemporary life, I find his historical account of the experiences that brought them to these conclusions problematic and misleading. First, there is a basic problem with Jenemann’s timeline. *Below the Surface*, which is a surprising and intriguing chapter in the Frankfurt School’s L.A. story, had no impact on their theoretical analysis of the culture industry. This analysis had been developed years before Horkheimer and Adorno got interested in filmmaking, and their views on mass culture changed very

8 *Ibid*, 127.

9 *Ibid*, 109-116.

10 *Ibid*, 128-147.’

little after the writing of *Dialectic of Enlightenment*. If anything, Jenemann has uncovered a series of experiences that confirmed and reinforced their earlier analysis, but it hardly shaped it. While Jenemann is also correct about the handful of film premiers attended by Horkheimer and Adorno, this also does not indicate a first-hand familiarity with 1940s Hollywood. In fact, if one takes a more careful look at their letters from this period, one is struck by how little they ever ventured from their homes where they tirelessly worked together on the *Dialectic of Enlightenment*. If Jenemann's account of the Los Angeles context is problematic, what can we conclude about the importance of Southern California for the development of late Critical Theory?

Max Horkheimer's California Compromise

Officially, the reason behind the move to Los Angeles was Horkheimer's perpetually ill health, specifically his struggles with angina. The real reasons for the move were significantly more complex. As Adorno communicated to his parents, the main reason for the move west was financial.¹¹ Unlike most of the other exiles from Hitler's Europe, the Frankfurt School arrived in the United States with independent means – an endowment established by Hermann and Felix Weil. The recession of 1937-1938 badly cut into this endowment making the financial resources available to the Institute for Social Research greatly diminished. These harsh realities of the late 1930s had an immediate impact on the Frankfurt School's allies back in Europe, and they eventually had an impact on the entire Institute. Horkheimer, intent on drawing from the Institute's resources to produce a long-anticipated book on "dialectical logic," was determined to sacrifice the entire Institute to keep his intellectual plans on track. Thus, Los Angeles had a multitude of benefits aside from the obvious one noted by Adorno. In addition to drastically reducing the Frankfurt School's overhead, the move west would also enable Horkheimer to work in relative peace – isolated not only from the inevitable distractions expected from

11 See Theodor W. Adorno *Letters to His Parents, 1939-1951* (Malden, MA: Polity, 2006), 47.

the Institute's abandoned associates, but also from the disappointed academic sponsors who had been solicited at Columbia University back in 1934 when the Institute for Social Research had sought a powerful sponsor to provide it with added credibility in exile.¹² Horkheimer had often confided in his closest associates about his misgivings about operating a social research institute in exile – directing such a venture saddled him with lots of administrative (“exterior”) tasks that distracted him from furthering his own theoretical (“interior”) project, but a research institute also demanded intellectual accommodations that threatened the integrity of the broader work of the group. Thus, Horkheimer spent his time in New York perpetually yearning for a life of “splendid isolation,” while living a life of negotiation and compromise. His move to Los Angeles represented the attempted realization of his longings for solitude and intellectual independence.

Horkheimer's dream of “splendid isolation” in Southern California was frustrated by one brutal fact of life – being director of the Institute for Social Research, which was affiliated with Columbia University, granted Max Horkheimer credibility in exile. He was acutely aware of this fact, because he had already witnessed the fate of innumerable other exiles who were entirely on their own in America struggling for recognition and professional acceptance. Initially, he hoped to replicate his earlier success with Columbia's president, Nicholas Murray Butler. Toward this end, he pursued a similar arrangement with UCLA's president, Robert Sproul.¹³ Although he assured his allies at Columbia that

12 See Thomas Wheatland *The Frankfurt School in Exile* (Minneapolis: University of Minnesota Press, 1996), 35-94. As Horkheimer and Pollock expected, former associates such as Franz L. Neumann, Herbert Marcuse, Otto Kirchheimer, and (eventually) Leo Lowenthal felt betrayed by the Institute's move. Despite their mutual contempt, Columbia's rival sociological titans, Robert Lynd and Robert MacIver, also were disappointed by the move to Los Angeles. Both felt that the Frankfurt School had failed to make the kind of contributions to American intellectual life that both had expected.

13 In September 1940, Horkheimer visited Los Angeles for the first time. In his annual report to Nicholas Murray Butler, Horkheimer conveyed the details of his scheme in the following manner: “Besides the publication of our journal in

the aim was to merely establish a branch office of the Institute in Los Angeles, Horkheimer wanted the flexibility to downsize or even eliminate the New York office and move the institutional umbrella to the West Coast. Sproul, however, proved to be far more disappointing than Butler had been. As soon as Horkheimer arrived in Los Angeles, he renewed contact with Sproul, but was frustrated by his inability to get a firm commitment. By the beginning of the 1941-1942 academic year, Horkheimer's impatience gave way to wariness about Sproul.¹⁴ Whether these feelings became a rationalization for Horkheimer's own inability to make headway on a west coast branch cannot be determined from the archival record, but the upshot of this situation is perfectly clear – to preserve his reputation, the relationship with Columbia could not entirely be abandoned, which meant that the Institute needed to continue its efforts to engage in social research that seemed relevant to the sociologists on Morningside Heights. Consequently, Horkheimer's life in Los Angeles became a compromise. The physical distance kept him somewhat insulated from the day-to-day business of the Institute back in New York, but he could never remain entirely free of his responsi-

America we are thinking of other ways to integrate our Institute more closely with American cultural life. We are considering the establishment of a small branch on the west coast. During a trip from which I have just returned, I had the opportunity to discuss this matter with President Sproul, and he seemed to be favorably disposed to the idea of having this branch at the University of California, at Los Angeles." See the letter from Horkheimer to Butler dated 14 October 1940 in *Max Horkheimer Gesammelte Schriften* (hereafter cited in the text as *MHGS*), vol. 16, ed. Gunzelin Schmid Noerr (Frankfurt: Fischer Taschenbuch Verlag, 1995), 768-770.

- 14 Although Franz L. Neumann had expressed reservations about Sproul since before Horkheimer relocated to California, Herbert Marcuse appears to have been the one to convince Horkheimer of how awkward such an affiliation might be. As Horkheimer explained to Adorno, "Marcuse had a long conversation with MacIver in Seattle. MacIver emphatically warned us against a connection with Sproul, since the latter had proven to be horribly reactionary in some cases in the recent past. He recommended that we make contact with Reed College in Portland, and he was above all extremely positive about the lectures at Columbia." See the letter from Horkheimer to Adorno dated 28 August 1941 in *MHGS*, vol. 17, 141-154.

bilities as the director of the Frankfurt School. More importantly, it indicates that Horkheimer and Adorno were not integrated in any of the academic networks in Los Angeles during the writing of the *Dialectic of Enlightenment* – something notably different from their exile experiences in New York, which involved quite a high level of engagement with American academic life.

Returning to the topic of the development of late Critical Theory, one can begin to see its bi-polarity as a function of Horkheimer's California compromise. *Dialectic of Enlightenment* was, in part, a product of "splendid isolation", while *The Studies in Prejudice* was a product of academic networking and accommodation with American social science. *Dialectic of Enlightenment* was a hermetic work – produced through an intensely close collaboration between Horkheimer and Adorno. *The Studies in Prejudice*, by contrast, was a project largely completed by an external research, writing, and editing staff (far outside of the orbit of the Institute's inner circle). And yet, I would like to suggest that as different as the production of *Dialectic of Enlightenment* was from the development and execution of *The Studies in Prejudice*, it would be wrong to see the former as an entirely unmediated work.

The Grand Hotel Abyss or the Hotel California?

When considering the experiences of Horkheimer and Adorno in Los Angeles, it also is essential to keep in mind one of the fundamental realities that shaped their daily lives during the writing of *Dialectic of Enlightenment* – the circumstances of the war put severe limits on their ability to travel around Los Angeles, to see movies, and to socialize. As Adorno wrote to his parents in March 1942,

From tomorrow onwards, we have to be home no later than 8 each evening, and are not allowed to go more than 5 miles away from the house, which, with the truly monstrous distances here, amounts to being completely locked up. We can no longer go to Hollywood, only just to Beverly Hills, and our

wonderful drives, our only source of relaxation, are now a thing of the past.¹⁵

These restrictions only began to ease by January 1943,¹⁶ but, by this time, Adorno was already finished with the early versions of the section on 'Massenkultur.'¹⁷ Thus, Adorno's conception of the culture industry was formulated in his immediate neighborhood during the early 1940s, when Horkheimer and Adorno did not have the ability to network with Hollywood film executives and screenwriters.

While Jenemann is perhaps mistaken in his view that the vision of American society and culture (particularly of the culture industry) was not formed by expeditions all around Los Angeles, it would be wrong to jump to the opposite conclusion and imagine that the *Dialectic of Enlightenment* was created in their scholarly cells. The Salka Viertel salon should not be disregarded as a source of insider knowledge about the workings of the Hollywood studio system. Salka Viertel and William Dieterle were regular members of the coterie of Hollywood insiders who Horkheimer and Adorno knew. They lived close by and formed part of the tiny community of Los Angelinos with whom Horkheimer and Adorno socialized. As Saverio Giovachhini suggests, this clique was not without influence. Viertel and Dieterle were successful Hollywood émigrés who instructed Horkheimer and Adorno in what was possible and impossible in the "dream factory."¹⁸

While little is known about Dieterle's Hollywood networks, Salka Viertel's memoir offers a vivid portrait of the American and exile communities that crossed paths at her Santa Monica home.¹⁹ As the chief

15 See Adorno's letter to his parents dated March 26, 1942 from Theodor W. Adorno *Letters to his Parents 1939-1951*, trans. Wieland Hoban (Malden, MA: Polity Press, 2006), 87-88.

16 See Adorno's letter to his parents dated 1 January 1943 from *Ibid*, 122.

17 See Adorno's letter to his parents dated 9 September 1942 from *Ibid*, 109.

18 Saverio Giovachhini *Hollywood Modernism: Film and Politics in the Age of the New Deal* (Philadelphia: Temple University Press, 2001).

19 Salka Viertel *The Kindness of Strangers* (New York: Holt, Rinehart, and Winston: 1969).

screenwriter for Greta Garbo, Viertel worked with major producers at MGM, such as David Selznick, Irving Thalberg, and Bernie Hyman. Her American friends included American novelists, journalists and screenwriters, such as Upton Sinclair, Maxwell Anderson, Laurence Stallings, William Faulkner, Edwin Justice Mayer, Sam N. Behrman, Dudley Nichols, Ralph Block, Ben Hecht, Dorthy Parker, and Donald Ogden Stewart. As former members of Max Reinhardt's theater company, Salka and her husband Berthold had an even larger cohort of prominent European friends and associates like Albert Einstein, Charles Boyer, F. W. Murnau, Sergei Eisenstein, Arnold Schoenberg, Marcel Achard, Otto Klemperer, Bruno Frank, Aldous Huxley, Ernst Lubitsch, Heinrich Mann, Hanns Eisler, Franz Werfel, Lion Feuchtwanger, Thomas Mann, Alfred Döblin, and Bertolt Brecht. As Salka Viertel recalled in her memoir,

... it was during the lean years that 165 Mabery Road established the reputation of a "literary salon," and I myself – to borrow Sam Behrman's expression – of a "salonière." This was mainly due to the informality of the haphazard intermingling of the famous with the "not so famous" and the "not yet famous."²⁰

The Viertel social network connected many of Europe's anti-Fascist intellectuals with American Progressives. Like Horkheimer and Adorno, Salka and Berthold Viertel had been part of Weimar Germany's unaligned political left, and thus it is hard to imagine that either Horkheimer or Adorno would have felt inhibited about socializing with them. Further, Adorno, in particular, had additional reasons to be a regular visitor at the Viertel "salon." Salka's brother was the famous pianist, Eduard Steuermann, who was an old acquaintance from Adorno's days as a music student in Vienna.

Viertel's "salon" must have been a fertile environment for the analysis of mass culture that would notably appear in *Dialectic of Enlightenment*. Although populated by many American and European Hollywood in-

²⁰ *Ibid*, 289-290.

siders, the members of the Viertel network were deeply critical and cynical about the same entertainment industry that paid their salaries. It is easy to imagine that these impressions of the Hollywood studio system, combined with Adorno's recent sociological work for the Princeton Radio Research Project were quite adequate for the analysis of the culture industry that was developed in the *Dialectic of Enlightenment*.²¹

Moving beyond the formulation of the culture industry, there now is little debate about the analysis of instrumental rationality that forms the philosophical core of the *Dialectic of Enlightenment*. Although numerous commentators had intuited that the critique of Enlightenment arose slowly and steadily out of Horkheimer's lectures and writings on the history of bourgeois science (a life-long topic of interest for him), the connections have now been exhaustively demonstrated in John Abromeit's intellectual history of Horkheimer's early thought. Thus, the early philosophical sections of the manuscript are largely Horkheimer's brainchild, developed further by Adorno's anthropological analyses of Homer.²²

One could be tempted to see the rest of *Dialectic of Enlightenment* as the culmination of Horkheimer's fascination with the history of scientific rationality, but this tends to ignore one of the other crucial experiences that impacted Horkheimer and Adorno in California. They were not new to the concept of suburbs. Horkheimer lived in one of the Westchester suburbs (Eastchester, NY) during his last years on the east coast, and the Institute for Social Research was financially involved in some suburban, residential, real-estate developments near White Plains.²³ Their experiences of suburbia, however, were markedly different in Los

21 Jenemann does offer a superb account of Adorno's collaboration with Paul Lazarsfeld on these early studies of radio. See Jenemann *Adorno in America*, 1-104.

22 See John Abromeit *Max Horkheimer and the Foundations of the Frankfurt School* (New York, Cambridge University Press, 2011); and see Adorno's letter to his parents dated 10 February 1943 from Adorno *Letters to his Parents*, 125.

23 See the letters from Leo Lowenthal to Friedrich Pollock dated 1 July 1942, 7 August 1942 and 17 August 1942 from the *Leo Lowenthal Papers*, Houghton Library, Harvard University.

Angeles. Public transportation was less plentiful making them more dependent on their cars. This, in turn, made the curfew and gas rationing of the war years so devastating for them. During the times in L.A. when gas rationing didn't restrict their travel, both Horkheimer and Adorno reveled in the extraordinary beauty of the relatively undeveloped West Coast. In one of his numerous musings about the natural wonders of Southern California, Adorno shared the following observations with his parents:

The beauty of the region is so incomparable that even such a hard-boiled European like myself can only surrender to it... a drive along the ocean around sunset is one of the most extraordinary impressions that my – by no means responsive – eyes have ever had. All the red, blue and violet activity found there would appear laughable on any illustration, but it is overwhelming if one sees the real thing. As well as this, the more southern style of architecture, a certain reduction of advertising and one or two other factors combine to form something that is almost like a cultural landscape: one actually has the feeling that this part of the world is inhabited by humanoid beings, not only by gasoline stations and hot dogs... Everything takes on a lightness that one could never dream of in New York, let alone the New York winter.²⁴

At its core, there is a naturalist ethic lying at the core of the *Dialectic of Enlightenment*. To what extent did their encounter with the American frontier, with the wild-untamed nature of Southern California inspire them to develop formulations that we see repeatedly through the *Dialectic of Enlightenment*? It is my conviction that their longing for this natural beauty is partly what inspired them to write with such poetic verve in defense of the wilderness. As Horkheimer and Adorno write in their first formulation of the Enlightenment's shadow side,

²⁴ See Adorno's letter to his parents dated 30 November 1941 from Adorno *Letters to his Parents*, 70.

Bacon's view was appropriate to the scientific attitude that prevailed after him. The concordance between the mind of man and the nature of things that he had in mind is patriarchal; the human mind, which overcomes superstition, is to hold sway over disenchanted nature. Knowledge, which is power, knows no obstacles: neither in the enslavement of men nor in compliance with the world's rulers...What men want to learn from nature is how to use it in order to wholly dominate it and other men. That is the only aim.²⁵

During their time in New York, Horkheimer and Adorno never enthused about the natural world – except during their vacations to remote resort towns that offered many of the same escapes that they found along the California coast.²⁶ Life in the Los Angeles suburbs, even in the midst of curfews and gas rationing, enlivened their environmentalist ethos enriching one of the often neglected dimensions of their late work. In their first articulation of the dialectic of Enlightenment, Horkheimer and Adorno write,

Myth turns into Enlightenment, and nature into mere objectivity. Men pay for the increase of power with alienation from that over which they exercise power. Enlightenment behaves toward things as a dictator toward men. He knows them in so far as he can manipulate them. In this way their potentiality is turned to his own ends.²⁷

Although the book remains preoccupied with the price exacted by Enlightenment from the human subject, mankind is only a small part of

25 Max Horkheimer and Theodor W. Adorno *Dialectic of Enlightenment*, trans. John Cumming (New York: Continuum, 1990), 4.

26 See Adorno letter to his parents dated 16 July 1942, Adorno reported that “It is very difficult to take a genuine holiday, as we cannot leave here without the permission of the FBI, and to be granted this permission one requires a medical certificate. But it is so beautiful here that we do not even miss that.” See Adorno *Letters to his Parents*, 104.

27 Horkheimer and Adorno *Dialectic of Enlightenment*, 9.

the disaster. California may have reminded Thomas Mann of the Italian coast, but it seemed to have inspired Horkheimer and Adorno to consider the rugged beauty of Ancient Greece and the “cunning of Reason” already evident in Homer’s *The Odyssey*. While the *Dialectic of Enlightenment* does not seek to replace modernity with primitive barbarism, it contains numerous references to the shamans who worshipped nature rather than conquering it.

The Religious Face of Evil. Ethics and the Critique of Religion

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Abstract: The essay analyzes the role of religion in a newly conceived, post-secular and global public sphere. By reconceiving secular modernity and its radical exclusion of religion from public deliberation, thinkers like Habermas and Rawls aim to open the public sphere to religious perspectives if they are sufficiently modernized. Religion is to be made compatible with our commitment to a pluralistic democracy oriented towards and legitimized by the idea of a mutually respectful and inclusive dialogue. What receives attention here, instead, is the tension created between such a model of open dialogue and certain features of religious world-disclosure. The pre-discursive grounding of religious authority in a transcendent source of meaning is reconstructed as an impediment to an all-too-easy accommodation of religion within public deliberation, as much as its foundational aspirations are shown to lend themselves to ideological abuse through symbolic modes of self-assertion, justifying militancy and acts of evil in the name of religion. The argument suggests that only a thorough hermeneutic understanding of religious tradition enables a path beyond the authoritarian tendencies inherent in religious discourse, thus paving the way for an integration of religious perspectives within public discourse.

A central topic of political theory is how religion and religious discourse 'fit into' the modern democratic public sphere. Yet before we narrow the discussion in such a normatively loaded way, asking for

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instance about the 'moral requirements' or 'cognitive presuppositions' that religions have to fulfill before they are to enter the *democratic* public sphere, we should acknowledge that within the global public sphere, we encounter two radically opposed, but equally dominant strands of religious discourse. On the one hand, and rightly emphasized by Western political theorists like Habermas and Rawls, we can see religious discourses as productive contributors and participants in national as well as global dialogues. On the other hand, however, the global political situation serves as a stark reminder that religious perspectives represent a radically anti-modern, anti-Enlightenment force, as much as this recalls the bloody history of religious movements and traditions within Western culture itself. The existence of evil committed in the name of God forces upon us to reconstruct the discursive roots of religious evil—of evil committed in religious frameworks of self-understanding. In this vein I shall inquire into the specific symbolic structure of religious world-disclosure. Specifically, I aim to reconstruct how the discursively mediated holistic world-disclosure of *radical transcendence*, which is typical of major religious traditions, enables the committing of acts of evil. I aim, through this mode of a general discourse analysis of a religious outlook, to set a better prepared stage for a discussion whether religious perspectives can be productively integrated into a democratic worldview, or whether they pose a continuous threat. Of special interest is how violence in the name of religion is to be understood and dealt with. Before we can fully assess the role of religion in the public sphere, we need to see how the abhorrent evil committed within religious frameworks of self-understanding is connected to the symbolico-political reality of its adherents.

1. Towards a Discourse Theory of Religious Evil

A theory of evil has to be a theory of human agency. It has to be a theory that explains the active participation in acts of intersubjective violence; it has to reveal the source of unspeakable acts and practices that destroy, violate, humiliate, and dismember humans and that are committed by other human agents. The gist of the proposed conception is that evil acts

are enabled by symbolic schemes within which the targets of evil are constructed in particular ways such that their destruction and violation entails a psycho-symbolic surplus value for the agents. Agents act here within discursive frameworks of self-understanding that fulfill their deep-seated need for recognition.² The symbolic diminishment of the Other is the precondition for its factual destruction, which is not due to some individuo-psychological pathology, but derives from the value—or rather non-value—that the Other entails *and* that explains its worthiness for unworthiness, being the target of necessary annihilation. The individual freely acts within a pre-constructed scheme that is endorsed and reproduced because it entails immense psychological profit. The destruction, often one that may include one's own physical destruction, becomes the exalted pinnacle of one's destiny, one's fullest self-realization, one's ascendance to quasi-sacred status: doing evil summum bonum est, evil become the highest good one may achieve.

The conception combines different insights developed with regard to the *ontological status of human agency*. Agency is intentional behavior. Intentional agency is directed towards projected states which humans are able to represent in linguistic form.³ Humans are not causally embedded in environments based on pre-adjusted schemes, but create or 'project' schemes within which, as a second nature, they construct worlds that define their shared meaning. The access to anything in the world is thus mediated by symbolic networks that allow a shared conceptual space to emerge. Three consequences and refinements follow from this anthropological base-condition.

First, the symbolic schemes within which the intentional understanding is capable of identifying something as something are not metaphysically grounded in the nature of things; the order of things is an inter-

2 Mead, George Herbert (1934) *Mind, Spirit, and Society*, Chicago: Chicago University Press.

Honneth, Axel (1996) *The Struggle for Recognition*, London: Polity Press.

3 Heidegger, Martin (1999) *Ontology: Hermeneutics of Facticity*, Bloomington: Indiana University Press.

Searle, John (1983) *Intentionality*, Cambridge: Cambridge University Press.

nal reflection of the symbolic order as its objective and projected other, as its reality.⁴ There is thus no essential human/non-human reality that precedes projection. Projection precedes essence. Understanding is post-metaphysical, internal, derived from social contexts.

Second, the symbolic projections crystallize into articulated systems of discourse. Intentional understanding is grounded in concrete constellations of symbolic relations. The linguistic world-disclosure presents us with internally defined schemes assigning subject positions, object relations, conceptual frames and value of associated practices.⁵ This definitive profile allows for specific psychological benefits, as we will see with regard to religious discourse.

Third, the communication among agents proceeds against the backdrop of these discursive orders which constrain but not determine the outcomes. Dialogic relations themselves entail a logic of recognition, which can be reconstructed as reciprocal commitments to mutual respect, perspective-taking, providing justifications based on publicly accessible evidence.⁶ Yet the level of discursive pre-disclosures *defines* the possible roles and functions of agents vis-à-vis one another and the subject matter in particular ways. Abstracted 'ideal recognition' is refracted by the real life- and power-contexts which projects *orders of intelligibility* that constrain the possible.

The ontological openness of the symbolic content allows for different solutions vis-à-vis the fulfillment of the anthropological need for recognition that is given with human agency. The constitution of the self is dependent of the process of self-objectification which requires the taking-the-attitude-of-the-other towards oneself. Only through a reversed

4 Rorty, Richard (1979) *Philosophy and the Mirror of Nature*, Princeton: Princeton University Press.

5 Foucault, Michel. (1970) *The Order of Things*, New York: Pantheon Books.
Foucault, Michel. (1972a) *The Archaeology of Knowledge*, New York: Pantheon Books.

Foucault, Michel (1972b) *The Discourse on Language*, in Foucault (1972a), 215–237.

6 Habermas, Jürgen (1983) *The Theory of Communicative Action, Vol. 1*, Boston: Beacon Press.

perspective-taking is the self as a reflexive object possible. This process ties the self to its concrete others whose supply of emotional care and love as a basic individualized mode of recognition provides a basic sense of self-confidence and bodily self-understanding.⁷ The further development of the self-proceeds through the play-full immersion in social and cultural roles within which the self is able to acquire an identity, inasmuch as it is both (a) able to acquire and internalize the roles as her own, and (b) is socially recognized as one who is legitimately representing (living, embodying) the role.⁸ The development of a unified self who can understand herself as a fully recognized member of society is thus tied to a universal recognition of the individual as a self that is able and allowed to participate in all possible roles, as everyone else. The constitution of the individual self is the mirror image to a morally regulated society that provides each individual with equal recognition. Such recognition is expressed in the law, as constitutional law recognizes each member of society as equal—and also as free. The freedom comes as the other side of equal recognition as the egalitarian access to the fulfillment of one's social roles, and thereby as the realization of one's self within a social community, which is the sole *ontological source of self-realization* that is available to human agency.⁹

What interests now in our context is the explanatory power that the phenomenon of withheld recognition and self-realization can have for extreme forms of human self-assertion. The basic idea is that the need for recognition will unleash emotional-motivational energies of high power that may lead to tremendous violence. Axel Honneth attempts to reconstruct the 'struggle for recognition' as an increasingly inclusive process in which the lack of recognition unleashes a struggle for an ever-expanding human rights conception as well as logic of cultural recognition in

7 Honneth, Axel (1996) *The Struggle for Recognition*, London: Polity Press.

8 Mead, George Herbert (1934) *Mind, Spirit, and Society*, Chicago: Chicago University Press

9 Kögler, Hans-Herbert (2012) "Agency and the Other: On the Intersubjective Roots of Self-Identity." *New Ideas in Psychology (NIP)*, Vol. 30, n. 1, 47 – 64.

which hitherto excluded or diminished forms of cultural self-expression receive an ever wider and fuller inclusion.¹⁰ Yet such an idealized expansion of the universally inclusive and the culturally diverse may be too closely read off the desired normative conception of an intersubjective conception of ‘formal ethicality;’ it leaves underexplored the social-phenomenological potential to shed light on counter-modern modes of violent, authoritarian, and particularistic resistance against misrecognition: the fight may thus not be for a fuller integration into the ever-expanding universal community of subjects, but for a new authoritarian and transcendent mode of recognition in which one’s particular identity is violently and aggressively—and therefore all the more effectively and rewardingly—confirmed. In such a heroic, Nietzschean, anti-egalitarian struggle for recognition, the value of one’s own identity is measured by the violence and pain one is able to inflict on the enemy, is asserted not by receiving the recognition of the vulnerable other (Levinas), but by the destruction and humiliation of the defeated other whose demise one celebrates with one’s worthy peers.

Such a self-assertive struggle for one’s own identity would have to look for symbolic schemes that support such self-assertion and facilitate its realization. A religious scheme of radical transcendence would precisely allow for this move of recognition and fulfill a deep-seated need in light of withheld recognition. A first psychological benefit consists in the assertion of identity regardless of the lack of actual recognition in social reality: the transcendent ideal-symbolic world-disclosure trumps the existing unsupportive conditions and thus elevates one’s miserable and mediocre life into a transcendent heaven of fullest self-realization. A second benefit consists in the possibility to now unleash an unconstrained force of violence against particular enemies who oppose one’s own transcendent truth *as placeholders* of a whole system whose norms and practices did not enhance one’s own well-being. Third, the resentment that is felt when understanding one’s own diminished role in a context in which others take away the prize now has a channel of re-

¹⁰ Honneth, Axel (1996) *The Struggle for Recognition*, London: Polity Press.

lease by being justifiable attacking and destroying those who appear to have benefitted from the unjust form of life. The *particularist struggle for recognition* thus may realize itself effectively via a symbolic scheme that lifts itself above the mundane and distortive conditions of intersubjective existence, and by that means be able to also transcend any universal and intersubjective recognition that is owed to human agents as such, apart and independently from the cultural world-disclosure that from now on guarantees one's value and religious identity.

2. The Role of Religion in Post-Secular Societies

In what follows we probe our theoretical approach with regard to religious discourse. The role of religion is much discussed in the context of the move towards a postsecular society; the question is how religion and religious experience 'fit into' a *modern democratic public sphere*.¹¹ At stake is thus the role of religion in a modern or postmodern democratic society, i. e. how the uniquely structured religious worldviews relate to the *proceduralist, pluralist, and fallible nature of the self-understanding of modern societies*. Specifically, at stake is whether the uniquely metaphysical nature of religion, its infallible core, can be accommodated within postsecular societies. For instance, Jürgen Habermas prominently suggests a new model of public deliberation within which religion is granted a new and special role.¹² Religious perspectives and traditions are seen as irreplaceable resources, and thus permanent dialogue partners, in our attempt to rationally decide matters of public interest. The role of political theory is (a) to develop a new civic ethos that takes into account such a positive

11 Mendieta, Eduardo/VanAntwerpen, Jonathan (eds.) (2011) *The Power of Religion in the Public Sphere*, Columbia University Press, New York.

Calhoun, Craig/Mendieta, Eduardo/VanAntwerpen, Jonathan (eds.) (2013) *Habermas and Religion*, Polity: Cambridge University Press.

Cooke, Maeve (2013). 'Violating Neutrality? Religious Validity Claims and Democratic Legitimacy', in *Habermas and Religion*, edited by Calhoun/Mendieta/VanAntwerpen, Polity: Cambridge University Press.

Bailey, Tom (2015) "Habermas's and Rawls's Postsecular Modesty," unpubl. Manuscript, Rome.

12 Habermas, Jürgen (2008) 'Religion in the Public Sphere: Cognitive Presuppo-

role of religion, and (b) similarly to probe the profile of those cognitive capabilities necessary to make it a reality.

Yet from our theoretical angle, religions present discursive world-disclosures that are structured in a unique way, such that their smooth integration into public deliberation faces serious obstacles.¹³ Vis-à-vis the issue of public deliberation, they doubtlessly form meaningful and holistic backgrounds from which dialogic agents draw their insights, receive motivation, and develop their self-understanding. The central question thus has to be how such religious discourses have to be structured such that they can be compatible with the procedures and attitudes constitutive for, and operative within, a post-secular pluralistic public sphere.

As we argued at the outset, the situation with regard to the possible new role of religion, within the new global context of intercultural understanding, is defined by two counter-posing movements. On the one hand, we have, in support of the intuitions of Habermas and Rawls, several productive indicators of the constructive role of religion for public dialogue. Thus political philosophy may be right to see religious discourses as possible productive contributors and participants – taken that the ‘religions standpoints’ adopt and accept certain modern premises, assuming a certain ‘modernization of religion’ (McCarthy) is possible. First, religious traditions represent indeed insurmountable resources of meaningfulness and self-understanding for situated agents in the struggle for public participation: the American civil rights movement testifies

sitions for the “Public Use of Reason” by Religious and Secular Citizens’, in *Between Naturalism and Religion: Philosophical Essays*, Cambridge: Polity Press 114–147.

Habermas, Jürgen (2010) ‘An Awareness of What is Missing’, in *An Awareness of What is Missing: Faith and Reason in a Post-secular Age*, Cambridge: Polity Press, 15–23.

- 13 We are aware of the extremely generalizing and at this point vague reference to ‘religions.’ As will become clear, we are aiming to carve out a set of ideal-typical features of religious discourse that hold across most of the influential ‘world religions,’ and that pose a particular challenge vis-à-vis their integration into a post-secular and deliberative conceptions of the public sphere within democratic societies.

as much. Second, one may argue (as Habermas indeed does) that a religious tradition like Judeo-Christianity provided much of blue-print of our current secular ethics and its strongest moral intuitions, and remains as such a source of continued inspiration. Finally, as again Habermas suggests, religion may entail untapped ethical resources that are hitherto unarticulated yet await a much needed and irreplaceable translation into our post-secular vocabulary.

Yet if we now attend less to the use that reflexive agents may make of religious intuitions, and focus on the discursive structure of religious discourse itself, its discursively mediated holistic world-disclosure of *radical transcendence* may evoke caution. The very nature of this *symbolic world-disclosure* – which defines a good deal of the uniqueness of religious discourse – lends itself also to a radically anti-enlightenment but nonetheless highly influential modern force. The modernized ideal of the taming of religion must be confronted with an unprecedented unleashing of its violent forces, with religious discourse's potential of an internal anti-rationalism and authoritarianism. Globalization and international politics remind us quickly that religions present us with an altogether different face—the religious face of evil—that is diametrically opposed to modernized Western societies (from within and from without). First, attempts to define post-secular societies in terms of one religious tradition as its core frame, instead of allowing for an equal recognition of all religions, are neither in the US nor in Europe a thing of the past. Second, religious ideologies continue to fuel a significant set of totalitarian and internally oppressive states, and the idea of a religiously based citizenship takes hold in others. Finally, religious frameworks accompany a global terrorism of hitherto unknown scales of escalating violence and horrific acts of evil, committed in the name of God. Such current strands, while serving as a reminder of the bloody history of religious movements and traditions within Western culture itself, need a similar attention as religion's possibly decisive roles. But how is such a tension between the taming of religious discourse and its violent unleashing possible? In what is it grounded, and from which sources does it originate?

3. Public Deliberation and the Discursive Profile of Religious World-Disclosure

Crucial for the modern conception of deliberative democracy is the ideal of an *intersubjectively shared and socially constituted community*, in which the other is recognized as fully equal.¹⁴ This involves a proceduralist conception of open-ended dialogue with the other, in which the other is recognized as enabling our shared order, as a fully valuable participant, regardless of his or her background (symbolic as well as biological: culture or religion are to matter as little as sex or race or any other external features). The idea is that the *dialogical interaction* develops a force that 'brackets' (for the time being) and transforms the background beliefs and assumptions on which agents necessarily draw when they engage in the deliberative encounters with one another in the public sphere. The essential feature of the modern construction of a shared public sphere is that it is based on an *intersubjective-horizontal constitution of meaning*, which can be broken down into three features of its cognitive framework:

- *The process* in which a truth or shared norm is generated is defined by mutual perspective-taking, i.e. the earnest and open-minded probing of everyone's discursive proposal so as to find the best valuable and shared solution;

14 Habermas has articulated this intuition and self-understanding of democratic societies by spelling out the normative entry conditions into public dialogue that engages in mutual perspective-taking among the equally respecting participants to arrive at a justified (i.e. not coerced) consensus: All viewpoints vis-à-vis a topic have to be heard and be able to be voiced; all participants have to be able to participate in the discourse; the deliberation has to be conducted solely with regard to the better insights and disregard all other social power or influence; those affected by the norms to be enacted have to agree under said circumstances—i.e. free of coercion and only after all arguments by all interested and affected agents have been heard. Certainly, such an '*ideal speech situation*' is never practically or socially given or achievable, but it is meant to spell out the pre-assumptions that we make when we call a norm justified, i.e. to be rationally accepted based on the best evidence and evaluated solely on its cognitive merits.

- *The recognition* that every participant is equally capable and worthy of presenting such proposals in his or her role as a public member, thus defining the recognition between ego and alter ego on strictly inter-subjective grounds;
- *The attitude* of a radical openness towards the claims made by the other, who is seen as fully able to challenge me in my core beliefs and assumptions, just as I am in the right to question and challenge the beliefs and assumptions brought into play by the other.

The *validity* of norms is thus the outcome of a *process* in which an *open-ended* back-and-forth between *mutually respectful agents* probes arguments and ideas with the goal to establish what can legitimately define the normative core of one's culture and society.

Yet from the internal perspective of religious discourse, the situation presents itself in an entirely different way. Dominant features of religious word-disclosure are diametrically opposed to such a modern post-metaphysical construction of meaning. We need to acknowledge that in much of religious self-understanding, the source of one's own beliefs and assumptions—and also of one's identity and being-in-the-truth—consists in a *transsubjective-vertical ground*. Furthermore, this transsubjective source of one's metaphysical truth and identity is precisely constructed so as to mute and disavow the open-ended process and possible challenge to its own source via dialogical exchange. The vertical construction of identity and meaning in religion has consequences for how the dialogical dimensions of process, recognition, and attitude are possibly conceived and constructed within the religious perspective.¹⁵

With regard to process, the dialogue has to become qualified by one's own untouchable dogmatic core. Dialogue may thus be conducted with regard to influencing the other's self-understanding, yet not with the aim to openly challenge or transform oneself; it is thus easily reduced to a strategic dynamic and at best a *modus vivendi* with regard to modern political discourse. *Dialogical openness* is here never fully possible, in the

15 Again, I am assuming a certain ideal-typical construction of 'religion' in

required sense of radical openness towards the truth claims of the other. Crucial for religious discourse is the *trans-discursive truth*. It does not require nor truly allow for discursive justification. It is grounded in *an act or event of revelation*, in an immediacy of the transcendent power that revealed itself, in a transcendent realm of truth that is sealed off from any human intervention or construction. The dialogical encounter thus cannot penetrate into the core of these beliefs as they are acquired and received 'pre-dialogically.'

Evidence for this reading of the religious perspective is found in all denials of the *interpretive mediation of one's received/revealed truth or salvation*; i.e. in the reference to the literal and immediate meaning of foundational texts and in the projection of the sacred text or event as beyond interpretation and history. It should be emphasized that this does not constitute a detriment for the religious believer, but in fact is the major attraction of religious discourse; it is the ultimate grounding on the basis of which religious discourse (as exemplified by Benedict 16th/Ratzinger) can promote itself as a stronghold against modern or postmodern relativism, as being against the contemporary decline of moral values and the natural order of things.

Similarly, *the recognition of the Other* is here not conceived in an horizontal intersubjective way, but based on a transcendent power that infallibly guarantees one's value and identity. One's own self-identity, as much as any recognition that is to follow vis-à-vis the other, is a consequence of this *transcendent recognition*. The recognition of the concrete Other is only a consequence, is itself dependent on the higher source—which may shine through him or her—but is not grounded within this experience, nor it is sufficient in itself: it can never be the true and self-sufficient source of one's concern. The self is thus not dependent on the recognition of the Other for its own identity. Recognition is achieved through the di-

which the justificatory and meaning-constituting ground of one's self- and world-understanding (one's 'world-disclosure') is provided by a discourse-transcendent pre-dialogical source. This source is, internal to religious discourse, seen as capable of constituting a certain and unchallengeable foundation of one's existence.

rect communication with God, established in its immediacy. The value of the recognition of the Other is, if presented as a value, established via the presence of God in the Other—not on the grounds of the ethico-human value of the Other as such, but in the absolute authority of the Other as it can only be identified with God.¹⁶

Again, this *vertical grounding of self-identity* is here not an arbitrary and contingent feature of religious self-understanding, but goes to its very essence. It marks the very core of religious identity as being grounded in a trans-human and trans-historical source. This entails as a further consequence the liberation of identity from the recognition of the concrete Other. It allows for the over-coming of one's dependency on the Other. The 'Hatred of the World' in Christianity, the detachment in Buddhism, and the anti-hedonistic tendencies in many religions (no music in radical Islam!) may serve as evidence for such a non-intersubjective self-understanding of identity. It is through the transcendent love and grace of God, in whom alone I am fully recognized and through whom I fully exist, that I achieve my ultimate self-identity.

Evidence for this feature of the religious perspective are all claims concerning being in direct communication with God or his direct representative, to be led by his son or the prophet, as being held in direct recognition by and with the source/God. It exists in the reproduction of one's own calling in light of this direct pre-interpretive calling through one's heroic and authentic actions which themselves transcend the limits of the profane, constituting a self-identity that *transcends the boundary of life and death* in martyrdom, as in religiously motivated suicide bombers. It follows that the attitude based on such a religious identity vis-à-vis a political community will be one defined by a solicitude for the other that is based on one's own transcendentally established truth.

Finally, with regard to *the attitude of radical openness* to be challenged by any other, religious self-understanding limits such an approach by defining oneself as the member of a particular community. The chal-

16 Levinas, Emmanuel (1969) *Totality and Infinity*, Pittsburgh: Duquesne University Press.

lenge for the religious believer arises from her modern embeddedness in a pluralistic context in which competing worldviews populate the public consciousness. Yet one's sense of community is here not defined by this shared condition, but first established as a member of one's own religiously constituted community, as one who shares an order with others *granted through the higher source*. The recognition of God defines this membership, which opposes, or puts outside the immediate community of truth (city of God), anyone who is not thus destined and chosen. The religious community establishes itself via this transcendent source, which for the religious self-understanding is the true and only ground. Yet since it also needs to articulate its own identity (despite or rather especially because of the objective pluralist context in which it finds itself in modernity), it requires the positivity of its religion, which in turn establishes the grounds for the major religious divisions, for the division into believer and heretics, those of faith and the infidels. The discursive construction of religious membership is socially realized in practices of worship and rituals that re-affirm its truth, that cement the chosen and saved status of all within the boundaries of the doctrinal community. Religious doctrine demarcates and defines the boundaries between within and without, between the believers and the others.¹⁷

Evidence of anti-modern modern responses range from the political attitudes of present-day evangelical Christians who aim at an *usurpation of social spheres with dogmatic values and beliefs*, running against a de-centered society by re-centering the different fields and value-spheres according to their own standards and norms, to a globally conceived jihad against the declared Western enemy of the colonial and imperial powers by Islamicist forces. The discursive construction of one's religious identity, we have to insist, is always a genuinely modern and contextual process, and thus defines itself—however fundamentalist or anti-modern it

17 The attitude towards the Other is thus not grounded in a truly intersubjective experience, but is structurally mediated by being enabled and allowed for by the transcendent source, even if the concern for the Other is central to a particular religious ethic of care and sympathy.

presents itself—as a reflexive response to the status quo within a pluralistic global context.

4. Ethics, Intersubjective Recognition, and the Religious Reality of Evil

Recall now that normative political theory sees in religion a rich resource for ethical intuitions. For Habermas, a post-secular society is one in which religious standpoints are equally valid and meaningful resources for public ideas compared to secular or scientific ones. However, as a cognitive framework for such a re-entry of religion in the public sphere, religious worldviews have *to accept* several core achievements of modernity, which Tom McCarthy lists as

- (a) “The findings of institutionalized science and scholarship in their domains of competence;
- (b) The legitimate authority of the modern constitutional state organized through positive law;
- (c) The universalist egalitarianism of modern secular morality, which demands equal respect for the autonomy of individuals in adopting terms of social cooperation and personal plans of life; and
- (d) The ineliminable pluralism of worldviews and forms of life, thus allowing reasonable disagreements concerning the ultimate meaning and value of life”.¹⁸

Setting aside for the moment what needs to be in place for such a modernist transformation to be possible, our analysis rather suggests that core elements of religious discourse stand in opposition to such an

18 McCarthy, Thomas (2013) ‘The Burdens of Modernized Faith and Postmetaphysical Reason in Habermas’s “Unfinished Project of Enlightenment”’, in Calhoun/Mendieta/VanAntwerpen (2013), 115–131.

Habermas, Jürgen (2003) *The Future of Human Nature*, Polity, Cambridge, Polity Press.

Habermas, Jürgen (2008) ‘Religion in the Public Sphere: Cognitive Presuppositions for the “Public Use of Reason” by Religious and Secular Citizens’, in *Between Naturalism and Religion: Philosophical Essays*, Cambridge: Polity Press 114–147.

integration. The analysis of the discursive profile defined three crucial challenges to a modernist pluralistic self-understanding, consisting in an unchallengeable 'revealed' truth, a pre-dialogically recognized self, and a concrete community of true believers, all of which are grounded in the discourse-transcendent realm of meaning.¹⁹

If we now return to our view of the global situation, we can detect that it is precisely these authoritarian features of religious discourse that are mobilized and articulated to develop counter-modern religious understandings. Our aim is to briefly illustrate the discursive structure and motivation of such interpretations as represented in radical Islam, in order to exemplify the power of symbolic world-disclosure in the context of an ethico-political self-assertion and intersubjective recognition.²⁰ The

19 The idea is that religion needs to be modernized to fit into a modern egalitarian framework. What needs analysis is how exactly such a 'modernization' of religion is supposed to work. How exactly is religion supposed to 'accept' the respective achievements? Is the religious standpoint supposed to be distinct from the 'accepted' domains, carving out as it were a unique sphere of validity which remains intact and solidly alive despite allowing for the transfer of authority of science, state, morality, and accepting that there are 'ineliminable' other views? If the 'religious' acceptance of the scientific, moral, legal, and aesthetic discourses is to be different from a merely authoritarian acceptance, then the claim that such an acceptance is required would either make the possibility of religion to ever achieve the status of a valid participant in the public sphere contributor highly problematic, because, as we saw, core motives of religious discourse position themselves contrary to major premises of modern discourse. Or it would require a much more foundational transformation of religious discourse than Habermas envisions. I suspect that any religious world-disclosure has to address its own human finitude in order to fully integrate into a postsecular yet modern and pluralistic public sphere. Only if religious discourse undergoes a radical transformation vis-à-vis its own self-understanding as a *situated hermeneutic practice* religion and public discourse can they have a lasting marriage.

20 The radical use and interpretation of Islam serves as nothing more than an example to illustrate and analyze how the discursive features that we detected in religious world-disclosure lend themselves, if coupled with other social motives and dispositions, towards a violent assertion of one's self-identity. Similar tendencies and developments can be reconstructed in other major religions, given the respective context. The question about the extent to which non-religious totalizing ideologies, like nationalism or fascism, may take on some of the 'religious' aspects in order to serve their ideological function, is

critical-hermeneutic approach to this phenomenon intends, as an exemplary case study how discursive world-disclosure works, to explain the highly mobilizing, motivational, and culturally efficient nature of such a world-disclosure. The approach assumes a both internalist-interpretive and externalist-explanatory approach by detailing how the 'worldview' of anti-modern Islam constructs its reality as an absolute truth, as revealed directly through the holy book, and as defined by an untouchable and trans-human source of absolute meaning, which is nevertheless motivated by a need for recognition and self-identity which stems from socio-political contexts and situations.²¹

What is rejected in radical Islam, as in similar religious movements like evangelical fundamentalism, is the idea of an interpretive or human mediation of the godly source of knowledge. The transformation of one's own insight into a symbolic world-disclosure *transcends* the plurality of worldviews and is able to acquire the status of an immediate and directly legitimized source of knowledge. Such a self-understanding of the religious standpoint is possible due to the self-forgetfulness of language as it presents us with its meaning, but it is expressed and fueled by the religious tradition in question, as the Quran is seen as an entirely divine text. The fact that a text seems to speak for itself, that the words and sentences express a meaning that seems unbound by time and place, culture and context, is transposed into a divine source of understanding. The text itself has authority, and it is understood even without knowledge of the author if the language is shared.

It is important to assert here the basic hermeneutic insight, now almost a commonplace, that the text is always disclosed against the background of one's situated pre-understanding, which discloses the subject matter

an interesting one; however, it transcends the current context of discussion. Thanks to the participants in Rome at John Cabot University and in Prague at the Critical Theory & Social Science Colloquium (especially to Max Pensky, Charles Taylor, Barbara Fultner, Marek Hrubec, Lubomír Dunaj, Mike Bailey, Stefan Sorgner, Lenny Moss, Jorge Valadez, and Noëlle McAfee), where this and other fruitful questions were raised about my approach.

21 Strindberg, Anders/Wärn, Mats (2011) *Islamism*, London: Polity Press.

of the text in a certain light and against different pre-conceptions.²² So the idea of a pure textual understanding misses the fact that the particular pre-assumptions and contextual beliefs are operative in the construction of the meaning of the text and tradition.²³ Islam itself is an immensely rich example of diverse interpretations and as such a prime example of the diversity and pluralism of possible readings. If, however, we encounter a religious tradition which rejects the reflexivity of situating its own endeavor in such continuous efforts of understanding, if it denies its own human efforts to understand the divine revelation, we have reason to look for additional motives and reasons to do so.

The additional motives come into view, I suggest, if we reconstruct the conception of symbolic world-disclosure together with assumption about the need for recognition, derived from a largely colonial/post-colonial context of self-understanding. We have to keep in mind how symbolic world-disclosure works: intentional agents emerge through intersubjective perspective-taking as social selves within shared symbolico-social environments, which equips them with a large set of background assumptions. The discursive immersion into symbolic networks of beliefs and assumptions is not a merely cognitive affair (in the narrow sense of adopting certain beliefs as cognitive stances of what the world is). It is rather an immensely identity-charged, emotion-laden process in which the self-identity of agents gets formed. This process is structurally premised on the possibility to take the attitude of the other towards me, so as to constitute me as an object for *my self*. Now the self as a distinct object is thus possible because the Other recognizes me. As a socialization process, this emerges through play as an imaginary role-taking, in which I assume a certain identity vis-à-vis another's identity and within

22 Gadamer, Hans-Georg (1989) *Truth and Method*, New York: Crossroad Publishers.

Kögler, Hans-Herbert (1999) *The Power of Dialogue*, Cambridge, MA: The MIT Press.

23 Schleiermacher, Friedrich (1998), *Hermeneutics and Criticism*, Cambridge: Cambridge University Press.

a social script of roles. I finally emerge into a more abstract self-identity in which I am recognized as a subject that is able to assume any possible role, that is equal to everyone and yet—as Mead and recently Honneth have emphasized—has distinct capabilities that makes his or her social value unique and esteemed.²⁴

The relation of identity-formation is thus an intersubjectively defined symbolic and practical process in which I adopt certain stances (or ‘roles’) and learn to participate in social settings such that I can see myself from the perspective of the other, or the social group as such. I come to be myself through a reflexive process that establishes me as an object for myself via the imaginary attitude of another whose perspective I myself also assume, but who is first and foremost, and crucially for my development, represented by the social contexts and their recognition of me. My self-identity thus comes to consist of a cognitive and practical self-understanding in which I can discursively define myself as such-and-such, as I am always already situated in a web of practical and institutional relations. Intentional agency then consists in taking up the challenges of the situation in order to realize, either monologically or dialogically, certain projects in the world.

The denial—perceived or real—of participating in this process of intersubjective recognition breeds a counter-force that substitutes for the lack of the missing modes of ethical recognition. The institutional framework is considered to be one of colonial denigration and Western imperialism,²⁵ and is perceived in need to be overcome *in toto*. Thus what is needed is an absolute transcendence, an ideological framework that is both absolutely alien to the West and stands firmly above sectarian or ethnic divisions. Al-Qa’ida forms in this manner as a symbolic umbrella under which diverse ethnic groups can fight, first, the Soviet invasion and later the West as such. The adherence to Islam serves as a framework that can

24 Mead, George Herbert (1934) *Mind, Spirit, and Society*, Chicago: Chicago University Press.

Honneth, Axel (1996) *The Struggle for Recognition*, London: Polity Press.

25 Said, Edward (1975) *Orientalism*, London: Penguin Books.

Strindberg, Anders/Wärn, Mats (2011) *Islamism*: London: Polity Press.

unite the fight, “providing above all a common discursive framework for a range of otherwise disparate struggles.”²⁶ Religion becomes an essential ingredient because it can define an alternative identity. Yet what prevails in this ‘fragmented quest for dignity’ (Strindberg/ Wörn) is precisely the focus on the authoritarian and transsubjective character of Islam as religious discourse. The elements of religious discourse that emphasize the absolute and pre-discursive—and thus unchallengeable—truth, the calling of the self by the transcendent power or respectively its earthly representative, and the identification with a chosen group of peers, the global Ummah in whose name the West and the infidels are fought, constitute the symbolic world within which a whole new self-identity is able to flourish.

What the theoretical framework of a recognition based world-disclosure allows us to see is that the self is able to re-identify itself within a new symbolic order such that its need for recognition and self-esteem are met. The use of Islam as such an alternative world-disclosure is made explicit by the leaders of the movement²⁷. In the Western world, pitifully marginal lives as second-class citizens are pitched against the gains of martyrdom in the fight for a new caliphate²⁸. One’s individualized, somewhat senseless life in the outskirts of Western metropolitan centers, just as the Arabic states in the outskirts of a global economy that ruthlessly exploits their resources with the help of corrupt regimes, can be transformed into a heroic stance of resistance, into a new mode of authenticity which produces immediate and undeniable recognition.²⁹ The happy,

26 Strindberg, Anders/Wörn, Mats (2011) *Islamism*: London: Polity Press, p.97.

27 Strindberg, Anders/Wörn, Mats (2011) *Islamism*: London: Polity Press.

28 Atran, Scott (2015), “*Der IS ist für viele schlicht ein Abenteuer*”, <http://www.spiegel.de/politik/ausland/islamischer-staat-der-is-ist-fuer-viele-schlicht-ein-abenteuer-a-1065754.html>.

Buren, van Peter (2015) “*Paris: You don’t want to read this,*” http://www.comondreams.org/views/2015/11/15/paris-you-dont-want-read?utm_campaign=shareaholic&utm_medium=facebook&utm_source=socialnetwork.

29 See Scott Atran “*ISIS is a joyful movement. It opposes our lethargy (with) a promise, a reconciliation...*” (Atran 2015). Similarly, Adam Hanieh states that the jihadist violence derives from a radical ethic of existential authenticity

deeply content face expressed by Abdelhamid Abaaoud, ringleader in the Paris bombings, exemplifies a radiant sense of recognized well-being, something denied to him in his previous existence in Molenbeek. The transcendence enabled by this radically religious world-disclosure overcomes the lowly individualized and alienated life of marginalized groups in a modern Western metropolis as much as it allows to build a trans-ethnic coalition overcoming ethnic and cultural divisions within non-Western contexts. Yet the total commitment to this form of religious self-understanding is ultimately accompanied by a final and horrific transcendence: the overcoming of any scruples with regard to the destruction and humiliation of other human lives.

5. Religious Evil and the Possibilities of its Overcoming

In the globalized situation of intercultural dialogue, we need to address the radical evil committed in the name of God and religion. We have to understand how it can evolve out of a potential inherent in religious standpoints. Through a discursive analysis of features of religious world-disclosure, we have seen how the *authoritarian vertical nature of religious discourse* constituted heavy symbolic resources that can serve as a collective-cognitive crystallization of anti-modern motives and movements. At the global level, we see a radical use of religious discourse that exploits and dramatizes its symbolic features of transcendence so as to produce a world-disclosure of an immense potential to extreme violence and evil. Yet how are we to address these positions, especially in light of our commitment to the parallel unfolding of a cosmopolitan public consciousness in which ethical respect and mutual perspective-taking are supposed to structure our communication?

We may present our findings in the following condensed form: Ethical respect is exemplified by dialogical openness, by an egalitarian inclu-

and a utopian social project, which ISIS attempts to realize in a realpolitical state building effort. It is a late response to the Arab Spring against colonial and postcolonial subjection (Hanieh 2015). And Peter van Buren (2015): "Let us recognize that this war is led against ideas – religion, anti-Western, anti-imperialist."

siveness that is based on a deep understanding of one's finitude, one's fallible knowledge; as such it is enacted by a civic ethos of mutual-perspective-taking as a hallmark of the modern democratic public sphere. Yet such an ethos—as a normative attitude of selves engaging one another in mutual dialogue—is itself grounded in a self that received modes of recognition to develop its own self-confident, respected, and esteemed self.³⁰ Social selves depend on social relations of recognition in order to develop themselves, recognition is an indispensable resource for the development of selves, and this need for recognition represents a major source of agency. As such, social conditions set up the possibility for the development of the dialogical ethos we are interested in.

If relations of recognition are blocked, if agents experience the denial of their potential—if they are mis-recognized and thus excluded and diminished in their cultural and social potential—these agents are possibly driven to accomplish modes of recognition in a symbolically constructed sphere. By adopting a self-immersed stance within the sphere of symbolic transcendence, thereby escaping the empirically dissatisfying social conditions, a sense of cultural worth and self-esteem can be built up. As we could show, social-scientific research on ISIS fighters supports exactly this diagnosis. Our discursive analysis of religious discourse shows how it entails the resources to replace the intersubjective-horizontal relation with a transsubjective-vertical one. The agent is now, in this new symbolic scheme, directly related to the transcendent source. This allows her to supersede any human level of accountability, and to project anyone not within one's own chosen group as an absolute Other, as beyond recognition and respect. The recognition demanded by the concrete Other is now provided by an imaginary scheme of recognition by the transcendent Other, God.

Since such religious discourse is still symbolic, any actualization that furthers the reality to its scheme must be strongly desired. So while the self-transposition into a symbolic world-disclosure presents one with an immediate reward of recognition, the implementation of such an order

30 Honneth, Axel (1996) *The Struggle for Recognition*, London: Polity Press.

into real life and world constitutes an ongoing confirmation and re-affirmation of the reality of this 'self-understanding.' ISIS presents us with an *eschatological escapism* in which an undervalued self-image is transcended by means of a religious discourse that transforms the authoritarian moments of religion into a real political theatre of evil. Agents transcend the merely symbolic self-identity through *real acts of violence* against the Other, affirming their own reality through the destruction of the reality of the Other. Similarly, through these 'theatres of violence,' the participants fulfill the important ceremonial function of the representation of power of their new collective identity, the 'Islamic state.' Committed to the utmost force against all opposition, this transcendence vis-à-vis any limit to violence appears as prove that the movement is unstoppable, since it stops at no limit of the imagined evil. It seems to be held back by nothing on earth, confirmed in their impunity by pure transcendence.

What's there to do, what to expect? Our reflections suggest the possibility of a further division of the global public sphere, in which Islamophobic attitudes in the West derive political capital by exploiting the particular uses of Islam made by radical jihadist Islamicists. The jihadist high-jacking of Islam serves an anti-Islamic rhetoric by allegedly proving the incompatibility of liberal with Islamic values, which in turn justifies the Islamicist rejection of Western values as hypocrisy; the two are made for each other, they function within a Manichean public sphere as two sides of the same coin. Yet what may oppose this process, what may prevent it from defining a major cultural divide within the global public sphere?

The main thrust of our analysis is that neither a socio-economic, nor a social-psychological, nor a cultural-symbolic explanation of the sources of the evil militancy in Islamic terrorism is sufficient; each on their own fall short of grasping the full phenomenon. Instead, we saw that the symbolic transcendence enabled by central elements of a certain religious world-disclosure respond to a psychological need for recognition that derives from a complex socio-economic and cultural situation of mis-recognition. If this analysis points in the right direction, the cure can

only be found in a combined and three-fold attempt to address the roots of the issue.

With regard to the socio-economic situation, the exclusion of significant strata of the population from an equal participation in the objective opportunities provided by a social context must be overcome. Economic integration is a necessary, while not sufficient condition for recognition, and its absence is sure to provide sources for a continued sense of inferiority and subordination against which violence appears as means. This is equally important for subjects within and outside of the Western national public spheres: for instance for citizens of Arabic descent who are banned to the ban-lieu of major metropolitan centers, and for states which are forced to exist below the standard of wealth produced by the appropriated resources of their economies.

With regard to the symbolic dimension of mis-recognition, cultural education may help to battle deep-seated prejudices and pervasive misunderstandings with regard to the historical profile and complexity of Islam.³¹ An effort must be made to not only teach and disseminate knowledge about the diverse traditions and perspectives themselves, but also inform about their multiple interactions and intersections with the West, with which they constitute a shared (however conflicted and dis-harmonious) legacy.

Finally, with regard to the religious world-disclosure, radical Islam anchors its self-understanding in precisely those religious truths that emphasize a transcendent, anti-interpretive, and immediate self-understanding. Our analysis shows that this 'infallible core' defines a major and irreplaceable feature of religious world-disclosure as such, and yet, it cannot be denied that it is always, insurmountably, encountered within the finite human experience. The final blocking to the militant abuse of religion may thus well have to come from within its own realm of expe-

31 Similar efforts would have to be undertaken vis-à-vis other religious traditions, inasmuch as the dogmatic assertion of particular traditions tends to hide such a complexity of differing readings in order to assert the 'authority of the text' more fully. (See also footnote 20.)

rience, through an act of disarming honesty that accepts that the higher call, received from the trans-human source, is ever, if it is a call at all, heard within the situation of human finitude. The interpretation of this call will always be embedded in the situated understanding of concrete agents, and as such points back to the interpretive community of which they are part, and which as such can never claim to be trans-discursive or infallible with regard to its ultimate meaning.

The Future of Critical Theory in Postmodern Society

Amirhosein Khandizaji

Abstract: The culture industry in our age is using new techniques to extend its domination that are different from those described by Adorno and Horkheimer. But unfortunately, these new techniques have not been studied by the second and third generations of the Frankfurt school. This disregard, on the one hand, has made a gap between the first generation of the Frankfurt School and its second and third generations and, on the other hand, caused some difficulties for the theories of Jürgen Habermas and Axel Honneth. This article aims to use Jean Baudrillard's postmodern ideas to revise the theory of the culture industry and to partly fill the gap between the first generation of the Frankfurt School and its second and third generation. This paper explains how the culture industry in postmodern society makes us believe in the existence of something which doesn't exist and how advanced technologies weaken our potential for developing critical thinking.

Introduction

Although the Frankfurt School lost its power after 1970, there have always been efforts to renew its theories. The intellectual roots of the Frankfurt School, like other schools in sociological theory, must be sought among the ideas of the classical sociologists such as Karl Marx and Max Weber. But there is no doubt that the Frankfurt School has a deeper and stronger attachment specifically to Western Marxism. After Marx, two different interpretations of his thought led to the emergence of two groups of Marxist theorists. The first group, which is known as orthodox or mechanical Marxists, emphasizes the objective, material, and economic aspects of Marx's thought. Orthodox Marxists believe that economic forces and contradictions, which are caused by the production system in capitalist society, will eventually and inevitably lead to proletarian

revolution and the annihilation of the capitalist system. Thus, they believe in a form of determinism which is called historical laws. Marx “compared his theory of capitalist development to the laws governing planetary motion, implying that society is governed by economic ‘laws’ which, like those of the natural world, are both universal and essentially independent of human consciousness and will”.¹ Consequently, since these laws are deemed universal like natural laws, we can anticipate the annihilation of the capitalist system just as we anticipate events in the natural world. In any case, in the 1920s, after the Russian revolution and the growth of working class in Europe, it seemed that conditions were prepared for the proletarian revolution predicted by Marx. But the failure of revolutionary movements in Europe weakened the hypothesis of orthodox Marxists. As a result, some Marxist theorists began to criticize orthodox Marxism. They asked why the socialist revolutionary movements failed in Europe while the objective condition of revolution, according to orthodox Marxism, was prepared.² To explain this problem, some Marxist theorists shifted their attention to the subjective and cultural aspects of capitalist society. They argued that the problem was not material conditions, but rather subjective conditions. This kind of Marxism, which is known as Hegelian or Western Marxism, is largely inspired by Hegel and Weber; it emphasizes subjective factors and their roles in social changes. According to Western Marxism, revolutionary movements in Europe failed because workers couldn’t reach class consciousness to understand their condition, their situation, and their task in the capitalist system.

Following the tradition of Western Marxism, the Frankfurt School focused on the problem of cultural domination and distortion of consciousness as the major factors which deprive the majorities of a class consciousness. Understanding this fact is the prerequisite for

1 Roger S. Gottlieb, *An Anthology of Western Marxist: From Lukacs and Gramsci to Socialist-Feminism*, edited by Roger S. Gottlieb. (New York and Oxford: Oxford University Press, 1989), p. 5.

2 Ben Agger, *Western Marxism: An Introduction, Classical and Contemporary Sources* (Santa Monica and California: Goodyear Publishing Company, 1979), p. 119.

understanding the Frankfurt School in all of its aspects because cultural domination and distortion of consciousness were among its major concerns. Therefore, according to my opinion, the essence of the Frankfurt School is somehow tied to the problem of cultural domination and distortion of consciousness. It is in this context that the culture industry, as one of the main theories of the Frankfurt School, can be understood. The culture industry refers to the industrialization of culture which is supposed to be created by people during their natural way of living. But a significant part of culture in the capitalist system is consciously and purposefully produced and controlled by the dominant classes to secure their interests in society. It is just like an industry in which a particular product is produced in such a way as to make a maximum profit for the producer. As a result, "culture today is not the product of genuine demands; rather it is the result of demands which are evoked and manipulated".³

According to the Frankfurt School, the culture industry, by using tools such as TV, radio, magazine, and popular sports, has transformed domination from its vivid and aggressive form to a hidden and mild one. The culture industry doesn't let people recognize the contradictions, injustices, exploitations, and defects in society. The culture industry creates artificial needs and persuades people to satisfy them. This can distract people from those real needs which are not being satisfied in the capitalist system.⁴ The culture industry, by standardizing people's beliefs and values, tries to weaken the possibility of different or independent thinking or acting. In order to reach this goal, the products of the culture industry must also be standardized. As a result, as Adorno and Horkheimer say, "culture today is infecting everything with sameness. Film, radio, and magazine form a system. Each branch of culture is unanimous within itself and all are unanimous together" (Horkheimer

3 David Held, *Introduction to Critical Theory: Horkheimer to Habermas* (London: Hutchinson, 1980), p. 91.

4 Herbert Marcuse, *One Dimensional Man: Studies in the Ideology of Advanced Industrial Society* (London and New York: Routledge, 2007), p. 7.

and Adorno, 2000: 94). The culture industry doesn't even leave people alone in their free time so that a person doesn't find much time to think about him/herself and his/her condition.⁵

Another tool of the culture industry is astrology which attaches our destiny to the stars. According to astrology's logic, all economic, cultural, social, and political phenomena in our world are controlled by rules of stars. As a result, people should be aware of these rules and act according to them. Fortunate people are those who listen and follow what the astrologist tells them. Consequently, astrology first may deprive people of understanding their real condition and, second, it can weaken people's subjectivities. Sometimes astrology teaches its followers not to be threatened by something which is going to happen to them. Because "the very same powers by which they are threatened, the anonymous totality of the social process, are also those which will somehow take care of them".⁶

Although the culture industry was a significant issue for the first generation of the Frankfurt School, it has lost its importance in the second and third generations. As we will see later, this neglect of the culture industry and its new techniques has created a gap between the second and third generations of the Frankfurt School and the first. But this is not to say that the second and third generations of the Frankfurt School never talked about cultural domination or the culture industry. Rather, they didn't pay enough attention to the culture industry and its new techniques in our age and they didn't create an organized and systematic study of the culture industry.

Forgetting the Major Concern of the Frankfurt School

As it was mentioned before, the Frankfurt School by following the

5 Theodor W. Adorno, *The Culture Industry: Selected Essays on Mass Culture*, edited and with an introduction by J. M. Bernstein (London & New York: Routledge, 2001), p. 188.

6 Theodor W. Adorno, *The Stars Down to Earth and Other Essays on the Irrational in Culture*, edited by Stephen Crook (London and New York: Routledge, 2002), p. 77.

tradition of Western Marxism mainly focused on the problem of cultural domination and distortion of consciousness as its major concerns. Thus, the essence of the Frankfurt School is bound up with the study of cultural domination. But one of the major tools by which the capitalist system creates its cultural domination is the culture industry. Therefore, the theory of the culture industry which explains the cultural domination that prevents class consciousness from forming is essential to the project of the Frankfurt School.

In any case, the cultural domination that was one of the main concerns of the first generation of the Frankfurt School theorists was gradually replaced with other concerns in the second and third generations. Under the influence of Jürgen Habermas who is known as the main theorist of the second generation of the Frankfurt School, the Institute for Social Research shifted to an almost new direction in which the culture industry, formerly one of the most important issues of the Frankfurt School, lost its position.

Habermas criticizes Marx because according to him Marx couldn't distinguish a purposive-rational action or work from a social or communicative action. As a result, Marx only emphasizes work and he neglects communicative action. Habermas also recognizes instrumental action and strategic action as two forms of purposive-rational action. In contrast to these forms of action, whose goal is to reach maximum profit, the goal of the communicative action is to reach a common understanding during social relations and attain consensus.⁷ According to Habermas, the main reason for distortion of the communicative action is the domination of system's rationality and logic over life-world. Life-world is the sphere in which people communicate and interact socially with one another. Since the life-world has intersubjective features, it can lead to a common understanding for people. It is in this life-world that the communicative action by which people can understand each other can take place.⁸ But

7 Jürgen Habermas, *The Theory of Communicative Action*. Vol. 2, translated by Thomas McCarthy (Boston: Beacon, 1987), p. 126.

8 *Ibid.*, pp. 126-131.

the system is a realm of macro-level economic and political structures. According to Habermas, the life-world is governed by a communicative rationality while the system is governed by an instrumental rationality.

Habermas believes that the only solution for the emancipation of life-world from the domination of system is to reinforce communicative action. According to him, the Frankfurt School theorists made a huge mistake which led them to pessimism. By the influence of Lukacs, the Frankfurt School links “Weber’s analysis of rationalization” to “Max’s analysis of commodity form”. The result of this linkage can be seen “in a many-sided study of reification, of ‘false consciousness’ and of ideology in late capitalism”.⁹ Therefore, by following Weber’s discussion about the iron cage, the Frankfurt School theorists emphasized formal or instrumental rationality which led them to pessimism with respect to rationality itself while formal rationality, according to Habermas, is only one kind of rationality that belongs to the technical interest. Habermas focuses on communicative rationality which is related to the practical interest.¹⁰ He admits that formal rationality has caused some difficulties, but he doesn’t believe that we should reject the whole project of rationality. Rather, we should try to reinforce the communicative action. In other words, we should prepare free and equal conditions in which everyone can communicate with others. But because communicative action might be distorted by the technical interest and formal rationality, Habermas uses the critical sciences, which come from the emancipatory interest, to emancipate the communicative action from all sorts of distortion.

As can be seen, the discussions of Habermas are mostly about public sphere and communicative action. The culture industry which was one of the leading concerns of the Frankfurt School and also one of the sources of cultural domination and distortion of consciousness is not at the center of Habermas’s discussions. One may argue that he puts the

9 Michael Pusey, *Jürgen Habermas* (London and New York: Tavistock, 1987), p. 33.

10 Jürgen Habermas, *The Theory of Communicative Action*, Volume 1, translated by Thomas McCarthy (Boston: Beacon, 1984) p. 144.

culture industry under the concept of system and considers it a part of the system's domination. One may say that in some books and articles he talks about the effect of the media on the public sphere. One may even point out that he talks about this problem of the culture industry in the part of *The Structural Transformation of the Public Sphere* where he shows how the public sphere is controlled and weakened by the media and advertising. Nevertheless, compared to the first generation of the Frankfurt School and number of their books and articles which focused on the cultural domination, the Institute for Social Research under the supervision of Habermas didn't pay enough attention to this topic. The importance of the culture industry and its central position in the first generation of the Frankfurt School demand an independent and permanent study. Besides, while the culture industry is gaining more power and using new techniques to expand its influence, Habermas doesn't revise or extend the theory of the culture industry. Furthermore, as mentioned earlier in this study, Habermas as the leading theorist of the Frankfurt School's second generation didn't encourage or gather a group of intellectuals to revise the theory of the culture industry and discover its new techniques in a systematic way. As Anderson says, "by the late 1980s, in fact, the key points of reference for Habermas' graduate students and associates were more likely to be Donald Davidson, Michael Dummett or John Rawls than Adorno, Lukács or Marx".¹¹ Therefore, what I mean by neglecting the culture industry is that Habermas doesn't specifically focus on the culture industry and especially its new methods. It is clear that his main subjects are communicative action and the public sphere. The culture industry is only mentioned when it relates to Habermas's major subjects. Besides, Habermas works with the old version of the culture industry which Adorno and Horkheimer described and which may not be useful anymore for explaining the problems of our time. Therefore, Habermas or other members of the

11 Joel Anderson, "Situating Axel Honneth in the Frankfurt School Tradition", in *Axel Honneth: Critical Essays*, edited by Danielle Petherbridge (Leiden and Boston: Brill, 2011), p. 43.

Frankfurt School should revise and extend the theory of the culture industry to make it useful again for our age.

This neglect of the culture industry and its effects on society has had two main consequences. First, this neglect has opened a gap between the first and the second generation of the Frankfurt School. By shifting the focus from cultural domination and distortion of consciousness to other concerns, the Frankfurt School in the second generation moved away from its origins and primary goals. This is a defect for a school tied to the study of cultural domination and deviation of mind in capitalist society. Second, this neglect has even created some problems for the theory of Habermas. As discussed, Habermas emphasizes the reinforcement of public sphere and free communicative action as the only solution for emancipating the life-world from the domination of system. Only in this way people can achieve agreement and consensus. But the problem is that without considering the impact of the new techniques of the culture industry it is hard to achieve these goals. In a society dominated by the culture industry, people might be reluctant to take part in communicative action or to construct a real public sphere. In other words, even if we can prepare a public sphere in which actors can participate in free communicative action, it is still probable that under the domination of the culture industry they don't want to. An example of this phenomenon is the form of individualism intensified by some of the new technologies like smartphones. Some people prefer to spend their time with their smartphones rather than with others. We all know families whose members are sitting together but each of them is busy with his or her smartphone. Another example is the case of those who prefer to spend their time in a hyperreal world instead of the real one. We are living in an age in which a large number of our young people are busy playing games on their smartphones. Besides in a society which is dominated by the culture industry even communicative agreement or consensus might support the interests of the capitalist system. Examples include the case of those who get together to discuss fashionable and sexy outfits for women or those who want to choose the sexiest Hollywood actress. In this way,

even the public sphere may support the existing system. The important point is that Habermas, by emphasizing the critical sciences, is hopeful that these sciences can eliminate all kinds of distortion and play the role of emancipators of society. However, the problem is that when Habermas doesn't focus on new techniques of the culture industry he cannot be confident that the critical sciences are immune to the culture industry. In my opinion, Habermas doesn't see that even the emancipatory interest and critical knowledge can be influenced and distorted by the culture industry. The fact is that the technical interest and empirical-analytic knowledge can influence not only the practical interest and historical-hermeneutic knowledge but also the emancipatory interest and critical knowledge. For example, as we will see later, power in the age of simulation and hyperreality is different from what Habermas described as "Herrschaft" in *Knowledge and Human Interests*.¹² In a sense, there is not much power in the hyperreal world in which the emancipatory interests can take form and lead to critical sciences. For example, in a hyperreal world, desires don't have to be repressed anymore. People can have whatever they want, wherever they want, and in any way they want. This means that the reality principle may no longer be necessary since no one hurts others by satisfying his desires. There might be no power or constraint in a hyperreal world from which people want to emancipate themselves. In this way, the emancipatory interest might be weakened by losing its medium which is power. Besides, people in a hyperreal world can even have their desirable communicative action with desirable hyperreal people and reach a desirable consensus with them. This means that in the future real social interaction and the real communicative action might be in danger as a person can be isolated in a hyperreal world.

In 2001, Axel Honneth became the director of the Institute for Social Research. Honneth is known as the leading theorist of the third generation of the Frankfurt School. He focuses on a different issue

12 Jürgen Habermas, *Knowledge and Human Interests*. translated by Jeremy J. Shapiro (Boston: Beacon, 1971).

from that addressed by the first generation of the Frankfurt School. The most important subject for Honneth is recognition. According to this concept, people need to be recognized and accepted by others in their social relations and interactions. According to Honneth, if people reach this recognition in a society they will feel satisfied. Otherwise, they will probably try to change their condition to the one which gives them recognition. Therefore, the origins of some social movements must be traced in struggles and efforts among different groups for reaching recognition. Honneth distinguishes three stages or forms of recognition: self-confidence, self-respect, and self-esteem. According to him, these forms of recognition can only be shaped intersubjectively in social relations. The first stage begins from the early years of a child's life during which he/she has the full support of his/her mother. This support brings confidence for a child. By achieving self-confidence, a person moves to the second stage of recognition which is self-respect. In this stage, a person sees and understands him/herself equal to others in society, and therefore he/she expects to have equal rights. In this way, the respect that a person receives from society in his/her relation with others completes another stage of recognition and it leads to self-respect for him/her. But if a person's equal rights are not recognized, then, he/she will try to force the society to accept those rights. The third stage of recognition is self-esteem. In this form, a person expects the society to give him/her recognition not only because of his/her similarity to others but also because of his/her special characteristics which make him/her different from others. These special characteristics and differences can be cultural, political, or economic. Therefore, "social esteem can only apply to those traits and abilities with regard to which members of society differ from one another. Persons can feel themselves be 'valuable' only when they know themselves to be recognized for accomplishment that they precisely do not share in an undifferentiated manner with others".¹³

13 Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflict*. translated by Joel Anderson (Cambridge and Massachusetts: The MIT Press, 1996), p. 125.

In this stage, if society gives recognition to a person or group because of their special characteristics, they can attain self-esteem. Otherwise, people may try to change existing conditions.

In any case, the culture industry and especially its new techniques in our age are not Honneth's major concerns. In *The Critique of Power*, he even criticizes Adorno's theory of the culture industry.¹⁴ As we will see later, the culture industry in our age works with new mechanisms and techniques. Today people have an opportunity to produce their own messages. This means that the culture industry is no longer a unilateral way of communication. The exclusive control of the media by dominant classes or governments is over. Therefore, it was essential for the third generation of the Frankfurt school to revise and extend the theory of the culture industry for our age. Honneth, like Habermas, had an opportunity to see the new techniques and technologies that the culture industry is using in today's world. But he also neglected them. Furthermore, Honneth, like Habermas, didn't encourage or gather theorists in the Institute for Social Research to study the new techniques of the culture industry in a permanent and systematic way. The neglect of the culture industry and its new methods in the third generation of the Frankfurt School had similar consequences to those in the second generation. First, this neglect shifted the third generation of the Frankfurt School to a course divergent from that followed in the first generation. In my conception, this has caused a deficiency for the Frankfurt School which had been based on the study of cultural domination and distortion of consciousness. Second, this neglect of the culture industry has caused some problems for the theory of Honneth. Recognition, as one of his main concerns, might be affected by the culture industry. This means that the culture industry may manipulate values and beliefs in society to make a distorted and artificial recognition which can support the interests of the dominant class. In other words, in a society controlled by the culture industry, even a person's effort to achieve self-respect and self-esteem

14 Axel Honneth, *The Critique of Power: Reflective Stages in a Critical Social Theory*, translated by Kenneth Baynes (Cambridge: MIT Press, 1991), pp. 78-81.

might fulfill the goals of the capitalist system. Therefore, the question is how Honneth can be confident in this situation that the achieved self-respect or self-esteem is not distorted? We are living in a world in which our values, lifestyles, goals, and beliefs can be manipulated by the culture industry. In any case, it seems that Honneth is now aware of this defect in his theory. In one of his works, *Recognition as Ideology*, he tries to show how false recognition is possible and how it can work as an ideology to support specific interests in society. Honneth says: “the pride that “Uncle Tom” feels as a reaction to the repeated praise of his submissive virtues makes him into a compliant servant in a slave-owning society. The emotional appeals to the “good” mother and housewife made by churches, parliaments, or the mass media over the centuries caused women to remain trapped within a self-image that most effectively accommodated the gender-specific division of labor. The public esteem enjoyed by heroic soldiers continuously engendered a sufficiently large class of men who willingly went to war in pursuit of glory and adventure. As trivial as these examples may be, they do make strikingly clear that social recognition can always also operate as a conformist ideology, for the continuous repetition of identical forms of recognition can create a feeling of self-worth that provides the motivational resources for forms of voluntary subordination without employing methods of repression”.¹⁵

As can be seen, now Honneth is aware of the fact that the distortion of consciousness can lead to a false recognition which might be used to support particular interests. Although Honneth is aware of distorted recognition, however, he still doesn't pay enough attention to the culture industry and its new techniques as one of the main sources of this distortion. Besides, in a society in which the culture industry's domination has turned some of our concepts and relations into signs of those concepts and relations, recognition can be achieved through the signs themselves. For example, in a society in which people with unequal rights may think that they have equal rights just because they have the signs of equality like TVs, laptops, or washing machines in their homes,

15 Axel Honneth, “Recognition as Ideology”. in *Recognition and Power: Axel*

recognition is distorted. This is a semiotic recognition or, in other words, recognition through the signs. Furthermore, as Honneth doesn't study the new techniques of the culture industry, it is hard for him to see the fact that in the future the struggle for recognition may not be necessary anymore. As we will see later, in a hyperreal world a person can create recognition for himself without struggling with others because even the hyperreal others are controlled by him. Therefore, the third generation of the Frankfurt School and especially Honneth need to study and explain the culture industry in its new forms. This is the only way Honneth can distinguish true recognition from distorted recognition.

It is clear that the second and third generations of the Frankfurt School have neglected the culture industry which was one of the main concerns and discussions of the first generation, maybe because they assume that discussions about the culture industry are complete, and there is nothing more to be studied. But the problem is that the culture industry, as a dynamic phenomenon, is always using new methods and tools to expand its domination. With the growth of the capitalist system, the culture industry is growing too. The culture industry in the 21st century is more sophisticated, advanced, and hidden than the culture industry during Adorno's time. Adorno and Horkheimer couldn't completely see how the culture industry would work in our age. Besides, as the culture industry has developed in our age, some of the ideas of Adorno and Horkheimer have lost their validity. For example, they mostly considered the masses as passive creatures who only receive messages made and distributed by a dominant class at the top of society. According to them, radio "democratically makes everyone equally into listeners, in order to expose them in authoritarian fashion to the same programs put out by different stations. No mechanism of reply has been developed, and private transmissions are condemned to unfreedom".¹⁶

Honneth and Tradition of Critical Social Theory, edited by Bert Van Den Brink and David Owen (Cambridge: Cambridge University Press, 2007) pp. 325, 326.

16 Max Horkheimer and Theodor W. Adorno, *Dialectic of Enlightenment, Philosophical Fragments*. edited by Gunzelin Schmid Noerr, translated by

But as we know today, the emergence of advanced technologies makes Adorno and Horkheimer's argument invalid. Nowadays, social networks such as Youtube, Facebook, and Twitter have provided an opportunity for everybody's contribution and interaction through the media. This means that a receiver of messages can also be a producer and distributor of them. Adorno and Horkheimer had considered the culture industry a unilateral form of communication which only allows a monologue. But nowadays the culture industry can also be a multilateral form of communication which allows dialogue. As a result, the culture industry uses a different mechanism in our age. Therefore, we need an ongoing study of the culture industry and its techniques. But for now, we need to revise the theory of the culture industry according to the changes in technology and media in our age. We need a theory which can explain cultural domination and distortion of consciousness in our age. One of the theorists who might be able to help us revise the theory of the culture industry and discover its new techniques is Jean Baudrillard. Baudrillard's time allowed him to see the technologies which Adorno and Horkheimer couldn't see in their time. Therefore, using his ideas may help us to revise the theory of the culture industry.

The essential point here is that I don't argue that Baudrillard renews the theory of the culture industry by himself because, as we know, in some cases, his ideas might contradict the theory of the culture industry. Rather, what I argue is that some of Baudrillard's ideas might help us revise the theory of the culture industry and reveal its new aspects.

Baudrillard's Postmodern Theory

Even though Baudrillard was influenced by Marxist theories in his early works, in *The Mirror of Production*¹⁷ (1975) he disconnected from Marxism and finally in *Symbolic Exchange and Death*¹⁸ (1998) created his

Edmund Jephcott (California: Stanford University Press, 2000), pp. 95,96.

17 Jean Baudrillard, *The Mirror of Production*, translated by Mark Poster (St. Louis: Telos, 1975).

18 Jean Baudrillard, *Symbolic Exchange and Death*, translated by Iain Hamilton

own new path. In fact, this book and its discussions can be considered as a starting point of Baudrillard's postmodern thoughts. Here is where he starts his main arguments about simulation and hyperreality that later, in *Simulacra and Simulation*, he would completely and specifically discuss. This clearly shows his shift from modernism to postmodernism. According to him, today we are living in an era in which all realities are fallen into the sphere of simulation and hyperreality. One of the interesting discussions in *Symbolic Exchange and Death*, which remains at the center of Baudrillard's attention in his later works, is his ideas about "the orders of simulacra". According to him, there are three orders of simulacra:

- "The counterfeit is the dominant schema in the classical period, from the Renaissance to the Industrial Revolution.
- Production is the dominant schema in the industrial era.
- Simulation is dominant schema in the current code-governed phase.

The first-order simulacrum operates on the natural law of value, the second-order simulacrum on the market law of value, and the third-order simulacrum on the structural law of value" (Ibid: 50).

According to Baudrillard, counterfeit emerged through the collapse of the feudal system by bourgeois order and the emergence of competition to possess signs of social distinction. In a caste system or a society based on rank, signs are fixed and determined. So, they have no mobility. They are controlled and protected by prohibition and sanctions. As a result, the counterfeit is not easily possible. Here, each sign comes from and reflects the real and reciprocal relations between people. Therefore, signs are not arbitrary. "The arbitrariness of the sign begins when, instead of bonding two persons in an inescapable reciprocity, the signifier starts to refer to a disenchanted universe of the signified, the common denominator of the real world, toward which no-one any longer has the least obligation".¹⁹

Grant (London & Thousand Oaks: Sage, 1998).

19 Jean Baudrillard, *Symbolic Exchange and Death*, p. 50.

By liberation of signs from the symbolic order and fixed relations, an opportunity was prepared for competition among people and classes for achieving them. This was the time for the emergence of the counterfeit. In the first order, representation is an artificial and fake copy which is made from the original. Here, the copy is trying to become just like the original. But the fact is that no matter how similar a copy is to the original, there is still a clear distinction between them. The second order of simulacra starts with the Industrial Revolution and continues until the middle of the 20th century. During this time reproduction of identical copies, which were exactly like the original, became possible by using reproductive technologies. This is when series emerged. Here, the distinction between original and copy disappeared and therefore talking about originals and copies made no sense anymore. The third order is the sphere of digitality, computer, virtual reality, "cybernetic control, generation through models", and codes. Here, everything is absorbed into the simulation. In this stage, there is no reality or original from which a copy can be made. Everything is a simulacrum. There is no counterfeit or series anymore. "There are models from which all forms proceed according to modulated differences. Only affiliation to the model has any meaning since nothing proceeds in accordance with its end anymore, but issues instead from the model, the 'signifier of reference', functioning as a foregone, and the only credible conclusion."²⁰

Baudrillard's main discussions about simulation can be found in his well-known book *Simulacra and Simulation*. This book can be considered as one of the clearest examples of Baudrillard's postmodern orientation. Here, he talks about the world in which simulation has invaded all aspects of our lives and controls them. In such a world, media, cybernetic order, models, and codes play significant roles. We live in a world in which reality is being simulated for us. If in the past a map and a copied version completely represented a territory and an original version, in the third order of simulacra, the simulacrum is not a representation or copy of any reality in this world. We are facing the simulacra which have

20 Ibid., p. 56.

no reference in our world. This is what Baudrillard calls hyperreality. Although the hyperreal has no origin or reference in our world, it is more real than real for us. If in the past the territory preceded the map and the map had to follow the territory as its representation, now it is the map which is independent of the territory and precedes it. Therefore, we are facing maps which have no real territory in the real world. In fact, now it is our real world which is following the maps and simulacra to make itself similar to them. As a result, our real world is the follower of the hyperreal world. This is what is happening in the postmodern world. This is the world full of hyperrealities without any origin or real version. "No more mirror of being and appearances, of the real and its concept. No more imaginary coextensivity: it is genetic miniaturization that is the dimension of simulation. The real is produced from miniaturized cells, matrices, and memory banks, models of control – and it can be reproduced an indefinite number of times from these". There is no more discussion about imitation, duplication, fake versions, and parody. What exists are the versions without any original. Now the problem is the replacement of the real by the sign of the real. The real has no chance to produce itself anymore.²¹

Baudrillard also talks about "four phases of image":

- "It is the reflection of a profound reality;
- It masks and denatures a profound reality;
- It masks the absence of a profound reality;
- It has no relation to any reality whatsoever: it is its own pure simulacrum.

In the first case, the image is a good appearance – representation is of the sacramental order. In the second, it is an evil appearance – it is of the order of maleficence. In the third, it plays at being an appearance – it is of the order of sorcery. In the fourth, it is no longer of the order of

21 Jean Baudrillard, *Simulacra and Simulation*, translated by Sheila Faria Glaser, (The University of Michigan Press, 1994), pp. 1,2.

appearances, but of simulation".²²

According to Baudrillard Disneyland is "a perfect model of all entangled orders of simulacra". Disneyland is "a play of illusions and phantasms". It is a dreamland in which all the things that we desire are already prepared for us. This land is supposed to make all our dreams come true. But what mostly attracts people is that Disneyland is a "social microcosm" and a "miniaturized pleasure of real America". Baudrillard argues that "Disneyland is presented as imaginary in order to make us believe that the rest is real, whereas all of Los Angeles and the America that surrounds it are no longer real, but belong to the hyperreal order and to the order of simulation. It is no longer a question of a false representation of reality (ideology) but of concealing the fact that the real is no longer real, and thus of saving the reality principle".²³ Therefore, Disneyland's goal is to keep the real, which doesn't exist anymore, alive in our minds. It wants us to stay in the world of games, craziness, and childhood to make us believe that the outside world is the world of maturity and rationality. But in fact, it is our world which is childish and irrational. Adults go to Disneyland to act like children and hide the fact that their behaviors outside this land are childish and irrational.

The Culture Industry and the Third Phase of the Image

As I mentioned before, according to Baudrillard, there are four phases of the image. In the first phase, the image is a representation or reflection of a profound reality. In the second phase, the image masks and denatures a profound reality. In the third phase, it conceals the absence of a profound reality, and in the fourth phase, the image has no connection to reality whatsoever.²⁴ What Adorno and Horkheimer present is a version of the culture industry which mostly works by the second phase of the image. This means that the images of the culture industry, according to Adorno

²² Ibid., p. 6.

²³ Ibid., pp. 12,13.

²⁴ Jean Baudrillard, *Symbolic Exchange and Death*, p. 6.

and Horkheimer, mostly distort and denature reality. In this kind of the culture industry, media images may either hide reality or distort the whole nature of reality in such a way as to secure the interests of the dominant system. Here, for example, defects of the system might be presented as privileges or the misery of people might be presented as good fortune. Here, even advertising presents a distorted reality of products. In the second phase, the media try to distract people from negative aspects of society and to avoid news which might threaten or weaken the existing system. Even if the media cover such news they must distort it in such a way as to render it harmless. For instance, while a city is struggling with poverty and misery, the media might present images of the city which are nothing but happiness and pleasure. In this way, they not only hide the fact of misery but also present it as fortune. But this is not the only technique that the culture industry uses today. The culture industry in our age is moving more and more from the second to the third phase of the image. This means that the culture industry in the third phase of the image masks the absence of a profound reality. The purpose of this kind of the culture industry is to convince us to believe in the existence of a reality which doesn't exist anymore. Baudrillard takes the Watergate scandal as an example. The huge coverage of the Watergate scandal in the media was an effort to hide the fact that events like this are no longer scandals. Watergate is there to tell us that our society still reveals and punishes injustices and felonies. The main goal of Watergate was to create an illusion of a morality which was abused by such a scandal. This way, the coverage of Watergate conceals the fact that our society doesn't really care about such a scandal. Therefore, the achievement of Watergate was that it could convince us that Watergate was a scandal and we are still living in a moral society.²⁵ Now, by looking at our media and their contents, we realize that this is one of the techniques of the culture industry in our age for keeping people silent and passive. We can find this technique of the culture industry in all cultural, social, economic, and political aspects of our lives. As long as people are aware of what they are

²⁵ Jean Baudrillard, *Simulacra and Simulation*, pp. 13-15.

missing, they are potential forces for changing the current condition. But if they are not aware of the absence of what they should have, how can they fight for achieving it? Here, critical thinking and the emancipatory interest of people might be weakened. As a result, the task of the culture industry is to make us believe that our society and system are still fair, kind, and sincere. The goal is to make us believe that we are living in an ethical society which not only cares about everybody's life but also punishes any kind of misbehavior. So, there is no reason to worry at all. But in fact, this is not true. The culture industry conceals the fact that we are living in an unethical and unfair society. It conceals the lack of all those things which we must have in our society. Every once in awhile, there is a huge news coverage of an illegal act of a company or a bank and how it was punished. One day the breaking news is about Edward Snowden and how he revealed that American national security agency was spying on people and another day it is about the tax evasion of UBS bank. One day the news is that Volkswagen and Mitsubishi cheated on the fuel system of their products and another day it is about Panama papers scandal. These are all presented to us with huge news coverage to tell us that we are still living in a legal and ethical society. They want to convince us that our society is still sensitive to all of these scandals and not only reveals but also punishes them. But in fact, society doesn't care much about this kind of news anymore. We are living our lives just as before these scandals were revealed. There is no real change in our lives or those companies. While we are living our everyday lives, there are still thousands of big companies that are cheating on their products. There are too many banks and institutes helping rich people and other companies for tax evasion. Every year on the anniversary of the atomic bombing of Hiroshima people and politicians get together to condemn that atomic bombing and cherish the memory of those who died in the attack but at the same time, there are too many countries which are still producing and storing nuclear bombs. These are all there to tell us that we are still sensitive to these kinds of news. But in fact, they are there to conceal the fact that we don't really care enough about these kinds of things to

do something. They try to conceal the fact that our society is not kind, sincere, ethical, and fair. This kind of news is part of our everyday lives. By using this technique, the culture industry may weaken the critical potential of people. In other words, people may not fight to achieve something which already seems to exist in their society. Why should I criticize the system when I see all of these injustices and scandals are revealed and punished? In this way, the culture industry doesn't need to take a risk and mask or distort reality. It can completely cover the news about inequality, injustice, cheating, or any kind of scandal. This is a pressure relief valve for people. We think we are living in a society which has complete functionality and morality and which is faithful to humanitarian rules. This seems to be a society which doesn't tolerate any kind of misbehavior. By this kind of understanding of our society, we live in peace. In short, in the past, people had a chance to realize the lack of morality, respect, and justice in their society. This understanding could lead them to fight to achieve these values. But in our age, the culture industry is concealing the fact that these kinds of values don't matter so much for society. Therefore, people may not have the opportunity to realize what they are missing. This means that they don't have much reason to fight against the existing system. They are happy that their society still has these values but in fact, the society doesn't care anymore. When we witness big companies being sued because they were cheating on their products, or when we see the media reveal inequality, injustice, and disgrace, why should we worry? If in the past the culture industry was trying to mask and denature the reality, in our age, it is also trying to conceal the lack of a profound reality.

The Culture Industry and the Future of Critical Theory

As I mentioned, Baudrillard introduces three orders of simulacra with regard to different eras. The first order is about the counterfeit which is the dominant schema in pre-modern society. Here, the copy is a fake version of the original but the difference is obvious and important. In the second order, which is the dominant order in modern society, reproductive

technologies can make as many copies of the originals as we want. Here, the resemblance is so great that the original and the copy are considered the same. In fact, the matter of difference between the original and the copy loses its significance. But even here, the copy is still faithful to the original. Finally, in the third order of simulacra, which is the dominant order in postmodern society, new technologies, computers, cybernetics, and digital advances lead to the emergence of the versions which have no originals in our real world. Nevertheless, we take them as more real than real. This is why Baudrillard calls these versions hyperreal. While in the first and second orders of simulacra copies emulate our world, in the third order of simulacra our real world emulates hyperrealities.²⁶ Adorno and Horkheimer, because of the limitation of technology in their time, could see and discuss the culture industry in the second order of simulacra or the age of reproduction. They stopped at the second order of simulacra in modern society in which the culture industry could produce and distort the copies of our real world. As a result, the culture industry in Adorno and Horkheimer's time was usually limited to the borders of our real world and couldn't surpass the reality. This means that the culture industry in the second order of simulacra, in the best possible situation, could present a distorted copy of the real world. But Adorno and Horkheimer could not foresee a time in which computers and digital technologies can create hyperrealities that have no connection with our real world. Today, the culture industry, by using the new generation of technologies, doesn't need to limit itself to the real world. The culture industry in our age is producing its own independent world. As a result, I will try here to bring the culture industry from the second to the third order of simulacra or from the modern to the postmodern world by using Baudrillard's theories. Before I start my argument, I need to have a short discussion about critical thinking. As we know, critical theory was the main product of the Frankfurt School and the common point of all its theorists. They believed that critical theory is the main weapon against domination and the main tool for achieving emancipation. According to

26 Ibid., pp. 1,2.

my opinion, however, to have any kind of critical thinking and make any kind of change we need three main factors without which critical thinking cannot be born. The first factor is an unsatisfied need. This means that we should feel we have a need which is not satisfied under existing conditions. So, we have to create a new condition in which our unsatisfied need can be satisfied. Therefore, as long as all our needs are satisfied and we get what we want, there will be no potential for critical thinking. The second factor in creating a critical thinking is phantasy or imagination. This means that we need to have an ability to imagine or fantasize about a condition in which a need which is not satisfied in existing conditions can be satisfied. As long as we lack an ability to fantasize about an alternative for existing conditions, even if our needs are not satisfied we cannot develop critical thinking. The third factor for creating critical thinking is subjectivity. By a simple explanation, this means that we need a person with subjectivity who can recognize an unsatisfied need, fantasize about an alternative condition, and create a critical thinking. All these three factors together are necessary to make critical thinking possible.

The culture industry in Adorno and Horkheimer's time didn't completely annihilate the possibility of critical thinking. It can even be argued that the culture industry in their time, in some cases, reinforced critical thinking by creating unsatisfied needs and phantasy. Besides, in this stage, Habermas could be hopeful that the emancipatory interests take form in power and domination and lead to critical knowledge. This means that the culture industry in the second order of simulacra can cause a potential threat to the system. The culture industry in the second order of simulacra tried to present itself as reality by making itself close to the real world. In this stage, the culture industry creates needs by showing and advertising products, consumption patterns, and lifestyles. But if the audience cannot achieve those products and lifestyles, they will be frustrated and angry which can make them a potential force for criticizing and changing the system. This means that here the culture industry creates a gap between what it advertises and what people can

get in reality or between the image of the world which it presents and the real world which people experience and live in. The world which the culture industry presents is a world of happiness, joy, fortune, and bliss. In this world everyone has a great life and gets whatever he/she wants. But the reality which most of the audience can experience in their real lives is something completely opposite. The culture industry advertises some consumption patterns with new products that a large number of people may never obtain. For example, the actor in a movie may drive an expensive car and spend his holiday in an expensive island. But in real life, most of the people cannot have the same lifestyle which the actor has in the movie. This will probably make people angry and turn them into a potential force for attacking the system which has caused this condition. Therefore, the culture industry in this stage creates the needs which most of the people cannot satisfy. Besides, the culture industry, in the second order of simulacra, doesn't annihilate the possibility of phantasy. In other words, here people can still imagine a condition in which their needs can be satisfied. The products of the culture industry, such as movies, can even inspire the phantasy of people. People can fantasize about having that luxury car and enjoying their trip in that island just like the actor in the movie. Furthermore, the subject is still alive here and he/she can develop critical thinking. Therefore, the culture industry in the second order of simulacra cannot completely secure the survival of the existing system. This doesn't mean that all the people who are at this stage will begin to think critically and act against the system. Rather, this means that they have the potential to develop critical thinking. As a result, the culture industry in the second order of simulacra can potentially threaten the survival of the existing system. But as we will see later, the culture industry in the third order of simulacra can weaken all of these three essential factors for critical thinking.

First, an unsatisfied need: this factor in the advanced stage of simulation will lose its strength. New technologies, operating systems, and digital applications in the postmodern age can create a hyperreal world in which most of our needs can be satisfied. Most of the things that you want and

in any way you want can be achieved in the realm of hyperreality. By using computer applications, special eyeglasses, or a tiny device in your head you can go anywhere in this world and see anyone or any scenery you want. You can have any experience with anyone you want. If in the past and in the second order of simulacra, the need was produced in the media and then a person had to satisfy this need in the real world, in the third order of simulacra the need is produced in the media but it is also satisfied in the media. In other words, here we go into the media world to satisfy our needs. If in the second order of simulacra you couldn't go to Hawaii because you didn't have enough money and this made you angry, with the new technological advances you can also go to Hawaii or any other place in the hyperreal world. You can even create those places or any scenery in your bedroom. By using augmented reality you can even create your favorite girlfriend or boyfriend in the hyperreal world. If your financial problems didn't let you have your dream wedding, don't worry because with the new digital applications you can create any kind of wedding you want by adding any kind of flower, cake, or decoration to your wedding images and video. Of course, some readers of this text might argue that this is not happening in the real world. But this doesn't really matter because what is important in the postmodern age and what we want is the image. One of the main reasons for having a wedding ceremony in the postmodern age is to create a good image. Besides, in the future, you can even have your dream wedding not only in photos but also in reality. If your spouse is not beautiful and sexy according to the Hollywood standards, don't worry because with this tiny device you can see her with any kind of face or body shape. Therefore, you can satisfy most of your needs in the age of simulation. Of course, this is in the field of hyperreality but it doesn't matter because what is important for most of us in the postmodern age is exactly this hyperreal world. Our old reality will probably lose its value for most people who are living in a postmodern world. The primary example of such a world can be seen in the movies like 'Her' when the protagonist Theodore falls in love with Samantha who is an operating system. He fills the vacant space of

emotional relation and love in his life with her. He lives with her, talks to her, and goes out with her. In short, he satisfies a big part of his emotional needs with this operating system. As a result, the first factor for creating critical thinking will lose its strength in the postmodern world as most of our needs can be satisfied in a hyperreal world. This is why I would like to talk about a hyperreal pleasure and a hyperreal satisfaction in the age of simulation. Such pleasure comes from a hyperreal phenomenon. This is a pleasure which is more real than real for us. This is why in Adorno and Horkheimer's culture industry we usually get the needs from the media and we have to satisfy them in our real world but in the age of simulation, we go into the media to satisfy our needs. In other words, we detach from our real world and satisfy our needs somewhere else. As a result, this real world doesn't need to change. We will live in the age in which only our physical bodies exist in the real world while everything else has moved to a hyperreal world. A few years ago there was news about placing robots instead of fans in the stadium in South Korea. People can stay at home and watch the game through the view of the robots. They can even cheer their favorite team via these robots while they are sitting at home. Their faces can even appear on the monitors which are located in robots' faces. In any case, there might be a question for some readers of these lines about how physiological needs such as eating can be satisfied in a hyperreal world. They would probably say that these needs have to be satisfied where the body is. In this case, it must be said that the simulacra can interfere with the way that those physiological needs are satisfied. In the postmodern world, what is consumed is mostly the image of the food. Therefore, for example, you can have a potato in the shape of your favorite expensive food which you cannot afford. Don't worry about its taste because even that can resemble the taste of your favorite food by a special food essence. In the postmodern age, it doesn't matter if you don't get the original food as long as you can consume the same image. As another example, you can still have sex in the real world but you can choose which kind of body or face you want your partner to have by using augmented reality. In short, people in the simulation age can live in a hyperreal world and get

whatever they want. They don't have much reason to be frustrated or angry as their needs are usually satisfied in a hyperreal world.

As I mentioned earlier, the second necessary factor for creating critical thinking is a phantasy or at least an imagination. We need to fantasize about a condition in which an unsatisfied need can be satisfied. Here we should take a look at Marcuse's ideas about phantasy. According to him, phantasy is the only field which can escape the domination of the reality principle. In other words, phantasy is the only part of the pleasure principle which is not dominated by the reality principle. According to Marcuse, phantasy can be a factor for the destruction of domination and a way to emancipation.²⁷ But according to my idea, although the pleasure principle was repressed by the reality principle in Marcuse's time and therefore he relied on phantasy for emancipation, this can hardly happen in the age of simulation. First, there is not that much repression in the hyperreal world. In the age of simulation, the liberation of Eros and complete satisfaction of needs will not hurt anyone anymore because everyone is living in his/her own hyperreal world which has nothing to do with others. As a result, everyone can be free to satisfy his/her needs in complete liberty in every possible way. Therefore, there is not that much repression anymore. Instead, there is complete pleasure. But of course, the pleasure here is hyperreal pleasure in a hyperreal world. There is just one main repression and that is the repression of reality and the real world. The rest is all pleasure. Therefore, in the hyperreal world we may return to the pleasure principle again. In other words, at least a part of the reality principle might be transformed into the pleasure principle. If we accept hyperreality, we can enjoy the rest which is all pleasure. Giving way to the pleasure principle without the necessity of the reality principle can weaken the power of phantasy for emancipation because in a hyperreal world there is not much domination from which phantasy wants to emancipate us. In the future and in the hyperreal world, you are free to have sex with anyone you want, in any way you want, and in any place

27 Herbert Marcuse, *Eros and Civilization: A Philosophical Inquiry into Freud* (Boston: Beacon Press, 1966), p. 14.

you want. There is no need to control or repress your desires because they don't bother anyone. As a result, by a complete liberation of the pleasure principle, phantasy for emancipation will not be necessary. Besides, in the age of simulation, even the imagination is weakened by operating systems and computers. We may not need to have much imagination because the operating systems can decide and create different possibilities for us. We should just choose among them. Instead of us, the systems can imagine or control and create our ideas. Do you want a beautiful scene? Here it is. Do you want a new design for your office? Here it is. Do you want to design a legendary world for your movie? This operating system can create it for you and you should just enjoy it. Therefore, the imagination can be created by these applications and operating systems. As a result, the second factor for creating a critical thinking might be so weak in the age of simulation that it may not help us with strong critical thinking.

Finally, even the third factor for creating critical thinking, namely subjectivity, will be weak in the age of simulation. As I said earlier, to develop critical thinking we need a subject who can think and recognize an unsatisfied need and fantasize about a condition in which an unsatisfied need can be satisfied. But in the age of simulation, even this is hard to achieve because most of our tasks can be done by operating systems. They can turn into the major subjects in the postmodern world. They can tell us what to do, where to go, when to go, who to meet, what to wear, and in short how to live. They may take over a major part of our power that is necessary for being a subject. The primary version of this matter can be found again in the 'Her' movie when Samantha, the operating system, tells Theodore what to do. She even sets a date for him to meet someone else. But other examples, which have already happened in our lives, are intelligent personal assistances and knowledge navigators like Siri. Siri works as our major assistant. It understands, analyzes, and may even give us some suggestions. But the main problem is that since these operating systems work by the logic of formal rationality, which is also the logic of our dominant system, they usually guide us in such a way which supports and secures this system. For example, if you are hungry

and you don't have enough time to eat because of your bad and hard working conditions, your operating system will probably recommend or even order a McDonald's sandwich. This way you can eat your food quickly and get back to work. But it never suggests that you should fight against your company to get better working conditions. Therefore, in the age of simulation, these operating systems may play the role of subjects in our world. In this way, even the third necessary factor for creating critical thinking may lose its power.

The point here is that these arguments might be uncanny for the reader of these lines who is living in the modern world since these operating systems are still controlled by us; we still have too many needs which are not satisfied; and there is still strong repression of Eros. But we have to know that we haven't completely entered into a hyperreal world yet. What I mentioned here was more about the future of our world. In other words, we are getting closer to the age of simulation. But of course, as sociologists, we should not always wait for problems to happen and then we study them. Rather, we should predict the future of our society. As we can see today, we are facing hyperrealities more than ever and it seems that we are enjoying them.

Conclusion

In the first part of this article, I argued that the Frankfurt School in its second and third generations didn't focus enough on the problem of the cultural domination and especially the culture industry and its new techniques in our age. These were some of the leading concerns of the Frankfurt School in its first generation. According to my thinking, this neglect of the cultural domination and the culture industry in the second and third generations of the Frankfurt School was one of the reasons for its sunset after the first generation. Habermas and Honneth as the leading theorists of the second and third generation of the Frankfurt school didn't gather a group of theorists to study the culture industry and its new methods in a systematic and organized way. In my opinion, this neglect of the new techniques of cultural domination and the culture

industry has caused a gap between the first generation of the Frankfurt School and its second and third generations. In addition, this neglect even calls the theories of Habermas and Honneth into question.

Another important point is that this neglect of the culture industry happened while the culture industry itself was stronger and more sophisticated than what Adorno and Horkheimer imagined. Therefore, it is an important task for new generations of the Frankfurt School to study the culture industry in our age which is the age of new media. Today's advanced technologies have changed the nature of the media and the culture industry. First, the dominant class does not exclusively control the media to secure its interests anymore. This means that today other classes can also have access to the media and produce their messages. For example, everyone can share his/her videos on YouTube or Facebook. Second, the new media allow people to respond to the messages they receive. As a result, instead of a monologue, the new media present the possibility of dialogue between people.

My main purpose was to revise the theory of the culture industry in such a way that it can, on the one hand, explain the new ways of cultural domination and, on the other hand, fill a part of the gap between the first generation of the Frankfurt School and its second and third generations. The renewal of the culture industry theory may give new life and power to the Frankfurt School. In order to reach this goal I referred to Jean Baudrillard because of his Marxist interests in his early works and media interests in his later works.

In this article, I talked about the culture industry and masking the absence of a profound reality. Today, more than any other time in the history of media, we receive breaking news about discovered scandals, hustles, illegal acts, and misbehaviors. But we are still living our lives without really doing something about these events. But this news coverage should not create the illusion that the existing system is ethical and fair as it reveals and condemns some of these events. The reality might be something completely opposite. It seems that these events have lost their importance for us and in some cases we don't really care about them. Of

course we hear about them and we might get upset or disappointed, but we don't really do anything about them and after a while we may even forget them. But the culture industry tries to hide the fact that most of us don't care about these event anymore. Therefore, we may not feel bad or sorry about losing justice, humanity, and honesty because the culture industry creates an image by which we believe that these things still exist in our society. In any case, the most important aspect of the culture industry was revealed through Baudrillard's ideas about simulation and hyperreality. I said that three essential factors for developing critical thinking – an unsatisfied need, a phantasy or imagination, and a subject – may lose their power in the age of simulation. This is the age in which most of our needs can be satisfied in a hyperreal world by hyperreal satisfiers; operating systems can affect our potential for imagination, and a big part of our subjectivity is taken away by computer applications and operating systems. As a result, in the age of simulation and hyperreality, critical thinking may lose a big part of its power.

As I showed in this study, the theory of the culture industry has a great potential for extension. We should not limit our view to the definition of the culture industry which Adorno and Horkheimer present to us, but we should understand this theory according to the nature of the Frankfurt School. In this way, we may discover new techniques which the culture industry is using. It was with such a view that I referred to Baudrillard's theory to revise the theory of the culture industry. This study also shows that the Frankfurt School and its theories have a great potential for explaining some of the issues and problems we are facing today and even those that we will face in the future. It is clear that future generations of the Frankfurt School, if there will be any, should also go back to its origins and try to renew the basic theories. This is how we may defend ourselves against the system which is using new techniques all the time to expand its domination.

Democracy and Capitalism in Crisis

Is Capitalism with Socialist Characteristics Still an Alternative?

Hauke Brunkhorst¹

Abstract: Democratic welfarism was a solution for the economic, social and political crisis of modern capitalism and a first successful step towards a democratic socialism that was capitalism with socialist characteristics. The democratic and social state confronted a critical situation in the 1960s and 70s first, because of the technologically-induced beginning of secular stagnation; second, because of the white, male, heterosexual state's cultural and social conservatism with racist characteristics; and third, because it was not fit for globalization. Neoliberalism was, but at high price. Neoliberalism prevailed but decayed in the world economic crisis of 2008. The problem now is this: Are there alternatives that are democratic, social and fit for globalization?

Modern capitalism, as it was described and explained by Marx and Weber, is the most productive economy, and at the same time the least sustainable and most catastrophic ever invented by social evolution. My first chapter is on the partial success of democratic welfarism that was capitalism with socialist characteristics (I). However, this period lasted less than 50 years since. Capitalism with socialist characteristics came in crisis in the 1970s because of the two structural problems of horizontal inequality and secular stagnation (II). It was followed by a

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politically established, long period of globalizing neoliberal “regressive” reformism (III). Neoliberalism up to now has survived the big financial crisis that hit the global economy in September 2008. This has boosted the trend to authoritarianism that was already strong in neoliberal governments and transnational institutions. There are democratic and social alternatives, but they are no longer available within the borders of the national state. (IV) The European Union is part of the neoliberal and neo-authoritarian project, but at the same time a chance, to reconstruct and improve egalitarian democracy on the transnational level (V).

I

In the aftermath of the global economic crisis of 1929 and WWII, the national state became a *democratic social welfare state*. It was the first successful realization of a politically and socially inclusive democratic regime with a *mixed economy* that was a hybrid: capitalism with socialist characteristics.

- The relations of production were regulated by constitutionally enabled democratic class-struggle.²
- Art. 14 of German Basic Law codified private property but Art. 15 (as one examples similar explicit or implicit constitutional amendments all over the world) allowed the “socialization” of “land, natural resources and the means of production” and Arts. 20 (I) and 28 (I) made the “democratic and social (...) republic” a binding basic goal of the state, and the (liberal or socialist) way of its realization due to democratic will formation alone.³
- The re-interpretation of the US-Constitution since mid of the 1930th

2 Walter Korpi, *The Democratic Class Struggle*, Routledge, London, 1983; Dietrich Hoss, *Der institutionalisierte Klassenkampf*, Frankfurt: EVA 1972.

3 Wolfgang Abendroth, *Zum Begriff des demokratischen und sozialen Rechtsstaats im Grundgesetz der Bundesrepublik Deutschland*, in: *Rechtsstaatlichkeit und Sozialstaatlichkeit*, ed. Ernst Forsthoff, Darmstadt: Wissenschaftliche Buchgesellschaft 1968 [1954], 114-144. In the 1950th Abendroth’s position was eccentric, today it is mainstream in German constitutional law („herrschende Meinung”), see Christoph Möllers, *Staat als Argument*, Munich: Beck 2000, 141.

had the same revolutionary result.⁴ The meaning of the *due process clause* and the *commerce clause* of the constitution were reversed completely. They turned from legal means to stabilize capitalist freedom into an instrument to save the peoples freedom from capitalism, and so did the settled case-law of the Supreme Court.

- The one and only form of private property that was established by the French Code civil in 1804 (already mentioned two time in the *Declaration of Civic and Human Rights* from 1789, and even sacrificed in the last Art. 17) became a borderline case (now § 903 BGB).⁵ It was broken up into hundreds, if not thousands of forms of property between public and private property.⁶
- Social differences went down. The rich could no longer pay their palaces in Newport and Long Island, which now are used as schools and universities (because these summer houses reminded one from far of European Castles but were much bigger). The Fordist constellation still consisted in huge class differences. But “with a growing pie, one could give to the poor without taking too much from the rich.”⁷ This was not at all a trickledown effect of so-called free markets but exclu-

4 Bruce Ackerman, *We the People*, Vol. 2: Transformations. Cambridge, MA: Harvard University Press, 1998; Cass Sunstein, *The Second Bill of Rights*, New York: Basic Books 2004; Hauke Brunkhorst, *Critical Theory of Legal Revolutions – Evolutionary Perspectives*, New York/London: Bloomsbury 2014, 403ff.

5 § 903 reads: „Der Eigentümer einer Sache kann, soweit nicht das Gesetz oder Rechte Dritter entgegenstehen, mit der Sache nach Belieben verfahren und andere von jeder Einwirkung ausschließen.“ The law („Gesetz“) and the basic rights of third parties (“Rechte Dritter“) then became the mean to leverage the ratchet of private property through legislation and constitutional jurisdiction (the famous “Drittwirkungslehre“ of the German Constitutional Court).

6 Manlio Bellomo, *The Common Legal Past of Europe 1000-1800*, Washington: The Catholic University of America Press 1995, 25-31; Erhard Denninger, *Von der bürgerlichen Eigentumsgesellschaft zum demokratischen Rechtsstaat*, in: Funkkolleg Praktische Philosophie/Ethik. Studentexte, Band 3, herausgegeben von Karl-Otto Apel, Dietrich Böhler und Karl-Heinz Rebel, Weinheim/Basel: Beltz 1984, 814-844.

7 Lisa Herzog, *The normative stakes of economic growth*, *The Journal of Politics*, volume 78, number 1, Chicago Press, Chicago (IL), p. 57

sively due to the use of state-power. The remaining social differences were effectively compensated by mass-consumption and a quickly expanding educational system that allowed much more social mobility than ever before.⁸ The worker drove a small car, his boss a big car, both sticking in the same jam traffic, driving to the same holiday coast, sending their kids to the same public school. Nowadays not even leftist academics in Germany send their kids to the school with the Turks. In the 1960th and 70th social class mobility in the U.S. was relatively high, and enabled by the expansion of the educational system and shrinking social differences.

The successful establishment of the social welfare state that in countries like Sweden came close to democratic socialism, impressively has demonstrated that there are not only *bureaucratic* but also *democratic* alternatives to the capitalist mode of production. Even if there is (up to now) no democratic alternative to the formation of society (*Gesellschaftsformation*) of functional differentiation, including the information system of the market (the only strong point of Hayek), and to a form of life that is based on the great inventions of the technological revolution such as running water and chemistry, the organizational principle (*Organisationssprinzip*) of capitalist forms of property can be changed. The socialization of all means of production has been proven possible.⁹

Since the 1930th bourgeois class rule has been constrained by trade union power, technocratic elites, electoral campaigns and majority decisions. Stakeholders prevailed over shareholders. Hundred years of heavy class struggle and struggle over democratic rights in Western societies between 1850 and 1950 finally were successful in civilizing modern capitalism. We had capitalism with a human face for half a century

8 Rawls argues rightly that the class-differences and the factual power of the elites over the people (see C. Wright Mills, *The Power Elite*, Oxford: Oxford University Press 1956) is not compatible with the two principles of justice, see John Rawls, *Gerechtigkeit als Fairneß – Ein Neuentwurf* (2001), Frankfurt: Suhrkamp 2003, 214f.

9 On the distinction see Jürgen Habermas, *Legitimationsprobleme im Spätkapitalismus*, Frankfurt: Suhrkamp 1973.

between about 1935 and 1985, at least within the Western hemisphere. In terms of justice this was a “great progress”.¹⁰

II

However, in the course of the 1960th it became evident that the solution of the systemic problems of a functionally differentiated capitalist economy by the democratic social welfare state suffered from two *structural problems*. One was economically, the other culturally and socially.

First, democratic welfarism came into an *economically* critical situation with the *end of high growth rates* that threatened modern capitalism with *secular stagnation* – a challenge modern capitalism never had to face before. Between 2000 and 2016 *real investment* in Germany (one of the biggest winners of globalization and Europeanization) decreased by 20%.¹¹ But the beginning of secular stagnation goes back to the middle of the 1960s. Secular stagnation is not at all due to the presumably “creative destruction” (Schumpeter) of World War II but, as Robert Gordon has shown,

- to the *finalization of the great technological inventions* of electricity, running water, the internal combustion engine, the chemical rearrangements of molecules (pharmacy), and mass-communication already in the year 1940, which had negative effects on growth since the 1970s.¹²
- Moreover, the critical situation of the world economy was reinforced by the aggressive return to market-radicalism since the late 1970th that led to a *secular increase of inequality*. It is now back to the historical peak of 1900.¹³

10 Marx was referring to the Jewish emancipation (legal equality and full citizenship) in: Karl Marx, *Zur Judenfrage*, in: Marx/ Engels Werke Bd. 1 (MEW 1), Berlin: Dietz 1976, 347-377, 356; s. a. 351.

11 Claus Offe, *The Dynamic of Secular Stagnation*, paper presented at a conference on the topic *Jenseits des Kapitalismus* in Wuppertal, Feb. 4, 2016.

12 Gordon, *Rise and Fall of American Growth*; Gordon, *Is US Economic Growth over?* Working Paper 18315, <https://www.nber.org/papers/w18315.pdf> ; Gordon, *The Demise of U.S. Economic Growth: Restatement, Rebuttal, and Reflections*, NBER Working Paper 19895; Nicolas Crafts, *Is Secular Stagnation the Future for Europe?* CAGE Working Papers Series 225, Warwick: University of Warwick April 2015.

13 Thomas Piketty, *Capital in the Twenty-First Century*, Cambridge, MA: Harvard

- The great electronic inventions of the present, the internet, the mobile phone and the personal computer, are all at best *low-growth inventions* with dramatically *negative effects on the future of academic employment* (Collins).¹⁴

The *second* problem was culturally, and a trigger of social and political inequality beyond the sphere of production. The *vertical emancipation* of the lower classes and the working class was not accompanied by the *horizontal emancipation* of oppressed sexes, oppressed groups of deviant religious and sexual orientation, ethnic minorities and colored people.¹⁵ National welfarism was *white, male* and *heterosexual*. Egalitarian democratic solidarity ended everywhere at the *color line* and the *gender line*, with all social consequences of unpaid work and unequal wages.¹⁶ In the public consciousness of democratic welfarism all that did not matter. It was repressed and silenced. The existing discourse in literature and academics that articulated the latent authoritarianism of affluent democracies was marginalized. Moreover, the exclusion of women, homosexuals, people of color from *public discourse* and the repression of the colonial past were stabilized by a *public law* that in many respects resembled (and in many places, was) an apartheid regime. Habermas in the 1960th rightly made the diagnosis of a “depoliticized” and “desiccated public sphere”.¹⁷

University Press 2014.

- 14 Randal Collins, *The end of middle-class work: No more escapes*, in: Wallerstein et al, *Does Capitalism have a Future*.
- 15 The helpful distinction of horizontal and vertical emancipation goes back to the theory of societal disparities by Claus Offe and others (in the early 21st century used by economic theories such as Frances Stewart/ Arnim Langer, *Horizontal Inequalities: Explaining Persistence and Social Change*, Conference-paper, Kiel: Institut für Weltwirtschaft 2006, https://www.ifw-kiel.de/konfer/2006/preg/stewart_langer.pdf, 14.03.2017). For an actualized version see Oliver Nachtwey, *Die Abstiegs-gesellschaft. Über das Aufbegehren in der regressiven Moderne*, Berlin: Suhrkamp 2016.
- 16 See Ira Katznelson, *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*, New York-London: W.W. Norton, 2005; Gurminder K. Bambhra, „Postcolonial Europe in Crisis“.
- 17 Habermas, Jürgen. *The Structural Transformation of the Public Sphere*, translated by Thomas Burger. Cambridge, MA: MIT Press, 1989; Habermas, Jürgen.

However, for a regime that claims universal “exclusion of inequalities” not only for human rights but also for democracy (already since August 1789: Art. 16 *French Declaration*) this becomes a serious problem of legitimization and motivation *once it is politicized*.¹⁸ In terms of justice this was the dark side of democratic welfarism.

The repolitization of the public sphere came in the 1960th, unexpected and unpredictable. Due to consumerism and prolonged adolescence, the hegemony of the achievement principle – the social-psychological corner stone of “modern capitalism” (Weber) – was successfully challenged for the first time in history since the invention of the protestant ethics.¹⁹

The successful challenge of the achievement principle triggered a *crisis of motivation* in the name of a new utopianism and hedonism (Hippies, Woodstock etc.). The latently authoritarian structure of existing Western democracies triggered a *crisis of legitimization*.²⁰

Latent authoritarianism was revealed with the first sentence of a speech of Mario Savio on a police car that was blocked by a sit-in on Berkeley campus, October 1, 1964. The two police officers in the car had allowed Savio to switch off his shoes and give a speech from the top of their car. His first sentence was: „They’re family men, you know. They have a job to do! Like Adolf Eichmann. He had a job to do. He fit into the machinery.“²¹ Many sentences, newspaper articles, scientific essays and books pro and con followed together with an entire industry of new and old, rediscovered and newly invented literature on authoritarianism and anti-authoritarianism. A new public discourse was created.

“Technology and Science as ‘Ideology’.” In: Jürgen Habermas, *On Society and Politics*, edited by Steven Seidman, 237-265. Boston, MA: Beacon, 1989, 263.

18 Rudolf Stichweh, *Die Weltgesellschaft*, Frankfurt aM: Suhrkamp Verlag, 2000, 52.

19 See only: Gertrud Nunner-Winkler/ Rainer Döbert, *Adoleszenzkrise und Identitätsbildung*, Frankfurt: Suhrkamp 1975.

20 The typology of crises in Habermas’ *Legitimationsprobleme* is still actual.

21 William J. Rorabaugh, *Berkeley at War: The 1960s*, New York, Oxford: Oxford University Press 1989, 22, zit. n. Tonje Tangen Kemp, *Regionale, nationale und globale Aspekte einer Studentenbewegung. Eine qualitative Studie zur Kieler Studentenbewegung 1967-1969*, Master Thesis, Oslo: University of Oslo 2012, 32.

Another, even shorter sentence revealed that the color line was not a problem of African Americans but all Americans and the entire human race, when the boxing champion Muhammed Ali in April 1966 justified his rejection of the official call to Vietnam with the words: "They (the Vietcong) never called me nigger." Suddenly the oppression and suppression of the other heading (Derrida) came to the fore, and became a problem of justice for the entire society.²² Wearing guns publicly and visibly, the Black Panthers at the same time performed a speech act that referred to the constituent power of the people enshrined in the First and Second Amendment to the US-Constitution, and with this single act they revealed that bearing constituent power was no longer a white privilege.

There were many other world-disclosing paintings, sentences, poems, movies, actions and happenings like that, opening new perspectives, giving one sphere of silenced and suppressed discourses after the other a voice, and triggering ever new, anarchic, wild, expressive, emotional, and rational public discourses and a great variety of social movements.²³ The lines of color, gender and heterosexuality that divided the West horizontally, came under pressure all over the world, and the new social movements resulted in one of the greatest cultural revolutions ever. The beginning of women's emancipation ended thousands, and hundred thousand of years of paternalism, and not much different was the emancipation of homosexuals from hegemonic heterosexual repression.

III

The transnational cultural revolution triggered a rights revolution that was a second wave of *progressive reformism*, concerning primarily horizontal inequalities. However, the national welfare state could not solve the problem of growth. The territorial borders of the welfare state became the limits of its efficiency and functionality. National welfarism

²² Jaques Derrida, *The Other Heading, Indiana*, Indiana University Press 1992.

²³ This is a paradigm case of Habermas theory of deliberative democracy, see Brunkhorst, *Deliberative Demokratie*, in: Peter Koller (ed.) *Kommentar zu Faktizität und Geltung*, Berlin: Akademie 2016 (forthcoming).

was not fit for globalization. Neoliberalism was. Neoliberal globalization and *regressive reformism* have turned the relations of dependency between public power and private money upside down.²⁴

- Since the 1980th the *tax state* that legally has taken the money away from the rich was replaced by the *debt state* that is dependent on the generosity of the rich.²⁵
- Since the 1990th ever more workers lost their rights to strike *factually*, and in exchange got *credits unlimited* at the expense of a new form of debt slavery.²⁶
- Capitalism was globalized through the *complete financialization* not only of the finance industry but also of the real economy. The *big capitalist firm* was completely reconstructed, became itself part of the financial sector and a transnationally diversified industrial corporation, and *shareholders again prevailed over stakeholders*.²⁷
- In the last 50 years *state embedded markets* turned into *market embedded states* and turned the relations of dependency between state and economy upside down.²⁸
- Globalization not only decoupled global markets from national state-embedment but successively *all functional systems* (and val-

24 On the important distinction between progressive (social) and regressive (neoliberal) reformism see Offe, *Europe entrapped*, Oxford: Polity 2016.

25 Wolfgang Streeck, *Bying Time – The Delayed Crisis of Democratic Capitalism*, London: Verso Books 2014.

26 In terms of political economy this is “privatized Keynesianism”: Colin Crouch, *Über das befremdliche Überleben des Neoliberalismus*, Frankfurt: Suhrkamp, 2011.

27 David M. Kotz, *Neoliberalism, Globalization and Financialization: Understanding Post-1980 Capitalism*, University of Massachusetts: Amhurst 2015, <https://www.umass.edu/economics/sites/default/files/Kotz.pdf> (accessed 22.09.2017); Petra Dünhaupt, *Financialization and the Crises of Capitalism*, Institute for International Political Economy, Berlin, Working Paper, No. 67/2016, http://www.ipe-berlin.org/fileadmin/downloads/Papers_and_Presentations/IPE_WP_67.pdf (accessed 22.09.2017).

28 Streeck, *Sectoral Specialization: Politics and the Nation State in a Global Economy* (paper presented at the 37 World Congress of the International Institute of Sociology, Stockholm 2005; see Streeck, *Bying Time*).

ue-spheres) of modern society, causing a global *crisis of functional differentiation* through over-integration of the haves, and under-integration of the have nots.²⁹

Within the neoliberal political-economic regime high profit rates can be maintained only at the expense of *growing social differentiation*. However, this has deadly consequences for growth *and* democracy. Growth comes under permanent threat of *under-consumption*, and increasing social inequality causes increasing *political inequality* in the center of the society (“middle classes”) and growing *exclusion* rates at the periphery.³⁰

29 Not Brazil and all so-called emerging and developing countries were Westernized but the Brazilian model of over- and under-integration has been universalized. See Marcelo Neves, *Verfassung und positives Recht in der peripheren Moderne*. Berlin: Duncker & Humblot, 1992; Neves, „Zwischen Subintegration und Überintegration: Bürgerrechte nicht ernstgenommen“, *Kritische Justiz* 4/ 1999, 557-577. The far too early buried theories of dependency between North and South were impressively proved by neoliberal globalization that at the same time initiated a very successful propaganda machinery to kill the neomarxist theories of imperialism and dependency which actually were in need of revision but never completely wrong, see Stefan Lessenich, *Neben uns die Sintflut. Die Externalisierungsgesellschaft und ihr Preis*, Berlin: Hanser 2016, 42, 63; ernüchternde und erhellende Fallstudie: Jochen von Bernstorff, „Landgrabbing und Menschenrechte“, INEF Forschungsreihe Menschenrechte, Unternehmensverantwortung und Nachhaltige Entwicklung 11/2012, http://www.humanrights-business.org/files/landgrabbing_final_1.pdf (7. Mai 2017).

30 Armin Schäfers, *Der Verlust politischer Gleichheit; Warum die sinkende Wahlbeteiligung der Demokratie schadet*, Frankfurt aM: Campus Verlag, 2015. On the theory of under-consumption see Paul A. Baran/ Paul M Sweezy, *Monopoly Capital, An Essay on the American Economic and Social Order*, New York: Monthly Review Press 1966, 76-111). Prices are decoupled from markets, profits are stable, their increase rates are predictable and can be planned, the cyclic (sinus curve like) fall and rise of profits suddenly comes to an end, and the profit margins of the 500 biggest US-firms remain consistently high since 2008 – to the horror of Goldman & Sachs (Joe Weisenthal, *Goldman & Sachs Says it May be Forced to Fundamentally Question How Capitalism is Working. The profit margins debate could lead to an unsettling conclusion*, Bloomberg Markets Feb. 3, 2016, <http://www.bloomberg.com/news/articles/2016-02-03/goldman-sachs-says-it-may-be-forced-to-fundamentally-question-how-capitalism-is-working>). At the same time middle and lower classes have not enough money to buy the most urgent consumer goods, such as good education, sufficient health care, decent housings, healthy food and so on. The result is a crisis of

National exclusion rates increased since 2000 between 22% and 40%.³¹ Today social class mobility again is zero since decades. As in 1900 family income alone determines class affiliation.³² Moreover, the expansion of the educational system, especially of the university system with now 30-50% of the population with some academic training, and at the same time a nearly complete decoupling of educational and employment system makes the life situation of 90% of the population casual and precarious.³³ Democracy runs out of alternatives. Not absolute poverty but relative inequality, reinforced by the threat of exclusion *discourages* the people, resulting in a new but this time not utopian and hedonistic but paralyzing and depressing *crisis of motivation* that explains the dramatic decrease of the turnout for lower middle and underclasses down to 30% and less, whereas upper classes' turnouts went up close to 100%. The result, leftist parties lose their voters, moving further right from election to election. Finally, we are left with the gloomy alternative between *right parties* of market fundamentalism plus PC-culture (Hillary Clinton) and *far right parties* of market fundamentalism plus a neo-conservative cultural back-

under-consumption, as Marx already has written in *Capital*: "The ultimate reason for all real crises always remains the poverty and restricted consumption of the masses as opposed to the drive of capitalist production to develop the productive forces as though only the absolute consuming power of society constituted their limit." (Marx, *Das Kapital* Bd. 3, Berlin: Dietz 1968, 501, English translation quoted from <https://www.marxists.org/archive/marx/works/1894-c3/ch30.htm> (accessed 1.05.2016).

- 31 Offe, *The Dynamic of Secular Stagnation*.
- 32 Richard Wilkinson and Kate Pickett, *The Spirit Level: Why Greater Equality Makes Societies Stronger*, (New York: Bloomsbury, 2010); see Tony Judt, *Ill Fares the Land*, New York: Penguin Books, 2010; Nachtwey, *Die Abstiegs-gesellschaft*.
- 33 On the decoupling of educational and employment system see already Offe, *Berufsbildungsreform. Eine Fallstudie über Reformpolitik*, Frankfurt: Suhrkamp 1975, and on the casualization of life- and job-expectations (emergence of a precariat) see Pierre Bourdieu, *Gegenfeuer – Wortmeldungen im Dienste des Widerstands gegen die neoliberale Invasion*, Konstanz: Universitätsverlag Konstanz 1998; Collins, *The end of middle-class work*; Schulze Buschoff, Karin, *Atypische Beschäftigung in Europa: Herausforderungen für die Alterssicherung und die gewerkschaftliche Interessenvertretung*. WSI Study Bd. 1, 2016. https://www.boeckler.de/wsi_6420.htm?produkt=HBS-006296&chunk=2. (08.09.2017).

ground that is nationalist, racist and religiously fundamentalist (Donald Trump). What was fiction in 1979, that there is no alternative, from that time onwards became real, due to the real consequences of the fiction. A paradigmatic case of the Thomas theorem of sociology.³⁴

The disastrous increase of social inequalities also demolished the historical and actual justice of the global cultural and civil rights revolution. For the unemployed, previously convicted, lesbian and Jewish African American, who lives in the homophobic, anti-Semitic and misogynist slum area of Baltimore with its racist police officers, the progressive new rights and freedoms *have no fair value* (Rawls). Therefore, they have become privileges, and the same is true with respect of the quickly growing banlieue of Europe.

Neoliberalism not only destroyed (or at least demolished) welfarism, it also globalized the neoliberal state together with an ever denser network of transnational private-law regimes. Private law that since its old Roman days is a law of coordination of the interests of the ruling classes, finally marginalized international public law, and stabilized the unequal relations between the global haves and the global have-nots.³⁵ Regressive reformism determined the agenda of legislators and judges. Since the 1980s US-Congress-legislation has watered down many New-Deal advances, and Supreme-Court judgments such as *Citizens United* (2010) became settled case-law of the Court. It made private corporations civil rights bearers, extended the freedom of speech to the use of money (as a political right), and constitutionalized the power of big money over the American party system. More or less the same happened in all countries and international relations of the western hemisphere and beyond.

The state was subverted by private-public partnerships, and – together with the turn from the debating and disputing temple of the General Assembly to the executive police of the Security Council – ever more

34 The theorem reads: “If men define situations as real, they are real in their consequences” (William I. Thomas, *The Methodology of Behavior Study*, New York: Knopf, 1928, 553ff).

35 See Eric George, panel contribution on *Transnational Commercial Arbitration and arbitrators: Institutions, Actors, Dynamics, Transnational Law*. Summer Institute, London: Kings College, Poon School of Law, 22 June 2016.

power was transferred from the legislators to transnationally united executive bodies.³⁶ Legal formalism was replaced by legal dynamism, and legally bound formal rule by legally unbound informal rule.³⁷

The invention of the Eurogroup at the end of this period is paradigmatic. At the height of the Greek crisis the Group decided to expel the Greek minister of finance from an ongoing session. The minister asked for legal legitimation, the chief of the Group called for his lawyers, they told him that the Group did not exist legally; hence everything they did was legal. Instead of the dialectical tension between liberalism (Art. 14 GG) and socialism (Art. 15 GG) that was originally constitutionalized by the German Basic Law, the EU-Treaties and the settled case-law of the European Court of Justice have constitutionalized competition law (Art. 2 EC). Competitiveness is the “hidden curriculum” of the constitutional law of Europe.³⁸ This hidden curriculum has transformed democratic class struggle into a struggle of nations over the generosity of investors, depoliticized the common currency, and decoupled it in particular from all European and national legislative and executive state power. Factually the Treaties and decades of constitutional praxis have transferred considerable constituent power to the Court and the European Central Bank. The *nomos of the market* has become the “substance of the constitution” of the Eurozone and its member states.³⁹ Macroeconomic decisions are determined in advance by the treaties.⁴⁰ Prize stability trumps

36 Koskenniemi, *The Police in the Temple. Order, justice, and UN – A dialectical View*, in: *European Journal of International Law* 6/ 1995, 325-348.

37 Koskenniemi, Martti (2002): *The Gentle Civilizer of Nations*, Cambridge: University Press, 500ff.

38 Offe, *The European model of ›social‹ capitalism: Can it survive European integration?*, in: *The Journal of Political Philosophy* 11/4 (2003), S. 437-469, at 463.

39 On the substance of the constitution see: Carl Schmitt, *Verfassungslehre*, Berlin: Duncker & Humblot 1989, 24ff, 171f, 177. The constitutional theory that fits best to the present constitutional law of Europe is that of Hayek (who was deeply influenced by Schmitt), see Friedrich A. von Hayek, *Entnationalisierung des Geldes*. Tübingen; Mohr 1976; Hayek, *Recht, Gesetz und Freiheit*, Tübingen: Mohr: 2003.

40 Mark Dawson and Floris de Witte, *From Balance to Conflict: A new Constitution*

full employment, labor market access trumps democratic class struggle, financial conditionality trumps solidarity, austerity trumps Keynesian solutions, market imperatives trump democratic decisions, and competitiveness trumps everything.

Thus, in Europe macroeconomic choices “are taken in an institutional setting that provides near-perfect protection against the interference of input-oriented political processes and of democratic accountability in the constituencies affected.”⁴¹ The final touch of this institutional setting is, as Jelena von Achenbach has shown, the Trilog procedure that precedes the ordinary legislative procedure of the three European powers of Parliament, Commission and Council, and allows the leaders of these institutions to bypass the parliamentary public and the constitutional law of the parliament, depriving en passant parliamentary minorities from any influence.⁴²

IV

If there is a future of global capitalism with market-embedded states, the likelihood is extremely high that it will be a *new formation of authoritarian liberalism*.⁴³ We are already approaching a hypermodern dual state with a social separation of labour between authoritarian prerogatives and rule of law.⁴⁴ Ernst Fraenkel’s and Franz Neumann’s *Studies* from the late

for the EU, European Law Journal 21/ 2015.

41 Fritz W. Scharpf, *Political Legitimacy in a Non-optimal Currency Area* (Cologne: MPIfG, 2013), 23. http://www.mpifg.de/pu/mpifg_dp/dp13-15.pdf.

42 Jelena von Achenbach, *Verfassungswandel durch Selbstorganisation: Trilogie im Europäischen Gesetzgebungsverfahren*, in: *Der Staat* 55/ 2016, 1-39.

43 Hermann Heller, *Authoritarian Liberalism*, European Law Journal 3/ 2015, 295-301; see Wallerstein, *Structural Crisis, or why Capitalists no longer find Capitalism Rewarding?* in: Immanuel Wallerstein et al., *Does Capitalism have a Future*, 9-36; Herbert Marcuse, *Der Kampf gegen den Liberalismus in der totalitären Staatsauffassung*, in: Marcuse, *Kultur und Gesellschaft I*, Frankfurt: Suhrkamp 1965, 17-55.

44 The dual state is a mix of (inclusive) norm-state (or *Rechtsstaat*) and (exclusive) prerogative state (or police-state), and there are more formations of the double state than pre-war fascist regimes, on the paradigm case of the latter see Ernst Fraenkel, *The Dual State*, New York: Octagon 1969.

1930th are of gloomy actuality again. The new dual state consists in a strong tendency towards legal over-integration of the ruling classes and under-integration of lower classes and excluded populations. Whereas the former appear only as plaintiffs in court, the latter appear only as accused.⁴⁵ Prerogative law and the declared or undeclared state of siege are normalized.⁴⁶ Paradigmatic is the emergence of smart and flexible border regimes, which are repealing citizens living in the border region from substantial constitutional rights. In the US these are already two third of the entire population (Coast Region and Great Lakes).⁴⁷ AfD, Front National, Victor Orban and the American and British Donald Trumps, Boris Johnsons and Steven Bennons are the *logical consequence of market fundamentalism in permanent crisis*. "In case of doubt send the marines" (Tom Lerner) – or the bankers as in the Troika-rule over the Greek colony of the Eurozone. "The state is back in. But the state does not represent democracy at all."⁴⁸

The only alternative to authoritarian liberalism is democratic socialism, or at least capitalism with socialist characteristics. My thesis is that any *democratic* solution of the five major crises of the functionally differentiated, capitalist world society – the crises of growth, social inequality, societal exclusion, environmental devastation and functional globalization – at least must take a far step in the direction of a *socialization of the means of production*. However, capitalism with socialist characteristics can be successful only if it solves all five crises at once, which today shake world society, and this cannot be done within the borders of the decay-

45 Neves, *Zwischen Subintegration und Überintegration*.

46 Jonathan White, *Emergency Europe*, in: *Political Studies* 2015, Vol. 63, 300-318

47 See Ayelet Shachar, "New Border and Citizenship Constellations: Implications for Law and Justice", paper presented at the WZB Workshop 'Critical Theory and Constitutionalism', Berlin 11.12.2015, pp. 12, 32-35 (at file with the author).

48 Heinz Klug, panel contribution on *Transnational Commercial Arbitration and arbitrators: Institutions, Actors, Dynamics, Transnational Law*, Summer Institute, London: Kings College, Poon School of Law, 22 June 2016.

ing national state, a decay that is probably irreversible.⁴⁹

- *Social difference* become critical if they – as they do now (see above) – cause a crisis of motivation and legitimization, and if they enhance the threat of secular stagnation. Thus, to save growth *and* democracy, *massive redistribution* of wealth to the lower and middle classes is the only realistic perspective, just because only these classes buy masses of consumer goods. Massive redistribution would kill both birds with one stone, the threat of economic collapse through stagnation, and the threat of democratic collapse through political inequality. Unfortunately, there are much more birds in the air over Bodega Bay.
- The structural *difference of center and periphery* becomes critical – and corrupts functional differentiation (see above) – if it turns into the social difference between included and excluded populations. Whereas the degraded middle and lower classes have lost any chance to change their inferior social position, excluded populations are excluded from access to all social systems (as the homo sacer or the outlaw in old-European stratified societies).⁵⁰ The only promising cure is *massive investment in educational and socialization agencies together with a decent basic income*.⁵¹
- The *difference of system and environment* becomes critical if it causes ecological (and psychological) devastation.⁵² The only solution for the environmental problems (if there is any) is *green growth*. The enormous

49 Hayek has hijacked Polanyi's theory of embedment and disembedment, to turn it just the other way round. The solution no longer is re-embedding markets into democratic polities but to "embed" democratic polities into the "spontaneous order" of markets (see Hayek, *Recht, Gesetz und Freiheit*).

50 Niklas Luhmann, *Die Gesellschaft der Gesellschaft*, Frankfurt: Suhrkamp 1997, 630f.

51 It could be also a starting capital, high enough to pay tuition at American Ivy-League University. A well calculated model is: Bruce Ackerman, Anne Alstott, *Die Stakeholder-Gesellschaft. Ein Modell für mehr Chancengleichheit*, Frankfurt am Main: Campus 2001. Gerd Grözinger, Michael Maschke, *Offe, Die Teilhabegesellschaft. Modell eines neuen Wohlfahrtsstaates*, Frankfurt am Main: Campus 2006.

52 Luhmann, *Globalization or World Society: How to Conceive of Modern Society?*, *International Review of Sociology*, Vol. 7, 1/ 1997, 67-80.

proportions of the problem come to the fore once we take into account only CO₂-reduction through Carbon capture and storage, because this is possible only with far reaching infringements of land ownership worldwide.⁵³

Functional differentiation becomes critical, once it goes global and beyond the reach of state-power. We only must take the differentiation of markets into account. There is neither a socialist nor a capitalist economy possible that does not rely completely on the constitutive functions and corrective achievements of state-power. There are great differences between real socialism and real capitalism (not to talk about utopian socialism) but both (and utopian socialism) are based on exactly the same degree of bureaucracy, state-interventionism and state-control, if they want to survive.⁵⁴ Everything that is beyond that a high level of state-interventionism and -control, causes a critical situation for functional differentiation. The differences decay and open the system for structural corruption, and this is true not only for the economy but also for law and politics and all other social systems (as we actually can observe every day in the case of the global sport-system).⁵⁵ In a Hayekian world of market-embedded states the blackmailing power of global capital increases beyond all limits, state power and the legal state decreases dramatically (and makes atomic war threats actual again), and functional differentiation crumbles quickly.⁵⁶ The slogan of the Brexiteers is true but the other way round: "Taking back control" to the people (democracy) there is no alternative to the *transference of strong and democratic state power to continental and global political regimes.*

53 Ottmar Edenhofer Brigitte Knopf, Gunnar Luderer, *Die Gretchenfrage des Klimaschutzes: Nun sag, wie hast Du's mit dem Eigentum?* in: Thorsten Müller (Hrsg.), *20 Jahre Recht der Erneuerbaren Energien*, Nomos: Baden-Baden 2012, 34-51.

54 Offe, *Strukturprobleme des kapitalistischen Staates*, Frankfurt: Suhrkamp 1972; Offe, *Europe entrapped*.

55 Neves, *Verfassung und positives Recht in der peripheren Moderne*.

56 Neves, *Verfassung und positives Recht in der peripheren Moderne*.

V

At least one major step on the road to global democratic socialism could be taken by the European Union.

What is good about the European Union is that there is already the unique invention of a democratically elected transnational Parliament. Articles 9-12 of the Treaty of Lisbon constitutionalize the by far most advanced democracy of an international organization.⁵⁷ The Treaty already contains nearly everything needed for a (partial) continental solution of the five crises. The *ordinary legislative procedure* that binds the three European powers, the Parliament, the Commission and the Council together comes, as Jürgen Bast has shown, very close to a full-fledged *constitutionalization of European democracy*, because, as Franzius and Habermas have shown, it represents both, the *national peoples* and the *citizens of the Union*.⁵⁸

Unfortunately, at present Art. 9-12, even the parliamentary elections and the legislative procedure are constitutional kitsch (Koskenniemi). The last elections were a caricature of democracy, Junker said, 'I prefer p', and Schulz contradicted, 'No, I am strongly against it, I prefer p.' The Monty Python Show. Not the agencies of the legislative procedure are the European legislator but half-informal and completely informal groups like the European Council and the Eurogroup. Latest since the so-called Greek crisis the perfect protection of the united executive bodies of Europe is under public attack, from the right and from the left.

With every further day of crisis, it becomes ever more evident that the only way out is the *derogation of the Treaties*, the abolishment of the

57 Armin von Bogdandy, *The European Lesson for International Democracy: The Significance of Articles 9–12 EU Treaty for International Organizations*, *European Journal of International Law* 23 (2012): 315–34.

58 Bast, Jürgen. "Europäische Gesetzgebung – Fünf Stationen in der Verfassungsentwicklung der EU." In *Strukturfragen der Europäischen Union*, edited by Claudio Franzius, Franz C. Meyer and Jürgen Neyer, 173-180. Baden-Baden: Nomos Verlag, 2011; Franzius, Claudio. *Recht und Politik in der Transnationalen Konstellation*. Frankfurt: Campus, 2014; Habermas, *The Crisis of the European Union*, Oxford: Polity 2012.

European Council and the Eurogroup, and a *new constitutional foundation of a Union of the Eurozone*, equipped with a legislative procedure that has comprehensive jurisdiction (“Allzuständigkeit”) on the federal level, and sufficient administrative power to enforce it.

The European Parliament needs the same *budgetary competencies* as the American Congress, and that includes the *right to impose taxes*. The slogan of the American Revolution is true for Europe but again the other way round, „There is no representation without taxation.“ Taxation is a necessary (not sufficient) condition for any public law that is egalitarian and anti-hierarchical.⁵⁹ Moreover, the Union needs full competence in *foreign affairs*. A model of federal foreign policies in Europe could be the German Empire of 1870, which still had autonomous foreign policies and armies on the state-level.⁶⁰ Most of the rest then can be taken away from Brussels and done by the national states, and it needs a possibility to increase and decrease the value of the common currency for member states and regions under certain conditions of emergency, regulated by the European legislative procedure.⁶¹

Nothing less powerful than a European federal regime with full budgetary, taxation and foreign policy competencies will be able to cope with the blackmailing power of global economy, and by the way, with the

59 On the internal relation of egalitarianism and its anti-hierarchical direction in constitutional law see Cathreen MacKinnon, *Substantive Equality: Hierarchy in Canada and the World*, paper presented at ICON Conference Berlin, June 18, 2016; and in the evolutionary prehistory and history of constitutional law see Christopher Boehm, *Hierarchy in the Forest. The Evolution of Egalitarian Behavior*, Cambridge MA: Harvard University Press 2001; Fabio Portela L. Almeida, *The emergence of constitutionalism as an evolutionary adaptation*, in: Cardozo Pub. Law, Policy and Ethics 1/ 2014, 1-96; Brunkhorst, *Sociological Constitutionalism – An Evolutionary Approach*, forthcoming in: Paul Blokker/Chris Thornhill (Ed.): *Sociological Constitutionalism*, Cambridge: Cambridge University Press, 2016.

60 Bardo Fassbender, *Der offene Bundesstaat. Studien zur auswärtigen Gewalt und zur Völkerrechtssubjektivität bundesstaatlicher Teilstaaten in Europa* (Tübingen: Mohr-Siebeck, 2007).

61 Scharpf, *Deconstitutionalization and Majority Rule: A democratic Vision for Europe*, in *European Law Journal* 1/ 2018 (forthcoming).

military threats from regimes like Putin's Russia or Trumps America, and to solve the coming migration problems in accordance with human rights and democracy. The present way of solving the problem through the unconstitutional rule that in case of doubt security trumps human rights has led to a deep crisis of human rights in Europe, which are now coming close to Indian or Chinese standards – standards enforced by the permanent externalization of costs from the West to the rest.⁶²

As empirical research shows, a majority of European citizens favors a federal union that gives the choice over political, economic and social alternatives back to the people.⁶³ People distrust political elites, and rightly so, but they trust each other's, even beyond the old European borders. There are surprisingly large majorities even in favor of a transfer-union and a European social welfare state. More than 70% of the Germans would support such a union – even if they would lose money.⁶⁴

However, because the institutional setting of the EU provides a near-perfect protection against any movement of input-democracy, the option for a European democracy with real choices literally has become utopian, and the commodified, now totally privatized old mass-media have desensitized themselves for everything that does not fit into the existing political system. Therefore, everybody thinks that I prefer social Europe but none of my neighbors. However, legitimization crisis now begins to break the spiral of silence. The far right winners of the Europe-

62 Susanne Baer, *Inequalities that matter*, paper ICON Conference Berlin, June 18, 2016; Lessenich, *Neben uns die Sintflut. Die Externalisierungsgesellschaft und ihr Preis*, Hanser Verlag, Berlin 2016

63 Eurostat 2015; Brendan Simms/ Benjamin Zeeb, *Europa an Abgrund*, München: Beck 2016, 116; Monika Eigmüller, *Der Zusammenhalt Europas*, Vortrag Akademie für Politische Bildung Tuzing 24.1.2016 (Man.); Eigmüller, Faith in European Project Reviving, 116.

64 Gerhards, Jürgen and Holger Lengfeld; *European Integration, Equality Rights and People's Beliefs: Evidence from Germany*. *European Sociological Review* 29 (2013): 19-31; Gerhards, Jürgen and Holger Lengfeld. *Wir, ein europäisches Volk? Sozialintegration Europas und die Idee der Gleichheit aller europäischen Bürger*, Wiesbaden: Springer VS, 2013. For an overview of the present research see Eigmüller, *Der Zusammenhalt Europas*, manuscript, Flensburg: Europa Universität 2016.

an elections and the Brexit have at least the *one* democratic achievement, to present the European power-elites with the choice, either to watch passively their own agony, and to lose the majority in one parliament after the other, and to adapt and convert to authoritarian liberalism, or to take the bull by the horns and let the people decide themselves. The sooner the better are the chances of democratic growth and enlargement, and even if they decide against the social Europe and for neoliberal (and necessarily much more authoritarian) politics – it would at least be their own deliberative and democratic choice.

Public Sphere in a time of crisis / Reason Resistance

Christine Brueckner McVay

Abstract: This paper introduces the potential for a contemporary public sphere to form, given its necessary constituting mechanism, the public use of reason, as described by Jürgen Habermas in his early work, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*. The practical context for this theoretical question is the current crisis crystallized by the election of Donald Trump to the presidency of the United States and the storm of public protest against social injustices and at the same time against the man perceived as responsible for them. The popular opposition these protests embodied contained, at least as of the writing of this paper, the promise of an effective and long-lasting social resistance to the state. I will use Habermas's later *Theory of Communicative Action* to clarify some of the concepts left indeterminate in *The Public Sphere*: the self-contradiction inherent in the use of reason to produce forms of resistance to the state, and related contradictions within the concept of public opinion as a control mechanism. I will introduce the utopian possibility of forming a public sphere, not within protesting groups but between them, present some challenges involved in enacting and articulating relations between groups, and describe other practical challenges that this theoretical and preliminary possibility raises.

In his book, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, Jürgen Habermas described an ideal public sphere that controlled the state, using the mechanism of the public use of reason. By the time he wrote his book in the middle of the last century, the public sphere had been structurally transformed and its political function scuttled. Since then, the depolitization of any remaining public sphere has accelerated in the U.S., the public use of reason has become a fanciful notion, effective social opposition has dwindled, and a viable public sphere become irrelevant to hard reality. Yet I propose that a reconstituted public sphere today might produce effective forms of social opposition to the state and to the prevailing economic system.

The contemporary phenomenon that inspires this possibly quixotic inquiry is the crisis made visible by the rise of Trump. His election to the U.S. presidency galvanized sectors – many formerly indifferent to politics – of a U.S. populace to erupt into protest after decades of accepting increasing domination by neoliberal and global capitalism. Disparate groups appeared together in public to express dissatisfaction with concrete injustices, most visibly at the Women’s March of January 21, 2017. Estimates run as high as four and a half million of people participating in the U.S. alone.¹ The limitations of electoral politics and citizen lobbying seemed obvious and solidarity across different resisting groups imminent. Various parts of a social whole had found a common target, if not a common understanding of the problem.

These actions may meet with violent counter-force; dwindle as society adjusts to a new degree of domination; or, in the best of all possible scenarios, the already existing opposition groups may form and function as an ongoing critical public sphere, an oppositional forum that pressures governmental authority to change the political rules governing society and the economy. However, the history of the public sphere given by Habermas holds out no great hope for such an outcome. While his historical model institutionalized as an unofficial oppositional forum the collective capacity to critique and control the state, its utopian purpose went largely unrealized.

The Ideal Public Sphere

Habermas contextualized the rise of the bourgeois public sphere in the late eighteenth century when absolute monarchy and its mercantilist economy in Western Europe came to an end. As the hierarchical correspondence of whole and parts disconnected, the public sphere arose as a mediation between the state and its now alienated society. Theoretically, and in its ideal form, the bourgeois public sphere would have been a site

1 “Turn out attendance at Women’s March Events was bigger than estimated”, *Fortune*, January 24, 2017.

for argumentation where “reliable criteria of public evaluation”² would rationalize laws without directly establishing them.

The public sphere’s object of interest was the economy which it assumed to operate under the auto-pilot principles of classical economics. The public sphere developed rules of contract and trade that benefited its own constituent members,³ white bourgeois males. While increasing democratic participation in the liberal era resolved this contradiction of a self-interested part speaking for the whole, it also replaced mutual critique and consensus formation with the technique of compromise.⁴ Power differentials rather than reasoned debate determined winners and losers.

When this sphere of compromise failed to prevent market domination by monopolies resulting in unemployment and its attendant social miseries and finally in national economic crises in 1873, governments stepped in. They re-assumed society’s functions to provide for social welfare and the market’s function to calibrate production and consumption. At the same time, the public sphere underwent the structural transformation that is the real object of Habermas’s study. Already its liberal form, opened to wider participation and more social groups, had lost its political function and become susceptible to the un-resistible tyranny of majority opinion that Tocqueville had described in *Democracy in America*. Now that refeudalized connections between state and society revived a pre-modern whole, new forms of domination left no room for a public sphere to mediate them. As a critical body, it more or less withered away.

Instead of producing critical public opinion in a long process of argumentation, this egalitarian but passive institution now consumed mass opinion that blocked political thought and action.⁵ Publicity reverted

2 Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Inquiry into a Category of Bourgeois Society*, trans. Thomas Burger. MIT press, 1991, p. 131.

3 *Public Sphere*, p. 88.

4 *Public Sphere*, p. 132

5 *Public Sphere*, p. 164.

to prestige represented and recognized without public discussion.⁶ The state, fully responsible for society, defined and supported the general interest that non-deliberative but competing individual interests would never find.⁷

Habermas did not end on an optimistic note. He was writing in newly postwar Germany, in the year the Berlin Wall rose to divide communist east from consumerist west, and a few years before the protests of the sixties would unevenly resist the state. He described groups forming in his own time that precipitated out of mass society,⁸ bypassed public critique, operating in the secret world from which will (*voluntas*) emerges rather than in the public realm where reason (*ratio*) is both procedure and product. Potentially critical opinion that developed within committees, associations and parties was not debated between them in public. Nevertheless, the ideal of a public sphere as a model for critiquing state and society persists, now sometimes seen as situated in technologies that have developed since the heyday of print and mass media, and as comprised of a diverse public that reflects today's society or even as divided into many separate 'publics' that represent it.⁹

In a utopian spirit, I will introduce a different possibility for a public sphere that could potentially form between—not within—various protest groups, mention certain problems attendant on such a development, and examine contradictions in Habermas's concepts of the public use of reason and of public opinion, relying in part on his *Theory of Communicative Action*.

Protest Public Sphere: scale

In the six months following Trump's inauguration, resisting groups that appeared together in public, seemed to promise a newly vigilant and ef-

6 *Public Sphere*, p. 200.

7 *Public Sphere*, p. 224

8 *Public Sphere*, p. 241

9 See, for example, Nancy Fraser, "Rethinking the Public Sphere: A Contribution to the Critique of Actually Existing Democracy", in *Social Text*, No. 25/26 (1990), p. 69.

fective public sphere. However, tendencies that Habermas noticed more than fifty years ago continue today, threatening its emergence.

In terms of practice, forming a public sphere at a scale commensurate with the forces of domination is no foregone conclusion. Habermas's public sphere stood between society and the state itself, legitimating its laws. Today local opinion and controlled avenues of public input can affect local governments, at least in the U.S. However, place-bound cities, Benedict Anderson's "imagined community" of the nation, and the globally dispersed sum of corporations outside state controls operate as institutions at increasing distances from human beings and at scales that increasingly dwarf the range of human experience. In his description of state intervention into the economic and social realms at ever larger scales, Habermas mentions the macro-economic modeling that arose in the English-speaking world just before World War II¹⁰, a phenomenon that continues, becoming ever more abstract and for many, abstruse. Individuals may experience poverty or prosperity; they may perceive the 'behavior' and fortunes of businesses, companies and corporations; they may understand the principles of monetary and fiscal policy, but how these interrelated realms do relate remains beyond the capacity of most humans to comprehend, let alone debate and evaluate. Scaling up resistance even for the expedient purpose of meeting the scale of economic domination by globally operating, stateless corporations would require groups to coordinate action, either hierarchically under the most influential banner, or as part of a self-composed alliance which might likewise operate globally.

In terms of theory, contradictions within the concept of the public use of reason which Habermas had left indeterminate threaten the potential of a resisting public to do more than express outrage and demand action tailored to specific injuries. Today's widespread perception of crisis is not the only condition for a public critique that reaches understanding of individual wrongs in their objective reality as consequences of a whole structure.

10 *Public Sphere*, p. 147.

The Who: groups, fragmentation

Reacting with disapproval to the figure of Trump, different groups of interest, identification, affinity and injury have acted in public, sometimes together, but often separately. Many remain isolated in pockets of group interest gridded by social media; likes on Facebook do not a movement make. Groups seeking to resist the administration and its social policies jockey for territory, including actual territory in New York City where public space to demonstrate is fragmented and easily controlled. 2017 Mayday protests in Manhattan, for example, were divided among different groups, rallying at different sites, many without endorsing each other's efforts despite shared themes of immigrant and worker rights.¹¹ On the other hand, one recent call by a nonprofit association for New York City to increase the number and accessibility of public sites for demonstrations, sees 'distributed' protest at different sites as more effective than one, centralized demonstration.¹²

In discussions, activists themselves sometimes identify the centripetal tendencies of "competition" and "ego" as blocks to forming alliances.¹³ Small-scale local and single-issue protests, even theatrical or disruptive ones, have been ignored by the mainstream, visible only to protestors, their often fortuitous in-person audience¹⁴ and potentially, to the viewers of images posted on social media groups by participants and witnesses.

Regardless of their effectiveness, the concrete problem of balkanized

11 Notably at Bryant Park, Union Square, Washington Square and Foley Square, New York, NY.

12 "Public Space for Free Expression: A Letter to Mayor De Blasio", Van Alen Institute, 2017: <https://www.vanalen.org/stories/public-space-for-free-expression>.

13 "Beyond the Moment" Teach In, April 4, 2017, SEIU Headquarters, New York, NY.

14 For example, "End Trump and DeBlasio's War on Black People", Rally (Herald Square) and March, April 1, 2017, New York, NY. This action marched through Macy's department store to the surprise of customers shopping there and along the High Line park, a popular tourist destination.

groups, already a phenomenon before the advent of protest groups that mirror social media groups, was examined by Habermas at a theoretical level in his discussion of public opinion. He noted that in the structural transformation of the public sphere, the public itself had become a mass, susceptible to the persuasion of administered public relations, and then had splintered into groups, incapable of communicating with reason and unaware of their own unreasoned conformity to opinion that regressed to prejudice.¹⁵ By contrast, the effect of non-legislating interest groups on a democracy was viewed as salutary by Alexis de Tocqueville, who, observing the young United States during the Jacksonian era, saw associations as a counter to the dangers of the tyranny of the majority.¹⁶ However, the psychological glue that holds small groups together has been explained in a less sanguine light by others, notably Sigmund Freud who contended that the very mechanisms such as identification that hold small groups together are irrational and regressive, limiting individual freedom to act.¹⁷

Habermas recognized a potential rather than a threat in the associations and other institutionalized groups of his time rationally to form a public opinion that might resist the administrative system. He considered this opinion private as long as it remained folded within the group. Opinions become public, he explained, when they emerge from the intra-organizational sphere to appear in an external public sphere. For him, as in a different way for Hannah Arendt, what is objectively

15 *Public Sphere*, 241.

16 Alexis de Tocqueville, *Democracy in America*, trans. George Lawrence. Harper, 2006. vol. 1, p. 192. On the other hand, James Madison, writing before the U.S. Constitution was adopted and fearing factions big enough to become a majority, argued that only a large-scale representative governing body relative to the actual population size could ward off such danger. Madison, James. "The Federalist Papers: No. 10: The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection. From the New York Packet. Friday, November 23, 1787." http://avalon.law.yale.edu/18th_century/fed10.asp

17 Freud, Sigmund. (1921). *Group Psychology and the Analysis of the Ego*. Liveright Pub. Corp., 1959.

real must be public.¹⁸ For Habermas, only in public debate as a process of mutual evaluation and critique will a non-dependent public opinion emerge. Rational opinions form within the process of communication itself. Habermas cites C. Wright Mills's distinction between mass opinion, which is passively received, and public opinion, in which the public is an active participant. Given these conditions of public communication and with the caveats attendant on extending an analysis based on a public composed of private individuals, outlined below, I contend that a public sphere might yet be formed in the relationship between various protest and interest groups. If on the other hand, the diversity of Arendt's 'innumerable perspectives' were contained within separate communities of affinity, interest or outrage, the conditions for a truly public sphere would be structurally obviated. It is in inter-group relations that the perhaps utopian potential for a protest public sphere exists.

However, Habermas only hints at the possibility of opinion appearing publicly outside formal groups. In *The Theory of Communicative Action*, he describes no mechanism for communication between groups. In fact, he says the ideal communicative community he projects applies within groups rather than across society as a whole. If this inter-group public sphere were to emerge, its communicative mechanisms remain to be imagined, let alone analyzed. In Habermas' ideal public sphere, its members examined each other's statements and premises, evaluated their validity and came to a consensus of many parts rather than acting in parallel or conforming to a pre-given whole. A new public sphere composed of groups rather than individuals would have to develop a

18 Hannah Arendt. "The Public Realm: the Common" in *The human condition*, trans. Margaret Canovan. University of Chicago Press, 1958, p. 57: "...the reality of the public realm relies on the simultaneous presence of innumerable perspectives and aspects in which the common world presents itself and for which no common measurement or denominator can ever be devised." Habermas contends that the world is objective insofar as it is the same for a community of acting subjects. He does not, however, extend the notion of this socially shared and therefore objective world to complex societies. (*The Theory of Communicative Action, Volume I: Reason and the Rationalization of Society*, trans. Thomas McCarthy. Beacon Press, 1987, pp. 12-13)

discursive method to both examine and judge each other's claims and at the same time to examine their own assumptions and claims.

The What : finding the object

In Arendt's formulation of reality, the object under discussion is what the parties to it have in common; like a table, it relates and separates them.¹⁹ In Habermas's public sphere, the object of debate is not given but rather develops in the process of argumentation. In his later work, *The Theory of Communicative Action*, Habermas elaborates on reasoning as a social rather than an individual process in which participants undertake an intersubjective process of common situation definition.²⁰ Habermas connects the process of argumentation and coming to agreement with more than a reference to enlightenment emancipation from tutelage: he invokes Jean Piaget's cognitive development in reciprocity with other subjects, a process in which participants mutually develop concepts that further allow them to "adopt in common the perspective of another person or a nonparticipant" and cooperatively negotiate these "situation definitions".²¹ As Seyla Benhabib has noted, the freedom that grounds Habermas's concept of a public sphere not only necessitates open participation, but also precludes a pre-set agenda.²² A public sphere would not be reconstituted in the debate around pre-given topics. Coming to an understanding about what ails society, even discovering in a process of argumentation what the contradictions in the structural whole are, today would require a mutual process of interpretation among different groups with different experiences of injustice. A public and no doubt

19 *Human Condition*, p. 52

20 "...[T]he negotiation of definitions of the situation is an essential element of the interpretive accomplishments required for communicative action." *TCA I*, p. 286.

21 *TCA I*, p. 69

22 Seyla Benhabib. "Models of public space: Hannah Arendt, the liberal tradition, and Jürgen Habermas" in Calhoun, Craig, ed. *Habermas and the public sphere*. MIT Press, 1992, p, 79.

inefficient process that finds a common problem rather than addressing a given position or symptom might then produce a common interest. In *The Theory of Communicative Action*, Habermas argues that the very commonality of a general interest is what obligates all participants.²³

Many activists today identify one critical target as neoliberal capitalism whose assumptions go unexamined just as their laissez-faire predecessors did. Now, such thinking can go, corporate interest replaces bourgeois class interest as the mask for general interest; a capitalist economy growing at David Harvey's irrational and endless rate of compound interest grounds today's social ills. Other activists, those they represent, and their allies target psychological irrationality – racism, sexism and so on. Which comes first in priority, the economic chicken or the hate-filled egg? In the difference between those versions of what's wrong, a question argued in organizing meetings today, lies an opportunity to break out of the categorical bind of interest groups and to form a debating public that reasons together across differences in search of a common problem and general interest. A permanent and positive reconciliation of this polarity is neither feasible, nor, given the tendency to fascist and totalitarian systems, desirable. However, that the political and economic orders are intertwined, that society is bound up with both, is a conceptualization of the world that has been left behind in the course of its rationalization. In *The Theory of Communicative Action*, Habermas describes the philosophical loss of the whole in terms of a differentiation of the social lifeworld of everyday experience from the subsystems of economy and state that run on a logic governed by instrumental reason.²⁴ It is in the experienced lifeworld

23 *The Theory of Communicative Action*, Volume II: *Lifeworld and System: A Critique of Functionalist Reason*, trans. Thomas McCarthy. Beacon Press, 1987. p. 81. Habermas traces “the binding force of moral agreement” back to Emile Durkheim's sacred obligation which symbolizes and expresses “the generality of the underlying interest.” This general interest is now expressed in rational form as the product of mutual consent.

24 Wolfgang Streeck has observed that postwar critical theorists have allowed the economy to be viewed as simply a technological problem, resulting in recent severe economic crises which he sees as inseparable from a crisis in democracy: “Transformations of the Public Sphere” posted on *Essay Series*:

that the miseries engendered by these self-regulating subsystems are felt.

However, when the only public engagement by the oppressed consists of public complaint and expressions of injury, the state and its administration can treat the “symptom”, declare the problem solved and ignore the responsible contradictions in the systemic whole. Both Herbert Marcuse, describing the end of discourse at the hands of total administration in *One-Dimensional Man* and C. Wright Mills describing the process of discovery of public issues in *The Sociological Imagination*, flagged administration’s tendency to treat specific instances of injustice as individual and even, in Mills’s analysis, as psychological problems, solvable on a case by case rather than systemic basis.²⁵

A protest public sphere in which members of what Saskia Sassen calls the “informal economy”²⁶ can freely participate might demonstrate the fiction of this disconnect between individual wrong and systemic injustice, and debate the terms for their social participation, political recognition and representation in the context of a globally connected economy dependent on their labor. Already, those “economic citizens” who are unrepresented in the political realm, such as undocumented immigrant workers, do appear in public spaces, especially when under the aegis of supportive and sanctioned groups, to relate their experiences of oppression, as many did during the May Day demonstrations already mentioned.

The How: reason is the rub

Resistance in the form of disruption has its effective limits. While cru-

Academia & the Public Sphere, Social Science Research Council, 2011. <http://publicsphere.ssrc.org/streeck-public-sociology-as-a-return-to-political-economy/>

25 Herbert Marcuse, *One Dimensional Man: Studies in the Ideology of Advanced Industrial Society*. Beacon Press, 1964. pp. 109 ff. C. Wright Mills, *The Sociological Imagination*. Oxford University Press, 1959, pp. 8 ff. Mills distinguishes between “personal troubles of milieu” and “public issues of social structure.”

26 Saskia Sassen, “A New Geography of Centers and Margins: Summary and Implications” in *The City Reader*. Edited by Richard T. Legates and Frederic Stout. Routledge, 2000.

cial at moments of political transformation, political speech as Jacques Rancière describes it²⁷ only secures the right to speak and to be recognized in public; it does not govern in the sense of controlling administration and the economy on behalf of society through time. In the workaday world, Rousseau's permanent plebescite is unworkable. Short of revolution, a credible threat of violence,²⁸ economic sanctions or serious disruptions of institutions,²⁹ riots do not set the rules by which the economy operates nor limit the powers of administration that runs on its own logic.

Habermas's ideal public sphere, had it worked, would have transformed *voluntas* or the force of law into reason.³⁰ The public use of reason, not a contest of wills or influence, was the mechanism by which the public sphere developed the autonomous public opinion that legitimated or compelled the state to legitimate state actions. In his comments on communicatively finding a general interest, Habermas notes that it is not an "unresolved plurality of competing interests."³¹ Any balance reached through pressure and social power is not only unstable, but also non-rational. However, Habermas did not develop the concept of the public use of reason fully in the *Public Sphere* text other than to mention evaluative criteria by which participants would judge each other's validity claims and the trust that must operate between.

The later work on *Communication Action* explains that its eponymous subject involves judgements of facts, of proposed norms and of the relationship between speaking and hearing agents. Habermas is working here within the modern separation of value spheres articulated by Max

27 Jacques Rancière, "Wrong" in *Disagreement: Politics and philosophy*, trans. Julie Rose. University of Minnesota Press, 1999.

28 Walter Benjamin, "Critique of Violence" in: *Reflections: Essays, aphorisms, autobiographical writings*, trans. Edmund Jephcott. Harcourt Brace Jovanovic, Inc. 1978.

29 Frances Fox Piven and Richard A. Cloward, "Structuring of Protest" in: *Poor people's movements: Why they succeed, how they fail*. Vintage, 1979.

30 *Public Sphere*, 83.

31 *Public Sphere*, p. 234.

Weber. Participants in the communicative process use the criteria of truth, sincerity, and rightness to evaluate statements that relate to these value spheres—knowledge, expression and norms. Each type of utterance — assertive, expressive or performative — calls for its appropriate criteria of evaluation. The process of communicative action proceeds intersubjectively through mutual judgement and works toward finding mutual understanding. Its goal is not the “success” of one or another participant as would be dictated by the requirements of instrumental reason; coming to agreement does not distribute those who do so into the categories of winners and losers. Its participants can differentiate situations in which they come to this understanding together from those in which they merely influence each other.³²

Moreover, the intersubjective process of making and assessing validity claims in the three value spheres involves a sense of obligation and trust, neither of which, again, is grounded in instrumental logic, but rather contain a subjective and pre-rational element. Habermas historicizes the sense of obligation with Durkheim: normative agreement achieved linguistically in the modern, disenchanting world sublates traditional sacred authority which, for Durkheim, is the basis of morality,³³ group identity³⁴ and also of obligation.³⁵ Likewise, the element of trust that enters into evaluation of another’s statement derives from the prestige and influence of certain individuals in tribal societies.³⁶ The reason of Habermas’s communicative action, then, mingles with the archaic unreason — or perhaps the Ur-reason—of relationship; in the interaction between speaking and listening subjects, a residue of instinct or of sedimented earlier world views remains within the element of reason.

This complicates the process of transforming the will of law into the reason of communicative legitimation. For Theodor Adorno—and in a

32 *TCA*, V.1 p. 286.

33 *TCA*, V.2, p. 49.

34 *TCA*, V.2, p. 53.

35 *TCA*, V.2, p. 81.

36 *TCA*, V. 2, p. 179. Here, Habermas refers to Talcott Parsons.

very different context—the relationship of logic to what it is not, to its object of concern, is simultaneously an act of will and a separation from will.³⁷ If this double move can be applied to the public opinion that a public use of will-born reason produces, then that opinion must likewise and necessarily contain, be constituted by and contend against an element of unreasoning force. In his history of the public sphere, Habermas described this not as an internal contradiction in public opinion but as an historical alternation in connotation: opinion was the instinctive common sense that informed Rousseau's general will; the product of critical reason that scrutinized Bentham's parliament; and again, unexamined acceptance of ideology in the social-welfare state. (Tocqueville himself had noted the tendency of the public in the United States to trust "ready-made" opinions rather than examining them.³⁸)

Opinion as generally understood lacks the crucial element of self-criticism that Walter Benjamin found constitutive of the critical judgement of journalist Karl Krauss whose analyses of the debased language of his time necessary involved "self unmasking" self-exposure, and a self-reflection so merciless that Benjamin called it "demonic."³⁹ The critical position of an individual is necessarily a Janus-faced one.

In the context of a functioning public sphere operating communicatively between groups and within coalitions, such difficult to achieve self-criticism would also entail mutual criticism. What Habermas refers to in *Communicative Action* as self-understanding would involve in a relationship between interest and affinity groups a kind of inside and outside perspective that such groups would be hard-pressed to enact, even as outsiders to each other. Piaget provides for Habermas a model of cognitive development that simultaneously structures the subjective, social and objective worlds of interacting participants who in develop-

37 Theodor W. Adorno, "Will and Reason" in *History and freedom: lectures 1964-1965*. Polity, 2006.

38 *Democracy in America*, vol. 2, p. 435.

39 Walter Benjamin, "Karl Kraus" in *Reflections: Essays, Aphorisms, Autobiographical Writings*, trans. Edmund Jephcott. Schocken, 1986.

ing concepts “adopt in common the perspective of a third person or a nonparticipant” instead of each other’s subjectivities.⁴⁰ For Habermas, the internalized and recognized role of observer, the third party, helps assure the objectivity of intersubjective communicative action insofar as validity claims made mean the same for participants and for observers. A possible counterpart is Georg Simmel’s figure of the *Stranger* who confronts the community he or she joins as both an outsider and participant.⁴¹ Although Habermas never says so explicitly, it is the remove of the observer—whom he refers to briefly as an “exegete”—from the bonds of group belonging that helps assure the objectivity of the communicative action and its common will. Habermas finds in Durkheim justification for a concept of communicatively-shaped common will in democracy itself. For the earlier theorist democracy necessarily involves two-way communication as well as a society that is conscious of itself. In fact, a primary condition for communicative action is that its participants are open to mutual criticism and that their statements acknowledge the possibility of fallibility.⁴² In the world of practical action, such good faith participation is no foregone conclusion among individuals.

Arbitrarily converting the associations discussed by Habermas and Tocqueville into local and particular protest groups, I increase the improbability of their performing a collective act of self-reflection and inviting critique by counterparts in a wider coalition that at the same time behaves as a public sphere. According to Habermas’s requirements, these actors, or groups, would not be oriented to their own success, but rather to coming to an understanding with each other. In my view, this would feed into a rationally produced public opinion and precede direct action. However, strategizing with a view to success makes no such complex demands. Protest groups may find it difficult to base their communicative interactions on mutual critique, looking instead for coalition by affinity. Mass movements

40 TCA, V. 1, p. 69.

41 See “The Stranger” in Georg Simmel, *On Individuality and Social Forms: Selected Writings*, ed. Donald N. Levine. University of Chicago Press, 1971.

42 TCA, V. 1 p. 9.

based on a widespread sense of injustice can succeed in changing laws, as Nathan Heller has recently pointed out:⁴³ members of the civil rights movement had developed effective “communicative patterns” during the process of working together over a relatively long period of time. However, as the current socio-economic crisis and its accompanying regression to primitive prejudice show, these laws have not transformed the culture.

The disruptive politics of protests can look like resistance without reason. Chants motivate group identity on a primitive level. Theatricality gets attention. Marching in the streets provokes confrontations with the police. However, organizing multiple issue demonstrations, soliciting endorsements from each other, hosting each other’s meetings, publicizing each other’s actions and even coordinating mutual actions, groups of identity, interest and affinity do recognize and inform each other.⁴⁴ Such disparate protesting groups could openly evaluate the validity of each other’s assumptions and positions using Habermas’s criteria of truth, sincerity and rightness, if they do not implicitly already do so. Potentially, working toward public and communicative agreement could entail a continuing process of self and mutual criticism between them. Simultaneously, they could find the common object of interest that would obligate them to support each other’s efforts; they might even imagine a different society: What is it that a functioning democracy actually looks like beyond the indefinite “this” bodied forth and declared by marching protesters? In the most hopeful of all possible worlds right now, this oppositional public forum’s critical function would continue beyond the moment of eruption to critique the state and society’s long-ignored economy, and to exert pressure for structural change in the system, rather than relief of selected miseries that it produces.

Like its bourgeois counterpart, a protest public sphere would be representative rather than fully democratic; it would be a self-composing complex of parts. Interest groups coming together as a public may form

43 “Out of Action: Do Protests Work?” *The New Yorker*, August 18, 2017.

44 “We have to build a movement. We can’t just talk to ourselves.” Participant at a People’s Power Assembly meeting, New York, NY, 2/22/17.

a constellation of provisional agreement -- or another hierarchical feudal whole, a possibility argued above. Groups do seek to establish leadership under their own interested interpretation of society's structural problems. Possible forms and mechanisms of inter-group communication are as yet unmapped. Communicative habits born of texts and tweets are not conducive to the durational, deliberative and critical process of reasoning together in public. The process of mutual education or enlightenment easily becomes a matter of indoctrination. If mutual criticism happens, it will only hold for so long. And finally, inside the resistance of the protest public sphere, the contradiction between reason and force would be argued but never settled. If a protest public sphere could form within the unresolved but acknowledged tension between *voluntas* and *ratio*, it could simultaneously transmute society into something new and sane and emancipate the people who suffer and constitute it.

NOTE: This paper is based on a presentation made at the 10th International Critical Theory Conference of Rome, at the John Felice Rome Center of Loyola University Chicago on May 13, 2017. The presentation itself incorporates parts of a thesis written in partial fulfillment of requirements for a Master's Degree in Critical Theory and the Arts at The School of Visual Arts, New York, NY, 2016.

The lively voice of Critical Theory

Berlin Journal of Critical Theory (BJCT) is a peer-reviewed journal which is published in both electronic and print formats by Xenomoi Verlag in Berlin. The goal is to focus on the critical theory of the first generation of the Frankfurt School and to extend their theories to our age. Unfortunately, it seems that most of the concerns and theories of the first generation of the Frankfurt School are neglected in its second and third generations.

We believe that the theories of the first generation of the Frankfurt School are still capable of explaining many social, cultural, and political problems of our time. However, in some cases, we need to revise those theories. For example, the culture industry in our time can also work with a different mechanism from that described by Adorno and Horkheimer. In our age, the majorities can access the media and even respond to the messages which they receive – this is something which was not possible in Adorno and Horkheimer's time. But this doesn't mean that the culture industry's domination is over. Thus, we may need to revise the theory of the culture industry to explain the new forms of cultural domination in our age.

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