

JURGEN HABERMAS' CONCEPTION OF
LEGITIMATION CRISIS

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ABSTRACT

The purpose of this thesis is two fold. First of all it demonstrates clearly and precisely exactly what Jurgen Habermas understands by a legitimation crisis and secondly it demonstrates how fundamentally this conception rests upon background assumptions which are not always made explicit. To this end the thesis delves into Habermas' understanding of advanced capitalism, his understanding of the concept of rational-legal legitimacy and finally it shows how the conclusions he reaches are fundamentally based upon his reconstruction of historical materialism and the notion of a colonization of the life-world that he ultimately derives from this reconstruction. In the end it will be demonstrated that a thorough understanding of the concept of legitimation crisis cannot be achieved without reference to Habermas' reconstruction project and in this regard he remains firmly in the Marxist tradition.

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Introduction

The concept of legitimation crisis permeates the work of Jurgen Habermas. Although the term itself only assumes a primary place in a limited number of his books and articles, the concept and problem are present as a background theme and orientation in all of the rest. For Habermas human beings are historically oriented to a fundamental interest in emancipation and all of his work has as a motivating concern the illumination and implementation of this essential human interest. Since a crisis in legitimacy makes this interest emerge and shape the world, it remains a primary theme for Habermas.

A significant aim in the thesis which follows is the achievement of a clear grasp of just what, in Habermas' understanding, constitutes the legitimation crisis endemic to advanced capitalism. One reason for achieving such a grasp on the material has its roots in Habermas' dense and difficult style. At the same time that he is engaging in theory construction (which almost always involves a critical deconstruction of some theoretical tradition or other) he also embarks upon very substantial analysis of social,

political and economic phenomena. Much of what follows is a painstaking effort to sort out all of these simultaneous happenings. A second and somewhat more important reason for achieving such a grasp of the material is that this represents a fundamental first step towards a demonstration of this thesis' main objective--a bringing to light of the essentially historical materialist perspective that Habermas brings to the legitimation debate.

The appeal to historical materialism fulfills an essential function for Habermas. It draws out the interconnection between three levels of analysis or three different conceptual themes.

1) It demonstrates the crisis potential inherent in the complex of social, economic and political phenomena of government interventionism, mass democracy and, finally, the welfare-state compromise, all of which combine with new economic formations to make up the phenomenon of advanced capitalism.

2) It brings to light the inadequacies of the Weberian notion of rational-legal legitimacy. This task is related to the above because it is precisely the ideals (legal positivism) and institutions (separation of powers, legislative and cabinet structures, the judicial and legal apparatus as a whole) of rational-legal legitimacy and authority around which the administrative, economic and social welfare apparatus of advanced capitalism has

crystallized.

3) Finally, historical materialism anchors Habermas' appeal to the inviolate and deep seated nature of the human interest in emancipation embodied in socio-historic institutions and ideals that are formulated and maintained through communicative structures. Ultimately it is to this interest that Habermas traces the legitimation crisis of advanced capitalism. For it is this interest which is increasingly bringing substantive (normative) claims and demands to bear upon the legal formalism of rational-legal mechanisms. This in turn inhibits these mechanisms from fulfilling their essential task--the legitimation of the welfare-state mass democracy essential to the continued viability of advanced capitalism. For Habermas, these three themes find common ground in the Weberian concept of rational-legal legitimacy. For this reason he brings his "reconstructed" conception of historical materialism to bear upon this issue.

As one delves deeper into Habermas' treatment of the legitimation problematic, the perception quickly arises that there is an apparent tension between two contending perspectives in his approach: one normative or value-laden; the other functionally objective or value-neutral. In the course of investigation, it becomes quite clear that Habermas is using substantive criteria to reconstruct, analyze and judge what is, even in his own formulation, an

objective conception of functional mechanisms. It becomes essential to separate out and understand this normative/functional dichotomy. Here again an appeal to Habermas' use of historical materialism provides pieces to this puzzle.

The problem first emerges in this way because in the realm of questions about legitimation, it is the work of Max Weber that Habermas is primarily challenging. And, he is claiming that historical materialism provides some of the most useful and vital tools to be used in the confrontation. Weber's conceptions of rational-legal authority and legitimacy were formulated, without a doubt, to comprehend functional phenomena in the social world. From this perspective, formal mechanisms (legal positivism, the rule of law, statutory proceduralism, etc.) are needed both to order the actions of individuals with diverse subjective value orientations and also to justify any advantages in life however fortuitous these might be.

Thus Habermas identifies Weber as a main protagonist because in Weber's work he locates two essential and interconnected motifs. The first involves the notions of rational-legal authority and legitimacy themselves. Habermas clearly accepts the fact that not only the mass democracy welfare-state characteristic of advanced capitalism, but also the actual institutions which these social structures embody, are founded upon and incorporate

the ideals of rational-legal authority and legitimacy. In short, this form of legitimate power permeates the whole of advanced capitalist society. Thus it must be understood in order to come to a clear comprehension of advanced capitalist societies.

Second, Habermas takes note of the combination, in Weber's work, of both logical-positivism and legal positivism. Habermas contends that with the appeal to the fact/value dichotomy, this lethal combination has provided a significant impediment to the introduction of normative or substantive criteria into the social scientific study of the modern form of life. This combination posits the conception of human society as a nature-like totality and systematically confounds any attempt to rationally ground normative critiques of established societies and their institutions. Once conceived of as "nature-like", societies and the institutions they embody, are immunized against substantive attacks because nature can be conceived of as neither "good" nor "bad" but, rather, as simply a phenomenal reality to be comprehended on its own, value-neutral, terms.

The advantage of an historical materialist perspective against this formulation seems obvious. Because it asserts that society and its institutions are the actual historic products of actual humans conducting their everyday lives, historical materialism points out the fundamentally contingent nature of all human society. Society is not

something we merely "encounter" but, rather, something that we create.

From Habermas' perspective logical and legal positivism cannot gain an adequate conceptualization of the legitimation problematic. If this (Weberian) perspective is not to be left to help reify (that is, make human constructs appear as natural things) and make endemic to human society those pathological effects (loss of freedom and meaning) identified by Weber, then it must be open to substantive critique.

One further advantage of the historical materialist approach might be mentioned here. In departing from and pointing out the deficiencies in Weber's concept, it might easily be claimed that Habermas is first positing an a priori normative standard against which to judge claims to legitimacy, and second, that in claiming that humans strive for and wish to attain this standard, he is engaging in an essentially Hegelian teleology. That is, he is claiming that it is necessary for human kind to move toward an ethical standard that is coming to be world-historically, much like Hegel's conception of spirit coming to realize itself in the world. This is the point of departure for Steven Lukes' critic of Habermas' attempt to ground practical reason in the discursive structures embodied in an ethics of communicative competence. As we shall see Habermas answers this objection with an appeal to his

historical materialist orientation. He in effect claims that communicative ethics are located in actual, historic human constructs.

At this point it may be useful to briefly describe just how and why Habermas employs historical materialism. In an interview conducted in July of 1981, Habermas offers us a valuable insight into his reasoning. He states here that he sees an opportunity to comprehend the concept of communicative rationality in much the same way that Marx was able to gain access to his understanding of the universal character of the category "labour". Marx could only describe the universal character of labour in its abstract form because the capitalist mode of production had established the objective conditions in which abstract labour, as the measure of value, could be expressed and assume universal proportions. That is to say, the advent of a mode of production, based on the production of exchange- values over use-values, was the necessary precursor to the theoretical discovery of the categories of abstract and concrete labour. Similarly, Habermas maintains that the complex of social, political and economic structures obtaining in advanced capitalism, allow him to demarcate the universal nature of communicative ethics. As he states:

With regard to such a theory of communication, one must use the same method [historical materialism] to clarify how the development of late capitalism has objectively fulfilled conditions that allow us to recognize universals

in the structures of linguistic communication, providing criteria for a critique which can no longer be based on the philosophy of history.¹

Habermas then, wishes to use historical materialism to demonstrate the contradiction latent in advanced capitalism.

To this end he develops a social evolutionary theory, based on historical materialism, which combines the system and life-world paradigms. The system paradigm is used to demarcate and comprehend the workings of functionally distinct sub-systems such as the economic system, the political-administrative system and the socio-cultural system, that exist in a society. The concept of life-world is somewhat more slippery. The life-world is the domain of unthematized cultural and traditional orientations and meanings which allow individuals to understand and coordinate their actions and interactions and for the most part it "is so unproblematic that we are simply incapable of making ourselves conscious of this or that part of it at will".² We always orient and anchor our actions in the life-world just as we always derive our norms of behaviour and those values which bind us together from it. We appeal to the life-world for a legitimation of our own actions and those of others.

Habermas maintains that the crisis potential latent in advanced capitalism originates in a contradiction between the sub-systems and the life-world that make it up. This contradiction "bulges" out and reveals itself through the

functioning of mechanisms of rational-legal authority and legitimation. Because these are functional mechanisms that work to mask the fundamental contradiction of private appropriation of social wealth, they attempt to move into the symbolically reproduced spheres of the life-world and block the formulation of substantive demands.

Stated briefly, Habermas proposes that if the base/superstructure concept proposed by Marx is enlarged to include the notions of system and life-world, then in the same way that Marx conceived the forces and relations of production to be in contradiction with one another, the sub-systems and the life-world can be seen as in roughly the same situation. In the same way that the relations of production come to fetter the forces of production, the life-world will eventually come to fetter the colonization efforts of the sub-systems which is a functional imperative ~~inherent to them under advanced capitalism with its welfare-~~state socialization mechanisms. The colonization efforts of the sub-systems disrupt the life-world and bring its unthematized nature into question; it problematizes certain elements of the life-world. This, Habermas maintains is an objective process: "[i]t depends on the problems that press in on us from outside in an objective way, by virtue of the fact that something has *become* problematic behind our backs."³

In the face of the fundamentally changed social,

political and economic relations brought about by the welfare-state compromise, the mechanisms of rational-legal legitimacy outlined by Max Weber are insufficient for legitimating the structural contradiction of advanced capitalist societies. This thesis demonstrates that Habermas has recourse to historical materialism in maintaining that this inability is fraught with crisis potential. He does in fact remain firmly in the Marxist tradition in his analysis of the crisis situation precipitated by the advent of advanced capitalism. The task of this thesis is not to prove the viability of Habermas' "communicative ethics", but, rather, to demonstrate that at the heart of this theoretical approach is an essentially historical materialist perspective. It is only in the context of historical materialism that communicative structures gain their empirical, theoretical and world-historical force as actual human constructs. Only as such can they gain the ability to set limits to the development of other human constructs and come into contradiction with the forms of domination attending the mechanisms responsible for the production of social wealth in advanced capitalist societies.

Endnotes

¹ Jurgen Habermas, "The Dialectics of Rationalization: An Interview with Axel Honneth, Eberhard Knodler-Bunte and Arno Widmann", in Peter Dews (Ed), Habermas: Autonomy & Solidarity (London: Verso, 1986.), p. 99. First published in Asthetick und Kommunikation, No. 45-46, 1981.

² Ibid., p. 110.

³ Ibid., p. 110.

CHAPTER I

In this first chapter we will undertake the task of sorting out and presenting Habermas' conception of modern society. We will pursue an elucidation of the model of advanced capitalism that he accepts, his understanding of the class structure of these societies, and his notions of economic and rationality crises. The point here is to delineate the welfare-state compromise that is legitimated by rational-legal authority and proceduralism and to highlight those mechanisms that are conducive to new crisis situations.

The chapter demarcates the linkages between the state and the economy which facilitate the shifting, back and forth, of economic and administrative problems. These linkages open the door to new crisis potentials which Habermas wishes to comprehend under the rubric of legitimation crisis.

We should also take note of the fact that Habermas always maintains that these preliminary empirical assertions about the political economy of advanced capitalism are open to revision. Empirical analysis is an ongoing process and it will certainly reveal changing forms of the state/economy

linkage characteristic of advanced capitalism. The only empirical assertion that Habermas would make with any real sense of certainty is that the welfare-state compromise so essential to the continued viability of advanced capitalism is not working so well. It is displaying signs of decay and breakdown. The contours of this crisis phenomenon can be observed, he maintains, through historical materialism once the concepts of system and life-world are understood and incorporated into the Marxist paradigm. This will be investigated in greater detail in the third chapter. The state/economy linkage is somehow contributing to the destruction of the background of traditions that have always supported capitalism and these traditions cannot be renewed. At this point we only wish to understand the state/economy linkages and how these mark a departure from liberal capitalism.

We begin then with a general overview and elucidation of Habermas' use of a descriptive model of advanced capitalism. "Organized" or "State-regulated" capitalism arises with the advent of two politico-economic factors: 1) The rise and spread of first national and then multinational corporations which results in an obvious economic concentration and an enhanced organization of product, capital and labour markets. Here we can begin speaking of oligopoly. 2) A marked increase in state intervention and overall presence in the economy as "functional gaps" or market dysfunctions

appear. These two developments herald the end of liberal-competitive capitalism.

Habermas, however, introduces the following two caveats which have to do with the anarchy of the market. This anarchy is rooted in the fact that capitalist production is oriented to the production of exchange-values over use-values. That is to say, the use-value of the commodities produced by the capitalist is for him located in their exchangeability. The interest of the capitalist is exchange: he doesn't care what use the consumer has for any particular commodity so long as he buys it. For example, capital is not interested in the production of public housing because even though such a commodity has a distinct use-value, capital can realize no exchange-value in it.

Habermas' first caveat then, holds that even with the advent of oligopolistic production structures the anarchy of the market remains the predominant steering mechanism (in a very limited sense of steering) because capital investments remain linked to the imperatives of company profits; that is, the production of exchange-values over use-values defines the norm. Second, and as a direct result of the first, political planning and allocation of resources in the direction of the production of use-values over exchange-values does not occur under the auspices of governmental administration so long as the directional priorities of the society as a whole remain tied to the anarchy of the market;

that is, to the investment and consumption decisions of private enterprise.¹ In order to investigate the phenomenon of advanced capitalism further, Habermas makes a distinction between functional sub-systems: the economic, the administrative, and the legitimating.

First, the economic sub-system. Habermas accepts a three sector model of the economy developed by social scientists during the late sixties and early seventies which is based upon categorical differences between private and public production spheres. Under the category of private production appear the two sub-sectors of monopoly and competitive production. The former is characterized by rational-technical market strategies, price setting, capital-intensive industries, strong unionization (resulting in labour/ management cooperation to the extent that labour market influences are on the whole nullified), and finally, ~~characteristically rapid advances in production.~~ The latter is characterized by competitive market pricing of commodities, raw materials and labour, labour intensive industries, weak labour organization with correspondingly lower wage levels relative to the monopoly sector, and finally no substantial rationalization of the means of production (increase in the use-value of labour or an increase in relative surplus value) such as facilitate the rapid advances in production at the monopoly level.

Distinct from the realm of private production but

resembling the monopoly sector is the public production sector. Here we see the development of huge concerns, especially in armaments and space exploration, in which investment decisions are made relatively free of market conditions and fluctuations. Such concerns take the form of either state controlled public enterprises or private firms whose livelihoods are guaranteed by government contract. Here again capital-intensive production, along with strong unions and labour management cooperation are the norm. However without the strong profit motive which drives the private monopoly sector, the means of public production need not be rationalized to the same extent.

Next Habermas briefly outlines the nature and role of the administrative system. Generally speaking the state carries out two functions which fulfill the operational imperatives inherent in and generated by the economic system: ~~global planning and the actual replacement, by the~~ state, of functional market mechanisms.

In general, global planning is aimed first, at regulating and rationalizing the economic cycle in its totality (laws and market systems); and second, at providing and enhancing the conditions for capital utilization. Global planning is based upon a formulistically rationalized system of goals determined by "adjustment between competing imperatives of steady growth, stability of the currency, full employment and balance of foreign trade"². It has a

limited, reactive character in the fulfillment of these goals because it cannot interfere with the fundamental right of individual capitals to order the means of production as they see fit. Global planning must react to and attempt to avoid instability; rather than determining course, planning at this level can but hold a steady keel.

In contrast to global planning designed to set the large scale boundaries or environment for capital accumulation, the state fulfills its other interventionist function whenever it actively replaces market functions with the direct aim of increasing labour productivity and the use-value of capital (the ability of capital to expand or be re-invested). In other words, when it actively enters into the production process.³ The key point here is however, that the state directly enters both the market place and the production process in order to assist the utilization of capital, labour and resources.⁴

Finally, Habermas examines the legitimation system. At the heart of it, the immediate need for legitimation under advanced capitalism arises from the re-politicization of the means of production.⁵ The state, through actively intervening in the economy, is assisting in the unequal distribution of socially produced wealth. This, coupled with the breakdown of the liberal-capitalist ideology of fair exchange, increases the potential for legitimation crisis. Aside from this, the institutionalization of

democratic ideals and bourgeois universalism (equal rights necessary for formally equal exchange), has ensured that legitimation may not be dissociated from election mechanisms for any great length of time. Together with the above developmental tendencies of advanced capitalist society, this institutionalization has brought about the need for a new legitimation system.

Habermas locates the rationale for this new system in the reflection that if the citizenry were to genuinely participate in political will formation it would quickly become aware of the contradiction latent in both the social (ie. administrative) assistance of the private appropriation of social wealth and also the exploitive dynamic essential to the production and expansion of surplus-value. Thus a system of formal democracy insures that the administrative system remains sufficiently detached from the legitimation system. Formal democracy elicits diffuse, generalized political motives or mass loyalty, while at the same time reducing democratic participation to the right of only withholding acclamation for leaders of not so very different administrative cadres.⁶ This "depoliticization of the public realm" is maintained by an outlook of civic privatism which necessarily complements an economic system still characterized by private property in the means of production.

Structural depoliticization reduces the legitimation

requirements to two: 1) Civic privatism involving little or no political involvement and an orientation to the cultural realm; career, leisure and consumerism. This privatism is re-enforced by welfare-state redistribution and a sophisticated achievement ideology maintained and instilled through the educational system. 2) The system of formal democracy and structural depoliticization must itself be justified. Habermas maintains that this is assured through either democratic elite or technocratic rationality theories. These serve a function similar to classical political economy which, by making capitalist appropriation seem nature-like, helped to legitimate unequal distribution of social wealth.⁷

Before going on in chapters 4-7 of part II to examine a number of theorems about the different crisis tendencies in advanced capitalism, Habermas pursues a number of issues and factors which impinge upon these tendencies. By far the most important of these is the class structure which emerges under advanced capitalism.

Class Structure

Under liberal capitalism the domination of ruling groups (bourgeoisie over proletariat) was depoliticized through formal law and labour contracts that confirmed de jure equivalent exchange. What in essence was a politico-social relationship, that is, a power relationship, took form and appeared as an economic one.

Habermas' thesis does not maintain that with the re-politicization of the means and relations of production under advanced capitalism, the political content of class relationships, that was displaced to the economic sphere under liberal capitalism, is somehow restored. Rather, "political anonymity of class domination is superseded by social anonymity."⁹ What this means is that class boundaries are structurally blurred such that a motivating class consciousness might not emerge. This is achieved through the focusing "of all forces of social integration at the point of the structurally most probable conflict..."⁹ Fundamental to this strategy is the development of "quasi-political" wage structures which must satisfy the demands of reformist, labour based parties.

The enhancement of labour-management relations discussed above means that price setting in the oligopolist and public sector labour markets corresponds to price setting in the commodity market. Labour receives a "political price"¹⁰ because unions and management can agree and compromise on the middle range demands placed by both upon the state: increased productivity, qualification of labour and improvement of the social situation of workers (this helps maintain a pacified and disciplined work-force). In this way a tri-partite labour-relations bargaining system develops with the increased price of labour passed on to the consumer.

The economic crisis that was inherent in the wage dispute does not however, thereby disappear. The crisis is dispersed through significant wage disparity between the oligopolist, competitive, and public economic spheres; permanent inflation and income redistribution to the detriment of competitive sphere labour and other marginal groups; government finance crisis and impoverishment of social services; and finally, disproportionate sectoral and regional economic development.¹¹

This dispersion of the economic contradiction into the political and socio-cultural spheres has the effect of breaking down class identity and fragmenting class consciousness such that everyone is "at the same time both a participant and a victim."¹² Habermas would like to maintain that, in the end, this class compromise indicates that the class structure itself is no longer based upon the real income of workers determined by an exchange relationship. That is, a quasi-political wage structure would seem to defuse, substantively, the essential contradiction inherent in the creation of surplus-value based upon unequal exchange of the commodity labour-power for wages.

Economic Crisis

Generally speaking, economic crises are output crises: either over or under production and distribution of use-values. If such crises continue under advanced capitalism, then government intervention in the economy must continue to

obey "spontaneously working economic laws" and are subject to the law of the rate of profit to fall.¹³ What this theory in effect states is that government intervention in the economy is impotent in the face of the "law of value" which must remain intact with the maintenance of a system which allows for the private appropriation of social wealth. Rather than the administrative apparatus having a substantial impact upon any economic crisis, the crisis itself moves into the social and political realm and the class struggle between capitalists and wage dependent masses manifests itself politically. In short, state intervention, which seemed so necessary, remains impotent to the task of successfully managing the economy while the fundamental exploitive relationship of the production of surplus-value remains the cornerstone of the capitalist economy. At best such intervention can only displace economic crisis and not correct it.¹⁴

Habermas investigates further this general theory of economic crisis as it pertains directly to advanced capitalism. He maintains, along with a number of other authors, among whom he cites Marx, that even in liberal capitalism the economy did not provide for social integration alone. The state supplemented the economy by providing the social conditions for the reproduction of surplus-value. The unpolitical form of the wage-labour/capitalist relationship could only be, ironically,

maintained and reproduced politically and socio-culturally.¹⁵

As we have seen above the primary difference between liberal and advanced capitalism is the advent of the interventionist state. In chapter 4 of part II Habermas examines two theoretical explanations of economic crisis under the interventionist state: 1) The state acts as the executive organ of the nature-like law of value; and 2), an agency theory whereby the state acts as the planning board for united monopoly capital. With regard to the former, Habermas maintains that the liberal-capitalist state supplemented the market in that it was responsible for the reproduction of the social foundations for the production of surplus-value. Such a function serves the collective-capitalist will (the maintenance of investment opportunities and the fostering of a favorable environment for continued growth) because the political and socio-cultural life-world within which capitalism is embedded cannot be regenerated through the capitalist economy. The state remains non-interventionist because it pursues no goals which tie it directly to the market mechanism and it therefore remains aloof from the law of the tendency of the rate of profit to fall; that is, economic crises do not immediately and directly reverberate onto the state apparatus. This supplementary role is achieved by means of limiting capitalist production with the function of serving to

maintain it.¹⁶

Under advanced capitalism this theory maintains that while the collective-capitalist state serves the primary role of fulfilling the general conditions of production, it must also intervene directly in the reproduction and accumulation process in order to do so. That is, it must create conditions for the expansion of surplus capital, improve the use-value of capital, cushion the social costs and consequences of capitalist production, balance disproportionalities that restrict growth and generally attempt to structure the overall economic cycle through social, tax and business policies.¹⁷

Habermas maintains that this orthodox view is held because under advanced capitalism the state does not control production or intervene substantially in the property structure but, rather, seeks only to secure the general conditions of production. In short, while it does intervene to a greater extent than under liberal capitalism, the advanced capitalist state does not nor does it attempt to, alter the unconscious, anarchic character of the capitalist economy. Because of this it is said to maintain the character of an "unconscious, nature-like executive organ of the law of value."¹⁸

Habermas seems to contend that this view is predicated upon the notion of class domination exercised non-politically through the social relationship of the exchange

of wage labour for capital. However, as we have seen earlier in his discussion of class structure, it is Habermas' position that this social relationship has changed making the production of legitimation problematic because it can no longer draw on the "system-integrative functions of the market and decrepit remains of pre-capitalist traditions"¹⁹ which adequately served this function under liberal capitalism. Because government action is openly directed toward the avoidance of crisis, the class relationship is re-politicized; social integrative functions must pass into the political system. Such a development increases the centrality of the political system for the advent and determination of all crisis tendencies. Because the political system has taken on this larger role, the process can also work in reverse; political or administrative crises can also reverberate onto the economic system. Thus, power and levels of exploitation are not determined simply by market forces. Ultimately what has happened is that the organization principle of advanced capitalism is drastically altered from that obtaining in liberal capitalism and can generally be expressed or comprehended in that the state fulfills functions that cannot be explained as necessary for the maintenance of the means of production or "derived from the immanent movement of capital." In short, "the still effective economic driving forces" are confronted with a "political countercontrol"

which itself expresses "a displacement of the relations of production."²⁰

Habermas holds that this displacement is readily manifest in four distinct categories of governmental activity. First, it constitutes and maintains the mode of production by providing and enhancing the prerequisites of the economy's existence. This is achieved through a system of civil law the fundamental tenets of which are the institutions of private property and freedom of contract; protection of the system from self-destructive side effects (welfare safety net, labour law, currency stabilization); provision of the prerequisites of production, a universal infrastructure of constant capital (roads, telecommunications, etc.); promotion of the domestic economy on the international market; and finally, the reproduction of the state itself through the preservation of national integrity both militarily and paramilitary and through the tax system. Second, it complements the market without directly intervening in it when it alters the legal system in line with new forms of business organization. Such legal-administrative tinkering is non-interventionist because it doesn't influence the dynamic of the accumulation process nor does it alter the organization principle or class structure of the society. Thirdly, it engages in market replacing functions when it reacts to weaknesses in the economic driving forces. Such direct intervention (creation

of investment opportunities or altered forms of production of surplus-value) affects the dynamic of the economic system thereby "creating new economic states of affairs" which in turn affects the organization principle. Fourth and finally, it will directly counter the dysfunctional side effects of the capitalist production process which have occasioned "politically effective reactions" from interest groups (either business or labour) or political parties and movements. Thus it will engage in either "social consumption" or "social expenditure" in order to offset the politically manifest consequences of private accumulation.²¹

The latter two functions differ from the former two in that they represent direct interventions in the economic system which transform its dynamic and bring about an alteration in the organization principle of society. In the end the dichotomous interaction of means and function of the advanced capitalist states' economic actions drastically alters the organization principle which had been the unorganized exchange of wage-labour for capital which expressed non-political domination.²²

Habermas asserts that this change in organization principle can be seen in and is affected by developments characteristic of the change in the relations of production: 1) an altered form of the production of surplus-value; 2) a quasi-political wage structure; 3) a new demand for legitimation resting upon and enhanced by demands oriented to the

production of use-values.

1) Habermas holds that state production of constant capital, specifically that embodied in reflexive labour is indirectly productive of surplus-value. Reflexive labour is labour applied to other, directly productive labour in order to increase the latter's ability to impart value. That is, reflexive labour trains and develops and thereby enhances the use-value of labour; it increases labour's ability to impart more value than it itself has. The advanced capitalist state has organized and rationalized the production of reflexive labour such that it acts as an investment pool of sorts, a depository of constant capital which, unlike that embodied in means of production, is indirectly productive. It is, in a sense, quasi-variable, constant capital which directly aids the expansion of capital through its variable form. As Habermas states:

The variable capital that is paid out as income for reflexive labour is indirectly productively invested, as it systematically alters conditions under which surplus-value can be appropriated from productive labour. Thus it indirectly contributes to production of more surplus-value.²³

In the end, government investment in or production of (expenditures upon) reflexive labour has the effect of altering the relationship of variable to constant capital such that the expansion of relative surplus-value is altered and it becomes an empirical question if this might not offset, somewhat, the law of the tendency of the rate of

profit to fall.²⁴

2) The class compromise, expressed in a quasi-political wage determination system through which wages are guaranteed by political processes not to fall below a certain level, has eroded the labour market such that the cost of the commodity labour-power is more and more shifted onto the price of products thus distorting their true value as expressed in Marxian terms. This raises the question, Habermas points out, of whether or not labour, at least in the monopoly and public sectors, can truly be reflective of value because the rate of exploitation is altered in favor of the best organized parts of the working class. A stabilization of the rate of exploitation may also have implications for the displacement of economic crisis onto the political and socio-cultural system. (Combined of course with increased commodity costs at the expense of the most vulnerable consumers).²⁵

3) Because administrative planning replaces, to a considerable extent, anarchic production and exchange relations, the relations of production themselves need legitimation. This occurs because the procurement of legitimate power must be linked to the satisfaction of demands for the production and distribution of use-values over exchange-values. On top of this, because of the institutionalization of democratic values (equal rights and universal suffrage) such legitimation cannot be divorced

from democratic means. The only way to defuse the contradiction of the need for legitimacy which demands, to a substantial extent, use-values (a direct infringement upon the capitalist accumulation process) is through a depoliticized public realm. In short, the dynamic here is the fact that the economic system itself must become involved in the legitimation process in order to augment and help produce the legitimacy for the administrative management of economic crisis. The economic system itself becomes directly susceptible to legitimacy deficits.²⁶

The agency theory mentioned above is, Habermas maintains, a revisionist account of the "executive organ" thesis. Primarily, this position holds that the state cannot fulfill the role of executive organ of economic laws because under advanced capitalism the interventionist state replaces the unplanned, nature-like economic development with state-monopoly planning; that is "centralized steering of the production apparatus."²⁷

The state emerged as agent because it is a relatively independent entity which aids the pursuit of a conscious, collective-capitalist interest. This interest itself developed because of a convergence of the interests of individual corporations in maintaining the system²⁸, which itself emerged largely due to the increased and increasing socialization of production. The convergence is strengthened as a defense mechanism as system maintenance is

threatened externally by the competition of post-capitalist societies as a whole (international market forces) and also internally by forces (presumably social and political) which transcend the system. Enhanced planning, which reflects the collective-capitalist interest, is said to guarantee production of surplus-value which frees it, to a significant degree, from the anarchy of the market mechanism.

The gist of the agency theory is, finally, that the state, as agent, remains subordinated to the capitalist interest because organization and planning are immanently tied to the goal of capital realization. The advanced capitalist relationship is opened to new political pressures, because the politicization of the class relationship is constitutionalized through class parties and popular fronts, which, in turn, bring direct democratic forces to bear on the economy. In the end, this thesis holds that because the realization of surplus-value through production of exchange-values remains the fundamental dynamic of the system, state-monopolistic capitalism is still susceptible to the primary contradiction of capitalist production expressed in the crises potential of the law of the tendency of the rate of profit to fall.²⁹

Habermas develops two objections that have been advanced against this thesis. First, the ability of the state-administrative apparatus to plan successfully on either a global or local level to the extent advanced by agency

theorists cannot be empirically verified but, nonetheless, remains highly suspect. They fail to take note that the primary role of planning undertaken by the interventionist state is reactive avoidance of crisis (as we saw above, planning has "the reactive character of avoidance strategies within the framework of a system of goals"). In addition, administrative bureaucracies remain chronically under coordinated because of their dependent position vis-à-vis their individual and diffuse clients. That is, to the extent that the administration administers, it does so at individual sectoral levels rather than en bloc with monopoly capital as a whole. This "deficient rationality" of the state planning apparatus enhances planning inertia and incrementalism. It originates because the diverse and contradictory interests of individual capitalists, individual capital interests against the collective-capitalist interest and finally system specific and generalizable social interests are displaced onto the state administration.³⁰

Second, the notion of the state acting as agent also cannot be shown empirically. Agency theorists consistently overestimate the extent and importance of state-business linkages. Research into the formation and interaction of power elites cannot, Habermas maintains, adequately account for the "functional connections between economic and administrative systems"³¹. He himself prefers the systems-

theoretic model developed by Claus Offe.

Political Crisis Tendencies

The effectiveness of the state in achieving sub-system integration around, on the one hand, the cost of the socialization of production for private accumulation of social wealth, and, on the other hand, the popular demand for justification of this public expenditure will determine the extent to which it can avoid political crisis tendencies.

To avoid rationality crises it must deal effectively with the crisis contingencies or "functional gaps" in the economy while to avoid legitimation crises it must, while dealing with these contingencies and gaps, make the particular interest in private accumulation of social wealth pass as a general interest. It appears then that political crisis tendencies are inherently linked through the fundamental contradiction of capitalist society; both legitimation and rationality crises appear as two sides of the same coin.³² Habermas examines each in turn.

A rationality crisis occurs when official government administrative directives cannot or do not succeed in dealing adequately with the needs and problems generated in the economic system. Since it must approach these problems from the precarious position of maintaining the system as a whole (its global planning function reflected as a collective-capitalist interest) against, on one side, the

interests of diverse capitalist groupings and, on the other side, the use-value oriented, generalizable interests of different population groupings, the state finds itself, as it were, caught between a rock and a hard place.³³ As we have seen, this trichotomous interest net has emerged in advanced-capitalist society as a direct result of state intervention in the economy. However Habermas is adamant that this intervention does not translate directly into control. The most that can be maintained with any theoretical and empirical reliability is that the state gains a limited, formulistically rationalized (see p. 3 above) reactive planning capacity.

On the bases of a class compromise, the administrative system gains a limited planning capacity, which can be used, within the framework of a formally democratic procurement of legitimation, for the purpose of reactive crisis avoidance.³⁴

The attempt by the state to deal with economic crisis will lead to a rationality crisis proper, "only" Habermas maintains, "if it takes the place of economic crisis."³⁵ As such, a rationality crisis is not merely a reflection of economic crisis but, rather, a completely different form of crisis, the dynamic of which revolves around contradictory steering imperatives originating, as we saw above, from the diverse interests operating or seeking to operate in the economy. That is, it is not a crisis of capital accumulation or distribution, nor a contingency of the law of the tendency of the rate of profit to fall, but rather,

"[a] rationality deficit in public administration means that the state apparatus cannot, under given boundary conditions, adequately steer the economic system."³⁶ Habermas uses this definition combined with an examination of two theoretical positions, the first a modified-anarchy theory and the second a position taken by Claus Offe, to point toward, in the end, the notion that a rationality crisis is merely the ideological or masked appearance of motivational crisis tendencies.

Under the modified-anarchy theory, the goal of expanding the planning capacity of the state in the interest of system maintenance through collective-capitalist or global planning, conflicts with the fact that this very expansion must come at the expense of the freedom of individual capitals to determine investment decisions. So long as the production process remains privatized to this extent, therefore, the state is inhibited in expanding planning capacity by its necessary reliance upon the powerful and diverse aims of individual capital groupings which, in effect, colonize parts of the administration itself. The state is caught between the imperatives of both intervention and non-intervention. In this view then "[r]ationality deficits are the unavoidable result of a snare of relations into which the advanced-capitalist state fumbles and in which its contradictory activities must become more and more muddled."³⁷

The position of Offe in this regard is somewhat different. He would like to hold that a rationality crisis occurs because the expansion of the state into the economy through the socialization of production produces a number of unintended "foreign bodies" linked to a) pseudo-political boards of corporations, which, because of their "political" input and machinations with government bureaucracies, insure that large corporations adopt "political patterns of evaluation and decision"; b) professional public sector and service associations concerned directly with their own well-being and material imperatives; and finally c) an inactive portion of the population which, because it does not reproduce itself through the capitalist realization process (the wage-labour relationship) but rather perceives government action as amenable to its will with regards to its material well-being, also develops interest group orientations designed to bring pressure to bear upon the state administration. (Here Offe cites examples such as students, the unemployed, the elderly, etc., in short the "marginal" sectors of the population). These foreign bodies, because of their new and divergent orientation patterns, place demands upon the state administration and push and pull it in many directions at the same time; directions in which it was never capable of going or capable of evolving in given the scarcity of the resource "time".³⁸ In effect these interests act like a corrosive upon the state

administration itself and, as Habermas presents Offe's position, "destroy the conditions for application of important instruments of state intervention".³⁹

Habermas' critique of these positions leads to the conclusion that if any of the above imperatives of the administration of the economic sub-system lead to "crisis-related bottlenecks", it is not due to deficits in rationality. Rather, it is a consequence "of unadapted motivational situations"⁴⁰ and thus seems to be a general failure of system integration as a whole reflecting what in Habermas' later work will appear as a problem of defective rationality originating in the faulty rationalization of sub-systems with the life-world. In the meantime, this lack of motivating ability seems to build upon the thesis that while the interventionist state has brought upon itself expectations that it can fulfill the needs of a collective-capitalist will and that it can fulfill the functional demands of the economic system, it is not capable nor ever was capable of doing so. This inability, which is really a motivation problem, may manifest itself as rationality crisis because of the pretensions of the state in claiming for itself responsibility for economic boom times; a responsibility it never of course really had.⁴¹ The state's inability to act really comes to the fore during times of economic crisis when its ineffectuality manifests itself in the only thing the state can do: ad hoc reaction to crises

and ultimately incrementalism. In unmasking the motivation problem behind perceived rationality crisis, Habermas can be said to be engaging in ideology critique.

After a careful elucidation and analysis of Habermas' examination of possible economic and state administration crisis tendencies, one is left with the ultimate conclusion that problems in these spheres, although chronic, may not be threatening to advanced capitalist society as a whole. With regard to the crisis potential inherent in the economy and the state administration there emerges a complex of relations through which problems in both systems are merely passed back and forth.⁴² Thus Habermas comes to doubt that a societal crisis of revolutionary proportions can or will be located in the economy. He does "not exclude the possibility that economic crisis can be permanently averted...".⁴³ Similarly, state incrementalism and its ability to depoliticize substantive issues in reaction to crisis situations may be enough to maintain the status quo. The economic and political crisis cycle will be distributed over time and throughout the society and will be replaced, in the long run by "inflation and a permanent crisis in public finances"⁴⁴ with the corollary of chronic unemployment. That this may be only a temporary displacement of economic crisis is dependent upon, in Habermas' view, whether or not economic growth can be assured such that an infusion of the required amount of mass

loyalty can be guaranteed in order to keep the accumulation process moving. Thus, what must occur to bring about change in the course of modern society is a deeper socio-cultural crisis emerging due to the loss of the "scarce resource meaning" which will manifest itself as legitimation and motivation crises.

This first chapter has demonstrated Habermas' understanding of the linkages between the state administration and the economic system characteristic of advanced capitalism. This complex of socio-economic and political structures has emerged in order to defuse both the economic and the socio-cultural contradictions of capitalism. Through the mass democracy welfare-state compromise, economic inequalities and the lack of substantive political participation are "paid for" with rewards such as increased leisure time and mass consumer goods which enhance the material quality of life. For so long as economic growth can be maintained, economic and rationality crises can be forestalled. However, the mass democracy welfare-state must also gain acceptance on a moral-practical level. In order to fulfill this requirement, advanced capitalist society appeals to the notions, first identified by Max Weber, of rational-legal authority and legitimacy.

In the second chapter we will examine this (Weberian) formulation and Habermas' reaction to it in order to understand why he sees it as insufficient for legitimating

the structures of advanced capitalism. Finally, in the third chapter we shall see how the traditional norms and cultural orientations upon which these conceptions rest and receive their normative force are threatened by the very social, economic and political structures they are called upon to legitimate. This breakdown is, Habermas maintains, an objective and dialectical process located in historical structures and institutions and therefore comprehensible through historical materialism.

ENDNOTES

¹ Habermas, Jurgen. Legitimation Crisis (Boston: Beacon Press, 1975) pp. 33-34. (Here after referred to as L.C.)

² Ibid., p. 35.

³ Habermas outlines a number of state market functions on page 35 of Legitimation Crisis. These include: strengthening the nations competitiveness in the international market; injecting capital into the economy through unproductive government consumption; guiding capital flow to sectors of the economy neglected by the market; improvement of the societies material infrastructure; improvement of the societies immaterial infrastructure; expenditures designed to heighten the productivity of labour through training etc.; and finally, cushioning the social and material costs of capitalist production (accounting for the ill "neighbourhood effects" as Milton Friedman would put it). Ibid., p. 35.

⁴ Ibid., p. 36.

⁵ Ibid., p. 36.

⁶ Ibid., p. 37.

⁷ Ibid., p. 37.

⁸ Ibid., p. 37.

⁹ Ibid., pp. 37-38.

¹⁰ Ibid., p. 38.

¹¹ Ibid., p. 38.

¹² Ibid., p. 39.

¹³ Ibid., p. 45.

¹⁴ Ibid., p. 46.

- 15 Ibid., p. 50.
- 16 Ibid., p. 51.
- 17 Ibid., p. 51.
- 18 Ibid., p. 50.
- 19 Ibid., p. 52.
- 20 Ibid., p. 53.
- 21 Ibid., pp. 53-54.
- 22 Ibid., p. 55.
- 23 Ibid., p. 56.
- 24 Ibid., p. 57.
- 25 Ibid., p. 57.
- 26 Ibid., pp. 58-59.
- 27 Ibid., p. 59.
- 28 Ibid., p. 59.
- 29 Ibid., p. 59.
- 30 Ibid., p. 60.
- 31 Ibid., p. 60.
- 32 Ibid., p. 46.
- 33 Ibid., p. 61.
- 34 Ibid., p. 61.
- 35 Ibid., p. 47.
- 36 Ibid., p. 47.
- 37 Ibid., p. 63.
- 38 Ibid., p. 66-67.
- 39 Ibid., p. 67.
- 40 Ibid., p. 67.

⁴¹ The interesting comments by Gary Marks in this regard shed some light on what I believe Habermas to be getting at here: "Governments in Western democracies are perceived as responsible for economic performance, yet they lack authoritative control of market decision making. This was not a problem in the two decades following World War II, when governments claimed success for unparalleled economic growth, over which they really had very little control. But in more recent years, governments in all Western societies have had to cope with deteriorating economic performance and its unsettling political fallout." Gary W. Marks, "State-Economy Linkages in Advanced Industrialized Societies" in Norman J. Vig & Steven E. Schier, eds., Political Economy in Western Democracies (New York, N.Y.: Holmes & Meier Publishers, 1985), p. 46.

⁴² Habermas, "The Dialectics of Rationalization", pp. 106-107.

⁴³ Habermas, L.C., p. 40

⁴⁴ Ibid., p. 61.

CHAPTER II

Our elucidation of Habermas' model of advanced capitalism undertaken in the first chapter has been instructive. We saw that in his understanding, the possibility that difficulties in the economy and the state administration will lead to general crises situations, cannot be predicted logically. Habermas holds that crises tendencies in these sub-systems can be displaced and dispersed throughout the society in a functional manner such that they are defused of their ability to manifest the fundamental contradiction of any capitalist society--the class system that accounts for the private appropriation of socially produced wealth. These crisis tendencies have been largely ameliorated through state interventionism, mass democracy and the welfare-state.

However, this new complex of social, political and economic structures must itself be legitimated. This is a functional imperative that is met through an appeal to rational-legal means which, in effect, permeate the whole of advanced capitalist society. To the extent that advanced capitalist societies fail to deal with this functional

imperative, they can be characterized as more or less caught up in crisis situations. Habermas maintains, as we shall see, that a failure to deal with this functional imperative is, in the end, a result of a loss of motivation and must, according to Habermas, manifest itself empirically as a legitimation crisis.¹

Because it was Max Weber who first laid out and analyzed, in a systematic fashion, the concept, structures and mechanisms of rational-legal authority and legitimation, it is imperative that we gain an understanding of this position. For Weber, the need for legitimacy founded upon formal, rational-legal authority and legitimacy originated with the advent of the Protestant ethic of individual responsibility which broke down universal religious world-views and normative systems. This new moral-practical orientation meant that occidental society witnessed an explosion of subjective value orientations none of which could demonstrate an ethical superiority over any other. The only feasible way for modern society and modern social science to deal with this new "value relativism" was to somehow relegate the whole complex of "Gods and Demons" to the side lines. Thus the appeal to value-neutral conceptions (in the social sciences) and to institutions such as the rule of law (in the social world) seemed to offer a way around the fact/value dichotomy.

Approaching the legitimation problem through Weber will

allow us to gain a firmer grasp upon Habermas' position viz-a-viz legitimation in modern society. This for two reasons. First, Habermas contends that as it was originally formulated, the Weberian conception of legitimacy is insufficient for a clear comprehension of its subject matter. That is to say, legitimation cannot be reduced to the acceptance of legal positivism or an appeal to the formal procedures whereby laws are established. Second, Habermas contends that although Weber's assertion that modern society does appeal to rational-legal authority and legitimacy for justification and legitimation was correct, he failed to realize that these structures and institutions are incapable of fulfilling their mandate. That is, the social, economic and political situation of advanced capitalism systematically undermines the moral-practical traditional and cultural basis for the continued viability of rational-legal legitimacy.

This undermining of traditional and cultural background orientations is, Habermas asserts, an objective process. Such a process is thus historically traceable in social structures and institutions. Historical materialism can reveal this process in its objective form. This position lies behind Habermas' assertion that "for the legitimation problems of the modern period, what is decisive is that the level of justification has become reflective. The procedures and presuppositions of justification are themselves

now the legitimating grounds on which the validity of legitimacy is based".² That is to say, because the evolution of social ideals and institutions has brought about a situation in which an appeal to the norms of domination is demanded, legal positivism itself (the rule of law and statutory proceduralism, for example) is increasingly called upon to act as this normative basis. But of course legal positivism was originally formulated and conceived of as value-neutral in order that it might bypass the fact/value dichotomy. In the end structures of legal-rational legitimation are increasingly called upon to transform themselves from functional mechanisms into normative mechanisms.

The contours of this conflict engendering state of affairs in which functional mechanisms are called upon both to juridify life spheres heretofore not organized along legal lines and to legitimate this juridification will be examined in greater detail in chapter 3.

Max Weber's Concept of Rational-Legal Legitimation

The paradigmatic fact/value dichotomy, the whole problem of Gods and Demons, that Weber set out for the social sciences was an essential product of his analysis of the rationalization process of modern western society. Weber's concept of rationality applies to many human contexts: action, decisions and systematic world views. Here our purpose is to grasp Weber's understanding of the rational-

ization of action spheres leading progressively and simultaneously to the thorough secularization and rationalization of world-views.

For Weber, this entire process can be traced back to the Reformation. The Reformation saw the successful establishment, in personality structures, cultural perceptions and social institutions, of an individualistic ethic of conscience and responsibility.³ This phenomenon was of course the individual and cultural reception and incorporation of the Protestant Ethic.⁴ The incorporation of the Protestant Ethic meant that values were increasingly separated from unitary religious world-views and orientations. For Weber, this meant that while actions might remain value relative, that is, oriented to ultimate ends, these were (and are) increasingly individualized and internalized such that the important social aspects of action and interaction are only manifest or seen in the purposive-rational *means* whereby goals are achieved. Thus social action can be assessed as rational, from this perspective, in two senses: first, as value-rational or directed toward specific ends or goals; and second, as purposive-rational/instrumentally-rational or directed toward proper means guaranteeing success. The former is highly subjective and internalized while the latter, if it is to be successful, must be externalized and reflect universal norms of action. For they are "determined by

expectations as to the behavior of objects in the environment and of other human beings..."⁵ This dual aspect of rationalized action, with the only universals being located in means, meant that as these norms of action were increasingly internalized, social action would become more systematic and rational or calculating. In the end this entire process led to the increased secularization, differentiation and formalization of the spheres of society, economy and state.

The rationalization process or the "growing emancipation of each value sphere from the constraints imposed by their former amalgamation under unitary religious world-views"⁶ must be seen, from Weber's perspective, as the ultimate origin of the problem of "gods and demons". The inability to universally orient action according to ultimate ends was for Weber a potential source of irrationality and was analogous to times past: "[w]e live as the ancients when their world was not yet disenchanted of its gods and demons only we live in a different sense".⁷ This "different sense" is for Weber both the cause and the solution to the modern paradox. Located within the rationalization process itself was (and is) a way to escape the world of gods and demons. Though rationalization had cut off the way back to an ethic based upon ultimate ends, to a universal and unitary choice of either God or the Devil, it at the same time opened a new path. Action and our orientations to the natural and social

world in general, could be ordered formally. God and the Devil would both be banished, as far as social interaction was concerned, to the subjective conscience. In order to achieve their ends, humans would have to act according to purposive-rational norms. How we approached nature and one another could, in this way, be systematized, formalized and made predictable. Formally rational mechanisms would thus take on the unitary and universal order giving function of generalized world-views.

While religions were able to define subjective consciousness through their moral codes and teachings, they could only orient action to the extent that they could "make sense" of nature and man's place in it. That is, their success depended upon their "capacity to represent phenomenal reality objectively, as pure nature, or ethically, as a realm of ultimate ends".⁸ Similarly, the development of systems of purposive and legal rationality could provide order and stability for they potentially could (and for Weber did) represent the phenomenal reality of the world (both natural and social) objectively, as pure nature.

Here our interest is in Weber's analysis of rational-legal authority and conduct for it is from this that modern society derives its legitimacy. Because order and meaning can no longer be based upon the rationally devalued values of the west's cultural heritage, new mechanisms must be located in order to orient social action even if they must

now remain devoid of universal meaning. David Ingram gives us a good introduction to this complex of issues from Weber's perspective.

In his study of modern law, Weber stressed the parallel emancipation of individual moral conscience from ethical custom. For the first time ever, civil law appears as something posited, the legitimacy of which is tied to notions of sovereign consent (the social contract) institutionalized in democratic rules of procedural justice. It no longer requires the adoption of any particular moral or religious attitude, but only outward compliance with respect to behaviour. In other words, it procures a realm of individual freedom in which it is permitted to do anything that is compatible with a like freedom for others.⁹

In the Weberian conception, this classical liberalism was institutionalized through rational-legal authority and legitimacy because of the objective need to found social action on something other than unitary religious world-views. This need originated in the objective process of the break down of feudal social structures.

As we shall see, Habermas agrees with this conception but also contends that it remains incomplete. For him this development represents a clear demarcation in the history of legal structures. It is in fact the first wave in a process of modern juridification which established the bourgeois state and witnessed the separation and characterization of "civil society" over against strictly "state" mechanisms. As an objective process, this juridification wave represents a development the importance of which can only be grasped

through an historical materialist perspective. Habermas wants to approach this development not as a discontinuous break with the past but, rather, as part of an historic-developmental process. It is, as will become clearer below, a development in the moral-practical learning capacity of society.

Returning now to Weber, while universal action-orienting value systems have broken down, according to him one essential aspect of social interaction remains intact--domination. For Weber, this was a fundamental social fact. "Without exception every sphere of social action is profoundly influenced by structures of dominancy... domination has played the decisive role particularly in the economically most important social structures of the past and present, viz., the manor on the one hand, and the large-scale capitalist enterprise on the other".¹⁰ Following Weber's conceptual breakdown of the modes of domination into pure types, we can say that feudal systems, crystallizing around a unitary religious world-view, domination would be legitimated through reference to tradition and founded upon ultimate values. That is to say, legitimacy would be based upon "the belief in the absolute validity of the order as the expression of ultimate values of an ethical, esthetic or of any other type".¹¹

With the breakdown of tradition and faith, and the advent of occidental rationality, a new basis for legitimacy

was needed for domination: legitimacy based upon positive enactment. Such a society is characteristically organized around systems of rational-legal authority and legitimacy with bureaucratic administrative staffs. While there is still a strong element of belief in this the modern form of authority, (which Weber readily acknowledges), it differs fundamentally from the notion of faith. In the traditional sense, faith is vested, as we have seen, in the ultimate ends or values of the regime. Conversely, in the modern era, belief is directed to the acceptance of the mechanisms whereby decisions, orders and laws are handed down. This by no means discounts that an individual may look upon a given order as the expression of an ultimate value or ethic. On the contrary, the very rationalization process itself dictates that such belief must remain purely subjective and accepted as such and therefore, from the perspective of regime stability, of little consequence. What is decisive is that "obedience is owed to the legally established impersonal order".¹²

Weber sets out a number of criteria which are essential to domination based upon rational-legal legitimation. First, legal norms can be enacted through expediency or value-rationality and still lay claim to obedience by the members of the organization. Second, the body of law or legislation must constitute a consistent system of abstract rules which have been intentionally established. Third, the

person "in charge" must be subject to the organization rules and must orient his/her action to them. Fourth, those that obey the authority must obey "the law" rather than the vague or direct decrees of some superior or authority figure. And finally, this obedience must not be given to any particular individual but rather to the impersonal legal order.¹³ Thus for Weber the legitimation of domination in the modern occident is reduced to the fulfillment of two imperatives: (a) that the legal order be established positively, that is, established through and governed by rules; and (b) that the obedience of those associated with the order believe in its legality, that is, they accept that its dictates have been arrived at and issued using the formally correct procedures for the creation and application of laws. "The belief in legitimacy thus shrinks to a belief in legality; the appeal to the legal manner in which a decision comes about suffices".¹⁴

That this belief in legality is a product of and reflects the rationalization of the world can be seen through a brief look at these two imperatives. The first reflects and embodies four senses of rationality. First, the rights and responsibilities of individuals must be rule governed. This means that these rights and responsibilities are determined by principles with some degree of generality and that these can be identified. This notion can also be expressed as the "formal" character of the system.¹⁵ Second,

the legal order must be systematized in order to be established positively. This obtains when the order "represents an integration of all analytically derived legal propositions in such a way that they constitute a logically clear, internally consistent, and at least in theory, gapless system of rules, under which, it is implied, all conceivable fact situations must be capable of being logically subsumed lest their order lack an effective guaranty".¹⁶ Third, the rationality criterion is fulfilled when analysis of problem situations is based upon the abstract interpretation of meaning. This means that in contrast to an emotive or purely sensory apprehension of a given social situation such a situation is transformed into a legally comprehensible set of occurrences; that is, they are given a formal, legal content. Only when situations are given this formal content can the legal order be systematized in the context of the criteria cited in number two above.¹⁷ Finally, Weber posits the notion of control by the intellect as an aspect of rationality. This means that formal procedural arrangements are controllable by the intellect if logical and rational grounds are given or can be given for individual decisions.¹⁸

That the second imperative, belief in legitimacy, reflects the rationalization process can be seen in the following statement by Weber:

[it is not] necessary...that all those
who share a belief in certain norms of behavior,

actually live in accordance with that belief at all times. Such a situation...has never obtained, nor need it obtain, since, according to our general definition, it is the "orientation" of an action toward a norm, rather than the "success" of that norm that is decisive for its validity. "Law", as understood by us, is simply an "order" endowed with certain specific guarantees of the probability of its empirical validity.¹⁹

These two imperatives, formal, rational-legality and belief in such, are understood by Weber as not only the characteristic form of legitimacy in the modern west, but also as the only form which can possibly obtain given the entire rationalization process undergone by western society. Thus, not only does this form of legitimacy take on a nature-like appearance, but it is also the only one that can be acceptably studied and described by the social sciences. Legal positivism and logical-positivism converge, for Weber, over this very issue of legitimation. "The philosophical foundation for Weber's exclusion of value judgments from the scope of the social sciences is that it is not possible even in principle for value judgments ultimately to be defended in rational argumentation, no matter what criteria for "good reasons" are eventually accepted. And if because of this, it is not possible in principle for value judgments to involve a claim to transsubjective validity, then it is not possible for them to fall within the scope of the social sciences".²⁰

While these methodological prohibitions and the limiting of the content of the social sciences certainly have

implications for Habermas' conflict with Weber over epistemological questions, we are not here primarily interested in these issues. What is of fundamental importance however, is the fact that in Weber's conception of modern western society, the rationalization process as a world-historical phenomenon assumed nature-like proportions. Hence his understanding of the age was self-consciously conceived of as a diagnosis rather than a prognosis. Within this process capitalism also takes on a nature-like character the development of which corresponds to and fosters the historical march of reason and rationalization. Thus, while Weber despaired over the loss of meaning and freedom in modern society, corresponding to the ascendancy of the "iron cage", he also could see no alternative. Any return to ultimate ends held out not the hope of emancipation and re-substantialization of the several domains of life but, rather, the unacceptable dangers of demagoguery and the evils inherent in cults of personality.

"Equality before the law" and the demand for legal guarantees against arbitrariness demand a formal and rational "objectivity" of administration, as opposed to the personal discretion flowing from the "grace" of the old patrimonial domination...[because]...not only any sort of "popular justice"--which usually does not ask for reasons and norms--but also any intensive influence on the administration by so called "public opinion"--that is, concerted action born of irrational "sentiments" and usually staged or directed by party bosses or the press--thwarts the rational course of justice just as strongly, and under certain circumstances far more so, as the "star chamber" proceedings of absolute rulers used to be able

to do.²¹

The ultimate rationality or "value" of rational-legal authority is, for Weber, located in its fundamental aspect of being controlled by the intellect. This notion accepts the fact/value dichotomy and attempts to build social institutions which can account for it and work around it. Rational-legal authority has an essential, self-conscious character: it involves the willful creation of norms. From a rational-legal perspective, norms can only be generated and have a socially significant, action orienting character, if they are enacted formally and are the product of a conscious, willful action. Rational-legal authority expresses the "ultimate" truth about values--that there are no transendentals and the world has no inherent value. It also seeks a way to reconcile the actions of humans in the myriad world of subjective norms. Hence it must be oriented to "means" and leave the creation of value up to individuals. Thus in Weber there is an essential decisionist orientation. Those norms which have binding social force are rationally decided upon through formal procedures.

In attempting to introduce substantive issues into this conception, Habermas may be in danger of re-asserting moral absolutes. It is precisely this fault that Steven Lukes points to when he discusses the teleological aspects in Habermas'. For Lukes, these move to block decisionism by

forcing societies to assume the normative perspective of communicative ethics against legal positivism. Unless such a position can be rationally anchored, it must remain irrational and merely one more subjective value orientation among many. It is thus imperative that Habermas account for and eliminate this danger. As we shall see, by locating his communicative ethics in historical human institutions and constructs, he appeals to historical materialism in order to show that such an ethics has a rational footing.

Habermas begins the task of anchoring communicative ethics with a critique of logical and legal positivism. Habermas does not accept the positivist conception of a nature-like progression of society which instrumentally sets out a fact/value dichotomy. Such a conception, he maintains, systematically undermines any attempt to rationally ground normative critiques of established societies. Societies which are conceived of as nature-like or as reflecting natural developmental tendencies are not, by definition, conceived of as the products of human actions. Thus, such conceptions fundamentally deny Marx's assertion that men make their own history however unconsciously. Using positivist conceptions of societal development or theories of natural law, bourgeois theorists and apologists can undermine, in Habermas' view, normative critique by merely appealing to the nature-like character of human development (a conception which treats the phenomenal

reality of society as analogous to the phenomenal reality of nature) and claiming that any perceived "evil" or inequality is "natural" and as such represents the essence of human nature and of human society. Since nature can in no way be conceived of as "evil" or unfair, any critique of bourgeois society could be dismissed on these grounds as fantastic or utopian. And ultimately such notions are seen as the product of the individual critics' subjective position or value-rational commitment to a "better way". In the end "moral questions, and questions of practice, are thus deprived of any rational basis or foundation".²² Weber's positivist conception of rational-legal legitimation can be seen as both the culmination of the natural law tradition and as the foundation for the modern positivist movement in law and the social sciences.

Habermas takes up this tradition, and modern reformulation, and carefully demarcates the different spheres of possible debate. He wants to get clear that when we speak of legitimation in this functionalist sense we are addressing the issue of a social order's ability to define the substantive component in the input of mass loyalty (which is of course necessary for the political system to fulfill the economic and socio-cultural steering functions that it has taken upon itself). On the other hand, Habermas also wants to make it clear that the really important aspect about notions of legitimacy must force debate beyond this

simple functionalist approach which, for him, defines the parameters of discussion too narrowly. Rather, it is imperative that legitimation claims be placed in the context of their relation to truth. That is, Habermas wants to move from discussions of the non-normative content to the normative content of legitimacy claims. In fact, he is asserting that this normative content has a direct bearing upon and is putting pressure upon, the formal, rational-legal mechanisms outlined by Weber and more recently by Niklas Luhmann. Here it is important to note that Habermas is, in effect, claiming that the rational-legal proceduralism is itself under pressure for legitimation.²³ That is, substantive claims are being asserted against the mechanisms of legitimation and cannot be defused of their practical implications by insufficient formal procedures.

Not only is this possibility identified by Habermas as a phenomenal or empirical reality but he also contends that ambiguity problems in Weber's original formulation point to the possibility of such a re-emergence. The rationalization of law and legislative processes in general, along formal lines embodying the four criteria we noted above, must, in effect, attempt to remove the process of rational-legal legitimation from the life-world in which it is embedded and from which it must ultimately draw its *raison d'être*. Later we shall see that Habermas notes, in this context, that there is a powerful contention that legitimation problems

can be functionally eliminated altogether, if, and only if, the manufacture of legitimation can be separated from motivation and created administratively. This is the task of ideology planning.²⁴

But Habermas contends that meaning cannot be created administratively because state intervention in the spheres from which motivation derives, which were originally self-legitimizing, are unbalanced by this administrative action. The sources of cultural meaning (which we shall examine in greater detail below) are in this way removed from their nature-like course and what was once accepted as legitimate (cultural norms and traditions) now suffers a legitimacy deficit.²⁵ This entire problem originates in the ambiguity of attempting to separate the mechanisms of rational-legal authority from the life-world. This ambiguity, Habermas claims, was located in the original Weberian formulation. "The ambiguity [in Weber's analysis of law] consists in the fact that the rationalization of law makes possible--or seems to make possible--both the institutionalization of purposive-rational economic and administrative action and the detachment of subsystems of purposive-rational action from their moral-practical foundations".²⁶

Despite its claims to the contrary, modern law, however much it approaches the ideal of formal, rational-legality, must have a substantive core. This core is its natural law basis and thus rational-legal authority and legitimacy are

tacitly oriented to the ideals of the individuals natural right to equal self governance. Weber's ambiguous attempt to separate the formal from the substantive content of the law and the legitimation process in general, is all too problematic. "...[T]o complete the image of society as an iron cage, Weber must further assume that modern law can be detached from natural law, its legitimating anchor, and can be rationalized in accordance with the instrumental logic of statutory proceduralism".²⁷ This entire complex of issues and problems has its origins in the identification of the rationalization process with capitalism. This is however, Habermas maintains, a theory of selective rationalization passing as a general theory of societal development which contends that social pathologies are endemic and logically necessary. From Habermas' perspective, there is no room in this limited model for positive cultural rationalization and hence no room to construct a rational basis for normative critique. It is of course central to his entire project that Habermas get beyond this impasse.

Habermas locates both an opportunity and pressure for the re-establishment of a rational foundation for value claims and critique in the rationalization process itself. He is able to make this claim because the rationalization process removes societal development from the nature-like course posited by logical and legal positivism. When the administrative apparatus of the advanced capitalist state

intervenes in the economic and socio-cultural spheres these come to be seen as amenable to human control and manipulation. Thus, the appearance of nature-like development can only be maintained through ideology and false consciousness. Hence, while, as we have seen, the re-politicization of the means and relations of production (which is a corollary to the advent of state interventionism, mass democracy and the welfare-state) does not lead directly to a re-emergence of class conflict, it does act as the catalyst for profound and substantively oriented crises situations.

Such re-politicization processes undermine functionalist legitimacy because natural law, upon which it is based, can be used to set the favorable boundaries for certain economic actors but cannot be cited in support of active and conscious manipulation of the economy by the state. As a corollary, the attempt to satisfy the particular interests of capital and individual capital groupings, opens the way for other and more diverse, substantive claims. If these cannot be satisfied or dealt with through formal mechanisms (which are themselves in greater need for legitimation, as we have seen) they will demand to be heard at the expense of these mechanisms. Finally, the way in which the mass democracy welfare-state fulfills its functions is to juridify and commodify areas of life that are not originally oriented and coordinated via legal or economic means. These

areas resist the process of objectification and commodification entailed in the spread of mass democracy and social welfare. As we shall see in the third chapter, this situation provides the greatest impetus to the fettering of the sub-systems by the life-world. When it moves to organize and formalize areas of a society, the mass democracy welfare-state employs positive law or rational-legal means. As we saw above, this demands that social situations be given a formal, legal content divesting such situations of their emotive or purely sensory content. This has the unintended side effect of objectifying the lives of persons caught in these newly juridified life spheres. Such a process turns people into things to be dealt with through the purposive-rational calculation of means and ends. Objectification is of course a form of reification or thingification. The communicative life-world of individuals is thereby fundamentally disrupted. Their worlds are turned into rationally calculable domains mediated by money and administrative power; their lives are increasingly bureaucratized and commodified. This is a continuation of the Marxian notion of commodity fetishism. Under the mass democracy welfare-state, relations between people who have become thingified become palpably felt relations between things.

Thus, as we saw in the first chapter, while economic and rationality difficulties are not in and of themselves funda-

mental, they are the catalyst for deeper and more serious crises complexes: the inability to ground legitimacy claims in the realization of substantive demands and as a function of this, the inability to prevent the re-emergence of pathological social tendencies reflecting the palpably felt loss of meaning and freedom.

Habermas accepts with Weber that there has been a sustained loss of meaning and freedom which has gone hand in hand with the rationalization process and the splitting off and secularization of value spheres. Habermas also holds that this has been an acceptable price to pay for the achievement of individual freedom against tradition. Moreover, Habermas would also like to contend that, as we shall see in the course of this thesis, the rationalization process has also brought about the conditions for the emergence of new sources of meaning. Weber could not predict such a constellation of events because he too narrowly identified the rationalization process with capitalist development. In that social pathologies do arise because of rationalization, Habermas wishes to show that this is "a result of a one-sided selective institutionalization of rationality"²⁸ which can be located in the developmental tendencies of advanced capitalism. Under his investigation of the "colonization of the life-world", Habermas wants to re-establish a partiality for reason in this entire complex of issues. This project is

intricately tied up with his investigation of legitimation crises and the attempt to establish a rational basis for normative critique. That is to say, Habermas contends that defective rationality is not to be located in the rationalization process per se, but rather, in the class interest of capitalism. It is useful to quote Habermas at length on this point:

It is interesting that Weber did not pursue the systematic line of his two-stage approach, moving from cultural to societal rationalization. Instead, he began with the fact that the purposive-rationality of entrepreneurial activity was institutionalized in the capitalist enterprise and believed that the explanation of this fact provided the key to the explanation of capitalist modernization. Unlike Marx, who proceeds here to reflections on the labour theory of value, Weber explains the institutionalization of purposive-rational economic action first by way of the Protestant vocational culture and subsequently by way of the modern legal system. Because they embody posttraditional legal and moral representations, both of these make possible a societal rationalization in the sense of an expansion of the legitimate orders of purposive-rational action. With them arises a new form of social integration that can satisfy the functional imperatives of the capitalist economy. Weber did not hesitate to equate this particular historical form of rationalization with rationalization of society as *such*.²⁹

Habermas' Treatment of Legitimation and Motivation Crises

Habermas maintains that legitimation and motivation crises tendencies are of fundamental importance for three reasons. First, depending upon how profound and all pervasive they are, they must sooner or later affect both

the economic and state-administrative sub-systems to the extent that the crises tendencies inherent in them, until now kept latent, must re-emerge. Second, unlike in the latter two sub-systems, the ability of advanced capitalist societies to keep a motivation/legitimation crisis latent is itself problematic. In fact, the logic of Habermas' argument would suggest that the forestalling of economic and rationality crises directly inhibits the ability to produce the requisite amount of 'meaning' to keep a legitimation crisis latent. Thirdly, the intervention of the state into more and more economic and socio-cultural areas has destroyed the nature-like appearance of the development of advanced capitalist societies such that the perception is promoted that both the economy and the state are amenable to the substantive claims increasingly placed upon them.

At this point I will run the two crises tendencies together because although Habermas treats of them as to some extent separable, it is quite obvious that they are intricately tied. In fact he stridently maintains that the development of legitimation difficulties into a legitimation crisis must be the result of a motivation crisis. It is, as Habermas puts it, a result of "a discrepancy between the need for motives declared by the state, the educational system and the occupational system on the one hand, and the motivation supplied by the socio-cultural system on the other".³⁰ It is a matter of striking a functional balance

between the demands placed upon the scarce resource "meaning" and the resource "value" which can periodically take its place. In short, legitimation can, at times, be bought. We shall examine this in greater detail below.

From the outset we should be clear about some definitional problems. These originate, in my view, from a shortcoming of Habermas' complex and at times confusing style--it is not at all obvious to the reader when he is differentiating the normative and the functional contents of his notion of legitimacy. This is an important issue for, as we have seen, it is precisely the normative content that Habermas wants to highlight and ground rationally. This issue is at the crux of the entire attempt to get beyond the Weberian puzzle of rational-legal authority and legitimation.

Habermas' position in Legitimation Crisis and elsewhere, must be seen as an analytical abstraction of two notions that are intricately intertwined: legitimation and motivation. Here we can clearly see the need to run together our treatment of legitimation and motivation crisis. Each has a normative and a functional content depending upon how one approaches them at any given moment. Motivation and legitimation are functional insofar as motivations can be created (to a certain extent) by the successful integration and manipulation of cultural traditions and norms in order to provide the required amount

of mass loyalty or acceptance which can maintain the successful identification of particular interests with general interests. Here we state nothing more than that societies which embody the fundamental contradiction of private appropriation of social wealth must manufacture or provide for a certain level of acceptance in order to function. Thus, when we speak of legitimation crisis it is possible to point to a breakdown of the formal, rational-legal mechanisms of legitimacy and/or an inability to successfully integrate cultural norms and values. Here it is essential to note that Habermas is positing the notion of a definitive limit to the procurement of legitimation: the "inflexible normative structures that no longer provide the economic-political system with ideological resources, but instead confront it with exorbitant demands."³¹ Here a legitimation crisis is both a functional incapacity and an empirical manifestation of a loss of meaning which has everything to do with the normative basis of a society. This also explains Habermas' assertion that a "legitimation crisis, then, must be based on a motivation crisis".³²

This position also indicates the level at which the two crisis tendencies are reciprocal. On the one hand, pressures placed on the institutions of legitimation (pressures originating in the development of advanced capitalism that remove the economy, the state and the society as a whole from the appearance of a nature-like

course) can open the way for new motivational claims and tendencies which cannot be dealt with through the organizational principles (formal, rational-legality) of the legitimating institutions. This is a failure to reduce substantive issues to formal and legally comprehensible situations which, as we saw above, is a fundamental requirement of functional legitimacy. On the other hand, developments in the normative basis of a society can place legitimization demands upon the legitimating institutions themselves. This aspect raises the question, Habermas maintains, of the relationship of legitimacy claims to truth. When the underlying normative basis of a society shifts, the "truth-dependency of belief in legitimacy" must become an issue. Grounds for the validity claims of societal institutions must be given, re-asserted or at the very least, subjected to some form of consensus-building scrutiny.

In the case of the truth-dependency of belief in legitimacy, however, the appeal to the state's monopoly on the creation and application of laws obviously does not suffice. The procedure itself is under pressure for legitimation. At least *one* further condition must therefore be fulfilled: grounds for the legitimizing force of this formal procedure must be given..."³³

It is in fact at this very point, when the "unquestionable character" of validity claims has been destroyed, that there is a potential for the "fundamental contradiction" to "break out in a questioning, rich in practical consequences, of the

norms that still underlie administrative action".³⁴ Here, the potential exists for the re-emergence of participatory democratic forces in the form of communicative competency that may be able to counter situations of distorted communication or ideological manipulation.

A further issue in this functionalist/normative debate is the notion of "requisite amount of legitimation". Here we mean, along with Habermas, something very specific, functional and meant to be provided for by the Weberian notions of rational-legal authority and legitimacy. It is the amount of mass loyalty or acceptance given to sovereignly executed decisions necessary for the fulfillment of administrative planning.³⁵ Thus a legitimation crisis is an empirical phenomenon, manifested in the political sphere, which indicates the extent to which the functional imperatives of capitalist society remain underfulfilled. This perspective allows Habermas to pursue the notion that "government activity can find a *necessary* limit only in available legitimations".³⁶

One of the most important aspects of the tendency toward legitimation difficulties and one that we have touched upon above, is the notion of the inability to create meaning administratively (ideology planning) on a sustained level. Ideology planning breaks down because of the dynamic of state intervention. The very fact of administrative planning and processing of socio-cultural spheres introduce

a certain level of consciousness of contingency. That is, (a movement we have already taken note of) the removal of areas of life from their nature-like course of development, undermines areas that were originally self-legitimizing. Administration of life has the unintended side effect of upsetting and publicizing what were once conceived of as private domains and relationships. Because these areas of life are deeply embedded in, reflect and help to maintain cultural traditions, the overall tendency is a movement toward the undermining of a society's general cultural tradition (what in Habermas' conception is taken to be the "life-world"). This tendency is part of the entire rationalization process identified by Weber but with an unintended or unknown side effect--the re-establishment of potentially meaning giving states of affairs. As Habermas puts it, the publicization, administration and interference in and of these socio-cultural areas³⁷

...weaken the justification potential of traditions that have been flushed out of their nature-like course of development. Once their unquestionable character has been destroyed, the stabilization of validity claims can succeed only through discourse. The stirring up of cultural affairs that are taken for granted thus furthers the politicization of areas of life previously assigned to the private sphere".³⁸

The end result of this process is, as we have seen, an emerging "consciousness of the contingency, not only of the *contents* of tradition, but also of the techniques of tradition, that is, of socialization".³⁹

Here we see, in a nascent form, the introduction or influence of Habermas' "reconstruction of historical materialism" that we shall pursue in greater detail in chapter 3. We should note however, that Habermas is implying that these developmental tendencies also represent developments in societal learning capacity which reflect, in Marxian terms, the fact that humans are becoming aware that they create their own history; that their social environment is contingent and amenable to conscious control. In one very important sense then, Habermas maintains an affiliation with Marx. Developments in and manipulation of the forces of production (in the form of state interventionism) have led, in Habermas' view, to a situation in which consciousness of this manipulation must bring about change in the relations of production.

Approaching Habermas from this angle brings to mind the statements of Marx and Engels in the Communist Manifesto and of Marx in the "Preface to a Contribution to the Critique of Political Economy". Habermas evokes the image, penned by Marx in these works, of humans as the product not of nature or a nature like society but, rather, of history. The coming to consciousness of the contingencies of social life means that humans are "at last compelled to face with sober senses, [their] real conditions of life, and [their] relations with [their] kind."⁴⁰

Habermas wants to maintain that integral to the social

transformations implied by this coming to consciousness is the notion of the development of learning capacity. This occurs through structures of communication and the demands for the transformation of property relationships (which is implied in the re-emergence of substantive claims in the form of demands for health, welfare and general social security etc.) ongoing in modern society through the administration of more and more areas of life, brings about the potential for these structures of communicative competence to develop. In fact, that humans come to consciously make their own history, depends, for Habermas, upon the emergence and development of such structures. As we shall see, an immanent aspect of his reconstruction of historical materialism is the attempt to account for these communicative structures from within the Marxist perspective. His distinction between "work" and "interaction" is the first step in this project. The only way for the normative content of generalizable interest claims to be accounted for in the contradiction between the forces and relations of production is precisely through these non-distorted communicative structures. In a sense then, Habermas' project can be seen as an attempt to show that the "social revolution" described in the above statements by Marx can be seen as the necessary development of generalized consciousness through communication and is also a necessary corollary to the process of western rationalization.

Advanced capitalist societies are beginning to ask questions about the directions they are taking and such a step is a mark of the development of learning structures. As we saw earlier this necessarily involved the coming to consciousness of "meaning" as a scarce resource.

However justified these claims made by Habermas may be, something we will attempt to investigate below, the logical dynamic functioning here is that the re-emerging opportunity for substantive input involves the need to satisfy what Habermas holds are generalizable interests. A capitalist, class society cannot fulfill the imperatives of continued growth without maintaining these claims in a latent form. This is impossible because the very intervention into the economy by the state necessary to improve and insure growth and also too rationalize the accumulation process threatens this latency.

These generalizable interests are, as we have seen, directed for the most part toward the satisfaction of use-value oriented demands. This reflects the fact that the demand for "meaning" is increasingly filled by another resource of these societies--value. This consumerist notion is an old Frankfurt School theme and Habermas is attempting to show, among other things, that there are definite limits to the extent to which "value" can replace meaning. Demands along these lines rise proportionately as the need for legitimation grows.

Missing legitimation must be offset by rewards conforming to the system. A legitimation crisis arises as soon as the demands for such rewards rise faster than the available quantity of value, or when expectations arise that cannot be satisfied with such rewards.⁴¹

In the end then, a legitimation crisis is intricately tied to the sources of meaning that a society accepts in order to maintain the belief in its legitimacy. Habermas is claiming that in stressing the importance of formal mechanisms of rational-legal legitimacy, Weber was missing an essential point--that these themselves rested upon and demanded a certain level of depoliticization which in turn must be founded upon certain ideologies, or motivation guaranteeing orientations. As we shall see below, it is precisely these ideologies and orientations that Habermas claims are breaking down. This is due to the fact that they are increasingly plundered for their ideological potential. That is, they are increasingly manipulated in order to provide justification for administrative and economic actions.

Rational-legal legitimacy demands, on this reading, that the socio-cultural system is not overly rigid such that it can be randomly functionalized for the needs of the administrative system.⁴² Habermas is claiming here that bourgeois role definitions and cultural norms are firmly fixed and that any tampering with them undermines their validity and viability as action orienting perspectives

because they have an essential "common sensical" or nature-like character. It is these definitions and norms upon which the fundamental ideologies of capitalist societies are based and from which they draw their motivating authority. Habermas defines these fundamental ideologies as civic and familial/vocational privatism. It is to a brief examination of these notions that we now turn.

Civil privatism is an orientation to political life in which the citizen body is primarily interested in the output of the state administration (advantageous social policies) while at the same time this same citizen body is only superficially interested in participation in decision making and policy input.⁴³ Such a political outlook is well suited towards systems of rational-legal authority and legitimation.

Familial/vocational privatism is characterized by orientations toward family life, careers and leisure. This orientation is intricately tied to an achievement ideology and possessive individualism. The achievement ideology is a direct product of capitalist development and of bourgeois natural law. It holds that de jure equal individuals should compete for the distribution of social rewards. Any advantage in life is thereby justified through reference to individual performance, ability or hard work rather than the out come of luck or institutionalized disproportionalities. This is of course the modern form of the Protestant work

ethic.⁴⁴ As an aside, it is very interesting to note that Weber was well aware of this ideological necessity produced by the need for every advantage in life to justify itself.⁴⁵

Habermas maintains that legal positivism or rational-legal legitimacy is uniquely suited for ordering social interaction that is oriented to this ethic and that it reifies this outlook to a very great extent by operating under the assumption that its primary role is to maintain and rationalize the actions of individuals through law which in turn guarantees a "level playing field".

Through the developments of advanced capitalism this ideology is increasingly undermined. Habermas holds that because the general population has recognized that domination is exercised through the market, this allocation mechanism has lost its credibility; increasingly, sectors of the population realize that disadvantages are institutional in nature and that all the hard work in the world could not elevate their disadvantage. While the education system may have held out some hope for the solution of this phenomenon, Habermas points out that here too production of meaning is increasingly undermined. This arises because of either the recognition of intrinsic inequalities of educational opportunities or because of the increasing difficulties surrounding the connection between education and career success.⁴⁶ Empirically, the breakdown in achievement orientation manifests itself in apathy and cynicism which

very directly threaten the self expansion requirements of capital.

As for the ideology of possessive individualism, Habermas points out that here too a crisis in motivation can be detected. Once again the breakdown of this ideology can be traced back to advanced capitalist development. Because these societies have achieved a level of wealth that is unprecedented, the "avoidance of basic risks and satisfaction of basic needs are no longer the principle determinants of individual preference systems".⁴⁷ That is to say, the individual as maximizer of his/her best interest at minimal cost, loses credibility under a social and welfare-state system that assures a minimum of well being and security. This is closely tied to the fact that the quality of life is more and more a result of the improvement and quantification of collective commodities such as public transport, health, education, etc., The demands for and consumption of these common commodities carry with them very little in the way of "risk calculation" such as attend the actions of a "possessive individualist". Finally, the "fringe elements" of the population that we encountered in chapter 1, which do not reproduce themselves through the labour market and the process of capital accumulation in general, can in no way be said to orient their actions according to mini/max criteria.⁴⁸

The important element for this thesis in all of this is

the logic of Habermas' argument. This logic refers intimately to the rationalization theme always present in Habermas' discussions. The above phenomena must be seen as unintended side effects of the occidental rationalization process which undermine the legitimation of modern societies based upon the banishment of substantive orientations to the subjective consciousness. Because "[b]ourgeois culture as a whole was never able to reproduce itself from itself", but, rather, "was always dependent on motivationally effective supplementation by traditional world-views"⁴⁹, the rationalization of life spheres and the removal of sub-systems from the appearance of a nature-like course, threatens the cultural traditions and orientations so essential to the maintenance of capitalist society with its reliance upon rational-legal authority and legitimacy.

For Habermas, the bankruptcy of traditional world-views, while it must also lead to fundamental disruption of bourgeois motivational orientations, also means that there can only be recourse to an ethical orientation whose emancipatory potential distinguishes it from all other ethical positions heretofore explored by human kind. This is the orientation of communicative ethics.

In the next chapter we will seek to understand the logic of this position. We will directly investigate the historical materialist perspective that Habermas brings to the debate over rational-legal legitimacy. In at least one

very important sense Habermas is attempting to use Marx to counter Weber's founding distinction of the fact/value dichotomy. This involves demonstrating that the rationalization of the economic sub-system occurring through state administrative action in advanced capitalism, represents a revolutionization of the forces of production that must, as Marx saw, lead to a re-organization of the relations of production. The assertion of non-distorted communicative structures accompanying the emergence of use-value oriented, normative demands will be, Habermas holds, the medium through which the transformation of the "whole immense superstructure" will take place.

Endnotes

¹ Note: This use of the term "empirical manifestation" allows us to pass over the ambiguity problem outlined by David Held in his essay "Crisis Tendencies, Legitimation and the State". Though we are by no means claiming to have resolved the problem noted by him. See David Held "Crisis Tendencies, Legitimation and the State" in Thompson & Held Eds., Habermas: Critical Debates (Cambridge, Mass.: MIT Press, 1982)

² Habermas, "Legitimation Problems in the Modern State", in Jurgen Habermas, Communication and the Evolution of Society, (Boston: Beacon Press, 1979). p. 185.

³ Ingram, David. Habermas and the Dialectic of Reason (New Haven: Yale University Press, 1987). pp. 44-45. (Here after referred to as "Habermas")

⁴ See Max Weber The Protestant Ethic and the Spirit of Capitalism (New York: Charles Scribner's Sons, 1958).

⁵ Weber, Max. Economy and Society: An Outline of Interpretive Sociology. (Berkeley, Los Angeles, London: University of California Press, 1978). Vol. I. p. 24.

⁶ Ingram, "Habermas" p. 44.

⁷ Max Weber, "Science as a Vocation" in From Max Weber: Essays in Sociology. Edited by Gerth and Mills (Oxford: Oxford University Press, 1969).

⁸ Ingram, "Habermas" p. 44.

⁹ Ibid., p. 48.

¹⁰ Max Weber, Economy & Society Vol. II, p. 941.

¹¹ Ibid., Vol. I, p.33.

- ¹² Ibid., Vol. I, p. 215.
- ¹³ Ibid., Vol. I, p.216-217.
- ¹⁴ Habermas, L.C., p. 98.
- ¹⁵ Kronman, A., Max Weber (Stanford: Stanford University Press, 1983). p. 73.
- ¹⁶ Max Weber, Quoted in A. Kronman. Ibid., p.73.
- ¹⁷ Kronman, A. Max Weber pp. 74-75.
- ¹⁸ Ibid., p. 75.
- ¹⁹ Weber, M. Economy and Society Vol. I., pp. 312-313.
- ²⁰ Smith, T., "The Scope of the Social Sciences in Weber and Habermas" Philosophy and Social Criticism No. 1, Vol. 8, Spring, 1981. p. 70-71.
- ²¹ Weber, Economy and society Vol. II. pp. 979-980.
- ²² Habermas. Quoted in Turner and Factor, Max Weber and the Dispute Over Reason and Value: a study in Philosophy, Ethics and Politics, (London & Boston: Routledge & Kegan Paul, 1984). p. 214.
- ²³ Habermas, L.C., p. 98.
- ²⁴ Jurgen Habermas, "What Does A Crisis Mean Today? Legitimation Problems in Late Capitalism" Social Research Vol. 40, No. 4, Winter, 1973, pp. 657.
- ²⁵ Habermas, L.C., p. 70.
- ²⁶ Jurgen Habermas, The Theory of Communicative Action Volume One. Reason and the Rationalization of Society, (Boston: Beacon Press, 1984). p. 243.
- ²⁷ Ingram, "Habermas", p. 53.
- ²⁸ Ingram, Ibid., p. 51.
- ²⁹ Habermas, The Theory of Communicative Action Vol. I., p.221.
- ³⁰ Habermas, L.C., p. 75.
- ³¹ Habermas, Ibid., p. 93.
- ³² Ibid., p. 75.

³³ Habermas, Ibid., p. 98.

³⁴ Ibid., p. 69.

³⁵ That Habermas accepts this minimalist and functionalist notion as his starting point is apparant from his major statements on the issue. In Legitimation Crisis he states that a crisis obtains when "the legitimizing system does not succeed in maintaining the requisite level of mass loyalty while the steering imparatives taken over from the economic system are carried through". (Legitimation Crisis, p. 46.) Elsewhere he states, "...legitimate power has to be available for administrative planning. The functions accruing to the state apparatus in late capitalism and the expansion of social areas treated by administration increase the need for legitimation". ("What Does a Crisis Mean Today? Legitimation Problems in Late Capitalism", p. 656.) And finally, "...the state has to deploy legitimate power if it takes on the catalog [of administrative, economic, and socio-cultural] tasks mentioned above". ("Legitimation Problems in the Modern State" in, Jurgen Habermas, Communication and the Evolution of Society, (Boston: Beacon Press, 1979). p. 195)

³⁶ Habermas, L.C., p. 69.

³⁷ Among these socio-cultural areas Habermas cites: the administrative planning of regions and cities; organization of health systems; family planning and marriage laws; and finally the formalization and standardization of schooling. Ibid., pp. 69-70.

³⁸ Ibid., p. 72.

³⁹ Ibid., p. 71-72.

⁴⁰ Karl Marx and Frederick Engels, The Communist Manifesto in Karl Marx and Frederick Engels, Selected Works in One Volume. (New York: International Publishers, 1986). p. 38.

⁴¹ Habermas, L.C., p. 73.

⁴² Habermas, Ibid., pp. 74-75.

⁴³ Habermas, Ibid., p. 75.

⁴⁴ Ibid., p. 77. and pp. 81-83.

⁴⁵ See, Max Weber, Economy and Society Vol. II, p. 953. Here Weber observes that: "The fates of human beings are not equal. Men differ in their states of health or wealth or social status or what not. Simple observation shows that in

every such situation he who is more favored feels the never ceasing need to look upon his position as in some way "legitimate", upon his advantage as "deserved", and the other's disadvantage as being brought about by the latter's "fault". That the purely accidental causes of the difference may be ever so obvious makes no difference."

⁴⁶ The success of the educational system in taking over the maintenance of the achievement ideology is predicated upon the following conditions being met:

- equal opportunity for admission to higher education;
- non-discriminatory standards of evaluation for performance in school;
- synchronous developments of the educational and occupational systems;
- labor processes whose material structure permits evaluation according to individually accountable achievements." Habermas, L.C., p. 81.

⁴⁷ McCarthy, Thomas. The Critical Theory of Jurgen Habermas (Cambridge, Mass. and London, England: The MIT Press, 1978). p. 373.

⁴⁸ Ibid., pp. 373-374.

⁴⁹ Habermas, L.C., p. 77.

CHAPTER III

As we saw in the previous chapter Habermas wishes to use some key Marxian notions in an attempt to get beyond the powerful but limiting Weberian formulation of the concept of rational-legal legitimacy and to show that this formulation of the problem is entirely inadequate. However, he is also very clear in his assertion that, as it was originally formulated, historical materialism cannot comprehend the form of the contradiction of advanced capitalist society. Habermas' own perspective on the "fundamental contradiction" locates the crisis complex of advanced capitalist society in the deficient rationalization of the life-world in the context of the functional imperatives of the economic and administrative sub-systems and is examined by Habermas under the thesis of "the colonization of the life-world". However, before we go on below to examine this issue we should, by way of introduction, provide a brief and general overview of Habermas' conception of the problematic and of the approach used in this chapter in an attempt to come to grips with the issues involved and how they relate to the problem of legitimation crises.

As is well known, Marx located the developmental

dynamics of societies in the inevitable occurrence of contradictions between the forces and relations of production. As the material forces of production develop and become more complex, they increasingly come into conflict with the relations of production and these, in turn, are transformed from the "forms of development" of the forces of production "into their fetters". In this eventual contradiction Marx located the motive force of historical development. This development was conceived of by him as an historically objective and material process for both the forces and relations of production are actual socio-historic human constructs.¹ Habermas clearly accepts the importance of the development of the forces of production for any theory of social development. However, he wishes to expand the notion of relations of production. He claims that Marx conceived of them as to dependent upon the form of and developments in the forces of production. Thus he could not account for the relative autonomy of "superstructural" phenomena nor for the fact that these displayed developmental tendencies independent of the forces of production. An adequate historical materialist theory of societal development must include, Habermas maintains, an understanding of the alteration of individual and cultural normative structures or identity securing interpretive systems. Habermas asserts that these structures have historically displayed independent developmental tendencies.

Thus for Habermas the evolution of societies must be conceived of as a dual process: "the development of productive forces and the alteration of normative structures" that "follow, respectively, logics of growing theoretical and practical insight".² The point here is to enlarge the scope of what is considered under the rubric of 'relations of production'. It is at this juncture that the difference between social and system integration can be introduced.

We speak of social integration in relation to the systems of institutions in which speaking and acting subjects are socially related. Social systems are seen here as *life-worlds* that are symbolically structured. We speak of system integration with a view to the specific steering performances of a self-regulated *system*. Social systems are considered here from the point of view of their capacity to maintain their boundaries and their continued existence by mastering the complexity of an inconstant environment. Both paradigms, life-world and system, are important. The problem is to demonstrate their interconnection.³

Because the alteration of normative structures takes place within intersubjectively shared structures of linguistic meaning and communicative competence, then, in a metatheoretical sense, the "Bildung [process of self-cultivation] of humanity is a dual struggle for emancipation: from the material constraints imposed by economic scarcity and the communicative constraints imposed by domination"⁴

For Habermas then, the dialectical contradiction works

thus: the forces of production (under advanced capitalism the conjunction of the economic and administrative sub-systems) attempt to rationalize the life-world through the steering and integrative media unique to themselves (money and power respectively). But because the life-world is integrated symbolically through language this process brings about situations of deficient rationalization manifest in alienation and reification. That is to say, deficient or improper rationalization results when linguistic spheres or domains are integrated via non discursive media such as money and power. Discursive spheres resist this mediatization because they are directly dependent upon consensus mechanisms which the mediums of power and money have bypassed. Power and money are directed toward the purposive-rational or instrumental coordination of social interaction while discursive media are directed toward the moral-practical coordination of social action.

In the context of the theoretical work on legitimation crises it becomes imperative, from this perspective, that Habermas demonstrate a "[n]on-contingent" basis for legitimation crises "derived only from an 'independent'--that is, truth-dependent--evolution of interpretive systems that systematically restricts the adaptive capacity of society".⁵ On this demonstration depends the viability of the thesis of a dialectical contradiction between the forces of production and the normative structures of societies.

In pointing to a re-emergence of substantive claims against the institutions of formal, rational-legal legitimacy implied in the above dialectic, Habermas dismisses the burden of proof for a new "ultimate end". No normative perspective (of justice or material redistribution) need be singled out. The demonstration of "the criticizability of claims to appropriateness" can find sufficient grounding in the "fundamental norms of rational speech which we presuppose in every discourse (including practical discourse)" and thus the positivist trap of Weber's "rationally irresolvable pluralism of competing value systems and beliefs" can be bypassed without an appeal to moral or ethical superiority. Here we see a first step in the attempt to anchor communicative ethics in actual historical constructs. This is a move toward rationally grounding this substantive position immunizing it against accusations of hidden teleological agendas. Because distorted speech situations (ideology) must be inherent in the legitimation of all societies characterized by class divisions and a disproportionate distribution of social wealth, the unmasking of distorted speech situations will serve to test the truth dependency requirement of claims to legitimate authority.⁶

In what follows we shall first attempt to gain a clearer understanding of Habermas' "Reconstruction of Historical Materialism" touched upon briefly above. Next we will

examine Habermas' conception of the uncoupling of system and life-world and the colonization of the life-world that follows.

This will lead us to the paradoxical phenomena, occurring in advanced capitalism, of the ambivalence of guaranteeing freedom while talking it away. This in turn will bring us to an understanding of why the entire social evolutionary process leads to a legitimation crisis which can be observed as emerging with the necessary differentiation between law as a medium and law as an institution attending the socialization mechanisms of the mass democracy welfare-state.

The Reconstruction of Historical Materialism

To begin with, because our primary goal in this thesis is, of course, to understand the logic of a legitimation crisis, we are only concerned with Habermas' theory of social evolution insofar as it bears upon this problem.

Thus, much of his discussion of pre-modern evolution, the concept of ego identity and development, and the notion of the development of individual normative structures, drawn from psychoanalytic and cognitive developmental psychology, will not concern us here.

One further point needs to be emphasized. The difficulty in analytically separating out and distinguishing the concepts of life-world and system will be ever present. One must continually keep in mind that the three dimensions

of social evolution to be discussed below, occur in both system and life-world even though, because of methodological and conceptual abstractions, it appears that Habermas makes clear distinctions between the two. As the "unthematized horizon of meanings that comprise the background against which particular items are thrown into relief"⁷ the life-world acts as the moral-practical reference point against which social interaction is measured and also through which it derives its meaning for social actors. As such, the life-world permeates both the private and public domains of society. The distinction between system and life-world is thus functional rather than categorical. The problem emerges because Habermas often asserts that system and life-world belong to "absolutely separable realms of society": to the life-world he designates "house-holds and spheres of public access--cultural, social, and political" while to the system he designates "businesses and state agencies".⁸

However, as will become clear, the two do overlap in very fundamental ways. Perhaps the best way to approach this difficulty is suggested by David Ingram:

This overlapping of functions is acknowledged by Habermas; on his reading the system is generated within the life-world as the unintended consequence of action and remains anchored to it in a normative sense. It might be best, then, to think of life-world and system as relating to logically distinct functions that overlap within institutions".⁹

Such abstractions allow Habermas to make logical distinctions between integrative functions undertaken by all

societies and also to point to the evolutionary achievement of distributing these functions to different action domains.¹⁰

Those social domains that Habermas considers under the "system paradigm" are easily pointed to: the economic system, the political-administrative system and the socio-cultural system are all distinct societal sub-systems. With regard to these Habermas wishes to thematize "steering mechanisms and the extension of the scope of contingency" in order to analyze the processes of *system integration*.¹¹

On the other hand, he asserts that the processes of *social integration* must also be accounted for; thus his appeal to the life-world paradigm under which the normative structures of a society are thematized. Social integration must be located in the life-world because as the "pre-existing stock of knowledge that has been handed down in culture and language", it allows, through linguistic structures, the "differentiation of objective, social, and subjective domains of reference". Thus in any given situation an individual or group relates to three reference domains: objective facts, social norms and personal experiences.¹² Social integration involves the securing of identity and normative systems through reference to these three domains and thus it is an integral function of the life-world.

We can see now that these two aspects of societies do

fundamentally overlap and thus "[i]dentity crises are connected with steering problems".¹³ Habermas' theory of social evolution (the "Reconstruction") is an attempt to "grasp the connection between system integration and social integration" and to provide "a level of analysis at which the *connection* between normative structures and steering problems becomes palpable".¹⁴

The impetus for Habermas' "Reconstruction" originates in his reflection that Marx's theory of development of the forces of production was essentially a theory of evolution in learning processes. Developments in the forces of production, are, in Habermas' reading of Marx, the result of an "evolution in the dimension of objectivating thought--of technical and organizational knowledge, of instrumental and strategic action" and, insofar as this can be conceived of as selective rationalization, the theory misses the point that there may be good, and for Habermas, important reasons "for assuming that learning processes also take place in the dimension of moral insights, practical knowledge, communicative action, and the consensual regulation of action conflicts". These learning processes and the products thereof, are "deposited" through "forms of social integration, in new productive *relations*".¹⁵

These "rationality structures", expressed in "world-views, moral representations, and identity formations", are institutionalized in both the life-world and sub-systems and

thus become "strategically important...from a theoretical point of view".¹⁶ In short the relations of production, it is supposed, exhibit their own developmental logic which, in turn, impinge upon the development of and introduction of, new forces of production.

While these normative structures remain "super-structural" in the sense that they evolve in response to challenges introduced by system problems (economically induced through the development of the forces of production and the advent of the new social, economic and political structures we examined in the first chapter) they also exhibit a certain amount of "relative autonomy". Because of their own developmental and functional imperatives, these normative structures do in fact react back upon sub-systems and condition and set limits as to the mode and extent of the development of the forces of production. This "relative autonomy" of relations of production, expressed in terms of normative structures, must be accounted for. It is the role of communication theory, tied, to be sure, to historical materialism, to take on this task.¹⁷ We shall take this up in greater detail below.

Generally speaking, the logic of a legitimation crisis is located in the motor force or developmental logic of social evolution and is a consequence of the interaction of the three dimensions of this evolution: production, socialization and system maintenance. Each will be examined

in turn.

1) Production is basic to all human societies and is simply the appropriation of nature by society for the fulfillment of human needs and takes place through purposive-rational action (work and the organization thereof¹⁸). Production exhibits its own distinct logics of development that can be characterized as technical rationalization. Strictly speaking this refers to the growth of the forces of production. In Habermas' conception this involves "a socially significant implementation of knowledge, with the help of which we can improve the technical outfitting, organization deployment, and qualifications of available labor power".¹⁹ Levels of development of forces of production are determined by the degree of potential mastery over nature. This exchange with outer nature takes place, Habermas maintains, through "utterances that admit of truth" because it is governed by technical rules which incorporate empirical assumptions about the natural environment. This implies truth claims or "discursively redeemable and fundamentally criticizable claims".²⁰

2) With socialization human beings themselves or "inner nature" are adapted to society through the symbolic mediation of communicative action. The adaptation of the "organic substratum of the members of society" is brought about with the "help of normative structures in which needs

are interpreted and actions [are] licensed or made obligatory". In the end, socialization shapes social subjects that are capable of speaking and acting. This is a formative process from which individuals are released only in death. Because this integration takes place through norms that have need of justification, it, like the exchange with outer nature, is subject to validity claims that can only be redeemed discursively.²¹

The distinct developmental logic of this dimension of social evolution can be seen as practical rationalization and is measured against two criteria, one subjective the other objective. The first, subjective criterion, dictates that subjects truthfully express their intentions through their actions rather than deceiving themselves and others because the norms of action block the fulfillment of their self perceived needs. This criteria can remain unfulfilled and not lead to conflict only if internal structures of distorted communication are established which mask the confounding of interests. Thus this criterion marks the break down of subjective false consciousness. The second, objective criterion, dictates that the validity claims of the relevant external norms of interaction are legitimate as opposed to expressing non-generalizable interests or disproportionate chances for success which can be maintained only through preventing the affected parties from discursively examining the normative context. This

criterion asserts that the objective "rules of the game" are free of domination and force in what ever form. Thus practical rationalization is, for Habermas, the progressive breaking down of

those relations of force that are inconspicuously set in the very structures of communication and that prevent conscious settlement of conflicts, and consensual regulation of conflicts, by means of intrapsychic as well as interpersonal communicative barriers. Rationalization means overcoming such systematically distorted communication in which the action-supporting consensus concerning the reciprocally raised validity claims--especially the consensus concerning the truthfulness of intentional expressions and rightness of underlying norms--can be sustained in appearance only, that is counterfactually.²²

As we can now see, communicative action quickly comes to the fore as the common denominator between the social evolutionary dimensions of production and socialization; the exchange between societies and inner and outer nature are symbolically mediated through communication in that they are subject to discursively redeemable validity claims. In his discussion of these first two evolutionary dimensions, Habermas is establishing the thesis, which we saw above, that developments take place in both cognitive-technical and moral-practical learning and that both are vital and decisive for social evolution and an understanding thereof. We shall examine this in greater detail presently.

3) The third dimension of social evolution, that of system maintenance, involves changes or developments in a

society's steering capacity. This involves the ability of a system to maintain its "goal state" in the face of internal and environmental changes. The distinct logic of development of system maintenance is referred to by Habermas as system rationalization. Though he adopts the concept of system maintenance from systems-theory, Habermas points out that this formulation of the concept is problematic. Because it is not at all empirically obvious what exactly "survival" means with regard to social systems, systems-theory cannot, he contends, deal with the fact that systems can maintain themselves by altering both their boundaries and structures thereby blurring their identities. Without identity criteria it is impossible to "unambiguously" determine if or when "a new system has been formed or the old system has merely regenerated itself".²³ This "identity" problem is solved, Habermas claims, through reference to the notion of "organizational principle" which determines a) the learning capacity of a society in each of the evolutionary dimensions; and b) the types of interdependencies which exist between changes in the three dimensions.²⁴ It is useful to quote Habermas at length on this point as this is a fundamental concept.

By "principles of organization" I understand highly abstract regulations arising as emergent properties in improbable evolutionary steps and characterizing, at each stage, a new level of development. Organizational principles limit the capacity of a society to learn without losing its identity. According to this definition, steering

problems can have crisis effects if (and only if) they cannot be resolved within the range of possibility that is circumscribed by the organizational principle of the society. Principles of organization of this type determine, firstly, the learning mechanism on which the development of productive forces depends; they determine secondly, the range of variation for the interpretive systems that secure identity; and finally, they fix the institutional boundaries for the possible expansion of steering capacity.²⁵

Given this theory of social evolution, the claim can be advanced (and by Habermas is), that the technical rationalization of the forces of production has been achieved, not in the sense that our productive capacity has reached its limits, but, rather, in the sense that the ability of this dimension to learn and to incorporate that learning has been achieved. The problem that concerns us here is that the capacity for practical reason of advanced capitalist societies has not been fully rationalized. Because practical questions are not settled discursively by all those affected by the normative context that may be in question, these societies do not embody the ideal speech situation. This is not to say that these societies haven't achieved a level of ethical superiority but, rather, that their learning capacity in the area of normative issues is not fully developed. That is, these societies cannot properly deal with the moral-practical issues that continually emerge and confront them. This is, in a sense, a lagging behind of the evolutionary dimension of social integration.

From this perspective then, while developments in the integration of economic and administrative sub-systems characteristic of advanced capitalist societies, may, from a non-normative perspective, represent a new level of system integration and hence a heightening of steering capacity (or the ability of the productive sphere to maintain itself against the contingencies of outer nature. Such developments may be blocked either by the non-rationalization of socialization processes, or by the distinctive rationalization characteristic of this dimension. That is to say, possibilities for system integration may be fundamentally inconsistent with the imperatives of social integration because they foster new validity claims in this dimension and, in the context of the thesis of the re-politicization of the relations of production, precipitate a coming to consciousness of the contradiction of the private appropriation of socially produced wealth or, more generally, of the inherent contingency of social inequalities. Thus Habermas asserts:

We cannot exclude the possibility that a strengthening of productive forces, which heightens the power of the system, can lead to changes in normative structures that simultaneously restrict the autonomy of the system because they bring forth new legitimacy claims and thereby constrict the range of variation of the goal values.²⁶

Habermas maintains that this is a very distinct possibility because the development of socialization is a process involving the continuous individualization of

persons culminating in a process of socialization by means of a communicative ethic based upon the norms of rational speech. Such a process runs counter to distorted speech situations or the "repression of self-expression" and thus "would foster maximum possible development of the individual".²⁷

Of primary interest from our perspective is that in the context of legitimation crises, validity claims are asserted at two points. First of all, when developments or potential developments in technical and system rationalization bring forth new validity demands from the life-world, (the sphere of socialization) which can only be dealt with through discourse. Second, when the economic and administrative sub-systems attempt to bring about the rationalization of the life-world, in the context of system integrative imperatives, through reference to the steering and integrative media unique to them, namely money and power respectively. These non-linguistically symbolic media disrupt the workings of the life-world of comparatively free domains in which the moral consciousness of bourgeois society is both generated and takes root. This occurs because these media cannot reproduce this moral consciousness but, rather, can only manipulate it to a certain degree. As we saw in chapter 2, this brings about demands for legitimacy from life spheres that were originally characterized by their self-legitimizing

potential. This "colonization of the life-world" is fundamentally a crisis in meaning and motivation manifested as legitimation crisis.

The Uncoupling of System and Life-World and the Internal
Colonization of the Life-world

Both the process of social evolution and the thesis on the colonization of the life-world are dependent upon the uncoupling of system and life-world. In fact the entire notion of system complexity and heightened steering capacity as reflecting evolutionary progress can only be maintained if the life-world is seen to be subject to rationalization processes. From this perspective the uncoupling process is conceived of as a necessary evolutionary development. Social evolution is the process of differentiating system and life-world in two senses: not only does the former grow in complexity and the latter in rationality but at the same time the two are increasingly differentiated or "uncoupled" from one another.²⁸ What we shall see is that the modernization ongoing in the western world is a process of increasing system differentiation through which increasingly segregated organizations are both connected with one another and are internally integrated through delinguistified media of communication. Money and power mediate social intercourse that has been disconnected, to a significant degree, from norms and values. This occurs primarily and to the greatest extent in the economic and administrative sub-

systems. However, because the life-world remains that sphere which defines the pattern of the social system as a whole and that domain to which subjects must continuously make reference, these integrative media must be anchored in the life-world: they are and must be institutionalized.²⁹ This institutionalization process can be traced in the evolution of law and morality. As a contrast to what is conceived of here as the increasing differentiation of social and system integration we shall point to Habermas' understanding of pre-modern kinship societies.

In these societies system and life-world are tightly interwoven. That is to say, all conceivable forms of interaction that are possible here are undertaken within a commonly shared and experienced life-world such that the society "reproduces itself as a whole in every single interaction".³⁰ In Marxian terms such societies are characterized by a non-differentiation between "base" and "superstructure". Because we are here concerned only with the emergence of money and power as independent steering media, we shall not follow this example any further. We are not, that is to say, primarily interested in Habermas' explanation of the development of these societies. What we are concerned to understand is the logic of this development. This involves the breaking out of money and power as system integrative media which first allows for the differentiation between system and life-world.

Strictly speaking, the uncoupling process only begins with the advent of politically stratified class societies which are organized through a distinct "state" apparatus. Base and superstructure can only be separated from one another when positions of power are removed from their dependence upon the kinship system and are oriented and stabilized through political office. "[T]he bursting apart" of the "clamps that held systemic and socially integrative mechanisms tightly together", occurs through the formal organization of legislative, judicial and executive functions.³¹ The uncoupling process is complete with the advent of systems of formal law which allow for the formation of private contractual arrangements which in turn bring about the orientation of behaviour to objectively verifiable and enforceable norms of action. The positivization of law also has the consequence of "transforming capital and labor into monetary exchange media" and with this the "market is elevated to the status of a self-regulating system"...³²

Thus with the advent of the state the two most important sub-systems, from the perspective of system integration and steering capacity, are first distinguished. That the life-world appears to become one more sub-system among many is part of the rationalization of this domain. As a result of this process the domains of system and life-world are increasingly differentiated and whole areas of life are

transferred to the systems. That is, "[f]unctions relevant to society as a whole are distributed among different subsystems".³³

This process reaches a climax under capitalism. With the advent of money as the special exchange media "that transforms use values into exchange values" which allows the "natural exchange of goods into commerce in commodities", exchange becomes institutionalized and the economic subsystem becomes, as a whole, "a block of more or less norm-free sociality".³⁴

The functionally most important sub-systems, the economy and the state administration, are thus completely differentiated from the life-world under advanced capitalism. From the system perspective these domains become detached, in their inner logics, from value spheres; their internal developmental logics are freed from reference to value orientations. As a result, from the perspective of social actors, they become a "second nature" a "norm-free sociality that can appear as something in the objective world, as an *objectified* context of life".³⁵ Through money the capitalist economy brings about the increasing commodification of more and more areas of life. It thereby becomes an important social integration mechanism. Through power, which is institutionalized in modern state bureaucracies, the state increases its steering capacity. As it comes to rationalize social relationships through agent-client roles,

it too becomes an increasingly important socialization mechanism. Together the two represent a functionally necessary and rationalized increase in both system integration and steering capacity, which, from the perspective of what we learned above, must constitute an evolutionary advance in cognitive-technical learning and implementation. What remains to be seen is why this process is also constitutive of crises of loss of meaning and freedom and involves both the reification and fetishization of greater areas of life.

The crisis potential of this constellation of social evolutionary events is located in the fact that while they shift the burden of social coordination from the validation of normative claims to a utilitarian calculation of costs and benefits, which reflects a technicization of the life-world, money and power are never totally detached from the context of normative communication. This occurs, as we saw above, (page 85), because money and power can only function as coordination media when they have been normatively anchored in the life-world through formal law.

From this results the reflection that new levels of system differentiation (as reflected in the uncoupling of system and life-world) must go hand in hand with a "reconstruction in the core institutional domain of the moral-legal (ie., consensual) regulation of conflicts". Law and the moral norms it embodies represent a background of

"second-order norms of action" to which societies and social actors refer when action coordination (either purposive-rational or communicative) breaks down and there is a potential for violent confrontation. The importance of this background of second-order norms is reflected in Habermas' thesis "that higher levels of integration cannot be established in social evolution until legal institutions develop in which moral consciousness on the conventional, and then postconventional, levels is embodied."³⁶ Habermas asserts that Weber himself approached his typeology of law from the point of view of preconventional, conventional and postconventional levels of moral consciousness. The first level involves only the adjudication of the consequences of actions; the second level arises when the orientation to norms and the intentional violation thereof are already accepted; and finally, with the third level norms themselves are assessed in light of principles.

These levels represent stages of social evolution as they embody greater extents to which value-generalization has spread throughout a society. As the process by which moral and legal norms take on an increasing universality through formalization, value-generalization is understood by Habermas to be a direct result or outgrowth of the rationalization of the life-world.³⁷ Value-generalization finds its clearest expression at the postconventional level of moral-legal development and it is with this level that we are

primarily concerned for it too begins to emerge with societies organized around a state.

Power is first institutionalized when authoritative decisions find their binding force not in simple strength or kinship status, that is, in the factual power to sanction but, rather, when the power to sanction is recognized as legitimate by acting and acted upon subjects. This marks the advent of the conventional stage of moral-legal development and finds its functional counterpart in the role of judge. Here, offenses are seen as the violation of intersubjectively held norms, deviation from which is measured against the intentions and actions of a hypothetically posited reasonable and responsible actor. Punishment is guided by the criteria necessary for making amends for an intentional breach of norms. This is perceived of as a "healing" process rather than as simple retribution or re-establishment of the status quo.

Through the role of judge the administration of justice takes on a new character; the protection of the integrity of the legal system comes to the fore in that it is now conceived of as a kind of "entity". This binds the role of judge as a structurally necessary position which derives its legitimacy from a legal order respected as valid. Thus "[b]ecause judicial office is itself a source of legitimate power, political domination can first crystallize around this office".³⁸ Administrative power is, in this way, first

institutionalized through legitimate authority and is anchored in the life-world through the legal system.

As we saw above, the money medium brings about an ethically neutral system of action that, at the conventional stage of moral-legal development, is anchored in the life-world through bourgeois private law. Civil law becomes the sphere in which contractual interactions coordinated "through the delinguistified medium of money" turn "normatively embedded interactions" into "success oriented transactions among private legal subjects".³⁹ In the contractually regulated interactions of the economy, money is thus anchored in the life-world through civil law.

The conjunction of this evolution in functional subsystems and the rationalization of the life-world reflected in the process of value-generalization, results in a separation of private and public law wherein "civil society is institutionalized as a sphere of legally domesticated, incessant competition between strategically acting private persons" while "the organs of the state, organized by means of public law, constitute the level on which consensus can be reached in cases of stubborn conflict."⁴⁰

The entire legal system must also be anchored as a whole in basic principles of legitimacy. Under bourgeois constitutionalism this need is met by the institutionalization of basic rights and the principles of popular sovereignty. Thus legal positivism is ultimately grounded

in the life-world through natural law upon which these constitutional conventions are themselves based. There is then a normative foundation behind the formalization of law through legal positivism.⁴¹

Insofar as value-generalization is a consequence of the rationalization of the life world, it reflects the tendency of value orientations to become more general and formal; and, it is the "structurally necessary" outcome of moral-legal development which, as the above discussion demonstrates, "shifts the securing of consensus in cases of conflict to more and more abstract levels".⁴² This means that consensus is achieved over the legal-technical content of conflict situations rather than over their emotional or purely sensory content. This development gives rise to two paradoxical tendencies with regard to interaction contexts.

First, value-generalization means that communicative action is increasingly detached from traditional value orientations. The burden of social integration is thereby removed from consensus based upon unitary religious world-views and is placed upon the formation of consensus through language processes. Religious world-views lose their binding force in the face of developments toward the reflexive questioning of norms and values. Testability and rationality are demanded of social integrative norms. This transfer of action coordination to discursive consensus formation mechanisms "permits the structures of

communicative action to appear in ever purer form". It (value-generalization) thus releases the rationality potential in communicative action. In contrast to Weber's fears of a loss of meaning with the ascendancy of the "iron cage" attending the breakdown of traditional world-views, this reflection suggests a potential for meaning giving situations which arise as a result of the rationalization process.⁴³ However, in that communication becomes increasingly generalized such that almost every interaction can potentially bring on demands for immediate justification and negotiation, and thus can frustrate action coordination by making explicit potentially divisive assumptions, it proves impractical. We can not always be in a position to confront all individuals or groups with whom we communicate or to validate the assumptions upon which we base our actions.⁴⁴

Second, value-generalization forces a break between action oriented to intersubjective understanding (communicative action) and action oriented to success (purposive-rational action). In this way space is opened up for the coordination of action through delinguistified media (money and power) that must be tied to "de-moralized, positive compulsory law" which "exacts a deferment of legitimation that makes it possible to steer social action" by these media. In that communication is not only generalized but replaced by these media there is a blunting

of the tendency toward the emergence of pure communicative action and hence the normative basis of all human interaction is once again removed to higher levels of abstraction.

This polarization, which reflects the uncoupling of social and system integration, sets out, on the level of interaction, not only a differentiation between action orientations but also between two mechanisms of action coordination. The first mechanism condenses communicative action while the second replaces it all together with success oriented action.

The "condensation" of discursive justification reaches its highest form in modern mass media which progressively free communication from specific contexts and thereby immunize it from immediate dissent. These communicative forms thus "facilitate the condensation of communicative action by promoting the possibility of specialized domains of action-independent discourse and hierarchies of authority and knowledge, thereby relieving us of the need to negotiate certain items of our cultural lifeworld ourselves".⁴⁵

The second mechanism, the replacement of communicative action with strategic action, is, as we have already noted, a function of the mediatizing effects of money and power.

The transfer of action coordination from language over to steering media means an uncoupling of interaction from lifeworld contexts. Media such as money and power attach to empirical ties; they encode a purposive-rational attitude toward calcul-

able amounts of value and make it possible to exert generalized, strategic influence on the decisions of other participants while *bypassing* processes of consensus-oriented communication. Inasmuch as they do not merely simplify linguistic communication, but *replace* it with a symbolic generalization of rewards and punishments, the lifeworld contexts in which processes of reaching understanding are always embedded are devalued in favor of media steered interactions; the lifeworld is no longer needed for the coordination of action.⁴⁶

Habermas is here drawing a comparison with Marx's original notion of fetishization where, through the money medium, the "social relation between men,... assumes... the fantastic form of a relation between things"⁴⁷; and Lukacs' reification notion that can be conceived of as including the bureaucratic relationship based on administrative power. However, this mechanism can never be completely successful because of its ultimate need for a normative basis in the life-world which it finds in formal law.

With this approach to the mechanisms of interaction attending modern society, Habermas posits the notion that even with the uncoupling of system and life-world as an inevitable product of social evolution and rationalization, there still remains a mutual conditioning of the two. We have come full circle with Habermas.

The crisis potential of advanced capitalism is located precisely in this mutual conditioning of system and life-world. As Habermas states:

the [legal] institutions that anchor steering mechanisms such as power and money in the

life-world could serve as a channel *either* for the influence of the lifeworld on formally organized domains of action *or*, conversely, for the influence of the system on communicatively structured contexts of action. In the one case, they function as an institutional framework that subjects system maintenance to the normative restrictions of the life-world, in the other, as a base that subordinates the lifeworld to the system constraints of material reproduction and thereby "mediatizes" it.⁴⁸

This mutual conditioning then, allows for both the colonization of the life-world and also for the reaction of the life-world against this colonization.⁴⁹ The contradiction of advanced capitalism occurs or breaks out at the point where these two contrary tendencies met, in the moral-legal development of society. This is the primary reason why the pathological effects (alienation and reification) of the rationalization of the life-world in the context of the functional imperatives of system maintenance, manifest themselves as loss of meaning and, ultimately, legitimation crises. We shall see this situation emerge through our examination of the "colonization" process.

Before going on to analyze the colonization thesis directly, we should note in what sense this process can be conceived of as favoring a one-sided process of rationalization of sub-systems against the life-world which harbors structures of false consciousness and domination.

Habermas maintains that as the subsystems mediatize the life-world they in effect instrumentalize it in order to fulfill their own reproductive imperatives. This change in

the function of the life-world must remain hidden and the illusion of an autonomous, social integrating life-world is maintained by anchoring this functional instrumentalization in communicative structures themselves. This changes the formal conditions of communicative action because it prejudices the interaction of objective, social and subjective worlds to which, as we have seen above, social actors must always make reference. This is, in effect, structural violence because one of the forms of power in modern technocratic societies is "the power to make these transformations of meaning without...informed consent".⁵⁰ This structural violence is manifest in distorted communication that systematically restricts both communicative action and its contexts. Distorted communication sets the definition of discursive subjects and also the bounds within which this interaction takes place. Hence it attempts to predefine the reference domain of social actors; since this occurs in conjunction with subsystem functional imperatives, the background assumptions of interaction will also tend to favor the requirements of production and administration. In that this process is successful and the illusion of an autonomous life-world is maintained, then Habermas characterizes such situations as permeated with false consciousness.

This constellation of events obviously runs counter to the truth dependency of legitimation claims and also

Habermas' consensus theory of truth. With regard to the former, rational-legal legitimacy acts as both a block to discourse formation and as a legitimating ideology. For so long as the formal legal status of decisions and administrative actions suffices for their justification then distorted communication is functioning and discussion cannot reach the level of demanding justification for the process as a whole. Insofar as those concerned (both social actors and social scientists) continue to refer to rational-legal legitimacy as sufficient, it acts as an ideology blocking the formation of discourse at more abstract normative levels. With regard to the latter, given that,

[t]ruth is not the fact that a consensus is realized, but rather that at all times and in any place, if we enter into a discourse a consensus can be realized under conditions which identify this as a founded consensus. Truth means "warranted assertability",⁵¹

distorted communication blocks the formation of generalized interests in interaction contexts. However there is still room to suspect that this process of "prejudging" action orienting norms is itself fraught with difficulties.

In Legitimation Crisis Habermas noted that there can be no administrative production of meaning. Cultural traditions embodied in the life-world, remain "living" only when they are formed and transmitted in unplanned, nature-like ways or are interpreted through a hermeneutic consciousness. The instrumentalization of the life-world also implies the manipulation of cultural tradition to serve

the reproductive imperatives of the sub-systems. This process will destroy the nature-like character of cultural reception such that they lose "their imperative force or their ability to guarantee the continuity of a history through which individuals and groups can identify with themselves and with one another". He can therefore conceive a definite limit to "ideology planning" in the notion that traditions can retain their legitimating force only if they are not "torn out of interpretive systems that guarantee continuity and identity".⁵²

The notion of colonization originates in the reflection that the rationalization of the life-world, that made the emergence of subsystems possible, also allows them to turn destructively back upon the life-world in order to fulfill their own independent functional imperatives.⁵³

As the life-world is rationalized through the process of social evolution, it is increasingly divided into public and private spheres. The private sphere relates primarily to the nuclear family which becomes the central mechanism of socialization. The public sphere incorporates the cultural structures through which public opinion is formed and identity is cultivated. In modern society it provides the conditions of social linguistic interaction that is vital for the generation of shared interests and values underlying social integration. The division between private and public spheres reaches new heights in the welfare state which has

clearly defined the roles played by these sectors. Thus, while the family and the local community are no longer directly involved in material reproduction, they remain linked to this process through both the economic input cycle (the exchange of labour power for wages) and the economic output cycle or consumption (the exchange of money for goods and services). Similarly, through the public sphere both the administrative input cycle of taxation (the exchange of tax revenue for social services) and the output cycle of policy formation (the exchange of votes for loyalty) are established.⁵⁴

In practical terms, it is in the input cycles that Habermas locates the necessary rationalization of the life-world in the context of the functional imperatives of economic and administrative subsystems for it is in this way that the life-world is materially reproduced. And here the organizational roles of individuals--employee vs. employer and client vs. civil servant--are easily formalized through contractual relations in law. Habermas accepts the movement of sub-systems into areas of the life-world at these points as part of the rationalization process and to the extent that this generates pathologies these are normal; an initial loss of meaning and freedom will usually attend the extension of sub-systems but will be compensated for by a gain in rational autonomy.⁵⁵ Thus as far as input roles are concerned these developments represent a necessary, that is,

non-deficient, rationalization of the life-world. Mediatization is necessary here and represents an evolutionary growth.

It is with the roles attending the output cycles where problems can be first located. The roles of Buyer vs. seller and elector vs. office holder, are founded upon the values of freedom and independence such that consumers and electors are expected to express their own preferences and value orientations and this expression resists legal formalization.⁵⁶ Socialization occurs largely in and through these output roles in that the symbolic reproduction of life occurs here. This is because these roles are dependent upon communicative interaction. Consumers are not contractually bound and are thus free to express and form cultural preferences while electors are free to choose according to their conscience as formed through the public sphere. Because sub-systems over extend into these areas where the symbolic reproduction of the life-world occurs, they go beyond simple mediatization to colonization; these areas are subjected⁵⁷ to the functional imperatives of the sub-systems.⁵⁸ Class conflict is neutralized through the mediatization of these roles because as compensation for the denial of economic equality and effective political participation, worker-citizens receive high levels of material prosperity and security as consumers and clients.⁵⁹ Thus, Habermas identifies cultural impoverishment with the

commodification of more and more areas of life that is a necessary functional imperative of the capitalist production process, oriented as it is to both extracting and embodying as much "value" as can be achieved; while the depoliticization of the public sphere is that process which must necessarily attend the advanced capitalist state's involvement in the economic process. At this point we must keep in mind the elucidation undertaken in the first chapter, specifically that of the model of advanced capitalism.

Under liberal capitalism the contradiction of the private appropriation of social wealth occurred directly through the market and in this way political domination was mediated through economic domination and hence there was no real chance for the exploitive relationship to break out in communicative action because it was anchored through contractual relations in formal law. That is, it was not institutionalized discursively but, rather, through the money medium and thence to private law. This represented a depoliticization of the relations of production in as much as class domination was exercised through the economy rather than the state.

As the state intervenes to forestall economic crises endemic to capitalist production, it has the unintended side effect of re-politicizing the relations of production. The state, a realm which, through the institutions of bourgeois

natural law, is supposed to be amenable to discursive will formation, was (and is) implicated in the contradiction of capitalist production. In that it must seek to mask this relationship, capitalist society moves to depoliticize more and more areas of life. This is achieved by blocking or mediatizing the discursive integration potential set loose in the purified structures of communicative action attending the process of value-generalization. This because it is in these areas that the contradiction can first come to light and have socially important implications.

This is a situation laden with contradiction because the colonization of these discursive domains through media of money and power, undermine the very communicative areas in which the symbolic reproduction of bourgeois consciousness first originated and is continuously reaffirmed. Thus, the crises potential endemic to advanced capitalism can be summed up as the

trenchant contradiction between normative conditions of social reproduction, which foster rational expectations of democratic participation, and functional prerequisites of material production, which necessitate the accumulation of capital under conditions of private appropriation.⁶⁰

A legitimation crisis can be logically predicted from this perspective because, as we have seen, it is ultimately dependent upon a loss of meaning. Such a loss is for Habermas a very real possibility because of the logic of the rationalization process we have examined in this chapter.

"Meaning" is generated through the discursive reception of culture and the communicative ordering of social action. Insofar as these mechanisms are undermined through their mediatization, their ability to supply or reaffirm bourgeois motivational value orientations is seriously compromised. In conjunction with this development, the mediatization of symbolic reproduction has also fostered the development of new normative structures that the life-world has incorporated despite its colonization. These structures crystallize around scientism, modern art and universalistic morality which undermine the normative orientations important to capitalism. These embody, respectively: a critical attitude to all realms of social action countering the non-reflective imposition of standards of behaviour and dogmatic world-views; a countercultural lifestyle antithetical to achievement ideology and possessive individualism; and finally a communicative ethic that runs counter to legal formalism and positivism.⁶¹

For Habermas these developments alone speak against a completely successful colonization of the life-world. The logic here revolves around the notion that societies learn not only, as we saw, on the cognitive-technical level but also on the moral-practical. The life-world must then, follow its own developmental imperatives despite the pressures from sub-systems. Because this position begins from the postulate of the embeddedness of social life in

consensual communication (a position which can be traced back to Habermas' thesis for an essential human interest in emancipation first put forward in Knowledge and Human Interests) the depoliticization through mediatization runs head long into the "stubborn need of human beings to overcome the contingencies of social existence through meaningful interpretations".⁶²

In order to tie all of this together in a more concise manner, we need to look to one further, more empirical aspect of this social evolutionary process.

The Ambivalence of Guaranteeing Freedom
and of Taking it Away

As we saw on page 88, the uncoupling of system and life-world goes hand in hand with a "reconstruction in the core institutional domain of the moral-legal regulation of conflict". Thus, Habermas claims that the uncoupling process can be traced in the development of law. Under the welfare state this process brings about a duality of legal functions; law comes to act both as a medium and as an institution. Habermas locates the colonization process in this duality.

He begins by distinguishing four great legalization or constitutionalization pushes. The first, congealing around the bourgeois state, established civil society through the differentiation of state and market. This push codified the contractual relations of strategically acting legal persons.

The second push, bringing about the bourgeois constitutional state, arose out of demands for the legitimation of state authority. In this regard it sought to constitutionally guarantee the freedom of citizens from the arbitrary interventions of the state. The third push, leading to the democratic constitutional state, occurred during the bourgeois revolutions of the nineteenth century. Its impetus was located in the demand to ground the legitimacy of the state and its administration in the formal rules of democratic participation. The final push is achieved with the establishment of the welfare state. In contrast to the second and third pushes, which moved to bridle the administrative system, this stage moves to restrain the arbitrary functions and inequalities of the economy.⁶³ Habermas characterizes these pushes as a continuous line of freedom-guaranteeing juridification that roughly parallels the uncoupling of system and life-world. With the final stage, however, a paradox arises.

Insofar as welfare state legislation establishes legal claims to monetary compensation for loss of work, job security or definite social commodities etc., it moves to enhance freedom. But because the bureaucratic processing of such claims is predicated upon their being formulated "as individual legal entitlements under precisely *specified* general legal conditions"--a function of the dictates of bourgeois law--they undermine the freedom embodied in the

buyer/elector roles by nullifying them as socially important. This because they organize social relations on a contractual basis thereby reifying interaction and undermining the consensual organization of the private lives of dependent persons. This contractual organization of life tends to spread because the method used by the welfare state to pacify class conflict is to spread a net of client relationships over more and more private spheres of life. Because this net is characterized by bureaucratic implementation and monetary compensation, it leads to the bureaucratization and monetarization of core areas of the life-world. That is to say, the areas of symbolic reproduction are colonized by the non-linguistically symbolic media of power and money. Habermas thus concludes:

[t]he *dilemmatic structure of this type of juridification* consists in the fact that, while the welfare-state guarantees are intended to serve the goal of social integration, they nevertheless promote the disintegration of life-relations when these are separated, through legalized social intervention, from the consensual mechanisms that coordinate action and are transferred over to media such as power and money. In this sense [we can speak] of the crisis of public-welfare policy as a crisis of social integration.⁶⁴

If Habermas' theory is to be complete, the evolution of the welfare state should be accompanied by a "reconstruction in the core institutional domain of the moral-legal regulation of conflicts". The welfare state finds its counterpart in this domain in the differentiation of law functionally as medium and as institution. Here Habermas'

distinction between substantive and procedural legitimation becomes important.

Law functions as a medium when it acts as a means for organizing media-controlled sub-systems (this includes economic, commercial, business and administrative law). Because these have, as we have seen, been effectively disconnected from "normative contexts of action oriented by mutual understanding" when law is combined with the media of power and money in these areas and acts as a steering medium itself, it is insulated from substantive justification originating in the life-world; it has severed direct ties with the life-world to such an extent that not only is substantive justification not possible but it is also pointless. Appeal to the correct procedural formation of legal rules suffices to justify law as a medium.

In contrast, law as an institution embodies legal norms that must be justified substantively. Generally what is involved here are larger, more universal legal principles; the bases of constitutional law, the principles of criminal law and penal procedure and the regulation of offenses close to morality. Once questioned, these norms cannot be re-enforced by appeal to correct procedure "because they belong to the legitimate orders of the lifeworld itself and, together with informal norms of conduct, form the background of communicative action".⁶⁵

We have then, the differentiation of two types of law.

To the functional sub-systems belongs law as a medium; to the realm of symbolic reproduction belongs law as an institution. This allows for the identification of empirical indicators of the colonization process. Because power and money recruit law as a medium for the colonization of the life-world it must also seek to move into the core areas of symbolic reproduction. However insofar as these areas appeal to law as an institution for their action orientations they demand substantive justification. Law as a medium cannot contend with these claims for reasons we have seen.

It is at this point that a legitimation crisis, based upon a motivation crisis in the ways we have described, breaks out. The substantive demands of the life-world and the functional imperatives of subsystems meet in the integrative processes of law as a medium. Here their mutual incomprehensibility is revealed. From the system perspective procedural law cannot fulfill its colonization requirements. It is incapable of providing the proper rational-legal content for social situations that have direct moral-practical implications and therefore cannot easily assist in the mediatization of these situations and life contexts. From the life-world perspective law as a medium is perceived as an illegitimate mode of social integration. Hence, Habermas claims that the demands that are witnessed in studies of the juridification of schools,

families and social welfare policy are easily explained:

[t]he point is to protect areas of life that are functionally dependent on social integration through values, norms and consensus formation, to preserve them from falling prey to the systemic imperatives of economic and administrative subsystems growing with dynamics of their own, and to defend them from becoming converted over, through the steering medium of law, to a principle of sociation that is, for them, dysfunctional.⁶⁶

Formal, rational-legal legitimation breaks down because it moves into realms not amenable to its legitimating potential and thereby becomes the target of substantive claims. It can no longer mask the fundamental contradiction of advanced capitalism and the stage is set for the breaking out of discourse, "rich in practical consequences" of the norms underlying capitalist society.

Endnotes

¹ The most succinct statement of this thesis is to be found, of course, in the "Preface to the Critique of Political Economy". See, Karl Marx and Frederick Engels, Selected Works in One Volume, (New York: International Publishers, 9th Printing, 1986), p.p. 182-183.

² Habermas, L.C., p. 14.

³ Ibid., p. 4.

⁴ Ingram, "Habermas", p. 7.

⁵ Habermas, L.C., p. 97.

⁶ Ibid., p. 100.

⁷ Ingram, "Habermas", p. 116.

⁸ Ibid., p.115.

⁹ Ibid., p.p. 115-116.

¹⁰ Ibid., p. 116.

¹¹ Habermas, L.C., p. 5.

¹² Ingram. Habermas, p. 116-117.

¹³ Habermas, L.C., p. 4.

¹⁴ Ibid., p. 4 & p. 7.

¹⁵ Habermas, "Historical Materialism and the Development of Normative structures" in Habermas, Communication and the Evolution of Society p. 97-98. (Here after referred to as "Normative Structures")

¹⁶ Ibid., p. 98.

¹⁷ Ibid., p. 98.

¹⁸ Habermas, "Technology and Science as 'Ideology'", in

Jurgen Habermas, Toward a Rational Society. Student Protest, Science and Politics (Boston: Beacon Press, 1970).

¹⁹ Habermas, "Reconstruction", p. 117.

²⁰ Habermas, L.C., p.p. 8-10.

²¹ Ibid., p.p. 9-10.

²² Habermas, "Normative Structures", p. 119-120.

²³ Habermas, L.C., p. 3.

²⁴ Sensat, Julius. Habermas and Marxism: An Appraisal. (Beverly Hills: Sage Library of Social Research, Vol. 77, Sage Publications, 1977). (Here after referred to as Habermas and Marxism).

²⁵ Habermas, L.C. p.p. 8-9.

²⁶ Habermas, L.C., p.13. He goes on to say that he will examine the possibility that "precisely this has happened in advanced capitalism because the goal values permitted in the domain of legitimation of a communicative ethic are irreconcilable with an exponential growth of system complexity and, for reasons pertaining to the logic of development, other legitimations cannot be produced". Ibid.

²⁷ Sensat, Habermas and Marxism, p.48.

²⁸ Habermas, "Theory" Vol. II., p. 153.

²⁹ Ibid., p. 154.

³⁰ Ibid., p. 156-157.

³¹ Ibid., p. 169.

³² Ingram, "Habermas", p. 127.

³³ Habermas, "Theory" Vol. II, p. 171.

³⁴ Ibid., p. 171.

³⁵ Ibid., p.173.

³⁶ Ibid., p. 173-175.

³⁷ Ingram, "Habermas", p. 127.

³⁸ Habermas, "Theory" Vol. II, p. 178.

³⁹ Ibid., p. 178.

⁴⁰ Ibid., p. 178.

⁴¹ Habermas asserts the relationship as coming about thus:
Inasmuch as law becomes positive, the paths of legitimation grow longer. The legality of decisions, which is measured by adherence to formally unobjectionable procedures, relieves the legal system of justification problems that pervade traditional law in its entirety. On the other hand, these problems get more and more intensive where the criticizability and need for justification of legal norms are only the other side of their positivity--the principle of enactment and the principle of justification reciprocally require one another. The legal system as a whole needs to be anchored in basic principles of legitimation. Ibid., p. 178.

In this statement is located the logic behind the thesis on the truth dependency of legitimation claims; the essential embeddedness of legal positivism opens the door not only to validity claims in social practice but also in social scientific analysis.

⁴² Ibid., p. 179.

⁴³ Ibid., p. 180.

⁴⁴ Ingram, "Habermas", p. 127.

⁴⁵ Ingram, "Habermas", p. 128.

⁴⁶ Ibid., p. 183.

⁴⁷ Karl Marx, Capital Vol. I. (New York: International Publishers, Eleventh printing, 1984), p. 77.

⁴⁸ Habermas, "Theory" Vol. II, p. 185.

⁴⁹ Habermas maintains that it is only with Marx that this mutuality is clearly perceived. Theories of natural law consistently ignored the fact of a stable civil society necessarily underlying the state, while classical political economy was always concerned to show that imperatives of the system were in essential harmony with the basic values of a community founded upon freedom and justice. Marx's critique of bourgeois society and of political economy undermines these theories and reveals their essential ideological function: "he showed that the laws of capitalist commodity production" sustain a class structure "that makes a mockery of bourgeois ideals" while at the same time demonstrating

that these cultural values , expressed in rational natural law, were nothing more than a sociocultural superstructure acting as the forms of development of the economic base. Ibid., p. 185.

⁵⁰ Turner and Factor, "Wax Weber", p. 217.

⁵¹ Habermas, quoted in Thomas A. McCarthy, "A Theory of Communicative Competence", Philosophy of the Social Sciences : 3 (1973), p. 143.

⁵² Habermas, L.C., pp. 70-71.

⁵³ Ibid., p. 186.

⁵⁴ Habermas, "Theory" Vol. II., p. 319-320.

⁵⁵ Ingram, "Habermas", p. 150.

⁵⁶ Habermas, "Theory", p.p. 321-322.

⁵⁷ It is interesting that Habermas consciously employs the metaphor of conquest. This is made very clear on page 355 of "Theory":

When stripped of their ideological veils, the imperatives of autonomous subsystems make their way into the lifeworld from the outside--like colonial masters coming into a tribal society--and force a process of assimilation upon it. The diffused perspectives of the local culture cannot be sufficiently coordinated to permit the play of the metropolis and the world market to be grasped from the periphery.

⁵⁸ Ibid., p. 196.

⁵⁹ Ingram, "Habermas", p. 154.

⁶⁰ Ingram, "Habermas", p. 148.

⁶¹ Habermas, L.C. p. 83ff.

⁶² Ingram, "Habermas", p. 159.

⁶³ Habermas, "Theory" Vol. II, p.p. 358-361.

⁶⁴ Ibid., p. 364.

⁶⁵ Ibid., p. 365.

⁶⁶ Ibid., p. 372.

CONCLUSION

To this point we have reached some very important conclusions. A legitimation crisis is, to put it most clearly, a crisis in law. As the legal institutions of advanced capitalist society come more and more to embody and reflect the fundamental contradiction of this society, they suffer from an inability to perform their essential function--to act as the pacemaker of social integration. To be sure this is merely the form that the contradiction takes. We must keep in mind that what Habermas is concluding is that the conflict between life-world rationalization and system rationalization only emerges in and through these legal structures; law is the point at which the contradiction breaks out. In that a legitimation crisis in this form is but the tip of the iceberg, we must recognize that Habermas is tacitly positing a notion of the manifestation of a fundamental human need that can no longer be kept latent; the need to make sense of our world, to bring the contingencies of both the natural and the social environment under rational and common control. It is, in short, the breaking out of a fundamental human interest in

meaning and emancipation. The contradiction is based upon the need to provide adequate meaning in the respective spheres of human interaction.

We have seen how the process of capitalist development undermines the sources of its own moral-practical bases through the mediatization of communicative structures which strip bourgeois identity securing norms of their nature-like character. What we must understand is why meaning is needed at all and why it is intricately tied to the evolutionary project of human emancipation. Upon this exposition depends the viability of the thesis for a legitimation crisis. We will here be demonstrating, in short, the metatheoretical background assumptions never made explicit by Habermas but which never the less underlie his work on legitimation. We will also show how he seeks to ground this essentially normative claim in the structures of human communication.

Habermas makes an explicit connection between the emancipatory interest and the notion of "meaning", by way of classical sociology's conception of society as a moral reality. Here the idea was developed that the unity of the individual can only be achieved and maintained in and through identity-securing world-views and normative systems. From this perspective, the function of these world-views is the avoidance of chaos or the elimination of contingency. From Habermas' perspective legitimation of authority is a specialization of this meaning-giving function;¹ his theory

of social evolution is designed to account for the development of the structures that provide meaning and the rationalization of the life-world is the result of this evolutionary process. But why does this express an essential human interest?

We do not make sense of the world individually but rather, this is a social function. In that it is social it must also be intersubjective; in that it is intersubjective it must be oriented toward a general consensus, that is it must be oriented to truth. This is the logic behind Habermas' bold statement:

What raises us out of nature is the only thing whose nature we can know: *language*. Through its structure, autonomy and responsibility are posited for us. Our first sentence expresses unequivocally the intention of universal and unconstrained consensus. Taken together, autonomy and responsibility constitute the only Idea the we possess a priori in the sense of the philosophical tradition.²

After he made this dramatic statement in 1965, Habermas set out to demonstrate its facticity. He embarked upon an investigation into the nature of speech. From this emerged the notion of the ideal speech situation the implication of which was that all communication can be shown to be oriented to truth.³ In that speech was oriented toward truth it lead to the notion of a discursively achieved consensus which has an intrinsic normative dimension. This normative dimension arises from the fact that a true consensus can only be achieved when all those affected have an equal and

uninhibited opportunity to participate in the discursive deliberation and that this requirement demands the elimination of all structures of domination.⁴

In locating the human interest in emancipation and autonomy in the structures of human language, Habermas escapes the ontological trap of positing a normative and a priori conception of human nature: rather, he begins with the factual assertion of an empirical reality, that speech is oriented to truth, and then attempts to work backward in order to discover the nature of beings who attempt to order their actions through such communicative media.

Because an examination of the viability of this formulation is beyond the scope of this thesis we will for the time being grant its "truth". This will enable us to demonstrate that these metatheoretical contentions do fundamentally undergird Habermas' theory of social evolution and his theory of legitimation crisis which he builds upon it.

As we saw above, the rationalization of the life-world centered around the concept of value-generalization which expressed Habermas' contention that the evolution of the life-world permitted the structures of symbolic reproduction to emerge in ever purer form. Habermas seems here to be following Marx who declared that the process of human emancipation involved the conscious construction of history. Humans have always given meaning to their lives and until

now this has been done quite unconsciously. But unconscious or not these meaning structures took actual shape in the world and in order to analyze their nature and evolution one must employ an historical materialist perspective.

Thus, only when we comprehend Habermas' project as the historical materialist analysis of the coming to be world-historically of the essential human interest in emancipation and autonomy does the investigation undertaken in this thesis make sense. Habermas' metatheoretical objective then, can be shown, on this reading, to be an attempt to locate the truth about humans in their essential need to consciously control their lives in both material instrumental terms and in moral-practical terms. Hence he is not attempting to posit an "ultimate truth" about humans, in the sense of classical philosophy, oriented to some normative conception of the "good life" or abstract ideal of "justice". The theory of communicative action is in this sense quite modest: it is an attempt to locate the criteria against which the practical claims put forward by a society as to its ability to satisfy the needs of its members, its claims to embody justice and its claims to legitimate authority, can be judged. As Habermas himself asserts:

Communicative reason operates in history as an avenging force. A theory that identifies this reason by way of structural characteristics and conceptualizes it as procedural rationality--instead of mystifying it as fate--is protected against the danger of dogmatically overstating its claims precisely through being formalized. Such a theory has at its disposal

standards for the critique of social relations that betray the promise to embody general interests which is given with the morality of legitimate orders and valid norms. But it cannot judge the value of competing forms of life.⁵

Steven Lukes has mounted a substantial challenge to this theory.⁶ In what follows we shall briefly set out the main thrust of this critique and then demonstrate how the challenge is met by Habermas from within his own perspective in order to show that, at least in the face of Lukes' critique, Habermas' position is equal to the challenge. This in order to demonstrate why the metatheoretical work examined in this thesis is essential to Habermas' entire project.

Lukes claims that there is an immanent and unfounded teleology in Habermas theory of communicative competence that is not made explicit. From Lukes' perspective because Habermas doesn't posit a notion of truth involving a conception of the good life that humans must assume and that can be rationally defended, but rather, locates the ultimate end or value of life in the rational assessment of needs, he leaves the door open for acting subjects not to choose a rational or good life. In that Habermas maintains that humans will choose the rational form of life, Lukes identifies an essential Hegelian teleological dimension: as rationality comes to be world-historically in ever purer forms, it is the manifestation of an essential human nature which cannot be denied and hence it is necessary that we

embody rational communicative ethics and thus the good and just life which attends it. Decisionism is forestalled because of the dictum that freedom is necessity. If this is an accurate account of Lukes' position we can see how the very nature of the theory of social evolution examined in the third chapter of this thesis precludes such a teleology precisely because of its reliance upon an historical materialist perspective. From this perspective Habermas contends that discursive ethics are not unfounded notions extracted from a conception of human language just as they do not fall mysteriously from heaven. Rather, they are the product of interests, learning processes and experiences of social actors in explicit socio-historical situations and "it is not through discourse that [discourse ethics] gain the power to convince and are spread abroad; this happens only in *social movements*".⁷ Habermas thus locates the human interest in emancipation and autonomy in actual concrete historical structures. Only in that the institutions of human interaction embody the need to reach rational consensus about the meaning of our world does Habermas claim to locate an essential need to communicate rationally and to reach understanding through generalizable interests. A teleological critique falls away when we realize that the need for consensus is a definite social product of definite social actors.

It is only in this light that it becomes possible to

even perceive a contradiction in capitalist societies. From the very beginning the critique of capitalism always began from the perspective that the reproduction requirements of this economic form were in fundamental conflict with the normative and legal structures that made it viable; capitalist economic domination is fundamentally at odds with the notions of freedom and equality. But this is so, Habermas would maintain, only because the institutional structures, cultural traditions, patterns of justification and identity structures, as the products of human design, embody within them values and commitments to ideals of justice and conceptions of the good life. And ultimately what these institutions embody is a commitment to the realization of a rational society founded and maintained through an active and enlightened public sphere--a space for "a decentralized and uninhibited discursive formation of the public will".⁸ To be sure this is at best a vague mandate but one towards which, Habermas would argue, the entire course of human history points.

In this light Habermas' entire investigation into the nature and origins of a legitimation crisis must be seen as an attempt to uncover the processes by which the fundamental need of humanity to free itself from both the contingencies of economic scarcity and domination plays itself out.

ENDNOTES

¹ Habermas, L.C., pp. 117-118.

² Habermas, Knowledge and Human Interests, (Boston: Beacon Press, 1971), p. 314.

³ For a thorough elucidation of the ideal speech situation see in particular: Jurgen Habermas, "What is Universal Pragmatics?" in Habermas Communication and the Evolution of Society; Thomas McCarthy, The Critical Theory of Jurgen Habermas; and Thomas McCarthy "A Theory of Communicative Competence" Philosophy of the Social Sciences 3, (1973) pp. 135-156.

⁴ Habermas, L.C., p. 108.

⁵ Habermas, "A Reply to My Critics" in Thompson and Held, Habermas: Critical Debates, p. 227.

⁶ See, Steven Lukes, "Of Gods and Demonds: Habermas and Practical Reason", in Thompson and Held (Eds.), Habermas: Critical Debates.

⁷ Habermas, "A Reply to my Critics", p. 253.

⁸ Habermas, Theory and Practice. (Boston: Beacon Press, 1973), p. 4.

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