Habermas and Capitalism: An Historic Overview

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Abstract: The article reconstructs Habermas' view of capitalism from the 1970s to his most recent writings. It takes its starting point from Wolfgang Streeck's claim that Habermas has failed to acknowledge that the real enemy of democracy is not bureaucracy but capitalism and that, therefore, he underestimates the role of capitalism in shaping the global order. It first returns to the diagnoses of late capitalism that Habermas developed in the 1970s and early 1980s and then moves on to some of his later writings. This will reveal that there was indeed a shift of emphasis from a critique of capitalism to a critique of technocracy, but not because of Habermas' unawareness of the role of capitalism in shaping reality. Rather, he has come to objectify capitalism while looking for legal and political tools for reining it in instead of looking for possible alternatives to it.

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1. Introduction[2]

In his review of the English translation of Habermas' book *The Lure of Technocracy* (2015), Wolfgang Streeck (2017) claims that Habermas has failed to recognize that the real enemy of democracy and democratization is not a growing administrative apparatus organized according to technocratic ideologies and expert knowledge, but capitalism itself. He accuses Habermas of underestimating the role of capitalism in shaping the present global order in general and the European Union in particular. He claims that Habermas has been blind to the transformations of global capitalism and has unduly focused his criticism on bureaucracy and technocracy without realizing that they were serving the particular interests of economic actors.

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Is this criticism justified? Did Habermas underestimate or even neglect the role of capitalism in creating the democratic deficit he bemoans? To answer this question, we will first return to the diagnoses of late capitalism that Habermas developed in the 1970s (2) and early 1980s (3) and then move on to some of his later writings (4). This will reveal that there was indeed a shift of emphasis from a critique of capitalism to a critique of technocracy, but I will offer a different explanation for this than Streeck's (5).

2. *Legitimation Crisis* (1973)

Habermas' reading of capitalism in *Legitimation Crisis* (Habermas 1988; henceforth LC) is loosely embedded within a Marxist view[3] that comprehends the relation between state and capitalism as a relation of subordination of the former to the systemic demands of the latter, but does not exactly replicate the relation between base and superstructure. Habermas does not offer a historical or sociological reconstruction of this relation. Rather, he wants to develop a critical theory of society that aims to reveal the hidden normativity inherent in social practices and norms or even in those forms of social praxis that seem to obey purely instrumental imperatives. It is this normative aspect that allows for an immanent critique that has not merely functional, but also a moral character (Jaeggi 2016).

Habermas adopts Luhmann's system-theoretic vocabulary to define the concept of crisis. Accordingly, crises "arise when the structure of a social system allows fewer possibilities for problem-solving than are necessary to the continued existence of the system". They are produced "through structurally inherent system-imperatives that are incompatible and cannot be hierarchically integrated" (LC, 2). We shall see that this is precisely what happens with capitalism, as Marx had already observed. It is worth noting that, notwithstanding the introduction of Luhmannesque terms, Habermas uses the term "social system" to refer to society in general, not to its economic or administrative system. He refers to the concepts of system integration and social integration as two expressions deriving from different theoretical traditions:

> We speak of social integration in relation to the system of institutions in which speaking and acting subjects are socially related [*vergesellschaftet*]. Social systems are seen here as *life-worlds* that are symbolically structured. We speak of system integration with a view to the specific performances of a self-regulated *system* (LC, 4).

While the life-world perspective relates to the normative structures of social integration, that is, to claims of validity, system theory is interested only in a

3 Habermas' relation with Marx is quite ambiguous and did change considerably from his early writings to his late work. I will not discuss it here (on the topic see among others Love 1995 and Melo 2013).

descriptive account of integration and transforms questions of validity into questions of behavior (LC, 6).[4] Starting from this distinction, Habermas proceeds to discuss the Marxian concept of social formation, according to which, "the formation of a society is, at any given time, determined by a fundamental principle of organization, which delimits in the abstract the possibilities for alteration of social states". Principles of organization are "highly abstract regulations", but we shall see that they have markedly concrete effects in allowing societies to reach new levels of development (LC, 7).

Despite the Luhmannesque terminology, Habermas understands the exchange between social systems and their environment from a perspective that in other writings he defines as Hegelian (Habermas 1973). Accordingly, this exchange happens in production and socialization, that is, through the appropriation respectively of the outer and inner nature of society's members. Habermas identifies three universal proprieties of societies. First, in the development of societies, there are changes both to our capacity for appropriate outer nature (increases in scientific and technical knowledge) and to the justification of norms for socialization. The second property is formulated in Marxian terms: changes in social values and goals are "a function of the state of the forces of production" and are limited by the "development of world-views [*Weltbilder*] on which the imperatives of system integration have no influence" (LC, 8). This property is connected to the first one, insofar as "normative structures can be overturned directly through cognitive dissonances between secular knowledge – expanded with the forces of production – and the dogmatic of traditional world-views" (LC, 12). This does not mean, however, that these changes will bring about precisely the normative structures demanded by the systemic functions. There is a tension between the systemic logic, which aims at steering social processes, and the "inner environment" of socially related [*vergesellschafteten*] individuals. Inner nature is not passively available to systemic imperatives in the same way as (allegedly) outer nature. Otherwise, there would be no space for individual action, only for behavior. Individuals would be automata obeying the steering commands of the system. This would lead to full domination and make emancipation impossible – a perspective Habermas considers implausible. Finally, the third property is that the level of development of a specific society is determined by its learning capacity, which on its part is limited by its institutional structures (LC, 8). These properties are common to all societies, no matter how developed they are, and independently from their principle of organization.

Habermas' next step is to analyze four different social formations.[5] The first

4 This is not tantamount to claiming that social and system integration concretely represent two different phenomena unrelated to each other as claimed, e.g., by Mouzelis 1992.

5 I cannot discuss Habermas' theory of social evolution in this context. See Habermas 1979 and Rockmore 1989.

is the primitive [*vorhochkulturelle*] social formation, whose organizational principle concerns the role of age and sex: "Family structures determine the totality of social intercourse," securing at the same time social *and* system integration, socialization, and production (labor). An absence of classes and no exploitation of labor power characterize this formation. Labor and socialization are organized according to criteria of age and sex within families and the tribe. This kind of society has very limited capacities for learning and consequently narrowly limited steering capacities. Therefore, it usually collapses under external pressures, such as war, conquest, and ecological disasters.

The next three social formations are characterized by the existence of classes. The first is the pre-modern, pre-capitalist traditional society, whose principle of organization is political class domination. Outer nature is no longer appropriated through the familial organization of labor but through the private ownership of the means of production, making space for the rise of specialized subsystems, which in later formations will become the systems of economy and bureaucracy. With the rise of a class of owners of means of production, a class conflict arises that might threaten social integration. The new status quo needs to be justified by unimpeachable new worldviews. Political power is, therefore, exerted also to make sure that claims that could question the status quo are removed from public debate. However, internal conflicts unavoidably arise since such claims cannot be indefinitely repressed. In Europe, for instance, the Feudal system gave way to modern bourgeois society. In the description of this passage from a traditional to a post-traditional social formation, one can observe the implicit normativity of social systems in the form of validity claims that question the status quo and can be solved only communicatively, opening up the possibility for social critique and change.

The next social formation is liberal capitalism, whose "principle of organization is the relationship of wage labor and capital" (LC, 20) as defined by bourgeois civil law. Class domination is no longer exerted politically, as it was in Feudalism through aristocratic rule, and becomes anonymous, since the political rulers can no longer be immediately identified with the economically dominant class. System integration is granted through economic exchanges, but a major role is played now by the state, which "serves above all to maintain the general conditions of production." Its power is exerted to protect commerce through the legal system; to shield the market from self-destructive side effects (e.g., by legally protecting labor against excessive exploitation); to guarantee the material precondition of the economy (e.g., through public education of the workforce and through publicly sponsored or initiated construction of infrastructures); and to create the legal mechanisms necessary for capital accumulation (fiscal and business law, regulation of the banking system, etc.) (LC, 21). The new dominant class, the bourgeoisie, is not submitted

to the same legitimacy demand as the aristocracy during Feudalism. Since the latter directly exerted political power, it had to justify its position of power. But the economic power of the bourgeoisie is formally uncoupled from political power. The bourgeoisie, therefore, need not justify their exclusive ownership of the means of production. The absence of the normative burden of legitimation allows them to adopt a strategic-utilitarian morality and a purely instrumental attitude oriented exclusively towards valorizing capital. The relation between capital and wage labor, between capitalist employers and proletarian employees, is not regulated by moral norms but by impersonal laws such as those which establish a direct relation between demands for and offers of labor, on the one side, and wage levels, on the other. However, the economic system is exposed to repeated crises, as Marx observed when he described the unavoidable "fluctuation of prosperity, crisis, and depression" (LC, 23) or when he formulated the tendency to the diminution of the profit rate. In this social formation, crises have their roots in the very nature of capitalism, not in external changes, like in primitive societies, or open class conflicts, like in traditional societies. The process of economic growth produces "at more or less regular intervals" steering problems that it is not able to solve and that therefore endanger social integration (LC, 25). Class and social conflicts become unavoidable, and "economic crisis is immediately transformed into social crisis" (LC, 29). At the same time, since economic relations – differently from political ones – are anonymous, economic crises appear as natural events or catastrophes (LC, 30). How, then, does liberal capitalism overcome these difficulties?

It does not. It metamorphoses instead into advanced capitalism, which is characterized by two phenomena that mark the end of competitive liberal capitalism. The first is "economic concentration," that is, "the rise of national and, subsequently, of multinational corporations" and a corresponding reorganization of markets. The second is the intervention of the state in the market to close functional gaps (LC, 33).[6] This intervention forces the state to significantly enlarge its administrative system, so it can plan and regulate economic cycles and create and improve "conditions for utilizing excess accumulated capital" (LC, 34). This is one of the most discussed passages of the book, since it contains one of its most relevant diagnoses on the relationship between the state and capitalism. Concerning global planning, the state intervenes by manipulating the boundaries within which private enterprises make decisions. It does so "in order to correct the market mechanisms with respect to dysfunctional secondary effects" (e.g., by offering incentives for companies to open factories in underdeveloped regions). In its interventions, the state can even *replace* market mechanisms by creating or improving "conditions for the realization of capital." This happens when the state strengthens the competitiveness

6 I shall not discuss here whether this diagnosis is indebted to Pollock's theory of state capitalism.

of national enterprises, for example, by joining supranational economic blocks or organizations like the WTO, but also by adopting imperialistic or colonial policies. Furthermore, it can increase unproductive state consumption (purchasing armaments is a typical example). It can guide through incentives “the flow of capital into sectors neglected by an autonomous market.” It can improve infrastructures – both material (transportation, education, health care, urban and regional planning) and immaterial (e.g., through investments in research and development). It can increase labor productivity through a public system of vocational education. It can overtake “the social and material costs resulting from private production” like those provoked by unemployment and environmental destruction (LC, 35). In assuming these tasks, the state re-couples the economic to the political system, creating an increasing need for legitimacy that is satisfied through the introduction of *formal* democracy. According to Habermas, if *substantive* democracy were introduced, this “would bring to consciousness the contradiction between administratively socialized production and the continued private appropriation and use of surplus value” (LC, 35). This contradiction becomes evident in blatant cases of privatization of profits and socialization of costs, such as the bailing-out of the banking system following the financial crisis of 2008. Otherwise, it remains latent since administrative decisions are presented as merely technical measures that do not need citizens’ approval.

The loyalty of citizens is granted then through material and immaterial means. The state fosters what Habermas calls civic privatism: “political abstinence combined with an orientation to career, leisure, and consumption.” To this end, the state uses the educational system to promote “an achievement ideology” that some years later shall be functional to what has been called the neoliberal turn, which Habermas of course could not have foreseen. None of this, however, guarantees the state against legitimation crises. While administrative decisions can lead to rationality crises (when such decisions fail to fulfill economic imperatives or to offer the right conditions for the valorization of capital), legitimation crises arise when the state is not able to maintain “the requisite level of mass loyalty” (LC, 46).

Habermas, therefore, attributes different roles to the state in liberal and in advanced capitalism. While in the former it has merely to grant the formal conditions under which competition within a free market is possible, in the latter, it intervenes actively in the economic system. It does this not only to correct the unavoidable problems generated by the market system but also to create and improve material conditions for capital realization. The state is not a superstructure whose merely mechanical function is to allow the base to maintain itself and function flawlessly (which would be impossible anyway). Without direct state intervention, capitalism would still encounter the problems it faced during its liberal phase.

To exist in the long term, capitalism requires a non-capitalist actor (the state)

to create the conditions that are necessary for its existence and that it cannot create itself. In advanced capitalism, the state controls the market so the latter can exist. It curbs competition so that competition can be possible. It creates the material and immaterial infrastructures that make a market economy possible, but that market economy alone cannot create. By introducing legislation to protect the environment and by implementing welfare policies to provide a safety net for the unemployed, it compensates for those damaging effects of capitalism that threaten to undermine its very material conditions, namely the existence of an outer nature to be appropriated and the loyalty of members of society and their integration into the economic system (the state grants, in other words, the existence of a socially integrated inner nature). To put it bluntly, capitalism would cease to exist without state intervention. At the same time, the state focuses increasingly on its economic and administrative functions, while at the same time trying to achieve the necessary legitimation from citizens through a merely formal democracy that subtracts most of its decisions from their participation and through welfare mechanisms that transform them into passive recipients of public services and benefits.

3. *Theory of Communicative Action* (1981)

In *Theory of Communicative Action* (Habermas 1984; henceforth *TCA*), Habermas recurs again to the idea of social evolution and to the distinction between archaic and modern societies, but within a significantly different theoretical context. It may appear that Habermas, by recurring to authors like Weber, Husserl, or Schutz and by declaring the base-superstructure model obsolete, has definitely abandoned the Marxist frame of *LC*. At the same time, however, he creates a model that gives a new meaning to these Marxian notions. At first sight, Habermas introduces a dualist model of society, which appears to be formed by the life-world and by two systems separate from and opposed to it. From the perspective of participants, society appears as a life-world, “as a reservoir of taken-for-granteds, of unshaken convictions” (TCA II, 124). It is the horizon within which individuals are socially integrated and collectives maintain their identities. It is the space of society’s symbolic reproduction, but it also influences how material reproduction takes place. It is communicatively mediated, so that when taken-for-granted worldviews or norms are questioned, a discourse originates. Within this, participants, who are oriented towards mutual understanding, discuss different validity claims and accept or reject them based on arguments. Following Parsons, Habermas mentions three structural components of the life-world: culture, understood as the “stock of knowledge” that individuals use for their reciprocal understanding; society, defined here as the “legitimate orders through which participants regulate their memberships in social

groups;" and personality, understood as the set of "competences that make a subject capable of speaking and acting", asserting their own identity (TCA II, 138). Culture, society, and personality stand in different reciprocal relations that, over time, are modified through structural differentiations within the life-world; these correspond to what Weber has described as processes of rationalization (TCA II, 146). I will not discuss this here, but relevant for us is that the life-world is not stable and static but undergoes internal changes due to the rising of "problems of self-maintenance" concerning its material reproduction. This gives way to "dynamics of development" (TCA II, 148) that lead to a process that corresponds to the development of social formations discussed in *LC*. In *TCA*, Habermas redefines it by specifying within it the roles of culture, society, and personality.

Before discussing this, we must address a passage in which Habermas speaks of three "fictions" that result from unduly identifying society with the life-world. The first fiction is that individuals autonomously enter social relations, so that the very formation of society "takes place with the will and consciousness of adult members," as both neo- and classical liberalism like to imagine. The second fiction is that "culture is independent from external constraints." The third fiction is that individuals "assume that they could, in principle, arrive to an understanding about anything and everything" without being coerced by force (TCA II, 149f.). These fictions are typically assumed by the members of a life-world. Since, however, their actions are coordinated not only through communicative action aimed at reciprocal understanding but also through "functional interconnections" that are unintentional and usually imperceptible, they have the impression of facing quasi-natural forces on which they have no influence. A typical example of this is the market, which, in capitalistic societies, "is the most important example of a norm-free regulation of cooperative contexts" (TCA II, 150). Since individuals do not grasp its functioning from their perspective as participants, the market appears to them as part of the outer nature, while its mechanisms impose on them like natural catastrophes. But there is some truth in this impression. Modern societies reach a level of system differentiation in which "increasingly autonomous organizations," like the market, are connected through media of communication that are not linguistic, like money. This reinforces the impression that these organizations cannot be controlled through a communicatively reached consensus and rather obey an internal logic, which is independent from communicative action and consent-based social norms. In particular, modern societies see the emergence of two spheres, economy and bureaucracy, "in which social relations are regulated only via money and power" and not through consensual norms (TCA II, 154). These spheres *appear* then as autonomous systems to the members of society, who assume the attitude of mere observers (although, in reality, they actively participate in their functioning).

In *TCA* Habermas offers a more detailed version of his theory of social development, which aims to better explain how the passage from one form of society to the next takes place. In particular, he gives more attention to archaic societies, since they offer an optimal counterpoint to modern societies and allow for a better understanding of their peculiarities. For example, the case of the trading of women for marriage, which Habermas sees as being in anticipation of exchange relations in modern markets (TCA II, 165f.). It is at this moment that he recurs to the Marxist notions of base and superstructure and tries to actualize them. As we saw, problems of maintenance of the life-world arise primarily on the level of its material reproduction and are solved through the differentiation of apparently autonomous systems: economy and bureaucracy. Thus, we can reinterpret the Marxist notion of base as indicating not just the economic structure of a given society (its mode of production) but, more generally, the complex of institutions that "anchors the evolutionary leading system mechanism in the life-world." The term "base" designates, then, "the domain of emerging problems," which explains the "transition from one social formation to the next" (TCA II, 168). In archaic societies, the material reproduction of the life-world takes place without systemic differentiation: base and superstructure coincide. In traditional and modern societies, this differentiation arises when "the power mechanism detaches from kinship structures," producing a new organization, the state. It is only "in the framework of societies organized around a state" that we see the rise, on the one side, of markets that are steered by the medium of money and, on the other, of a strong administrative system that becomes increasingly independent from existing consent-based social norms (TCA II, 165).

This has relevant consequences for the life-world, that is, for culture, society and personality. Members of the society are classified not by birth (like in kinship-based societies) or by possession (like in hierarchically organized traditional societies), but by their position in the process of production (they are either capitalists or wage earners). The normative legitimation principle of capitalist society changes, then, because of an internally caused legitimacy crisis. That is, it alters through the critique and normative demands advanced by social groups like the rising bourgeoisie, who now have the power to question the status quo. The new classes develop a specific life-world and specific value orientations so that social integration increasingly has to take place through the systems that grant society's material reproduction, namely economy and public administration. This creates a relationship of dependency of the life-world (better: of the different life-worlds) on these subsystems. Since these are perceived to be norm-free, individuals acting within them tend to assume a strategic attitude instead of a communicative one. Their interaction is increasingly mediated through money and becomes therefore dominated by the principle of economic exchange. Encroachment of the life-world through the subsystem

takes place, for which Habermas uses the word "colonization." But he describes this process also with a language strongly reminiscent of Lukács' theory of objectification (*Vergegenständlichung*):

> These systemic interconnections, detached from normative contexts and rendered independent as subsystems, challenge the assimilative powers of an all-encompassing life-world. They congeal into the "second nature" of a norm-free sociality that can appear as something in the objective world, as an *objectified* context of life (TCA II, 173; emphasis by Habermas).

The difference between naturalization and objectification is not immediately clear. In both cases, the system appears as something external that escapes both individuals' knowledge and their control. Objectification, however, seems to be the pre-condition for naturalization. It is only after the economy has "burst out" from the life-world and has become inaccessible to the intuitive knowledge of individuals that it can assume the character of second nature.

This characterization of the economy as a norm-free system stands in apparent opposition to Polanyi's idea that the market economy is firmly embedded in a web of social norms that makes its functioning possible at all (Polanyi 1944). From this perspective, the economy is far from being a norm-free sphere. Habermas seems here to follow Luhmann closely and to make "a black box" of the economy (Jaeggi 2016; Fraser and Jaeggi 2018, 5), whose mechanisms elude every attempt to understand and control them. Most importantly, they appear to be immune to any normative critique. It is tempting to accuse Habermas of overlooking the intertwined nature of the economy and the life-world. The economic sphere is imbued by the knowledge, values, and social norms produced in the life-world: individuals can assume a role and act within the economic system only because they have been socialized in specific ways. At the same time, the life-world increasingly incorporates economic rationality, which influences not only the kind of knowledge that is sought and produced (mostly scientific knowledge that can translate directly into technological innovations for productive processes) but also the creation of new values and social practices that facilitate individuals' integration into the economic system. This, however, is precisely what Habermas describes under colonization. The *analytical* distinction between life-world and economy as a system does not imply a real, *ontological* distinction. As Habermas claims, "every new leading mechanism of system differentiation must […] be anchored in the life-world" (TCA II, 173). The rise of apparently independent subsystems allows for coordinating action through non-linguistic media like money and administrative power. This, for its part, facilitates strategic action substituting communicative action, first in the spheres of economy and bureaucracy and later in the life-world itself. But it is precisely these processes that show how system and life-world are never neatly separated and influence each

other (TCA II, 186). From this point of view, Habermas' conception of capitalism seems to anticipate Jaeggi's idea that capitalism is a form of life sustained by a set of social practices developed to cope with problems of social steering and social reproduction, among others (Jaeggi 2018).

The colonization of the life-world can take place only because the systems are anchored in it and need the kind of social integration that only it can grant. If the life-world needs the systems for its material reproduction, the systems need the life-world to come into existence in the first place and to keep functioning. But this relation is not pacific. The systems have functional needs that they seek to still by forcing the life-world to meet the conditions under which they can work according to their logic: they need a specific kind of technical knowledge, social norms and practices, and individual personality. Systemic integration is based on a specific kind of social integration. At the same time, systemic integration threatens social integration precisely because it subjects it to its steering imperatives. These obey a logic that is very different from that of social integration. In capitalistic societies, the economic system obeys the logic of an unlimited valorization of capital and submits to this imperative every action that occurs within it. When the existing forms of cultural, social, and individual reproduction start adapting to the needs of a capitalistic economy, they also adopt its logic, which tends to disrupt and radically transform the very kind of social integration that it needs to keep the economic system going. In other words, the systems cannot autonomously reproduce the social conditions for their survival. At the same time, they threaten with their demands precisely that life-world which is the unique source of the forces that guarantee the fulfillment of those conditions, among which symbolic legitimation (a normative condition) is preeminent. From this point of view, Habermas appears less distant from Polanyi. In a reply to his critics, he even makes a remark that puts him rather in his proximity: "commercial enterprises and government offices, indeed economic and political contexts as a whole make use of communicative action that is embedded in a normative framework" (Habermas 1991, 256). Furthermore, he identifies possible causes of crises in capitalism that go beyond the purely economic problems Marx identified. Marx had, however, foreseen that capitalism would ultimately encroach into every aspect of modern life and deeply modify social and human relations while at the same time becoming an objectified force (a term that Marx does not use) that will appear to individuals as second nature (a Hegelian term that Marx *does* in fact use).

4. From *The New Obscurity* (1985) to *Between Facts and Norms* (1992) and to the essays on Europe (2010s)

In *LC* Habermas attributed to the state the role of protecting capitalism from itself, that is, from the consequences of its own logic and steering imperatives. In 1985, in the essay *The New Obscurity* (henceforth *NO*), he observes that the state is increasingly failing to fulfill this task. The crisis of the welfare state, which Habermas had already diagnosed and has worsened in recent decades, is provoked by the excessive demands that capitalism places on the state. These can be direct when state intervention becomes necessary to avoid or to remedy economic crises; or indirect, when the state has to adopt welfare policies to compensate for the negative consequences of economic crises or of other phenomena like delocalization and outsourcing that characterize global capitalism. These policies are also necessary to guarantee a minimum amount of loyalty among citizens, so it seems that their implementation is in the interest of capitalism itself. Once again, however, capitalism seems to be unable to reproduce autonomously the conditions of its survival when it opposes these policies.[7]

In *NO* Habermas refers to developments that have taken a dramatic relevance in our time: the problem of unemployment due to delocalization; the increase of inequality among countries and within single societies; the rampaging destruction of the environment for economic reasons; the potentially catastrophic consequences of new technologies that threaten to upset the traditional process of production by making human labor more or less obsolete, or that, instead of liberating humans from labor, create unemployment and pressure those who keep their jobs, forcing them paradoxically to work more than before (NO, 2). In this essay, however, Habermas primarily focuses on the nation-state, while globalization becomes the object of his later essays. Among its direct economic tasks ("nurturing capitalistic growth, tempering economic crises, […] securing the international competitiveness of business"), the nation-state had to reduce class antagonism and guarantee the loyalty of the workers by employing "democratically legitimated political power". In other words, "state intervention" was supposed to "ensure a peaceful co-existence between democracy and capitalism" (NO, 6). For numerous reasons, this task was doomed to fail.

Firstly, "from the very beginning," the state proved to be "too narrow a

7 I am aware of the difficulties implied in using the very term "capitalism" in this context, since it is not a rational actor, but an economic system; the only real actors are individuals or companies, which follow the imperatives of capitalist economy and instrumental rationality, but are unable to see the larger picture and grasp the problems they are provoking precisely by acting accordingly to the systemic imperatives – problems that threaten their own existence as capitalist actors. I am using here the term to refer to these epistemically and motivationally limited actors.

framework" to adequately secure economic and welfare policies directed "against the imperatives of the world market and the investment policies of international business firms" (NO, 7). In other words, it was (and still is) extremely difficult for the nation-state to control and oppose international market forces. This has to do, on the one side, with their objectification and naturalization, which make it impossible to grasp their functioning and, therefore, to steer their action; on the other side, these globalized forces do, in fact, possess a power that goes beyond any possible control through a single national government, no matter how powerful. Secondly, to confront the problems caused by the global development of capitalism, the welfare state faces increasing costs that should be met through economic growth the state itself can no longer foster. On the contrary, globalized market forces often threaten national economic growth and force national governments to adopt economic policies that offer optimal conditions for capital at the cost of tax revenues and labor protection. This undermines the possibility of adopting welfare policies that are necessary because of this very development in capitalism. Once more, capitalism itself undermines the very conditions on which it rests.

Further, Habermas mentions the risks connected to the bureaucratic system. He denounces the growing relevance that administrative power has gained in everyday life due to the difficulties faced by the welfare state. With this development, the interventionist state itself becomes a force that needs to be "socially contained," just as with globalized capitalism (NO, 13). At the same time, if the state were to exert self-restraint (something impossible to demand from capitalism), it would lose its capacity to adopt the social policies required by the economic developments and would therefore become unable to guarantee legitimacy, the loyalty of the citizens and the peaceful co-existence of democracy and capitalism. Habermas, therefore, concludes that the welfare state faces an impasse (NO, 14).

While in *NO* Habermas laments the loss of utopian forces as a consequence of the naturalization of the market forces and the bureaucratization of political power, in his later writings, he seems to have fallen prey, if not to naturalization, to some form of objectification of capitalism. Instead of analyzing the progress of neoliberal forces in terms of his theory and showing how, in advanced capitalist societies, the life-world ends up producing precisely the kinds of world-views, social norms and practices, and individual capacities that fostered the triumph of neoliberal ideas (that is, instead of explaining how the life-world produced the normative legitimacy for a new form of capitalism), he focuses on the shortcomings of the welfare state and places his bet on the capacity of a renewed democratic legal system to oppose the colonization of the life-world by economy and bureaucracy. This hope remains central in *Between Facts and Norms* (henceforth BFN).

In this book, whose original German edition came out in 1992, capitalism does

not figure prominently. Habermas decides to follow Weber by anchoring the legal system to the impersonal and rational morality that characterizes modern societies. This choice for a basically Weberian explicative model marks a departure from the Marxist perspective of his earlier writings and of the first generation of the Frankfurt School, for example, from Franz Neumann, who wrote on similar issues.[8] In *The Rule of Law* (1936; German translation in Neumann 1980), Neumann reconstructed the genesis of modern right by showing, based on historical examples, its strict connections to the rise of capitalistic relations and modes of production. According to him, modern right is grounded on a fundamental tension between the liberal principle of private property and the democratic principle of equal participation. Habermas picks up this idea (without reference to Neumann) but instead of referring to the historical social conflicts discussed by Neumann, he debates Rousseau's idea of popular sovereignty and Kant's conception of individual rights. This marks a change of perspective in Habermas' approach.

In *LC* and *TCA*, Habermas described modern right as a result of systemic differentiation and explained its genesis in terms of rationalization by highlighting mechanisms of social developments that went far beyond the rise of a principled morality (although he had already established a connection between rational right and rational morality in those writings). Modern right has been instrumental to the process of systemic differentiation that gave rise to capitalism. Capitalism would have been impossible without modern right, and modern right owes its principles to the steering imperatives of the capitalist economy. This strict interconnection, which was analyzed also by Neumann, is virtually absent in *BFN*, where sociological reconstruction gives way to theoretical comparison and the evaluation of legal theories. One possible reason for this could be that in his analysis of late capitalism, Habermas diagnosed that capitalism and democracy might emerge as incompatible if the former were to follow its tendency to evade political control. This might explain his growing interest in the political and legal instruments that could allow for this control. In other words, Habermas seems to have assumed that there was not much he could add to his diagnosis of late capitalism and its tendencies; for this reason, he probably felt the need to focus on the possibility that right and the state might counter these tendencies.

That in *BFN* Habermas does not mention the relevance of modern right in establishing the legal conditions that permitted the rise of capitalism, not only by regulating the market but also by allowing for the process of primitive accumulation

8 Nor does Habermas refer to the writings of Otto Kirchheimer, the other specialist on Law and State theory close to the Frankfurt School, although his and Neumann's books had been published by Suhrkamp from the 1960s. Habermas must have been aware of this because of his role at Suhrkamp (Müller-Doohm 2016, 102-108,151-153, 318-319). In the introduction to *Students and Politics* (1958) Habermas even uses some of Neumann's analyses (Habermas 1961).

denounced by Marx[9] and for the accumulation of large family fortunes (through laws regulating inheritance, family trusts, etc.),[10] testifies also of the tendency to objectify capitalism that we encountered in *NO*. Instead of referring to the historical conditions that shaped modern right in Western societies and at the same time allowed for the rise of capitalism, Habermas discusses modern right exclusively from the point of view of its alleged universal character, following Weber's theory of rationalization, which he 'mitigates' by introducing the idea of an internal tension between the factual and the normative validity of right. On the one side, this idea allows him to understand modern right as a possible tool for slowing down and possibly reversing the process of colonization of the life-world precisely thanks to its universal normative character. On the other side, however, he seems to overlook that modern right has historically been the tool through which the bourgeoisie established its class privilege and relentlessly pursued its ideological and material interests. While he is right in stressing the normative, potentially emancipatory aspects that characterize modern bourgeois right, despite its original function, he does not consider that this original function may irremediably limit those emancipatory potentialities, for instance, by presupposing a certain kind of legal subject (an individual characterized by the exclusive ownership of natural resources and/or of their fruits).[11] While the legal establishment of private property, for instance, may have represented a gain for individual freedom, certain forms of private property provided the basis for the exploitation of the many by the few. The fact that modern right establishes the individual ownership of land and other commons as sacrosanct is not irrelevant for a critical theory of society, since it represents a major obstacle to establishing the material conditions for emancipation. Modern family right, as defined in legal codes in most capitalist countries, established male domination as the rule and legally enshrined the exploitation of the female body for social reproduction. The fact that owning slaves was for centuries a legitimate form of property, or that miscegenation was legally proscribed, established racial privileges that still very much exist, along with class and gender privileges. But there is no mention of these negative effects of *historical* modern right in *BFN*.

It seems that Habermas is convinced that modern right can become an emancipatory force thanks to its formal features and independently from its material content. Its universal character, its procedural mechanisms for legitimacy, and its alleged intrinsically democratic nature could (or will?) eventually prevail, even if its origins and its historical content led to domination and the colonization of the life-

9 In *Capital*, Bk I, ch. 26 and following (Marx 1990, 873ff.). For a wider reconstruction of primitive accumulation see Meiksins Wood 2002.

10 On this aspect see Piketty 2014.

11 Of course, Habermas' theory does not presuppose such a legal subject. However, all legal codes that were established in capitalist countries during modernity do.

world. After all, it is mostly through legal norms that social progress has taken place in the last two centuries, for example, with the introduction of labor rights that increasingly protected workers and the extension of civil, political, and social rights to wider sectors of the population. It seems that Habermas prefers to draw on these positive experiences while neglecting the circumstance that right is still a powerful instrument for maintaining the status quo and for implementing class interests. This is insofar legitimate as he aims to highlight the emancipatory potentialities of right; on the other hand, however, he does not put into their historical context the undeniably relevant social advancements that emerge from modern right. They were the result of long, often violent struggles and were obtained by social movements against the will of dominant groups (be they capitalists, men, heterosexuals, or white people) who had the existing right on their side. Such conquests are not definitive, however, as shown by the constant erosion of social rights following the fall of the Eastern Block and the subsequent 'triumph' of neoliberal capitalism. Right remains a tool that can be used for opposite goals, for emancipation as well as for domination.[12]

As a consequence of his trust in the emancipatory potentialities of right, in *BFN* as well as in the later short writings on globalization and the European Union (e.g., Habermas 2000, 2009, 2013, and 2015), Habermas focuses on the possibility of controlling global capitalism by recurring to a democratically produced legal and political power. In an interview he gave in 2009, for instance, he blames politics, not financial capitalism, for the 2007/8 crisis. In his view, politics failed to curb financial capitalism, while the speculators "were acting consistently with the established legal framework, according to the socially recognized logic of profit maximization. […] Politics, and not capitalism, is responsible for promoting the common good" (Habermas 2009, 184). While he is certainly right in blaming the politically generated deregulation of the financial market, he seems to give insufficient consideration to the economic imperatives that globalized capitalism imposed on politics. He underestimates the power of these imperatives and the limits they impose on political action (this attitude might be a consequence of the general lack of a theory of power in his thinking, as many interpreters have observed). Such a socioeconomic diagnosis would allow him to denaturalize capitalism *and* see its present neoliberal form as the consequence of specific political actions. Instead of this, he prefers to lament a lack of democratic control, while merely observing that the logic of profit maximization is now widely socially accepted, without questioning this acceptance and how it was attained.

12 A good example of this is the legal protection of intellectual property, which might even have deadly consequences in the case of pharmaceutical patents.

5. Final Remarks

We have started this article by mentioning Streeck's critique of Habermas' diagnosis of the dangers that threaten democracy. Streeck claims that for Habermas the enemy now is bureaucracy and not globalized capitalism, to which "at some point in the evolution of his social theory" he has "granted immunity," coming to redefine "the interests vested in it into 'problems' calling for technical 'solutions'," thereby opening the door for the very technocratic view he explicitly wants to avoid (Streeck 2017, 248). According to Streeck, the fact that Habermas considers the European Monetary Union and the introduction of the Euro as something positive, whose only problem is the lack of democratic management, is just an example of his inability to understand the vested economic interests underlying such projects.[13]

While we agree with Streeck on his general criticism, the real issue is not that Habermas has "granted immunity" to capitalism but that he has somehow come to objectify it, as we claimed above, and that it has stopped following its transformations and the increasingly sophisticated strategies it adopts to impose its logic not only on the life-world, but also on politics and bureaucracy. In his late writings, including *The Lure of Technocracy* (the book critically reviewed by Streeck), Habermas' main issue is to find a way of tackling the negative consequences of globalized capitalism as if it were a matter of finding the best way to react to a natural catastrophe. He (rightly) criticizes the economic and monetary strategies adopted by the European Union and its member states for not being democratic enough. Still, he does not discuss the material causes that made those strategies unavoidably fail, that is, the very market forces whose negative effects they were supposed to remedy. It is not that Habermas no longer considers capitalism the enemy to be fought; rather, he focuses on possible remedies for the pathologies it provokes, but he does not offer a convincing diagnosis of those pathologies and their origins in the first place. He seems to consider globalized capitalism and its strategies as a fact that cannot be avoided and does not ask for theoretical explication. While the accusation of sociological deficit that was advanced against him in the 1980s was quite ungrounded, it seems that this criticism can be moved with much greater justification since the publication of *BFN*. It remains to be seen whether it is possible to elaborate a more radical critique of capitalism based on an actualization of Habermas' position from the 1970s and 1980s, but this should be the object of another text.

13 "What is wrong with the Europe of monetary union, Habermas implies, is not that it is pro-capitalist, or subservient to capitalist interests, but that it is – contingently – non-democratic, thereby subverting the struggle against the real enemy, nationalism" (Streeck 2017, 251).

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