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**LAW PHILOSOPHY IN HABERMAS: THE
HERMENEUTICS**

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I - Preface

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1. The German philosopher of the present time, Jürgen Habermas, whose concerns of Sociology had made it to emigrate to the area of the Philosophy and, more specifically, for a Pragmatism of inspiration anglo-saxon but without leaving the German tradition, according to which imports are them it living together possibility, through the " consensus ", is the author of the " Theory of Communicative Acting" in "Ethics of the Speech ", according to which the only Rationality is of the dialogue.

As for Habermas the Illuminism is synonymous of " critical of the society ", it who can progress from Marx to carry through it, for a solid structure of intersubjective praxis. Habermas comes of meeting to the thesis of the practical vocation of the Law as application of the Philosophy, still that to its way, leaving of the comment of the trend to the " juridicization " that it parallel calls " world of the life ", what he makes it to also arrive in port in a critical one of the Law, the critical theory of the society that he develops. Thus, conjugating Philosophy of the Society, addressee of the Law, and Legal philosophy properly said, a ampler vision of the problem and, therefore, critical the most fruitful one is possible.

2. The study of Habermas, however, one does not become without difficulties. End these are two, mainly, one in general character and another particular one. In first place, and we demonstrate

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this conscience, is the difficulty of the study regarding a thinking living creature, in frank activity. This difficulty does not hinder, however, the advantages of if reading an author contemporary, fruit and seed of the times that we share. We risk ourselves, is truth, to make a work that, before exactly of its ending, if it becomes outdated, but this does not have to be escape reason and yes to be felt participant of this moment. In according to place, we have the peculiar difficulty to the studied author, which is, of a prolix writer, whose published workmanship is enormous, and that it demands greater severity of the systematization of the study. Its citations, however, compensate this effort, because when studying Habermas, finish entering in contact, of critical form, with diverse other names it thought. To study Habermas means to study great part of the History of the modern thought, even so its prolixity in makes to remember them the following pass of Kant in the preface to the first edition of the "Critical one of the Pure Reason": "The Terrasson Priest says who, if to measure the largeness of a book, not for the number of pages but for the time that we need to understand it, then if can say of much book: that he would be well shorter if was not so short. " And complete: "...it could be said with equal right: much book would have been much more clearly if it had not intended to be so clearly."

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3. The bibliography if divides in main and secondary, being that referring one to the workmanships of Habermas, cited in the proper body of the text, into parenthesis, for the initials of the original, and followed of the number of the page, while that this is cited in note, for chapter.

II - INTRODUCTION

The indications, second in them seem, are in its ranks regarding the Life, of the Man and of the Universe that the fence and of which is part, still when it looks Habermas to deny any possibilities of metaphysics. Necessity is exactly in its to disrespect metaphysics, leaving for "what it interests" in relation social, under inspiration of anglan-saxonic Pragmatism, that we will be able to understand its concept of Philosophy, that believes to be an accomplishment of the Marxism, as a "philosophy of the praxis". Discovered what the philosopher regarding the reality understands human being, we will be next to its definition of Law. In the truth, the reality human being reflect no longer its cerne, the Law as means of integration of the social component, as understands it Habermas, being that to understand the Man it is, in certain measure, to ahead understand the Law of which if it becomes possible the living thogether.

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2. But the author does not leave to study the Law of will be it to be explicit, of the perspective of the Philosophy. It is not properly the Law of the jurists, however a study in critical face of the social one that he intends to construct. Its vision to this respect is on, on the other hand, to the hermeneutic aspect, either as method of sciences called sciences of the spirit, either as it has contrasted to the Philosophical Hermeneutics, to assist in the method that it intends to place. Many times the parallel with the particular Hermeneutics will be useful, over all the legal hermeneutics. Inevitable it will be also the study of the tradition onto-logical-metaphysics of the Traditional Philosophy, as well as the insertion of the proper Classic Natural Law, and its flowing contemporaries, collating themselves with the Rational Natural law of Modernity, inserted in the Philosophy of the Iluminism, and being accompanied by, finally, the trends of century XIX that they discharge historically in our century. Here, absentee pitch enters the study of the Law and the study of the Philosophy, it is that we will be able to understand the concept of Law in the thought contemporary of the author.

3. A critical study, however, it cannot leave of being dialectics, in the direction to approach, comparativily, what it is not the Philosophy and the Law for the studied author.

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The reference to the Ontology, to the Natural law Natural Classic of the aristotelian tradition, and the proper Law of the Modernity, be subject oppose, extract if of the thought legal adequate to this philosophical position, what be receive and what be abandon for the author, and which to its consequences.

4. Evidently, to speaking of Law, still that under the prism of the Philosophy, we cannot forget the consequences practical, therefore the Law, in its essence, aims at, before everything, the application. To place in practical the Law is necessary that let us understand e filosoficaly to it, for its conceptualization is that we will choose its hermeneutic handling.

Of the study of the Law Philosophy in Habermas we will extract, necessarily, the hermeneutic consequences of its thought, where we will have to also bring the agreement of the hermeneutic Philosophy, whose respect already we find the confrontation of its Critical one with the Hermeneutics of Gadamer, necessary chapter for the understanding of the position of the philosophical thought contemporary.

5. We arrive at the question of the Hermeneutics in the Law: it is a method or the proper Law if self-realization as Truth? This is the quarrel of Habermas with Gadamer and that it retraces to the

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question of a Tradition, or either, of the Ontology. Here also we do not find pitch enters above cited the philosophical quarrel and the quarrel in cerne the application of the Law, or the Legal Hermeneutics.

6. Finally, as to relate Theory and Praxis? It has Habermas ratio, when not accepted the ontologization of the hermeneutics, making it mere instrument of the living together?

It wants to say, as canonic method that supplies the form of legitimation of the action, the consensus that establishes the communicative action, or the untranscendentalized ratio is not enough for the same establishment of itself? In a word, what it suggests the heading of Gadamer: It has a true truth or alone a logical truth, established in methodical premises that only legitimize conclusions?

7. It is perceived, therefore, that our concern in the present study of Legal philosophy are a hermeneutic question (application of the Law) and alone in this direction we consider the Politics Philosophy, in not interesting, for however, the quarrel politics in itself, as the stopped one for Habermas with Luhmann, for example.

PART I

Chapter 1

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DIAGNOSIS OF THE "STRUCTURAL CHANGE OF THE PUBLIC SPHERE"

The interest of Habermas for the critical study of the society already appears in "Strukturwandel der Öffentlichkeit" ("Structural Change of the Public Sphere"), whose objective is to demonstrate that the public sphere, where if they give the debates for formation of the public opinion, finished changing e, therefore, is necessary a new concept of public opinion (SO, 274). From the limitation of "bourgeois public sphere", the author shows what he understands for public, assuming the critical function of the public, which is, the public opinion, remembering its genesis in the public character of the judicial debates (SO, 13-14.). Its method is the "description-sociological one" (SO, 15).

Differently of the private sphere, the public sphere is what it obtains to appear. Since the Roman law until the Middle Age, with the idea of "res it publishes", did not have obligator difference between public and private, as for example, it was the house of the feudal gentleman. Public meant a power upper. With the Society-State splitting, spheres are also broken up public and private, being that no longer Century XVI, private it meant what he was excluded, private of the state device. On the other hand, "public" was the State, absolute, objectified in the person of the sovereign.

Here, the public personality of the nobleman (it is what it reproduces), if opposed the bourgeois (that it

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is what it produces, or either, its patrimony). Habermas establishes, for the clarification of genesis of the Bourgeois Public Sphere, the parallel that it gives in the capitalism: The modern State, money bureaucracy and necessity and taxation (SO, 27). Public is then synonymous of State and has as counterbalance the Bourgeois Civil Society. The economy passes of domestic for politics, of a management of the house for a public management. Here perhaps either of it noticing that the interpretation of Habermas regarding the living together, that it gives in the public sphere, either, in kantian way, a question of convenience, or either, a mode of it assuring the proper individuality. If it not to move away from this, the proper communicative action also runs the risk of being same it a strategical action.

It understands that the paper of the Press, in this period of training, already if he becomes important for the public management, therefore he is through it that this, as authority, run its communication to the public. It appears, then, a new category of bourgeois, that it assumes central role in the "public": employees of the public management, especially jurists. Habermas designates, in this particular one, something that is of bigger interest to our study: it says that especially in the European continent, where the technique of the inherited Roman law is manipulated as instrument of rationalization of the social interchange, the paper

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of the bureaucracy, including itself there the jurists, assumed primordial role in the formation of the public sphere (SO, 35-37). This already makes to denote, of beginning, the position of the author regarding the Law, that later we will look for to clarify better.

Ahead of this new category of bourgeois, the old layer of bourgeois falls that she was the authentic bourgeoisie, of the artisans and the small traders. In its place, the new "bourgeois" layer appears that it is of the "scholars", support of the cult: a cult that reads. With this, already the domestic life starts to be part of the public, who is a public whom he judges: it is the "public opinion", "*öffentliche Meinung*", "*opinion public*", and that it is given through its institutions, the "coffees", "salon" and others "forums". Habermas cites the problem of the contraposition enters the Machiavellian tactics of the "secret of state" to the principle of the "advertising" (SO, 69). It says that the only trustworthy criterion regarding the quarrels to this respect, is the rigorous concept of law, that does not keep more in itself only justice in the direction of well acquired rights, but legitimacy for emanation of general and abstract norms (SO, 70).

Habermas notices that the philosophical tradition, either the aristotelian-scholastic, as the generalis cartesian-modern knows the category of "lex" or "universalis", but in the sector of the social philosophy and the politics it implicitly is only

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introduced by Hobbes and express defined by Montesquieu (SO, 70). The "law", as essence of the general, abstract norms and permanent, whose mere application if intends that the domination is reduced, has inherent itself a rationality where the correct one converges with just (SO, 71). The public opinion intends to correspond to the "nature of the things" and the laws, therefore, must be made sure of formal criteria.

Habermas concludes: "the same conscience of itself that the public sphere politics has and that was demonstrated in the central category of the legal norm, is intermediated by the institucional conscience of the literary public sphere." (SO, 72), completing, to follow, that "the developed bourgeois public sphere is based on the fictitious identity of the congregated private people in a public in its double papers of proprietors and mere human beings" (SO, 74). This explains because the Law, as Habermas will cite, being the practical one of a Philosophy, or better, of an ideology, if it transformed, preponderantly in the figure of the contract, the amalgam of the bourgeois society. It is through the rationality supplied for the Modern Natural law that the bourgeois society will feel insurance. This fetching of security still will continue, ours to see, in the theory of Habermas, however its effort in trying to surpass this modernity.

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The functions politics of the public sphere (SO, 75 and ss.) if they characterize, in first place, England, the turn of Century XVIII, for the fetching of legitimation, when still in the France of Century XVII this age restricted for the king. The Constitution of 1791, with the Declarations of the Rights of the Man and the Citizen, proclaims exempts it communication of ideas and opinions, fortifying itself the journalism. But with the blow of 17 of January of 1800, two days later, Napoleon it suppresses the press freedom. In Germany, the Bourgeois Civil Society, from the scholars, excludes those that already had been bourgeois, and is characterized as sphere of the private life, becoming related Private law and liberalization of the market (SO, 93).

To the free competition and the swap of merchandises, it corresponds the legal business as a contract to the base of the free declaration of wills. The great codings appear of the right bourgeois, guaranteeing themselves it institution of the private property. Habermas notices that in countries where it did not have the tradition of the Roman law, the relative institutions to the modern Private law (that it is characterized for the positivition), started first (SO, 95). It cites the Codes of the Prussia (of 1794) and of Austria (of 1811), and, between them, the Civil Code of 1804, classic workmanship of the private law bourgeois (id.). Interesting to notice that, under the Absolutism, it has more legal

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technique of that Law properly said, what it serves of instrument for the monarchs (SO, 96).

But, if the Roman law still not guarantee a private legal order in strict direction (SO, 96), the calculation of the profit demands probability, or either, has the necessity of a formal justice, being the obligator statutory law for all, therefore it does not have exception. It searches objetivity! And this because the laws of the State must correspond to the laws of the market: both do not allow exceptions to the citizen nor to the private person: they are objective, or either, they cannot be manipulated by the individual and nor are addressed the determined individuals.

The Rule of law while bourgeois, establishes the public sphere acting politically as agency of the State institutionality to assure the bond between law and public opinion. The bourgeois idea of rule of law ties the State with a normative system, to the possible measure of without gaps and the legitimated one for the public opinion, to eliminate the State as domination instrument (typically bourgeois idea). The advertising guarantees that the power emanates of the people, therefore the parliament and the judicial process can be criticized. But the criterion, however, for admission in the public sphere, is the culture, therefore the public sphere, still when it acts politically, continues literary (SO, 105). Culture, in the case, means, also, to be proprietor, therefore who is only cultured is

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proprietor (SO, 106-107). It would only have "ideology" to leave of this time and its origin would be the identification of the "proprietors" with the "men simply" (SO, 108-109).

The contradiction is in this: the social base of the public sphere of the Bourgeois Rule of law, bets to all domination, is, in same, dominating itself (SO, 109). However, the idea of bourgeois public sphere, that finds its classic formularization in the kantian doctrine of Law, is taken to problematic by Hegel and Marx. "Opinion" means in itself "public opinion exactly". True opinion is the one that if submitted the bolter of the public sphere, and needs to be guided for its double function: social control (the censor is its spokesman) and to legislate (legislator). For the physiocrats it is the absolutism completed for critically operating a public sphere and for Rousseau it is the democracy without public quarrel. For both it is the same heading of "*opinion public*" (SO, 122). For Kant, the public opinion rationalizes the politics on behalf of the moral (SO, 126).

The advertising is the principle of legal ordinance, as mediation between State and Society and whose method is the iluminist. Here, Iluminism is to emancipate itself for the ratio, intermediating itself for the advertising, or either, to think and to share the thought. The politically thinker public, however, is the private proprietors, only gentlemen of itself and that, therefore, they can vote (SO, 134). Although protected for the law, the proprietors

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cannot make it. Kant found, as the liberal ones, that to the privatization of the bourgeois civil society it would correspond the establishment of the natural base of the Rule of law (SO, 135). The bourgeois society converts, as "*ordre naturel*", "private vice" in "public virtues" (SO, 136 and 141). Hegel, however, doubts this. In the hegeliano concept of public opinion, the bourgeois private sphere is mere "ideology" (SO, 142). Although Hegel shares with Kant the idea of that in the advertising, or either, in the debate it is that it is clarified, already is not treated for Hegel of a liberal idea of public sphere, where the ratio if carries through. The advertising is only the way of integration of the subjective opinion in the objetivity here that the spirit if gave in the figure of the state (SO, 143-145) and Marx comes to denounce the public opinion as false conscience, that hides in same itself its true character of mask of the classroom interest bourgeois (SO, 148). Destroying all the fictions the one that appeals the public idea of bourgeois sphere, denounces that the bourgeois private life makes with that "each human being finds in the other human being not its accomplishment, but the limitations of its freedom" (SO, 150, citation of Marx) and the rights that they guarantee this "egoism" are not "right human beings".

However, accurately the splitting between private sector and public sector hinder what the civil public sphere promises and the verbal solution is in the

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word of order: socialization of the means of production! Just in this way disappears the domination of a classroom for the other. Habermas makes to notice that for Marx and Engels, a purely private relation is that one on which no legal order to intervene (SO, 155). But, the regimen of the free competition already cannot take care of more its promise of equality and free-access to the public sphere politics. Now, the subject of century XIX is the magnifying of electoral justice: magnifying of the public and not more as in century XVIII, the principle of the advertising while such (SO, 155 and ss., boarding on John Stuart Mill and Alexis de Tocqueville).

Liberal as Mill and Tocqueville, that they supported the public sphere on behalf of the principle of the advertising, they also condemned it in its effect, on behalf of the same principle. Tocqueville considers the public opinion before as coercion to the conformity of that force of the critical one. It and Mill find that the proper public opinion is that necessary to be limited, before being limit of being able them state, being that the elite is that determines the public opinion. The absolutism of the public opinion grows to the measure that grows the bureaucratized State. It is the same concern that if finds in Marx. For this, as for the physiocrats, the public opinion "socialist" as perspective of "ordre is still placed emancipated naturel".

However, it concludes Habermas, nor the liberal model, nor the socialist one, are adjusted for the diagnosis of a public dimension that, in peculiar mode, floats between both the constellations (SO, 167). For the author, two trends, in dialectics terms related, designate a decay of the public dimension: it penetrates "more extensive spheres" each time of the society and, at the same time, it loses its "function" politics, or either, to submit the facts become public the control of a critical public (they idem). It writes down that M.L. Goldsschmidt registers the two same trends: 1) disrespect of the privacy right and 2) increment of the secret in public considered areas... (id.). And finishes Habermas: the public sphere loses the force of its "principle", critical advertising, to the measure that it extends itself while "sphere", emptying, moreover, the private sector (SO, 168).

The bourgeois public sphere develops in the field of tensions between State and society, in mode such that same it if becomes part of the private sector and the interventionist politics of the neo-mercantilism finishes being a "refeudalization" of the society (SO, 169-170). The features of this phase are the transference of public abilities for private entities, the substitution of the public power for the social power and the gradual nationalization of the society: it is come to ruin base of the bourgeois public sphere, that is the splitting between State and Society.

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In the end of the liberal age, the advanced capitalism takes the new oligopolies. And aims at its protection of weakest, for establishment of the balance that was impossible ahead of "free market". One is about a Social Law (SO, 177), where elements of the Private law and the Public law interpenetrate respectively, with the trend of occupying the place of individual contracts for the collective ones, as it is the case of the working contract, that it protects weakest. For the liberal ones, one is about new forms of socialization that at least the marxism had foreseen (SO, 178), finishing for turn public the Private law and privatizing the Public law, in a socialization of the state and a nationalization of the society, if not identifying to more public sphere and nor private sphere. In this situation, the close sphere withdraws for the periphery in the measure where is unprivatized. At the same time, the great administrative bureaucracies lose the public character changing itself into great companies (SO, 180-182).

The social guarantees of the State restore, such as against the unemployment, accidents, oldness and deaths, to which they correspond wage discountings, being that the family loses its traditional functions as to educate the children and, therefore, to determine its behavior, ahead of the phenomenon of its unprivatization. In the place of the "thinking public of culture", it appears the "consuming public of culture" (SO, 189), becoming

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it quarrel a consumer good (SO, 194) and appearing the techniques of mass journalism, whose target is to distract and not to reason: they captivate and they hinder the "emancipation" (SO, 200). The public is called to acclaim more of the one than to participate of the process politician (SO, 212). The critical journalism is suppressed by the manipulative one, at the same time where the division of Being able Public tends if to dissolve (SO, 210-211). The propaganda assumes the function of the public sphere and the publisher, whom before commercial interest had, later starting to have interest politician (opinion), comes back to have commercial interest (SO, 213).

It remains to examine the "advertising" daily pay-manufactured and the not public opinion, in its consequence of the electoral behavior of the population (SO, 246 and ss.). Ahead of the "marketing politician", it is perceived falseness of the quarrels, that they only aim at to strengthen opinions. Instead of clarification, the parties want to convince, coming back the old function from the ideology, in the form of sale of the politics, apolitically (SO, 252). However, the sufficiently rare relation between the critical journalism and those isolated people still exists whom still they look to form its opinion in literary forms. An opinion, in saying of Habermas, capable of if becoming public, but of not public in fact.

In these circumstances, it concludes Habermas, "for a conceptualization of public opinion is necessary that both the communication sectors pass to be intermediated by that one another one, that is of the "critical advertising" (SO, 287). Will be this the pretension of its future Theory of Communicative Acting?

Chapter 2

THE CONNECTION BETWEEN THEORY AND PRAXIS.

In "Strukturwandel der öffentlichkeit", Habermas analyzed the historical connection between the capitalist development and the sprouting and fall of the liberal public opinion, concluding that this finishes victim of the manipulation. On the other hand, the problems of state interventionism and the designed technician-scientific progress appear, resulting in the "tecnocracy", with a chronic necessity of legitimation, because of the erosion of the cultural traditions wich to ensure behavior. It waves, finally, with the possible interaction between science and politics, since sciences adopt each time more the paper of first productive force (Theorie und Praxis, 15-17).

Of this point, Habermas has left for the fetching of a critical method, considering that the critical one of the society has that to consider a theory of the delayed capitalism, based in the manipulation of masses (TP, 18). For this, it studies the connection

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between theory and praxis that, as point, were diluted by the Positivism. Already it is considering that the "interest" guides the "knowledge" (subject of the book "Erkenntnis und Interest" of ampler form), of a similar form to the gadamerian principle according to which "the method already contains in itself the truth that it intends to discover". Habermas tells that the Marx (Theory of the Society) and Freud (Metapsychology) if characterize for the fact to want an interest that guides the knowledge as emancipatory interest and not technician-practical cognoscitive interest. It wants to show that "in the psychoanalysis, as well as in the linguistic analysis that tends to the auto-reflection... they coincide knowledge and interest..." (TP, 20), constituting the theory and the therapy, in Freud, as theory and praxis in the marxian theory.

The author cites the "Theory Consensual of the Truth" (pure communicative action), for which the truth is logical, and thus pure, because exempt of origins and therefore also exempt of ends, or either, it exempts of the interest that, since the origin, it guides the application. It remains to know if a "not assumed truth" in ontologies terms is possible. To if speaking of praxis, it speaks in the organization of the fight (TP, 37) and concludes today that, in the delayed capitalism, for organization of the Illustration, is more important the modification of the structures of the educative system in general of that the inefficacious instruction of pictures or the

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construction of impotent parties (TP, 40-41). Here already it appears that Habermas alone searched in Marx its iluminist side, to illustrate itself, not believing really the revolutionary solutions proposals. It is coherent with the idea in formation regarding the future Theory of Communicative Acting.

Therefore it is that it says that only the theory points out the citizen as current conscience, preparing it for the action inside of the interest of the group. And this is only obtained for the consensus reached by means of the practical speeches, citing Lukács, whose theory of the party solves the mediation between theory and praxis (TP, 42-3). Here, the ilustrador is fictitious, in the measure where in the illustration process alone it has participants (TP, 48). But the aristotelian-tomist tradition of the politics directed to the good life, is broken by Machiavell and More. Before the question was ontologic (as to correspond to the nature) and now is technique (as to dominate the nature). Deep Machiavell the Law as convenience of the prince (TP, 54-60).

After them, Hobbes, surpassing them, it justifies the state sovereignty in the contract: "pactum potentia", that it means that to obtain the social peace, finishing with the war of all against all, the power to judge and to execute penalty must be fruit of the pact. With Hobbes the mechanization of the thought starts, or either, thinking the society as a machine

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that must function. Thus it serves of the contract, basing the scientific social philosophy as legal construction. The Law in Hobbes is an epitome of positive rules that the individuals give by means of a contract. Formal right is half technician for the regulation of the based social traffic in the fear (Criminal law and over all Penalty of Death), meaning justice the respect to this contract, the observance of the law. To this, Habermas says, corresponds the theory of Machiavelli and of the Reformers, according to which the state of nature of the man badly, corrupted, must be corrected by the hardness of the laws, that returns the state of the natural law, interpreted in mechanist mode.

Habermas writes down that Hobbes is the authentic founder of the liberalism, whose principles "to multiply the richness" and "to enjoy the freedom", is only obtained with the guarantee of the absolutism that monopolizes the use of the violence to guarantee the peace. The "*raison*" of State is devoured by the absolutism (it is Leviathan).

The positivization of the natural law is the accomplishment of the philosophy, with the Bourgeois Revolution. The appeal to the classic natural law was not revolutionary, but the appeal to the modern natural law yes. The revolution concept appeared for the first time in the rational natural law, being able itself to transform it into positive state right. While in the classic right it is leagued moral and right, therefore that it is oriented for the

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good life, virtuous, the formal right of the Modern Age is off of the catalogue of duties of a material vital order, authorizing a sphere of personal desire in which each citizen, while private man, can egoistically pursue goals of maximization of utilities. The supreme duty is of individual auto-maintenance, being that the theory of the duties of the physiocrats excludes material morality.

The Declaration of the Basic Laws is the positivization of the Natural law and therefore it is "declaration", or either, of that already it is anticipated to the will. Habermas observes that "*déclarer*" it means to translate "*ordre naturel*" in "*ordre positif*" (TP, 94), in the manner of that contemplates the accomplishment idea politics of the philosophy. The legal coercion drift of the coercion of the philosophical ratio. Sieyès and the physiocrats place the public instruction as the basic part of the theory physiocrat, that adds to the domain of the laws of the absolute nature and despotically imposed, the legitimacy of the social state. Habermas analyzes thus the two jusnaturalists constructions, of Robespierre and Paine, french and american, respectively marked for the virtue the first one, and the interest, second (TP, 110), finishing for mentioning the critical marxist to the Liberal Natural law (TP, 113 and s.). For Marx, as it writes down Habermas, it does not have justice in the formal and general laws of the bourgeois private ordinance, but when believing that one future

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proletarian revolution it will have to emancipate the men socially, one places in the same tradition of the Iluminism, keeping together natural law and revolution. However, the critical one of Marx is outdated, face the change of science (TP, 116), that it functions now as half basic of ideology. Hegel had celebrate the revolution for fearing it, understanding that the French revolution took for the first time the abstract right to the existence and validity. But it, criticizes Habermas, wants a revolution without revolutionaries, finishing in the same resignation that criticized in the christians to the wait of the salvation (TP, 137 and s.). Already in the Kaballa, with the theory of the Age of the World, if it creates the base for the materialism of Schelling, that prepares the reception the Hegel, and Marx. In contrast to Heidegger, who asks because the being and not before the nothing, Marx asks because it is thus and not in another mode, placing itself in the tradition of the modern natural law: the truth is politics, is made by the man. Law is the "civilian"! Marx speaks in critical as synonymous of ratio, but it does not understand its critical one as philosophy and yes as its surpassing. Marx criticizes Hegel, because its philosophy is not critical, but synthesis (TP, 233). As the knowledge that guides the illustrated theory he is declared critical (TP, 288), the praxis aims at the emancipation. Habermas nails then, a hashing that only can proceed from a change in the situation of

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the same conscience: of the practical influx of a theory that does not treat to manipulate the things better, but that, through the penetrating concepts of a critical hand-vise, it stimulates the interest of the ratio in independence and maturity, in the life of the action and the clearing of the dogmatism (TP, 290). It can be said that Habermas insists on that that the Iluminism was not capable to decide.

The positivist isolation of ratio and decision, however, takes to the danger of a society exclusively technique, doing without it bond theory-praxis, compensating itself well-being with the repression. A domination system can be legitimized appealing the standards rationality technique, what Habermas calls "technocratic ideology" (TP, 330). The solution is the social hashing of the academic formation, not only giving to information technique, but formation for the life, and only when sciences to learn to reflect on the practical consequences are that they will be able to recoup the energies for the felt academic formation with of social hashing. It is the democratization of upper education (TP, 334 the 351).

In the "Appendix", where argues "Marx and the Marxism" (TP, 360 and s.), Habermas places the critical theory of Marx in terms of critical as "Method", therefore the unit of Theory and Praxis means truth as accomplishment of the ratio (TP, 412). In "Zur Logik der Sozialwissenschaften", Habermas says: in place to ask for the legitimate

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origin of knowing, we have that to ask for a method that, in way to the mass of uncertain opinions in principle, in allows to discover them the definitively false ones (ZLS, 49). Thus adversary of Gadamer confesses itself, that asks: truth or method? In "Faktizität und Geltung..." Habermas will go to clarify, finally, the consequences of the procedural paradigm (method) for the Law and the practical one of the politics.

Chapter 3

PURE OR INTERESTED RATIO?

The connection between knowledge and interest already is related by Habermas in the previous writings, that follow this prompt in its genesis. In the book "Erkenntnis und Interest" ("Knowledge and Interest"), however, it specializes the subject, with the objective to establish an analysis of the connection between knowledge and interest, from the daily pay-history of the modern Positivism, that if characterizes for the negation of the reflection. Quotation, in note 1, of footing (EI, 3), the Positivism as ideological function. Habermas explores distinct responses to the critical one of the knowledge, whose question is concerning the possibility of the safe knowledge, either of Kant, for which the theoretical knowledge (pure) finds privileged rank in confrontation with science, or of the scientism, whose faith in science in same itself, identifies to knowledge with science, abandoning

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the philosophy. The research, however, has as objective, the critical one of the scientism, as clearly it placed by the author (EI, 294).

To leave, therefore, of the considered heuristical objective, Habermas goes behind history: It identifies to Hegel, adversary of Kant, showing the phenomenological auto-reflection of the knowledge, while that Marx, with the historical materialism demanded by the hegelian auto-reflection complete the destruction of the theory of the knowledge. It comes the Positivism, finally, and restores the absolutism of a pure methodology.

Hegel says that the criticism, when inquiring the conditions of the knowledge, if also inserts in the context of the knowledge and, if distrusts of the knowledge, can itself be distrusted of this same diffidence. But Habermas also points an ambiguity in relation the Hegel: the phenomelological experience if relates to " knowing absolute ", that, while such, is not justified for the phenomelological auto-reflection. This ambiguity hinders critical of Hegel to Kant, therefore limited to the transcendental philosophy, does not make front to its positivists adversaries (EI, 13). With Hegel, it writes Habermas, one initiates the fatal mistake of the philosophy as universal science, unmasking this pretension with the evidence of the independent scientific progress of the philosophy (EI, 26). It was on this that if it raised the Positivism, whose victory alone Marx can contain, when following the

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hegelian critical to Kant, but without dividing with it the base of the philosophy of the identity, who hindered Hegel to radicalize, without ambiguity, the critical one of the knowledge.

Habermas wants to analyze Marx to the light of the "world of the life" of Husserl, citing Herbert Marcuse as example of a "phenomenological", on marxism, also the Heidegger and Sartre (EI, 30), therefore the metacritic of Marx the Hegel assumes the form of synthesis by means of the social work, social work this that if characterizes for the perfecting of the nature like the necessity of its use (EI, 27 the 29), or either, for the work if it constitutes a "world", that it is the synthesis position that the work acquires in the materialism (EI, 30). The nodal point, therefore, in Marx, is not the logic, but the economy: in the work the man makes himself! In place of the "critical one of the formal logic" of the Idealism, he places "critical of the political economy" and as citizen and object are not confused, the "thing in itself" reappear (EI, 33-37). However, if Marx approaches to Kant, far-away itself of Hegel, when it says that it does not have identity between citizen and object, distance it if when understanding that the work matches citizen and object (EI, 37. In note 46, also, cites Alfred Schmidt, in this direction). The work is one "eternal natural necessity of the life human being", and the citizen modifies with it, what is substantially not kantian. But in the production

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process he is that the man if puts as subject social and the auto-production of the human sort if he gives for the work, through the history, that is the "natural history of the man" (between Kant and Darwin). But Habermas makes its critical a Marx: its thought is not enough to prevent the positivist reduction of the theory of the knowledge, since it reduced the act of auto-production of the human sort to the work, having a not proportional enters the praxis of the research and the philosophical auto-understanding of this same research. Marx is hindered to understand its proper mode to proceed (EI, 45). Marx understands, in a surprising positivistic direction, that Science Human and Natural "will be one alone science" (EI, 49).

For Marx, the theory of the society is equalized the science of the nature, as one to act instrumental. If Marx had not placed together interaction and work, under the social heading of praxis, but, on the contrary, had related in equal measure the materialistic concept of synthesis to the installment of instrumental acting and to the relations of Communicative acting, then the idea of a science of the man would not be overcast for the identification with natural science, thus receiving, and recouping the critical one of Hegel to the subjectivism of the theory of the knowledge of Kant.

With the pure theory of the knowledge of Kant, science lost the access to the material problems, that only recouped as philosophy. The Positivism of

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Comte, on the other hand, claiming a natural science of the social one, exceeded the perspective of Marx. The Positivism was turned against the theory of the knowledge, as they had intended Hegel and Marx, but created a methodology of sciences relinquished by the theory of the knowledge and of the which methodology Hegel and Marx they had believed dispensable (EI, 67).

To follow, Habermas makes a study on Positivism, Pragmatism and Historicism (EI, 69 and s.). In the Positivism, the citizen loses the importance, either as "I", "Spirit" or "Human Sort". One is about a scientificist faith of same sciences in itself. But, as the proper Habermas points, Comte if considers a heir of Discardings (EI, 77), being that the Positivism alone can be understood with the Metaphysical concepts that ignore (EI, 81). This means that it has a connection Positivism-kantism? For the Pragmatism of Charles S. Pierce, this is clearly. It was the first one, according to Habermas, to enter in the dimension of a theory of the science that reflects itself same (EI, 90). For Pierce, the methodology must clarify not it logical construction them scientific theories, but the logic it procedure with which we get scientific theories. These if base on information on which a consensus without durable constriction can be gotten and. IT DOES NOT HAVE THAT TO SAY ITSELF IN TRUE ASSERTIONS ON THE REALITY, BUT IT MATTERS TO HAVE A METHOD TO GET THE

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FREE AND DURABLE CONSENSUS (EI, 91). Here, second in them it seems, the connection with Kant is explicit and reaches Habermas: since unattachable "noumenon", imports the consensus. After all, Pierce decorated the "Critical one of the Pure Reason", studying it two hours per day, during 3 years. It is what salient Habermas as "methodological concept of truth " (EI, 94.), and that, according to Pierce, it is not confused with Idealism, because the reality independently exists of ours to know of fact. However, the concept of Pierce on the knowledge process goes against the empirism and the rationalism, restoring as discursive (rational), or either, that it depends on the interpretation or the judgment (EI, 96). In note 49 of the 98 of EI, Habermas it informs that Pierce anticipates, in certain mode, the philosophy of the symbolic forms of Cassirer, for which, in the tradition of the kantism, the basic function of the transcendental conscience is the symbolic representation. Pierce finds that the man creates the word, that means what it wants.

It remains to ask if it is not the Idealism that it looks for to refute! Interesting to notice that for Pierce, the truth is public, not being able to be inferred of singular citizens (EI, 101). Or either, as we infer easily, it is the concept of truth as public opinion, or either, as consensus, that of it Habermas goes to remove. The Habermas interests only the reason that Pierce to a autonomization of the proper concept of

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reality of the logic of the language in the confrontations of the concept of reality of the logic of the research lead (EI, 109.). It is a "kantian phenomenism", therefore, without the "thing in itself", as proper it affirms it (EI, 110), where the reality coincides with what of true we affirm of it.

Thus, according to Pierce, whose identity between concept and thing, for Habermas, if approaches not very to a Idealism far of Hegel (EI, 112-113), the valid conventions are the universal assertions on the reality who in given conditions of belongs, on the base of conditional previsions, if they leave to transform into recommendations techniques, or either, to give validity to a "practical principle" (EI, 122). It wants to say, the conventions if they crystallize in concepts that have law hypotheses, are one to act burst for the result, to eliminate the insecurity of the behavior (EI, 123). From there that the INTEREST, that are not nor mere empirical, nor pure interest, are an interest that guides the knowledge, disclosing a private but tenacious Positivism, and that little is distinguished from the "doctrine of the elements", of Ernst Mach, whom it dealt with in 82 pages and EI s. (EI, 137-138).

Habermas also studies the Historicism of Dilthey, which does not surpass, as its opinion, the monadologic conception of the hermeneutics of the romantic tradition and that faces the citizen wich knows as pertaining at the same time of the process, or either, of the world object of the knowledge. For

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Habermas, as much Pierce as Dilthey falls in a objectivism that hinders them to coherently elaborate the according to logical impostation of the science of its critical one felt it. He understands that only one auto-reflection of sciences that hastily does not exceed the scope of the methodologicals problems, can renew on the plan of the Positivism, the requirement of a critical one of the knowledge that does not fall again into route Kant (EI, 151).

In the communion, according to Dilthey, that if gives for the language, the reciprocal bond in the duty and the right is folloied of the conscience of the duty to be. Hermeneutics is here, at the same time, one form of experience and grammatical analysis, that if appropriates of the life experience and wants to customize it it the language to become comunicable the individual unexpressible (EI, 158 the 165). The hermeneutic interrogation and the interrogation of the nature (difference between sciences of the spirit and sciences of the nature established in Dilthey) if make to guide for the "interest of the knowledge". The interest of sciences of the spirit is "practical" because understanding hermeneutic makes possible a private consensus of constriction of which depends Communicative acting (EI, 176), while that, in contrast, sciences of the nature have an interest technician (EI, 178).

For Habermas, as much Pierce as Dilthey Positivism finishes prisoners it, in the measure where it soon interrupts the auto-reflection of sciences of the spirit

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where the practical interest of the knowledge is harvested as bedding of the possible hermeneutic knowledge and not as its corruption, falling again, with this, in the objectivism. To this height, it is of if asking: how to conciliate the pretension of universality with the spoon intention individualized historical processes? For Habermas, the psychoanalysis, as a general theory of the processes of formation of the history of the life, gives a reply (EI, 186). According to author, nor the connection in the modes inference analyzed by Pierce, nor the circular movement of the interpretation of Dilthey, are enough of the point of view of the formal logic, therefore where one is possible, the other cannot logically be demonstrated (EI, 191). Knowing nomological technical valueable in the same one is felt where knowing hermeneutic is practically efficient (they idem).

At last, thus express Habermas the INTEREST concept: "I call INTEREST the inherent orientations deep the determined conditions and auto-constitution the human sort, inherent to the WORK and the INTERACTION", that they include processes of understanding and learning (EI, 193). Knowledge is not nor a mere instrument of adaptation of an organism to an environment that dumb, nor the act of a pure rational being deducted to the vital connections while contemplation (idem). If for Fichte the auto-reflection characterizes I that if relieves transparent as one to act that it returns

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itself exactly ("intellectual intention" is the point of unit between the practical ratio and the theoretical ratio) (EI, 203), emancipative acting characterizes for the knowledge and interest. Or either, to know and to act is one alone act. With effect, the RATIO IS INTERESTED in the FULFILMENT of the AUTO-REFLECTION (EI, 208).

But nor Pierce and nor Dilthey had made reflections in the direction of a auto-reflection of sciences. This if finds in Freud and the psychanalytical critical of the direction. In this, in contrast to Dilthey, for which the hermeneutics is mined by external interventions, the psychoanalysis looks for symbolic connections that are disturbed by internal interventions, having the mutilations a direction as such: it explains the direction of the corruption, matching the linguistic analysis with the psychological research of causal nexuses (EI, 212). It has here for a contraposition of Freud of the "hermeneutics of the deep one" to the philological Hermeneutics of Dilthey. Instead of the subjective interpretation, one is about the interpretation to itself exactly, in the "privatized language" of the dream (EI, 213). One is about the "auto-reflection" that if characterizes for the abstinence (suffering) (EI, 223), being that Freud, phisiologist, do not fear a matching with natural sciences, falling in a objectivism that of the level of the auto-reflection immediately returns to the Positivism contemporary from the type machiano type and assumes a

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particularly raw form (EI, 245). In Freud, the application is auto-application of the object of the research that takes part of the knowledge process. Freud understood sociology as applied psychology. The problems of the psychoanalysis lead to a theory of the society. In this direction, when establishing authority of superego economically, or either, in the necessity of the work for subsistence, deviating the energies of the sexual activity for the work, finishes agreeing to Marx (EI, 266), but brings new points of view. For both, "culture", that Marx calls "society", is the way for which the human sort if it raises above of the animal conditions of the existence, even so diverge when Freud understands that each person in particular is enemy of the culture, that relates with repression, to the pacing that Marx conceives it as regularization of the interests (EI, 269).

Freud, however, has the advantage to get in the metapsychology a picture of Communicative acting insane, being that Marx did not obtain to understand the "domain" and the "ideology" as insane communication. For Marx, the man leaves of being animal when he manufactures instruments, but for Freud, thus it he is when he transforms the instinctive behavior into acting Communicative (family) (EI, 273)! Therefore, in Freud, domain and ideology are terms that acquire more substance that in Marx. Clarification is to magnify the power to organize the life, what, for Habermas, it is "this

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rational hope that basically separates the intention of the Illuminism of the dogmatic tradition" (EI, 275). Pointing Marx as inheriting of the idealistic tradition (EI, 277), Habermas compares formulas: the idealist, according to which "the interest is inherent in the ratio", and the one that places in the place, for which "the ratio is that it is inherent in the interest", being the interest of the ratio the auto-conservation (EI, 278-279). With the disturbed communication, the interest to the auto-conservation necessarily has the form of the interest of the ratio that if develops only in the critical one and if it confirms in its practical results. In the movement of the auto-reflection, KNOWLEDGE and INTEREST COINCIDE and the criterion of the life cannot in general be clarified without the connection with the interest (EI, 280). The theory of the knowledge alone can be acted as theory of the society (EI, 281, note 117), as it wants to demonstrate Nietzsche (EI, 282). Nietzsche in general saw the connection of knowledge and interest to the base of a metacritical dissolution of the knowledge, completing the "autoone of the theory of the knowledge" initiated by Hegel and taken ahead for Marx, as "auto-refuse of the reflection". He understands, as Comte before it, that the technician-scientific progress surpasses metaphysics and conceives as Weber after it, the practical consequences of this process as a rationalization of acting and a subjectivation of the powers of the faith that guides the action. The

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critical dissolution of the dogmas does not liberate, does not emancipate, but it annuls. It is nihilist (EI, 282)! Nietzsche not can run away to the requirement of the positivist concept of science and nor to liberate itself of the concept most demanding of a theory that it has meant for the life (EI, 286). He is prisoner of the Positivism and he does not distinguish interest from instinct (EI, 289). The refusal of the self-knowledge is a auto-destructive reflection against which it does not have argument. The history of the dissolution of the theory of the knowledge in methodology is the daily pay-history of the modern Positivism and Nietzsche wrote its last chapter in empirics terms, developing the connection of knowledge and interest (EI, 290). Habermas concludes: For the Positivism that replace itself, Nietzsche gave the test of that the auto-reflection of sciences only leads to the psychologization of the relations. And on this base the modern Positivism restored a pure methodology, purified of the problems that really interest (idem). In "Postscript 1973" (EI, 293 and s.), however, Habermas it confesses that the design of 3 books with the objective of "critical of the scientism", of the which "EI" would have introductory function, lost its ratio (EI, 296). The critical one of the scientism emptied, being case of if passing to a Theory of Communicative Acting, what it would intend to make soon, therefore the critical one of the

Theory of the Knowledge would be the way for the Theory of the Society (EI, 298).

Chapter 4

TO KNOW AND TO BE ABLE

In " Technique and Science as Ideology ", Habermas starts for wanting to demonstrate that Hegel puts in the base of the process of formation of the spirit peculiar a systematic conception, later abandoning (TWI, 11) and whose evolution, in turn, was not folloied by Marx (To confer TWI, 41). The analysis of " I " and the " Love " in Hegel, or either, of the individuality that if form by means of the relationship is repeated by Mead in " Mind, Self and Society " (TWI, note 10 of the 20). On the other hand, Habermas criticizes Kant, for which if it deals with solitary and self-sufficient citizens, that act strategically, for the moral, in order its actions between itself will combine.

It is truth, however, that the communicative action, as we understand it, takes in consideration this still individualistic concept of citizen of the knowledge, differently of the " communion " of experiences suggested by the Philosophical Hermeneutics in gadamerian style. Coming back to the analyzed text, also Hegel already critized Kant for becoming the laws most important that the individual, when the universal sacrifices and destroy him. He introduces in its place " Communicative acting " as way where if he carries through the process of formation of the

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auto-conscientious spirit. One is about the problem of the " interaction " in Hegel. This resignation of the point of view of the citizen of the knowledge already " soon " was picked-up by Cassirer, that makes a hegelianizant interpretation of Kant (TWI, 29-30).

Hegel establishes an internal connection between " legal norms " and the " processes of work ", being that the action on the basis of the reciprocal recognition is only guaranteed by the formal relation between legal people. The right confirms the resultant emancipation of the work. In the system of these general norms the free will only can get the objetivity of the external existence, to the pacing that the civil society appears now as the sphere of the pulled down ethics. However, the abstract right, even so determines the form of the proper social traffic of this sphere, is in the introduced one from is, under the jurisprudence heading and the dialectic of the ethiccity guarantees solely the " transistion " of the will, still internal, for the objetivity of the right (TWI, 31 the 40).

Marx, without knowing the manuscripts of Jena, says that Hegel understood the work as the essence of the man who itself exactly proves, and reduces the communicative action to the instrument, under the social heading of " praxis ". One is about a reducionist vision of Hegel who Habermas criticizes: One is not about an evolution of the " interaction " (Hegel) for the " social work " (Marx),

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even so both become related. But nor the Real Philosophy of Jena and nor the German Ideology clarify satisfactorily: on this connection between work and interaction the process on formation of the spirit (Hegel) and the species depends essentially (Marx) (TWI, 41).

As Weber, the rationalization is the form of the capitalist activity of the social traffic, conducted for the private law bourgeois, and of the bureaucratic domination. This " gradual rationalization " of the society depends on the institutionalization on the scientific progress and technician (TWI, 45), what, to Herbert Marcuse, it does not pass of ideology, for which if understands a domination form definitive occult politics. The rational domination tends to take the place of the domination oppressor, violent, giving its legitimation to it for the increasing productivity that makes possible a more pleasant life. Therefore, not by means of the technology, but as technology, that is the domain of the man on the man, through the domain of the nature. Therefore, Marcuse is felt attempted for the idea of a new science as that a " resurrection " of the fallen nature (TWI, 46 the 50). Second Habermas, this judaic-protestant religious figure, if it also finds in Schelling and Baader, the " Manuscripts of Paris " of Marx, consisting it central idea of the philosophy of Bloch and doing hope in Benjamin, Horkheimer and Adorno.

Habermas finds that nor Weber and nor Marcuse had explained upper-class the process of rationalization of the society, what the center of its thought will become, wanting to reformulate the concept of rationalization of Weber to argue the critical one of Marcuse, as well as its thesis of the double function of the technician-scientific progress while productive force and ideology (TWI, 55). The communicative action goes if delineating: Habermas has broken of the distinction between work and interaction, being that instrumental or strategical action and this correspondent to the communicative action. The communicative action is the interaction symbolically mediated by norms of obligator validity, recognized for at least two agent citizens and that they are strengthened for sanctions. For the behavior incompetent person, that is, breaking of rules techniques, the sanction is the failure before the reality, to the pacing that stops the deviated behavior, that is, breaking of norms, the sanctions are the stipulated ones, or either, the failure before the authority (TWI, 57). With the capitalism, the domination system can be justified. The " ideologies " in strict direction substitute the traditional legitimations of domination, presenting themselves with the pretension of modern science and to if justifying from critical the ideological one (TWI, 64). Transferring itself of the classic natural law for the modern natural law, the light of the mechanicism introduced for the modern physics of

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century XVII, this becomes the bedding of the bourgeois revolutions of centuries XVII, XVIII and XIX (TWI, 67).

Marx destroyed the freedom appearance with that the institution of the free employment contract becomes unrecognizable the underlying social violence the relation of the wage-earning work, while Marcuse accuses Weber with, ignoring Marx, to abide it an abstract concept of rationalization who occults again the typical content of classroom (they idem). However, it is not more possible than if he develops a critical theory of the society in the exclusive form of critical of the economy a politics. A new legitimation appears, to the cost of the state limitation of the institutions of private law, that however assure the private form of the revalue of the capital and tie this form with the consent of the masses (TWI, 69-70).

The depolitization of the population if characterizes for the solution of tasks techniques deducted to the public quarrel: the public opinion politics without function (TWI, 71). How to become reasonable the depolitization of the masses these same masses? Habermas question. The delayed capitalism if still characterizes for the scientification of the technique: science and the technique if become the first productive force, becoming inapplicable the marxian theory of the value-work (dualism interaction-work falls for as an flat one) (TWI, 72) and the ideology, on the other hand, if run to the resolution of tasks techniques and the ideological force of the technocratics conscience if verify in the occultation of the difference between rational action directed the ends and interaction. As the capitalism state regulated pacifies the conflict of classrooms, if it cannot more be valid the old marxiana theory of the fight of classrooms and ideology (TWI, 76). The new ideological core is the rub-out of the difference between praxis and technique, reaching the language, one of the basic conditions of our cultural existence (and therefore the communication frees of domination). Of this form, the reflection already is another one. It is certain, therefore, that the basic estimated ones of the historical materialism developed by Marx need a new formularization (TWI, 82), having itself established a new zone of conflicts that is not more the antagonism of classrooms, but the public opinion managed by the

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medias, occulting itself the differences between questions practical techniques and (TWI, 89). The problem is to know as the translation of usable knowing technical for practical conscience of the social world of the life is possible (TWI, 96). If for the Huxley, to know is to be able (94), therefore scientists and technologists govern the world, Habermas doubt that he is possible to convert the information of strict scientific-natural nature into literature, since they only can be used technical. What it was the " intention ", - for Fichte the " hashing of knowing in workmanships " -, it is only decided in the politically excellent field of the translation of usable knowing technical in the context of our vital world (TWI, 97). To be able technician if does not relate to the interaction, but the disposal power technique on the scientifically possible nature if today extends to the society, demanding a scientific reflection, not being able to be subject of private formation. The problem if places thus in terms of if knowing which the relation between technique and democracy, or: as it can be restituted capacity of the disposal technique to the consensus of the citizens who interact and between itself argues (TWI, 99-101).

After to analyze responses of Marx, on the other hand, and of Freyer and Schelsky, another one, that considers partial, Habermas says to be unacceptable the optimistical assumption of a technique convergence and democracy, as well as the pessimistic affirmation from that the democracy is excluded by the technique (TWI, 101). When only to obtain to take the cable the dialectic (of being able and will) with conscience politics, is that we will be able to control the mediation of the progress technician with the practical one of the social life. And for being reflection subject, does not fit only the specialists, therefore the domination that can entrench behind the assumption power technique imbui of an irrationality that only can be moved away by the formation of a collective will (general and free quarrel of domain) (TWI, 105-106). However, in the measure where the Management leaves of being " art " to be " technique ", it has the necessity each bigger time of employees with legal red tape. It is the bureaucratic domination of the Modern States of Weber (TWI, 107). It has three models of practical politics that do not take in account the constitution of the modern democracies of mass: - the decisionist model: they legitimize who it goes to decide (elections are acclamations), but places the quarrels of the decisions, that remain deducted to the public opinion; - the technocratics model: the politics is scientifics, being superfluous the formation of the democratic will; - the

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pragmatist model: successful translation of the recommendations strategical techniques and for the practical one mentions the mediation to it of the public opinion politics (TWI, 113-114).

However, who insists on the communication between science and public opinion, falls in the suspicion of wanting to accomodate the scientific quarrels in a popular base and to make of them a bad ideological use (TWI, 115). This critical one incurs into the positivist nip and in an ideology that hinders science to practise the auto-reflection, confusing the difficulty accomplishes of a permanent communication between science and public opinion with breaking of the logical and methodologics rules (TWI, 116). However, the process of translation between science and the politics directly mention in last instance to the public opinion (TWI, 121) and the responsible scientist if run to the public opinion: a scientified society would only be emancipated in the measure where science and the technique were mediated by the heads of the men together with practical the vital one (TWI, 127). Finally, it has a connection between knowledge and interest.

The word " theory " means, for Schelling, the exclusion of the interests, but by means of the adjustment of the soul to the commanded movement of the cosmos, penetrating in the vital process, while that for Horkheimer, theory is the critical one (TWI, 129-130). The Positivism and the old Ontology have

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the theoretical attitude in common that it frees of the dogmatic connection and the natural interests of the life. The Historicism became thus the Positivism of Sciences of the Spirit, understanding itself for Positivism in Social Sciences a " axiological neutrality " (or either, splitting between knowledge and interest, exempting itself of value judgments). One breaks up to facts and values, opposing itself to the pure one to be an abstract must-to be. Disinterested contemplation would mean emancipation (unentailment of knowledge and interest), but this is " ontologic illusion of the pure theory " that sciences had shared deceptively with the philosophical tradition.

To become free itself of this illusion is to look at for the interest that runs the knowledge (TWI, 136). This is the task of a Critical Theory of Science: to avoid themselves of the ambushes of the Positivism and to demonstrate the interests that guide the knowledge (TWI, 137). Habermas makes a picture of the interests: - to empiricist-analytical sciences it corresponds an interest knowledge technician (work is mentioned to it); - to description-hermeneutic sciences it corresponds a practical interest of knowledge (language is mentioned to it); - to sciences of critical prompt they correspond a emancipatory interest of knowledge (domination is mentioned to it) (TWI, 137). The practical interest of knowledge is the fetching of consensus of the agents in the scope of the transmitted auto-

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understanding, under the guide of the interest for the conservation and magnifying of the intersubjectividade of a possible orienting compensation of acting (interpretation with application is matched). A social science of critical prompt, however, is not contented with this (TWI, 139). While the philosophy remains imprisoned to the ontology, it loses to a objectivism that dissimulates the connection of its knowledge with the interest for the emancipation (TWI, 140). In this way, Habermas displays its teses of the conclusion:

- 1) the accomplishments of the transcendental citizen have its base in the natural history of the human sort.
- 2) To know is instrument of the auto-conservation in the same measure where it exceeds the simple auto-conservation.
- 3) the interests that guide the knowledge consist in the way it work, of the language and the domination.
- 4) In the force of the auto-reflection, the knowledge and the interest one alone thing is.
- 5) the unit of knowledge and interest is verified in a dialectic that reconstructs the suppressed one from the historical vestiges of the sultry dialogue.

Chapter 5

THE LINGUISTIC TURN OF THE "CRITICAL THEORY" AND THE CONFRONTATION WITH THE HERMENEUTICS.

If not limiting to continue the critical one of Adornment to the Positivism, Habermas is assumen,

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in a " linguistic turn ", of the hermeneutics and the analytical philosophy, conducting themselves, in " the Logic of Social Sciences ", to the certainty of that the Critical Theory of the Society has that to become free itself of the conceptualization of the philosophy of the conscience, of the basic categories of the philosophical tradition that it retraces Kant and Hegel, as consists of the preface the new edition of " the Logic of Social Sciences ".

The clearings up if give against the pretension of exclusiveness of nomologics experimental sciences, against the hermeneutic Idealism of comprehensive sociology, against the objetivist trend of a autonomizad systemics bureaucracy, and against the relativists consequences that if follow of a metacritics to the theory of the knowledge. One still sets against the dogmatism of the tradition of the philosophy of history (To confer ZLS, 14 and 488). Habermas clarifies that the intuitive idea of a rationality in a " free quarrel of domain ", is converted into a discursive theory of the truth, leaving of Pierce and serving themselves of the Theory of the Argument of Toulmin. The " recital of social sciences in terms of theory of the language " (it saw methodologic and of theory of the knowledge) was left of side for the impossibility to introduce the Theory of Communicative Acting since a methodologic perspective. It breaches with the Theory of the Knowledge, treating the presuppositions to the action guided to the

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agreement with independence of the transcendentals estimated ones of the knowledge (To confer TH, 1078, above cited). Habermas doubts, with effect, that the methodology and the theory of the knowledge are the regal ways for an analysis of the beddings of a theory of the society (ZLS, 16.). No longer 1970 preface, had written that to understand the psychoanalysis as analysis of the language was a pacing in the path of a theory of the communicative action, however action then looked for to establish social sciences in terms of theory of the language, what it finished abandoning (To confer ZLS, 15). Weaving itself in the force of the reflection, Habermas if rollback against the guarded normative function of the false conscience. As base of its critical one, Popper chose, because its theory gives to a pacing in route its objectives against the Positivism. Popper, explains Habermas, even so either a representative defender of the analytical theory of science, already in years 20, it criticized the empirists estimated ones of the neoPositivism. To this height, the question of the origin of the knowledge, by to be impossible the pure knowledge, must be substituted by the question of its validity. In place to ask for the legitimate origin of knowing, we have that to ask for a method that, in way to the mass of uncertain opinions in principle, in allows to discover them the definitively false ones.

It is possible to understand, therefore, in a critical appreciation of the words of Habermas, that the method can detect critically what he is false, however, this does not mean that it will bring solutions for the mistakes that point. By the way, the proper Habermas points the limitation of the method of Popper, that only can be justified appealing to the o but a source of knowing, the tradition, which Popper flame of critical tradition. It follows, however, sharing the positivist damage of deep-rootment, putting faith in the life of the experience (epistemological independence of the facts regarding the theories) (ZLS, 49) and an implicit pre-understanding in the rules run the quarrel of the investigators on the acceptance of basic statements. Habermas concludes that the circle in sends them to a dimension where the rational quarrel is only possible for saw hermeneutic. Habermas more searches the aid of Popper a time, and of Morton White, according to he himself it explains, to move away critical that is made it by Hanz Albert, according to to which it falls in a vulgar Positivism, mixing the logic of the inquiry with the sociology of the knowledge, or either, the old kantian idea of the splitting between the empiricist and the transcendental. Basically, the " agreement ", for Habermas, does not mean to reduce the truth idea the observable behavior. The empirical fact simultaneously has the peculiarity of a transcendental condition: in the quarrel it only can

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be left an agreement on *estadares* in virtue of which distinguishes between facts and pure phantoms. The incriminated connection between formal and empirical statements, according to author, treats to make justice to a context where already it has not felt to separate the methodological questions of the communication questions.

Habermas intends to justify against the Positivism the point of view of that the process of inquiry organized for the citizens belongs, through the knowledge acts, to the objective context exactly that it is treated to know. Against the positivist auto-understanding, it wants to insist on the connection of empiricist-analytical sciences with an interest cognoscitiv-technician. Habermas contests the Sociology of the Law in Weber. The Formal Law means a neutrality here valueable that easily demonstrates to a Positivism or a neokantism in Weber. Carl Schmitt, its legitimate disciple, strengthens, as decisionist element of its sociology, the ideology. Criticizing Weber, Habermas places that the postulate of the valueable neutrality if relates to the politics of science: those theories are only permissible whose estimated basic they are free of all historical pre-understanding that only can be clear up in hermeneutic terms and can be introduced therefore in conventionalist terms.

Habermas asks: cannot methodologically determinative the valueables references, to become same they into object of scientific analysis? And

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answers: " to me it seems that necessarily in the theory of the science of Weber this connection of the methodology with the sociological analysis of the present time can reveal. However same Weber, coinciding in this with the neokantism, was sufficient the positivist as to forbid these reflections. " (ZLS, 96).

After to analyze the quarrel that turns around the dualism natural and social sciences, of a side, and the spirit, another one, that positivista considers, musealização of history, Habermas understands that if it must look to the rationally binding translation of knowing technician the practical conscience and the methodologies conditions of possibility of a social science that integrates analytical and hermeneutic procedures, therefore while not in disentangling them from the reflection or seeing them private of it in favor of a mutilated rationality, we cannot unpunishedly neglect the dimension of the evolutive history of the species human being. It remembers that the division of the work between nomological and historical sciences is not so simple, and its methodologic unit is not so problematic as the Positivism assumes (ZLS, 102 and 117).

The Positivism faces as superfluous and problematic the " understanding ", preferring the comment. But the linguistic communication cannot apprehend in the plan of the behavior conducted for stimulaton, remaining problematic the attempt to enough only reduce the language the behavior. If the language

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cannot scramble it behavior, under the estimated one of an pre-understanding of the private scientist of the behavior, on pre-understanding to the linguistic communication, can analyze the intentional action in the typical attitude of the mannering inquiry. And if we do not want to pay to this price for a reduction of the action the behavior, we cannot abide us it general theories of the intentional action.

On the other hand, the functionalists theories, according to which the necessity generate the function, and that they had been customized of the anthropology (that received them from biology) for sociology for R. K. Merton and T. Parsons, also they have its limitations. To if passing of the organisms to the organizations, it has that to abandon the descriptive pretension of the bureaucracy. The logical limitation them functionalists theories of the action to the validity of normative-analytical sciences is unsatisfactory. Therefore Habermas is considered to argue two difficulties that can indicate a form to leave all this problematic one, for the path of a re-historization of the analysis of the society (ZLS, 169). Auto-reflection of the methods was said in three approaches for analysis of the type (ZLS, 179):

- phenomenological approach, that leads to an inquiry of the constitution of the practical one of the daily life (ZLS, 179 and s.);
- linguistic approach, that if centers in language games, that

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simultaneously they determine transcendently life forms (ZLS, 203 and s.), and - hermeneutic approach, that approaches rules linguistic-transcendentals of the communicative action since the objective complex of an operative tradition (ZLS, 228 and s.). The phenomenological approach is in the limits of the analysis of the conscience (subject), to the pacing that the philosophy of the language, enough positivist to deny the reflection, serves of a so Metaphysical language how much the one that combat, repeating the basic idea of the transcendental philosophy. The idea of the language as " copy " of the world is also Metaphysical, observes the author.

It must try what the " Tractatus " of Wittgenstein said impossible - the logic of the language from the usual language exactly -, therefore just in this manner can mean recital for comprehensive sociology. The philosophy of the language if complements with Behaviorism and Habermas says that a general theory of the structures of usual language cannot be given in behaviorists terms, as Chomsky says (ZLS, 226). The linguistic intuitions are not private experiences: in this precipitates the collective experience of the consensus that tacit folloies all linguistic game. The analysis of the language is not only enough. We are in conditions to leave the grammar interpreting the stranger, to make intelligible not understood.

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We pass to the translation concept, that is dialectics, whose experience is formulated in the hegelian dialectic of the limit. For Gadamer (ZLS, 229 and s.), translation, that it is the experience that is in the base of the hermeneutics, is " as to say what it is wanted " (it cites WM, 380). The translation alone results necessary in the situations where the agreement results insane, here it is that when we learn, does not have more necessity of translation. The dialogue is an in agreement communication rules that make possible the consensus and save agreement situations insane. To participate of a dialogue is to play the interpreter role (" Interpret " is synonymous of " Domeltscher " or translator).

One is not about the correct domain of the language, but of the correct agreement concerning the thing that lacks to be understood by means of the language (WM, 362 and s.). Second Gadamer, when the intersubjectivity of the validity of the rules if only becomes insane is that an interpretation sets in march that commit the consensus. The agreement means translation because to understand it is to receive the stranger and the opposite (WM, 364). In this direction, the tradition, for Gadamer, functions as translation, or either, as salvation of pitch between generations. In contrast to Wittgenstein, with its " perspectivist reduction ", for Habermas, to learn a language, or either, its rules, it is not alone to train itself for a consensus, but also to interpret, to surpass pitches and to express themselves (ZLS,

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233). The hermeneutic circle means that the interpreter belongs, as moment, to the same complex of traditions that its object. For Habermas, the great merit of Gadamer is in having demonstrated that the hermeneutic understanding is related, of transcendently necessary form, to the toggle of a orienting auto-understanding of the action (ZLS, 247). This does not hinder, however, that it makes its critical to the author of " Truth and method ". According Habermas, Gadamer if approaches involuntariamente to the depreciation of the hermeneutics for the Positivism, as it glimpses in the " Introduction " of " Wahrheit und Methode ", XIX. The confrontation of Truth and Method must not have induced Gadamer to abstract oppose the hermeneutic experience to the methodical knowledge in set. It transforms the discovery of the structure of damages of the " Verstehen " into a whitewashing of damages as such. However, Habermas question, of the inevitability of the hermeneutic anticipation if follows that it has legitimate damages? Gadamer if sees stimulated by the conservatism of a Burke, therefore " directly the authority nothing has to see with the obedience, but with the knowledge " (Cited workmanship, 264), what Habermas cites as the " absolutization of the hermeneutics ", making a parallel between Gadamer and the " substance " of Hegel (Cited workmanship, 286) (ZLS, 254-5). The subjectivity

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if becomes the substantiality that determines it. It seems to assume that the structure of damages, a become time transparent, already he can follow acting in damage form. The damage of Gadamer, according to Habermas, in favor of the rights of the damages believed for the tradition puts in question the force of the reflection, force that if believes capable to also be able to refuse the pretension of the traditions (ZLS 255). But, authority and knowledge do not converge. This experience of the reflection is a unrenunciabile inheritance that in them bequeathed the German Idealism, taking it of the spirit of century XVIII.

Completing the critical one, Habermas cites, in "Pretension of Universality of the Hermeneutics", the rank of Albrecht Wellmer, who pointed with respect to the fact of that in the tradition of the Iluminism that contrary notion to the traditions was generalized. And Gadamer ignores this, assuming a adialectics concept (he would be acriticals) of illustration (of the perspective limited one of century XIX), what, according to Habermas, it took the Germans to the dangerous complex of superiority and separated them with the occidental tradition (ZLS, 255). The Iluminism, however, demands, although all interest for the agreement, that if makes to be valid the ratio, as principle of exempt consumption of violence front to the experienciaded reality of a communication distorted for the violence: " the Iluminism wise person what

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the hermeneutics forgets: that the " dialogue ", that as Gadamer we " are ", also are a context of violence and accurately in this is not no dialogue...".

It is of if asking, however, in critical relation to this vehement one of Habermas, if the dangerous complex of German superiority is not in the dogmatization of History as past, made a Historicism that it searches to be faithful to the tradition not interpreted? Or either, a " historicism " less as " historicity " directed to the application, a Historicity where what it matters is the gift, the present time, when History if it makes? Its damage against the damage, to use the way that used against Gadamer, however, inserts it in a tradition, as already it recognized, that it hinders it, without if giving account, to reflect on this! And continues its critical one: The hermeneutics serves to the legitimation of the relations and is, in this measure, an ideology. Second Habermas, the kantism trashes that persist in the existencial ontology of Heidegger hinder Gadamer, who proceeds from the neokantism of Marburgo, to perceive the consequences that its analyses suggest.

As W. Pannenberg (Note of footing 222, 259, of the ZLS), Gadamer if strengthens to prevent the hegelian total mediation of the current truth with history, but the phenomena that it describes always push in the same route of a universal conception of history, what exactly - with the system of Hegel to

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the sight - it treats to prevent. The reception of Bloch in the recent evangelical theology has contributed to surpass the ontology of the historicity by means of a reflection concerning the dependence of the transcendentals conditions of the " Verstehen " regarding the objective context of universal history (ZLS, 259.). From there the limits of a comprehensive sociology, that finish in an analysis of the language, and lead, of new, to the bureaucracy, that has the advantage of being able to approach the nexuses sistematically objective-intentional.

Habermas wants to abide it an apprehension empiricist-analyst of the social system - the functionalists nexuses cannot be understood in functionalists terms: a bureaucracy illustrated for the hermeneutics (ZLS, 273). Replace thus the problem of " theory and praxis ", proper of the Illustration. It is therefore that Habermas insists on an understood Hermeneutics as art to understand a direction linguistically communicable, on the case of disturbed communications, to become it intelligible. The hermeneutics thus, if relates with the art to convince and to persuade for practical questions (ZLS, 277). But Habermas if does not conform with the arrest of the " hermeneutic circle " and question if the understanding is possible is of contexts, that is, methodically assured. It answers that the psychoanalysis, perhaps as critical science, can make this.

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The hermeneutic conscience, according to Habermas, will be incomplete while not to assume in itself the reflection on the limits of the hermeneutic understanding. The pseudocommunication detected for the psychoanalysis escapes to the hermeneutics without wounding the auto-understanding of this. The hermeneutic understanding, based in the translation, moves away only to the confusions from the proper language and not them confusions from content. It evidences, however, that the metapsychology of Freud would have of being freed of its mistaken scientificist auto-understanding, before being able to become fruitful as part of a goal-hermeneutics. What it results from there, for the pretension of universality of the hermeneutics? The implicit knowledge of the conditions of the communication systematically distorted, that is estimated of fact in deep the hermeneutic use of the communicative ability, is enough to put in question the ontologic auto-understanding of the hermeneutics, following Heidegger (In note 23, it mentions objections to it of Gadamer the Habermas). Gadamer raises the question: " the phenomenon of the understanding adequately is defined when I say: understanding wants to say to prevent misunderstanding (or: to prevent to understand badly)? Not imply, in truth, all to understand something as well as a ' basic agreement ' ?"

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Habermas is in accordance with the positive reply, but it is not in agreement regarding as this previous consensus must be determined. Gadamer concludes, at last, for the ontologic priority of the linguistic tradition possible front to the critical one and Habermas pronounces its critical one: The universal pretension of the hermeneutic point of start can be remained, if only leave of that the context of the tradition, as place of the possible truth and the factual be-of-agreement at the same time, also is the place of the factual intrue and the lasting violence. The ontologization of the language and the hipostasiament (substanciation) of the context of the tradition lead to the blindly, to the pacing that a hermeneutics critically clarified on same itself, that it differentiates between vision and blindly, assumes in itself knowing goal-hermeneutic on the conditions of possibility of the communication sistematically distorted. Gadamer rehabilitates the preconception, I do not sell to opposition between authority and ratio. However, for Habermas, as for Max Weber, authority it is to be able legitimated.

It is perceivable, thus, that Habermas is not against a hermeneutics as technology logical-deed of division, but against the Ontology. This is the tradition of the Criticism: Method! And concludes: " Perhaps under the current circumstances, either more urgent to point with respect to the limits of the false pretension of universality of the critical one of that it stops of the pretension of universality of the

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hermeneutics. " But, " also this last pretension needs critical. " Still in the context of a critical a authoritarian theories, according to Habermas, it intends, in its quarrel with Luhmann, to show that the central thesis of its Systemics Theory of the Society (the functionalist analysis designates the only permissible path for the rationalization of decisions), is false (ZLS, 307 and s.), having, in the truth, the function legislator of being able (ZLS, 311). In the " Appendix " under the heading of " Objectivism in Social Sciences " (ZLS, 451 and s.), Habermas clarifies that its approach, with Apel, is against:

1º) the empirist theory of science (ideas pragmatic-transcendentals of Pierce); 2º) the sociological objectivism (institutions hermeneutic-transcendentals of Dilthey) and 3º) risks backing that if follows of a reflective handling of the problematic one of the understanding (To confer LCS, 14): on the other hand, the hermeneutic Idealism of the theoreticians of understanding (they leave of Heidegger and Wittgenstein) e, of another one, the historical materialism, both precipitating (the first ones) and exaggerating (the seconds), the pretension of objetivity of the knowledge (ZLS, 488, To confer 252). For consequence, we have that (ZLS, 494):

1) " a critical " theory (auto-reflective) of the society cannot be supported in becoming conscientious estimated implicit the understanding: it demands a

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theory of the communicative action (analysis of the conditions of success of the acts of speaks). 2) the Theory of the Communicative Action has a similar status to the Theory of the Knowledge. 3) Theory of the Communication corresponds accurately to the objective conditions of knowledge. 4) These considerations put upside-down the habitual relation between methodology and experimental theory. 5) the Theory of the Communicative Action is empirical in the measure where it displays knowing daily pay-theoretician of the capable citizens of language and action, having, however, one immediate meaning methodological.

Chapter 6 BEYOND MARX

As Habermas already it had considered and it will confirm in "Theory of Communicative Acting", the marxian thought of critical of the society will have to be used in its workmanship as critical beginning, but it will demand complementation, therefore it does not answer, by itself, to the new situations appeared in relation to the social problem. And it, as he declared explicitly, does not have dogmatics interest in the Marxism (RhM, 11). In general mode, the subjects treated in " Zur Rekonstruktion des historischen Materialismus ", already it had been also in the antecedent workmanships, since the beginning, especially in " Theorie und Praxis ", noticing a gradual necessity of the author to exactly

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reformulate the marxian theory of the society, being valid to it the heading of " former-integrand of the School of Frankfurt ". For Habermas, " reconstruction " means to disassemble and rearrange of new the theory, better to reach the goal that proper it if fixed, in contrast to " reset ", that it is the rollback or renaissance, in the refreshing direction (RhM, 11).

It is interesting to notice critical the always present one of the right bourgeois, therefore that, as in Marx, this " superstructure ", in the legal Positivism, it is the particularly " cynical " form, according to Habermas, of the bourgeois conscience (RhM, 12). This, however, does not move away the nature from the Law from institution specialized in the intersubjectivity from the agreement (RhM, 14). On the other hand, as the new relations of production, also cultural, become the marxian theory needed complementation, and in turn, the institutions specialized in the intersubjectivity of the agreement demonstrate that the structures of this intersubjectivity are so constituent for the society systems how much structures of the personality, can be matched Psychology (in the case, the genetic structuralism of Jean Piaget) and Law. The structures of the intersubjectivity are weaveeed of communicatives actions, as well as the structures of the personality they are considered under the aspect of the action and language capacity. This " evolution " in the thought of Habermas follows of

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Hegel, passing for Freud, until Piaget (To confer RhM, 14 and 15). Continuing the critical one of the tradition, Habermas displays that in the beginning it was the myth, which was transformed into tradition. This, in turn, assumes the figure of the founder, and therefore teachable and capable knowing explicitly of dogmatization (RhM, 20). The right presents, in the modern societies, a universalist structure (judaic-christian and greco-ontologic tradition), that with the capitalist economy it suffers a breaking from subjetivist type, with the Reformation and the modern philosophy. The right, however, if finds in the Practical Ratio, being that " practical I ", in contraposition to " epistemic I " of the pure ratio, also it bes situated in the practical ratio, in accordance with the classic relation of Kant.

After the neolithic societies, transferring itself for the organized societies in state mode, we have that, at the time modern, the capitalist principle of organization if gives through the private law bourgeois, of universalists features. The emancipated members of the bourgeois society, whose conventional identity if breached, can be known matched to its fellow citizens in its qualities: of free and equal citizens (proprietor); b) of morally free citizens (private man) and c) of politically free citizens (citizen of the Democratic State). One is about " legality ", " morality " and " sovereignty ". The Historical Materialism, according to Habermas, if ties with the bourgeois philosophies of history,

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projecting a compatible collective identity with the universalists structures of I, as a " proper cosmopolitanism " of the Socialism (RhM, 30). The matching between " I " and the social evolution, take the moral ideas, of a side, and legal, of another one. Law and Moral serve to the regulation consensual of action conflicts, what, according to Habermas, it means that they serve to the conservation against what threat of a intersubjectivity in agreement between capable citizens of language and action (RhM, 31). Rational action with relation to the end, means the rationalization, in the context of social acting, the rationalization of the ways, or either, an increase them productive forces. For Marx this age the engine of the social development, to the side of the social movements, understanding it who the proper fight of classrooms if constitutes as productive force.

In contrast of rational acting with relation to the end, Communicative acting is oriented, among others things, in the direction of the respect of intersubjectivity valid norms, estimating the base of validity of the speech. The consensus, base to act it Communicative, is possible thanks to the pretensions of universal validity, which is, the truth, justity (adjustment) and veracity. The strategical actions, in turn, do not assume consensus: they must be institutionalized, wants to say, placed inside of intersubjectively binding norms.

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Institutionalization is to establish one intersubjectively to act consensual based on recognized premises of validity (To confer RhM, 33). To rationalize is to cancel coercion relations that hinder that the conflicts are affirmed conscientiously and regulated in mode consensual. To rationalize is to surpass the communication sistematically distorted, where the consensus is false. The periods of training of the Law and the Moral are periods of training of this process. Habermas estimates, still, the marxian theory of the society, because the anatomy of the bourgeois society, according to it, is a key for the anatomy of the daily pay-modern societies and the analysis of the capitalism, offering, therefore, a privileged access to the theory of the social evolution: capitalist societies - structures of classroom, bourgeois ideology - legitimization of domain.

How much to the estruturalists points of view, it admits to have learned with marxists as Godelier who had rethink the relation between base and superstructure. Habermas places problematic the normative structures in relation with of logic of the in agreement development the genetic structuralism of Piaget, position surpasser of the opposition frontal to the traditional evolucionism in the structuralism, assuming in its elaborations, characteristic reasons of the theory of the knowledge of Kant the Pearce. The Bureaucracy took path that took it beyond the cultural

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anthropology, coming back to the theories of the development of century XIX and in the neo-bureaucracy of T. Parsons if they find the concepts of General Theory of the social systems to the society and the structural modification of the social systems.

The bureaucracy is restricted but the gap can be filled by a theory of the social movements, or theory of the social evolution sistematicamente (the Touraine). The social movements are presented as learning processes, through which the latent structures of rationality can be translated praxis social. The theory of the systems, however, offers usable instruments to analyze the preliminary conditions for the evolutive innovations. The systemics theory of Claus Öffe for example, is a theory for the analysis of the crises at least when it is conjugated with a theory of the action. On the other hand, Habermas asks if for proper Marx the Historical Materialism did not have a secondary paper and, if thus reasoning, the analysis of the social formation contemporary does not have to be supported on the proper legs. Habermas supports that Marx understood the Materialism Historical as a global theory of the social evolution, considering the theory of the capitalism as one of its partial paths (RhM, 40).

The historical materialism can assume the task to determine the organizative principle of the society contemporary, leaving of the perspective of genesis

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of this social formation (RhM, 41). After to study the identity concept and to look for to legalize it dialectically, Habermas concludes that the task of the ideologies is to reequilibrate the structural unlikeness between the collective, on identity to a State concrete and the identities of I, produced in a universalist community. For Hegel, the modern society found its rational identity in the sovereign constitutional State and fits to the philosophy to represent this identity as rational. Hegel sees in the State the rational life of the auto-conscientious freedom (rational laws), fitting to the Philosophy (of the Law) to allow to understand the rationality of this state organization (in the lack of the philosophical vision, a religious vision, being able the religion to substitute the philosophy in the legitimation of the State).

Habermas wants to characterize in the three points of view, a new possible identity in complex societies and that I am compatible with universalists structures of (RhM, 98):

1) a new identity of a supply-state society cannot be on to one definitive territory or organization; 2) also it cannot be articulated in pictures of the world that must assume the validity of a universalist moral, at least to be complement - analogous for structure - of the identities postconventionals of I; 3) the new identity of a world-wide society, that is folloied by the conscience of being still incomplete cannot retrospectively be guided by values of the tradition,

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but neither can be oriented - in exclusively prospective mode - for schematics tasks or designed forms of life.

The critical one of the society if establishes in the critical one of the domination. The State is born with the change of position of the Law (before familiar) for the organization of norms recognized intersubjectively and consecrated by the tradition (judge is not more the patriarch and judges not in retaliation or reconstitution of the status quo before, but it judges a culprit. The birth of the State if explains for the efficient stabilization of a judge position. We could say, with Habermas, that the power is essentially the power to judge! The social integration is carried through through relations of being able and guaranteed, in the cases of conflict, through conventional legal institutions (To confer RhM, 142 and 144). The experience of the social repression and the will must be compensated by legitimations of being able to keep the homing of the social system that is born with the introduction of a order global politician, being that the uncertainty of the Law is attenuated, in the mass democracies, prevailed for the State of well-being.

If in the after-modern societies if of this the primate of the scientific and educational system, if would give a auto-directed of the social system with the internal nature (before external) and instead of the acquisition of being able, acquisition of motivation and felt interchange. A new principle of

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organization is mentioned to it: public education, social assistance, criminal regimen liberalized and therapy of insanities. In a future form of the classroom domain, the " power " would be broken for the second time: not through the private law bourgeois, but through the educational system of the Social State (To confer RhM, 146 and 147). Althusser and Godelier had tried to reconquer for the historical materialism the concepts and affirmations of Levi-Strauss. But the Structuralism if limits to the logic of the existing structures and alone the genetic structuralism of Piaget if it occupies of the logic of development of the process of constitution of the structures, being able to be a bridge for the historical materialism (RhM, 149). Already the neo-evolucionism (Parsons, Luhmann, Lenski), by being doubtful that if wall lamp to the cultural development, it must be complemented by the bureaucracy (RhM, 155). It could be proceeded to a reformularization of Marx in terms of systemics theory, but this also is limited, having to be complemented by a theory of the social evolution (RhM, 184). The bureaucracy in social sciences, in turn, serves to put to the light, classrooms of changes of state or formations of structure functionally equivalents, but it does not stop explaining genesis of states or new structures in birth processes. As Döbert, the theory of the evolution must compensate and not to repeat the points weak of the systemics theory, but, in contrast,

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Luhmann makes of history the guide for the arbitrariness of a autonomized functionalist method. It can be seen, therefore, that an application of the theory of the evolution in the analysis of the time has only felt in the scope of a discursive formation of the will: to base the ratio for which they must have been chosen definitive strategies and norms of action and not by being doubtful that if wall lamp to the cultural development, it must be complemented norms of action and not e not others (RhM, 209). Here it is in the Modern State, finally, the legitimation problems (RhM, 219 and s.). Legitimacy means that a order politician is worthy of being recognized (RhM, 219), or either, it is the belief of that the power is just (RhM, 239). Orders politicians only need legitimation. The power politician was crystallized historically around the function of a regal magistracy, of the core of a regulation of conflicts on the base of recognized legal norms. The jurisprudence if bases on a position that must its authority to the capacity make use of the sanction power that is proper of a legal system and not more only to a parental status. The legitimate power of a judge can become the core of a system of being able which the society delegates the function to intervire when its proper integrity is put in danger.

This paper, of the applicator of the law, will be argued, later, in confrontation with the one of the legislator, in " Faktizität und Geltung... ". But data

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that the State takes for itself the task to hinder the social disintegration by means of obligator decisions, league the exercise to it of the state power the intention to conserve the society in its identity normative determined in each concrete chance. And the legitimation is that it guarantees the obedience. As Habermas, it is enough to study the history of the criminal regimen to see that, in these traditional societies, they are gifts structural conflicts that discharge continuously in legitimation crises (RhM., 223). Habermas says, however, that the attempt cannot imagine to command democratically a society not to be as burst process of learning, or either, the consensus, the not coercitive approval (RhM, 277). So that the norms of the power could unmotivately be accepted for the mass of the population, and were imposed against the will of who fulfills them, would be necessary to destroy before, until the beddings, the communicatives structures in the inward of which if they had today formed until the reasons of ours to act. But some does not have Metaphysical guarantee of that this does not occur, says Habermas (RhM, 229). The process of legitimation in the Modern State if characterizes for the monopolization of the legitimate violence, beyond the centered and rational management, and territoriality (Weber). The Modern State, a fiscal State, develops and guarantees the private law bourgeois, the monetary mechanism ecc.,

developing a unpoliticized process economically, frees of ethical norms (RhM, 229).

" The pursuit of happiness ", however, could one day mean something diverse: more, for example, not to accumulate material objects of which if can make use private, but to produce social relations in which reigns the reciprocity and where the satisfaction does not mean more the one triumph on the necessities restrained of the other (RhM., 239). To the two concepts of legitimation, normative empiricist and, for insufficient first and the Metaphysical one as, add Habermas one third: the rollback one. " The only program that, in my opinion, presents perspectives, is a theory that structurally clarifies the historically observable succession of the diverse levels of justification and reconstructs its connection on the basis of its logic of development. The cognoscitive psychology of the development reconstructed in this mode, for ontogenesis, the periods of training of the moral conscience, receiving good confirmations: it can be understood, at least, as heuristical guide and as encouragement." (RhM, 244).

Chapter 7

THE THEORY OF COMMUNICATIVE ACTING

In "Theorie des kommunikativen Handelns", introductorily, Habermas clarifies that Communicative Acting it is characterized " by the interaction of the at less two capable citizens of

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language and action that (with verbal and extraverbal ways) establish an interpersonal relation. " (TH, 14). On the other hand, the institutionalization is not possible without regulation nature legal-moral, consensual, being that the moral and the Law are moments of the rationalization of the vital world. The Theory of the Argument will be developed, otherwise, against the ontology and the aprioristic transcendentalism (TH, 54).

Science politics, in turn, is freed of the Rational Natural law. The Modern Natural law understands the society consisting politically and integrated by means of legal norms. The Law bourgeois if characterizes for the order legal-politician as rational mechanism, being that the Economy Politics concurs with the Rational Natural law, placing the life of a system of action by means of functions and not by means of norms. Rational, however, is not alone to generate consensus and to act with efficiency. It is also to follow norms (to justify the proper one to act) and to be coherent (TH, 70; To confer 141). Rational, in the weberian direction, is what it is justified by itself, being rational person the one that reacts to the riots of the communication (it gives the example of therapeutical " critical " Freud as). In this direction, to argue is to establish through the critical one (TH, 79).

The Theory of Communicative Acting, according to Habermas, compensates the lack, in the philosophy, of a concept that includes social and subjective the world and also if it relates to the objective (TH, 108). External nature corresponds the objective world, while that internal nature if relates the world subjective (TH, 115). Language is the picture of the articulated world linguistically (TH, 123) and the linguistic picture of the world here comes as thing as order of the world, not being able to be criticizeble of interpenetration (TH, 139). From Aristotle, however, the concept " to act teleologic " is in the center of the philosophical theory of the action, conferring itself characteristic it of strategical action (To confer TH, 155). In contrast, one to act regulated for norms, leads in account that the norms state an existing agreement in a social group. We could say that the law is a media, what it assumes isolated citizens. In the circumstance of Communicative acting, therefore, interpreting it is to agree to definitions of susceptible situations of consensus (To confer 156 and 157 of the TH). Acting regulated by norms is preceded by acting strategical or teleologic and followed by dramaturgic acting. The validity of the norm thus is given: recognized valid or it is justified by the addressees (TH, 160). On the other hand, the model of communicative action estimates language as one " medium " of understanding and agreement, being that in Communicative acting to interpret it

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constitutes the mechanism of coordination of the actions (To confer 170 and 178 of the TH). Therefore, what is accepted as true does not pass of convention (TH, 209). Pursuing the theory of the rationalization of Max Weber, Habermas agrees to that Weber if points out in the tradition of the neokantism, establishing itself a distinction between being and must-to be. To a rationalization of the right diagnose of our time corresponds one. The weberian theory of the rationalization places the evolution of the right in a prominent and ambiguous rank. The double rationalization of the right places it, of a side, as incarnation of the after-traditional structures of conscience and, of another one, Weber looks at under the aspect of the target (empirist reinterpretation) (TH, 358). The "professionalization" of justice occurs, when, with the technique and the legal dogmatic, the law one starts to be restricted of the jurists, what it is affirmed with the legal Positivism, whose example given for Habermas is Kelsen (TH, 360). For Weber, the formalism (conditional for the magic) is consequence of the "disenchantment". It is characterized for the ritualistic observance of the form, that guarantees the adjustment of the content (TH, 362-3). The three features of the private law bourgeois are: 1) positivity; 2) legalism and 3) formality.

As the life mentions the ethics to it, a splitting between right and moral is demanded. The right one starts to be a organizativ instrument of the power politician. In Weber, the law is instrument (TH, 367 and 368). The rational natural law is interpreted, of Locke the Hobbes, Rousseau and Kant until Hegel, as a theoretical picture in which if it places the attempts to establish the organized constitutions juridicaly state and social. For Weber, legitimacy, however, if relates the formality. As Weber, " the material criterion to decide what he is legitimate for the natural law is supplied by the nature and the ' ratio '... ", but " nature " and " ratio " are not Metaphysical elements otherwise formal conditions. Therefore, the legitimation of the power, for Weber, who made school of Carl Schmitt the Luhmann, is made by means of the procedure. Mere organizativ instrument is given to an impoverishment of the modern right (TH, 369 a 376).

For Habermas, however, the ambiguity of the rationalization of the law cannot adequately inside be understood of the limits of a theory of the action in general (TH, 377). The Theory of the Communicative Action has with the Analytical Philosophy, that considers the intention of the speaking, a point of rich plugging in perspectives, pointing out that the internal world complements the external one. The term " verstandigung " means that two capable citizens of language and action understand in identical mode a linguistic expression (TH, 419). The society concept must be connected to a concept of vital world, to complement to the

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one to act Communicative. This, in turn, if becomes interesting as socialization principle, moving the process of social rationalization (TH, 456).

In conclusion to Volume I of the Theory of Communicative Acting, Habermas makes a critical pair, to the neotomism and the neopositivism. Both are fundamentalist, being that where that one places God or the nature, this places the scientific method (TH, 496 the 500). Habermas intends to abandon the Philosophy of the Conscience for a communicative rationality (TH, 519). It searches an interaction, or either, valid understanding itself (TH, 522) the pass of the Philosophy of the Conscience for the analysis of the language is a first pacing (TH, 526). The Theory of Communicative Acting, however, does not lose the target to serve to the auto-conservation (TH, 528). In as the volume of the Theory of Communicative Acting, Habermas if dedicates to the critical one of the functionalistic ratio. Together, of beginning, the accuracy of the meadian theory of the meaning, with the wittgensteinian concept of the observance of a rule, to conclude that to understand a symbolic action (for Wittgenstein) if it binds to the ability to follow a rule.

For Mead, to communicate is to make with that the symbol excites in one the reaction that excites in the others, while that for Wittgenstein the rules, that establish as if it produces any thing, possess two moments: meaning identical and intersubjective validity. The intersubjective validity of the logic

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understands that the rule must have subjective validity for the at least two citizens. (TH, 548 the 570). Habermas retakes this concept wittgensteinian to be able to apply with the Communicatives symbols. For the author, it has two types of authority: imperative and the normative one. This, in contrast of that one, that if bases on the sanction, places the possibilities of the consensus, representing it (TH, 598). The breaking of rules has consequences in agreement the nature of the rules: if techniques, lead to the failure of the action and, if moral, take the sanctions, even so do not confuse moral rules with rules of positive law. For Durkheim, sacro is what it is to the part, and that it provokes fear, being base of the authority. The rite is collective, and sacro if it characterizes Durkheim, as Weber, conceived the evolution of the right as a disenchantment process: the archaic right is essentially criminal law. In the modern law, it analyzes Durkheim the civil law with the private property as central institution. The criminal law is the reaction to the breaking of the taboo; the originary crime is the desecration, to touch the untouchable one, to profane sacro. The penalty is the ritual that restitutes the insane order: it is atonement. The punishment conserves some thing of transcendent. No longer civil law, the compensation of the damage came in the place of the atonement, being that the modern law if crystallizes in lathe to the accomodation of the

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private interests, liberating of the character sacro. The bourgeois law if establishes in the contract, which ties, therefore it represents a general interest, that substitutes sacro. *A Modern State passes of sacro to the contract, or either, passes to the democracy, the consensus. It is the consensus that bases the legitimacy of the legal system.* Is the " disenchantment of the Sacro law ". The religious community of faith if transforms into a communication community, under bonds of cooperation (TH, 650 the 668). Habermas considers to conceive the society as system and at the same time as vital world. It considers, still, new formularization for the paradox of the rationalization. Understanding (Verstandigung) is agreement of the participants to the communication on the validity of an expression. Interaction (Einverstandnis) is the intersubjective recognition of the validity pretension (TH, 704 and 707). The private civil law comes as new systemic mechanism (to the side of the status and the authority ex-officio), being that the moral and the right are specialized in closing open conflicts in such mode that they do not disaggregate the bedding of guided acting when understanding itself and therefore the social integration of the vital world. The moral and legal norms are therefore, norms of action of according to degree, because it must be appealed they in case of bankruptcy of the normal ways of

communication and co-ordination of the action, with the alternative it violent conflict (TH, 777).

The " unethical " and coercive Law imposes as control and guide of social acting by means of " media " (TH, 786), being that Communicative acting can be guided and burst through the specialized influence (TH, 791). Understanding itself, in the organized society state has legitimation necessity. The power politician has force of social integration for the sanction, or either, for the legal order. The laws need to be recognized for the citizens, or either, legitimated for the law (TH, 796). On the other hand, without the connection of a centered vital world in Communicative acting, culture, society and personality they are broken up (TH, 849).

Weber saw in the evolution of the modern right a systematic conflict between formal and material rationalization, and therefore Habermas wants to reformulate the weberiana thesis of the bureaucracy in the system concepts and vital world (TH, 956). The mechanism of the linguistic interaction, essential for the social integration is placed partially is of game, in the scopes of actions organized in formal mode and through average of control. These last ones, however, must be assured in the vital world with the instruments of the formal law (TH, 961). Formal organized they are the produced social relations by means of the positive law. The coercive law modern is dissociated of ethical reasons. The

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ethics are substituted by the law and from there it comes the conclusive thesis: the Metaphysical-religious pictures of the world yield the function and legitimation of the power to the principles of rational natural law, that justifies the modern State in the perspective of not violent a social order (private law) (TH, 987). The trend to the "juridicization" if verifies with the systemics integration assuming the process form (of juridicization), that is, the trend of proliferation of the statutory law (TH, 1022 the 1024). This if gave in four periods of training, that Habermas wants to characterize of the point of view of a theory of the society (TH, 1025 the 1029): - Law bourgeois: positivity, generality and formality (state source). - Rule of law: limitation and entailing of the authority. - Democratic State of Law: participation of the citizen in the formation of the authority (elections). - Democratic Social State of Law: it conciliates freedom and process of economic accumulation with the irreducible structure of a vital world in the same time where this is rationalized. The "juridicization" of the interventionist State typically influences and intervene in the private relations, compromising the freedom that wants to tutor (TH, 1030 and 1031). On the other hand, the Positivism of the right reduced it to the concept of a legitimation by means of procedures, without seeing however that this modality of legitimation is not enough same itself, but only to the justification of

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the legitimate power of the State. It is contented with this because a material legitimation is not possible and it has not felt under the perspective of the vital world (the right serves of organizative instrument). Medium right is interlaced with the law as institution. For legal institutions, Habermas understands the legal norms that cannot be enough legitimated by means of the positivist propaganda the procedures. They are, for example, the constitutional law, the criminal law and the criminal procedural law, contiguous to the moral and that they need a material justification, therefore they belong to the legitimate orders of the same vital world and to the informal norms of action, or either, constitute the deep one of Communicative acting (TH, 1035). In the end, however, its position is dubious, therefore it finishes privileging, in general mode, the methodical formation, that is, also complaining, of positivist form, for one saw procedural. The state social politics if serves necessarily of the right as one medium to regulate the flagrant necessities that if reveal in scope of actions structuralized in Communicative mode, deviating social law of the contractual law (TH, 1038).

If, however, the structure of the "juridicization" demands administrative and judiciary and judiciary control, that they not only complete by means of legal institutions the nexuses socially integrated, but they adapt them to medium right, verify functioning

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riots. Is the same *medium* law that it violates the communicatives structures of the scope of the juridicized action (TH, 1041 and 1042).

In place of the law as media, procedures of regularization of conflicts must to imply, that are adjusted to the structure of guided acting when understanding itself. In place of the authority it comes the debate, or either, discursives processes of will formation and procedures of debate and decisions guided to the consensus. This, in the private scope is acceptable, but in the public as of the school, the dejuricization and the debureaucracization find resistance (TH, 1043 thus 1045).

Habermas follows the marxian model express, therefore its theory if holds (TH, 1047 critically), but to this critical connotation, it adds Weber (sociology of the religion), Mead (theory of the communication), Durkheim (social integration) and the Genetic Structuralism of evolutive psychology, to identify and to explain the pathology of modernity (353. TH, 1052; also 1082 and 1083). Therefore, Habermas looked for to evolve ahead of the first critical theory, trying to liberate the historical materialism of its blemish of philosophy of history (TH, 1059), placing itself also against the fundamentalist pretension of the philosophy, wanting to introduce a theory of Communicative acting that it explains the normative beddings of a

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critical theory of the society. It must offer an alternative to the philosophy of history become untenable, to the which on age the old critical theory (TH, 1078). The philosophy, for Habermas, must work together to a theory of the rationality, not having necessity of foundation or transcendental justification (TH, 1079 and 1080). If the philosophy change the proper paper when it collaborates with sciences, having itself to customize one to the other, the theory of Communicative acting allows a privileged access to the general structures of the vital world (TH, 1082 the 1088).

Of our part, for however, it is the investigation: he fulfills to know if the Man obtains to move in this slack rope of a " History " without precedents, without a historical foundation, exempt of the tradition, that is, that the Transcendancy ignores!

Chapter 8

A RECONSTRUCTIVE SCIENCE

The first consequence of the Theory of Communicative Acting comes in the text augmented under the heading " Moralbewusstsein und kommunikatives Handeln " (" Moral Conscience and Communicative act "). In this work, explicit Habermas a ethics of the Speech, aiming at always the rank of a epistemology that contemplates reconstructive science, in place of mere comprehensive science. The first part is in favor of a division between philosophical and empirical

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inquiries, inhaled in the genetic epistemology of Jean Piaget; second it serves to clear up the intermeshing between causal explanations and hypothetical reconstructions, based in the theory of the moral development of L. Kohlberg; third, finally, it helps to become more clearly the point of start of the ethics of the Speech, trying to practise the work division proposal. After to pronounce critical to the masters, specially Kant, whose philosophy reserves itself the role of pointer of place for sciences and judge whom a court presides over on the zones of sovereignty of science, the moral and the art, Habermas says not to be presumptuous of that the philosophy must be gotten rid of the task of "a guard of the rationality" (MH, 19). It intends that the philosophy, exactly when it withdraws from the problematic papers of judge and place pointer, can and must conserve its pretension of ratio in the functions most modest of a guard of place and an interpreter (MH, 20).

Although Hegel places the dialectic in the place of the kantian fundamentalism, also deserves critical. But the genetic structuralism of Jean Piaget offers instructive model for the philosophers. Against Hegel and Kant, the Pragmatism and the hermeneutics abandon the horizon of the philosophy of the conscience (knowledge based on the perception and the object representation) and place the idea of a knowledge linguistically intermediate and related with acting. It only has functions of

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recital in the measure where it is with the aid of them that if it must reject as the necessity of the knowledge of beddings unjustified (MH, 24 and 25).

However, when defending the thesis of that social sciences would not have to open hand of the hermeneutic dimension, Habermas suffers two objections, for he himself argued:

1) hermeneutics is not methodologic question, therefore the proper Gadamer opposes truth and method, and 2) the representatives of dominant currents in social sciences did not accept the interpretation, even so this have moved with the "interpretative yaw" (MH, 37 and 38).

Later, however, two new boardings successfully would serve of example for a interpretative type of social sciences: the structuralism in the anthropology, the linguistics and sociology, and the genetic structuralism in the psychology of the development, a model that very seems the promising Habermas for the analysis of the social evolution, of the development of the pictures of the world, of systems of moral beliefs and legal systems (MH, 39).

Hermeneutics for Habermas is part of a communicative action: the language is considered action, to know, in the way as it is used by the participants as objective to arrive at the joint understanding of a thing or at a way to see common. The epistemology alone if occupies of the relation

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language-reality, to the pacing that the hermeneutics if occupies of the triple relation of a profound that serves (a) as expression of the intention of a speaking, (b) as expression for the establishment of an interpersonal relation between speaking and listener and (c) as expression on something in the world. The language fills three functions:

a) cultural reproduction or of presentification of the traditions (Gadamer); b) social integration or coordination of the plans of different actors in the social interaction (TAC, J. Habermas), and c) function of socialization of the cultural interpretation of the necessities (Mead, social psychology) (MH, 40 and 41).

To participate of communication processes saying something and to understand what it is said (either story, ascertainment, order, expressions) is to have always that to assume a performative attitude. It aims at the motivated consensus rationally and it involves the interlocutors in those functions that the communicative actions carry through for the reproduction of the world of the common life. A hermeneutic dimension of the inquiry, in turn, if gives for the matching enters the papers of the scientist and the interpreter, this looking for to understand what those say regarding the things. They are the three implications:

1) the interpreters resign to the superiority of the privileged position of the observer; they are involved and there a reciprocal one is given critical;

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2) the dependence of its interpretation to the context must be surpassed relatively (pre-understanding), and 3) the daily language if it extends to the not descriptive procedures and the not cognitives pretensions of validity (a correct interpretation is not simply true, but it only can convenient or be adjusted).

To understand demands participation and not mere comment. From there the impossibility of axiologically neutral languages in the domain of comprehensive social sciences, whose examples that cite are Wittgenstein, Quine, Gadamer and Marx (MH, 44).

Habermas also does not agree to the conception of hermeneutics of Rorty: the interpreter " does not give " meant to the observed things, but explicit the meaning " given " of objectivations that only can be understood from communication processes, what threat the axiological neutrality that seems necessary to the objetivity of knowing theoretician (they idem). Three main reactions occur: " hermeneutic objectivism ", " radical hermeneutics " and " hermeneutic reconstrucionism " (MH, 45). The rational presuppositions in the interpretation are:

- the interpreter loses the privilege of the not participant observer, but gains ways to keep a position of negotiated impartiality.

- it is understood only in the measure where if it perceives because the author if felt in the right to advance definitive assertions.
- when they explain the origin of the blackness is that they move away it.
- in certain direction, all interpretation is rational (MH, 46 and 47).

On the other hand, to base a "ethics of the Speech", Habermas propedeutically remembers A. MacIntyre, for which, the design of the Clarification to base a secularized moral, independent of the assumptions of metaphysics and the religion, finished failing. It concludes, with Toulmin, that does not have moral truth, but "ratios" to only act itself of this or in that mode and therefore, it passes to the plan of the argument (MH, 61-63). In this way, the truth pretensions inhabit only in acts of speak, while that the pretensions of normative validity have its headquarters first in norms and alone later, in derived way, in acts of it speaks (MH, 81). The legitimacy guarantees the loyalty (of the masses) and this legitimacy if it gives for the ratios that motivate it, as the people addressees (MH, 83; it cites "Problems of Legitimation in the Modern State" and "For the Reconstruction of the Historical Materialism", notices 31, 134). It is only impartial and, therefore, universally valid, the norm that manifestly incarnates a common interest to all the concerned ones and that they deserve thus intersubjective recognition (MH, 86). On the other

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hand, the moral arguments serve consensually to nullify the conflicts of the action, therefore when if it has gift the coordinating function of the actions that the normative pretensions of validity play in the practical daily communicative, it perceives that when entering in one same moral argument, the participants continue its to act Communicative in a reflexive attitude with the objective to restore a consensus insane (MH, 87).

Ethics of the Speech if support or fall with the two proposals:

a) pretension of truth of the norm;

b) demands the efectivation of a speech (MH, 88).

Here we could say that if it generates a doubt, therefore if the necessary norm to be good for each one, would be difficult to justify the criminal norm, for example, that it is not " good " for its addressee. When arguing with E. Tugendhat, however, Habermas places that the particular ones must arrive at a balance between particular and antagonistic interests. When explicit the structures of guided acting for the mutual agreement, give the following example: "*It is only when A considers the sanctions of the group as its proper sanctions, applied by itself against ITSELF EXACTLY, that it has that TO ESTIMATE its consent to a norm whose trespass it punishes in this way*" (MH, 93 and 189), therefore what of fact if it states in the deontic validity is the authority of a universal will, shared for all the

concerned ones, will this that if undressed of all imperative quality and assumed one which

In the utmost one presented for Alexy, from the analyses of Habermas, we have that:

1. The all subject capable one is allowed to speak and to act to participate of Speeches.
2. a) He is allowed to any to problematizar any assertion. b) Is allowed to any one to introduce any assertion in the Speech. c) Is allowed to any one to reveal its attitudes, desires and necessities.
3. He is not allowed to hinder speaking some, for an exerted coercion inside or it are of the Speech, to use itself its rights established in 1 and 2 (377. MH, 112).

Habermas admits, however, that it would be an mistake to understand that all the Speeches would have to satisfy these rules (MH, 114). Alert that "*since the Speeches are submitted to the limitations of the space and the time and have place in social contexts; since the participants of arguments are not intelligible characters and also are moved by other reasons beyond only the acceptable one, that are of the cooperative fetching of the truth; since the subjects and the contributions have that to be commanded, the assured importances, the evaluated abilities; she is necessary institucional devices in order to neutralize inevitable the empirical limitations and the external and internal influences you prevented, of such luck that the idealized conditions, already always estimated for the*

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participants of the argument can be filled at least in a enough approach. " As Habermas, one is about the institutionalization of the Speeches, what it does not contradict its content (MH, 115; To confer tb. 116). It of the Speech in a circle of rollback sciences, that have to see with the rational beddings of knowing, of speech and acting is inserted ethical. " If we do not inhale more to the fundamentalismo of the traditional transcendental philosophy, we will obtain new possibilities of control for the ethics of the Speech " (MH, 121). The possible refutations of empty formalism and until funesto in its practical effect (over all of neo-aristotelian and the neo-hegelians ones), Habermas if anticipates: the skeptic who jumps for is of Communicative acting if auto-he destroys, as the suicidal or schizophrenic. The principle of the ethics of the Speech is procedural, formal and it does not aim at the generation, but the examination of norms proposals, what it does not abstract contents (MH, 126). Also it does not have to see with values, but with the deontics validity of action norms, not regulating its practical (MH, 126). " to become efficient in practical the all universalist moral it has that to compensate these losses of concrete ethicity with that it it principle if accomodates because of the cognitiva advantage. The universalistas moral depend on life forms that are, of its part, to such point " rationalized ", that they make possible the intelligent application of universal moral

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discernimentos and propitiate motivations for the hashing of the discernments in acting moral. But the life forms that come, in this direction, ' to the universalists moral meeting ' they fill the conditions necessary to revoke the abstratives operations of the decontextualization and the demotivation " (MH, 131). The ethics of the Speech, as it was said, belong to the circle of reconstructivists sciences. Basic the philosophical assumptions of the theory of Kohlberg, in turn, imbued of the American Pragmatism, whose ethics if bind Kant and to the rational natural law, and Mead, loan three points of the philosophy, to know:

a) cognitivism; b) universalism; c) formalism (MH, 146).

The ethics of the Speech are the one that better can explain the "*moral point of view*" under "a" and "c" and also can complement the theory of Kohlberg in the measure where this sends, of its part, for a theory of Communicative acting.

The concept of moral (universalist) of Habermas is, therefore, the following one: "*(U) All valid norm has that to fill the condition of that the collateral consequences and effect that previsibly result of its UNIVERSAL observance, for the satisfaction of the interests of ALL individual can be accepted without coercion for ALL the concerned ones.*" (MH, 147). The principle of the ethics of the Speech forbide that if it distinguishes definitive normative contents (as for example, of distributive justice) (MH, 149).

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The base is the following principle that Kohlberg takes by the comunicacional theory of Mead: "*All valid norm would find the consent of all the concerned ones, if they could participate of a practical Speech.*" (MH, 148).

Habermas ponders that "*the arguments represent a reflected form of Communicative acting and because, in the structures of guided acting for the mutual agreement, already it always estimates those reciprocities and relations of recognition around which turn ALL the moral ideas - in the daily life as well as in the philosophical ethics. It is truth that this sharpness has, as already it occurred in the Kant's appeal to the 'fact the ratio', a naturalistic connotation; but it not if must by no means to a naturalistic fallacy. Therefore the Kants, as well as the defenders of the ethics of the Speech, support themselves in a type of arguments with which they call the attention in a reflexive attitude - and not in the empirist attitude of a objectivant observer - for the inevitability those estimated universal under which our praxis communicative already meet SINCE ALWAYS and that we cannot 'choose in a similar way' that we choose marks of automobile or axiologicals postulates*" (MH, 161).

It seems that the kantian apriority finishes transcendently basing the theory that refutes it, but, "*the mode of transcendental recital corresponds to the insertion of the practical Speech in contexts of Communicative acting; in this*

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measure, the ethics of the Speech send (and it depends on) a theory of Communicative acting " (MH, 162). Habermas wants to move away the transcendentals beddings, looking for to construct a theory according to ethics of principles, whose principles if lodge in the procedure. Principles are, but not a priori. Finally, Habermas refutes the critical one of moral rigorism, therefore this if only gives when it lacks hermeneutic sensitivity for the problem of the application and when the abstract discernments are threaded without mediation for on the concrete situations - *" fiat justitia, pereat mundus "* (MH, 214). It admits, therefore, a certain *" topics "* in the solution of concrete cases. In more, psychology is not forum for the decision of the dispute between the skeptic and the cognitivist, that has that to impose itself with philosophical arguments, *" but psychology can explain why the skepsis axiological, that seem, however, to jump outside of the logic of the development of the moral conscience, appear as a natural period of training inside of this development. "*

Chapter 9

AGAINST THE RETURN OF METAPHYSICS

In the text *" Nachmetaphysisches Denken "* (*" Pós-Metaphysical Thought "*), Habermas recognizes that it has a recent attempt of return to the metaphysics, against which if dedicates (ND, 9). Question if the analytical philosophy, the phenomenology, the

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occidental marxism and the structuralism are modern or mean a farewell of modernity. For Dieter Heinrich, metaphysics keeps an internal relation with modernity, is " I " who if illustrate. The mentalism appears of the skepticism how much to the Ontology and the Metaphysics, that if presented as the science of the universal one, of the invariant one and the necessary one, and alone it found equivalent in the theory of the conscience, that investigates the necessary subjective conditions for the objectivity of the universal synthetic judgments. This explains the ambiguity of Kant front to metaphysics, therefore if it cannot speak in Metaphysical thought in itself, but in an elaboration of reformulated Metaphysical problems in terms of philosophy of the conscience (ND, 23).

Metaphysics if relates to the religion, the history of the salvation, being that the materialistic skepticism (marxist philosophy of history) if directed against the ideological abuses of delirious ideas that exceed our capacity of cognition, when that the validity syndrome on that the basic concepts depended on the religious and Metaphysical pictures on the world, if dissolved with the sprouting of cultures of experts for science, the moral and the right, on the other hand, and with the autonomization of the art, for another one (ND, 26-7). The philosophy cannot want privileged place, cannot intervene in the effect socializators of the life (to remain theoretical) and nor to make value judgments, but if it limits to

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apprehend general structures of the worlds of the life (ND, 28). For these aspects, Habermas understands that Kant did not make metaphysics, at least in the direction of " definitive " ideas and " integrators " (ND, 28). As to conciliate Kant with Darwin? Marx demonstrates that the content of modernity assumes materialistic premises (ND, 30). The position ahead of metaphysics is today, however, obscure. For the Positivism, one was about something meaningless, to the pacing that Nietzsche wanted to surpass it, having destroyed Heidegger its history and Adornment, with its minus metaphysics, made its critical ideological one. Of leached ashes of this negativism if it today raises the flame of a refreshing of metaphysics, before or after-kantian (ND, 38). But, what is Metaphysical for Habermas? Defining it, it leaves of side the aristotelian tradition, and points the tradition of the philosophical Idealism that retraces the Plato, Plotino and the neoplatonism, Saint Augustin and Saint Thomas, Cusano and Pico della Mirandola, Discardings, Spinoza, Leibniz and Kant, beyond Fichte, Schelling and Hegel. For it, the old materialism and the skepticism, the medieval nominalism and the modern empirism are antimetaphysical movements, that remain, however, inside of horizons of proper metaphysics (ND, 39). The Metaphysical thought is " identitary ", therefore the essence, happened of the myth, is the unit. and it is principle and deep essential, principle and origin.

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In the Idealism, the concept of Being follows the geometric model, establishing itself, with Parmenide, an internal relation between the abstract thought and its product, the Being. For Plato, the things are in agreement the ideal order of the same things. The first philosophy if presents as philosophy of the conscience, being that the Metaphysical thought finds in the German Idealism the theories of the subjectivity (ND, 40-41).

The primate of the theory on the practical one, finally, does not resist, ahead of the interdependence between both, or either, action and communication in the world of the life (ND, 44). The vulgar materialism, the Positivism and the historicism of Dilthey had dissolved the philosophy in history of the philosophy, and the Circle of Vienna reduced it the methodology of science. As alternative, assuring to the philosophy method and proper object, they appear the phenomenology and the analytical philosophy, each one to its way, even so the anthropology, psychology and sociology did not respect this. Moreover, attempts as of Jaspers, Kolakowski, Heidegger, Wittgenstein, Derrida and Adorno, for its antiscientificism, had only obtained to say what the philosophy is not or it does not want to be. Abandoning the philosophy its pretension of being first science or encyclopedia, cannot intend a privileged access to the truth (ND, 47-48). For Habermas, the best one of itself that it can give the philosophy, is its tenacious insistece in

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universalists ranks and a procedure of rational reconstruction that has broken of knowing intuitive, pretheoretician of citizens that they speak, they act competently and they judge, procedure this that does not give place to the discursive character of the platonic anamnesis (memory). It is a cooperative work with the effort to develop a theory of the rationality. It does not need to all abandon of the reference the totality that characterized the metaphysics, but has a paper moreover, of interpreter that it mediates enters the culture of experts and the technique, between the law and the moral, for a part, and the practical daily communicative, for another one. The world of the life does not have to be confused with that totality of Todo-Uno, therefore the after-Metaphysical thought operates with a distinct concept of world (ND, 49).

The after-Metaphysical thought started with the critical a Hegel (for Feuerbach, Marx, Kierkegaard), but the hegelians of left had not obtained to be to the height of the reflections of Kant and Hegel and had given possibility to the critical one of Nietzsche to the ratio, that in terms totalizers, finishes reworking on same itself (ND, 50). After this, it comes the historification and individualization of the transcendental citizen, with Dilthey, Husserl and Heidegger whose " dasein ", for Habermas, continues being transcendental. All these attempts of de-transcendentalization of the ratio if see

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become attached to the transcendental philosophy, in mode that only obtains this with the new paradigm of the agreement. The citizens already meet inserted in a world linguistically opened and structuralized. It enters the world of the life as feature of that if it nourishes the communicative action and the world of the life as product of this action, if establishes a circular process, in which the transcendental subject missing person does not leave stops backwards of itself echo some (ND, 50-54).

Here it is the " linguistic turn ". The transit of the philosophy of the conscience to the philosophy of the language not only brought methodologies advantages but also of content (ND, 55). The critical one to the philosophy of the conscience has four more important reasons:

a) objection how much to be the originary autoconscience and to accumulate of stocks same itself as object. b) objection to the theory of the object that results of the conceptual strategy of the philosophy of the conscience. c) the naturalism put doubt if it was possible to leave of the conscience as base: it would have that to conciliate Kant with Darwin. The theories of Freud, Piaget and Saussure, however, had given categories " third ", finishing with the conceptual dualism that operated the philosophy of the conscience. d) with the linguistic turn if only found for such holds a methodological bedding. The grammatical expressions are public

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accessible, in which if it can have structures without necessity to mention to mere subjective something it.

The transit to a pragmatic deed of division returns to the analysis of the language the dimensions and problems of the philosophy of the citizen initially given by lost (ND, 55-57).

The linguistic turn was not effected only through the semantics of the conjunct, but also of the semiotics, whose example is Saussure. In view of, however, that the agreement is not absolute, the action guided to the agreement also of two things in one results: socialization and individuation. One leaves to the meeting the other as alter-ego, or either, " not-identity ". This profane salvation of the not-identical one, however, is only possible if to abandon the classic primate of the theory and with it to surpass the time the logocentric nip of the ratio (ND, 58-59).

The philosophy must leave of being the auto-reflection of sciences to get rid of the logocentrism, discovering a ratio that operates in proper the practical communicative (ND, 61). However, the daily one total profanized is not possible: the religion is irreplaceable and the after-Metaphysical thought coexists with praxis religious, that a curious dependence of a philosophy illuminates that lost its contact with the extra-daily one. The religious language waits power to be translated rational argument, but the philosophy, in its form after-

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metaphysics, cannot substitute it and nor to eliminate it (ND, 62). If the order is communicative action, is good that if it says that this if finds in a sociological theory of the action, that has finally to explain as the social order is possible (ND, 79).

The theory of Communicative Acting detranscendentalize the kingdom of the intelligible one discovering in inevitable the pragmatic estimated ones of the acts of speaks, wants to say, in the same heart of the practical one of the intersubjective agreement, the force of the anticipation idealizer (ND, 91). The society replaces itself as world of the life symbolically structuralized (ND, 98). The practical daily communicative is the way for which form and reproduce the culture, the society and the structures of the personality. For culture, the quantity is understood here " to know from where interpretations come from the participants in the communication when understanding itself enter itself on something in the world. " Society, in turn, consists of " orders considered legitimate through which the participants in the communication regulates its belongs the social groups and assures solidarity. " Structures of the personality, finally, are " all the reasons and abilities that enable a citizen to speak and to act and to assure in it its proper identity. " (ND, 99).

The regulated relations juridicaly are placed in an institutional landmark, being that the components of the world of the life complex full of are felt:

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- cultural knowing is materialized in symbolic forms; - the society, if constitutes of institucional orders, legal and practical norms and uses normative regulated; - the structures of the personality, if present as substrata that are the human organisms (ND, 101).

It has three systems special.

THE LAW IS INSERTED IN THE SPECIAL SYSTEM OF SOCIAL INTEGRATION.

The two others are: the school, whose function is of cultural reproduction, and the family, who is of socialization. All fulfill the functions concomitantly where the others are specialized, keeping a reference to the totality of the world of the life.

The world of the life, that operates and penetrates through the distinct forms of materialization and designated functions, if composes " cooriginarily " in these three components interlaced between itself (ND, 102). Curious to remember that in RhM, 142 and 144, Habermas it pointed critically with respect to the circumstance of that the right one was the guarantee of the social integration that if gave through relations of being able, or either, such relations of being able were guaranteed by the right. But, the world of the life is not an association, but the practical daily communicative where its center if nourishes of the cooperation of cultural reproduction, social integration and socialization. The cooperation has its roots in this practical (ND, 102).

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However, if the language, in its capacity to open world, as Heidegger said, is what it allows that in the world in them let us find with something as something, it can not ilude, as Heidegger or Foucalt, converting it into a history of the ontology or a history of forms to know (ND, 106). For Wittgenstein, speech is to give orders (ND, 113). On the other hand, to follow a rule means it to follow in all the cases the same rule. A linguistic expression only can have one meaning identical for a citizen that is capable to follow, to little with subject other, a valid rule for both. Here Habermas explains that Wittgenstein introduces the internal relation between meaning and validity with independence of the reference of the language of the world. It abandons all reference to a validity that can exceed the language games and if it loses the reference that says ascertainner to it of facts makes to the truth (ND, 120-121).

Interesting to in contrast notice that of the communicative action, the example of the assailant shows, of drastic form, that the conditions of normative validity had been substituted by sanction conditions, proper of the strategical action. In this, it lacks to the sincerity and the seriousness of the speaking, presumptions of the communicative action. It does not have unsaible acts, or either, guided for the agreement, but pure pretension of being able that it is supported in a sanction potential (ND, 137). The unit of the ratio alone remains

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perceivable in the plurality of its voices, or either, as possibility of principle to pass, for occasionally that it is, however always of understandable form, of a language to another one (ND, 157).

The communicative ratio is not, however, a ratio without body as the spontaneity of a subjectivity constituent of world (ND, 183), being that a theory that dare to dissimulate the reachly of an ideal of the ratio, would finish it below level of argument reached for Kant (ND, 186). It would betrayal, besides, the materialistic inheritance of the critical one to metaphysics. Habermas recognizes, however, that *the communicative ratio is certainly a unsafe and vacillating tablet, but that it does not sink in the sea of the contingencies, still when such estremecimento in high sea is the only mode as it can "dominate" the contingencies* (they idem). The communicative ratio is not materialized, according to Habermas, in a esthetics theory, in a colorless negative of the religions and nor it proclaims the hopelessness of the left world of God and nor dares to infuse hopes.

It is treated, of another side, a design historically inspired, that can be continued or be abandoned (ND, 187), not being property of the philosophy, but this, in contribution with rollback sciences, can contribute to learn the ambivalences (ND, 187). It is good that it emphasizes that the legal norms, for Habermas, are unloaded of moral responsibilities. In the concept of legal entity as carrying of subjective

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rights they finish suppressed and conserved both the moments (of the proper referring identity and to the feature the legal norms). Under the conditions of the strategical action, " itself exactly ", the " auto one " of the self-determination and the auto-accomplishment falls outside of the intersubjectiveas relations (ND, 231).

Against the ontologization of the word, Habermas cites the literary example of Italo Calvin. The question is if the text cannot be reflective in order to save the empirical reality that if give between it, as " corpus " of signs, and circumstances that encircle it. The text can also swallow the author and the categorial difference between fiction and reality, when making in itself the generation of a new world (ND, 246-247), or either, the text alone exists at the moment of being read (ND, 252). But, what, after all, they can mean the " ontology " and " metaphysics "? Habermas question (ND, 265). As modernity cannot produce for same itself the creative counterbalance of felt of that we have necessity in the vicissitudes of the existence, needs traditions where let us can in supporting them, of traditions that operate as antidote: the religion for the people or metaphysics for the cults.

As Habermas, these types of philosophers combine with the State and the Church! It has, still, one second surprising neoconservative budding of the hegelianism of law, without change of its status you question (ND, 267).

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Chapter 10

THE HABERMAS THOUGHT AS POST-METAPHYSICAL

In workmanship previously published the " after-Metaphysical Thought ", called " the philosophical speech of modernity ", Habermas places its thought, as mixture of the historical materialism, the Pragmatism and the genetic structuralism, in an accomplishment of the after-modernity ideal. In this workmanship, also, is clear its approach of the French neo-structuralism, already from introduction (PDM, 11; also in the dedication, 9). In Modernity, the ratio points out from principles, when it is broken up of the religion, as asseverate Max Weber, forming a profane culture (PDM, 13).

Or either, we can say that the ratio is now, when to become distant itself of ontologies beddings, a method. Already in the farewell of modernity, it has two sources, a conservative and another anarchist. Before pointing out the thought of Habermas, is necessary to remember, however, that the objective of this book is to make the passage of the philosophical speech of modernity in reverse direction and until the point of start, to verify itself again, in the crossings, the chosen route then (PDM, 276). Thus, Habermas points out Hegel as being the first one to develop a modernity concept, whose " modern " word, in German, " Neuzeit ", means " new age ". For Hegel, its time was the " last period

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of training of history " (PDM, 16; To confer 18). Of this form, the reference to modernity starts to be the present time that if consumes. For Hegel, the modern times are of the subjectivity as freedom and reflection, and whose features are four:

1) individualism; 2) right to the critical one; 3) life of acting and 4) idealistic philosophy.

For Hegel, the kantian philosophy is the essence of the concentrated modern world as in a focus (PDM, 30). But this does not hinder its critical a Kant, as well as the Jacobi and Fichte (PDM, 33).

Perhaps against an authoritarian incarnation of the intent ratio in the citizen, Hegel presents the unificater power of a intersubjectivity that manifest under the heading love and life, but although a certain continuity of the tradition of the Roman law, Hegel already cannot be helped of the social state of the Roman empire in decline to compare it with the relations of private law of the modern bourgeois society, therefore the Roman empire loses the character of model for the modern times and either therefore that Hegel did not continue to follow the footprints of the communicative ratio. He finishes developing a concept of absolute, the price of another one dilemma (PDM, 39 and 40; In note, in the 11, Habermas relates to a text its, whose heading is " modernity - an unfinished design "). If Hegel is not the first philosopher of the modernity, is certain that he is the first one for which modernity if

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becomes a problem (PDM, 50). On the other hand, in one excursus on Schiller, Habermas remembers that its conception on the art discloses to be this to a comunicational ratio that will be gone to carry through in the " esthetic State " of the future and that, with this esthetics utopia, that remained point of prompt for Hegel and Marx, as well as for the tradition hegelian-marxist until Lukács and Marcuse, Schiller understands the art as the genuine incarnation of the communicative ratio (PDM, 51 and 53). They are sketched, however, three perspectives, which are, of the hegelians of left, of the hegelians of right and of Nietzsche (PDM, 57). Although Hegel has inaugurated the speech of modernity, by no means did not want to cut with the philosophical tradition, with what the following generation only took conscience (they idem).

It is finished for understanding the speech of modernity as a deep auto-illusion and in the speech of modernity censorship then the positivity of the ratio that it hides what it intends to move away. Only that it enters hegelians of left and hegelians of right, has only one procedural difference, of a revolutionary hope for those and a reaction against this for these last ones. Who is Nietzsche goes to unmask to both: ratio nothing more is that to be able, the perverse will of being able, ambition this that the occult ratio in so fascinating mode (PDM, 61 and 62). The continuation of the design of Hegel

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in the plan of the practical philosophy, if gives with Marx (PDM, 66). For it, when the individual and real man to only assume in new itself of the abstract citizen is that the emancipation will be consummated human being. This is the perspective that will determine hereafter the interpretation of the modernity made in terms of philosophy of the praxis (PDM, 67).

In a surprising parallel between Hegel and Marx, Habermas discovers that both abandon the comunicacional way, remaining the philosophy of the praxis as a variant of the philosophy of the citizen (PDM, 69 and 71). On the other hand, science and the technique, that Marx stops represented unequivocal emancipator potential, had been changedded, for Lukács, Bloch and Marcuse, in one medium in such a way more efficient of social repression. Therefore, the philosophy of the praxis meets before the same task where, at its time, if it found the philosophy of the reflection: how to oppose it the instrumental ratio, if proper it is inside of the reificated context? It is the aporia that Horkheimer and Adorno had tried to decide in the "Dialectic of the Iluminism " (PDM, 72-73). The reply neo-conservative of the hegelians of right, however, does not close the eyes for the social problems, but rejects the way firmly comunicacional (PDM, 75).

Against the two sides, Nietzsche wants to inside to splinter the picture of the occidental rationalism of

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which the opponents of the hegelianism of right or of left they continue if to put into motion and this anti-humanism, that goes to be continued in two variants, for Heidegger and Bataille, constitutes the true challenge for the speech of modernity. After this, it is had that to come back to that alternative that Hegel, in Jena, had disregarded: a concept of communicative action. It is possible, says Habermas, that the speech of modernity has followed for a path missed from the moment where it arrived at that first crossroads, before which if it saw the young Marx when Hegel (PDM, 80 criticized; To confer 11 and 40). However, ahead of the aging of the paradigm of the production, the occidental marxism is divided in two strings, of Lukács (with the reception of M. Weber), of the reification as the rationalization, and of Marcuse and Sartre (with the reception of Husserl), Therefore only, we can conclude that Habermas if not only considers a marxist, but as the craftsman of the theory that carries through the marxist utopia, or, in an ample direction, the proper philosophy of the praxis, when matching its sources, of a side, and when receiving eclectically the diverse currents that place under this heading (To confer 67 of the PDM, above related). The turn of modernity gives with Nietzsche (PDM, 89), that it meets ahead of one dilemma: or it submits the critical one to the ratio centered in the citizen or abandons the program in its integrality. It opts to the second way, or either,

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resigns to a new walk through of the ratio concept and dismisses the dialectic of the Illuminism (PDM, 91).

Into this walked, the " delayed children " of modernity, with its thought of antiquary, will have to changed themselves into " precocious children " of a after-modern time, a program that Heidegger will retake in its " Being and Time " (PDM, 92). The critical nietzschean of modernity was continued in the two felt: the skeptical scientist, pledged in unconceal the perversion of the will of being able, the revolt of the reactive forces and genesis of the ratio centered in the citizen with antropological, psychological and historical methods (Bataille, Lacan and Foucault) and the critical-initiate of the metaphysics, that demands one to know specific and follows the slot of the philosophy of the citizen, since genesis to the origins daily presocratics (Heidegger and Derrida) (PDM, 101). Heidegger prefers to abide it the Nietzsche philosopher, intending to describe the ascension and the overcoming of the nihilism as principle and end of metaphysics (PDM, 102). Its critical one of the ratio finishes in the distant radicalism of an attitude alteration that everything to pass, but that of content is empty (PDM, 104).

Habermas considers to verify, of a side, through the last philosophy of Heidegger (and productive development of this philosophical mystic for Derrida), and of another one, from the general

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economy of Bataille (and of the genealogy of knowing of Foucault, based on a theory of the power), if these two paths pointed for Nietzsche really lead for are of the philosophy of the citizen (PDM, 107). Of a side, however, Heidegger it tries to outside burst of the orbit of the philosophy of the citizen, diluting secularly the foundations, but the superfundamentalism of the history of the being that abstracts from all concrete history, denounces that it remains fixture to the thought that he denies (PDM, 107-108). Bataille, in turn, falls exactly in dilemma of Nietzsche: the theory of the power cannot satisfy the requirement of scientific and simultaneously to fulfill the program of a critical total and therefore auto-referencial objetivity of the ratio that at the same time affects the truth of the scientific statements (PDM, 108).

In the called part " the corrosion critical-metaphysics of the occidental rationalism: Heidegger ", Habermas makes an analysis of the thought of the author of " Being and Time " (PDM, 131). For Habermas, while Horkheimer and Adorno still are struggled with Nietzsche, Heidegger and Bataille enters into an alliance itself under the standard of Nietzsche for the last combat. Heidegger, in turn, passes for four operations:

1) Heidegger places of new the philosophy in the hegemonic position of which is banished for the young hegelians. In the counterattack to the critical one of the Idealism that weakened the philosophy,

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he restitutes it to its fullness of being able; 2) For Heidegger, "the time that we assign of modern... is determined by the fact of the man to be the measure and the way it being..."; 3) the idea of "consumption" of metaphysics as "another start", and 4) Heidegger intersubjectively accents the meaning not strategical of the reached consensus, on which it really seats "the relation with the other, with the thing and I obtain proper".

But Heidegger is imprisoned to the problematic one that the philosophy of the citizen bequeaths to it thus in the form of the phenomenology of Husserl and also, of minus form, to the fundamentalism of the philosophy of the conscience, finishing for having three disagreeable consequences:

a) becomes unrecognized to be and being, deducting to be from the being; b) critical of modernity autonomize in relation the scientific analyses, lacking, however, of originality, therefore belong to the repertoire of typical opinions of the generations of the Mandarins German, and c) the undetermination of the destination also is problematic (PDM, 137 the 139).

It will be able to be placed in doubt if the philosophy of the last Heidegger, who exceeds the critical metaphysics of Nietzsche, if deducts to the speech effectively from modernity (PDM, 139). In the truth, Heidegger breaches the primacy of the theory of the knowledge, without with this abandoning the transcendental problematic. The

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basic ontology does not mean no regression for beyond the transcendental philosophy, but it is before its radicalization, becoming guilty of the same errors that it attributes to the classic theory of the knowledge (PDM, 143-144 and 147). The shelter of Heidegger in France shows with Derrida complaining its paper of authentic disciple, whose subject still is the auto-overcoming of metaphysics. Here, the destruction is rebaptized deconstruction (PDM, 157). Derrida, however, part for the structuralism, investigating, with Saussure, the language, in systematic mode and placing the linguistics the job of the ends of the critical one of metaphysics. It passes, therefore, of the philosophy of the conscience for the philosophy of the language, with the " gramatology " in opposition to the estruturalist phonetic, scientific guide for the critical one of metaphysics because she goes to the root of the phonetic writing, whose origin is the same one of the after-Metaphysical thought. The essential of the language is in the writing and in it does not speak, eliminating it will of the author, to which if it overlaps the proper text. However, Derrida is not deducted to the strings from the paradigm of the philosophy of the citizen. It exceeds the inverted fundamentalism of Heidegger, but it remains in its mat (PDM, 158-162; to confer 181). Derrida, according to Habermas, thinks to go beyond Heidegger, but " happily " it is on this side (PDM, 176). This does not hinder Habermas to

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criticize it: " When the philosophical thought, as in advises Derrida to them, it is disentailed of the duty to decide problems, and its functioning is transferred to critical the literary one, is deducted it not only its seriousness, but also its productivity and creativity " (PDM, 198). In this way, Habermas says, returns to the question from where we leave. The false pretension to suppress the genetic difference between philosophy and literature in cannot lead them to an output of the aporia.

On the other hand, Bataille also points out enters the critics of modernity, however, as marxist inserted in the school of Durkheim (PDM, 206-207), leaguig Nietzsche to it for an essentially anarchic stroke (PDM, 204), however has a irreal, or either, hopeful picture, of the estalinism (PDM, 215). However, Bataille contradicts its proper efforts to take the cable the critical radix of the ratio with the ways of the theory, when it admits that the philosophy cannot leave the universe of the language (PDM, 224). Another personage of the history of the critical one of the ratio is Foucault. Its allure for Bataille, however, does not take it to the disciple condition, as the Heidegger occurred with Derrida in relation. What it still influences it is Schopenhauer, Nietzsche, and the exotism of the stories of the anthropologists. Its concern with the ratio if converts into " the History of Madness " (PDM, 224).

While Heidegger and Derrida wanted to make the critical one of the ratio, pursuing Nietzsche for the way of a destruction of metaphysics, Foucault intends to make it for the destruction of historical sciences (historiography as anti-science) (PDM, 239). Habermas intends to see as Foucault thinks about set the tangible meanings of the power about the transcendental direction of synthetic operations that Kant still attributes to one definitive citizen and that a structuralism understands as to happen anonymous, or either, as a pure one to operate decentralized, guided for rules as commanded elements of an organized system supplies-subjective. To be able is synonymous of this " pure structuralist activity " (PDM, 241). To point out it, Habermas relates that, as Bataille, Foucault it started in the left, but moving away itself always from the marxist orthodoxy, strengthened the choir of the disillusioned maoists of 1968 (PDM, 242). For it, sciences human beings are and continue to be pseudoscience, because they cannot be to perceive of the coercion to a aporetic duplication of the auto-referential citizen and because it is not allowed to admit the will to them structurally produced of self-knowledge and autoverification. This the ratio for not being able to become free itself of the power that governs them (PDM, 249). It is a Positivism, but Foucault if feels a " happy positivist ", that wants to eliminate the hermeneutics in sight of the relativism that assumes (PDM, 260). He remains to

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know if it obtains to deduct that crypto-normativism to it of that, in its conception, if sciences become culprits human beings, to will proclaim itself free of values, going too far itself that the reply of Habermas he is for the refusal (PDM, 264 and 266). Foucault, who does not want to continue modernity, makes a generalization, in terms of theory of the power, that hinders to perceive it the phenomenon that lacks truly of explanation: the dilematic structure of the expansion of the right in the democracies in the base of Providence-State of the Occident consists of being necessarily the proper legal ways guarantees of the freedom that put in danger the beneficiary presumptions (PDM, 272). To the individuating socialization, that remained unthought, it substitutes the concept of a "fragmentary systematization of the power", that it is not to the height of the phenomena of double of modernity. Of this perspective, the socialized individuals only can be perceived as exemplary: generalized singular cases. Or, as Gehlen said: "a personality is an institution in a singular case" (PDM, 273).

It remains, thus, one another output of the philosophy of the citizen: communicative ratio versus ratio centered in the citizen is placed (PDM, 275 and s.). He was objective of the book to make the passage of the philosophical speech of modernity in reverse direction, to verify the occurred options and subsequent choices (PDM, 276)

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Habermas he concludes then that Hegel and the Marx had not fulfilled the paradigm change, and Heidegger and Derrida, when trying to leave stop backwards the metaphysics of the subjectivity, had been imprisoned still to the philosophy of the origin, to the pacing that Foucault, in turn, with its theory of the power, was in a dead-end. A more viable solution is possible, if to abandon the somewhat sentimental presupposition of Metaphysical solitude. The paradigm of the philosophy of the conscience meets depleted and the symptoms of this exhaustion must become fluid in the transition for the paradigm of the understanding (PDM, 277). In the paradigm of the intercomprehension it is, before, the performative attitude of the participants of the interaction who coordinate its plans of action through an agreement between itself on any thing in the world. While the ego executes an act of speaks and alter defines position before it, both enter in an interpersonal relation. In this interaction linguistically mediated it has another relation of the citizen I obtain proper, different of that one of an observer of the exterior world. It does not have possible mediation enters the position extra-whore of transcendental I and the position intra-whore of empirical I (PDM 277).

What before it fit to the transcendental philosophy, or either, the intuitive analysis of the conscience of itself, adapt now to the circle of rollback sciences that they look to become explicit the knowledge

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daily pretheoretician of rules of citizens speakings, agent and competent sages, of the perspective of participants in speeches and interactions from an analysis of obtained or distorted declarations. " *Because such attempts of reconstruction already if do not run to a kingdom of intelligible for beyond the appearances, but yes to the knowledge of the rules really practised that if in accordance with precipitate in produced declarations the rules, the ontologic splitting between the transcendental and the empiricist disappears* " (PDM, 278). The communicative action is the way through which the world of the life if it reproduces. The participants in the interaction already do not appear then as causing that they dominate situations with the aid of responsible actions, but yes as products of the traditions where if they find, the solidary groups the one that belong and of the processes of socialization in which if develops. One multiplies in the measure where they fulfill to these three functions that exceed the perspective of the actor: the propagation of verbal traditions, the integration of groups for norms and values and the socialization of coming generations (PDM, 279).

The fabric of communicative actions is fed of features of the world of the life and is, at the same time, medium through which if reproduces the concrete forms of life. Therefore, the Theory of Communicative Acting can reconstruct the Hegelian concept of totality of the ethical context of the life,

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independently of the premises of the philosophy of the conscience (" is guilty " for a destination: communitarian responsibility) (they idem). In the Theory of Communicative Acting, the circular process, that locks up the world of the life and the praxis communicative daily, it occupies the mediator place who the Marx and the occidental marxism had reserved to the social praxis. Its task is to understand the ratio practical as a ratio materialize in history, society, body and language (PDM, 293).

The historical materialism, the Pragmatism and the genetic structuralism, have in account a relation dialectic enter the structures of the conceptions of the world that make possible the praxis intra-where through the proper knowledge of the direction, on the other hand, and for another one, processes of learning that if translate the hashing of structures of conceptions of world (PDM, 295; To confer 299).

The question is to know now if the concept to act Communicative does not establish an incompatible Idealism with the naturalistic ideas of the historical materialism (PDM, 296).

The instrumental actions are crossed with the communicationals actions. The Theory of Communicative Acting waits that the symbolic reproduction of the world of the life is together with the material reproduction of that one, moving away the " purism from ratio " (PDM, 297; To confer 281 and 320). They had been Pierce and Mead the first

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ones to raise to the philosophical category this religious reason of the alliance under the form of a theory truth consensual and a theory of communication of the society. The Theory of Communicative Acting if binds to this pragmatic tradition (PDM, 299; To confer 295). After the loss of credibility of the marxist thought for the critical one of modernity, Castoriadis printed a new impulse to this tradition, with a linguistic turning unique (PDM, 301).

But it does not decide the problem, because its concept of society, in terms of basic ontology does not leave place for intersubjective praxis that can be attributed the socialized individuals (PDM, 303). The social praxis are constituted linguistically, but also the language has to affirm itself for beyond these praxis and in the horizon already defined by they themselves (PDM, 307). Adornment, Foucault, Heidegger and Derrida are responsible for insensitive theories to the highly ambivalent content of cultural and social modernity. In Communicative acting, the creative moment of the linguistic constitution of the world forms a syndrome with the moments cognitivo-instruments, practical-moral and expressivos of the functions intra-whores of the language specialized in the display, of the interpersonal relation and the subjective expression (PDM, 311).

The philosophy of the praxis wanted to remove the normative contents of modernity to a ratio

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incorporated in mediating happening of the praxis social. It will be that the perspective of the totality, articulated in this concept, if the basic concept of Communicative acting gets excited to substitute the social work? (PDM, 313). As Habermas, not even Marx escaped to the totalizant thought of Hegel. But this if modifies if the praxis social more will not be thought primordially as work process (PDM, 314). The suspicion of purism of the mere communicative ratio it must be invalidated revealing that the Theory of Communicative Acting can give its contribution for the explicitation in the mode as in modernity a economy organized in market form can be combine functionally with a monopolistic State of being able (PDM, 320; To confer 281 and 297). That an active State not only intervene in the economic circulation of its citizens, but also in the circumstances of the life of its citizens, says Habermas, was what they turn the lawyers the social State as aproblematic. A network each denser time of legal norms, of state and partially state controlled bureaucracys covers the daily one of potential and factual customers (PDM, 331; To confer TH, 1022). It demands, in the truth, a new division of them to be able in the dimension of the social integration (auto-regulation of the functional systems, or either a different relation between the stand alone public spheres and the domain regulated for intermediary of the money and the power (PDM, 333). If it cannot forget, however, and as the proper

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Habermas finishes pointing out when arguing the problem of the current Europe (PDM, 334), that the culture is this addressee of the Theory of Communicative Acting: the culture of the Europe and its problems.

Part II

Chapter 11

UNDERSTANDING HABERMAS

I

It seems that the student movement of 1968 was a landmark in the thought of Habermas. Although moving away since early - and before this historical period - from the traditional Critical Theory of Frankfurt, which, it designates Flávio Beno Siebeneichler was an enthusiastic one, but in relation to which it was felt, in the truth, a stranger, is already with " Technique and Science as Ideology " that Habermas places more clearly the proposal of change of the marxian paradigm of the value-work, ahead of the mature capitalism, whose problem of domination if relates now to the depolitization of the population ahead of the " technological ideology " (TWI, 72).

But he is correct to also affirm that since the " Structural Change of the Public Sphere " that Habermas if worries about the depolitization of the

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public opinion, when which launches the possibility of a concept of public opinion that is historically replete of direction, sufficient in normative terms for the requirements of the social democrat constitution, theoretically clearly and empirically applicable, only can be profit from the proper structural change of the public sphere and from the dimension of its development (SO, 283). In "Knowledge and Interest", after to try a critical one of the scientism, Habermas finishes admitting, in the Postscript of 1973, that such critical one emptied, being case of passing soon to a Theory of Communicative Acting, as it intended (EI, 298). Of this form, it looks for to point out its thought in the age of the "after-modern", declaring that the paradigm of the philosophy of the conscience meets depleted, having to become fluid the symptoms of this exhaustion in the transistion for the paradigm of the understanding (PDM, 277)

Understanding the history of the modern philosophy as a disruption with the classics from the kantian criticism, that it was succeeded by Hegel and Marx, which still is part of same position, was finished, with the same Hegel, for initiating a maken a mistake path of the philosophy as universal science (EI, 26). This crisis took Nietzsche to postar against the modern, inaugurating "a after-modern" age, whose inheritance is disputed, of certain form, for Heidegger and its followers of a side, and for the diverse currents that will give sustentation to the

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Theory of Communicative Acting, of another one. In this context, however, the Theory of Communicative Acting is only really " after-modern ". Of a side, Luhmann does not pass of a biologization of the theories of the times of Kant and Hegel, while that Heidegger at least deserves to be cited, according to Habermas, face the personal irritation that its name it cause. It is, therefore, a mission, the one of to provide a new " iluminism ", that locates now as a Critical Theory of the society. Habermas is used of the frankfurtian Theory Critical as well as it is used of another theories. This, as well as Kant, Hegel, own Marx, Freud and Piaget are its central authors. It fits to stand out at once, however, that Habermas doesn't have a dogmatic concern in relation to Marx (RhM, 11), whose alone reading gave him lately and with iluminists intentions.

It doesn't worry us, therefore, the dispute of Habermas' thought with the one of Luhmann, for example, that him same it doesn't place as priority. Its concern with Heidegger and that it is expressed above all in the critics to Philosophical Hermeneutics, they will be the necessary counterpoint for the understanding of its vision of the society and of the Law.

II

In this way, Habermas wants to point out the theory of the knowledge, not more as it searches of the to

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expose a mere " technocratic ideology ", but to erect a theory of society (EI, 46 and s.; To confer 281, note 117 and 298). The initial pretension to identify the interests that promote the knowledge based on the fact of that the Positivism disdained the theory of the knowledge for a theory of science, do not find much breath. In the truth, the interest is understood by Habermas as being " the orientation of fund " that they guide the knowledge (EI, 193). And has a legitimate interest that it is what guides the ratio in the fulfilment of the auto-reflection (EI, 203).

Making parallel between Marx and Freud, since this fetching in the goal-communication the problems that afflict the patient proper victim of the unconscious one, in the same way that one proceeded in relation to the social structures, is possible to say that both allow to support the concept of domination and ideology as INSANE COMMUNICATION (EI, 273), even so this only is clearly with the psychoanalysis, while that for Marx this still was not possible. In the truth, the critical initial Marx is in the direction of that it did not develop a thought enough to prevent the positivista reduction of the theory of the knowledge, exactly when reducing the act of auto-production of the human sort to the work, being hindered to understand its proper mode to proceed (EI, 46; To confer 66). Or either, Marx had everything to walk for this, in the same way that Hegel. In the same way that Hegel abandons a peculiar conception, of

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the communication, Marx reduces the communicative action to the instrument, under the social heading of "praxis" (TWI, 41).

For Habermas, therefore, it is necessary to reconstruct the historical materialism, or either, to remake it, being faithful to its intention. In the case, therefore, the theory of the communication, this design mistakenly abandoned in the end of the modern thought, it can consist in the proper renewed historical materialism (RhM, 14). The structures of the intersubjectivity are so constituent for the society systems how much the structures of the personality, what it takes Habermas to search the contribution of the piagetian theory of the genetic structuralism (RhM, 14). In fact, the historical materialism, that ties with the bourgeois philosophies of history, projects a compatible collective identity with universalists structures of "I", only led to a socialist consequence in face of its cosmopolitism (RhM, 30).

This transcendentalist inheritance, however, is what it confuses the historical materialism to arrive at its proper consequences. The abandonment for the critical theory of the society of the conceptualization of the philosophy of the conscience becomes necessary, whose basic categories of the philosophical tradition retrace Kant and Hegel, for, in a "linguistic turn", to assume itself of the hermeneutics and the analytical philosophy (ZLS, 13). Consequently, it has that to breach with the

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theory of the knowledge, substituting the question of the origin of the knowledge for the question of its validity, or either, to abandon the question of the pure knowledge, that is impossible, to establish a METHOD (ZLS, 49). Thus, the truth already is not correspondence, but mere question of will. Consensual is about the " Theory of the Truth " (TP, 29): truth is logical consequence it method, that is its premise. Habermas believes to be able to run away, of this form, to the fundamentalism of the philosophy.

III

In fetching of a theory of the society, that can psychoanalytically diagnosis males of the social life, Habermas does not abandon the marxian model of critical, but, in contrast, when pointing out it it enters illustrated, the interested one in the emancipation, desveste of the condition of disciple interested in keeping them dogmatically pillars of the historical materialism. A stranger does not consider itself, however: to carry through the historical materialism is to customize it, as critical theory of the society, to a new reality that in offers the delayed capitalism to them. The conditions of the social life today are not the same ones of the times of Marx and therefore, to become possible its critical one, is necessary that if it renews the terms where was proposal (TP, 18 and 116). The essence of the thought of Marx is kept, in the measure where

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it shows a iluminist, worried about the emancipation of the man and that he is given through the praxis (TP, 115 and 288), that it is also the still iluminist concern of Habermas. In such a way thus that the concept of truth politics established for Marx, in the tradition of the modern natural law, according to which the truth is made by the man, it remains possible ahead of a theory of the communication. Second Habermas, Marx would reject a classic ontology that asks, as Heidegger, regarding the being, or: " because the being and not before the nothing ", to question in the following mode: " because thus and not in another mode " (TP, 221). This means to place the marxian theory in method terms (To confer ZLS, 49), therefore the critical theory in Marx allows to understand the unit of Theory and Praxis in truth terms as accomplishment of the ratio (TP, 412).

In the truth, this is not so clearly thus, therefore the proper Habermas placed Marx in the tradition of the modern natural law (TP, 221), that it does not correspond to a ontology, to less does not leave of being fundamentalist. This transcendentalism that places Marx in the same way of Kant, as the proper salient Habermas, does not allow to a simple interpretation regarding its concept of truth. It is certain that already the kantian criticism abandoned a safe concept of truth in ontology terms, but intended to erect in its place a distant concept that had combine with the phenomenic comment and

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therefore of the mere will. However, the basic estimated ones of the historical materialism need a reformularization (TWI, 82). In this last phase of the capitalism, the ideology substitutes old forms of domination, presenting itself as pretension of modern science (TWI, 64).

It means that through the argument technician, serving as bulkhead to the critical one, current science seek to depolitic the population, with the fetching of " solutions " techniques deducted to the public quarrel (TWI, 71), what he leads to a new critical approach that not it of the economy politics (TWI, 70). The reformularization of the marxian critical will become, therefore, in terms of theory of the communication, looking itself to free the communication of the domination (TWI, 82). This design is not new: but it are abandoned Hegel after to have introduced " to act Communicative " as half where it carries through the process of formation of the auto-conscientious spirit, that, by the way, it took Cassirer to a hegelianizant interpretation of Kant, picking-up this resignation of the point of view of a citizen of the knowledge " already soon " (TWI, 29-30). With this, Habermas thinks to be able to liberate the historical materialism of its weight of philosophy of history, carrying through it as theory of the communicative action (TH, 1059).

IV

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The student movement of 1968 and its reactions had demonstrated that it does not have more the antagonism of classrooms, establishing themselves a new zone of conflicts that is of the public opinion managed by the medias, occulting itself the differences between questions techniques and practical, say Habermas (TWI, 89). Therefore, it wants to know as the translation of usable knowing technical for the conscience practical of the social world of the life is possible (TWI, 96) and to discover the relation between technique and democracy, or either, as it can be restituted capacity of the disposal technique to the consensus of the citizens who interact and between itself they argue (TWI, 101). Not accepting the optimism of the convergence between technique and democracy and nor the exclusion of the technique for the democracy (they idem), understands that a general and free quarrel of domain is necessary (TWI, 106). However, if emancipation in the old iluminist style has to see with the accomplishment of the ratio, to rationalize the " world of the life " is what it matters.

To rationalize the world of the life is, therefore, the job of the communicative ratio, for a general and free quarrel of domain (TWI, 106 and EI, 55). The conversion of mere comprehensive a sociological theory for a sociological theory of the praxis leads to the necessity of a new formularization for the paradox of the rationalization (TH, 704) that it is of

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the society as system and at the same time as vital world. The model of rationalization of Max Weber must be reoriented, at the same time where, parallel to the Hermeneutics and the Philosophy of the Language, the Pragmatism of Pierce, with its practical assertions it could be useful. However, the study of Pierce only interests the Habermas as clarification of the reasons that had taken it to the autonomização of the proper concept of reality of the logic of the language (TWI, 109), not mattering, for this, that it moves in circles (EI, 119), and that it falls in a private one, however tenacious Positivism (TWI, 138).

The recital of social sciences in terms of theory of the language, however, is abandoned, for being impossible to introduce a theory of the communicative action since a methodologic perspective, exactly after to understand the psychoanalysis as analysis of the language (ZLS, 15 and 17). It is turned, as it was said, toward the reformularization of the weberian theory of the bureaucracy (TH, 956), after to have also looked for to reformulate the historical materialism, in order to be able to conceive the world of the life as place of possible pure agreements, that is, without domination, in that if it calls "ideal situation speaks". Thus that it goes taking body the communicative action, already it is delineated in "Technique and Science as Ideology", as correspondence to the "interaction" of defined Hegel and already in that

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chance as being the interaction symbolically mediated by norms of obligator validity, recognized for at least two agent citizens and that they are strengthened for sanctions (TWI, 57). The ratio is the condition of emancipation of the man. The ratio is the condition of emancipation of the man. But the ratio is now a communicative ratio. A ratio is not alone that understands, but that it intervenes. It is not plus a principle of Natural law, that if discloses or is discovered, but keeps a nature of " ad hoc " debugging of the interests that compromise the relationship. The communicative ratio is, therefore, a rival of the concept of natural law.

V

The two volumes that compose " Theorie des kommunikativen Handelns " are practically a long revalidation of that Habermas had written until then. It returns to the classics of sociology as Weber and Durkheim, not so soon makes an appreciation of the occidentals marxist authors, takes care of of Mead and Parsons and if it guides for its preferred authors as base of its thought, believing to be able to arrive then at Marx, to its way, " after-modern ". It is its eclectic prolixity that if it justifies in the measure where the workmanship intends to be a reply to the questions of the great theoreticians, as Flávio B. Siebeneichler seats e that, however, has been its stigma. But it is a synthesis, of certain form, its thought until that moment. It represents the

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change of paradigm of the rationality for a communicative rationality. Science will not be more sociologically comprehensive, studying what it occurs, but will concur for the formation of the reality as praxis finally reached. The interaction in fetching of the ideal situation of speaks, without coercions, will be the " telos " of the language inspired for it socratic appeals to the dialogue, when it will have, in the praxis, a unit of interest and knowledge, where the only valid coercion will be of the best argument. It is certain, however, that one is about an utopia. The ideal situation of speaks serves only of parameter for the questioning of any fatigues attempts of consensus.

The concern with the application is accentuated, taking the hermeneutic questions, being that, in the reality, the pass of the philosophy of the conscience for the analysis of the language, retaking the wittgensteinian model of understanding as ability to follow a rule (TH, 568) has temporary character. It is a first pacing (TH, 526). The model of communicative action estimates the language as one medium of understanding and agreement (TH, 170). The structuralist vision of Habermas discloses that for it the language is the tissue in whose meshes the citizens are imprisoned and which they need to form as citizens, being that the consensus and the agreement inhabit in the inward of the language, constituting its telos.

The interpretation, therefore, constitutes the mechanism of coordination of the actions (TH, 178), being that the truth is mere question of convention (TH, 209). The society concept will be connected to a concept of vital world, to complement to the one to act Communicative (TH, 456) and that it estimates a social group whose agreement has as expression the norms that regulate acting. The breaking of the rules takes the sanctions: if they will be rules techniques, the sanction is the failure of the action and, if to treat to moral rules, the sanctions will be atinentes to the failure before the authority (TH, 610). Evidently, in a society where the social integration if gives for the sanction (it is the case of the state right), these sanctions will need legitimation (TH, 796). The ways of control will be assured with instruments of the formal law (TH, 961), however the moral and legal rules are norms of according to degree, or either, to which only if it must appeal in case of bankruptcy of the normal ways of communication and coordination them actions (TH, 777). Finally, it competes fighting the contrary trend, of "juridicization" of the world of life (TH, 1,022; To confer PDM, 331), therefore the modern State justifies with the principles of rational natural law, in the perspective of not violent a social order (private law) (TH, 987). For the identification and explanation of the pathology of modernity, Habermas appealed the Weber, Mead, Durkheim

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and to the Genetic Structuralism, not leaving to follow the marxian model of critical (TH, 1.052, 1.082-3), not having foundation necessity some or transcendental justification so that they correspond interest and ratio (TH, 1.080). Looking for to free the historical materialism of its weight of philosophy of History (TH, 1.059) and thus to carry through it, Habermas already had pointed out for occasion of the RhM, 149, that the Genetic Structuralism of Jean Piaget could only be a bridge for the historical materialism. Understanding Marx in the iluminist tradition that retraces Kant, it believes to be able to not only feel a marxist, however more than this, an authentic heir of the " Aufklärung ". And with this, certainly, to assume also its contradictions.

Chapter 12

HERMENEUTIC CONSEQUENCES

I

HEIDEGGER

In the approach of the recent history of the philosophy, it was said that Habermas understood the " after-modern " as a disruption with metaphysics, or either, the " after-modern " as " after-metaphysics ", as the nihilist design of Nietzsche. Of the spoils of this implosion of the occidental thought, they remain two currents, in its to understand, that they dispute the estate: of a side, the thought of Heidegger and its followers,

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conservatives or until integrant of the School of Frankfurt, as Herbert Marcuse, explicitly studied for Habermas, as it is the case of Derrida, Bataille and Foucault, and of another side, the proper Theory of Communicative Acting who Habermas finds, as already if it said, the only really " after-modern " way, eliminating any necessities of fundamentalism and breaching of time with the philosophy of the citizen. In view of that the ontology is so old that seems not to be more problem, understands it who what he would remain to argue would be the pass of the first Iluminism for this last one. In last analysis, it is the Theory of Communicative Acting that carries through the Iluminism initiated with the first copernican revolution, constituting, in the " linguistic turn ", a new turn in the History of the Thought.

The dispute if places, therefore, according to our reading, inside of the hermeneutic perspective, as already he was registered for recently history of the thought, in the dialectic existentialism-structuralism, still that the term " existencialism " comes to mean more of the one than can and Habermas wants to place itself in one " after-structuralism ". after the splinters produced for Nietzsche, the anti-humanism, that according to Habermas, goes to be continued in two variants, for Heidegger and Bataille, constitute the " true challenge " for the speech of modernity (PDM, 80), even so it can place in doubt if the philosophy of the

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last Heidegger, that the critical one of the metaphysics of Nietzsche exceeds, deducts to the speech effectively from modernity (PDM, 139). If it is truth that stops understanding a writer is necessary to identify against who it writes, the contraposition with the hermeneutic philosophy will be useful. Tracing in the thought of Habermas what it thinks of Heidegger, we see that what does not have is indifference. However in " Profiles philosophical-politicians " Habermas has remembered a phrase of Hegel, who perhaps has ratio when she says that the individuals of universal historical importance cannot be measured with moral criteria, there is that she makes critical vehement a propositio of the " Introduction to the Metaphysics " of Heidegger (PpP, 58-72). This its philosophy that it originates and it discharges in the theology, according to Habermas, is, in short, base and consequence of its time, whose character is of destruction of the man. In " the Logic of Social Sciences ", Habermas mentioned the " trashes of kantism " that persist in the existential ontology of Heidegger (ZLS, 259) and that it is located against the hermeneutic Idealism of the theoreticians of the understanding (that they leave of Heidegger and Wittgenstein), and that, with exaggerated precipitation, they have the pretension of objectivity of the knowledge (ZLS, 488).

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In " Theory and praxis ", in turn, it understands that " the existencialist " overcoming of the Idealism is prepared by Schelling, passing for Kierkegaard and Rosenkranz, consummating itself with Heidegger (TP, 203) and that the interpretation of Marx for Landgrabe, in the perspective description-ontologic of the Heidegger of the maturity certainly prejudices with it that " the truth alone can be imagined in the form of a contemplation of the sacred one, in producing itself in praxis guided by mystic. ", even so Marx never has asked for the essence, but only for the reason (TP, 221-222), passes that the ontologies doctrines are placed by Habermas between pertaining dogmatism (TP, 298, note 16). On the other hand, if Marx is conceived as a ontologist, as it is for Jacob Hommes, the basic ontology of Heidegger would be its continuation (TP, 371-372), what it takes the sensible distortions (TP, 376).

For Habermas typically, however, Heidegger support the legitimacy of the domination, participating of the generation of Germans Mandarins, when the being " grants " to the fortunate a ascension to the favour and to the anger, a competition for the disaster (PDM, 133 and 136-139). But, " what it annoys is solely the unwillingness and the incapacity of the philosopher of, after the end of the national-socialist regimen, to recognize its error, politically with so serious consequences, an only phrase that was " (PDM,

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151). This irritation, says Habermas, comes of the student times (NR, 25). In the same instant, however, Habermas it still cites a manuscript of Heidegger forgiving himself, that "placing the guilt in the proper victims", and saying that he was not so wise to know, in 1933, what it would come to happen (they idem). Insisting, however, Habermas: "me it interests to know me of that mode the fascism intervened in the proper development of the heideggerian theory", when the individual that walks for the death is substituted by the people who walks for its destination (PDM, 152-153). Starting the existentialism in the Christian thought (Kierkegaard), Habermas says that it finishes transforming to the light it new paganism that passed, citing a reaction of Heidegger to an authorization of a student association catholic: "still the tactics of the catholicism are not known. And one day will be gone to pay expensive." (PDM, 152, note n. 34). But despite the context fascist its philosophy delays, Heidegger exerted influences in Habermas, as proper it admitted. In the interview to B. Freitag, said: "the thought of Heidegger alone was contaminated in its substance in years 30, period where it was dragged by the whirlwind of the disgnostic neoconservatives of its time. Considering the incredible weight and the innovative potential of "Sein und Zeit", is not to admire that students as Hannah Arendt and Herbert

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Marcuse, and same a so non-political intellectual as the age Sartre in that occasion, that is, before 1933, necessarily they were felt attracted by this thought. (Between brackets, until I was, eat young student of the postwar period, temporarily heideggerian, until reading, in 1953 the ' Introduction to Metaphysics ') ". Without separating the man of the philosopher, as Hegel advised, Habermas knows, however, that it will not be run awayed of the attempts of rollback to the metaphysics, that is the concern of its book " after-Metaphysical Thought ". What it could be clarified is that metaphysics, or the ontology, cannot pay for its irritations.

II GADAMER

The collection of texts of Habermas on the Hermeneutics of Gadamer, published in Brazil, took the heading of Dialectic and Hermeneutics, for the critical one of the Hermeneutics of Gadamer, and contains some texts published in mentioned volumes already. It translates, evidently, the controversial known one that was stopped in elapsing of the years between the two authors, concerning the hermeneutics. Of a side, Gadamer, as following of the string of the Philosophical Hermeneutics, from the heideggerian Ontology, and of another Habermas, that it knows, wants to move away this pretension from " universality " from the

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hermeneutics, as it is of the agreement of the author of "Truth and method".

Despite the antecedents, it has who says that one is about a hegelian quarrel of a hegelian object. The hermeneutic results of the habermasian philosophy are more important for the agreement of the Law of that, for example, its comment of Luhmann, that would perhaps have reflected more in relation to the politics philosophy and through it on the Law. In the study of the hermeneutics, we leave direct for colon essential: the nature of the law and its application. It is this quality directed to the practical one, by the way, that it made with that Habermas approached to the Law and the Hermeneutics. A theory on the society, over all placed in " Communicatives " terms, finishes bumping in the concept of Law and the problem of the application. The philosophers who if worry about the praxis, finish necessarily if worrying about the Law, that are the rank in practical of the politician-philosophical theories, and finish if coming across, in the end them accounts, with the hermeneutic problem.

Habermas did not agree to that it said that the Hermeneutics is universal, or either, that all it passes for the understanding, or, as in understanding of Gianni Vattimo, who all philosopher (we would say, all man) is one hermeneut. In the truth, to accept the universality of the hermeneutics is to accept metaphysics, or either, on that the being does not depend on a " duty to be ", that in turn is

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question of the will, that is, interest. " the ontologized " hermeneutics is the contemplation of that it is, and does not interest who intends to destroy a science comprehensive to substitute it for a rollback science. It is the " dialectic " against the hermeneutics! In the end of everything, however, it goes to see that this radicalization is not the best point. Paul Ricoeur, for example, in its " Interpretation and ideologies ", understands the exploitation of both possible the points of view.

In the last works of Habermas, the concern with the subject of the hermeneutics in itself already did not have space as when of the height of the controversy, that gives over all with " the pretension of universality of the hermeneutics ", but its concern with the subject is demonstrated, since soon, in order to equip its comunicacional theory. In ZLS, for example, already it designates (in the 13), that it was not limited to continue critical of Adornment, turning itself toward the hermeneutics and the Analytical Philosophy, even so already designated also that it was turned against the hermeneutic Idealism of comprehensive sociology (ZLS, 14). What it means this? It means that Habermas does not believe the true knowledge, or else in the valid knowledge. Instead of asking for the pure knowledge, it must be asked only for the validity of the knowledge. This is to erect the knowledge to a method, or either, an action by means of procedural principles (ZLS, 49). It is useful, as it seems, the

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addition of the hermeneutics with the analytical one of the philosophy of language (ZLS, 102 and 179). For a " theory consensual of the truth ", to prevent that the " interest " that does not interest conditions the fetching for the knowledge (TP, 20), a " logical ", pure, exempt truth of ends is established, or either, it exempts of the interest that, in the origin, guides the application. Gadamer said, in turn, that the method contains in itself the truth that it intends to discover. The method established for Habermas aims at this exactly: to put in front the interest and with this to determine the truth. It is the logical or formal truth, valley to say, the procedural validity of the decision, as silogistic consequence. He is thus that if it fulfills according to TP, 412, the critical one as " method ", therefore the unit of theory and praxis means truth as accomplishment of the ratio. A communicative ratio, evidently, previously that it has that to take in account the signs (procedural norms) established.

This position of process for the hermeneutics, has also left of Pierce, for which the methodology must clarify the logic of the procedure with which we get scientific theories that if base on information on which if it can get a consensus without durable constriction and (EI, 91). As it writes down Habermas, Pierce anticipates Cassirer and its philosophy of the symbolic forms, when it says that the man creates the word, that means what it wants

(EI, 98). To this philosophy, Habermas assigned then of " Positivism " (EI, 138).

This objectivism also reached Dilthey (EI, 151 and 179), but in contrast of it, in which the hermeneutics is mined by external interventions, in Freud the psychoanalysis looks symbolic connections that are disturbed by internal interventions, having the mutilations a direction as such (EI, 212). It opposes Freud, the " hermeneutics of the deep one ", to the filologic Hermeneutics of Dilthey (EI, 213). For Freud, the man leaves of being animal when he transforms the instinctive behavior into Communicative acting (family), what he compares yourself with the economy of Marx, according to which this occurs with the production of instruments (EI, 273). A concept of " Aufklärung " is to magnify the power to organize the life (EI, 275), therefore in the auto-reflection, knowledge and interest coincides (EI, 280, TWI, 144). Criticizing the " pretension of universality of the Hermeneutics ", Habermas says that the hermeneutic conscience will be incomplete while not to assume in itself the reflection on the limits of the hermeneutic understanding.

Habermas agrees to Gadamer that to prevent the badly-understood one is to make a " basic agreement ", but does not agree regarding " as " this previous consensus must be determined. The pseudo-communication detected for the psychoanalysis escapes to the hermeneutics without

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wounding the auto-understanding of this (42), ratio so that it critically assumes on same itself knowing goal-hermeneutic on the possibilities of the communication systematically distorted. It is inferred that Habermas accepts the hermeneutics as " method ", but as ontology, not repeating criticism (62; To confer ZLS, 252). After all, the Illuminism wise person what the hermeneutics does not know, says it: that the " dialogue ", that as Gadamer, we " are ", also are a violence context and is not, therefore, no dialogue (62). Susan J. Hekman analyzed the controversy of the gadamerian point of view.

As it writes, Habermas is worried in putting in cause, in the truth, the gadamerian evaluation on the iluminist thought, placing that the Hermeneutics of Gadamer hinders the critical one, what Gadamer denies saying that the main task of the Hermeneutics is the splitting of the true and false preconceptions, being that the historicity, for Habermas hinders the understanding, when for Gadamer is what it becomes possible the understanding, exactly because, the social theoretician is not as the psychoanalyst, that it sees of outside. In the truth, Habermas understands that the preconception is always pejorative, while that for Gadamer, has preconceptions that they are confirmed and they been, therefore, already in the height of understanding, true. They pass to the category of " concepts ". The incomprehension of Habermas, according to Gadamer, gives because it

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only sees the hermeneutics as " useful method " for social sciences, what it is an mistake, therefore the hermeneutics cannot be a method. After all, the language is not limit of the world, as it established Wittgenstein. The discord of Habermas is comparable to the exegetic reference in the application of the Law, that so only searches a explicitation method, however without never allowing a ontologic reality from the application. This will show later, in FG, when to treat to the question of the application of the law. It is an error to think, however, that both the visions if exclude. Bubner and Ricouer, for example, look the conciliation of the terms. After all, according to Stein, the critical one is possible and necessary, being that both more they are come close from whom if they distinguish. A citation of Susan J. Hekman remembers that Ricouer, in " Hermeneutics and Sciences Human beings " (63-70), said that the boarding of the tradition for both, Habermas and Gadamer, is irreconcilable. However, in " Interpretations and ideologies ", Ricouer makes an attempt to approach to both.

For Ricouer, the Hermeneutics places as the " critical one of the critical one ", therefore in the sorting of Mannheim, the ideologies come back to the past, while that the utopias only come back to the future and therefore History will be able to say the utopia was what it intended to be. And as critical also is tradition, is necessary that stablish the

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Hermeneutics as critical of the critical one (to separate critical the false one of the true one as if separates the proper tradition), establishing a critical hermeneutics. Ernildo Stein concludes saying that "the critical one of the ideologies alone will be able, therefore, to exert its positive function, when to insert themselves in the horizon amplest of a social agreement; when to accept, in a certain measure, the validity of the tradition and the authority as possible sources of more freedom and more truth". In the same one felt it is the conclusion of Ricoeur, for which the philosophical reflection must protect against deceptive oppositions the interest for the emancipation of the cultural inheritances received from the past and the interest for the future projections from a freed humanity. Inasmuch as, " if these interests if to separate radix, the hermeneutics and the critical one will be reduced mere... the ideologies " For Ricoeur, therefore, the philosophy of Habermas is also an ideology, in the measure where it rejects the intention of Gadamer of whitewashing of the preconception and reput the pretension of truth of the philosophy. On the other hand, even so recognizing the merits, Habermas to it Gadamer criticizes hardly (ZLS, 252 and s.), for absolutizar the hermeneutics as " conservantismo of a Burke " (ZLS, 254), and understands that the Hermeneutic Philosophy is ingenuous, passing to the plaza of the reality, admitting a communication not distorted, what it is impossible (ZLS, 492).

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Gadamer does not understand that authority and knowledge do not converge, says Habermas (ZLS, 255), assuming a adialectics illustration concept, that took the Germans to the dangerous complex of superiority that separated them with the occidental tradition (id.). Perhaps here, however, it is perceived that Habermas does not distinguish the dogmatization from the past as false and that nothing has to see with " historicity ", but is part of a certain " historicism ". This would be an extreme attachment to the past (of glory), while that one is the proper temporality of the moment of the accomplishment. Habermas, however, makes question of being forceful. Supporting itself in the agreement of that the Ontology distorts, exclaims: it is " religion for the people and metaphysics for the cults! " (ND, 266). The kantism trashes, say Habermas, that they persist in the existencial ontology of Heidegger hinder Gadamer, that proceeds from the neokantism of Marburgo, to perceive the consequences of its analyses (ZLS, 259).

We conclude that, for Habermas, however to belong to the tradition that retraces Kant it is sin, however is not. After all, the hermeneutic consequences of the thought of Habermas are the emptying of the understanding, in face of the rollback procedure. A " meta-communication ", explicited for a critical one in psychoanalysis molds can be a " hermeneutics of the deep one ", that it makes to arise the interest and

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thus " to purify " the knowledge. The tradition is the institutionalization of the interests of the power, that if perpetuates of generation for generation, and that it does not admit the disinterested knowledge. But, in another way, the proper Habermas condemns this " ingenuous " attempt of the Hermeneutics to search what it is, proper of metaphysics and the ontology. It erects a critical one gotten passionate in sight of the " consequences " description-politics of the thought of Gadamer, that associates with the one of Heidegger, not admitting, outrossim, critical of this the its critical one. It does not want to be with the last word, although it nails the dialogue, not pass of the explicitação of an invisible structure that arrives at its predicted end already in the proper beginning. Still in the method, the cause determines the end. And when if it says of start and end, of first cause and destination escatologicamente rank, demonstrates a certain fundamentalismo, a Metaphysical " placed meta-communicativamente ". Perhaps if it deals with a metaphysics that is the mirror of the only one that it understands: a philosophy that if auto-it fires for incapable to take care of to estimated its. And prefers a function more easy, even so less worthy.

Chapter 13 THE LAW

I CRITICAL OF THE LAW

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Habermas places between that they dedicate to the development of the law and the moral (RhM, 193), therefore still understands that the Law must be recouped for the philosophy, as looks for to make O. Höffe, therefore since Hegel that the right is kept out of society as philosophy, in the periphery of the right faculties (NR, 76 and 76 and FG, 9). There however, Habermas is not placed against the Law as it made Marx, sells an instrument of mere oppression. It intends a backup of the Law! And because it would have of wanting a " backup " of the Law?

Critical the philosophical one of Habermas has left of the "structural change of the public sphere", analyzing the period of the bourgeois law, who was a positive law. For it, the height of the cynicism of the bourgeois conscience was exactly with the legal Positivism (RhM, 12), being that the Law, therefore, had a philosophical importance in the bourgeois civil society (To confer SO, 91 the 109) that it exceeded the simple epistemology. The Private law brought rules against the domination, that had finished dominatings (SO, 109), compromising the freedom that want to tutor (TH, 1031), reducing to the concept of a legitimation by means of procedures that it justifies, on the other hand, the proper one to be able legitimante of the State (TH, 1035).

This craze of positivization, that is, to become written the right, as "rationalization", did not finish. In contrast, the growth of this trend is perceived clearly, when the social democrat State of Law, as continuation of the liberal State, and passing for the concept of "Social Law" (protection of weakest, according to liberal, that nor the marxism foresaw), wants "to carry through" "justice" with the social intervention of the State (SO, 177 and 261). In the direction still of the ideology as task technique (TWI, 75), it is had today as before a trend to the "juridicization" (TH, 1022), or either, to the proliferation of the statutory law (TH), whose consequence is a public management technique, with the 1024 necessity each bigger time of employees with legal red tape, or either, is the "professionalization" of the Law, for the bureaucratic domination of the Modern States, in saying of Weber (TWI, 107). Habermas makes this critical one of the Modern Law, when already it understood that the Classic Law also was presented as ideology. The ontology that the Classic Law assumed, opposing its declared intentions, can be used for ends of scanning and oppression (RhM, 52), what, of certain form, the modern rational right does not decide, therefore also in the Modern State, to be able is the power to judge. More in retaliation or for reconstitution of the "status is not judged quo before", but it is judged before everything "a culprit" (RhM, 142). The Law

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and the Bureaucracy, however, had lost the innocence (NR, 11), becoming necessary its denunciation. The phenomenon, according to Habermas, that lacks truly of explanation is the expansion of the right in the democracies in the base of Providence-State of the occident and that it consists of being necessarily the proper legal ways you guarantee of the freedom that put in danger its beneficiary presumptions (PDM, 272, in the critical a Foucault).

Its critical one starts with a good diagnosis: the laws, as guarantee of the freedom, oppresses. It will be that its conclusion is consequent?

II

THE LAW CONCEPT

After the study of the workmanship and understanding the " Theory of Communicative Acting " as a Critical Theory of the Society that is not contented in being comprehensive, but reconstructive, in the mat of the reconstruction dialectic proposal for Habermas, whose hermeneutic implications leave to see indistinctly its reject of metaphysics and all ontology, we argue its diagnosis of the practical revolutionary through the rank law: since Hobbes it is that the Criminal law jusnaturalisticamente represents a legitimated power for the organization of the threat and use of the violence for the protection of the civil society (TP, 68 and 69), understanding the natural law modern as

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the accomplishment of the philosophy. In this direction, by the way, he is that the philosophy professor is called by Kant of " Rechtslehrer " (NR, 57), or either, " free professor of law " (TP, 232). For Fichte, legal sciences present as practical art of application of the life (TP, 336). It means that revolutionary appeal to the modern jusnaturalism led to a concept of rational natural law that made possible the revolution idea as hashing in positive state right (TP, 88). This convenience that conducts the Law after-revolution in the memory of Paine (To confer TP, 100) was the tonic of the critical one to the Liberal Natural law made by Marx. Habermas also agrees to Marx.

It is necessary, still that it does not say it explicitly, to establish a new concept of Law.

And, if the concept of Law combine with the Ratio, as Max Weber (TWI, 45), in the case, evidently, will be a Law that combine with the Communicative Ratio. Its understanding made necessary, also in the contrast with the Hermeneutic Philosophy, that is its ontologic antithesis, in the same ratio where the Classic Natural law it will be of the Law in the habermasian system. In the truth, however the critical one of Habermas regarding the Modern Law, that with Marcuse understands this " rationalization " of certain form as ideology (TWI, 46), its concern is not of destruction and yes of " reconstruction " of this Law of the Humanismo, not explicitly use its proper words loaned of the critical

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one of the Law, but of the demonstration of concern in relation to the Historical Materialism (RhM, 11). Evidently, if it places, as he said, the Historical Materialism in the tradition of liberalism (TP, 115) and against this he does not intend plus with a deconstruction and reconstruction in the place of a destruction,

In this direction, by the way, it does not have that to say itself in dialectic, but in understanding of a tradition. The possible dialectic already was made foundationally in the turn of the Clarification.

Chapter III of " Faktizität und Geltung... ", workmanship of crowning of the habermasian thought on the Law, with effect, if calls " For the reconstruction of the right " (FG, 109 and s.). It is here that Habermas finishes putting the cards in the table with such consequence. Leaving of the thesis of that the Law has an instrumental function of integration (FG, 429), Habermas establishes a relation of Fact-Norm, looking for not to disdain the element Value, that full a " tridimensionalism " of the Law in the terms synthecized for Miguel Reale, but it understands at the moment politician of the birth of the Norm inlaid. It understands that the Theory of Communicative Action dumb the practical ratio for the communicative ratio (FG, 17), in mode that carries through the clarification of that the actors must make (" sollen ", must-to be), coadunando itself with the Law (FG, 18).

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The great question, that seems to summarize all its attempt to establish a theory is, therefore, in a aspect sufficiently argued in the history of the legal philosophy: " Legitimacy as legality is possible? " it is the question-heading of the " first lesson " of " the Law and Moral " called study and that it comes as appendix in the volume of " Faktizität und Geltung... " (FG, 541 and s.). We allow ourselves to translate, therefore, " Faktizität " and " Geltung " for " effectiveness " and " validity ", respectively. (we do not have the pretension to make a translation but we need, for ends of the present study, to transcribe for the Portuguese, in the lack of official translation, the used terms in the German original and that they will clarify onward.) whose " tension " Habermas will occupy in the last workmanship.

In the truth, Habermas have left of the anticipation of that in the field of the recital, normativity and rationality if they cross (FG, 19), and the Theory of Communicative Acting does not contemplate a " tension " between fact and norm, or, " effectiveness " and " validity ". This tension would be, therefore, only apparent, as it wants to demonstrate. The question of the relation " effectiveness-validity " assumes one another question that is of the acceptance of the norm. Therefore, he is implicit there the quarrel concerning the relation " particular life " (right subjective) and " public life " (right objective) (FG, 24). Or either, one is about the kantian question of the obedience to the law,

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therefore the laws I give me exactly to them when all give them for each one and restrict, thus, my freedom. For Habermas, he has ratio Pierce, for which the truth is appraised as " rational acceptance " e, therefore, it relates, according to its study, effectiveness and validity.

In the truth, however, the Law as instrument, it is useful, because it gives a force to the norm: the effectiveness of the validity, that is, of the validity, effective for the expectation (threat) of the sanction (FG, 36), merging itself in the Theory of Communicative Acting, effectiveness and validity (FG, 39; To confer 22 and 52), since the force of the effectiveness is the fusing of effectiveness and validity (FG, 40), as it is given in the religion and the right (FG, 42). Of this form, the norm is the simultaneous effectiveness for the coercion and accomplishment of the legitimation of the validity: authority for the effectiveness and validity (FG, 44-45), becoming, therefore, the positivization of the Law a guarantee (FG, 46). It is the legality that, confusing itself with legitimacy, assures the freedom (FG, 51). Therefore, we complete, turns it Kant and the recital of the obedience the limitations that I give myself, when all impose norms to each one. Thus, the Theory of Communicative Acting conveys by mortgage the internal integration between effectiveness and validity (FG, 52; To confer 22 and 39), having the Law the function of social integration (FG, 6).

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Or either, culture and personal structure must be reproduced through the Theory of Communicative Acting, being that the social integration lodges in the Law as communication: it establishes a plugging between system and world of the life (they idem). For Habermas, however, it has a paradox in the legitimacy origin and legality (FG, 110), therefore has an ambivalence of the legal validity (FG, 109), being that the main function of the Law in the modern society is the stability hope, what shows an internal relation with the integrative social force of communicative action (FG, 111) and concludes for public and private the mutual swaggerer of lives, or either, between human rights and popular sovereignty. Habermas analyzes the problem of the freedom in Kant (FG, 110; To confer 112 and 151) and mentions Savigny, Puchta, Ihering and Kelsen to it (FG, 113), concluding that Savigny and Kelsen identify, a time that " must-to be " is deontology as will of the State (FG, 114).

This reference is very important to understand Habermas, therefore Savigny, as it is known, left of the opposing point of view to the one of the which Kelsen later would go to see legal phenomenon and, however, finishes touching. The Historical School of Savigny and Puchta was born of a sociological inspiration, privileging the fact, that is, the social reality as " spirit of the people ", and finishing for wanting to assure allegiance to it through the right rank. The normativism has left of the opposite, but

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both are synthesized in the obedience of the norm. For Habermas, this reference is important, as well as the reference to Rousseau, who also admitted the fusing of the subjective right with the objective right (FG, 123), with which identifies and of which really does not see constraint none in trying to be as that a synthesis. Its summary could be: legitimacy finishes in legality, or either, the method is chosen in detriment of the truth (we make reference to Gadamer). The democratic process of the legality is source of legitimacy (FG, 117) and the process must be the parameter of the Law. It concludes, thus, that the Law is not alone a symbolic system, but of action (FG, 137) and that the validity means a balance between the private life and public life (FG, 151; To confer 112 and 163). The Law is the disposal to legislate and as lives private and public, the tension between effectiveness and validity it relates to the tension between positivity and legitimacy (FG, 163; To confer 151) and since the objective law uses the communicative freedom in the form that the subjective law must be institutionalized to have bedding politician, gets rid the paradox of the legitimacy origin and legality (FG, 157), concluding that legitimacy is synonymous of positivity or legality (FG, 188).

Of this form, for Habermas, " Constitutionalism " is the relation between freedom and state management, between private life and public life (FG, 169; To

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confer 112 and 151). On the other hand, the proper philosophy of Habermas is epistemology. Its maximum concern is the aperture of the cocoon of the technique so that the scientific questions are plays to the public quarrel and thus they are purified of any conditions of interest that not it emancipative interest. It is alone in this interest that the Reason always finds identity, because the ratio is always communicative and is, for its proper "essence" (still that this term is not proper for the speech of Habermas) carrying through in the exempt consensus of coercions that not it coercion of the good argument. Already in "Knowledge and interest", Habermas waved with the idea of that the Law is INSTRUMENT of the living together (EI, 158), presenting as institution specialized in the intersubjectividade (RhM, 14).

The Moral and the Law are moments of the rationalization of the vital world (TH, 24), when science politics frees of the Rational Natural law (TH, 56), it allows a society constituted politically combining itself by means of legal norms (id.). This means one to act regulated for norms, which state an existing agreement in a social group (TH, 156). Law is, therefore, synonymous of Communicative sign. Ahead of the History of the Law, it is perceived that the Archaic Law was the Criminal one (Durkheim) (TH, 649), being that the community evolves of religious for the community of communication under bonds of cooperation (TH, 668), when the

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general interest came to substitute sacro (TH, 668), that it dictated the interest to punish in the religious beginning of the Law.

The function of the Law, however, is not of "justice", to little in its direction of "Distributive Justice" (MK, 149), therefore the Communicative Reason does not require this concept. The desethized "and coactive Law" is imposed as control and guide of social acting by means of ways (TH, 786). To understand it, in the society state organized, it has legitimation necessity, so that the power politician has the force of SOCIAL INTEGRATION for the sanction. This also must to give with order legal, that is composite of laws that they need to be legitimated, that is, recognized for the citizens (TH, 796). The ways of control of the linguistic interaction, essential for the social integration, must be assured in the world of the life, with the instruments of formal law (TH, 961). Medium law is interlaced with the Law as institution (TH, 1035). Habermas understands that institution, in this direction, is the legal norms that cannot be enough legitimated by means of the positivist propaganda the procedures (id.).

The Constitucional law, the Criminal law and the Criminal Procedural law need a material justification, therefore they belong to the legitimate orders of the vital world and to the informal norms of action. They are, in the truth, the deep one of Communicative acting (id.). The riots occur when

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the structure of the "juridicization" demands administrative and judiciary control that not only complete by means of legal institutions the nexuses socially integrated, but they adapt them to medium right (TH, 1041). In the place of the law as half, it must enter, however, the procedures of regularization of the conflict, adjusted to the structure of acting guided when understanding itself (processes of discursive formation of the will and procedures of debate and decisions guided to the consensus (TH, 1043 and 1045). It has resistences to this, but the legal norms, as well as the moral, are norms of according to degree, to which if it must appeal in case of bankruptcy of the medias and coordination of the action, with the alternative it violent conflict (TH, 777).

In a reality, these norms present validity pretension, that they measure for its impartiality, or either, its capacity to represent a general interest, to all the concerned ones (BH, 81 and), so that it takes care of to the principles of the "Ethics of the Speech" (To confer (BH, 126 and 149) and fulfills its paper, in the abolishment of the "tension" between effectiveness and validity (FG). Being the world of the life not an association, but the practical daily communicative, that if nourish of the cooperation of cultural reproduction, social integration and socialization (ND, 102), the Law occupies of the SOCIAL INTEGRATION, while that the school occupies of the cultural reproduction and the family

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of the socialization function, whose operations give in set (ND, 102; To confer PDM, 279 and 315, FG, 429).

Thus thinking, Habermas still is placed inside of the liberal tradition of the " minimum law ", or either, of the evil in the measure of its necessity. The Law is an instrument, still that one of the three essentials to the conservation of the world of the life. The Law and the Moral do not leave of to be useful to the regulation consensual of action conflicts and therefore to the conservation (RhM, 31). This concept of Law is coherent with the concept of Truth and Justice that loans Habermas to them: true it is what it is in agreement the agreement. Justice is validity question! In this direction, also, it is what it is read in the one of its responses in an interview granted Hviid Nielsen and published in the volume " Revolution in Course " (NR, 122). Professing the faith in a ontologically definite Truth, the Philosophical Hermeneutics, evidently, it scares to seeing ece of fish of the bifurcation ahead: " Truth or Method "? For this definition of " justice " given by Habermas, however, a method is enough.

In a quarrel with Rudolf Wiethölter, published in NR, 56 and s., Habermas it faces the problem of the current crisis of the Law. The initial question is the following one: where felt we must understand the thesis of a crisis of the law and where felt we must understand the thesis of the socially central position of the right? (NR, 59). It starts answering that the

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jurists, as dogmatics trained, perceive the law of the perspective of the judge and look at the crisis of the law as a crisis in the management of justice: it is still the undetermination of the sentences what it worries (they idem). However, the problem is not in the plan of the methodology and the legal dogmatic, but in the one of a deep understanding of theoretical-social, that gives to the right its necessary rank, or either, in the picture of a dynamic design, become reflective, of rule of law (NR, 61). Therefore, the context of a society joust or commanded good only can fill the gaps of the undetermination of an interpretation of the specific case of the effective right (NR, 61). It means that he is the politician who determines the right. The management of the right comes "indetermined" because lacks the consensus of deep that could be the paradigm of the legal order (NR, 63). Wiethölter wants to place in place of the contract, procedures of rational formation of the collective will (NR, 63), allowing a procedure of auto-organization of the society (they idem), understanding, however, that the law is the "decisive structure of the society" (NR, 64). Habermas asks then: it is the law that determines the society or is the society that determines the law? For it, the right does not only consist of its professional application, but also in the production, perfectioning and application of norms and legal programs, being, therefore, the with priority perspective of the democratic legislator (and

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not it of the jurist), in the which Savigny already it had seen the defender born of the right, but its rationality (they idem). However, as it is that the Law is born? The Law, as synonymous of writing norm, is born in the activity politics, illuminated for the proportionate auto-agreement for the hermeneutics of social life (FG, 198) and that it considers the imposition of the will for the bargain (is based on J. Elster) with sights to the consensus (FG, 204 and 205). The general will is empirical and hypothetical and the speech ethical-politician must make to fulfill the condition of the communication for the hermeneutic auto-agreement of the collective one (FG, 223). To this height, in " Faktizität und Geltung... " (236), Habermas comes back to the concept of " public sphere ", arguing the Parliament and the public opinion, understanding that the rationality passes for the quarrel author-applicator-executor of the law, what will detail later, in the last chapter of the workmanship (FG, 237). Wiethölter gives to attention to the element politician, but it privileges the element technician, wanting to transform the legal system into " procedure ".

For Habermas, however, the question is before politics and not only technique. It must be placed in the quarrel table. For it, therefore, the praxis that Wiethölter asks for must not only reach the conscience of jurists, but also of administrators and legislators (NR, 66; To confer 68). A coercitive

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Law is not everything. Arguing, of this time, with Otfried Höffe, the author of " Justice Politics ", Habermas it answers: Höffe does not harvest the main point of the ethics of the speech, which is, the consensus of the interested parties (NR, 78). Harming the choice of the interested parties, Habermas does not say, is only possible to judicate impartially what it is upper-class in equal measure for all (NR, 79). Höffe becomes attached to the coercitive character of the law, but a concept of discursive formation of the will, opposed to the concession of the contract and of the swap, it leads to obtain a concept of " procedural " rationality that it sends beyond the legitimation of the coercitive character of the right (NR, 83).

In the field of the philosophy politics, Habermas privileges a concept of " deliberative politics " (FG, 348), that it is, in the truth, a " procedural concept of politics " (FG, 349), according to heading of the seventh chapter. The concept of deliberative politics assumes public deliberation and neutral democratic procedure (FG, 372 the 374; To confer 541 and s., " Law and Moral "). Illegitimate it is what it is against the democratic process (FG, 398). If it deals with the discursive formation of the will, has a way of preventing against the interpretative deformation of this will that is the instrument of the " civil disobedience ", in the terms in quotation authors as Cohen and Arato, as mean of mobilization of the public opinion against crisis situations. These cited

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authors speak, with effect, in the " sense of execute of the populace " (FG, 463), but he is not left to see in this instrument a character conservative.

The proper Norberto Bobbio, who Habermas cites as example of defender of the democracy as minimum procedure (FG, 368), discourses calmly on the " right of resistance " as instrument of conservation of principles. Of this form, the problem is decided, as Habermas thinks, therefore the half greater of domination today, in the " Welfare Capitalist Society ", is to hinder or to inhibit the participation in the determination of the actions or its conditions (FG, 506), that it can take to the central problem of the instrumentalization of the Law for government ends politician (FG, 528), as it occurred in the nazis period (FG, 555).

If we have the mean ones to hinder this, demanding the procedimentalization as guarantee of the " discursiva truth ", the tension between social effectiveness and validity practically is won (FG, 464), therefore the praxis of " joined " the social auto-understanding and the self-determination of it gives in history (FG, 467). As it identifies to I. Maus, the paradigm of the Law is the procedural one (FG, 532 and 536), in mode that legitimacy is efficiency, stabilizing itself it tension between effectiveness and validity (FG, 539). With these passes, it is well clearly that the law in Habermas comes back to be the law conservative of the social order, that if it intended long ago. And to get it, tries

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despiz it, as well as the all the philosophy, of any character of nature. If nature means origin, the philosophy and the law they become procedures with definite practical functions methodicaly. This " to integrate " the society, the example of that one, that assists cooperatively sciences.

It swims takes the truth or justice. It does not have what to discover or to declare. It does not have what to understand, but to only make. These praxis in which the right occupies main place, to the side of the school and the family, however, it supports for an imaginary base: the ideal situation of speaks. It is everything in the field of the utopia, even so Marx, who Habermas looks for to become viable, abandoning it, disliked the utopia. Still for Habermas, as for Kant, " justice " it is freedom. Kant understood that an action was joust " when, for way of it, or according to its principle, the freedom it will of one can continue with the freedom of any a other as universal law " or its famous definition of Law: " *the law is the set of the conditions, by means of which the will of one can be in accordance with the will of an one other as universal law of freedom* ". In the case of Habermas, we could add that justice is the freedom to deliberate and as this is only guaranteed, according to it, for the " rules of the game " procedimentaly understood, nothing distance of Kelsen, in this same kantian, however tradition could leave of a sociological prompt as broke Savigny. It is an empirical Positivism finding with

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an idealistic Positivism, as he himself alerted. A procedure must be impartial and to consider principles (FG, 563), as the kantian tradition of impartial procedure (FG, 564), or either, the Law is become fluid in the politics, scrumbles it a system of rules as orders of the legislator (FG, 587), in order to mark the agreement kantian of that the popular sovereignty carries through for the action to legislate (FG, 611). The dogmatism only guarantees the democracy (FG, 599), or, in the proper words of Habermas:

"Dieses behält gewiß, wie der Rechtsstaat selber, einen dogmatischen Kern: die Idee der Autonomie, wonach Menschen nur in dem Maße als freie Subjekte handeln, wie sie genau den Gesetzen gehorchen, die sie sich gemäß ihren intersubjektiv gewonnenen Einsichten selber geben. "Dogmatisch" ist diese Idee freilich sich Spannung von Faktizität und Geltung aus, die mit dem Faktum der sprachlichen Verfassung soziokultureller Lebensformen "gegeben", d.h. für uns, die wir in einer solchen Lebensform unsere Identität ausgebildet haben, unhintergebar ist." (FG, 537).

Chapter 14

CONCLUSION

The present study, whose target is to understand the concept of Law in Jürgen Habermas, it was useful for the attempt of identification of the crisis of the Law. Leaving of the " scientific curiosity " concerning that it could be the at the time " after-

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modern " Law, we pursue the philosophical vision of the philosopher contemporary to see in, who knows, an identity. Its path has broken of an initially situated prompt in the call " Critical Theory " of the School of Frankfurt, but soon take proper paths, that are, in the truth, an eclectic beam of thinkers of the some strings. They bring obtain, however, something in common: a certain Positivism.

It is not to admire that Habermas, that starts with the critical one to the Positivism, comes to discharge in a so great severity against this exactly Positivism, that finishes for to dogmatize its principles, to purify them of any influences or interests that can " disturb " the communication, whose ideal model comes pursuing. In " Knowledge and Interest ", Habermas still said that the Positivism is the negation of the reflection (EI, 3), understanding that the " axiological neutrality " that represents the Positivism had to be criticized, also in the person of Max Weber, with its " neokantism " (ZLS, 96), consisting, in the legal Positivism, " a particularly cynical form of the bourgeois conscience " (RhM, 12).

Later, however, it understood that the legal Positivism would be useful as instrument of " social integration " (RhM, 42 and 144), however the bureaucratic formalism of Weber has provoked an impoverishment of the law as organizative instrument ((TH, 369 the 376), criticizing still the

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expansion of the legal bureaucracy (PDM, 331), therefore, as alerted Foucault, the expansion of the law finishes being a risk for its beneficiary presumptions (PDM, 272). This, however, did not hinder it to be recognized as a " positivist ", by the way, of a " vulgar Positivism ", as proper it relates (ZLS, 96) and finishes assuming with the adoption it " dogmatism " in its last workmanship, as instrument of preservation of the public will. This same public will that, in the beginning, when attributing it the " bourgeois public sphere ", judged to be " dominating " (SO, 109), therefore the public does not participate of the formation of the will, but it only acclaims the result of the process politician (SO, 212).

Habermas denied the " pretension of universality of the Hermeneutics ", but it falls in the mistake of universalize the linguistic communication, as everything was summarized to the problem of the language. And more than this, is in the utopia of the " ideal situation of speaks ", that it will never occur. This is coherent with the " bureaucracy ", the " structuralism " and the " sistemism ", proper of the sociological-legal Positivism or legal sociologism, that reacting to the dogmatism, in one " comes back to the facts ", presents, in the words of Juarez Cirino dos Santos, " the vision of a false social unit (denying the existence of the classrooms and the fight of classrooms) to consider, in synthesis, more INTEGRATION and greater COMMUNICATION

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as forms of solution of social conflicts or overcoming of the anomie. " While this, we go in arranging as we can! Marx did not like utopian " socialist " them, soon wanting to leave inside for praxis of that had of Real.

Habermas, however, intends to fulfill the will of Marx with an ideal figure that, if to occur, will become unnecessary its proper theory. Habermas searches in Marx Marx sociologist, in detriment of Marx economist, certainly in ratio of its origin of sociology. However, more delayed, discovers in itself a frustrated vocation, of " economist ", identifying itself more, perhaps, with the side of " management of making ". Of another side, it can also be observed, that its theory assumes an organized society in way such that hardly would find one " lebenswelt " mature for its application.

The quarrel with Luhmann, that in did not interest them of first plan, can finish innocuous, a time that the " purism " of the Theory it Communicative Acting finishes exactly mining it for not wanting to take left, for fearing the ideology paper. If it does not assume it, however, finishes thus being same ideology. The " Communicative Reason" is an empty channel, where it can place any liquid. More than this, however, one it forms empty and elastic, that form in procedural mode as its content. And this, paradoxicalallly, must its dogmatic rigidity, sufficiently visible. Although from principles placed in topics terms, and aiming at end, not hinders that

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pass to be, from there for ahead, " ethics of principles ", mainly when this end pragmatically placed, is only and purely of the ideal communication, when interest and ratio coincide, when the interest that the knowledge guides is the interest in the emancipation. As it distinguished O. Höffe, Habermas works with something abstract, an analogy, that is the language, while it has all a reality its rollback. If its philosophy, supposedly " after-modern ", for " defoundamentalize " the ratio, together Marx with Kant, through the diverse philosophical strings, of the Pragmatism, that understands a philosophy practical, to the Genetic Structuralism, that understands a model of critical diagnosis that can be transplantaded for the critical one of the society, in " rollback " mode, does not obtain to escape therefore of the modern that it intends to perfect. It is certain that the Structuralism can be combine with the deriving thought of the Marxism. Same Marx used this term " structure " to mention itself to the social ideologies in general mode. And is not contradictory also that Habermas joins Kant with Darwin, still in the molds of the old Comtean Positivism, therefore the " Structuralism " has to see with the Biology of Spencer, to whom together Habermas the Pragmatism, that unites with the Phenomenology, according to kantians principles. In short, Kant with Marx, or marxist Kant and kantianizaded Marx, both " defoundamentalizadeds ", are a Habermas that goes

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losing Marx of sight. In the particular area of the legal philosophy, Habermas is a Savigny with Kelsen. The difference of its theory stops with the Modern Natural law is that this established in the law as " declaration " of rights (natural laws) and for it the law also is a declaration, but does not pass of a declaration of wills established for the consensus.

The relativism of Habermas, that it tries to fix with an extreme dose of dogmatism, is more serious of the one than of the Theory of the Knowledge. Kant still conciliated " Pure Reason" and " Practical Reason", leaving a place for what the ratio was not capable: the religion. Perhaps its fundamentalism allowed this. In the case of Habermas, however, the dream to create something subtle as the Communicative Ratio, that hangs in an abstract without plugging some with any type of recital (it is said, by the way, foundation, what involve tradition), finished rendered ironical for it exactly after to analyze the recent attempt in return to metaphysics (To confer ND, 9), it says that for the European " the Metaphysical " term remembers religion, or either, the history of the salvation judaic-Christian (ND, 25).

Finally, it confesses that daily a total profanized one is not possible: the religion is irreplaceable and the after-Metaphysical thought coexists with praxis religious, therefore the philosophy, in its form after-metaphysics, cannot substitute it and nor to eliminate it (ND, 62; To confer 186). The pretense

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positivist indifference stops with the Metaphysical one only shows the distrust of the confrontation. Still it finishes here following a tradition: that one that separates to faith and ratio. It is treated, with effect, of a " hope desperate " of who is for a wire. The proper Habermas answers the critical ones: The Communicative Reason is certainly a unsafe and vacillating tablet, but if it does not sink in the sea of the contingencies, still when such trembling in high sea is the only mode as it can " dominate " the contingencies (ND, 186). Or either, it survives of not the confrontation, being satisfied themselves of a tablet that does not face, but that it is always remained to the flavor of the waves.

A cane that not crack because curve in the route of the wind. It seems that one is not to a dialectic but about an acceptance. The fight against the tradition, so advocated for the Iluminism, if keeps with the same weapons of the adversary. Habermas wants to be critical, but if another one inserts as none, in the breast of a tradition. Its concept of Law follows this philosophy. The Law as instrument, composing norms of according to degree, suggests questions interesting. The denunciation of a trend to the bureaucratization and the expansion of the Law as mean of state control, for example, makes sensible. Against this it is the principle of the " minimum law " that, is a principle of Liberalism, following the idea of that the State is one badly necessary e, therefore, how much less better. One shows,

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therefore, and still, a liberal one, and, no matter how hard it looks for to inaugurate one " after-modernism ", is not gotten loose of the modern roots. One shows, however, a herald of the government of the laws, the same ones that it suggested not to be fulfilling the function to guarantee the freedom, but weighing

If to look at on the inside of a " broken up tridimensionalism ", that it considers " fact ", " value " and " norm " separately, being " related fact " with the legal sociologism, " value " with a certain natural law or the concern for just, or a ethicism, and " norm " with the dogmatism of the legal Positivism, the critical one of Habermas if points out clearly against " value " and " norm ", privileging the sociological occurrence (fact), even so at a first moment, what it will not hinder to also fall in a dogmatism of sociological order e, therefore, normativist. It is therefore that we said previously that the true shock gives against the Ontology, in special mode against the Philosophical Hermeneutics and the perspectives of a certain Natural law.

In its last workmanship, " Faktizität und Geltung... ", concentrates more direct in the study of the legal philosophy and there it demonstrates that " fact " and " norm ", or either, " effectiveness " and " validity ", are the two considerable elements of the Law. However, when it is said of norm, one assumes valuations of behaviors and, therefore, an

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ideology. If we agree to the diagnosis of Habermas, we do not accept the rank of the Law in itself as mere Communicative instrument, product still of the mere communication, in the form of a culturalism or, as it wants Habermas to it, of a " pure comunicacional ratio ". In first place, we must in asking them the general will is possible. Aristotle already had alerted for the impossibility of the " democracy ", or either, for a government for the popular will, therefore this is vulnerable to " demagogy ", of the people the action conductors, who are accurately the leaders politicians who will have to represent the people and to argue its will in the parliament, as they asseveram classic as Rousseau or same Savigny.

This is valid for societies badly organized or for societies highly organized, even so in the half ones less structuralized, it is more easy to understand the insufficiency of this theory. The proper Habermas, in the beginning, when pointing with respect to the circumstance of that the popular will, fruit of the consensus, is, in the truth provoked for the propaganda, that it domesticates (SO, 229), answers minus to this question. But, later, it finished understanding that " to understand " it is " to agree " (TH, 704 the 707), believing " ethics of the speech ", that implies not in values, but only in a deontics validity (MH, 126). It is the essential connection between " effectiveness and validity ", subject of its last workmanship, " Faktizität und Geltung... "

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On the other hand, deducting truth to it to the Ontology, leaving it the flavor of the popular will, is that this will without conduction is possible, falls in a relativism and we do not have parameters. The period of the Nazism, for example, that Habermas cites as a period of " distortion " of the Law, demonstrates to that the Law as mere expression of the will, for the State, runs this type of risk. A popular commotion, a affected people, a lead people, an enthusiastic will... A great danger. Finally, in relation to the hermeneutic consequences of the habermasian theory, it is enough to say that he himself was confessed inapt for the quarrel of legal character (FG, 11). Really, it lacks to it experience to it of the applicator of the Law. The law, for being generic, contains, in its proper essence, the gap of the generality. The moment and the occasion of the act of the norm are necessarily diverse of the moment and occasion of its application, either for the dynamism of the social life, either for the individuality of each one. Aristotle already taught that the fairness is necessary to correct the error of the law, made not for the inspiration of just, but of the convenient one. Its generality composes its error and in the practical one of its application, when this carries through, necessity becomes to become it equal, joust. Habermas believes that the hermeneutic interpretation is only necessary ahead of the " agreement disturbed ", facing the hermeneutics as

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mere " procedure " that cannot intervene materially not to compromise the legalized popular will already in the norm. It is therefore that affirm that the " ethics of the speech " does not abstract contents, or either, make sure contents (effectiveness) for the validity (validity) of the norm. However, the interpretation, as it pondered Carlos Maximiliano, is not impossible. The intransigence of the " Code Napoleón " did not last very and soon it was had that to facilitate the individualization of the application of the law, also of the criminal law, with its then rigid legality.

The prohibition to interpret only makes to mask the ideology of the applicator and the " corruption " of the legal order. After all, the law has a first ratio, a last end, and for its fulfilment it is that it must at every moment be customized of its " accomplishment ". The law is instrument and not end in itself exactly: it aims at to take advantage the harmony of just, the behavior according to truth. The Law in itself is that it cannot be instrument, therefore must be framework of the truth in same itself, privileging its practical accomplishment as just. If the question is " truth " or " method ", Habermas opts to the method, wanting a procedural paradigm for the Law, what he is not new in the History of the thought.

Here it is here a similarity of Habermas with Tobias Barreto. For Tobias Barreto, who followed the German thought of its upper-class time of close and

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therefore the same tradition to Habermas, the Law is not disclosed and nor discovered (it abandons the concepts of Classic and Modern Natural law), but is produced by the human grouping and its concrete conditions of structuration and reproduction. Tobias was a positivist of the first generation. Evidently, for thought deriving of Sociology, interests (and here the interest enters that guides the knowledge), the practical establishment of one social one. This daily social one, the reality where the Law is found, cannot be ignored. The growth of the Positive law as form of control of the social life evidently also is a "use" of the Law. But this diagnosis, does not allow to an empiricism such, still that coated of a "Communicational Reason", that it makes of the topics combinations a determinative one for the justice concept.

It has that to understand this, duly warned terms a truth parameter and justice and not to finish fomenting an ideology! To this point to little we agree to Ricoeur: A fetching of the truth, without critical of the proper fetching, becomes an ideology, as well as is ideology a critical such that does not allow the fetching. And we add: The critical one diagnosis but not cure. For the solution of the diagnosed problem, the method is not enough. It is necessary at every moment to correct the generality of the legal command, still that obedient to a constitutional procedure, converting it topically into that for what was predestined: instrument of

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application of justice. In contrast of that it intends Habermas, as solution, the law is half e the Law is end, therefore Just independe of the will and is the application of a theoretical principle of Truth, the Equality. Equity, more than the mere fetching of solution when it does not have law, as is only admitted dogmatically, is the maintenance or rescue of the Equality, in the fulfilment of the purpose of the law as instrument, that is the accomplishment of the Law. Habermas before discloses to a strategist politician of whom a philosopher. Or, as he wants, a " economist ". In the official notice on SO, in chapter 1, already we designated that Habermas had said that, in our words, " Here perhaps either of noticing that the interpretation of Habermas regarding the living thogether, that if gives in the public sphere, either, kantianmente, a question of convenience, or either, a mode of assuring the proper individuality. If not to move away from this, the proper communicative action also runs the risk of being same it a strategical action. " In the truth, it of the critical one to the " strategical action " has broken to also finish showing a ' strategist ". But, if its strategy aims at to instrumentalize the power with the legitimacy, understanding " legitimacy " as formal participative speech, this strategy is innocuous. Still it has hope in a " equality here ", but for this he does not have efficient method (as the method also has its place, suggests the present study one another one: of the method in law, a

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epistemological question) without that if it remembers of that wisely pondered Gadamer: the experienced man knows of the fragility of all the plans and is, thus, one disappointed, in the measure where its will in a imitation of ontology cannot determine the in agreement reality that is the dogmatism. In contrast, the truth will only free. And the truth comes by itself!

NOTES

Die Nachholende Revolution, 86-87. Idem, 68. Theorie DES kommunikativen Handelns, 1022. It is in p XIX of the original; To confer Imanuel Kant - select texts, ed. bilingüe, translation by Raymond Vier and Floriano de Sousa Fernandes, Petrópolis: Voices, 1985, 2. ed., 22. according to Leaf of S. Paulo, edition of 11,11,1989, p 6-Especial; To confer tells to the Pe. Enrique de Lima Vaz in text inserto in pág 347 of the 24. ed. of the book Slight knowledge of history of the philosophy, the Pe. Leonel Franca, S.J., Rio : To act, 1990, especially in p 345. Leaf of S. Paulo, 30 of April of 1995, p 5-9. The use of the initials in German if must to the fact of if obeying the original names of publications, many times not found in Portuguese, in not seeming correct to cite them in language that is not the original of the analyzed author or to the little original a of the author whom it analyzes. Habermas cites, in the note of footing of n. 10, p 291, the gadameriano concept of representation as presentificação.

To confer ahead, in the second part, especially. This is the hermeneutic principle of exegese: to give credit itself an intrinsic order in such mode that to the individual it only fits to prove that does not have apparent gaps senão in the interpreted text. More ahead, in the 334, it launches the relative sub-*Law Philosophy in Habermas: the hermeneutics - published in portuguese by Stiliano (Brasil) ISBN85-86633-08-9*

heading to the change of the academic formation, in order to not only have a formation and an information technique. Or either, Machiavelli is successful Lives. TP, 73. Quotation, in note n. 6, of p 89, TP: Qui dit un droit, dit matches prérogative établie sur un to devoir sans devoirs et point of devoirs sans droit.

Habermas gives to a connotation regarding the evolution of the national rule of law of matrix fascist, citing Ernst Rudolf Huber, in TP, p 119, note n. 66. Anticipating itself of certain it forms the right as a duty to exert rights, in the form that Jhering printed in the fight for the right, is demonstrated that historicismo that serves of root to the dangerous German complex of inferiority he is this of the right individualistic liberal bourgeois, whose trend fascist already meets in Hobbes and if it confirms in practical the pos revolutionary of Napoleon. With this, we anticipate the relative controversy to critical of Habermas the Gadamer, contained in the volume Zur Logik der Sozialwissenschaften, p 256, and that we intend to approach opportunely.

The term positivation, writes down Habermas, it is not mentioned to the one that occurred in America, with common sense, and that it was never understood by Robespierre, Burke and Hegel as revolution. This instruction assumes the adestramento connotation. On the influence of Schelling and Hegel on the Historical school of the jurists (Schelling was the first one to affirm the spirit of the people), To confer G. Del Vecchio, Lições of legal philosophy, trad. Antonio Jose Brandão, Lisbon: Arménio Amado, 5. ed., p 152 and 159. Regarding the Habermas controversy versus Gadamer, To confer ahead, especially in the second part. Habermas, Faktizität und Geltung: Beiträge zur Diskurstheorie DES Rechts und DES demokratischen Rechtsstaats. This concept if approaches to the heideggeriano concept of *sorge*, the concern in the direction of wanting to make. In the thinkers, São Paulo: New Cultural, vol. dedicated the Pierce, p VII of the 1989

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edition, inquires itself that Pierce dedicated itself, during three years, with daily readings, to decorate the Critical one of the pure ratio.

It is interesting to remember critical the done one for Habermas to the professionalization of the Law, in TH. To confer , as note n. 20, EI. Notices that this critical, originating one, it will be misfortune in the attempt of instrumentalizar construtivista sociology with a legal technology this side of the science concept, giving margin to its ideological use Habermas waited a new illustration from the estudantis movements. The problem is boarded in the revolution in course. Habermas criticizes Husserl for not perceiving the connection between the Positivism that it criticizes, with ratio, and the ontology, that unconsciously goes to search to the traditional concept of theory (To confer TWI, p 135).

Here already the critical one to the ontologizada hermeneutics is delineated also. The Hermeneutic Philosophy, also of Gadamer and the Heidegger, is seen by Habermas as to another face of the Positivism. To confer TWI, p 136. Habermas explains here that only an emancipated society allows the free dialogue of domination, a true consensus. This state of speaks ideal, however, remains as utopia. To confer , in this direction, B. Freitag and S. Rouanet, Introduction, in Habermas. Sociology: collection great social scientists, São Paulo: Ática, 1980, n. 15, 55. Or either, the legitimate interest is of the emancipation. Of August of 1982, 13. This proposito of Theory of Communicative acting is reaffirmed, p 1078, where also Habermas as liberating of the historical materialism of its yoke of the philosophy of history is presented. To confer still, For the reconstruction of the historical materialism.

To confer in the text the pretension of universality of the hermeneutics, the critical one based in the psychoanalysis, p 35 and 42 of the Brazilian edition. It observes, in the ZLS, p

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45, that, according to positivistas prohibitions, entire scopes of problems had to be excluded of the quarrel and abandoning the irrealistas attitudes. Interesting to remember here that Gadamer says that the method already brings in itself the truth that it intends to disclose. It sends to the Knowledge and interest in Technique and science as ideology. Numeration pointed in the translation of ZLS. We remember here of the exegetico principle in *claris cessat interpretatio*. The critical a Gadamer, that if finds in p 252 in ahead, of ZLS, also will be extended in Pretension of universality of the hermeneutics, in the same volume, 277 p and s. (trad. Brazilian, in *Dialectic and hermeneutics*, 26 and s., and other texts and is remembered and concluded in *Faktizität und Geltung...*, already cited, p 244.

To confer in the text the pretension of universality of the hermeneutics, the critical one based in the psychoanalysis, p 35 and 42 of the Brazilian edition. It observes, in the ZLS, p 45, that, according to positivistas prohibitions, entire scopes of problems had to be excluded of the quarrel and abandoning the irrealistas attitudes. Interesting to remember here that Gadamer says that the method already brings in itself the truth that it intends to disclose. It sends to the Knowledge and interest in Technique and science as ideology. Numeration pointed in the translation of ZLS. We remember here of the exegetico principle in *claris cessat interpretatio*. The critical a Gadamer, that if finds in p 252 in ahead, of ZLS, also will be extended in Pretension of universality of the hermeneutics, in the same volume, 277 p and s. (Brazilian translation, in *Dialectic and hermeneutics*, 26 and s., and other texts and is remembered and concluded in *Faktizität und Geltung...*, already cited, p 244.

To confer p 62 of the cited Brazilian translation. Idem. P 66 of the Brazilian translation. To confer , in the historicismo direction as dogmatização of the past, critical of G. Del

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Vecchio in Lições of legal philosophy, cit., p 577-579. The text is initiated Pretension of universality of the hermeneutics, whose trad. Brazilian, 26 p and s., already cited, will be used. Brazilian translation, 39. To confer Lcs, 17. Note 24. P 61. Note 25. P 66. To confer above.

As Flávio Beno Siebeneichler, this occurs since Changes of structure of the public sphere, of 1962, whose sponsorship was refused by Adorno and Horkheimer, what it would mean a theoretical distanciamento between the masters and the young disciple. To confer the synthesis of the biography of Habermas, published in Jürgen Habermas, communicative ratio and emancipation, Rio : Brazilian time, 1989, 191 p 189 and. Habermas, however, justifies to continue with Marx, however looks for to complete its theory with estruturalistas and functionalists points of view, as it meets in p 38 of RhM. The conceptualization if relates to the sorting of Piaget on the evolution of I; To confer p 16 and 17 of RhM. In this direction. it is interesting to write down the comments of John Gilissen regarding the Code Napoleon, in historical Introduction to the right, trad. A.M. Hespanha and L.M. Macaísta Malheiros, Lisbon: C. Gubenkian, 1988, p 536 the 542. Habermas sends the SO, parts II and III; To confer RhM, p 45, note n. 27.

Quotation, in note n. 31, of p 45, K. Eder and its references Kant. Quotation, in note n. 32, p 46, EI and TWI, making reference the rational action with relation to the end. Quotation, in note n. 34, of p 46, the concept of communication sistematicamente distorted, developed in Pretension of universality of the hermeneutics. It is based on Levi-Strauss, as commentary of note n. 37; To confer RhM, p 39 and notice 37 in p 46. Habermas still points that Piaget is recognized, in its meaning with respect to the Marxism, for Lucien Goldmann. In the p 157, Habermas it repeats the

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concept, alleging that to interpret it is to agree to definitions of susceptible situations of consensus.

Interesting to notice that the theory of Habermas if puts against any transcendentalism, either of tomista connotation or of the kantism, therefore everything what it is placed outside and beyond the citizen is Metaphysical. And the recital, when becoming related with abstract explanation, serves of ideology! It would correspond, therefore, ours to see, to the aristotelian natural law as to act instrumental. As if it says regarding the classics of the theory politics, even so an inexact terminology for the case, ethics of results, opposed to ethics of principles. We leave the Hermeneutic intitled part philosophical: traditionalistic and critical reading, 213 p and s. of the TH, for the confrontation with Gadamer.

Habermas if relates to Justice politics, of Otfried Höffe, that it had for it the merit to almost reconquer a land that the philosophy, since the times of Hegel, abandoned, without resistance, to the jurisprudence. (Published under the heading Politische Vierteljahresschrift 30 (1989), 320-327; To confer Höffe, Justice politics, trad. E. Stein, Petrópolis: Voices, 1991, p 13. It is noticed: the Analytical Philosophy is a first pacing, what it means that Habermas wants, recognizing it, to perfect it. That is, it makes to predominate the way (right) in face it end.

It reaffirms the contrary position to the ontologização of the hermeneutics; To confer MH, p 43. In p 147, it explains that cognitivism says respect the practical-moral questions that can on the basis of be determined ratios - the ethical skepticism refutes; universalism contests the ethical relativism, resulting that the ethical judgments are same for all the e, finally, the formalism, formal says that the ethics of the Speech in terms of deontics validity of the action norms are placed, demarcating the domain of the morally valid one.

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Here a parallel with the categorical imperative fits. As it is seen, already the presupposition of the consensus is admitted! The argument is not empiricist-naturalist?

When refusing itself to face it the religion, and therefore a Metaphysical subject, Habermas remain under the positivist argument of that, the the opposite would be still to make Metaphysical. For Moritz Schlick, it is not treated to deny or to affirm to be false metaphysics, but to contradict the Metaphysical saying: I do not understand what you want to say. To confer The thinkers, São Paulo: New Cultural, 3. ed., 1988, vol. dedicated the Schlick and Carnap, p 39 the 64. On the other hand, while it admits the religious Praxispraxis, Habermas repeats the kantian dualism of disentailed religious rational and practical knowledge of the ratio. To confer still, on Family, School, Law as half of socialization, cultural reproduction and partner-integration, respectively, Faktizität und Geltung..., cit., p 108, 150 and 429.

Kelsen, retaking the example of Saint Augustin to the reverse one, explains the Law as normative order of coercion. For the confrontation with S. Agostinho, To confer pure Theory of the right, São Paulo: Martins Fontes, 1987, 2. ed., p 48, and Saint Augustin, Civitas Dei, IV, 4, Petrópolis: Voices, 1991, 3. ed., p 153 of part I. To confer ahead, the estrategismo of the communicative action. To confer the citation of Fichte in ND p 197: I am what I make of me or that one in who I myself I become myself. To confer regarding techné aristotelian, Gadamer, Truth and method, trad, Frenchman of Etienne Sacre, Paris: Seuil, 1976, p 156 (p 298 of the original). In note n. 14, Habermas clarifies that it not only calls philosophy the Praxispraxis the diverse versions the occidental marxism, but also the variants democratic-radices of the American Pragmatism (G. H. Mead and Dewey) and of the Analytical Philosophy (Ch. Taylor).

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Of p 151 the 154, Habermas more relieves a time regarding the influence fascist on the thought of Heidegger, even so he himself leaves to ahead see indistinctly the circumstantial character of this Aporia influence of which if they find Heidegger, Adorno and Derrida, according to note n. 74, p 199. The clarification is symptomatic! To confer PDM, p 297 and 320. Valley to say, of method, placing itself in the tradition of the criticism; To confer PDM, p 292. Flávio B. S., Cited workmanship, p 25. This author still says that structural Change of the public sphere was the drop d'água for the disruption, when Adornment if he refused to be the academic tutor of this thesis of after-doutoramento; To confer p 28. Habermas understands that Marx if points out in the kantian tradition, as assevera in EI, 44-45. In the truth, it says who Marx criticized only the position of the ratio after-hegeliana, what she is equivalent to accept it.

The eclecticism of Habermas is a mark. As Flávio B. S., Cited workmanship, p 24, this eclecticism if must to the fact not have Habermas preconception some how much to a bourgeois science, that never understood to have existed. Of this form, its thought, as much go structural the historical materialism as the Pragmatism and genetic structuralism, as he himself points in PDM, 295. Flávio B. S., Cited workmanship, p 23. Idem, p 28. For Habermas, it informs author, Marx belongs to one third generation of iluminists, placing itself in the same ancestry of Kant, to which also belongs Hegel; To confer p 13 and 29.

Theory and therapy in Freud correspond the theory and praxis in Marx. Habermas understands that this abandoned conception hindered the continuation of a theory it to act Communicative, when Hegel introduces Communicative acting as half where if it carries through the process of formation of the auto-conscientious spirit (TWI, 23). To confer B. Freitag and, Cited workmanship, p 21 and 30. Comparing Marx with Heidegger, Habermas it understands that this

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question what!, to the pacing that that one questions the reason (TP, 408).

Against the action of the students in France, the laborers if had matched to the power, discouraging the marxiana idea of the laboring revolutionary vocation. World of the life, the expression of husserliana inspiration, explains Habermas in TH, 706, is the horizon and the deep one of Communicative acting; To confer Flávio B. S., Cited workmanship, p 117. In fetching of the cooperation of the Hermeneutics, Habermas also studied Dilthey and its historicismo in fetching of the objectivism in sciences human beings, who equally approached it of Positivism (EI, 151; ZLS, 13 and 15). Cited workmanship, p 108. B. Freitag, Cited workmanship, p 55.

To confer the citation of Vorstudien und Ergänzungen zur Theorie des Kommunikativen Handelns, p 180, Cited workmanship, p 105. It is the epigraph of Flávio B. S., Cited workmanship, p 10, withdrawal of ZLS, 124 (of the original). Citation of Flávio B. S., id. That is, proliferation of the statutory law (TH, 1024), intervening the State even with the scope most private of the life (To confer SO). The relation of these names with Heidegger is not simple. Many leave of a existencialista inspiration that is not necessarily Heidegger, or, simply, after to be felt inspired in its thought, they exert a philosophy with different features of the one of it.

As Mauro Protti says, L'itinerario critico, Milano: Franco Angeli, 1984, p 115, the term critical theory seems plus a label or word of order. On the other hand, inside of this eclecticism also pointed by Protti, p 73, also fits the neo-structuralism (the dedication of PDM, for example, the Rebekka, mentions it as who approached Habermas of the neo-structuralism); To confer p 11. It is in this perspective, however, that Habermas if judges successor of Hegel and Marx, as writes in p 40 of the same volume. Habermas differentiates, therefore, between

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being and its purpose. First and last ratio does not become related. The proper Habermas quotation that Popper includes between the great dogmáticos Platão, Hegel and Marx (TP, 298).

Revista Tempo Brasileiro, cit., p 11; To confer tb. NR, 108. The Hermeneutic term (capital) assigns the Hermeneutic Philosophy here, while that hermeneutic (very small) it assigns the procedure. Dialectic and Hermeneutics, for the critical one of the Hermeneutics of Gadamer, translation by Alvaro L. M. Valls, Porto Alegre: L & P.M., 1987. Rui Magalhães, in the introduction to the volume Texts of hermeneutics, Porto, Reverse speeds, 1984, p 31. The proper Habermas understands that although to follow Heidegger, Gadamer finishes if coming back to Hegel, when it looks for to explain the being as tradition (TH, 81). Ricouer, in Interpretation and ideologies, cit., p, 116, understands that this approach is only tangential.

To confer G. Vattimo, Introduction the Heidegger, translation of João Gamma, Lisbon: 70, 1989. In TWI, however, Habermas signed against the Positivism the accusation of that this, with its ' axiological neutrality, opposing to the pure one to be an abstract must-to be (p 132), led to the ontologic illusion of the pure theory (p 136). Cited workmanship. Published in Brazil in the volume Jürgen Habermas - Dialectic and hermeneutics, for the critical one..., 26 p and s. Brazilian translation, cit, p 39. Susan J. Hekman, Hermeneutics and sociology of the knowledge, translation by Luis Manoel Bernardo, Lisbon: 70, 1990.

Cited workmanship, 190 p 189 and. Cited workmanship, p 194. Cited workmanship, p 195. Cited workmanship, p 196. To confer Susan J. H., Cited workmanship, 197 p and And Stein, in the appendix the Dialectic..., cit. p 103. To confer Susan J. H., Cited workmanship, 197 p and And Stein, in the appendix the Dialectic..., cit. p 103. Cited workmanship, p 125

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and 128. Cited workmanship, p 130. Cited workmanship, p 197. Cited workmanship, p 118. Cited workmanship, p 88. Cited workmanship, p 145. Cited workmanship, p 131. Cited workmanship, p 120. Cited workmanship, p 146.

Of the TH, in trad. bras., Jürgen Habermas - Dialectic..., p 78. To confer G. Del Vecchio, Lições..., cit., p 577-579. To confer B. Freitag, Cited workmanship, p 30, the matching of the theory consensual of the truth and the cabalística messianic theory of the truth. To confer the three-dimensional Theory of the right, Hail, São Paulo: 1968. To this respect in the Kant and state and Law, Norberto Bobbio, to confer thought, translation by Alfredo Fait, Brasília: UnB, 1984, p 70. Idem.

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