The Normative Grounds of Social Criticism: Kant, Rawls, and Habermas

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THE NORMATIVE GROUNDS OF SOCIAL CRITICISM: KANT, RAWLS, AND HABERMAS by Kenneth Baynes. Albany: State University of New York Press, 1992. Pp. xi, 242, $18.95 (paper).

Those interested in either Rawls or Habermas ought really to be interested in both. For the most part, this has not been the case. The aspects of Habermas's sweeping research program that would especially interest English-speaking moral and political theorists have been either buried in less pertinent material or unavailable in English. Habermas sympathizers may have been slow to see the close relevance of Rawls owing partly to a misreading. Some have interpreted Rawls as deriving justice from a morally neutral conception of instrumental reason such as that employed in "rational choice theory," and there are passages in *A Theory of Justice* (*TJ*) to support that reading. Those who, like Habermas, take inspiration from the Frankfurt School will regard such a view as among their primary opponents. But it is a misreading, as Baynes patiently shows, and one that reflects a failure to appreciate fully the Kantian roots of Rawls's moral philosophy. Rawls's writings in the past decade have made such a misreading less likely, but it will take works like Baynes's book to spread the news to those who stopped reading Rawls after *TJ*. Bridges are also being built by the recent translation into English of some central Habermasian texts, especially *Moral Consciousness and Communicative Action*,[1] and *A Theory of Communicative Action* (2 volumes). Habermas's interest in and familiarity with twentieth-century Anglo-American philosophy in these works allows readers trained in this tradition to study these works with profit even without fully understanding the implicit connections or contrasts with Husserl, Hegel, Marx, Dewey, Mead, Kohlberg, Gadamer, Apel, Tugendhat, and innumerable others.

Baynes has written the perfect book for students of Rawls or of Habermas who might want to—and certainly should—become students of both. The key to its success is that it concentrates on their Kantianism as a touchstone by which to demonstrate both their considerable similarities and their differences. The book is ideally suited to courses for graduate students or advanced undergraduates in which it supplements the study of primary texts by Kant, Rawls, and Habermas. However, its value is not limited to pedagogy. It is a serious contribution to the emerging discussion of the comparisons and contrasts between Rawls' theory as it has developed since *TJ* and Habermas's views as they have become more widely known in the recent translations. Baynes favors Habermas, notwithstanding his defense of Rawls against a number of criticisms. If the book disappoints, it is in its failure to press much beyond Habermas's own formulations of his purported advantages over

Rawls, formulations that often raise more questions than they answer. I want to consider two related areas in which Baynes points to important disagreement between Rawls and Habermas and argues that the dispute ought to favor Habermas: the critique of Rawls's "monologism" and Habermas's superior treatment of the "public sphere."

Habermas charges that Rawls describes the Original Position in such a way that there is no place for dialogue among the parties; each has exactly the same interests, information, and capacities, and so each will choose exactly what any other will choose. Rawls recognizes this feature of his view. The Habermasian criticism seems to be that this reflects a privileging of the philosopher's position, a usurpation of what is rightfully to be decided politically, not philosophically. Moral and political justification must be essentially interpersonal in a way that Rawls and Kant fail to recognize.

Habermas argues that it is impossible to know what is generally acceptable without subjecting proposals to actual general discussion.[2] This is pressed as an objection to Rawls, but the distinction is difficult to find. Rawls argues, to put it roughly, that two specific principles of justice can be legitimately defended by showing that they would be agreed on by mutually disinterested parties to an Original Position in which all are ignorant of their identities and roles in society. The relevant agreement is ideal and hypothetical, not actual. Habermas objects to Rawls's drawing concrete as opposed to merely methodological conclusions from the Original Position (such as his two principles of justice). Such conclusions, Habermas argues, can only be arrived at through the actual discussion of the real parties to be affected. Actual discussions, of course, lack the Kantian kind of normative significance unless the participants are known to be reasonable, to reason in universalizable ways. Habermas accepts this constraint, and so his talk of *actual* dialogue can be misleading.

But, as Rawls says, the device of the Original Position is designed precisely to capture the constraints of reasonableness.[3] Real people, in order to proceed reasonably in public political debate, may imaginatively enter the Original Position to see what they believe would be accepted there.[4] It is hard to see what Habermas could mean to be preferring.

Habermas says that Rawls oversteps the proper role of philosophy when he specifies two principles of justice as those that would be chosen in the Original Position. The proper role here, according to Habermas, is to give an account of the moral point of view—call this the metaethical level. This, Habermas thinks, can be done monologically, without appeal to the views that happen actually to be held at a particular time and place. But the specification of the actual principles—call this the normative level—is more

than can be done in this abstract fashion; it depends on what would be agreed to in an actual discourse among the historically situated parties whose interests are at stake. Here, Habermas suggests that Rawls's method is timeless and monological at both the metaethical and the normative levels. For his own part, Habermas accepts this at the metaethical level but rejects it at the normative level.[5]

This reflects a mistaken reading of Rawls, one which was common at the time but which has failed to hold up in light of Rawls's more recent work. Rawls would not accept a timeless, context-independent view of the philosophical specification of the moral point of view, at least insofar as it could be relevant for politics. He believes that at least in modern Western democracies the defense of political principles of justice can and must proceed from the content of an overlapping consensus in the culture about how society and the person are to be conceived for political purposes. Rawls holds political reasoning about the basic structure to depend on this consensus both in the arguments for the appropriateness of the Original Position and its associated devices and in arguments for specific principles of justice as the ones yielded by the Original Position. Habermas, in requiring no such contextual check on the specification of the moral point of view in politics, proceeds monologically where Rawls does not. And neither proceeds monologically at the normative level or at least no more monologically than the other.

It might be said that Rawls's appeal to an overlapping consensus is not sufficient to render his method of justification dialogical. The crucial monological element may be thought to be that Rawls speculates about what would, hypothetically, be agreed to under certain conditions. Habermas, on the other hand, asks what is actually agreed to under certain conditions. But this is apparently a false contrast, since Habermas also reasons hypothetically. Habermas says that democratization is not the establishment of distinctively "democratic" institutions. Rather, it is the establishment of whatever arrangements produce "decisions that *would* meet with unforced agreement."[6] As one last try, one might argue that for Rawls, the dialogue is not part of the justification, whereas for Habermas it is. But this is not so. Rawls's account of justification links the validity of the set-up of the Original Position, as well as its alleged implications for theories of justice, to their being acceptable to real, historically situated citizens when they are being reasonable. This is no less than Habermas requires. Whatever the importance of dialogical justification, it is hard to see how Rawls's method is any less dialogical than Habermas's.

An interesting topic, which there is not space to consider here, is Baynes's claim that Rawls fails to pay sufficient attention to the institutional require-

ments of a morally significant public sphere, a topic of great interest to Habermas. Baynes argues plausibly that the tendency of Rawls's theory is in the direction of "deliberative democracy," where the legitimating force of public convictions depends on the existence of appropriate means of public deliberation. Only then does majoritarian democracy have any moral appeal. Baynes's speculation is borne out by Rawls's most recent work.[7]

There is a danger of exaggeration here, though. Habermas can easily be misread as arguing that a legitimate polity will contain institutions of public discussion that approximate an Ideal Speech Situation, and that is why actual discussion can have moral significance—because it is also ideal discussion when actual circumstances match the ideal. But this is apparently not Habermas's view. It seems clear, and it is granted by Habermas, that an ideal communication situation is not also a plausible model for actual democratic institutions.[8] It is not at all clear, then, how or whether actual public discussion plays any more important role in Habermas's theory of political justification than it does in Rawls's theory. Habermas says, "What is needed is a 'real' process of argumentation in which the individuals concerned cooperate."[9] Presumably there is an intended difference between a real and a "real" process of argumentation. Both Rawls and Habermas argue that institutions of public discussion are a condition of legitimacy, but neither thinks that actual public agreement has much independent normative force in the real world of very imperfect public reasoning.

NOTES

1. Jürgen Habermas, *Moral Consciousness and Communicative Action* (Cambridge: MIT Press, 1990).

2. Habermas, "Discourse Ethics," in *Moral Consciousness*, at 67.

3. John Rawls, "Kantian Constructivism in Moral Theory," in the *Journal of Philosophy* 77 (September 1980): 515-72.

4. Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 19.

5. Habermas, *Autonomy and Solidarity: Interviews*, edited by Peter Dews (Verso, 1986), 204-6.

6. Habermas, *Communication and the Evolution of Society* (Boston: Beacon, 1976), 186.

7. See especially Rawls, *Political Liberalism* (New York: Columbia University Press, forthcoming), specifically the chapter on "The Idea of Public Reason."

8. See especially Habermas, *Communication and the Evolution of Society*, 186-87.

9. Habermas, "Discourse Ethics," 67.

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