

beyond – ‘the human’. The question of a posthumanist morality as discussed here is not intended as a negation of humanism’s concerns; on the contrary, the intent is for a renewed engagement with them. Humanism’s sentiments must be taken seriously if they are to be removed from the care of a system of thought that cannot meet their needs. Plainly this is a very large subject; as such, my concern in this article is with Jürgen Habermas’s communicative humanism (e.g. 1987a, 1987b) which I want to take as an important test case in analysing humanistic morality. I will try to take Habermas’s humanism to task by arguing that it cannot see its own moral orientations through. In this endeavour, posthumanism must come both before and after humanism (Wolfe 2009); it must come before in order to contextualise and rework the human, and it must come after so that it also recognises its own place as a contingent historical moment with specific dynamics.

Post-Structuralism and Luhmann’s Observation Theory

To begin, this contextualisation and contingency must be introduced in the most general sense possible. To take for a moment Michel Foucault (e.g. 1982, 1988) as an example, we can view his project as a reflection on its own constitution; a presentation of the counter-intuitive nature of the generation of knowledge, such that its operation can often be observed running counter to the ‘values’ it produces. What is of interest for this project is that Foucault is capable of performing this task precisely because of what has been criticised, most notably by Habermas (1990a),

as the ‘performative contradiction’ at play in his work. I would like to contend that, rather than betraying a fundamental weakness in the construction of what Foucault himself referred to as his works of fiction (1990), this reflexivity closely conforms to what Niklas Luhmann (1996a) calls second-order observation. In other words, it is more concerned with the *how* rather than the *what* of observation. Second-order observation observes observers. By doing so, the conditions under which an observation relies can be observed. Crucially, this includes what Luhmann refers to as the ‘blind spot’ constituted by the operation used to observe (2000; 29). In this way observing in the second-order allows what is excluded in the act of observing to itself be observed, but only by generating a new observation which is itself subject to the same process. Hence the fruit of the performative contradiction: Foucault (2001) recognised the contingency of *his own* observation, such that a reflexive analysis of the liberal notion of the human – based on rationality, autonomy and so on – became possible.

Second-order observation can be seen as the relative positioning of observation as part of what Wolfe in an early essay called ‘strange loops’, which always refer back to themselves and not to anything existing objectively beyond them (1995; 47). Put simply, by observing in the second-order we can observe that *things could be different*. As Luhmann puts it, ‘The first-order observer lives in a world that seems both probable and true. By contrast, the second-order observer notices the improbability of first-order observation’ (2000; 62). This can be disconcerting, but it can also be extremely

fruitful. When we do not begin with an observation bound to the operation of an antecedent, determinate reality, an observation that cannot be otherwise, we allow ourselves greater flexibility, a greater capacity to 'understand' in its various permutations. This is not to say that an observer – in Luhmann's terms, a psychic, social or other autopoietic system – can have it any which way they like.¹ A system's boundaries are purely internal. That is, they are produced by that system's own *operations*, and thus only exist through and in a particular mode of organisation that – by definition – remains exclusively internal to that system (Luhmann 1991; 1). A Luhmannian observer constructs a perspective through this 'operational' closure, but only on the basis of a structure shared with the environment. More specifically, through structure observations are conditioned, both positively in the sense that they can take place at all, and negatively in the sense of the limits an environmentally open structure places on their autopoiesis (Luhmann 1996a; 220). The information that constitutes observation is generated through the friction that all systemic operations produce in relation to the environmental state of their own structure (ibid.). In

terms of psychic and social systems, this openness from closure underscores what Luhmann calls *structural coupling* (ibid.; 9), where different observing systems presuppose the organisational achievements of each other in composing their own, without interrupting the continuation of their closure. System reality is thus neither mere solipsism, nor entirely subjective, but nor is it anything approaching what has become the scientific notion of the objective. It is contingent and partial, but because it is not a passive process, it serves a purpose on the basis of whatever conditions made it possible for an observer to realise it. Observations are in this sense explicitly *useful*, in the pragmatic sense meant by Richard Rorty (1990; 63).²

In the case of the posthumanist view invoked here, humanistic thinking all too often remains bound to assumptions about a supposedly antecedent 'human'. The circumscription of what is human and what is not that necessarily accompanies such assumptions, however tacitly, repeatedly leads to those values it so often cherishes (open and free exchange, fairness, self-determination, and so on) being denied to those subjectivities constitutively occluded or marginalised by it. If any experience of 'reality'

¹ In fact, read with a certain hostility and/or pessimism (e.g. Kihlstrom 2011; or Mingers 2008), as it has been frequently, Luhmann's systems theory can engender quite the opposite sentiment regarding the subject as traditionally conceive – us. In the more hostile receptions of Luhmann, we are in fact bound by the parochialism of our own observations. On one hand, we cannot know the world except as it is produced and limited through our own constitutive blindness, and on the other, any communication is produced through social systems not only just as blind and self-referential as we are, but which also far out-live us. Systems theory in this sense is cast as a social technology (Habermas and Luhmann 1971), where human agency is not a substantive force capable of determining society; on this view, systems theory becomes an apologist for the status quo.

² This is not to condone Rorty's overt ethnocentrism (see Wolfe 1994), only the limited use of his theory regarding knowledge as pragmatic rather than representational.

is underpinned by multiplicity, heterogeneity and contingency, the result is that any kind of rigid categorisation cannot be expected to do this justice. This brings us to our central problematic: a *morality* subtended by distinctions that in advance constitute the category 'human' obscures the contingency of those distinctions precisely by presupposing them. Humanist morality is thus bound to a continuity of those distinctions regardless of their suitability, while morality's scope is arbitrarily limited from the very start. Consequently, the supposedly 'human' and 'non-human' constantly enter each other in ways that humanism cannot account for. On the one hand, the non-human asserts its existence in the realm of the human,³ and on the other, processes of dehumanisation arise when the human is, usually forcefully, constructed in the non-human.⁴

The Subject and the Social

Through his constructivist theory of observation sketched above, Luhmann manages to reconcile heterogeneity with what appears antithetical to it – the shared, mutual necessity of social life. Luhmann (1996a) achieves this by reproducing the capacity of the subject to close itself off – to become autopoietic – in the social domain. Famously, for Luhmann 'Humans cannot communicate; not even their brains can communicate; not even their conscious minds can communicate. Only communication can

communicate' (1988; 371). The social appears in Luhmann's theory as a closed sphere of self-referential communication, with only an exterior relationship to the environment – an environment that in this case includes psychic systems (1996a; 255). It is through the aforementioned concept of structural coupling that the two are related. Between psychic and social systems this relation takes the form of language; the structurally constitutive element of communication systems whose internal, operational complexity is presupposed by psychic systems in their use of language, where such use is itself presupposed for the continuation of that complexity. The use of language thus has the power to change the *structural* conditions of either system, forcing an adaptation of operations. Crucially, this structural conditioning only enforces motion, it in no way determines what at an operational level remains closed.

When investigating the human as a category, this means that one is not investigating an umbrella concept that aggregates common experience. The facticity – the raw fact of an observation which is distinct and which is there – of the difference between us and that of our socialisation take place, in the words of Humberto Maturana, in 'non-intersecting phenomenal domains' (1990; 1). This presents us with the paradoxical fact that what intimately unites us is not only separate from us, but also remains opaque to us. What Luhmann provides

³ In cases like climate change (e.g. Patz 2005; Jericho 2016; Mostyn 2016) for example.

⁴ For example, Trump's othering construction of Mexicans during his presidential campaign, in which he repeatedly identified them with characteristics (sexual violence for example) set in counterpoint to the civilised human.

is a rigorous formulation of the means by which humanism is possible in the first place – as a recursive communicative operation. This is a formulation that does not either derive the subject from their social context, nor their social context from them. Instead, through Luhmann (1996a) we are faced with the paradox of unity and difference, or more precisely, the daunting knowledge of our own radical subjectivity, that is at the same time highly socialised. Yet, Luhmann (e.g. 1996a) chooses to present this reconstruction from the perspective of social systems (Salem 2017; 55, 57), and not subjects. Thus, the fact that our sensibilities are conditioned, finite, and contingent is enough for him to aspire or pretend to a neutrality that leaves his theory unaccountable to the morality that would give humanism's deconstruction its ethical commitment, force, and function.

Habermas's Communicative Humanism

As I have said, for this study I have chosen to focus on Habermasian (e.g. 1987a, 1987b) humanism. I have done so for two reasons. First, Habermas has attempted – for instance, in his discourse ethics – to avoid rigid conceptions of morality that take recourse to heteronomous, objective conditions beyond their reach (1990b; 43). The way he does this – by embedding morality in the dynamics, rather than the content, of communication – provides a useful test case for the analysis of how humanistic morality deals with contingency and difference. Second,

Habermas's contemporary importance goes some way to representing humanism's potency in shaping our moral lives, academically, institutionally, and politically; that is, socially.

As is to be expected, the human occupies a central place in Habermas's theory. However, unlike in much of liberal humanism, in Habermas's theory the human is given no theoretical priority as a free individual antecedent to its intersubjective constitution (1987b; 10–15). Rather, Habermas's reaction to the subject/social paradox is to give generative precedence to the social (*ibid.*). His approach is thus reconstructive, and it is in this fact that one finds an initial confluence between Habermas and Luhmann. In terms of their approach to morality, this takes the form of something they share, even more broadly, with theorists from Émile Durkheim (2012 [1925]) to Max Horkheimer (2002 [1968]): morality not as an evaluative practise, but as something that itself needs explaining in terms of its function and meaning (Neckel and Wolf 1994; 77). The result is an under-acknowledged point of agreement between Habermas (e.g. 1990b) and Luhmann (e.g. 1992, 1996b): the necessity of communication itself as the driver in morality's operation, or more precisely the way morality expresses the demands of communication, rather than the way communication serves moral and/or ethical imperatives.

It is in consideration of these demands that Habermas develops his discourse theory of ethics.⁵ Accordingly, discourse ethics represents

⁵ Habermas asserts the principle of discourse ethics or (D) (1990b; 66). (D) States that only norms or actions that are approved, or could be approved, by all those that are affected as individuals

an attempt to reconstruct a morality that takes recourse to communication itself, without having to rely on what he sees as the relative *content* of morality that can vary between cultures. This attempt is grounded in Habermas's earlier analyses of the formal conditions that communication must pragmatically satisfy in order to function (e.g. 1978, 1987b). The strength of this approach is in its reflexivity. Discourse ethics requires its own function *a priori*: the conditions of its inception, those presupposed by engaging it, are also the conditions that it theorises. Discourse ethics also provides a *de facto* demonstration of Habermas's larger project – namely, his theory of communicative action – that eschews foundationalism by the same process of recursion (*ibid.*). Basing his project on suppositions that it also theorises allows Habermas to make some quite strong claims whilst also acknowledging the weak status of those claims (1990b; 116); the theory's validity, in other words, can only be extended beyond self-reference – can only find itself *externally* – through the indirect testing that comes about through *practical* coherences with other theories and their empirical content

(*ibid.*; 397–398). This reflects the appellations 'interpreter' and 'stand in' that Habermas gives to philosophy after structural differentiation has stripped it of primacy (1990b; 1). In other words, Habermas's theory – and philosophy more broadly if we believe him – only exposes itself to empirical testing through the possibilities it provides for relating and organising other theories. This has the ironic effect that the weak status of Habermas's claims actually provides for quite a robust footing, not only in terms of their practical usage, but also in the speculation that becomes possible around such usage.

Despite all this self-awareness, the human still looms large in Habermas's work, albeit in a novel fashion. By deploying an almost puritanical conception of knowledge Habermas evinces an anthropomorphic concept that appears stamped on communication itself (e.g. 1978, 1987a, 1987b). In a sense, a transcendental concept of the social is used to produce a picture of the similarly transcendental subject. To achieve this Habermas (*ibid.*) first delineates various rationalities as they logically stand in the structure of different communicative functions, the result being to permit the problematisation

engaged in practical discourse can claim validity. This expresses the dialogic nature of morality in Habermas. It follows that in order for principle (D) to operate we must presuppose the operation of certain other norms (i.e. language) that facilitate (D)'s operation. The principle of universalisation (U) takes the form of a rational reconstruction of the presuppositions that are communicatively in place and are necessary for (D)'s operation. (U) states: 'All affected can accept the consequences and the side effects that [the norm's] general observance can be anticipated to have for the satisfaction of everyone's interests, and the consequences are preferred to those of known alternative possibilities for regulation' (*ibid.*; 65–66). Thus (D) requires that norms that satisfy (U) exist, and only norms that do can be dialogically validated through the operation of (D). In this way, Habermas argues the morally just nature of a norm or action can be ascertained, since its justification is not particular, rather the procedure that deems it as such is generalisable through every context that supports it.

of certain constellations of knowledge as an effect of *displaced* reason – a malfunction, that is, against the backdrop of an otherwise rationally guaranteed constitution that furnishes the concept of the human with its requisite stability. Contra Foucault (1988) for example, ‘power effects’ become a failure of reason, not something that should be viewed as internal to its operation. It is not necessary to give an exhaustive account of the various rationalities here. Instead I will only focus on what is relevant to our moral problematic.

Reification: Cognitive-Instrumental and Moral-Practical Rationality

In defining cognitive-instrumental rationality Habermas takes from Immanuel Kant the idea of the cosmological unity of the world and bifurcates it into, on the one hand, the constitutive, pragmatic presupposition of a shared objective world, and, on the other, the regulative concept of an ‘orientation to a reality conceived as the totality of facts’ (2008; 36). The difference between truth and rational acceptability replaces the distinction between things-in-themselves and appearances, as the dynamics of meaning that produce rational acceptability are constantly forced, by actors, into heuristic relation with their lifeworld which can either offer resistance or ‘play along’. It is along this line of reasoning that Habermas parts ways with Kant in Heideggerian (1962) fashion. The world can only be disclosed ‘in the light of [our] habitual “grammatical” pre-understanding, not [...] in terms of] neutral objects’ (Habermas 2008; 35). Our cultural conditioning is in this way implicated in all experience, such that it is im-

possible to disclose any reality outside or beyond it. It is exactly what Martin Heidegger (1962) calls this thrownness that reflects the central role that Habermas (1987a, 1987b) accords to ‘communicative action’. The individual, even when alone, is never separable from the mode of operation given to her *a priori* through the constitutive processes of communication. This basic structure of a pragmatic presupposition of a shared world and the regulatory use of reason is thus not limited to cognitive-instrumental rationality. Moral-practical rationality however, differs in both the contents of what is presupposed, and the specific regulatory mechanism required. Instead of the world of facts that, according to Habermas, one engages with in a third-person, objectivating attitude – in the sense of the process leading to objectification rather than the end result – the mutual ascription of rational accountability that Habermas posits as necessary for all discourse comes to the fore in moral-practical reasoning as it presupposes the web of normative expectations that can be appealed to by an actor for justification (1996; 9–14). For example, the claim that one is ‘acting in the interest of fairness’ can be seen as an appeal to such normative expectations as it assumes the validity of fairness as a value, and thus seeks recourse to it. Such presuppositions are regulated through communication oriented to mutual understanding – that only plays a formative role in the generation of cognitive-instrumental rationality – as it impels those involved in a communication situation to demonstrate its fulfilment in holding up to scrutiny whatever practical considerations are at hand through those norms that themselves do

not escape the same process. The assumption that fairness is valued, when expressed, must not just presume that it is being appropriately deployed, but also that it can be accepted in rational discourse by all those that it could affect. For fairness to be regarded as a valid moral norm in a Habermasian sense it must be able to meet the latter assumption. An orientation to mutual understanding – operating unobstructed through reasoned argument – is necessary if this is to be the case, otherwise the demands of acceptability simply cannot be met (Habermas 1990b; 57–70). Moral-practical rationality thus requires recourse to its own function to secure acceptability; to secure, or not, the acceptability of fairness, the acceptability of moral-practical reasoning must itself first be accepted. In brief, where cognitive-instrumental rationality subordinates communicative processes to a supposed externality that can either rebuff or confirm a proposed truth, moral-practical reason directly relies on its own communicative conditions in order to produce moral validity. Ultimately, discourse ethics theorises the operation of this form of communicative rationality such that it can be grounded in social process without capitulating entirely to conventionalism (*ibid.*; 43–116).⁶

The ‘problem’ of displaced reason makes itself felt in this process when, for example, an orientation to mutual understanding is subordinated to the objectivating attitude underlying cognitive-instrumental rationality (Habermas

1996b; 25–26) – when, that is, actors engage pragmatically with other actors as elements in their lifeworld that can either resist or play along, rather than as communicative subjects. Here, the process of ascertaining ‘truth’ is axiomatically transposed onto a sphere of action that does not suit its operation. For instance, asking whether a norm is true or not tells us little as to how it may be judged morally. The outcome of ‘malfunctions’ such as this for Habermas poses a very real threat to a lifeworld that requires inter-subjective, symbolic reproduction (1987b; 332–374); a lifeworld that fulfils our shared presuppositions not only of cultural norms, but of facts and objects too, from and in which we are constituted. This is where it is possible to be cautious, especially in terms of the subject/social paradox. The point is simply that Habermas’s critical attitude to these processes is premised on accepting their logic as binding – the orientations supported by the theory all refer back to the theory itself, but in a way that does not permit questions related to why those orientations and not others have been chosen. That is, though still not a foundational claim, Habermas’s observation of communication cannot help but absolutise itself the moment it ‘works’.⁷ It is this absolutism that embodies the ‘human’ illuminated in the dynamics of communication. Our knowledge may be contingent on the communicative tools that it is constituted through, but it is in the way in which these tools unfold that Habermas identifies

⁶ This is exactly the contention, as presented by MacIntyre (2014) for instance, that Habermas is opposed to.

⁷ This could equally be a compliment; the theory has such integrity that a resonance across any of its elements immediately implicates the theory as a whole.

a constant, transcendental notion of what is fundamentally human. Following from this, the criteria by which one could categorise what is right and what is wrong can be found in the workings of those communicative tools as they 'should' function, in their 'proper' application.

What definitively separates Habermas (e.g. *ibid.*) and Luhmann here, and prevents anything similar entering into Luhmann's theory is the notion of closure (1996a). With no closure, those constellations of meaning that comprise knowledge,⁸ that in Luhmann are the preserve (in their absolute specificity) of the observer using them, whether subject or social (*ibid.*; 62), spill out into the social world as it amounts to an aggregating, productive relationship; specifically, as it forms not the appearance of, but an actual lifeworld (see Habermas 1987b; 126–135). The subject becomes of secondary importance as it is simply collapsed into a social that provides for and fundamentally produces it. Thus, an anthropological constancy to communicative action can be posed despite its pragmatic constitution since it supposedly abides in the continuity of observations that, unlike in Luhmann's systems theory, can literally be cut from the same cloth. To put it another way, without closure, meaning in Habermas is free to migrate between observers, thus offering an 'objective' perspective on those who use it (e.g. 2008; 54). On this view, the subject and the social need not be seen as a paradox, but instead in terms of the macro and the micro. What we

must do is assess this formulation against the tasks it sets itself.

Reification as Moral Critique

Habermas's development of a theory of society through a theory of communication provides the possibility of criticising societal processes in terms of how conducive they are to the various communicative functions (1987b; 374). In the light of these functions Habermas generalises the process where cognitive-instrumental rationality imposes itself in situations requiring an orientation to mutual understanding through a rehabilitation of the Lukácsian concept of reification. For Habermas, the 'mediatisation' of money and power allow for an uncoupling of the economy and state from lifeworld contexts as 'systematically organised domains of action' with a logic and dynamic of their own (1987b; 172–179). Mediatisation, as it is used here, refers to the process by which meaning is given a non-linguistic, generalised form to facilitate the integration of actors beyond the capacity of consensus, as is the case in bureaucracies and markets. This becomes problematic in the way that these domains, through their integrative capacity, react back on a lifeworld from which they can no longer be intentionally manipulated. Although money and power remain anchored in lifeworld contexts,⁹ what they offer symbolically for communication can only ever be drawn from this limited

⁸ More specifically, for Luhmann knowledge is comprised by operative redundancies that facilitate the recursive use of previous operations (2012; 70).

⁹ Money through bourgeois civil law, and power through the public-legal organisation of offices (Habermas 1987b; 177–178).

foundation (ibid.; 172–182).¹⁰ Reification occurs when mediated communication conditions those who employ it to treat each other with an ‘objectivating attitude’ in lifeworld contexts that cannot be reproduced from this standpoint. This occurs because mediation limits the *communicative* scope of an interaction to its own restricted foundation and thus blocks symbolic reproduction beyond that. This becomes a pervasive ‘colonisation of the lifeworld’ because the systematic organisation of society via such media confers an irresistible organisational advantage on its use; thus, actors are forced to act *strategically* towards one another instead of *communicatively* (ibid.; 332–374). Lifeworld structures that actively require symbolic reproduction through communicative action that is outside the remit of money and power’s limited reference are thus endangered as they become integrated systematically. For example, one can imagine the socio-cultural bonds within a community being at risk if tasks of collective decision-making, that would generally take their orientation from a common lifeworld, became orientated around systematic processes of capital accumulation or bureaucratic power instead.

Habermas’s critique takes on a moral character because it is the communicative dynamics particular to morality, and the complex web of norms that give them content, that are among those processes impinged upon by reification. The weight that Habermas gives to the distinc-

tion between *strategic* and *communicative* action reflects this; if for Habermas, morality is only conceivable according to certain communicative procedures that rely on an orientation to mutual understanding, action that does not share this orientation simply cannot be moral (1990b; 133–138). As Eva M. Knodt notes, one popular route in criticising Habermas has been to attempt to establish that ‘Habermas’s communicative practice is in fact contaminated by unconscious, mythic or irrational motives, and that therefore a clear-cut distinction between strategic and communicative action cannot be maintained’ (1994; 84). Indeed, at least in his more analytic writing this criticism would appear to be a strong one. The idea that, once actors enter into discourse in the performative attitude necessary for moral-practical reasoning, ‘they accept in principle the same status as those whose utterances they are trying to understand’ (Habermas 1990b; 26) appears on the face of it problematic if one accepts an observer’s inability to transcend their limited perspective and the possibility for the dynamics of communication to function beyond them. Here one may recall the Foucauldian (1982) notion of power which highlights how asymmetries are likely to find expression in any communication, leaving little room for an actor to adopt at will an equivalent status as their interlocutor. Yet this criticism is tenable only if the broader context of Habermas’s philosophical project is not taken into account; elsewhere he writes,

¹⁰ This is what, according to Habermas, makes them so useful also; by relaxing the normative requirements around their use, mediated communications can produce integration far beyond the scope of any individual’s communicative capacity (1987b; 339).

In fact, we can by no means always, or even only often, fulfil those improbable pragmatic presuppositions from which we nevertheless set forth in day-to-day communicative practice – and, in the sense of transcendental necessity, from which we have to set forth. For this reason, sociocultural forms of life stand under the structural restrictions of a communicative reason at once claimed and denied. (Habermas 1990a, quoted in Knodt 1994; 85)

The theoretical division between strategic and communicative action and between the corresponding delineation of rationalities is not, then, supposed to be strictly mimetic with regard to the actual facticity of communication in its entirety. In both cases, what we are dealing with, according to Habermas (2008; 24–77), are necessary *conditions of communication within communication*, not inviolable laws that circumscribe it. Everywhere a Foucauldian would identify power, Habermas could equally do so without threatening the coherence of his argument. The only difference would be that rather than being given constitutive importance, for Habermas power would simply be a consistent *muddying of the waters*. Reification is a systematic example of this – an obscuration of the full scope of communicative action such that actors are forced into a strategic orientation to objects and ends through the monologic operation of cognitive-instrumental rationality, even when a situation requires other rationalities (Habermas 1987b; 383–387). The ‘purity’ of knowledge I mentioned earlier and its concomitant, the human, are preserved against empirical examples that could possibly contradict their existence by performing what Knodt describes as an ostensibly Luhmannian trick (1994; 79). By virtue of placing rational

consensus at the heart of his theory, Habermas allows any ‘successful’ criticism – intelligible and coherent criticism – to be immediately demonstrative of the very same theory’s actual operation even when it highlights examples to the contrary. ‘Rational consensus’ becomes neutralising as it assimilates any content to its own formal dynamics. This is why, as I have argued, Habermas’s (1990a; 185) charge of performative contradiction, against Foucault and Derrida for instance, cannot stand, especially from the point of view of our moral problematic. Even if we accept this perennial obscuration of communicative performance as exactly that, then its place in theory cannot take the form of an exception to its own function; ultimately it is only the very facticity of communication *as it stands* that can be appealed to in order to theorise it. A morality built upon the positive experience of certain communicative ‘events’ is always at the mercy of *those events, as they arise*, and thus cannot provide for a practically heteronomous criterion against which they are understood.

In attempting to mitigate the differences that arise through variables in subjectification – temporal, spatial, cultural – by posing a constancy to communication, the subject is collapsed into the necessary unity *between* subjects. The result is that the internal experience of the subject is not taken seriously. Rather than openly curtail moral communication through recourse to an exterior object, Habermas defines the rules that morality must fulfil *in order to be moral at all*. The moral becomes a constraining category that is only so because of its own internal relations; moral communication is only

moral because it fulfils certain demands that are supposedly set by morality itself. Habermas (e.g. *ibid.*) thus attaches a normativity possible only through a lack of closure – that is, a lack of any acknowledgment of the subject/social paradox – to the function of moral communication *as it should occur*. For instance, consensus as Habermas envisages it becomes a universally desirable condition regardless of the particularity of a situation. To put it another way, with no closure between the subject and the social, each communication takes as its field a totality that includes both. Thus, whether something is moral or immoral is a question for the whole of society, and contra Luhmann (1992; 995–1011) is not merely the amoral operation of a certain ‘coding’, but a supposed transcendental measure of the coherence of certain a communication with a specified framework. The problem is that the agitative, critical morality that Habermas (1987b) sought in the first place, is written out of his theory by reducing the operation of the agitator (in this case the subject) to the operation of that which must be agitated (in this case the social). Thus, when in this article I say that Habermas limits the possibilities of moral communication, what I am talking about is the possibility of agitating communication in new and challenging ways that are not otherwise provided for in his project.

By channelling moral communication through humanism, Habermas (e.g. 1987b, 1990b) circumscribes in advance its operation, and thus does not permit our own resistance to those categories to be understood as moral. In terms of measuring Habermas’s theory against the aims that it sets for itself, it is possible to

argue that for it to criticise society at an abstract macro level, his theory sacrifices the possibility of fostering and developing novel modes of communication that oppose current structures. Further, by collapsing the subject *into the social* the dynamics of communication are imbued with the supposed intentionality of the subject. Here Habermasian morality contains the distinct possibility of serving as a formal pathway through which power goes unchallenged, through which various dominances are sanctioned by overlaying them with the image of a free individual. For example, one can imagine the abuse of position by a spiritual guru, who through actions approved by ‘all affected in their capacity as participants in a practical discourse’ (Habermas 1990b; 66), exercises their power at an emotional cost to their disciples who believe those actions to be ‘good’ by virtue of who carried them out. By ignoring the possibilities of the disjuncture between what is meant in an intentional sense, and its communicative effect, Habermas blithely asks of the latter to represent the former.

Reviving Moral Critique

For Knodt the way Habermas’s (e.g. 1987b, 1990b) theory is able to at once circumscribe its own operation, and in doing so, neutralise criticism *by making it exemplary* of this operation makes it possible to pose Habermasian formal pragmatics as autopoeitic in the mode of Luhmann’s (e.g. 1996a) systems theory (Knodt 1994; 79). To wit, the way that Habermasian (1990a; 185) theory can roll out the charge of performative contradiction is simply an example of its own closed operations, sufficiently

irritated, resolving said irritation through assimilation. By wrapping morality up in its own 'anthropomorphised' closure, the possibilities of moral communication serve that closure. The strategic/communicative distinction, and its corollary system/lifeworld, could be seen as a code in a way similar to legal/illegal (as the code used by the legal system according to Luhmann), for example; specifically, as a way of explicitly limiting possibilities in aid of systemic function. However, Knodt (1994; 79) problematically translates this into systems-theoretical terms and thus 'accuses' Habermas of being a first-order observer. This is not to say that Habermas's theoretical system does not lend itself to being viewed as an autopoietic system. But, if one observes the operation of all communications using Luhmann's theory, it is likely that they will appear in Luhmannian terms. This particular observation does not eliminate other possibilities. Further, Knodt's (1994; 97) understanding of the dialectic between system and lifeworld simply as opposed methodologies, which can only be 'functionalised' by a first-order observer that remains blind to their paradox elides the more complex issue of the relationship between first and second-order observation.

If we take Luhmann's theory seriously and view all observation as a selection, then we must heed Rorty's call for a reorientation of our endeavours from ontology towards ethics and politics (1990; 13), because every observation then carries with it a particular power; a power that through selection produces its own world. The problem is that this power is not enjoyed equally by all. Wolfe's work is directly relevant here. He writes,

Luhmann levels [the social plane] by refusing to complicate his epistemological pluralism – that we are all alike in the formal homology of our observational differences – with an account of how in the real social world where those observations take place some observers enjoy more resources of observation than others. (Wolfe 1994; 126)

Re-appropriating the words of Steven Best and Douglas Kellner, Wolfe goes on to point out that because of these differences in resources 'some people and groups are in far better positions – politically, economically, and psychologically – to speak, than others' (1991; 288). Luhmann's 'formal homology' would reduce this power into an equivalence that not only flattens it out, but also misses the fact that power relations are not simply a secondary concern. The asymmetrical nature of observation itself is an act of power, in the sense that it requires an operation by which an observer asserts their claim to reality *in the most basic sense*, a claim that of necessity *is made over and against an environment that remains unknown*. Power is thus built into observation as a precondition and an exercise. And if we view power as immanent to observation in this way, then we can find a specific confluence between Foucault's insistence that power must be forced constantly into motion to allay the prospect of domination, and the possibility in Luhmann's work (1996a; 460), emphasised as an ethical requirement by Wolfe (1994; 121), to distribute and unfold the paradoxes of observation throughout the social.

Viewing power and observation in the way described above is important for our discussion of Habermas's moral programme because our critique of humanism so far leaves us at

precisely the point that Habermas found so intolerable after Theodor Adorno had cast doubt on traditional ideas around emancipation (see Habermas 1990a; 186). I would argue that Habermas's efforts to revive a tradition of emancipatory moral critique are hindered by his own humanism, but that this does not mean that we must turn fully to Luhmann (e.g. 1992) and allow contingency to rob our moral sensibilities of force. The idea of morality as a critical category is worth maintaining for practical reasons that do not discount or contradict Luhmann's amoral description of its function. In fact, hidden in Luhmann's account of morality – where the moral is coded for respect and acts as a means of ensuring continued communication against possible disturbance – is a fractured picture of Habermas's theory itself (Luhmann 1992; 999–1000; 1996a; 82), a critique based on those forces that threaten communication. Obviously for Luhmann, this function is a significantly more contingent than is generally allowed for in Habermas's work and so cannot be levelled determinately against a particular, large-scale process such as neoliberalism, or given any kind of generational priority as a universal basis for action. But, this does not mean that *people do not use it in both ways all the time*. Knodt's treatment of Habermas as a first-order observer (1994; 98–99) misses this crucial point. Second-order observation opens up the contingency which acts as a reservoir of complexity around an observation. Second-order observation does not void the first-order

observation observed. As I have already said, observation and the observation of observation take place in 'non-intersecting phenomenal domains' (Maturana 1990; 1). To be more precise, this does not mean that when morality is *used* by an observer in a practical sense, it cannot be with a view to universalist ideas of action and resistance to particular, large-scale processes, or that when *subjects* use morality in this way they necessarily perturb the social systems that use it too. The second-order observer may see moral selection in terms of systematic function, but only by virtue of their own particular 'interest'. As a first order-observer they still work with the facticity of what is given to them, possibly including knowledge of its contingency which, however, only comes after the fact. A critique of the second-order can undo totalising observational claims but it cannot invalidate an observation within its own bounds. Habermas's (1987a, 1987b) project is problematic not, as Knodt (1994; 99–100) would have it, because the methodologies opposed to one another as system and lifeworld invalidate each other by virtue of exposing their paradox. Lifeworld and system are comprised of first- and second-order observation respectively. It is the 'asystacity' (irreconcilability) of the contact between them as observational modes that is exactly what is required to perturb them, to *make them learn*.¹¹ Unfortunately, Habermas's project precludes learning from such friction because it poses the figure of their contradiction as the human, and thus restricts its most radical innovation within

¹¹ Foucault theorised this perturbation between disciplines and their respective methodologies in his *The Order of Things* (2001).

an anthropomorphic, normative framework. In doing so the power of second-order observation to circumscribe and render contingent is relegated as 'less-than-real'.

It is this perturbation between observational modes that Foucault called resistance and this perturbation is also why he asserted that it precedes power. It is also in these necessary acts of resistance that I think we can in a limited sense perhaps utilise Habermas's (e.g. 1987b) moral-critical programme. Consensus for Habermas assumes an organisational homogeneity to different knowledges, and thus a single arena through which they can be reconciled – the arena of Humanism. Any continuity established is thus reduced to a meeting of sufficiently similar dynamics. However, by reinserting closure, and thus eliminating the possibility of consensus in the socially 'stable' – i.e. reductive – sense, we do not deny ourselves its paradoxical re-inscription in a plurality of subjects, and in the social, which performs its own unity between them. In fact, Habermas (2008; 48) posits something not dissimilar when he draws a parallel between the 'task' set by Kant's kingdom of ends and the open-ended nature of discourse. We must assume that Habermas means this in a continuous, purely social sense. But consensus as a task for the subject that at once knows it *can never be realised*, but never the less seeks it out, is something quite different. It is something much more akin to Albert Camus's contention that we must assume that Sisyphus is happy (1955). Consensus in this, dare I say it, *counterfactually idealised* sense is the constant interplay between first and second-order observation, between the subject and the

social, but entirely without assimilation. The result is quite the opposite of the homogenising force that it was under the terms of a totalising social domain. It becomes a constant irritant as communication unfolds – a negation in the Adornian sense that provides the distinct possibility for as Žižek has it, 'torturing language' (2014; 1) into new and hitherto improbable formulations.

It should be noted that I do not wish to evoke the kind of self-evident intentionality Habermas does. Under the terms of observation already discussed, the subject, to speak with Derrida, cannot be conceived of as 'a free consciousness present for the totality of the operation' (1982; 323). On the contrary, it is exactly this limit that gives to consensus its irritating force – not as an outside agent manipulates something in their grasp, but as the process by which one's own beliefs can become surprising, as here *the concept of consensus* necessarily includes the possibility of reflexivity. For instance, if we take the act of intimidating someone and note that it can be conceived of as successful or not based on a more or less fixed premise, we can note that the limits of this premise may never need to be brought into question except in extreme cases, whereas the act of discussing a relationship for instance, with the aim of understanding one another, is always a modulation and reconstitution of its central theme. This is by virtue of the fact that, on the one hand, *consensus is never reached*, and on the other, the 'intention' of action in this case always explicitly refers to the reflectively contingent dynamics of communication itself; that is, to its own limits. In other words,

consensus as an orientation grants all those involved in discourse with finite, changeable and, ultimately, irreducible subjectivity because it starts with the premise that everyone knows something that others do not. Consensus thematises the limits of intentionality. The incongruence of the subject and social *as it is constitutive for the subject* thus necessitates a restructuring, a change of state that then irritates the social world in turn.

Conclusion

Obviously, it is not possible for this restructuring to have a determinate effect; I do not intend to give perturbation a particular place in a set scheme of things that counts itself as necessary in the Whiteheadian (1985 [1929]) sense. Habermas's apotheosis of 'critique' is evidently as much a target of the incongruence noted above as anything else. In the example I just gave of intimidation and 'mutual' discussion there is no absolute difference between what Habermas would call strategic and communicative action, because our intentions do not find their mark beyond their limit but rather only within it. In the same way, second-order observations are also first-order observations (Luhmann 2000; 55–56). Yet in both cases the latter produce additional possibilities, by observing what cannot be observed, by thematising what escapes thematisation.

Despite all this, the moral question remains: why resist at all? Ironically enough Habermas offers a curiously functional answer. We should resist the 'colonisation of the lifeworld' because it is a self-evident preference built into the necessity of communication (Habermas 1987b;

403); as communication gives us morality, so too does it give us the reason to resist. But, for all the reasons which I hope I have made clear, while this may be sufficient to itself in abstract terms, it is not sufficient to the task of addressing the paradoxical opposition of the subject and the social. Morality is always abstract to ethics because it is that which exceeds the limit that intentionality places on ethics. Habermas is right to reject emotivist conceptions of morality because of this; saying 'that is wrong' is not the same as saying 'I don't like that' (1990b; 45–52). We do reach beyond ourselves when we make moral judgements, but Habermas tends to miss the paradox that it is a 'beyond ourselves' that is only within: we are not in control of constructing our morality in just the same way as we are not in control of the meaning of words, but that doesn't stop either from being a constitutive feature of the things we can control and do intend. The *Herrschaft* of morality is bound up with that which feels its force. Herein, I think, lies a small conclusion. Robert Hass has said of poetry that 'its political job is to refresh the idea of justice, which is going dead in us all the time' (1997; 1). It is this 'going dead' that speaks to the contingency of each observation and pushes morality beyond the scope of final formulations. It is not possible, or indeed desirable, to wash our hands of this difficulty, as Luhmann demonstrably has, and simply retreat into a theory of observation. Instead we must allow this difficulty to disillusion us in our attempts to make good on our moral sensibilities, not once but over and over. It is only through these inconclusive and provisory attempts that we can hope to refresh the idea

of justice. In the words of Robert Browning, 'a man's reach should exceed his grasp, or what's a heaven for?' (2013 [1855]; 1)

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SANTRAUKA

DOROVĖ IR HUMANIZMO BAIGTIS: SUBJEKTAS IR SOCIALUMAS HABERMASO IR LUHMANNO TEORIJOSE

Straipsnyje svarstoma, kaip epistemologinis neužtikrintumas, persmelkiantis mūsų dorovinį gyvenimą, užkardo galimybę suprasti humanistinę dorovę ir atrasti joje pasitikėjimo garantą. Pirmiausia analizuojama, kaip neužtikrintumo problema nušviečiama poststruktūralizmo ir Niklaso Luhmanno stebėjimo teorijose ir kaip ji sprendžiama atsižvelgiant į dvilypę dorovės – kaip subjektyvaus ir kaip socialinio fenomeno – prigimtį. Vėliau pasitelkiami Jürgeno Habermaso darbai, iliustruojantys humanistinės dorovės ribotumą.

Straipsnyje teigiama, kad, nepaisant Habermaso ketinimų ir pateikiamų argumentų svarbos, jo svarstymai visgi negali pagrįsti jo asmeninės moralinės pozicijos. Taip nutinka dėl jo minčiai būdingos humanistinio mąstymo struktūros, neleidžiančios išnarplioti paradoksalaus subjekto ir socialumo santykio problemas. Straipsnio pabaigoje siūlomi keli sprendiniai, kurie, nesant užtikrintumo, įgalintų humanizmo dorovinę nuostatą. Tai galima padaryti tik pripažįstant paradoksalią dorovės prigimtį, kuri neredukuojama tik į vieną ar kitą dėmenį ir atsiskleidžia tik kaip netobula patirtis, kuriai visada bus būdingas šališkumas.

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