

**COMMUNICATIVE ACTION AND THE RADICAL CONSTITUTION⁺:
THE HABERMASIAN CHALLENGE TO HAYEK, MISES, AND THEIR DESCENDENTS**

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Abstract

This paper evaluates Jurgen Habermas's typology of action and his recent call for a radically democratic rule of law. The theory of action that Habermas develops, however, differs significantly from the science of action (praxeology) of the Austrian school. As such, it represents a methodological challenge to Austrian praxeology. Additionally, Habermas's criticism of the welfare state is shown to be somewhat consistent with Hayek's criticisms, but his alternative to the welfare state challenges the political vision of many Austrian economists. This paper attempts to demonstrate that both Habermas's and the Austrian school's efforts suffer from similar weaknesses and epistemological pretenses.

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1. Introduction

Habermas's work has long struggled with the problem of channeling a discussion of value orientations from the citizenry through the political structure; of retaining the notion of politics as a form of *moral* discourse as opposed to the merely technical or *strategic* coordination of people's plans. In his earlier work, he seems almost to have taken it for granted that politics *should* provide such a forum; his most recent work attempts to deduce – *from a universal first principle* – why politics ought to do so. He attempts to determine the structures of a morally legitimate polity. He believes he deduces from a first principle the western ideal of the rule of law as a deontological moral claim (as opposed to Mises's and Hayek's utilitarian justification); according to Habermas our moral makeup is such that we have no choice but to support the rule of law. Moreover, however, his deontological claim requires the further character of a radically participatory polity. He strives to make the case not for a mere rule of law, but a radically democratic rule of law grounded in a deliberative politics of, ideally, *all* the participants within society.¹

There is little doubt that Jurgen Habermas is aware of F.A. Hayek's work. But citations to Hayek, in Habermas's body of work, are very rare, and, generally, not especially appreciative (Habermas 1998, pp. 152, 533 n. 18). There is also little doubt that some Hayekian economists have become aware of Habermas's work over the past fifteen years or so. Surprisingly, their nods to Habermas are not always contentious, but are, instead, occasionally appreciative.²

How can it be that Europe's leading philosopher in the Frankfurt and Critical School traditions can gain any kind of sympathetic reception among Hayekians and students of the Austrian School of economics in general?

The answer is that he speaks to many of the Austrian's concerns. Like Hayek, the early Habermas wrote a lengthy critique of scientism. Like Hayek, Habermas has recently attempted a sustained defense of the institutions of western constitutional democracy and the rule of law, undoubtedly his most ambitious project to date. And like Hayek – but especially von Mises – the recent work of Habermas is, as we will attempt to show, a praxeological effort, one that attempts to deduce implications from the primordial fact of human action. Habermas's praxeology is not concerned with the universal economic implications of human action and the institutional rules that enable or obstruct the coordination of peoples' strategic plans. Rather, Habermas attempts to deduce the universal moral implications of human action and the institutional

frameworks that enable or obstruct the coordination of peoples' plans as agents engaged in moral discourse. His conclusions are not, however, entirely consistent with those of classical liberalism.

Habermas, therefore, presents a challenge to contemporary Hayekians and liberal social theorists. As the leading post-Marxist theorist on the Continent, Habermas's work cannot be simply dismissed or ignored, nor conveniently cited where he appears to saying something that classical liberals find consistent with their own visions and sentiments.

This paper is set forth as follows. In Part II we compare Habermas's theory of action and his praxeological system with that of Mises. For Mises, praxeology is the scientific study of purposeful behavior. "Action," Mises (1966, p. 11) writes, "is will put into operation and transformed into an agency ... [it] is a person's conscious adjustment to the state of the universe that determines his life." Action, then, is, to use Habermas' phrasing, instrumental or strategic. Habermas, however, contends that there is a third kind of rational human action that can and should be studied. Consequently, he speaks of "*communicative* action whenever the actions of the agents involved are coordinated not through egocentric calculations of success but through acts of reaching understanding."

In Part III we critically interpret Habermas's deduction of a democratic rule of law as a praxeological effort that challenges the Mises-Hayek vision of the minimal state, and we offer a concluding reflection in Part IV.

2. Habermas's theory of action.

Habermas's body of work is full of intellectual twists and turns. His early efforts critiqued scientism. Rather than being *wertfrei* (value free), as it claimed, Habermas believed that scientism is itself an unfounded value system. It is not only an erroneous, unreflected prejudice about the nature of knowledge; it has grown into an ideology. Moreover, as an ideology, it cannot be rationally justified from within, for scientism denies the rationality of any value orientation, which, to be consistent, must include its own (McCarthy 1978, p. 6). It's an ideology that merely retains the illusion of a commitment to objective theory and objective policy solutions. "As soon as the objectivist illusion is turned into an affirmative *Weltanschauung*, methodologically unconscious necessity is perverted to the dubious virtue of a scientific profession of faith" (Habermas 1971, p. 315). Scientism's pretense "directs the utilization of scientific

information from an illusory viewpoint, namely that the practical mastery of history can be reduced to technical control of objectified processes” (Habermas 1971, p. 316).

This is a pretense of knowledge that, Habermas warns, destroys a democratic society of free and equal people. It cuts off possibilities for moral discourse (a rational discussion of the social ends). The scientific ideology of his time, Habermas argued in the 1960’s and 1970’s, encourages the participants in the political institutions of a constitutional republic to act as mere players and opportunistic strategists, for values are now reduced to the merely personal and subjective, arbitrary, and ultimately irrational. Politics and public policy are now scientifically shaped: they meld into a series of merely technical, means-ends problems, with the ends considered as given. Because the contemporary, interventionist welfare state fails to provide a channel for a public discourse over the aims, goals, and norms within society, and cannot fundamentally improve upon the irrationality of its own policy plans (let alone what Habermas perceives as the inherent problems of dynamic market processes), the interventionist state struggles on the brink of a legitimation crisis (Habermas 1974, p. 5).

And yet, quite recently, Habermas made the following observation: “today, in contrast to the situation in the 1960s, technocracy theories no longer play a role in the social sciences, and the planning craze and naïve belief in science have evaporated” (Habermas 1997, p. 139), so much so that “technology and science, as an ideological programme, have lost much of their public effectiveness. My analysis of 1968 cannot simply be extended today” (Habermas 1986, p. 181).

Habermas seems to have moved to other issues. He was concerned with scientism. Later, in the early 1970s, he was concerned with refashioning our analysis of the forces and relations of production by introducing new abstractions like work and interaction. But then by the late 1970s he abandoned that project in favor of something he called the “ideal speech situation.” That, too, was abandoned – he now views the ideal speech situation as an unfortunate term, if not an unwitting example on his behalf of the fallacy of misplaced concreteness.³ Today he speaks instead of the universal moral implications of communicative action.

These shifts can be aggravating, and many ink-jet cartridges have been trashed through endless discussions of Habermas’s inventions of new terms and modes of analysis, only for him to then alter if not abandon those in favor of yet other terms and modes. What do we make of his earlier work? Relevant only

for the times? Although the circuitous mapping of Habermas's thoughts has created a cottage industry of Habermasians who attempt to make sense out of each new book he writes, Habermas's more recent work on communicative action, in our view, is profoundly concerned with correcting at least the general implications of the above "cost" of the contemporary political system. He has continued to examine the legitimation problems of the interventionist state, initially as a scientific-technocratic system, then in its contemporary welfare-state formation, not only in his 1975 book, *Legitimation Crisis*, but also in his *Communication and the Evolution of Society* (1979, esp. pp. 178-205) right through to his magnum opus, *Between Facts and Norms* (1998).

We believe Habermas's recent work is something that contemporary Hayekians (and Misesians) have to come to terms with, *not* because this is Habermas's latest twist in a long and winding research agenda, but instead because *it strikes the center of a theory of human action and plan coordination – long the concern of the Austrian school*. Habermas's earlier criticism of scientism and technocracy, we shall soon see, is but one historically important example of a more general problem of plan coordination, strategic and moral. In our view, he has recently engaged in a praxeological exercise, the kind long considered the province of Austrian economics, especially in the work of Mises and his followers. Indeed, as far back as 1974 he began to sketch out its course:

the practical utilization of knowledge, its translation into technologies and strategies, on the one hand, and communicative praxis on the other, can also be prepared scientifically: this is the task of a praxeology which still remains in its very beginnings, and to which the investigation of possible interactions between science and politics would also belong (Habermas 1974, p. 6).

We must admit that, when Habermas first made these statements, none of his work appeared to be praxeological (in the Austrian sense) however generously interpreted. But his more recent effort in *Between Facts and Norms* appears to be just that, with all the grand claims, trappings and pitfalls that a singularly praxeological approach entails. Similarly, his volumes on *The Theory of Communicative Action* were self-consciously praxeological; they were both attempts to develop the science of rational human action. Habermas has clearly embarked upon something that Austrians can and should make sense out of, especially because his normative conclusions substantially diverge from those of the Austrians.⁴ If they

cannot come to terms with Habermas's system, then both their philosophical underpinnings as well as their elaborate claims to absolute truth become profoundly questionable. Careful consideration is in order.

To make sense out of this, and to clearly see the challenge that confronts the Austrian position, we shall proceed by discussing Habermas's theory of strategic and communicative action.

Plan coordination through strategic and communicative action.

Habermas, in an attempt to correct Weber's notions of rational action, distinguishes action in two dimensions, based upon (1) the orientation of the action and (2) the situation within which the action is performed (Habermas 1984, p. 285).⁵

Instrumental action is action oriented toward success (say, psychic profit), undertaken in a non-social situation (Habermas 1984, p. 285). You change a tire on your car; John Hartford practices the fiddle; Mother Teresa untangles her knotted rosary; Crusoe crafts a fishing net. These are examples of instrumental actions in Habermas's sense. They are purposive-rational actions, undertaken after a comparison of expected costs and benefits in a non-social setting.

Strategic actions, for Habermas, are similar to instrumental action but differ in that they are undertaken in a social setting. Strategic actions are oriented toward success in a social setting, in which my success will directly depend upon your actions (Habermas 1984, p. 285). Crusoe, for example, becomes a strategic actor once he discovers Friday on the island. Your action switches from the merely instrumental to the strategic when you discover that your spare tire is also flat and decide to call a tow truck. You are still oriented towards success. You undertake a calculation of costs and benefits and decide it's in your interest to pay for the tow. The owner of the tow truck also undertakes a cost-benefit evaluation. Each of you expects to enjoy a net gain (psychically, financially, or a combination of the two), and your strategic actions are coordinated in light of your expectations. They can be judged, ex post, as to whether they really were profitable.

Now we're saying nothing that economists do not already know. Indeed, Habermas himself maintains that rational choice theory captures these important elements of human action, the instrumental and the strategic (Habermas 1994, pp. 2-8, 166; 1998, pp. 27, 37). Both the instrumental and strategic actors make decisions in light of given ends. It is squarely teleological behavior. Whether those ends are ethical or not, whether they are selfish or altruistic is beside the point. The common denominator is that the

ends are considered given, and it's a matter of the selection of the most efficient use of means to attain those ends.

Communicative action, on the other hand, takes on a conceptually different orientation. Here, the *primary* concern of the actors is not individual success – they are not attempting to causally influence others to get what they want (my seventy five dollars entices you to assist me) – but instead they attempt to reach not merely a contractual agreement but an *understanding* with the other (Habermas 1984, p. 286). Like strategic action, communicative action is necessarily teleological.⁶ Like strategic action, communicative action can have unintended consequences.⁷ Like strategic action, communicative action is necessarily social. And, like strategic action, communicative action (where it succeeds) requires that participants reach an “agreement.” But, by attempting to reach an “understanding,” Habermas does not mean mere agreement based on the voluntary actions between two parties (“Yes, I will pay you seventy five dollars for the tow” / “Okay, then, I’ll take your vehicle to the station in twenty minutes.”). As Habermas (1984, p. 287) says, “Processes of reaching understanding aim at agreement that meets conditions of rationally motivated assent ... to the content of the utterance. A communicatively achieved agreement has a rational basis; it cannot be imposed by either party; whether instrumentally through intervention in the situation directly or strategically through influencing the decisions of opponents.” The kind of agreement that communicative action is oriented toward is founded on a shared or coordinated set of convictions, on explicitly shared reasons, or tacitly shared presuppositions that each actor holds as valid (Habermas 1984, p. 287).⁸

Efforts to reach agreement through speech acts (explicit linguistic processes) succeed “if the other [the hearer] accepts the offer contained in it by taking (however implicitly) a ‘yes’ or ‘no’ position on a validity claim that is in principle criticizable” (Habermas 1984, p. 287; cf. 1990, p. 202; 1994, pp. 145, 154, 163-65). Stated another way, linguistically mediated interactions are only meaningfully understood as communicative action when they put forward validity claims that are recognized by the hearer. These are claims to truth (about the objective world), claims to rightness (about a shared social world) and claims to truthfulness (about one’s own subjective world). Examples of each might include the claim “God exists” (a claim to truth); “The Ten Commandments are appropriate for our society” (a claim to rightness); “I am a faithful Christian” (a claim about one’s subjective world). In the first two claims, the participant must

provide reasons and arguments to support her “yes” or “no” positions. In the third claim, the participant who utters it must display consistent behavior (not my words, but my actions over time convince you or demonstrate to you that I am a hypocrite).

Habermas maintains that people engage in communicative action “when the participants coordinate their plans of action consensually, with the agreement reached at any point being evaluated in terms of intersubjective recognition of validity claims” (Habermas 1990, p. 58). Notice how the simple Crusoe setting, emphasizing the instrumental character of action, and the exchange setting, emphasizing action’s strategic character, differ conceptually from his notion of communicative action. This will set the basis, as we shall soon examine, for Habermas’s attempt to analyze and correct the “cost” of the scientific or welfare state’s structural obstacles to channeling moral-communicative discourse through the polity. But before we do so, it might be worth juxtaposing Habermas’s theory against the Austrian theory of human action, particularly that as presented by Hayek’s predecessor, Ludwig von Mises.⁹

Excursus on the scope of praxeology, Misesian and Habermasian.

Like Habermas, Mises was dissatisfied with Max Weber’s typology of rational action. Mises devoted a good portion of his *Epistemological Problems of Economics* (Mises, 1981 [1933]) to refashioning all action into a rational-purposive concept. His later treatise, *Human Action* (1966), attempts a systematic deduction of core economic theory from the principle of rational human action. One of his last books, *The Ultimate Foundation of Economic Science* (1978), offers further amplification and justification of his praxeological system, a purely formal and *a priori* theoretical system (Mises, 1966, p. 32).

What’s useful for our purpose at hand is Mises’s discussion of the scope of praxeology. Mises makes the following distinctions (Mises, 1966, p. 234):

- *Praxeology* is the general theory of human action. It deduces or scientifically studies the logical implications of *praxis*, human action.
- *Economics* studies the coordination of plans, which is primarily concerned with the coordination of plans within a market process. However, it also includes the coordination of plans of the

isolated individual (a hypothetical Crusoe, for example, wants consistent plans through time) as well as the coordination of plans in non-market systems, such as centrally-planned socialism.

- *Catallactics* studies the coordination of plans strictly within a market process; its specific task is to study the role of money, prices, and monetary calculation in the exchange of private property.

In this typology, catallactics (literally the “science of exchange”) is a subset of economics. And economics is a subset, and, in Mises’s view, the most developed subset, of praxeology. He goes so far as to say that “economics, up to now [is] the only elaborated part of praxeology” (Mises 1966, p. 66). Figure 1 (on page 36 of this paper) depicts Mises’ position.

Performative contradictions provide, in large measure, the basis for the *a priori* status of human action *and* its logical implications (Mises 1966, p. 104; cf. 34, 64, 67).¹⁰ Figure 1 (and Mises himself) suggests, however, that the scope of praxeology is not limited to economics. But what would those less developed subsets of praxeology look like? Mises claims that “there is no action in which the praxeological categories do not appear fully and perfectly. There is no mode of action thinkable in which means or ends or costs and proceeds cannot be clearly distinguished and precisely applicable” (Mises 1966, pp. 39-40).

How does Mises’s typography square with Habermas’s? For Mises, catallactics is a science of *calculative* action – money, market prices, and so on allow actors to coordinate their plans through independent calculations of economic profit and loss. “Calculation is only possible with cardinal numbers,” Mises (1966, p. 97) insists, and the market economy’s relative price structure provides just that. This, by the way, would square well with Habermas’s concept of strategic action. What of his notion of instrumental action? Well, Mises places the means-ends rationality of the socially isolated actor (our Crusoe) out of the realm of catallactics and into the more general realm of economics. The isolated actor, outside of a monetary exchange process, does not *calculate*, but must instead transform means into ends on the basis of strictly *ordinal* value comparisons. The isolated Crusoe is interpreted as seeking “psychic” profits and avoiding “psychic” losses when he decides to craft his fishing net. The “costs” and “proceeds” are important psychic or mental phenomena that rationally guide the individual’s action. For Mises, this is

non-calculative action, for Habermas it is instrumental action. Although Habermas tends to equate instrumental action with calculative action (recall, to him the only difference between instrumental and strategic action is the non-social or social environment), we understand Mises's distinction between calculative and non-calculative action on the basis of cardinal and ordinal distinctions. (More specifically, for Mises calculative rationality can only arise in a society with money and monetary prices.) We shouldn't expect Habermas to hold such positions.

Mises's action theory does, however, pose a peculiar problem, discussed most clearly by Parsons (1998). Mises claims that *all* action is of *this* calculative or non-calculative variety, so all action must be interpreted with the marginalist tools of rational choice theory.¹¹

Figure 1 helps further expose Mises's possible error. He places calculative action under catallactics, which is reasonable. But he places non-calculative action (let's call it instrumental action, with Habermas) not under economics, but under praxeology *as a whole*. He has skipped a stage. It seems more reasonable were Mises to place it under the non-catallactic domain of economics; instead, he bumps it up and out of that domain and into praxeology itself. Therefore, for Mises, not only catallactics, and not only economics, but *praxeology itself*, and therefore *the entire scope of human action*, can only be undertaken and investigated with marginalist, cost-benefit concepts. What, then, would be the difference between economics and the rest of the social sciences?

Mises's typography would seem to differ significantly from Habermas's theory of action. Habermas therefore represents, at this level, a methodological challenge to Austrian School praxeology. While we think he might agree that marginalist concepts make sense in economics, and especially catallactics, Habermas seems to argue that these concepts are not necessarily relevant for the entire scope of praxeology. The praxeological theory of Mises and his followers, in other words, only acknowledges the instrumental and strategic dimensions of human action, and fails to acknowledge something like communicative action.

Habermas's notion of communicative action, as we see it, falls within praxeology but outside of the entire domain of economics. Hence, when Habermas writes that "one who wishes to act purposively decides between alternative available courses of actions in light of preferred goals and selects his goals in light of his values," (Habermas 1994, p. 63), he sees this as either instrumental or strategic, as it is oriented

toward success, and can be judged as psychically or financially profitable or not. The problem with Mises is that his notion of praxeology reduces all action to these two dimensions. But, for Habermas, action also has the communicative dimension, in which “one who wishes to act morally decides between alternative available courses of action in light of norms he believes to be right, and the correctness of these norms is determined by whether they are equally in the interest of all potentially affected” (Habermas 1994, p. 63). This “correctness” is problematic and can only be decided through moral discourse. Mises, however, takes all values or goals as “givens,” and thereby precludes something like communicative action from the outset.¹²

The universal implications of communicative action: A first consideration.

While Mises the Austrian economist attempts to deduce the implications of action using marginalist analysis, Habermas the critical theorist attempts to deduce the moral implications of communicative action using discourse theory.

Both make epistemological claims regarding the intersubjective validity of the implications.

Mises, for example, maintains a neo-Kantian claim: “in addressing his fellow men [the positivist in this case] presupposes – tacitly and implicitly – the intersubjective validity of logic and thereby the reality of the realm of the alter Ego’s thought and action, of his eminent human character” (Mises 1966, p. 24).¹³

Habermas, too, draws the universal presuppositions out of action, namely, communicative action. Recall one aspect of communicative action – claims to truth. While claims to truth are made by giving reasons, making arguments, and, more generally, through “speech acts,” claims to normative validity reside in the perhaps tacit, shared norms of those engaged in communicative action. They already exist within the agents engaged in communicative discourse (Habermas 1990, p. 60). They are intersubjective, and independent of particular time and place, and hence universal... not unlike Mises’s “logical categories of the mind.” They, too, are *a priori* givens, for “normative validity claims are built into the universe of norms” (Habermas 1990, p. 61). Like Mises, too, Habermas will explicitly defend these *a priori* givens using the logic of performative contradictions (Habermas 1990, p. 80, 99ff.). But here’s the primary difference: while Mises makes a case for the universality of logic and reason, Habermas is making a case for a set of universal *moral* intuitions. “In fact,” Habermas reports, “I am defending an outrageously strong

claim in the context of philosophical discussion: namely, that there is a universal core of moral intuition in all times and all places” (1986, p. 206).

Hence, in our view, while Mises attempts a value-free economic science of human action, Habermas attempts a deductive system of morality, which branches out of the non-economic domain of praxeology. Imagine squeezing in another circle (or a banana-shaped region) within the non-economic dimension of our praxeological circle in Figure 1. Call it “Discourse Theory” after Habermas. So we’d have the development of two major dimensions of praxeology – economics and discourse theory. While the space would be quite limited in Figure 1, as it’s drawn, we could imagine Habermas reasonably claiming that it *should* be the largest of the subsets, seeking to deduce the universal moral intuitions from the primordial fact of human communicative action (see Figure 2).

But just what *are* these universal moral intuitions?

Habermas starts by pointing out that all individuals share the universal of language use. *Any* individual, under *any* circumstance, who engages in communicative action proceeds on an intersubjectively, and universally valid, set of assumptions. In taking part in a conversation that seeks to reach understanding, *all* participants pragmatically assume, for example, that they share the same abstract rules of language and argumentation (Habermas 1990, p. 82). We all know what it means to lie, for example. We know what it means to engage in, or be victims of, fraud, deceit, manipulation. We know what it means to abuse the trust of another, or to have our trust abused, to abuse the norms or rules that are assumed when we attempt to reach an understanding with another (hence, even the Bakwainian rainmaker is alert to potential abuses). This is why we are especially offended by, say, moralists who behave deceitfully, or people entrusted to watch children who secretly abuse and defile them. *Anybody* in *any culture* has the capacity to understand what it means to be defiled, cheated, lied to. The rainmaker understands that as well as Dr. Livingstone.

Therein lay the universality of a communicative discourse. The participants expect not to be lied to, bullied, coerced. If they perceive such actions, they see that the underlying rules of the game have been violated, and they become aware that the participants are not engaged in conversation as an effort of reaching an understanding, but rather as an instrument or strategy to accomplish one’s own purposes (Habermas 1994, p. 31).

According to Habermas, the universality of communicative discourse, leads to the principle of discourse ethics, which states that

Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity *as participants in a practical discourse* (Habermas 1990, p. 66; cf. 93, 197; 1998, p. 107).

This is not a moral position in itself, or a normative benchmark (recall he attempted to use the concept of the “ideal speech situation” for that, and eventually abandoned it); rather, the discourse principle is a starting point that offers a way to impartially (and therefore universally) judge people’s practical-moral questions and their moral claims, a standard for ideal role-taking in the public sphere (Habermas 1998, pp. 108-109; cf. p. 114).

3. Communicative action and the discourse principle: The political-constitutional implications.

With this discourse principle, “deduced” from the concept of communicative action, Habermas now attempts to deduce its political-constitutional implications. This is the goal of *Between Facts and Norms*. Recall his concern, discussed earlier, that the technocratic state and the contemporary welfare continuously teeter at the brink of legitimation crisis because the agents within the administration tend to operate strategically, calculatively, taking ends as givens. The state is grounded in a world of “facts” and has broken off from a rational discussion and channeling of “norms.” Habermas now believes he has finally uncovered, through strict praxeological reasoning, the institutional outlets – the justified procedure -- that will provide a channel for the delivery of moral discourse into the political process. The discourse principle will, he believes, “ground the system of rights... so that it becomes clear why private and public autonomy, human rights and popular sovereignty, mutually presuppose one another” (Habermas 1998, p. 84).¹⁴ Habermas believes he justifies a particular set of western constitutional principles that are *morally legitimate*, and *universally valid*. He goes so far as to report that he thinks he can “prove” that his discourse principle, and its political-constitutional implications, are “not just a reflection of the prejudices

of adult, white, well-educated, western males of today” (Habermas 1990, p. 197). It is, instead, posed as apodictic, deduced from a universal first principle. Habermas, therefore, not only challenges the Austrian understanding of the scope of praxeology; he also challenges their normative defense of the polity itself. It is here that Habermas’s approach is most extraordinary.

The principle of democracy and the institutionalization of communicative action.

Habermas argues that the *principle of democracy* provides the legal institutionalization of the discourse principle.

On the premise that rational political opinion– and will-formation is at all possible, the principle of democracy only tells us how this can be institutionalized, namely, through a system of rights that secures for each person an equal participation in a process of legislation whose communicative presuppositions are guaranteed to begin with. Whereas the moral principle operates at the level at which a specific form of argumentation is *internally* constituted, the democratic principle refers to the level at which interpenetrating forms of argumentation are *externally* institutionalized (Habermas 1998, p. 110).

The democratic principle is precisely the device that Habermas has been searching for since his earliest work. The democratic principle provides the channel for moral discourse into the polity. “The principle of democracy,” Habermas insists, “must not only establish a procedure of legitimate lawmaking, it must also *steer the production of the legal medium itself*” (Habermas 1998, p. 111).

The key idea is that the principle of democracy derives from the interpretation of the discourse principle and the legal form. I understand this interpretation as a *logical genesis of rights*, which one can reconstruct in a stepwise fashion (Habermas 1998, p. 121).

So Habermas is not merely providing a plausible interpretation of how the discourse principle could institutionally shape the polity; he is attempting to undertake a *praxeological* argument. He now attempts to *deduce* the logically necessary institutional implications of communicative action.

And what are they? What are rights that he speaks of above? From Habermas (1998, pp. 122-23; his italics):

- “Basic rights that result from the politically autonomous elaboration of the *right to the greatest possible measure of equal individual liberties.*”

But these rights “require the following as necessary corollaries”:

- “Basic rights that result from the politically autonomous elaboration of the *status of a member* in a voluntary association of consociates under the law.”
- “Basic rights that result immediately from the *actionability* of rights and from the politically autonomous elaboration of individual *legal protection.*”

Now, in order for individuals, as legal persons, to become “*authors*” of the polity, they logically require further rights:

- “Basic rights to equal opportunities to participate in processes of opinion- and will-formation in which citizens exercise their *political autonomy* and through which they generate legitimate law.”

These categories of rights, taken together, “ground the status of free and equal citizens.” Now, to make use of that status in discussing and shaping the ends of political action, these rights logically “*imply*” the following:

- “Basic rights to the provision of living conditions that are socially, technologically, and ecologically safeguarded, insofar as the current circumstances make this necessary if citizens are to have equal opportunities to utilize the civil rights listed in (1) through (4) [our first four bullets above].”

And he goes further than that. Habermas believes the above logically imply the rights to immigrate and emigrate, the right to file suit, the right to prohibition against extradition, to political asylum, equal

protection rights that prohibit double jeopardy, retroactive punishment, ad hoc courts, “and so on” (Habermas 1998, pp. 124-26). He sees classical-liberal rights as “interpretations of, and ways of working out, what we might call a ‘general right to individual liberties,’ however these may be specified” (Habermas 1998, pp. 126-27).

But he presents his case as if his rights above are not interpretations of a political problem, but logical implications of the discourse principle itself. His system of rights is “not given to the framers of a constitution in advance as a natural law” (Habermas 1998, p. 128), but rather they are provided by a reflection on the presuppositions behind all communicative action and its logical implications. The tradition of “Natural law” (as all tradition with Habermas) has grown problematic under the pluralist and post-conventional realities of modernity. His discourse principle replaces the sacred, the natural, and the monological use of reason to intrinsically legitimate the law (Habermas 1998, pp. 132-151). In this way “the *democratic process* bears the entire burden of legitimation ... the communicative presuppositions and procedural conditions of democratic opinion- and will-formation [are] the sole source of legitimation.” (Habermas 1998, p. 450).

The political institutionalization of communicative action, for Habermas, clearly “presupposes” the need for the state (Habermas 1998, p. 134), one not only institutionalized on the rule of law, but on the *democratic rule of law*. Habermas sees classical liberal rights of the kind Hayek espouses as necessary but not sufficient for the institutionalization of moral-political discourse (cf. Habermas 1998, pp. 125, 174; 1997 p. 53). His democratic-discursive procedure should “ground the legitimacy of the law,” it becomes a universal “fixed point” through which communicative freedom is utilized and empowered or channeled into legitimate law (Habermas 1998, p. 151, 186). It logically requires the institutionalization of a flourishing public sphere from which communicative discourse shall proceed (Habermas 1998, p. 148). It is through this, rather than authority, abstract “reason” and so on, that legitimacy will be built into the law: “This leads me to propose that we view law as the medium through which communicative power is translated into administrative power” (Habermas 1998, p. 150).

But Habermas is not finished yet. He further claims that the above implies the following constitutional principles (Habermas 1998, pp. 168-76):

- The principle of popular sovereignty
- The principle of political pluralism
- The principle of guaranteeing comprehensive legal protection for each individual
- The principle of binding the judiciary to existing law
- The principle of the legality of administration
- The principle of prohibiting arbitrariness in domestic affairs
- The principle of separation of state and society

Hence, for Habermas,

The leading question of modern natural law can ... be reformulated under new, discourse-theoretic premises: what rights must citizens mutually grant one another if they decide to constitute themselves as a voluntary association of legal consociates and legitimately to regulate their living together by means of positive law? The performative *meaning* of this constitution-making practice already contains *in nuce* the entire content of constitutional democracy. The system of rights and the principles of the constitutional state can be developed from what it means to carry out the practice that one has gotten into with the first act in the self-constitution of such a legal community (Habermas 1998, p. 453).

It appears, then, that Habermas has reconstructed an *a priori* case for the democratic rule of law. Austrian economists have ignored his challenge. In what follows we shall attempt to examine Habermas's *a priori* case through immanent criticism.¹⁵

Application and empirical presuppositions

We cannot explore in detail precisely how Habermas makes all these deductions. Indeed, Habermas rarely shows in detail *exactly* how, say, “the logic of discourse yields the principle of *political pluralism*” (Habermas 1998, p. 171). He often fails to clearly articulate a systematic chain of reasoning that leads him from his discourse principle to political pluralism. It is often unclear when he is interpreting, when he is leaning on questionable empirical claims, and when he is deriving logically necessary implications.¹⁶

Instead, let’s (1) consider the issue of the actual institutional *application* of the discourse principle (assuming its logic is correct to begin with); (2) discuss some of the logical problems with his theory; and (3) discuss how Habermas leans on some debatable empirical assumptions at the level of his apparently pure praxeological analysis.

On the issue of application, an immediately obvious question concerns not only *who* will be able to participate in discursive will formation but *how* people will be expected to accomplish that activity in real institutional settings. The answer to the first question is, of course, everybody in their capacity as citizens. Habermas goes to great lengths to italicize that *all* must be part of the dialogue; otherwise it loses its universal foundation:

valid norms must deserve recognition by *all* concerned. It is not sufficient, therefore, for *one person* to test whether he can will the adoption of a contested norm after considering the consequences and the side effects that would occur if all persons followed that norm or whether every other person in an identical position could will the adoption of such a norm. In both cases the process of judging is relative to the vantage point and perspective of *some* and not *all* concerned. True impartiality pertains only to that standpoint from which one can generalize precisely those norms that can count on universal assent because they perceptively embody an interest common to all affected. It is these norms that deserve intersubjective recognition. Thus the impartiality of judgment is expressed in a principle that constrains *all* affected to adopt the perspectives of *all others* in the balancing of interests (Habermas 1990, p. 65; cf. pp. 67, 74, 210; 1994 p. 24, 175).

While that might provide a universal basis of justification, Habermas swiftly departs from radically democratic participation of *all* in his ideal constitutional state. Habermas is sharp enough to recognize that citizens face real time and knowledge constraints (Habermas 1994, p. 36), so he hopes, in the arena of *applying* the above, that he does not make “impossible demands” on the citizenry:

The principle of universalization must be reformulated in such a way that it does not impose impossible demands; it must relieve participants in argumentation of the burden of taking into account the multitude of completely unforeseeable future situations in justifying norms (Habermas 1994, p. 37).

Habermas, in our view, appears to slip into a theory-practice problem of his own. Having claimed a universal position, he now collapses it into “advocatory” discourse when he begins to apply his theory:

All contents, no matter how fundamental the action norm involved may be, must be made to depend on real discourses (or advocatory discourses conducted as substitutes for them) (Habermas 1990, p. 94).

This leads him to shuffle back and forth between the ideal of *all* participating and the real-world constraints of only *some* participating in the moral dialogue that will shape the course of the constitutional state:

in principle, the taking of yes/no positions cannot be delegated to others. *All* members must be able to take part in the discourse, even if not necessarily in the same way. Each must have fundamentally equal chances to take a position on all relevant contributions with a yes or no. Hence these discourses, for technical reasons must be conducted by representatives, must not be construed in terms of the deputy or proxy model; they simply form the organized midpoint or focus of the society-wide circulation of informed communication (Habermas 1998, p. 182).

He states that this might not only be an issue of application, but of justification itself: “Given the improbability of this form of communication, moral discourses of justification are, as a rule, carried out in advocatory fashion” (Habermas 1998, pp. 182-83). He hopes that advocatory discourses – as opposed to

the communicative moral discourse of *all* affected – will be carried out by representatives who “remain porous, sensitive, and receptive of the suggestions, issues, and contributions,” remain “close to the grass roots,” and so on (Habermas 1998, p. 182). But with this concession – moving from *all* participants to *some* – Habermas has very little to say. His language becomes, in our view, remarkably flowery if not empty at this point.

One wonders why. Here Habermas seems to slip into a common pitfall in comparative political economy: his ideal participatory state is based upon, if not “best case” assumptions about people’s actions and intentions, then at least “better case” assumptions, as we’ve just seen. Compare this to Hayekian political economy. The Hayekian defends his ideal minimal state on, if not “worst case” assumptions, then at most “worse case” assumptions about knowledge, actions, and so forth. While he can and probably should be faulted for not acknowledging people as communicative agents in Habermas’s sense, the Hayekian political ideal can allow for communicative actors without weakening the results. In fact, it is possible that the notion of communicative action (or something like it) might strengthen the Hayekian case for the minimal state and the traditional rule of law. Habermas’s ideal of the radically participatory rule of law, on the other hand, is progressively weakened as we add more and more strategic actors into the polity.¹⁷

So we find, if we’re correct, that Habermas’s “thought experiment” (Habermas 1998, p. 132) of a radically participatory democracy begins to falter not only on the issue of application, but also in the context of justification itself. There are further questions regarding justification, which briefly take us back to examining his actual logical deductions.

We presented Habermas’s sketch of basic rights, and then their constitutional implications, as if Habermas clearly deduces them from communicative action and the discourse principle. We were being charitable. Habermas himself doesn’t provide a clear deductive proof.

For example, consider his move from communicative action to the discourse principle, discussed at great length in his *Moral Consciousness and Communicative Action* (1990, pp. 43-115). He tries to show that

Every person who accepts the universal and necessary communicative presuppositions of argumentative speech and who knows what it means to justify a norm of action implicitly

presupposes as valid the principle of universalization, whether in the form I gave it above or in an equivalent form (Habermas 1990, p. 86).

But once it has been shown that (U [his universalization principle]) can be grounded upon the presuppositions of argumentation through a transcendental-pragmatic derivation, discourse ethics itself can be formulated in terms of the principle of discourse ethics (D) (Habermas 1990, p. 93).

Has Habermas really accomplished the transcendental derivation? Perhaps it *can* come together “once it has been shown,” but unfortunately Habermas has not shown it himself; or, in the least, he has not shown how he moves from communicative action to the discourse principle with any degree of clarity and grace. By the time Habermas published his *Justification and Application: Remarks on Discourse Ethics* (1994), he proceeds as if he already *did* accomplish the derivation. His readers are challenged to find a clear deduction in either of these books.¹⁸

Furthermore, he claims that P (see his first statement about basic rights above) was deduced from D (his discourse principle), or that P requires “necessary corollaries” Q and R, but his own presentation doesn’t buttress those claims. As a simple example, when Habermas claims that the first three sets of basic rights mentioned above “*imply*” (his italics, as always) “basic rights to the provision of living conditions that are socially, technologically, and ecologically safeguarded” (Habermas 1998, p. 123) one can reasonably wonder why these are seen as logically necessary and valid conclusions and not, say, living conditions that are “aesthetically” or “spiritually” or “economically” or even “poetically” safeguarded. Is he, after all, really engaged in the logical implications of communicative action, or is he up to something else? Perhaps we are mistaken in interpreting Habermas’s effort as a praxeological analysis. Perhaps it is more of a critical-interpretive framework, an attempt to offer a reflexive critique of ideology, rather than a deductive system. But if it is only a critique of ideology, how can that be squared with Habermas’s hope of finding a universal, deontological morality, and his language of derivation and proof?

Even if we assume away the problems of application (shifting from the *all* to the *some*) mentioned above, and even if we were to believe that his logic is in fact better than he himself presents, does Habermas’s discourse principle logically and necessarily imply the radically participatory, democratic rule

of law? Can we, for example, imagine communicative action occurring *without* the democratic rule of law?

Sure we can. Habermas argues it happens whenever people attempt to engage in understanding.

Presumably this is an empirical and not a tautological claim. Presumably even Livingstone and the rainmaker, coming from radically different political and economic systems, can engage in communicative action. So let's complicate it a bit more. Can we imagine communicative action occurring under the traditional rule of law (say, the Hayekian minimal state) in such a way that it can effectively legitimate the minimal state? If we answer no, then Habermas's appeal to the necessity of the democratic rule of law and the participatory state would be unthreatened. If we answer yes, then Habermas's case weakens – to the extent that his case is indeed seen as a logical and therefore necessary outcome of the primordial fact of communicative action.

Although we're tempted to let Hayek answer the question, Habermas himself can help us.

Habermas made the following argument when discussing scientism:

As long as the activity of the liberal state was essentially limited internally to the maintenance and development of a private legal order, in principle determined in terms of fundamental rights, political action remained “practical”: at most, one needed only the recourse to juridical expertise.

Today, on the other hand, instruction derived from social technical expertise has become indispensable (Habermas 1974, p. 114).

If so, then the minimal-liberal state might be enough to channel the discourse that Habermas wishes. But if that is true, then communicative action does not, *a priori* and necessarily, imply Habermas's radically democratic, participatory state. We can imagine a different conception of the state consistent with communicative action -- it might imply the classical-liberal state. But, admittedly, we'd be working on imagination (thought experiments and the like) and not praxeological deduction. In any case, whether one claims to engage in pure praxeological reasoning or thought experiments when discussing the political-constitutional implications of the primordial fact of human action, both the Habermasian and Austrian approaches would be rooted in further unstated presuppositions and value orientations, which questions their insistence that they are ultimately engaged in value-free analysis.

Additionally, it is unclear if Habermas can overcome (or even if he appreciates) the epistemological limits of a radically democratic, participatory polity. As Pennington (2003, p. 728) explains,

Deliberative democrats argue that communicative social processes are best advanced through face-to-face political contacts and the encouragement of public discourse and debate. In contrast, the importance of markets in Hayekian liberalism stems from the view that a primary reliance on discursive processes may actually *reduce* the range, quality and complexity of the communicative processes concerned.

Because in a society “knowledge of the relevant facts is dispersed among many people,” because social wholes are inherently complex, achieving conscious social coordination is much more difficult than Habermas and the deliberative democrats suppose. Rather than being a preferable alternative to the “impersonality of the market,” a radically democratic, participatory state is no alternative at all. As Pennington (2003, p. 729) puts it “conscious social control is epistemologically unachievable” by the *all* that Habermas would like to sit at the decision table let alone the *some* who are called on to serve as representatives.¹⁹ Additionally, much of the relevant knowledge is tacit. The problem for deliberative democrats like Habermas is that the various “species of tacit knowledge *cannot* be communicated linguistically” (Pennington 2003, p. 731). Actors can, however, “communicate” their tacit knowledge through market participation.²⁰

Furthermore, Habermas’s case, to the extent that he has sustained one, hinges on certain economic and empirical assumptions. Habermas has long maintained that (1) the market system is inherently chaotic and subject to continual crises, and (2) that the welfare state is both a necessary corrective to those economic crises, and is irreversible (Habermas 1974, p. 114).

In fact, Habermas presupposes the welfare state’s necessity and irreversibility. Yet, its necessity is a source of debate among reasonable people, it is not an *a priori* given or something that can be deduced from the action principle. Its irreversibility is a squarely empirical issue. How does Habermas know that it’s irreversible? Neither Habermas nor anybody else have conclusively demonstrated its irreversibility; the verdict is still out.²¹ If we leave it as an open question whether (a) market processes are inherently unstable

and (b) whether the welfare state can or cannot be reversed (which doesn't seem to be an outrageous proposal) then it simply does not follow, again -- but for yet another reason -- that "the performative meaning of this constitution-making practice already contains *in nuce* the entire content of constitutional democracy" (Habermas 1998, p. 453). Habermas has yet to establish its truth and validity.

4. Concluding thoughts on the Habermasian challenge.

We've presented Habermas's recent work as, at least in part, a praxeological effort. He surely has taken on the appearance of deriving universal moral and political-institutional implications from his notion of communicative action, and his attempt does pose challenges to those working in the Austrian tradition, both the methodological (stemming from Mises) and the applied political-economic (stemming from Hayek).

Habermas's appeal to a non-instrumental and non-strategic concept of action is a direct challenge to Mises's understanding of human action. It strikes at the core. Mises's reduction of Weber's concepts is not completely correct; there are certainly human actions that aren't fully explainable with traditional marginalist categories. Mises can't seem to imagine the possibility of theoretically conceiving action without resort to marginalism. Habermas, however, is pointing to a potential additional category with his concept of communicative action. Whether that is satisfactory remains to be seen, but it is something that Austrian praxeologists have to come to terms with.

In the larger domain of constitutional political economy, Habermas's "deductions" and "derivations" in favor of the radically democratic constitution implicitly place a great deal of weight on the dynamic, coordinating properties (or, especially, the lack thereof) of the market process and on the historical irreversibility of the modern welfare state. While we believe Austrians make a decent case for the former, we seem to take the possibility of the welfare state's reversibility as much for granted as Habermas takes its irreversibility. But if the empirical verdict is still out, then Austrians, too, must face the difficult questions.

We have found that the socialist state can be reversed, but the socialist state is fundamentally different than the welfare state, at least in principle, and Habermas's concerns regarding *who* will be allowed to participate in the processes of political transformation may very well be relevant, even if his

praxeological arguments suffer from similar weaknesses and epistemological pretenses that also afflict the praxeologists of the Austrian School.

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Figure 1

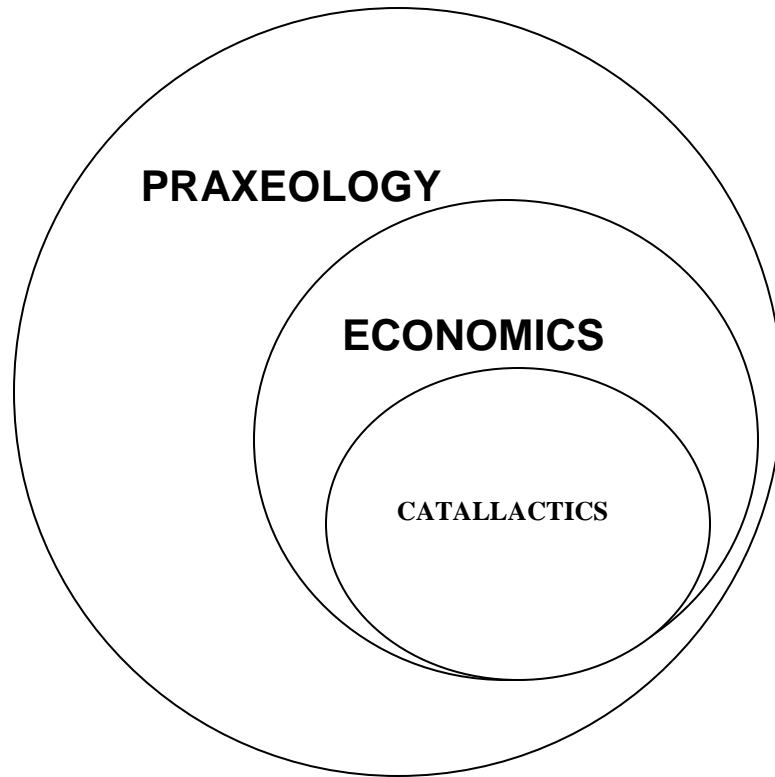
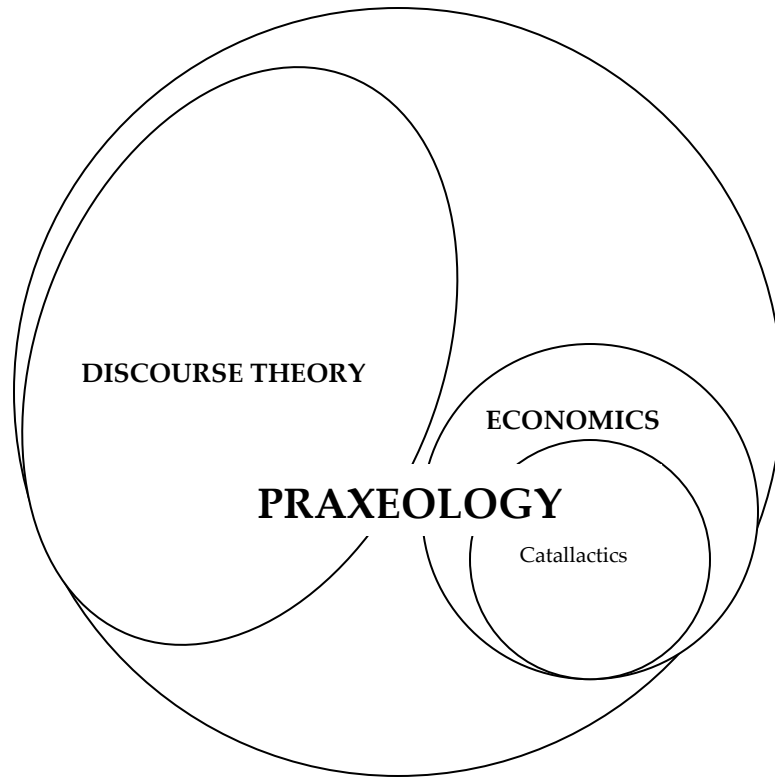


Figure 2



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¹ One might think, as a post-Marxist, that Habermas would be calling for a radically participatory, democratic socialism – self-managed socialism with council-based, comprehensive economic planning. Habermas does no such thing. Today, he feels the socialist ideal of workers’ self-management is dead and unworkable (Habermas 1986, pp. 45, 187; 1997, p. 133; 1998, pp. 2, 465, 479). He now considers himself something of a “radical liberal” who wishes to retain some of the utopian elements of the minimal state and anarchist visions (Habermas 1986, pp. 147, 174; 1998, xl, 186, 480-83).

² See, for example, Boettke (1990b, pp. 198-99 n. 4; 1990a), Lavoie (1994a, pp. 282-84), Prychitko (1990; 1991, p. 118). Also see the article by the Hayekian social theorist, Jeremy Shearmur (1988).

³ Taylor (2000, pp. 4-5), a classical liberal theorist, fails to notice Habermas’s own abandonment of the ideal speech situation. He criticizes Habermas’s most recent work as a confusion between actual sovereignty with the ideal speech situation, but Habermas has long acknowledged that the ideal speech situation proved unhelpful and that his earlier writings fell victim to the fallacy of misplaced concreteness (Habermas 1986, p. 173; 1990, pp. 88, 92; 1994, pp. 163-64; 1997, p. 148). Habermas’s effort in *Between Facts and Norms* – the book under Taylor’s review essay – is not founded on the ideal speech situation, but instead on his “discourse principle” which is derived from communicative action. The discourse principle is not synonymous with the ideal speech situation.

⁴ We have here, in a sense, an example of what has been dubbed the Caldwell Question (Prychitko, 1994a), after Bruce Caldwell’s challenge to Austrian methodology (Caldwell, 1984): a rival praxeological system,

starting also from the primordial fact of human action, and deducing conclusions that don't square with those of Austrian-School praxeology.

⁵ Weber factors prominently in the Austrian tradition as well (see Boettke and Storr 2002).

⁶ All human action is teleological, or goal-directed, including communicative action; “the teleological structure is fundamental to *all* concepts of action” (Habermas 1984, p. 101; *emphasis his*). Indeed, Habermas even claims that “reaching understanding is the inherent telos of human speech” (Habermas 1984, p. 287).

⁷ All forms of human action, including communicative action, can carry unintended consequences (Habermas 1984, p. 294-95). Let's presume, for example, that Dr. Livingstone sincerely asks the Bakwainian rainmaker how he has the power to make it rain, why he holds this causal belief. The rainmaker might erroneously attribute ulterior motives to Livingstone, believing that Livingstone only creates a façade of a search for understanding and is using the conversation in order to embarrass him, render him a fool or a charlatan, and so on. This distrust sheds a different light on Livingstone's intentions – he's seen to be engaged in strategic action. But if Livingstone is actually sincere in his effort to understand the rainmaker, he will attempt to correct that unintended consequence; he faces the burden of trying to convince, by providing valid reasons that they both understand, such as apologizing, etc., in hopes of re-coordinating their communicative actions, to clearly demonstrate that he is sincerely acting not towards his own success, but towards a shared understanding.

⁸ Some of the Austrian “nods” to Habermas seem to be based upon a fundamental misunderstanding of this notion of communicative action. Opposed to the equilibrium model of rational choice, which assumes independent, isolated, strategic agents that act on the basis of full information (or statistically uncertain information), some Austrians found merit in both Gadamer's notion of the role that *dialogue* plays in social integration (for example: Boettke [1990b]; Horwitz [1995]; Lavoie [1990; 1994b]; Palmer [1990]; Prychitko [1988; 1994b]) and Habermas's notion of communicative action (Lavoie [1994a]; Boettke

[1990b]). We maintained – and still do maintain, correctly – that people coordinate their plans not solely through market prices, but also through words – discussion, talk, debate, persuasion – something that the standard models seem to assume away or consider unimportant for the analysis at hand, and we found some support in both Gadamer and Habermas. It is clear, however, that something is amiss. Consider, for instance, Tom Palmer’s argument that commercial advertising can be considered an example of a Gadamerian conversation. How can that be? There is no attempt to “fuse horizons.” Advertising is a *strategic* move to gain customers. Much of Quinn and Green’s (1998) criticism of our efforts – including Prychitko’s – are right on the money. Habermas himself feels the need to remind his readers that he is *not* discussing mere “acts of communication” (Habermas 1984, p. 295). “To avoid misunderstanding,” Habermas stresses, “I would like to repeat that the communicative model of action does not equate action with communication” (Habermas 1984, p. 101). Unfortunately we Austrians were prone to do just that, to equate talk with Gadamerian dialogue, and agreement or consent with Habermasian understanding.

⁹ Although there are certainly differences between Mises and Hayek, we agree with Lavoie (1985) and others who argue that Hayek and Mises (on most issues) can be read as two sides of the same coin. Attempts to dehomogenize them, we believe, are wrongheaded. Their emphasis often differed but Hayek, like his teacher Mises, were both clearly praxeologists.

¹⁰ The critic who denies the claim “man acts” has engaged in a means (say, a proof, an argument, a listing of reasons) toward a particular end (the proof that there is no human action). The critic, thereby, contradicts himself because he resorts to meaningful action in order to refute meaningful action. He falls into a performative contradiction -- an argument that Habermas (1990, pp. 80-82, 203) also employs. With a secure, irrefutably true foundation, the logical consequences of the primordial fact of human action, to the extent that the logic is valid, must be apodictically true (Mises 1966, p. 39).

¹¹ “in order to conceive the meaning of any action whatsoever, we must be able to apply concepts such as ‘costs’ and ‘loss’ to it. This suggests that Mises is attempting to establish that conceiving the meaning of

any action requires *all* the concepts of marginal analysis. It is extremely difficult to appreciate how such an extravagant claim could be defended” (Parsons 1998, pp. 39-40).

¹² Mises also feels that all values are ultimately subjective and arbitrary, and therefore would deny any attempt, including Habermas’s, to claim a deontological basis of morality. Interestingly enough, Habermas makes his deontological claim through his praxeological analysis of communicative action.

¹³ Elsewhere: “Everybody in his daily behavior again and again bears witness to the immutability and universality of the categories of thought and action. He who addresses fellow men, who wants to inform and convince them, who asks questions and answers other people’s questions, can proceed in this way only because he can appeal to something common to all men – namely, the logical structure of human reason” (Mises 1966, p. 35). Also, he goes so far as to say that these logical structures of the mind are “basic ontological facts” (1966, p. 86).

¹⁴ By failing to view Habermas’s effort as a “praxeological” one in our sense, Taylor (2000) reads Habermas as adopting a tautology, or at least an unfounded semantic twist, when he integrates liberalism with democracy. While Taylor’s criticisms of the applicability of Habermas’s position probably hold true, he does not really explain or seem to understand clearly *why* Habermas integrates the two.

¹⁵ In several previous publications Prychitko has raised immanent criticisms of the praxeological efforts of his fellow Austrian colleagues, to such an extent that they’ve labeled him an “anti-economist.”

¹⁶ We suspect he is doing all three, and get the impression that Habermas has largely turned his own ideological sentiments – so clearly seen in his critical views of the scientific and welfare state – into a grand deductive and deontological system (a charge that can be leveled against Mises and his followers, too.) It is rather curious that Habermas’s praxeological deductions fully confirm his sentimental longing for the universal legitimacy of a radically participatory and democratic rule of law. His efforts in *Between Facts and Norms* provide a wonderful opportunity for its readers to undertake a hermeneutics of suspicion, a critically interpretive exercise that Habermas himself has helped pioneer in the face of sentimental claims

being presented as logically necessary outcomes of systematic, objective thinking. But to do that would require a dissertation in itself.

¹⁷ Cf. Boettke (1999, pp. xxv-xxix) on best and worst-case thinking. Our argument here is consistent with the general thrust of Boettke's Hayekian analysis, but his model (p. xxvi), set in two dimensions, is only partially correct, and therefore misleading. It would be much clearer were he not to conflate benevolence and knowledge, and instead set his model in three dimensions.

¹⁸ Habermas might respond that he's not trying to communicate to Austrian political economists like us, that he's not trying to coordinate our communicative actions. But others – experts -- such as Giddens (1985, p. 102), find that aspects of Habermas's analysis (commenting on his 1984 book) are “as difficult to disentangle as ever.”

¹⁹ We should note that if all the actors in a polity were assembled into a deliberative social forum, that forum would likely be as impersonal and arguably as (if not more) alienating than the market.

²⁰ As Pennington (2001, p. 180) writes, “Whilst recognising the significance of dialogical processes, what is fundamentally at issue from a Hayekian perspective is that there are important limits to the amount and type of information that can successfully be communicated in this way. Verbal knowledge communication in contexts such as business networks or the process of academic debate is effective in so far as it is focused on a relatively narrow and circumscribed set of issue. ... Severe problems arise, however, when attempts to communicate knowledge and to coordinate decision making through discursive means are extended more widely to embrace more complex sets of issues. ... From a Hayekian perspective ... market prices act as important ‘aids to the mind’, conveying otherwise inarticulable knowledge about economic relations in ways which allow for much wider, more complex communicative social relations than would be possible through purely discursive means.”

²¹ Habermas has been influenced by Claus Offe's work on the nature of the welfare state. Offe has long held that the welfare state is indeed an irreversible (though endlessly crisis-prone) *achievement*. See Offe (1984, esp. pp. 287-290): "The welfare state is indeed a highly problematic, costly and disruptive arrangement, yet its absence would be even more disruptive. Welfare state societies simply cannot be remodeled into something resembling pure market societies" (p. 288). See Prychitko (1990) for a sympathetic Austrian criticism.