Making the Dissimilar Comparable:

Social Control Theory and Jürgen Habermas in Matthieu Deflem

THOMAS JEFFERY

The work of Jürgen Habermas remains of interest nearly three decades after the publication of the first volume of The Theory of Communicative Action, not only because of the large and varied body of theory he has produced since, but because its complexity and scope has not yet been fully explored. But this complexity, and a shift in the perspective of his later work, can sometimes lead us to confuse his motives. This paper therefore aims to investigate Habermas' work – particularly his views on the state and law – in its proper theoretical context, taking into account his lineage from the Frankfurt School. This paper is also the story of the successors of the Chicago School in sociology, and following Matthieu Deflem's article on the body of Social Control Theory that developed this school's ideas on methods, we will investigate whether parallels exist between two very different views on the nature of society and the state, and even how this nature is to be understood.

Following Max Horkheimer's appointment as director of the Institute for Social Research at the University of Frankfurt am Main, he gathered around him a constellation of theorists whose interests reflected his concern that 'teaching about society can only be developed in the most tightly integrated connection of disciplines' (Horkheimer in Held 1980:32). This interdisciplinary approach is fundamental to the resulting work of the "Frankfurt School", which contributed towards a "critical theory of society", known in short as Critical Theory. At the time of Horkheimer's appointment in 1931, the Great Depression and the faltering of European democracies in the face of emergent fascism were evidence of systemic crises in both capitalism and liberal democracy. In terms of the School's largely Marxist theoretical background, it seemed inexplicable in this situation of clear revolutionary potential that workers' movements had failed to consolidate and combat the resulting authoritarian and bureaucratizing tendencies evident even in the established democracies. Meanwhile, Stalin's Russia provided increasingly dismaying evidence of the degree of authoritarianism possible in an ostensibly socialist state. The Frankfurt School was therefore convinced that a systematic analysis of this situation – employing a new, progressive interpretation of Marx and emerging research in their various disciplines – was necessary. Their ultimate aim was, as Held notes, for their intellectual project to 'become a material force in the struggle against domination in all its forms' (1980:35). What emerged was a critique of the relationship between democracy and capitalism that arguably reached the peak of its ferocity in Horkheimer and Adorno's Dialectic of Enlightenment. It took aim specifically at the instrumental nature of Enlightenment rationality, which supports of capitalist oppression. Thus,

> *myth turns into enlightenment, and nature into mere objectivity. Men pay for the increase of their power with alienation from that over which they exercise their power. Enlightenment behaves toward things as a dictator towards men. He knows them as far as he can manipulate them*
> (Horkheimer and Adorno 1972: 9).

This conception echoes and derives its force from Marxist theories of alienation in that 'the enforced power of the system over men grows with every step that takes it out of nature' (Ibid.:38). Reflecting the acute disenchantment of its co-authors, the Dialectic and early Critical Theory as a whole generated a storm of debate. It was considered by some to be pessimistic to the point of irrelevance; more significantly it appeared theoretically abstracted to the point of being unusable as grounds for the radical politic it sought to engender. This paper will therefore briefly examine how the work of Jürgen Habermas, a student of Horkheimer and Adorno, sought to reconstruct and rectify the course of Critical Theory. It will take particular interest in Habermas' attempts to form a coherent view of the complexity of contemporary societies whilst uniting both critical and Marxian theory. Particularly germane to this discussion will be Habermas' depiction of the function of law in the evolution of liberal democracies and welfare statism, and the relationships of domination that are preserved and perhaps take even more insidious forms in this process of co-evolution. It will then take up Habermasian critiques of contemporary democracy in the area of social control, with critical reference to Mathieu Deflem's treatment of the subject, concerning itself particularly with how de-emphasising the connection of Habermas' Critical Theory to its Marxian roots can lead to its misinterpretation.

Habermas' theory of communicative action avoids the Dialectic's damning critique of reason by differentiating between two types of rationality, one strategic (aimed at the achievement of distinct, pre-determined goals) and the other communicative (aimed at fostering understanding). The nature of the latter was established by Habermas' research into linguistics, with which he argued that in all speech certain validity claims are inferred: specifically, truth, rightness, and the truthfulness of the speaker (Outhwaite 1996: 163). In Habermas' view, the success of dialogue in establishing understanding rests on both parties accepting the validity claims that each employ in speech, a process that can either be forced through open coercion or the implied coercion of a claim to some form of higher authority. Alternatively, such acceptance can be based on a consensus that emerges from a process of rational argument, such that "agreement rests on common convictions" (Outhwaite 1996:162). The second communicative method is action-oriented in that convictions acquire the '"productive force of communicative freedom"' (Outhwaite 1994: 143). "Productive force" can be interpreted in two ways: on the one hand, it denotes simply the constructive nature of free dialogue, and the tendency of common agreement to generate action. A more comprehensive definition is provided in Habermas' Communication and Evolution of Society where he delineates two forms of production: the "natural" form of labour and the 'social' form of procreation. These two forms are inextricably linked because "a certain form of production or industrial stage is always combined with a certain mode of co-operation or social stage, and this mode of cooperation is itself a "productive force"' (1984a: 132). Thus, Habermas reveals his connection to historical materialism in that "the multitude of productive forces available to mankind determines that nature of society" (Ibid.). However, Habermas' reconstruction of this classical Marxist tool emerges from his analytical emphasis on the mode of co-opera-

tion (and so communication), rather than a preoccupation with production.

Habermas' view of communication is based on the Chomskian notion that by entering into dialogue at all, one instinctively assumes that genuine, uncoerced consensus is possible – simply because we presume that the better argument will win – otherwise dialogue itself would be superfluous. It follows that any dialogue in its initiation assumes the possibility of a discursive situation free from coercion, which Habermas calls the Ideal Speech Situation, or ISS. This provides a means of identifying the influence of coercion in different forms in both dialogue and decision-making, by contrast to a 'normative standard that is not arbitrary but "rooted in the very structure of social action and language"' (Habermas in Held 1980: 345). Habermas uses the two different forms of rationality, communicative and instrumental, to reflect the differentiation of two spheres of action: the lifeworld, governed by the normative imperatives of communicative rationality, and the system, which is governed by a strategic, success-oriented rationality. The separation of the two occurs as the increasing size and complexity of modern societies demands increasingly complex interactions between members, until such relationships appear to require mediation by the state in their coordination: through the form of entirely "delinguistified media" such as money and power. There are three important (and related) consequences of this process, which we will return to later. The first is suggested by the social complexity that necessitates state mediation: social actions come to be carried out by systems, which (for their own functioning) work according to imperatives of efficiency and cost-effectiveness which come before the social will that set them into operation. The second is mediation of social will by the state: as Habermas comments, 'the bureaucratic disempowering and desiccation of spontaneous processes of opinion- and will-formation expand the scope for mobilizing mass loyalty and make it easier to decouple political decisions from concrete, identity forming contexts of life' (1984b: xxxiv). Finally, in a significant but often overlooked gesture, Habermas suggests that the means by which such systems are coordinated – most significantly money – affect not only the efficacy but also the very nature of social will. Thus a good that might otherwise mobilize social will – for example, free access to healthcare – can come to be considered in monetary terms by citizens themselves, not just those responsible for its implementation. The primacy of money – both as a coordination mechanism and being fundamental to the reconstruction of social life by the system – is, we might suggest, not arbitrary: it is the vital link to Habermas' Marxian heritage. As we shall see in our discussion of Deflem's article, ignoring this connection distorts the complexity of his project.

In contemporary societies, then, it is possible to be a member of the same "public" as a neighbour, and expect to influence his behaviour through economic processes or the legislative state, having never entered into conversation with him – in short, one acquires a '"second nature"' of a norm-free sociality that can appear as something in the objective world' (Outhwaite 1996: 279-80). However, Habermas is quick to clarify that the aforementioned process is not a simple diminishing of the lifeworld with respect to the system (once the system becomes differentiated from and furthermore independent of the lifeworld) it is the hollowing out of an increasingly complex lifeworld by a system that sets the terms of one's in-

creased integration into society. This dualistic view of society is of paramount importance to Habermas' theoretical perspective. It allows for a combined internal and external critique of system colonization, in contrast to the paradoxical nature of traditional perspectives, which rest on the fact that "the objective conditions under which the systems-theoretical objectification of the lifeworld becomes necessary have themselves only risen in the course of social evolution" (Outhwaite 1996: 278, 281). Habermas is suggesting, in other words, that we can only talk about the lifeworld as being objectified once the process of its objectification is so advanced that it may be theorized: a epistemological shortcoming evident in Marx's theory of base and superstructure. Instead, if we use Horkheimer's definition of a 'critical' theory as one with 'self awareness' of 'the relations that exist between intellectual positions and their social location' (1982: 209), Habermas' work is fundamentally critical because of its synthesis of systems theory and linguistics (epitomised by the concepts of system and lifeworld respectively, and the manner of their operation), which allows us, crucially, to understand the process of lifeworld colonisation in both structural-material and ideational-linguistic terms. Exploring Habermas' innovations to dialectical method that this represents more fully, unfortunately, is somewhat beyond the scope of this paper.

The system must anchor itself in the lifeworld through the adoption of law – rather than the rational argumentation found in communicative rationality – as its normative basis. As Mathieu Deflem asserts, Habermas' perception of law is as both an 'institutionalization of practical discourse on social norms' and also the 'normative legalization of the independent functioning of systems' (Deflem 1994b: 6, citing Habermas 1984: 243-71), reflecting its dual role in reconditioning social interaction and as justificatory of system colonization. Examining the latter role of law leads us to a discussion of legitimation. Habermas carries on the Dialectic's line of thought by asserting that "the contrat social that seals the break with nature", by replacing mythological or theological justifications for rule

> means a new principle for regulating behaviour: the social. It shows by what path 'justice can replace instinct in (human) behaviour.' That situation in which every individual totally gives himself and all of his quasi-natural rights to the community sums up the conditions under which only those regulations count as legitimate that express a common interest, that is, the general will
> (Habermas 1984a: 185).

We are, then, presented with two problems. Firstly, Habermas asserts that claims to legitimacy represent 'the social-integrative preservation of a normatively defined identity' (1984a: 185). We can infer then that the loss of normative values in the coordination of the system, and the adoption of a legalistic second nature by citizens for the purpose of interaction with the system, combine to make legal processes a form of endogenous systemic self-justification. Secondly, in the co-evolution of advanced capitalism and liberal democracy, monetary-economic processes (which are norm-free, and thus without the need for justification) came to be included in a "theory of civil society that explained the bourgeois

system of civil law, the basic liberties of the citizen, and the capitalist economic process as an order that guaranteed freedom and maximized welfare" (Habermas 1994a: 192). In the course of state-building in advanced democracies, the related development of capitalism and its systemic inadequacies traditionally led to revolts against the state, in the form of hunger riots, tax revolts and so forth (Ibid.: 193). Nationalistic ideologies were at this time enough to justify the integration of the disadvantaged into the capitalist state. Following the triumph of this process in now-established democracies, however, these conflicts were internalized through law into society, such that "the bourgeois state could no longer rely on the integrative power of national consciousness alone; it tried to head off the conflicts inherent in the economic system and channel them into the political system as an institutionalized struggle over distribution" (Ibid.).

The emergence of the welfare state – a somewhat problematic phenomenon for the Marxist basis of Critical Theory – is based, according to Habermas, on the most recent 'wave of juridification', the first of which institutionalised in law the relationship between capital and wage labour (Outhwaite 1996: 297). The symbiotic relationship between capitalism and liberal democracy is enshrined in the welfare state's function in compensating for the inequalities and functional disenfranchisement that result from its establishment. It is expressed practically in the 'legal institutionalization of collective bargaining', which restricts the disadvantaged to state-mediated means of societal advancement and, in concert with "progressive" social policy, amounts to a 'pacification of class conflict' (Ibid.: 287). The functional disenfranchisement mentioned previously can be understood in terms of a clientelist relationship between welfare state and citizens, the latter of whom become "customers who enjoy the benefits of the welfare state" (Ibid.: 290), and are politically neutralized. The non-communicative (and so norm-free) nature of this relationship is revealed, for example, by the monetary form of benefit payments and compensation. In terms of Habermas' view of the structural transformation of the public sphere, the welfare state is the manifestation of an unchecked invasion of the lifeworld by the system, through the adoption of lifeworld roles by the state (for example, care of the elderly, or compensation for productive time lost to reproduction). In summary, then, the welfare state is the completing process by which the system legally grounds itself in the lifeworld, and the ultimate self-legitimation of the capitalist state.

The interaction between society and the construction of law and state outlined above is also the focus of Deflem's paper, "Social Control and the Theory of Communicative Action". Deflem attempts to offer a critique of the school of thought known as social control theory, which has important links to the "Chicago School" in sociology and criminology. Significant parallels can be drawn with the Frankfurt School; indeed, the Chicago School's philosophical progenitors – amongst them John Dewey and George Herbert Mead – are mentioned frequently in Habermas' work. The Chicago School's philosophical basis was, therefore, pragmatism, which according Martin Bulmer's account of the school 'involved rejection of the dualism between mind and matter, subject and object, knowledge and things known'(1984: 29). The Chicago School's methodology accordingly 'encouraged the direct empirical study of society through firsthand inquiry'(Ibid.: 31). In this sense, while the

Chicago School aimed to bring material realities closer to theoretical enquiry, the Frankfurt School hoped to bring its theoretical enquiry to bear upon those material (and political) realities. We will keep this contrast in mind when discussing the inheritors of both: namely, social control theorists and Habermas.

Deflem uses the work of Habermas and Michel Foucault for critical support in his discussion of both the abolitionist and revisionist categories of social control theory. Our discussion will focus on his use of Habermas, drawing attention to several important short-comings. In his introduction, Deflem outlines the evolution of the concept of "social control" from its original construction in the 19th century as 'the capacity of society to regulate itself and to secure harmony and unity in social life' to a more restricted study of "deviant behaviour and crime" (1994: 355-6), which at once isolates and individualizes the concept. Deflem thus extends this definition for his purposes to refer to 'those social mechanisms that are brought into play to react to (prevent, reduce and detect) crime and secure obedience to social norms' (Ibid.), allowing him to engage with both Foucault and Habermas' theories. Deflem identifies two contemporary reformatory currents in social control theory to Habermas' work. The first being is an abolitionist approach that characterises crime as an "arbitrary social category to mark behaviour considered unacceptable" (Ibid.: 359) in particular societal conditions. The failings of the legal system therefore originate in the treatment of crime as an event isolated from the wider social context it originates from, which dehumanizes the problem and leads to the prescription of an ineffective and often unjust form of social control as its solution (Ibid.: 359). Phenomenological abolitionist theories advocate, then, the relocation of social problems into the lifeworld, so that small-scale, de-professionalised alternatives to the expression of the potential criminal's societal dislocation can be found. Structuralist abolitionists, on the other hand, suggest that – as an extension of the juridificating alliance between capitalism and the state – the criminal justice system inherently serves to reproduce the dominant order and preserve the status quo, and therefore advocate abolitionism of a more far-reaching nature, calling the order itself into question. For Deflem, both approaches are somewhat haphazard in their interpretation of Habermasian theory (Ibid.:362). Correctly identifying the dual nature of Habermas' perception of society as one in which both lifeworld and system increase in complexity, and the reflection of this dual nature in Habermas' use of both systems-theoretic and normative analysis, he discredits the purely lifeworld-oriented perspective of phenomenological abolitionism. The structuralist account, meanwhile, he considers irrelevant due to its emphasis on the system's independence when acting back upon the lifeworld. 'Both positions', he concludes, 'do little justice to Habermas' objective to construct theoretical integration [of systems-theoretic and communicative-normative rationality]' (Ibid.:361).

At this point, Deflem's commentary turns to a comparison of Foucauldian and Habermasian formulations of social control, distinguishing Foucault's all-encompassing state of regulation acting in the power dynamics of immediate relationships from Habermas' larger analysis of society based on his theory of system colonization of the lifeworld. The differing loci of control in the two theorists' work would necessitate different responses in the

interests of reform. According to Deflem, a response based on Foucault is sympathetic to the abolitionist perspective and would 'motivate local struggles against power and domination' (Ibid.:363), while a view based on Habermas

> *suggests the potential advantages of control and legal mechanisms, if only they are suf-*
> *ficiently attuned to the needs of the lifeworld. It has indeed been suggested on the basis*
> *of Habermas' theory that criminal law procedures and its enforcement can actually*
> *contribute to more equity and justice when they seek a protection of human rights.*
> *Habermas-inspired theorists have even proposed to expand the existing legal regula-*
> *tions to limit the colonizing capacities of systems and protect the lifeworld*
> (Deflem 1994: 363).

The second, revisionist category of social control theories presented by Deflem, assert that alternatives to simply repressive methods of control serve in fact to bring about increased repression when taken as a whole. These methods entail the proliferation of the means of control on the individual level through, for example, "diversion, treatment and re-socialization processes", while on the collective level the state is engaged in "pro-actively surveying a nation of suspects" (1994:365). The primary criticism of this revisionist category in the social control literature is its preoccupation with methods and lack of investigation of their underlying rationality, which Deflem seeks to rectify through employing a Habermasian lifeworld-system perspective. A Foucauldian perspective, then, can account for the methods of the new control, experienced by the individual as a panoptically-controlling state in its "pervasive and intrusive aspects" (Ibid.:366), while its operation in society and how it is sanctioned and administered by a bureaucratic state can be understood through a Habermasian, societal view. Furthermore, still following Habermas, we see that at the core of the functioning of the state is an instrumental, de-normatised rationality that causes it to view citizens as administrative problems. This synthesis allows Deflem to avoid the inevitable conclusion of the revisionists – with their analytical emphasis on methods – that there is a "self-functional absolute strategy of control" (Ibid.: 367), and maintains the possibility of a form of social control originating in the lifeworld that can be protective of individual freedom. Deflem appears to assert here that there is a lifeworld demand for social control that is corrupted at once when implemented by the state, with its tendency to bureaucratization, and by private companies and the market, with their tendency towards commodification and economic efficiency.

What Deflem appears to overlook – initially in his criticism of abolitionism, and later in his discussions of revisionist views – is that although Habermas employs a unique methodology in combining two perspectives in his analysis, the result is intended to be a basis for critique. Habermas' reconstruction of communicative rationality does not give it force in the material world. Indeed, in his discussion of abolitionist social control theories Deflem appears to misunderstand entirely Habermas' conclusions regarding the differentiation of system from lifeworld, particularly that the system does acquire a certain independence with

which to "instrumentalize the lifeworld while giving it the illusion of self-sufficiency" (Outhwaite 1996: 282). There is, furthermore, clear material force behind the system when manifested in state power – the punitive force behind the law. Indeed, although the invocation of the coercive power of higher authority in dialogue renders it distorted and instrumentalised, communication in the context of direct coercion is equally distorted, if not nonexistent. In short, the normative, consensual basis of communicative rationality allows for the formation of conviction and so gives power to the individuals concerned, but this is not a material power operating in society at large.

Deflem appears to intend to use Habermas to complement Foucault, such that the latter provides an understanding of mechanisms of social control as it acts in society, while the Habermasian concepts of system, lifeworld and colonisation act as conceptual framework for the concept of social control itself. This necessarily complicated fusion, however, ends up becoming a similar 'intellectual hodgepodge' to that which he accuses pure syntheses of the two theorists of creating (Ibid.: 264). Deflem, using Habermas as a society-level analytical tool, misinterprets the implications of Habermas' work in terms of the individual in his work (Deflem 1994:363). Habermas not only specifically refers to the 'neutralization of the citizen' (Outhwaite 1996: 290), but the entirety of his work is explicitly grounded in a view of liberal democracy and capitalism as resulting in the atomization of the citizen, in the first case due to the individual orientation of rights and in the second due to the isolation and alienation that stems from the nature of mass production and develops into technocracy. The "structural violence" Habermas refers to in The Theory of Communicative Action is of an individualizing nature, because it "takes hold of the forms of the intersubjectivity of possible understanding" (quoted in Outhwaite 1996: 282). In short, although Habermas' theories are societal in scope, the societal phenomena he identifies have clear implications for the individual, and to lay them alongside Foucault's as a kind of systems analysis distorts their meaning. Any attempt to divorce Habermas from his Marxian roots, moreover, should be treated with caution. Although Deflem does acknowledge that understanding how system and lifeworld are differentiated requires "taking into account the 'material substratum' of society and its pattern of reproduction" (Deflem 1994a: 357, quoting Habermas 1987a), this understanding does not appear to be integrated into Deflem's commentary in any substantial manner. The loss of some of the traditional concerns of Habermas' theoretical predecessors (such as the atomization of the individual) therefore somewhat confuses and weakens Habermas' critique as Deflem represents it. His advocacy of 'a total demystification of power and surveillance structures, as well as of their understanding in theory and research' (Ibid.: 369, citing Cohen 1988) loses both force and appropriate direction when he locates the "problem" of social control in system colonisation of a necessary social control function, not the wider system that advances colonisation and requires such control.

In summary, then, Deflem inadequately represents Habermas in two ways. Firstly, Habermas recommends no specific course of political action with which to confront the material power of the state either in his theories of communicative action or the structural transformation of the public sphere. The theoretical tools for challenging system coloniza-

tion of the lifeworld, then, are accompanied in Habermas only with the imperative to engage in communication that is uncoerced and geared towards understanding. It is precisely this process that would generate a political programme, the outcome of which, as Habermas would admit, he is not capable of outlining. Secondly, although Habermas reconstructs and so adapts Marxian theories on capitalism and liberal democracy in the context of their mutual dependence, they form the basis of his perspective. A narrowly conceived, alienating individualism is perhaps the most basic failing of both in the Marxian view, and breaking down this construction in favour of intersubjectivity must therefore be the primary concern of any theoretical or practical application of Habermas. More significantly, although Habermas has no explicit political programme, it takes little interpretive ability to understand where a Habermasian politics would be directed: precisely against the juridificating alliance of state and capitalism, not against his own concepts.

BIBLIOGRAPHY

Agger, B. (1985), "The dialectic of deindustrialization" in Forester, J. (ed.), Critical Theory and Public Life, Massachusetts: MIT Press.

Bulmer, M. (1984), The Chicago School of Sociology: Institutionalization, Diversity and the Rise of Sociological Research, Chicago: Chicago University Press.

Deflem, M. (1994a), "Social control and the Theory of Communicative Action", International Journal of the Sociology of Law 22, pp. 355-373.

Deflem, M. (1994b), "Introduction: law in Habermas's Theory of Communicative Action", Philosophy and Social Criticism 20, p. 1-20.

Habermas, J. (1984a), Communication and the Evolution of Society, Cambridge: Polity.

Habermas, J. (1984b), The Theory of Communicative Action: Reason and the Rationalization of Society, Vol.1 (trans. McCarthy, T.), Boston, Beacon.

Held, D. (1980), Introduction to Critical Theory: Horkheimer to Habermas, Cambridge: Polity.

Horkheimer, M., and Adorno, T.W. (1972), The Dialectic of Enlightenment, New York: Herder and Herder.

Horkheimer, M. (1982), Critical Theory: Selected Essays, New York: Continuum.

Marx, G.T. (1986), "The Iron Fist and the Velvet Glove: Totalitarian Potentials Within Democratic Structures", in Short, J. E. (ed.), The Social Fabric: Dimensions and Issues, accessed online 6/11/2008, at <http://web.mit.edu/gtmarx/www/iron.html>.

Outhwaite, W. (1994), Habermas: A Critical Introduction, Cambridge: Polity. Outhwaite, W., Ed. (1996), The Habermas Reader, Cambridge: Polity.