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Theologia Crucis and the Forensically Fraught World: Engaging Helmut Peukert and Jürgen Habermas

Gary M. Simpson

"Helmut Peukert’s *Science, Action, and Fundamental Theology* is almost the first — it could be the best — serious application of Jürgen Habermas’s theory of communicative action to recent developments in theology" (David Rasmussen on the dust jacket). Even by itself that claim makes justifiable a careful consideration of Peukert’s proposal. Systematically and within the structure of his proposal, Peukert turns to Habermas because Habermas figures in centrally at the point of convergence of the fundamental problems of science, human action, and theology. James Bohman has put it simply: "the basic idea behind this work is to develop a fundamental theology from the theory of communicative action" (xxiii) and to develop it in the dimensions of subject, society, and history “all at the same time” (Peukert: 127, 140, 215, 241). Peukert enlists Habermas with a double strategy. On the one hand, “he does not simply apply the concepts of the theory of communicative action already developed by Habermas; rather, he asks whether the conception of rationality developed in this theory must not ultimately have a theological dimension if it is to be consistent and

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coherent" (Bohman: xii). On the other hand, "at the very least, such a reconstruction of the 'rational core' of theological statements would provide a contemporary access to the Christian tradition" (Bohman: xiii).

Peukert advances two theses:

First, I want to assert that the Judea-Christian tradition is concerned with the reality experienced in the foundational and limit experiences of communicative action and with the modes of communicative action still possible in response to these experiences. Second, I want to assert that a fundamental theology can and must be developed as a theory of this communicative action of approaching death in anamnestic solidarity and of the reality experienced and disclosed in it (Peukert: 215).

My long-term project vis-à-vis Habermas assumes a whole-hearted concurrence with this first thesis. Furthermore, my analysis is circumscribed by a broad concurrence with Peukert's basic idea, with the dimensions to be addressed, and with his double strategy.

The major claim of this essay focuses on Peukert's second thesis and is bound up with Bohman's insight concerning a "certainly significant" turning point in Peukert's proposal (Bohman: xiii). Namely, Peukert "clearly sides" with Karl Apel's more Peircean concept of the "unlimited communication community" rather than Habermas's ideal "speech situation" (part 1). This siding is enhanced by privileging Christian Lenhardt's theologically constructed paradox of anamnestic solidarity and by grounding the Christian response to this paradox in a theology of the resurrection. Taken together, this threefold movement determines the overall thrust of Peukert's proposal (part 2). By way of response, I will reconstruct Habermas's critical exchange with his own Frankfurt School heritage and contend that in that exchange he articulates an extreme intensification of the limit experience of communicative action which Peukert's analysis prescinds (part 3). This limit experience, which I will call "the forensically fraught world," provides a contemporary access to a fundamental problem of the Christian tradition. Habermas's formulation, which Peukert prematurely prunes away, must now be grafted back. This can be accomplished with the help of two insights developed by the critical theorist Alvin W. Gouldner. This grafting will find its theological response — via theses — in a political theologia crucis. Grounded in a political theologia crucis is the innovative Christian experience and praxis of reconciliation. The experience and praxis of reconciliation represents the ultimate response to the limit experience of the forensically fraught world (part 4).
1. HABERMAS AND APEL: A CERTAINLY SIGNIFICANT SIDING

The systematic-theological background for Peukert's dialogue with Habermas is the "paradigmatic significance for the development of a fundamental theology" (Peukert: 250) of the approaches of Bultmann, Rahner, and Metz. Peukert is indebted to Bultmann's existential analysis of death as a focal category even as he criticizes Bultmann's individualistic reductionism in this analysis. His "perspective" on Rahner's transcendental-hermeneutic transformation of Catholic theology highlights the intersubjectivity implicit in Rahner's thesis of the unity of the love of neighbor and the love of God. From Metz's theology Peukert borrows the insight that theology necessarily should be society-oriented and should include a historical-eschatological dimension. However, just as Peukert's analysis of the history of the philosophy of science culminated in the "basic problem" of intersubjective communication, so also his analysis of these three fundamental theologies points to the following:

a basic problem in common, as yet unsatisfactorily clarified — namely, that of intersubjective communication, or, in other words, communicative action. This problem has a sort of steering function for fundamental theology and thus for the determination of a fundamental conception as a whole (250; also 162).

Enter Habermas!

Peukert's interest in Habermas's theory of communicative competence lies in the conception of the ideal speech situation as the normative core of both theoretical and practical discourse. For the purposes of this essay, I will assume that Peukert's presentation is congruent with Habermas's and will move into a presentation of his critique of the *aporia* that faces Habermas's theory.

Peukert stresses that he has "arrived at a decisive point" in his proposal when he investigates the criteria for distinguishing between a true consensus and a mere convention and how these criteria can be grounded.

To begin with, one could call to mind various kinds of criteria. But even a criterion such as "the reliability of observations" or "the adequate interpretation of the results of experiments" must in turn be decided upon in a discourse. Even if one's intent were to refer back to the truthfulness of the partner or to the correctness of methodological rules, one is still obligated to explain such claims discursively. However, if the claim of a discourse to call "true" a statement about which one has reached an agreement could only then in turn be decided again in a discourse about this discourse, infinite regress is unavoidable. On the other hand, it would be absurd to hold that any given factually attained agreement is valid as a legitimation for truth
or correctness of statements. This would entail giving up the search for any grounding of validity claims (186).

According to Peukert, this situation leaves "no alternative but to seek the criteria for the legitimation of validity claims in the structure of reciprocal-reflective communication" (186).

This situation leads Peukert into a consideration of the oft-discussed transcendental-empirical, ought-is paradox. He accepts Habermas's solution to this issue as do I (Habermas 1987a: 321-60; Simpson 1983; Benhabib: 225, 238-43, 255-75, 287-97, 304-9, 325-27). It is my strong contention, however that at this point in his proposal Peukert fails to take a crucial analytic step and that this omission is detrimental for the outcome of his proposal. He seems to recognize the empirical conundrum of "no alternative" to an "unavoidable" "infinite regress" and yet he does not press for a theological analysis of this extreme limit situation that results from the ideal speech situation. In part 3, I will proffer a preliminary analysis of this situation, but before doing so it is important to gain a clear picture of the direction in which Peukert proceeds and its theological outcome.

Rather than a theological analysis of the ideal speech situation and the resulting empirical limit situation, Peukert simply changes the venue to another transcendental presupposition for communicative action and its resulting empirical conundrum.

The idealizing supposition of such a[n ideal speech] situation in the practice of communication has yet another dimension. The conversation in which validity claims are decided upon argumentatively cannot in principle be limited. Anyone who brings forth arguments, anyone who in any way enters with the intention of entering into communication, must be accepted as a partner. The supposition of the ideal speech situation thus implies an unlimited communication community. Hence, in principle, in any communicative act the entire human species is implied as the final horizon of the communicative community. (187; emphases added)8

What Peukert does not state in this quotation is that this is the systematic juncture at which, as Bohman puts it, Peukert "clearly sides here with Apel's more strongly transcendental interpretation" of communicative action (xiii). That this "yet another dimension" is an insight borrowed from Apel Peukert makes undeniably clear beginning just two pages later (189-93). Whether or not Apel's articulation is "more strongly transcendental" than Habermas's, I will leave as an open question in this essay. It is, at least, "another dimension," i.e., the historical dimension; and it is within this dimension that Peukert seeks to uncover "an elementary aporia" (202) that can be cracked open theoretically and only theoretically. The question
still remains: is it the only elementary *aporia* that can be and must be cracked theologically and only theologically?

Peukert preliminarily states his problematic in the form of a question:

But how can what has come to be factually be shown to be rational or rejected as irrational? ... The decisive point seems to lie in the question of how, in a situation of conflict or in a period of historical transition, a revision of the previous language and system of norms may be found that heretofore did not exist but nonetheless should be rationally justified. (196–97)

In order to penetrate the historical dimension of this problematic, Peukert takes a deliberate detour first through a controversy with “decisive significance” between Walter Benjamin and Max Horkheimer and second through a “thought experiment” proposed by Christian Lenhardt. Entering these detours with a critical eye will support my major claim that Peukert’s introduction of “another dimension” represents a change of venue from Habermas’s transcendental criterion and that this change of venue dismisses a most extreme limit situation of communicative action from being considered theologically.

### 2. BENJAMIN AND LENHARDT: A DOUBLE DETOUR TOWARD RESURRECTION

Peukert considers the discussion between Benjamin and Horkheimer regarding a closed or unclosed past to be “one of the most theologically significant controversies of our century” (206). As a result of this controversy, Peukert interprets Benjamin’s thought as an “attempt, writ large ... to bring together historical materialism and theology, and to do so in such a way that historical materialism returns to elementary problems dealing with history and attempts then to indicate a common depth structure” (208). Primarily, Benjamin is concerned to develop a theory of the writing of history that does not renounce the elementary solidarity with the generations of the oppressed. Peukert holds that the generations of the oppressed, “the innocently annihilated” (171, 214, 230–35, 239, 244), must be a key constitutive of the unlimited communication community. The innocently annihilated in particular have been denied partnership and subjectivity and, therefore, must be rescued in a targeted, preferential way.

Peukert notes that Benjamin, in response to Horkheimer’s charge that he was theological, suggested that “emphatic memory [*Eingedenken*]” was the precise way “completely nontheologically” to
"modify" and "transform" a previously closed past (207). Peukert focuses on Christian Lenhardt's concept of "anamnestic solidarity" as the "most clearly designated" (Peukert: 208) way "of entering into communication (187) for the innocently annihilated. Lenhardt explains this concept by means of a typology of the past innocently annihilated generation, the present oppressed generation that struggles for liberation, and the future generation that achieves liberation. The innocently annihilated generation "owe[s]" nothing to anyone; it already suffers for the sake of a better future for other generations. The generation of those struggling for liberation receives the suffering of the innocently annihilated generation as a gift to the struggle and works for the liberated happiness of the future generation in order to satisfy its debt to the annihilated generation. What is the situation of the future generation? On the one hand, if this future liberated generation through remembrance keeps solidarity with the innocently annihilated, thereby paying its debt to past generations and retaining the universal solidarity that is necessarily constitutive for identity, then how can this liberated future generation be considered "happy," since it maintains this extremely unhappy memory? In this case the price of liberation is an unhappiness which cannot be real liberation. On the other hand, if in order for liberation to be happiness it must forget the extreme unhappiness of the past innocently annihilated generation, then how can it be considered liberated while severing its solidarity with the innocently annihilated through amnesia? In this case the price of liberation is the loss of universal solidarity which is constitutive for a liberated identity. "Anamnestic solidarity marks, then, the most extreme paradox of a historically and communicatively acting entity;... the condition of its very possibility becomes its destruction" (209).

This analysis brings Peukert to the second basic thesis of his overall proposal: the response to the "paradox of an existence that refuses to extinguish the memory of the victims of history in order to be happy" is "ultimately theological" (210). Peukert argues that the theological response to the paradox of anamnestic solidarity must be grounded in the historical experience that the Christian tradition calls the resurrection of Jesus.

The Gospels and the entire Christian proclamation are unequivocal...that God resurrected Jesus from the dead.

The experience of the resurrected Jesus signifies for others the opening of the possibility of existing in solidarity oriented toward God.

The act of the resurrection of Jesus makes possible faith in this resurrection. As anamnestic solidarity with Jesus...faith in the resurrection of Jesus is at once universal solidarity with all others. And as anamnestic solidarity, it is universal solidarity in the horizon of all humanity and of one
unified history; it constitutes one humanity in the unconditional solidarity of communicative action that anticipates the completion of salvation for all. (226–67)

In his theology of the resurrection, Peukert does not forthrightly and systematically address crucial questions. Is not the intent of the rescue of the innocently annihilated that these innocently annihilated might now be subjects in community rather than “refuse in history” (206)? Furthermore, is not a constitutive requirement of their being subjects in community that they indeed be partners in communication? Finally, is not partnership in communication enacted precisely by bringing forth arguments, by giving an account of those arguments, and by way of response listening and replying to arguments that are brought forth? This situation immediately raises again the issue of the dynamics of speech as communicative argumentation and ultimately poses the question of the distinction and relationship between solidarity and reconciliation vis-à-vis a universal community. As I will argue in part 4, these issues can only be addressed adequately to the extent that fundamental theology is grounded as a theologia crucis.

3. PRUNING AND ITS PROBLEMS: ANAMNESTIC SOLIDARITY AND LIKENESS

The culminating theological thrust of Peukert’s proposal unintentionally truncates the question of the subjectivity of the resurrected innocently annihilated ones by overlooking the dependence of their subjectivity on intersubjective accountability rooted in speech as communication. This happens because Peukert fails to engage in a theological analysis of the kind of communication that would occur even within the universally inclusive community for which he argues, the kind of communication that Habermas describes with his transcendental criterion of the ideal speech situation. Even though Peukert prunes Habermas’s criterion before it is probed for its theological depth dimension, there still are “faded inscriptions” in his proposal that can be deciphered in order to address this issue. Refurbishing these faded inscriptions will take us beyond the paradox of anamnestic solidarity as “the most extreme intensification of the basic experience preoccupying the Jewish and Christian tradition” (Peukert: 230).

The survival of these faded inscriptions is related to one of my preliminary theses: Bohman correctly notes that Peukert “sides” with Apel’s transcendental criterion, resulting in an eventual pruning of Habermas’s criterion. Also Bohman correctly notes that this
siding is "certainly significant." It is necessary, however, to provide an analysis of this siding since this siding is not accomplished "clearly," as Bohman says, but rather implicitly and ambiguously. On the one hand, Peukert states that he will "note at important junctures how this [Habermas's] approach differs from others [notably from the Erlangen School and from Apel]" (184). On the other hand, he states: "In the various analyses different vocabularies have been developed, most of which serve to distinguish the various attempts at analysis rather than to make substantive distinctions" (184, emphasis added). He then states that he will "adopt Habermas's terminology" because "it comes closest to reaching the dimensions most appropriate to the problem at hand" (184). The ambiguity regarding his siding with Apel arises because he adopts Habermas's terminology throughout while simultaneously siding with Apel's transcendental criterion of "the unlimited communication community" as "the utmost ideal achievable in modern times" (202). By employing Habermas's terminology to side with Apel's criterion and thereby the problematic which that criterion addresses, Peukert surreptitiously jettisons Habermas's criterion and problematic with regard to the overall thrust of his proposal.

Systematically, on the one hand, the siding with Apel means that Peukert focuses on the praxis-oriented problem of humanity's universal solidarity in the face of the counterfactual, temporal annihilation of innocent victims. On the other hand, this siding with Apel marginalizes and obscures another praxis-oriented problem: the kind of intersubjective communication that would provide the normative foundations for social evolution, society, and subjectivity. Peukert's privileging of Lenhardt's typology follows closely on the heels of his siding with Apel. Categorically, on the one hand, this siding results in privileging the categories of innocently annihilated, universal solidarity, anamnestic solidarity, and resurrection. Within the proper framework, this privileging is highly laudable and remains one of the key insights — though not the only one — of liberation theology. This privileging is absolutely necessary, even while remaining insufficient, for any future Christian theology. On the other hand, in the culminating thrust of Peukert's proposal the systematic privileging of these categories results in an accompanying, gradual and surreptitious fading — almost to the point of disappearance — of the categories of Mündigkeit, reciprocity, argumentation, self-reflexivity, critique, self-critique, systematic distortion, and crucifixion. As I will argue in more depth later, these one-sided tendencies need not be the case.

It is my strong claim that the problematics that have led Habermas to formulate his transcendental criterion of the ideal speech
situation cannot be simply pruned and jettisoned in a kind of quantum leap to "another dimension." Nor do I think that the historical dimension intensifies the aposia of communicative action so that the problematics of the ideal speech situation are rendered either preliminary or of less significance for theology. The problematic of the distinction between a truthful consensus and a mere convention, which has arisen within the contexts of Habermas's many disputes,\(^{14}\) is intimately connected with the subjectivity of those who are rescued from the refuse heap of history. Their subjectivity, to the extent that it remains deeply dependent on their partnership in communication, means having not only the right to speak for themselves — that much at least — but also and especially the privilege and right to hear and respond to a just and true critique rather than to the annihilating injustice perpetrated upon them. Furthermore, their partnership in communication means having the privilege of being accountable even for the mortifying arguments that they bring forth against their annihilators who deserve them.

It is precisely the dependence of participatory subjectivity on a particular genre of intersubjective speech and the significance of this dependence for the distinction between a truthful consensus and a mere convention that has led Habermas to a detailed analysis of argumentation. At the heart of this analysis of argumentation lies his oft-made reference to the forensic metaphor of the courtroom, the "court of appeals" (Peukert: 116).

To sum up... Thus the rationality proper to the communicative practice of everyday life points to the practice of argumentation as a court of appeal that makes it possible to continue communicative action with other means when disagreements can no longer be repaired with everyday routines and yet are not to be settled by the direct or strategic use of force. (Habermas 1984: 17-18, emphasis added)\(^{15}\)

The human community can never get beyond nor should it ever upon appeal regress below the communicative courtroom. In all communication and in every community no matter how universal there remains at least the possibility of an appellate transition — a turning-up-the-volume or an upping-the-ante — to the courtroom of argumentation. Truncating this possibility in any way is the ultimate distortion.

Peukert accurately describes Habermas on this score and both explicitly and in faded inscriptions seems to subscribe to this situation as "at the same time the central thesis of the whole of theology" (Peukert: 171). He does this when he couples solidarity with "reciprocity" as "elementary determinations" (202);\(^{16}\) when he argues that "the constitution and transformation of reality" is "bound to a medium"
of reflexivity (138); when he notes that "argumentation" is "the most clearly and systematically reconstructed paradigm" (190); and when he argues that in the dialectic between factual and critical genesis "there must be a constant return...to ever-renewed testing...as the necessary structure of a rational treatment of history" (197).

On the one hand, Peukert agrees with Habermas; on the other hand, it is difficult to figure out precisely why he just prunes this limit situation from theological analysis. Does his avoidance of theoretically confronting this limit situation arise out of a mendacity due to a perception that the Christian tradition has little resource with which to respond to this situation? The primary source of this conjecture is that "decisive" point in Peukert's analysis that we looked at in part 1 above (see Peukert: 186). How he nuances the particular paragraph which we examined seems to indicate an embarrassment of sorts at having to admit that, when it comes to grounding truth, there is no alternative to an "unavoidable," discursive "infinite regress," save giving up the search altogether. May it not also be that he nuances this paragraph too one-sidedly with the terminology and perspective of theoretical philosophy and formal logic and thereby this extreme conundrum looks just plain uninteresting to a praxis-tuned political theology? Perhaps if the limit situation of an unavoidable infinite regress, or better "ongoing testing" (Habermas 1987a: 199, 206, 321, 347), were reconstructed from the perspective of practical philosophy, then this conundrum would appear theologically charged.17 It is just for this reason that in part 4 I will enlist Alvin Gouldner's articulation of critique.

In an earlier discussion, Peukert makes a similarly nuanced reference that the "claims to be raised for a theory of communicative action...leave the impression that one is asking for the impossible" (166). In this context he notes that Apel's "transformation of philosophy" means precisely that "we must withdraw from the illusion that absolute reflection is possible for communicative practice and its reflective self-enlightenment" (166). On the one hand, that absolute reflection is in fact not possible, with that I heartily agree. On the other hand, that absolute reflection is asked for and even demanded, necessarily and absolutely demanded if truth, truthfulness, and correctness are to be pursued, to that I also heartily subscribe. There remains a necessary and absolute, impossible demand for the sake of truth, truthfulness, and correctness, and within this demand itself lies the "formal anticipation of the correct life" (Peukert: 191), "of leading a genuine life" (Habermas 1983: 109).18 This intersubjective situation denotes the most fundamental limit experience, though not the only one, preoccupying the Jewish and Christian traditions precisely because even God submits God's self to the demand of
communicative reflection and reflexivity. For Christian theology this situation can only be expressed as a fundamental *theologia crucis*, as I will argue later.

Habermas's most radical diagnosis of this extreme limit experience of human interaction comes, appropriately so from the perspective of the demand of reflexivity, in his critique of his own predecessors, Horkheimer and Adorno. He argues, in a rather thick paragraph even by Habermasian standards, that behind their "myopic perspective" to get "beyond" the forensic situation of "critique" and "justification" "rightly intertwined" there resides a "purist belief" and "intention" — a "purism" — in which they "remained caught" (1982a: 30). Habermas retorts that there remains an "everlasting impurity" within human interaction, no matter how universal, that makes the presupposition of the ideal speech situation "necessary" and "inescapable." The "always already" of the transcendental criterion is always already bound to the "always already" of the pragmatically based everlasting impurity.

But they [participants in discourse] know, or at least they are able to know, that even that presupposition of an ideal speech situation is only necessary because convictions are formed and contested in a medium which is not "pure" nor removed from the world of appearances in the manner of platonic ideals. Only a discourse which admits this everlasting impurity can perhaps escape from myth, thus freeing itself, as it were, from the entwinement of myth and Enlightenment (1982a: 30).


Peukert evades a theological analysis of this extreme tension between the ever-renewed testing of the ideal speech situation and the everlasting impurity in the pragmatics of speech, and he does so via a kind of hyper-acceleration to "another dimension." At one point he does this by noting that "to justify means to universalize" (Peukert: 193). However, even within a universal community there must be testing. Universalizing does not exempt critique and justification; on the contrary, the very need and necessity for universalizing arises so that intersubjective, reflexive critique and justification can proceed, so that the courtroom can proceed. In one faded inscription Peukert too seems to suggest something similar, namely,
that the pursuit of truth, truthfulness, and correctness “always occurs in the horizon of a community which is universal and within which [!] claims upon actions and orientations must be tested and established” (194, emphasis added). Yet, the overall thrust of Peukert’s theological proposal depreciates this situation. Why is this the case?

Peukert fixates on the necessary but per se insufficient problematic of temporality and universality, and this fixation hinders him from engaging in a more penetrating analysis of the resonance between universality and justification (Habermas 1982b: 246-47). Systematically, this results from treating the paradox of anamnestic solidarity not only as “a common depth structure” (Peukert: 208) between historical materialism and theology or as the “point of departure” for theology (235, 239)—both of which are certainly valid and fruitful apologetic approaches—but also as a kind of steering mechanism or central sinew for the whole thrust of a fundamental theology (230, 244). 21

In an important sense, the very categories that Peukert uses become subsidiary steering components that shore up the main steering rudder and further impede a more radical diagnosis of the limit situations of communicative action that arise in the resonance of universality with critique and justification. 22 Severed from the resonance of universality with critique and justification, anamnestic solidarity as the controlling category can lead to a rather dangerous situation. With the help of insights developed by the feminist critical philosopher Seyla Benhabib, I will proffer a perspective on Peukert’s controlling category of anamnestic solidarity.

Anamnestic solidarity is a conflation of anamnesis and solidarity, of “a remembering existence in practical solidarity” (Peukert: 239), and, therefore, it can be probed in its separate movements. Peukert informs us that anamnesis is a category that he adopts from Benjamin as well as from Metz. While there is a difference between anamnesis as remembrance and mimesis as imitation, Benhabib’s analysis of mimesis yields an instructive critique that is productively applicable to the concept of anamnesis. 23

Benhabib’s critique of mimesis is developed within her discussion of Horkheimer and Adorno. Because Horkheimer and Adorno remain trapped within “the work paradigm of human activity”—in distinction from Habermas’s paradigm shift to intersubjective, communicative action—for them “the fundamental relation is that between humans and nature” (Benhabib: 200). For Horkheimer this relation to nature is articulated via Marx’s understanding of labor, while for Adorno the relation to nature is articulated via the idea of aesthetics. While they reject the Marxian moral optimism
attached to the work model of action, their model of mimetic activity is "a reversal but not a true negation of the work model of activity" (Benhabib: 189). Benhabib argues that the work model of activity in its Hegelian form resorts to the "externalization into nature" of a single subject, Spirit; in its Marxian form to the "objectification of nature" by a collective subject, humanity; and in its mimetic form to the "internalization of nature" by the isolated subject.

For Adorno, mimesis surpasses mere mimicry, which results in the suppression of the self by the other, by giving oneself over to the other via contemplation. But Benhabib persists in her suspicion that mimesis, functioning as an encompassing fundamental category, remains too tied to idealism and its philosophy of the subject and identity (merito!).

Yet what distinguishes this [contemplative] act of giving oneself to the other from an act of narcissism? How can we ever establish that this act of contemplative giving into the other is not merely a projection on the part of the self onto the other attributes that the self would gladly acknowledge to be its own? Why isn't mimesis a form of narcissism? (221)

Benhabib argues that "mimesis is best actualized in the sphere of relations to another like ourselves" (387; also see Habermas 1984: 382–90; also Moltmann: 26–28). Peukert seems to recognize this danger of likeness in reference to anamnesis when he notes that a "basic problem [is]...divinizing the one who is remembering—the historian" (Peukert: 311). My problem with him on this score is that he has relegated this comment to a footnote without any further systematic consideration or theological analysis. That would not be so damaging if it were not for the fact that this untreated "basic problem" is intimately connected to the controlling category. Benhabib's analysis of mimesis and likeness indicates that even revolutionaries are susceptible to the lure of likeness (180–82). The lure of likeness is ultimately most dangerous to the innocently annihilated ones if their subjectivity is dependent primarily on the remembering of revolutionaries.

Peukert employs the category of solidarity as a version of "transsubjectivity," a concept that he takes up in his discussion of the Erlangen School's treatment of history. He remarks:

If one agrees with the principle of transsubjectivity as a basic principle, it is naive not to establish this transsubjectivity in its historical dimension from the start. My intent is not to investigate this thesis in its entirety, or even the total structure of such a reconstruction, but rather to analyze more precisely the decisive point of the proposed procedure in its microstructure. (197, emphasis added)
The "if," along with the other nuances of this remark, implicitly indicates that he essentially agrees with the principle of transsubjectivity and promotes this principle through the category of solidarity. Solidarity can be readily correlated with transsubjectivity because both can be conceptualized in a historical dimension. This correlation makes it apparent why solidarity is so compatible with anamnesis, which is also obviously diachronic.24

Because Peukert employs "solidarity" as a version of transsubjectivity, Benhabib's perceptive critique of transsubjectivity can be fruitfully explored within this essay. She correlates transsubjectivity with the tendency to privilege a collective singular subject of history from Hegel to Marx to Horkheimer to Adorno, and even to Habermas.25 She enumerates four presuppositions of the philosophy of the subject in which the model of transsubjectivity, its history, and its activity constitute three of the four presuppositions. Briefly stated, the transsubjective subject "externalizes" (Hegel) or "objectivizes" (Marx) or "recollects" (Adorno) or "generalizes" (Habermas) itself. Because transsubjectivity (solidarity) remains tied to the philosophy of the subject and to the work model of activity, it undermines the fundamental plurality of communicative intersubjective action (68-69, 140-41). To these insights I would add that because transsubjectivity (solidarity), like mimesis and anamnesis, expresses and presupposes likeness, it hereby defocalizes the inescapable, pragmatic basis of everlasting impurity that cuts across every transsubjectivity and into every solidarity. With Peukert's coupling of anamnesis and solidarity as the steering category, a discourse on likeness could come to dominate.

With a similar concern in mind, Lenhardt borrows an insight put forth by Horkheimer and puts his finger on a trap that can befall even revolutionaries in their — and my — own per se necessary and laudable task of judging the contemporary situation with a view toward future-oriented, emancipatory practice.

Our linear progress-conscious minds are wont to consider relevant only that kind of historical consciousness that helps us build an allegedly new world. Progressivists of all ages and shades, and this includes Marxists, were interested in developing a historical consciousness solely for the instrumental purpose of arming themselves for evolutionary or revolutionary change.... Perhaps the task of the historian is not to provide us with ammunition and lessons to learn but simply — or not so simply — to lend an ear to the plaintive voices of ancestors, thus creating a basis for anamnestic solidarity. (Lenhardt: 141)

This insight is recognized by Peukert as well when he notes that the self-critique of self-deception is undertaken intersubjectively so
that "self-deception does not become the destructive deception of others" (201). It is for this reason that I had emphasized earlier that those rescued through the resurrection must be rescued in such a way that their subjectivity remains ultimately grounded in the intersubjectivity of the communicative court rather than in anamnestic solidarity alone. I take this to be the reason why Lenhardt too employs the forensic metaphor, "plaintive voices," when he seeks to provide a grounding, a "basis," for anamnestic solidarity. Only in this way are those rescued safeguarded from being subtly instrumentalized for the otherwise necessary tasks of the evaluation of the contemporary situation or of future-oriented emancipatory praxis or of the constitution of one's own identity.

Anamnestic solidarity becomes a legitimate category for an emancipatory theory and thereby a legitimate moment of emancipatory practice only as it becomes a subsidiary category under the umbrella of communicative argumentation. Indeed, as a movement subsidiary to communicative argumentation, it is necessary! This is necessary because "simply — or rather not so simply" upping the ante to the courtroom cannot result in a fixation solely on the courtroom to the minimizing in any way of other future-oriented emancipatory practice. There are, contrary to Lenhardt, lessons to be learned and innovative emancipatory changes to be effected. Yet, the most innovative and emancipatory praxis in our era continues to be the concrete establishment and maintenance of communicatively saturated lifeworld interrelationships and socio-political structures.26

The pruning of Habermas's transcendental criterion in favor of Apel's, the privileging of Lenhardt's paradox of anamnestic solidarity,27 and the focus on a theology of the resurrection28 all combine to make Peukert's fundamental theology too susceptible to the dangers of likeness and identity. It is my strong contention that the communicative courtroom of argumentation, of critique and justification, is on center stage in all of history and in all the particularity of everyday life. Therefore, it must be given fundamental theological status. Because of this all the solidarity that we can and must muster, also anamnestically, must always maintain a sharpened consciousness of the universality of empirical, internal contradictions and of the susceptibility of both solidarity and anamnesis to identity-orientedness.29 The maximalizing of emancipatory praxis together with the minimalizing of mere conventional activity necessitates a fundamental theology developed around the continual resonance between the courtroom as critique and justification and emancipatory praxis within all three dimensions.30
4. GRAFTING AND ITS GIFTS: HABERMAS AND THEOLOGIA CRUCIS

The Forensically Fraught World

Thesis: Habermas's transcendental criterion of the ideal speech situation actualized as the communicative court of argumentation must not be pruned from the life-giving root of fundamental theology, and this means that the limit experience to which theology must respond is deeply embedded in the empirical circumstances of, what I claim is, a "forensically fraught world."

Commentary: It is the necessary anticipation and the potential ubiquity of this forensically fraught world within everyday life that Habermas has made the bone of contention in his discussions on every turn: from his earliest critiques of positivistic science and of Kant, Hegel, Marx, Pragmatism, and Freud with his insistence on "language" as that which "raises us out of nature" and makes humans human to his dialogues with Popper and Gadamer and Luhmann and Kohlberg; from his more recent interpretive attempts to include the sociological insights of Durkheim, Weber, Lukács, and Parsons within the horizon of communicative rationality to his more critical encounter with his immediate ancestors such as Horkheimer, Adorno, Benjamin, and Marcuse. This same insistent contention continues to be at the heart of his more recent encounters with the neoconservatives and with the Nietzscheanly rooted Foucault, Derrida, Lyotard, and Rorty (1987a). In all these discussions the conceptualization of a forensically fraught world rules out of order either the monologic reduction of the pursuit of validity or the exclusion of reason altogether from the pursuit of validity or a capitulation to complexity that retreats from the very pursuit or the collapsing of disclosures of meaning with validity or the myopic, nihilistic blindness to the existence of any validity and the accompanying retreat to taste; or any combination of the above. These alternatives all fall off the path of the forensically fraught world and some are even seductive for Habermas (McCarthy 1985).

The question that I have been posing to Peukert throughout this essay is whether, in siding with Apel, in adopting Lenhardt's thought experiment, and in focusing on the resurrection, he has not been unduly seduced away from the forensically fraught world, from theologia crucis, and from Jesus' ministry and mission of reconciliation. His retreat from a forensically fraught world represents a collapsing of praxis-generated disclosures of innovative meaning with validity and critique. This collapse runs the risk of a continuation (and increase!) of identity thinking and action in an anamnestic and transsubjective
mode and the tragic consequences that can accompany this possibility. Only a concerted insistence on and argument for a forensically fraught world can avert these tragic consequences. Habermas’s articulation is the contemporary high ground of that argument and thus the most fruitful partner for a fundamental political theology that maintains a similar insistence.

The refusal to withdraw from, and indeed the radical promotion of, a forensically fraught world does in fact lead to a most extreme and intensified limit experience. With the promotion of a forensically fraught world, Peukert’s recognition of the empirically unavoidable infinite regress can be reconstructed from the point of view of practical philosophy so that a more in-depth theological probing of this situation can be undertaken.

In a variety of different contexts, Alvin Gouldner has articulated just such a forensic reconstruction of the limit situation of critique and justification. He also seeks to locate empirically the historically developing embodiment of this forensically fraught world of critique and justification in a particular culture.

The culture of critical discourse (CCD) is an historically evolved set of rules, a grammar of discourse, which (1) is concerned to justify its assertions, but (2) whose mode of justification does not proceed by invoking authorities, and (3) prefers to elicit voluntary consent of those addressed solely on the basis of arguments adduced. CCD is centered on a specific speech act: justification. (1979: 28; also 1965: 168–74; also 1970: 3–18, 481–512)

It is because the embodiment of the forensically fraught world in a particular culture of critical discourse exposes deep empirical internal contradictions that Gouldner, perhaps like no other social theorist, focuses on the grave and internecine consequences of the forensically fraught world. The forensically fraught world is constitutively linked with the intersubjectivity of the death of the other and the self. This link can be seen in the following quotation that culminates in a powerful metaphor.

The grammar of critical discourse claims the right to sit in judgment over the actions and claims of any social class and all power elites. From the standpoint of the culture of critical discourse, all claims to truth, however different in social origin, are to be judged in the same way. The claims and self-understanding of even the most powerful group are to be judged no differently than the lowliest and most illiterate....

Notice, then, that CCD treats the relationship between those who speak it, and others about whom they speak, as a relationship between judges and judged.... To participate in the culture of critical discourse... is thus a subversion of that [the already established social] hierarchy. To participate in the culture of critical discourse, then, is a political act.
The essence of critical discourse is in its insistence on reflexivity [judges becoming subject to their own judging]... It is therefore not only the present but also the anti-present, the critique of the present and the assumptions that it uses, that the culture of critical discourse must also challenge. In other words: the culture of critical discourse must put its hands around its own throat, and see how long it can squeeze. CCD always moves on to auto-critique, and to the critique of that auto-critique. (1979: 59–60) 33

While Gouldner admits that the historically developing, cultural embodiment of the forensically fraught world “may also be the best card that history has presently given us to play,” he argues that there remains dialectically a “dark side” that gives ample reason for “no celebration” (1979: 7–8). His ambivalent assessment corresponds with the ambivalent nuance that I intend by using the word “fraught.” 34 There is a very real sense that this forensically fraught world is something that human community yearns for because humanity cannot live and thrive without it. Yet, the more fully the forensically fraught world is embodied empirically in the life-world and in systemic structures and in their reproduction, the more human community cannot live with this forensically fraught world, either. The embodied promotion of the forensically fraught world of critique and justification serves increasingly to expose the universality of internal, empirical contradictions, the pragmatically based everlasting impurity. It is the empirically ambivalent fraughtness of the forensic world that necessitates that fundamental theology be articulated as a political theologia crucis. 35

Theologia crucis

Thesis: The promotion of the forensically fraught world necessitates the development of fundamental theology as a political theologia crucis since on the cross God also submits to and becomes dependent upon the forensically fraught world.

Commentary: Jürgen Moltmann’s political theologia crucis is the best — though not the best possible — of the more prominent contemporary proposals of theologia crucis within a First World context. This is the case because he integrates three components: the God-against-God dimension of the crucifixion, the forensic framework of the crucifixion, and a socio-political reference for theologia crucis. 36 First, Moltmann interprets Jesus’s crucifixion in reference to a tripartite conflict brought on as a consequence of his ministry (126–59). Jesus is in conflict with the Romans, the Jews, and with God. 37 While it is not unusual for many, if not most, contemporary interpreters to view Jesus’s death as a conflict with the Roman authorities and/or with the Jewish authorities, Moltmann
takes the conflict of Jesus on the cross into the heart of God. “The theology of the cross must take up and think through to a conclusion this third dimension of the dying of Jesus in abandonment by God…[as] something which takes place within God himself” (152). If the crucifixion is not understood as something within God, then it is too facilely interpreted only as an injustice perpetrated by the Romans and/or the Jews resulting from a misunderstanding on their part. Moltmann stresses that the cross as a conflict between God and God prevents such a popular but truncated conceptualization of the cross (149–52). God cannot simply be enlisted in support of the innocently annihilated Jesus vis-à-vis his unjust executioners, a support that is then confirmed, fulfilled, and redeemed in the resurrection.

Second, Moltmann not only takes the crucifixion into the heart of God but he does so forensically. The tripartite conflict of the cross is a tripartite trial of the cross between Jesus and the Romans, the Jews, and God. Furthermore, as the first point implies, this cruciform trial is not between the Romans and/or the Jews on the one side and Jesus and God on the other. Rather, the cruciform trial that takes places as “something within God himself” is a trial of “God against God,” a “theological trial between God and God” (152). The forensically fraught world demands radical reflexivity and on the cross God submits to this most extreme and mortifying limit. It is within this threefold forensic framework that Jesus is crucified as rebel, blasphemer, and God-forsaken.

It is the ubiquity of a forensically fraught world with its promotion of radical reflexivity that necessitates interpreting the cross as a theological trial between God and God. This trial between God and God surfaces already within Jesus’s ministry, a ministry that Peukert rightfully interprets through the conceptualization of communicative action. The ubiquity of the forensically fraught world surfaces in Moltmann’s theology in his understanding of “righteousness” that is both empirical and eschatological-apocalyptic (173–77).

In so far as Jews and Gentiles are involved in the crucifixion of Jesus, faith in the righteousness of the crucified Jesus regards itself as bearing public witness in the universal trial concerning the righteousness of God, a trial which is the ultimate motive force of human history. (134)

And again:

Only on a superficial level is “world history” a problem of universal history, by the solution of which a meaningful horizon can be found for the whole of existence. At the deepest level the question of world history is the question of righteousness. And this question extends out into transcendence. (175: see also 61, 68–69, 168, 226, et al.)
Rudolf Siebert makes a critique of Peukert's student, Edmund Arens, who "is particularly hesitant [sic] to deal with the negativity of God mythologically expressed in his 'wrath.'... Political theology must take this negativity of God seriously" (Siebert: 422). Siebert seems to hold this same critique of Peukert (Siebert: 430–31, 457–59), a critique to which I subscribe because it cuts to the heart of Peukert's deficiency. While Peukert at times comes close to explicating the ministry of Jesus in its connection with the negativity of God, he finally withdraws from this understanding. For instance: "Thus the dispute about a specific mode of communicative action is at the same time a dispute about the reality of God" (Peukert: 224, emphasis added). If the word "of" were instead "within," then Peukert would not be subject to Siebert's rightful critique. The dispute about a specific mode of communicative action is at the same time, and finally on the cross, a dispute about the reality within God or a dispute about the reality of God against God. 39

I remain dissatisfied with the notion of the "negativity of God" that is employed mystically by Siebert as well as in other ways by Douglas Hall, Carl Braaten, and Paul Tillich. My dissatisfaction arises because that terminology is not as sufficiently forensically saturated as I think is empirically indicated, biblically warranted, and systematically necessitated. A determinate enlistment of Habermas's conceptualizations can help to correct this deficiency. Such a determinate enlistment would also show more precisely than does Moltmann that the forensically fraught world is the thread that links together Jesus as rebel, blasphemer, and God-forsaken and thus the causative undercurrent of his death, an undercurrent that goes back to his ministry. A conceptualization of the resurrection from the dead, which is beyond the scope of this essay, will have to show the resurrection's significance in relation to this forensically fraught, intersubjective notion of death.

Third, Moltmann rightfully seeks to develop political theology as a theologia crucis.

Theologia crucis is not a single chapter in theology, but the key signature for all Christian theology.... The theology of the cross is a practical doctrine for battle....

In political terms, its [Luther's theologia crucis] limit lay in the fact that while as a reformer Luther formulated the theologia crucis in theoretical and practical terms against the medieval institutional church, he did not formulate it as a social criticism.... The task therefore remained of developing the theology of the cross...as social criticism. (72–73)40

The socio-political penetration of theologia crucis cannot be formulated in a once-and-for-all relationship since socio-political realities are highly diversified both diachronically and synchronically.
That almost obvious insight stands behind D. Hall's clarion call for an "indigenous" theology of the cross. Moltmann, of course, knows this fact and gives a very suggestive indication of the direction that this indigeneity might take in a contemporary Western context.

If the Christ of God was executed in the name of the politico-religious authorities of his time, then for the believer the higher justification of these and similar authorities is removed. In that case political rule can only be justified "from below." ... Political rule is no longer accepted as God-given, but is understood as a task the fulfillment of which must be constantly justified. The theory of the state is no longer assertive thought, but justifying and critical thought. ... A critical political theology today must take this course of desacralization, relativization and democratization. (328)

In light of this suggestion it can be claimed that because the radical intensification of the limit situation of the forensically fraught world is taken up by the cross into God, then the forensically fraught world must be brought to bear ubiquitously and into the empirical particularities of the lifeworld and the systemic structures. There then can be no socio-political context which is or can be neutralized, immunized, or isolated from the forensically fraught world. In this vein Moltmann notes: "The new 'political theology' and 'political hermeneutics' ... become more radical when they seek to reclaim from the biblical tradition the awareness of a trial between the eschatological message of Jesus and social and political reality" (326).

It therefore remains obligatory for a practiced socio-political theologia crucis to enlist vigorously the empirical analyses being developed from the perspective of the investigation and promotion of the forensically fraught world. Moltmann has not yet done this to my satisfaction and perhaps cannot do it integratively without first articulating his political theologia crucis more directly in conjunction with communicative action. It is to Peukert's unsurpassable credit that he took the initiative to intensively investigate communicative action in light of fundamental theology.

**The Ministry of Reconciliation**

**Thesis:** A practiced socio-political theologia crucis pursues the Christian hope ultimately as a ministry of reconciliation.

**Commentary:** In the context of this essay the polemical edge of this thesis resides in the praxis of reconciliation as ultimately surpassing solidarity. The praxis of reconciliation aligns itself more closely to a forensically fraught political theologia crucis than does the praxis of solidarity which itself dare not in any way be depreciated with regard to its necessary endowment to the praxis of reconciliation.
With this alignment, the praxis of reconciliation takes more deeply into itself the universality of empirical, internal contradictions than does the praxis of solidarity. The praxis of reconciliation, therefore, more focally highlights the necessity of reflexive critique and repentance as a radical life of repentance for all parties than does the praxis of solidarity, as well as more fully pursues a universally inclusive community. In this way, the praxis of reconciliation more carefully counters the seductions of identity thinking and activity than does the praxis of solidarity (that is, a solidarity which is unfettered from forensic fraughtness). This carefulness of the praxis of reconciliation is also its fragility.

The ministry of reconciliation in the empirical, pragmatic circumstances of human socio-political life counters the cooptational and exploitative intentions of the powerful to the extent that this ministry and praxis is grounded and continually tested by the forensically fraught world of the cross. The constitutive interpenetration of the praxis of reconciliation with the forensically fraught world of critique and the cross is what delivers the promotion of reconciliation from being functionalized as a “cover-up, the sin of sins” (Stendahl: 87). James Cone, perhaps more adamantly than any contemporary theologian, has paraded the cooptation of reconciliation as a thematized issue for public scrutiny (74–76). In Jan Lochman’s reconstruction of reconciliation, he seeks to counter the “false ideology of reconciliation” by constitutively coupling reconciliation with liberation (105–12).

It is only by grounding reconciliation forensically in critique and the cross that the ministry of reconciliation can be conceived at all in reference to murder and to murderers.

With the question of righteousness in history...the message of the new righteousness which eschatological faith brings into the world says that in fact the executioners will not finally triumph over their victims. It also says that in the end the victims will not triumph over their executioners. The one will triumph who first died for the victims and then also for the executioners, and in so doing revealed a new righteousness which breaks through the vicious circles of hate and vengeance and which from the lost victims and executioners creates a new humanity....[Here] can one speak of the true revolution of righteousness and of the righteousness of God. (Moltmann: 178)

There is much more that can and must be said about political fundamental theology and communicative action, but these three components at least can be advanced by way of response to Peukert’s proposal to view the paradox of anamnestic solidarity as the most basic limit experience of communicative action and a theology of
the resurrection as the most fundamental Christian response to that experience.

NOTES

1. I take Peukert’s analysis of the modern history of the philosophy of science and its culmination in the theory of communicative action to be essentially correct and, therefore, I will not address this aspect of his work.

2. I do not concur with Dennis McCann’s critique that Peukert has carried off a “raid” on Habermas. A raid implies a strategy of “hit and run” and would in fact be “strategic action” in the deplorable sense (Habermas 1984: 285–95, 322–37). What makes strategic action so reprehensible is running away from reciprocal understanding and the argumentative-communicative situation, and engaging in systematically distorted communication, and thus avoiding accountability. Peukert has not done this!

Roman Catholics in particular have entered into dialogue with Habermas. However, Quentin Skinner notes the convergence between Habermas, with his Protestant heritage, and Luther, “above all... in the ‘redeeming power of reflection’” (38) (merito! I, myself a Lutheran, owe a considerable debt to Lutheran theologian Robert W. Bertram, who introduced me to the critical theory of society and the particular direction of my enlistment of it for critical public theology.

3. In view of the valid critique by Arthur Cohen, I am wary of the expression, “Judeo-Christian tradition.” It retains a dialectical force — of solidarity, on the one hand, but of subtle cooption on the other.

4. It is salutary to take note of Habermas’s recommendation regarding philosophy and its claims to truth. “It prefers a combination of strong propositions with weak status claims” (1987a: 409).

5. Bohman also notes that this theology of resurrection has its ecclesiological correlate in the communio sanctorum that Apel finds at work in Peirce’s notion of the community of inquirers (Apel: 28, 204 n. 24).

6. The notion of an “overall thrust” vis-à-vis isolated and/or non-systematically integrated statements, references, or theses is an important aspect of my response to Peukert’s proposal. I would argue that my reading of the overall thrust of his proposal can be substantiated by noting how others, such as Rudolf Siebert (1985), read his overall thrust.

7. Peukert’s proposal predates Habermas’s full-blown presentation of communicative action and thereby does not address his conceptualization of system and lifeworld or his theory of modernity that thematizes the linguification and liquefaction of the sacred. These two areas in particular must now be taken into consideration when developing the fundamental themes for an indigenous political theology in conjugation with communicative action (see Simpson 1989).

8. May not Peukert’s transition to the historical dimension be taken prematurely due to an urgency to defend his teacher, Metz? The opening for this suspicion lies in Bohman’s review of “the most direct lineage of Peukert’s
book” (ix). As Bohman notes, it is in “the historical dimensions” that Metz challenged Habermas’s “disconsolately” reconstructed version of the Enlightenment project (x). For this reason Bohman states: “The present volume is his [Peukert’s] most sustained response... to secure Metz’s programmatic and suggestive insights” (xi).

9. The translation of *Eingedenken* can express different nuances. Peukert’s “emphatic memory” does not capture the nuance or the “ein.” I will return to this point in part 3. See David Ingram’s translation of *Eingedenken* as “thoughtful identification” (80).

10. Before investigating “what sort of theology” (210) can respond to the paradox of anamnestic solidarity, Peukert urgently makes the point that, given the “paradigmatic, most extreme limit situation” (212) represented in this paradox, there can be no recourse to “a wider, even more comprehensive theory at the same level.” I concur with him on this point. There can be no meta-reflection in order to respond to the most extreme empirical paradox of communicative action (213). I thereby share his articulation of the relation between theory and praxis. What I do not share with Peukert, and what can only become clear through the remainder of this essay, is his analysis of what precisely constitutes the most extreme limit situation and thereby the theological and historical innovative response to this limit situation. Furthermore, to the extent that Peukert’s critique of a meta-theory overcoming religion is directed at Habermas — he does not specifically name Habermas as his target — he would be mistaken. Habermas also shares Peukert’s theory-praxis relationship. Habermas’s point is not that some meta-theory is overcoming religion, but rather that a particular historical praxis, which is both articulated and promoted by his theory of communicative action, is overcoming religion.

11. I deliberately use the word “response” when describing how Peukert views the relationship of the resurrection to the paradox of anamnestic solidarity. The question arises whether or not Peukert claims that the resurrection is a “solution” to the paradox of anamnestic solidarity. While he never entertains “solution” language, he does assert that the resurrection “saves” from the paradox (232–38). Peukert does not, of course, view the paradox of anamnestic solidarity only as a paradox in theory or conceptuality but also as an experienced, practical, historical, paradox. Perhaps this much can be said: if the resurrection can be understood as a “solution,” it too would have to be understood as an experienced, practical, historical “solution.”

In this essay I will not undertake an analysis of Siebert’s critique that Peukert’s “deficiency consists in the merely ‘assertive’ character of their [Peukert and his student, Edmund Arens] *aporia-solution*” (Siebert: 472). For Peukert’s use of “assertion” see (223–27, 313 n. 26).

12. I take this situation to be central for Habermas from the beginning and at the root of his metaphoric use and redefinition of the Kantian term Mündigkeit, which is usually translated in Habermas’s work as “responsibility and autonomy” (1971: 314ff.). Habermas makes himself very clear — though in a theoretical mode of explication — on this issue of the relationship

From the point of view of Christian systematic theology my notion of “being rescued to be partners by bringing forth, giving account, and responding to arguments” would have to be sustained biblically and creedally by looking at, among others, Jesus’ parables and metaphors of the Last Judgment as well as at the meaning of Jesus’ own ongoing intercessorial praxis of “sitting on the right hand” of the Creator as that praxis is connected with the praxis of the Spirit and the Church.

13. This is Christian Lenhardt’s pithy phrase (Lenhardt: 134).

14. Among these disputes have been: with positivism, critical rationalism, historical hermeneutics, systems theory, “postmodernists,” as well as with his own heritage in the Frankfurt School. See even his face-to-face conversation with Herbert Marcuse (1978).

15. See also, for instance, (Habermas 1987a: 40). An additional line of investigation might be to look into the use of forensic metaphors by the earlier Frankfurt School writers. For instance, one of Peukert’s longest quotes of Horkheimer includes the phrase “a supernatural court of appeals” (Peukert: 209).

One of Habermas’s key insights, which is integral to his concept of argumentation as a court of appeals, is his understanding of “the everyday” (1987a: 311–16, 322–23, 339–41). While beyond the scope of this particular analysis, an investigation of this insight would be important for a full-fledged conceptualization of “the forensically fraught world.”


17. Habermas also argues that the moral-practical domain has “a certain priority over” the cognitive-epistemic and expressive as the ground of accountability (1987c: 76).

18. See note 34 below for an example of how Habermas articulates what is here referred to as the “impossible demand.”

At this point I would also preliminarily include the whole expressive domain of authenticity or truthfulness. In order to develop this conceptualization sufficiently the whole issue of aesthetic rationality or aesthetic harmony (Habermas 1986: 199–203; 1987a: 314, 418) — the relation of aesthetics and reason, of aesthetics and the redemption of validity claims — must be entered more fully than I have yet done. This is of course a recent hot spot of debate within the growth industry of Habermasian literature. See, e.g., Martin Jay (133–39), Albrecht Wellmer, and David Ingram.

It seems to me that the issue of aesthetic rationality also intersects with some of the debates within theology that have been stimulated by contemporary proposals such as G. Lindbeck’s, R. Thiemann’s, S. Hauerwas’s, et al. I increasingly remain discomfited by these proposals because of their failure to focally articulate the reciprocal intersubjectivity of critique and justification among communities. David Tracy’s The Analogical Imagination also deals in
depth with these issues but is a decidedly different approach from the other above-mentioned theological proposals.

19. See Habermas (1982a). See Peter Hohendahl for an instructive interpretation of Habermas’s “Entwinement” article, though Hohendahl does not deal with the thick concluding paragraph to which I will refer. See also Habermas’s clarifications regarding “self-reflection in the sense of critique and self-reflection in the sense of universalistically oriented rational reconstruction” (1982b: 229) and the way in which he has attempted to have “the Kantian meaning of ‘critique’...attain a position of honour within the Hegelian-Marxist tradition” (1982b: 232).

Not surprisingly Habermas discusses the extreme limit situation posed by critique at other places where he reflects on his relationship to his own Frankfurt School tradition (1983: 101–12 131–72).

20. Habermas takes pains to stress that “It must be made clear that the purism of pure reason is not resurrected again in communicative reason” (1987a: 301). He states: “Once participants enter into argumentation, they cannot avoid supposing, in a reciprocal way, that the conditions for an ideal speech situation have been sufficiently met. And yet they realize that their discourse is never definitively ‘purified’ of the motives and compulsions that have been filtered out. As little as we can do without the supposition of a purified discourse we have equally to make do with ‘unpurified’ discourse” (1987a: 323).

The translation and/or version of the final paragraph of this article as it appears in The Philosophical Discourse of Modernity (1987a: 130) is slightly different from the earlier English version in New German Critique. On the one hand, the later version in The Philosophical Discourse of Modernity leaves out the phrase “everlasting impurity”; on the other hand, this version represents an important clarification of Habermas’s theory of religion (see Simpson 1989).

21. As I will make clear more specifically in part 4, Thesis 1, I am suggesting that the Marxist notion of critique is a more fruitful “common depth structure” to explore between Marxism and theology than is anamnestic solidarity, which is Benjamin’s, Lenhardt’s (Lenhardt: 146–52), and Peukert’s suggestion. This is the case precisely because critique is a more fundamental limit experience of communicative action to which Christian theology, experience, and praxis respond. See note 35 below.

22. Not only does Peukert refer to the “dilemma” into which the choice of certain categories can lead (314 n. 34), but Lenhardt too notes that the employment of categories can result in “unwittingly covering up” certain problem areas. This is the case with Peukert’s choice of anamnestic solidarity as the main steering category and central sinew of his proposal. See also Alvin Gouldner’s account of the relationship of critique and “focalization” (1976: xiv, 9, 55, 204, 280–84) as well as his account of the dialectic between critique and apologetic (1976: 278–85).

23. Benhabib’s critique is applicable also because, as Habermas notes (1987a: 68), Horkheimer and Adorno employ the concept of mimesis in order to explicate further the notion of Eingedenken.

25. I hope in a future essay to develop Benhabib’s critique of Habermas on this score. Habermas also, of course, speaks against the transsubjective notion of a macro-subject (1987a: 357–60).


27. Habermas (1982b: 246–47) registers his agreement that anamnestic solidarity is a “postulate” that follows from the universalistic “logic” of practical discourse and therefore is a limit situation vis-à-vis this abstract logic. Empirically speaking, however, the “relation” that must be established is that of participants in practical discourses.” This status of participants in practical discourse hinges on “the force of reconciliation” that anamnestic solidarity “lacks.” He again registers his deep appreciation of Benjamin’s notion of anamnestic redemption of past injustices — and of Peukert’s articulation of Benjamin — that “can at least be virtually reconciled” even though they “cannot of course be undone” (1987a: 15). While it is likely that in both these cases Habermas uses the concept of reconciliation to mean something like the mere reversal of the “brutal contingency . . . [and] power of facticity” that death yields (Habermas 1986b: 103), I invest a fuller significance to “reconciliation” than a mere reversal of mortal contingency. Does not “the force of reconciliation” depend also upon the status and relationship of all the participants in the communicative court of argumentation once the brute facticity of death is overcome?

28. I take Douglas Hall’s critique that resurrection theology is a capitulation to a kind of positivistic optimism and his argument for the necessary development of an indigenous theology of the cross to have its import at this point (121–23, 138–45, 210–13).

29. Benhabib notes that while identity philosophy and theory can be overcome via the paradigm shift to communicative intersubjectivity, the pragmatic basis and “compulsion” of identity activity remains inescapable. Identity activity can either run wild or be “limited” but it cannot be eliminated. On the one hand, she is correct; on the other hand, her conceptualization must be related dialectically to the feminist critique of the prevailing theological view of sin as the prideful overextension of the self’s identity. Future conceptualizations of sin must take this critique into itself. Coupled with the traditional focus on an overextending identity is a collapsed identity both of which violate, though in obverse directions, an authentic identity grounded in reciprocal intersubjectivity.

Habermas notes that “The probability of conflict-free [cultural] reproduction by no means increases with the degree of rationalization of the lifeworld — it is only that the level at which conflicts can arise is shifted” (1987a: 348).

30. Habermas does precisely this when he focuses on “the communicative context of a universal historical solidarity” (1987a: 15). He stresses that “critical testing and a fallibilist consciousness even enhance the continuity of a tradition that has stripped away its quasi-natural state of being . . . [and]
even strengthen solidarity in life contexts that are no longer legitimated by

31. There are numerous, often overlooked, instances in which Habermas
makes use of forensic metaphors to fashion the overall thrust of his work.
For instance, in the opening sentence of Knowledge and Human Interest
he uses a forensic metaphor to characterize the whole modern philosophical
enterprise. "If we imagine the philosophical discussion of the modern period
reconstructed as a juridical hearing, it would be deciding a single question:
how is reliable knowledge (Erkenntnis) possible" (3). See also, for instance,
Habermas's pithy warning against using the "hermeneutical insight into the
prejudicial structure of understanding to rehabilitate prejudice" (1985: 315;
my emphasis; see also Habermas 1987b: 310-14).

My use of the term "world" would have to be further developed in relation
to Habermas's ontological restructuring of that concept borrowed from the
work of Karl Popper (Habermas 1984: 75-102; 1987a: 313-14). Habermas's
prioritizing of the moral-practical world over the objective and expressive
worlds is also applicable to my notion of forensically fraught worlds.

32. Because Peukert's overall proposal crosses over into collapsing praxis-
generated disclosures of innovative meaning with validity, there is a sense in
which he converges with other theological proposals such as Barth's,
Lindbeck's, Thiemann's, Hauerwas's, et al. These proposals have a tendency
to fixate on disclosures of meaning without constitutively connecting these
disclosures to the court of validity. This is precisely the force of Haber-
mas's recent critique of both Derrida and Rorty (1987a: 166-67, 197-210,
312-13, 319-21, 334-35). What does need to be stressed is the precise
significance that praxis-generated disclosures do have relative to the commu-
icative court. They are crucial because they most often convene the court
by bringing suit against conventional disclosures. However, from then on
they must participate fully in the historical, communicative process of rais-
ing, redeeming, and responding to validity claims. I take this to be exactly
the self-understanding of feminist theology, for instance.

33. In virtually all of Gouldner's analyses, he, like no other social theorist
of whom I am aware, focuses on the linkage of reflexive critique with the
intersubjective experience of death, on critique as "internecine." See, for

In "tracing the origins and transformation of critique" Benhabib often
sounds like Gouldner with her focus on the reflexivity of critique. "Criticism
privileges an Archimedean standpoint... It leaves its own standpoint unex-
plained, or it assumes the validity to its standpoint prior to engaging in the
task of criticism.... The Marxian method of critique presupposes that its ob-
ject of inquiry is reflexive" (Benhabib: 33). Unfortunately, she does not make
the connection between reflexive critique and the intersubjective experience
of death that Gouldner does. This connection is crucial for an adequate con-
ceptualization of the limit situation of the forensically fraught world and a
practice-oriented theologia crucis that responds to this experience.

It comes, therefore, as no surprise that the constitutive connection be-
tween liberative praxis and the reflexivity of critique is upheld most forth-
rightly by those most deeply entrenched in liberative movements, i.e., in movements that seek to liberate people from premature death. See, for instance, Jose Miranda (1–16) and James Cone (1982).

34. The word “fraught” can mean simply loaded or weighted and thus not necessarily express an ambivalent nuance. However, as the standard dictionaries note, “fraught” has also absorbed into itself the ambivalent nuance, which I intend, due to its frequent use in phrases such as “fraught with peril” and “fraught with pain.”

Habermas has an excellent discussion of Durkheim’s conceptualization of ambivalence vis-à-vis the sacred (1987c: 49–52, 75–76). Durkheim’s conceptualization here is reminiscent of Rudolf Otto’s understanding of the holy as mysterium tremendum et fascinans. Otto’s concept in turn reminds one of Martin Luther’s standard formula that begins his explanations to the Ten Commandments: We should fear and love God that... Habermas, however, when he explicates the phylogenetic transition from the sacred to communicative action, does not thematize adequately enough the ambivalent character of communicative action. More recently he has introduced a clearer focus on this crucial factor. For instance: “In the restlessness of the real conditions of life, there broods an ambivalence that is due to the dialectic of betrayal and avenging force.

“In fact, we can by no means always, or even only often, fulfill those improbably pragmatic presuppositions from which we nevertheless set forth in day-to-day communicative practice — and, in the sense of transcendental necessity, from which we have to set forth. For this reason, sociocultural forms of life stand under the structural restrictions of a communicative reason at once claimed and denied” (1987a: 325; also 338).

It is Habermas’s past deficiency in this regard that has led me to incorporate Gouldner’s work. Perhaps Gouldner centrally thematizes this situation where Habermas has not because Gouldner brings the issue of death focally into his critical social theory especially vis-a-vis critique and self-critique where Habermas has not.

35. Part of my major claim is that Habermas, Gouldner, and Benhabib, by focusing on the Marxist notion of critique rooted in the reflexivity of the communicative court, offer a common depth structure between theology and Marxism that is other than and more fundamental than the common depth structure that was first suggested by Benjamin and adopted by Lenhardt and Peukert. See also Paul Connerton’s “Introduction” in Habermas 1976: 15–21, for his account of critique as the depth structure of Marxism.

36. This claim can, of course, be more fully redeemed only by entering into an analysis of other theologies as well as an analysis of theologians who offer more general critiques of theologia crucis, such as Francis Fiorenza. Furthermore, a more engaging encounter with grassroots Third World “fresh formulations of the theology of the cross [would] perforate our Western cultural curtains” (Schroeder: 13).

37. Thanks to post-Holocaust era investigations into the varieties of Judaism, it is now common to acknowledge that Jesus was not in conflict with all of the Jews or with all of the Romans for that matter and that his dis-
tinctiveness from various Jewish groups was over a variety of issues and to various degrees. Additionally, the early church's effort to search the Hebrew Scriptures for prototypes of Jesus's divine mission shows that Jesus was not thought to be in conflict with all of the future-oriented, promissory actions of God.

38. That this is the case for God implies that this must be the case also for humans in their communicatively constituted subjectivity, also and especially for those who are annihilated innocently if they are to be subjects and not refuse.

39. Some of Peukert's own statements about the prophets (219–20) approach but do not enter this depth dimension.

40. Moltmann's critique of Luther is partially correct yet remains too one-sided. He evaluates Luther only vis-à-vis the Peasants' War. A more circumspect analysis of how Luther brings his _theologia crucis_ to bear upon the socio-political realities of his day not only would justify a more nuanced interpretation of Luther but would also be instructive for a contemporary political _theologia crucis_. See, for instance, Robert W. Bertram's reconstruction of Luther's critique of Thomas Müntzer.

41. That there can be no locus of socio-political life that can be immunized from critique and justification is a focal concern of both McCarthy (1982: 78) and Nancy Fraser.

42. See for instance, the essays in _Critical Theory and Public Life_, ed. John Forester; also John F. Forester (1989), Russell Hanson, and Richard Sennett.

43. Victor Furnish links reconciliation "with the very heart of his [Paul's] gospel" (218). Furnish makes this link by connecting reconciliation to justification though he does not trace any sinews to Paul's theology of the cross. For the interconnections between reconciliation, justification by faith, and _theologia crucis_ see Paul Hinlicky. My differences with Hinlicky's notion of omnipotence must remain beyond the scope of this essay.

44. Richard Rorty severely chides Habermas for taking "the cultural need" for reconciliation "too seriously" (167) due to Habermas's being "so preoccupied with the 'alienating' effects" of the progressive changes that have created modern communities of solidarity (169). I, on the other hand, applaud Habermas's focalization on alienation and suggest that this concern also lies behind his statement that Horkheimer and Adorno with their retreat to mimesis are only "circling around" the idea of universal reconciliation (1984: 282–83, 372–86).

45. Moltmann's reflections on the distinction between and relationship of a dialectical epistemology and an analogical epistemology can be interpreted in a similar fashion. "The analogical principle of knowledge is one-sided if it is not supplemented by the dialectical principle of knowledge.... The epistemological principle of the theology of the cross... does not replace the analogical principle of 'like is known by like,' but alone makes it possible" (27).
REFERENCES


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