

4th Phase in Habermas: morality and legality 'after 9/11'

Frederik van Gelder

„After 9-11" is not just a section title of one of Habermas' most recent books: *Der gespaltene Westen*. It is also a reminder that coming to terms with Habermas the philosopher and author requires of the reader an 'auseinandersetzung' with the tectonic shifts taking place in the world today. Fundamentalism and terror, faith and knowledge, religion and rationality, the polarisation within the Western World: these themes all feature prominently in his recent work. But there is something else as well: since his official retirement as university professor in 1994 (where 'retirement' doesn't quite fit a man whose tireless appearances at congresses and prize ceremonies all over the world never ceases to amaze) he seems driven by more than just the general urgency which all intellectuals feel in the face of the current world crisis. For Habermas-the-post-war-German-intellectual, for the sociologist and philosopher taking pride in his self-presentation as a product of Allied 're-education' after 1945, the current US Administration's break with that principle of multilateralism which had guided its foreign policy for at least since FDR and the founding of the United Nations seems to have been something of a personal shock. For the man whose admiration for the "historical achievement"¹ of the bourgeois constitutions of the modern era grew in the course of a life-long analysis of the causes of the collapse of the Weimar Republic, every new manifestation of „hegemonic unilateralism"² on the part of the US must evoke apocalyptic associations with the disasters which befell Europe and the rest of the world after the *last* 'sonderweg' of a great power. If historical parallels for our current situation are appropriate at all – he says three months after the collapse of the

1 c.f. Rolf Wiggershaus: *Jürgen Habermas*, 2004, p. 17

2 Jürgen Habermas, *Der gespaltene Westen*, 2004, p. 90

Twin Towers – it is not that of Pearl Harbor, „but rather with the aftermath of August 1914. The outbreak of World War I signaled the end of a peaceful and, in retrospect, somewhat unsuspecting era, unleashing an age of warfare, totalitarian oppression, mechanistic barbarism and bureaucratic mass murder. At the time, there was something like a widespread foreboding. Only in retrospect will we be able to understand if the symbolically suffused collapse of the capitalistic citadels in lower Manhattan implies a break of that type or if this catastrophe merely confirms, in an inhuman and dramatic way, a long-known vulnerability of our complex civilization.“³

But whether or not it makes sense to look for personal-psychological reasons behind this much more ‘political’ Habermas of recent years,⁴ what is clear enough is that this is no longer the patiently reasoning logician of the Social Sciences on the podium, the scholarly historian of ideas, or the philosopher ‘deducing’ the world in its entirety from the first principles of communicative action. This is a persona who has left academia behind him, whose words – suffused with a powerful sense of moral and political urgency – are addressed at a general public, both European and international.⁵ Less than a lifetime after the liberation of the concentration camps, the spectre of one more militant nationalism let loose upon the world stage – whatever the nature of the original provocation may have been – has set not only Habermas’ teeth on edge. „Die Bush-Regierung hat das 220-jährige Kantische Projekt einer *Verrechtlichung* der internationalen Beziehungen mit moralischen Phrasen ad acta gelegt.“⁶ In answer to the question of an interviewer, whether the „War on Terror“ has turned, in the

3 Giovanna Borradori: *Philosophy in a time of Terror – Dialogues with Jürgen Habermas and Jacques Derrida*, U. Chicago Press, 2003, p. 26/27

4 "...it was the caesura of 1945 that first led to an eye-opening experience for my generation, one without which I would hardly have ended up in philosophy and social theory. Over-night, as it were, the society in which we had led what had seemed to be a halfway normal everyday life, and the regime governing it, were exposed as pathological and criminal. In this way, the confrontation with the heritage of the Nazi past became a fundamental theme of my adult political life. My interest in political progress became focused on conditions of life that escape the false alternative of ‘Gemeinschaft’ oder ‘Gesellschaft’, ‘community’ or ‘society’. What I have in mind are, as Brecht puts it, ‘friendly’ forms of coexistence that neither forfeit the gains in differentiation of modern societies nor deny the dependence of upright individuals on one another – and their reciprocal reliance on one another." Habermas, „Public space and political public sphere – the biographical roots of two motifs in my thought“. (Kyoto commemorative lecture, Nov. 11, 2004) c.f. also Martin Beck Matustik: „The Ghosts of 1945“, in *Jürgen Habermas, A Philosophical-Political Profile*, 2001.

5 c.f. Deutsche Welle, 03.06.2003: “Philosophizing about Europe’s Rebirth”.

6 *gW*, 101.

US, into a „War on Civil Rights“, he says, in the appropriately titled „Ein Interview über Krieg und Frieden“: „Die Militarisierung des Lebens nach innen und außen, die bellizistische Politik, die sich von den Methoden des Gegners anstecken lässt und die den Hobbistischen Staat in dem Augenblick auf die Weltbühne zurückbringt, wo die Globalisierung der Märkte das politische Element ganz an den Rand zu drücken schien, das alles wäre von der politisch aufgeklärten amerikanischen Bevölkerung nicht mit überwältigenden Mehrheiten quittiert worden, wenn sich die Regierung den Schock des 11. September nicht mit Druck, schamloser Propaganda und gezielter Verunsicherung zunutze gemacht hätte. Für einen europäischen Beobachter und ein gebranntes Kind wie mich war die systematisch betriebene Einschüchterung und Indoktrinierung der Bevölkerung und die Einschränkung des Spektrums zugelassener Meinungen in den Monaten Oktober/November 2002, als ich in Chicago war, irritierend. Das war nicht mehr ‘mein’ Amerika.“⁷

This is more than ‘politics’ in the liberal sense of private opinions based on individual values, however much one should respect Habermas’ own insistence that his political interventions and his philosophical publications should not be treated as if they’re all part of a seamless ‘system’, to be conveniently pigeon-holed under the historicising label of ‘Habermas’ philosophy’.⁸ He is not the only one to fear that the current US Administration’s undermining of the UN and other international organisations has weakened the very basis of international order at a time when *economically* the world has become integrated as never before. Not the *only* one, certainly. But it has taken Habermas’ special genius to have transported arguments which have been common currency since the *Dialektik der Aufklärung* out of the philosophical seminar into the public domain; to have made them plausible to a mass audience. Venerable theorems on the ‘dialectic’ of subject and object, of the ‘end of the subject’ assume a new quality when one encounters them in those international arenas in which war and peace, invasion and diplomacy, security versus Human Rights are being hammered out.

Seen with the benefit of hindsight, from this ‘post-9/11’ perspective, Habermas’ intense preoccupation with moral theory and law – going back

7 gW 95.

8 "Was mich entsetzlich ärgert, was mich trifft, sind die Aggressionen von Leuten, die bei mir diese Rollendifferenzierung nicht sehen, geschweige denn respektieren, und alles durcheinander rühren..." (Habermas interview in „Ästhetik und Kommunikation“, quoted in Wiggershaus, op. cit., p. 120.)

to at least *Moralbewusstsein und kommunikatives Handeln* (1983), the *Tanner Lectures* (1986), *Erläuterung zur Diskursethik* (1991), and then the systematic work *Faktizität und Geltung* (of 1992) – appears in a new light. If modern society is „characterised by the pluralism of gods and demons“⁹, in which vested interests are capable of exercising power through the imposition of spurious moralisms which cannot bear scrutiny in the light of careful analysis, then the relationship between moral-ethical values, law, democratic procedures becomes the arena in which the crucial conflicts of modernity manifest themselves. And nowhere more obviously so than in international relations. Habermas as a defender of international organisations, a defender of the ‘Kantian’ project for the constitutionalisation of international law – „Hat die Konstitutionalisierung des Völkerrechts noch eine Chance?“ he asks in *Der gespaltene Westen*.

It is perhaps too early to speak – in analogy to the „Positivist Dispute“ of a generation ago – of a „Moralism Dispute“ (or of a ‘legal’ turn in Critical Theory) when one is trying to characterize Habermas’ recent critiques of Martin Walzer and others who defend the notion of a ‘Just War’ *solely* on moral-ethical grounds. But whatever label is going to be attached to them in future, the intellectual battle lines are clear, and questions concerning the probity of official justifications for the mobilization of military might in the contemporary world are not going to go away:

„Auch eine hochmoderne Macht wie die USA fällt in den falschen Universalismus der Alten Reiche zurück, wenn sie in Fragen der internationalen Gerechtigkeit das positive Recht durch Moral und Ethik ersetzt. Aus der Perspektive von Bush gelten ‘unsere’ Werte als die universal gültigen Werte, die alle anderen Nationen zu ihrem eigenen Besten akzeptieren sollten. Der falsche Universalismus ist ein ins Allgemeine erweiterter Ethnozentrismus. ... Walzer gewinnt seine Kriterien, so vernünftig sie sein mögen, allein aus moralischen Grundsätzen und ethischen Überlegungen, nicht im Rahmen einer Rechtstheorie, die die Beurteilung von Krieg und Frieden an inklusive und unparteiliche Verfahren der Erzeugung und Anwendung von zwingenden Normen knüpft.“¹⁰

But there are two more strands to his thinking in recent years, and they too are touched on in his important acceptance speech in the Paulskirche in Frankfurt, on the occasion of the *Peace Prize* bestowed on him by the Ger-

9 *Tanner Lectures*, p. 241.

10 *gW*, 102.

man Publishers' and Bookseller's Association, which had happened to have been scheduled a month after the terrorist attacks against the Twin Towers and the Pentagon. („Der Krieg gegen den Terrorismus ist kein Krieg, und im Terrorismus äußert sich auch – ich sage: *auch* – der verhängnisvoll sprachlose Zusammenstoß von Welten, die jenseits der stummen Gewalt der Terroristen wider Raketen eine gemeinsame Sprache entwickeln müssen.“¹¹)

In some ways these strands are more familiar: the unintended consequences of science and technology on the one hand – in this case the dangers of genetic engineering – and on the other hand the dangers of religious fundamentalism. The dangers of a renascent eugenics movement, this time spurred on by commercialisation rather than by the reactionary Darwinism of the German Right of the interbellum, he had sketched out in *Die Zukunft der menschlichen Natur. Auf dem Weg zu einer liberalen Eugenik?*, shortly before¹², and this would doubtlessly have been the topic of his address if the attacks in the US had not intervened. But these two themes are placed in a context which in some ways brings Habermas closer to his predecessors Horkheimer and Adorno (once much-criticised for their ‘pessimism’) than it does to the author of the *Theorie des kommunikativen Handelns*. Namely as aspects of that central ‘dialectic’ within modernity, the tension between Faith and Reason. The secularized world is beleaguered not so much by the enemy *ante portas*, as it is by forces let loose by the processes of secularisation itself, in which an unfettered instrumental reason and religious fundamentalisms threaten us as two sides of the same coin. A threat in the face of which it is not so much the structure of language and communication that could show the way forward, as much as a better understanding of the way in which a secularised world is dependent upon the ‘translation’ of moral-ethical values whose ultimate foundation is religious. „Die verlorene Hoffnung auf Resurrektion hinterlässt eine spürbare Leere. Horkheimers berechtigte Skepsis gegen Benjamins, wie ich denke, überschwängliche Hoffnung auf die wiedergutmachende Kraft humanen Eingedenkens dementiert ja nicht den ohnmächtigen Impuls, am Unabänderlichen doch noch etwas zu ändern.“ This is a Habermas who is closer – at least on this occasion – to the *Negative Dialektik* than he is to his own work of a decade ago.

11 Glaube, Wissen – Öffnung. Zum Friedenspreis des deutschen Buchhandels: Eine Dankrede" *Süddeutsche Zeitung*, 14.10.2001.

12 Frankfurt am Main, Suhrkamp, 2001.

Primary bibliography

- Strukturwandel der Öffentlichkeit*, Neuwied/Berlijn, Luchterhand, 1962.
- Technik und Wissenschaft als 'Ideologie'*, Frankfurt am Main, Suhrkamp, 1968.
- Erkenntnis und Interesse*, Frankfurt am Main, Suhrkamp, 1968.
- Legitimationsprobleme im Spätkapitalismus*, Frankfurt am Main, Suhrkamp, 1973.
- Marxisme en filosofie*, Meppel/Amsterdam, Boom, 1981.
- Philosophisch-politische Profile*, Frankfurt am Main, Suhrkamp, 1981.
- Theorie des kommunikativen Handelns*, Frankfurt am Main, Suhrkamp, 1981.
- Moralbewusstsein und kommunikatives Handeln*, Frankfurt am Main, Suhrkamp, 1983.
- Vorstudien und Ergänzungen zur Theorie des kommunikativen Handelns*, Frankfurt am Main, Suhrkamp, 1984.
- Die Neue Unübersichtlichkeit. Kleine politische Schriften V*, Frankfurt am Main, Suhrkamp, 1985.
- Der philosophische Diskurs der Moderne*, Frankfurt am Main, Suhrkamp, 1985.
- „Entgegnung“, A. Honneth, H. Joas (red.), *Kommunikatives Handeln*, Frankfurt am Main, Suhrkamp, 1986.
- Eine Art Schadensabwicklung. Kleine politische Schriften VI*, Frankfurt am Main, Suhrkamp, 1987.
- Nachmetaphysisches Denken. Philosophische Aufsätze*, Frankfurt am Main, Suhrkamp, 1988.
- Recht en moraal*, Kampen, Kok Agora, 1988.
- „Volkssouveränität als Verfahren“, 1988/1992 (opgenomen in *Faktizität und Geltung*).
- De nieuwe onoverzichtelijkheid en andere opstellen*, Meppel/Amsterdam, Boom, 1989.
- Die nachholende Revolution. Kleine politische Schriften VII*, Frankfurt am Main, Suhrkamp 1990.
- Erläuterungen zur Diskursethik*, Frankfurt am Main, Suhrkamp, 1991.
- Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*, Frankfurt am Main, Suhrkamp, 1992.
- „Politiek, recht en democratie. Een interview met Jürgen Habermas“, *Krisis*, 14 (1994), blz. 75-84.
- Die Normalität einer Berliner Republik. Kleine politische Schriften VIII*, Frankfurt am Main, Suhrkamp, 1995.
- Die Einbeziehung des Anderen. Studien zur politischen Theorie*, Frankfurt am Main, Suhrkamp, 1996.
- Vom sinnlichen Eindruck zum symbolischen Ausdruck – Philosophische Essays*, Frankfurt am Main, Suhrkamp, 1997. Engels: *The liberating power of symbols – philosophical essays*. Cambridge, Mass, MIT Press, 2001.
- Die postnationale Konstellation*, Frankfurt am Main, Suhrkamp, 1998.

- Wahrheit und Rechtfertigung. Philosophische Aufsätze*, Frankfurt am Main, Suhrkamp, 1999 en 2004. Engels: *Truth and justification*. Cambridge, Mass, MIT Press, 2003.
- Zeit der Übergänge. Kleine politische Schriften IX*, Frankfurt am Main, Suhrkamp, 2001.
- The Postnational Constellation: Political Essays*. Cambridge, Polity Press, 2001.
- Die Zukunft der menschlichen Natur. Auf dem Weg zu einer liberalen Eugenik?*, Frankfurt am Main, Suhrkamp, 2001. Engels: *The future of human nature*. Cambridge, Polity, 2004.
- Kommunikatives Handeln und detranszendentalisierte Vernunft*, Stuttgart, Reclam, 2001.
- Glauben und Wissen. Rede zum Friedenspreis des Deutschen Buchhandels 2001*, Frankfurt am Main, Suhrkamp, 2001.
- Religion and rationality – essays on reason, God, and modernity*. (red. Eduardo Mendieta). Oxford, Polity, 2002.
- Zeitdiagnosen. Zwölf Essays*, Frankfurt am Main, Suhrkamp, 2003.
- Filosofie in een tijd van terreur – gesprekken met Giovanna Borradori*. [vert. Leon Otto de Vries] Kampen/Kapellen 2004. Engels: *Philosophy in a time of terror – Dialogues with Jürgen Habermas and Jacques Derrida*, [Giovanna Borradori] U. of Chicago Press, 2003.
- Der gespaltene Westen. Kleine politische Schriften X*, Frankfurt am Main, Suhrkamp, 2004.
- „Religious tolerance – Pacemaker for Cultural Rights“. *Royal Institute of Philosophy Annual Lecture*. Royal Institute of Philosophy, 2004
- „Public space and political public sphere – the biographical roots of two motifs in my thought“ Commemorative Lecture, Kyoto, Nov. 11, 2004.
- America and the World – A conversation with Jürgen Habermas* [Eduardo Mendieta] Purdue University, 2004.

Secondary bibliography

- Bader, V.M., „Eenheid van de communicatieve rede, recht en complexe maatschappijen“, *Recht en kritiek*, 20 (1994), blz. 111-144.
- Baynes, K., *The normative grounds of social criticism. Kant, Rawls, and Habermas*, Albany, State University of New York Press, 1992.
- Bernstein, R.J. (red.), *Habermas and modernity*, Cambridge, Polity Press, 1985.
- Calhoun, C. (red.), *Habermas and the public sphere*, Cambridge, Massachusetts, MIT Press, 1992.
- Honneth, A., e.a. (red.), *Zwischenbetrachtungen. Im Prozess der Aufklärung*, Frankfurt am Main, Suhrkamp, 1989.
- Honneth, A., A. Wellmer (red.) *Die Frankfurter Schule und die Folgen*. Berlijn, New York, Walter de Gruyter, 1986.
- Doorne, F., M. Korthals (red.), *Filosofie en maatschappijkritiek. In debat met Habermas*, Meppel/Amsterdam, Boom, 1986.

- Keulartz, J., *De verkeerde wereld van Jürgen Habermas*, Meppel/Amsterdam, Boom, 1992.
- Korthals, M., *Kritiek van de maatschappijkritische rede*, Muiderberg, Coutinho, 1986.
- Korthals, M., H. Kunneman (red.), *Het communicatieve paradigma*, Meppel/Amsterdam, Boom, 1992.
- Kunneman, H., *Habermas' theorie van het communicatieve handelen, een samenvatting*, Meppel/Amsterdam, Boom, 1983/'84.
- Kunneman, H., *De waarheidstrechter. Een communicatietheoretisch perspectief op wetenschap en samenleving*, Meppel/Amsterdam, Boom, 1986.
- Matustik, M.B., *Jürgen Habermas: A Philosophical-Political Profile*. Rowman & Littlefield, 2001.
- McCarthy, Th., *The critical theory of Jürgen Habermas*, Cambridge, Massachusetts, MIT Press, 1978.
- McCarthy, Th., *Ideals and illusions*, Cambridge, Massachusetts, MIT Press, 1991.
- Mendieta, E. (red.), *The Frankfurt School on Religion*. 2005.
- Müller-Doohm, S., *Das Interesse der Vernunft. Rückblicke auf das Werk von Jürgen Habermas seit 'Erkenntnis und Interesse'*. Frankfurt, Suhrkamp, 2000.
- Munnichs, G., „De actualiteit van Habermas' koloniseringsthese“, *Filosofie & praktijk*, 11 (1990), blz. 57-74.
- Negt, Oskar, e.a. (red.) *Die Linke antwortet Jürgen Habermas*. Frankfurt, EVA, 1968.
- Thompson, J., D. Held (red.), *Habermas, Critical Debates*, Londen, MacMillan, 1982.
- Van Gelder, F., *Habermas' Begriff des Historischen Materialismus*. Frankfurt, Peter Lang. 1990.
- White, S.K., *The recent work of Jürgen Habermas. Reason, justice & modernity*, Cambridge, Cambridge University Press, 1988.
- White, S.K. (red.), *The Cambridge companion to Habermas*, Cambridge, Cambridge University Press, 1995.
- Wiggershaus, Rolf, *Jürgen Habermas*. Hamburg, Rowohlt Monographie, 2004