

## **Habermas on democracy and human rights**

Habermas' approach to democracy is above all procedural. Through open public argument and discourse, complex societies can engage in moral and political decision-making. This argumentative procedure's most important prerequisite is that all are equally free to contribute to the discussion, no participants may be prevented by internal or external coercion from exercising their rights, and that the outcome of the discourse is guided by the force of the better argument. The discourse participants' intentions must be communicative and not strategic in their joint effort to reach mutual understanding. Moral and political decision-making can only be validated through this open and intersubjective argumentation where only those norms which can meet with the approval of all affected parts, can claim legitimacy. This establishes a moral and cooperative relationship between the participants and is the foundation of the organization and integration of complex societies. Here Habermas converts his discourse ethics into democratic theory and institutionalizes the rational discourse through a system of rights and law-making. The liberalistic approach to democracy may be characterized in terms of its emphasis on a constitution and human or constitutional rights as means of protecting the private autonomy of citizens. In contrast, Habermas sees the constitution and the human or constitutional rights as the way to integrate citizens into larger, transindividual orders and are then not justified in the manner of traditional liberalism. Rights as a guarantee for participatory citizenship refer to the relationship of subjects and a social practice. They are a noninstrumentalizable values of civic self-organization which presuppose collaboration among subjects who recognize one another, in their reciprocally and intersubjective related rights and duties, as free and equal citizens based on mutual recognition and self-legislation. Politics must therefore be understood as a process of collective opinion- and will-formation, characterized by reasoned dialogue and of self-legislation according to which the addressees of law are simultaneously the authors of their rights - and not the simple aggregation of subjective preferences through voting. This opinion- and will-formation is most importantly diverted through the public sphere. Simultaneously this is not just a national concern but is a matter of agreeing upon and implementing shared global politics which require an intergovernmental coordination. I was fortunate enough to meet with Jürgen Habermas and ask his some questions concerning these topics.

1. I understand you hold the opinion that an efficient resistance against the excesses of neo-liberal economic reform has to be implemented through the political will of a united Europe. But how can the discourse democracy be integrated within EU according to your principle of democracy, and according to the decentralized society that you speak about in “Between Facts and Norms”? What are the prerequisites for building such solidarity and identity within the EU?

J.H.: The communications-approach to deliberative politics is intended to translate the strong normative assumptions of democratic theory into the complex framework of contemporary societies. That is to save our attachment to democratic ideals from the usual cynicism of so-called “realists”. One part of the model I developed in the book you mention is a division of labour between the “wild” communication flows among “weak publics” in the political public sphere, on one side and, on the other side, the institutionalized discourses, negotiations and decisions within parliamentary bodies, courts, administrative agencies etc. The requirements for what is expected from the large audiences of passive and in-attentive citizens can then remain low. They are expected to form over time pro- and con-attitudes to controversial issues which they pick in bits and pieces from the surrounding noise of public communication. In contrast to the low profile of an ethics of citizenship, a vital civil society must also produce actors, groups and networks that provide necessary inputs - relevant topics, informative contributions, and a broad range of pro- and con arguments. The actual problems, conflicts and failures within society must find an appropriate expression in the formation of public opinions, pushed through onto the formal agendas of political institutions.

Within our present nation states there are many causes for a deformation of the public sphere: the exclusion of marginalized classes and subcultures; the polarizing activities of fundamentalist groups; the lack of independence of privatized media from commercial

interests and political pressures, the restricted access that actors from civil society get to the media, the withdrawal of corporate politics from the public sphere etc. And yet, in societies with a pluralism of religions and world-views, it is only through the laundering functions of communication flows, filtered through the channels of a public sphere, that the democratic process (in combination with general elections) can confer legitimation to the political decisions of state institutions (the deliberations of which remain susceptible to the impact of public opinions)

This is why I think that the formation of a European public sphere, and of a civil society reaching across national borders, are now the most important requirements for any further step on the way towards a “deepening” of the European Union and a harmonization of national policies. The scenario for what we need is not so difficult to project - and not so unrealistic either. A European public sphere and cross-national civil society with a shared political culture must not be imagined as a new and higher layer over and above those arenas for public communication that are so far institutionalized only within the nation state. The existing arenas for nationally framed public communication must be mutually opened up for one another through trivial translations from one into the other languages. The same European topics must not only simultaneously become issues of controversy within paralleled national public spheres; the debate in any one must moreover proceed with the awareness of how the same debate develops in each of the other national arenas. As a first step, print media with nation-wide circulation in one country would have to engage in horizontal exchanges on the focus, tenor and context of the corresponding controversies in other countries.

2. The Norwegian peace researcher and Head of Transcend, professor Johan Galtung, said in the previous edition of Replikk that a solution to a more democratic world involves a democratic UN with, amongst other things, a UN elected by popular vote and the encouraging of “EU-like” constellations in Africa, Asia and Latin America. What is your opinion on these matters?

J.H.: I could not agree more with Johan Galtung on the shift that has taken place from the former national to the present post-national constellation. The need for international coordination and transnational harmonization of national policies is obvious. But we must be cautious not to discourage and undermine the project of an efficient political framework for

the international community by setting goals that can too easily be denounced as unrealistic. I suggest that we substitute the traditional cosmopolitan ideal of a world republic by the project of a “constitutionalization” of international law. What we need is a political constitution for an emerging world society which allows for global governance without a global government. The UN does not need any monopoly on the means for a legitimate use of force. That monopoly can well remain with the nation-states, once these states only learn to perceive themselves as members of an international community and to act accordingly. They can then empower, from case to case, a reformed and non-selectively deciding Security Council to take action under the supervision of a generally recognized International Penal Court. The required cooperation follows the familiar logic of systems of collective security.

Such an arrangement requires first a change in the conception of state-sovereignty. The sovereign state is authorized and obliged by the international community to grant, within its national borders, human rights and democracy to all citizens equally. These citizens enjoy, in addition to their national citizenship, the status of world-citizens and can, therefore, expect an effective intervention from the side of the United Nations in cases of an emergency, e.g. when a criminal national government violates the very civil rights, for the implementation of which it is given sovereign power. The second requirement demands from the United Nations both the strengthening of its capacity to act and a narrow focus on the core functions of maintaining international peace and implementing human rights across the world.

3. However, the global situation today can be characterized by two fundamental crises, the one related to the polarization between rich and poor, and the second to the ecological development. How would you relate the responsibility we have as democratic citizens to use our communicative competence concerning these two crises?

J.H.: Everybody can, of course, act in support of international NGO's like Human Rights Watch or Amnesty International, or he can join movements such as ATTAC. But as long as we consider an engagement within the limits of the normal role of national citizens they should, I think, use the national arena for having our governments engage in the difficult process of promoting a cosmopolitan order. You rightly insist on the fact that international peace-keeping and the global implementation of liberal and political rights are just one set of challenges. The challenge of global violence is no more pressing than the quest for a kind of

global domestic politics in view of the need to respond to the economic disparities between continents or the ecological imbalances across continents. We must take into consideration, however, the difference in the kinds of challenge and response.

It is one thing to ask governments to stay away from aggression and from violating human rights, but quite another thing to get nation states together in the joint effort of developing, agreeing upon and implementing shared policies. Global economic and ecological policies gravely intervene in the agenda of national politics and require not only negative but positive intergovernmental coordination. That is up for a rather difficult transnational bargaining, whereas the frame of the United Nations, even after the required reform, is not designed for such matters. If a global extension of domestic politics should ever become possible at all, it is only conceivable within the frame of a transnational organization, composed of continental powers each of which enjoys the democratic mandate of a union of nation states and also possesses the authority to strike and implement global deals. I am again in agreement with Johan Galtung, when he envisages the necessity of EU-like supranational associations in Asia, Latin-America and Africa. They would have to face negotiations not only with the only remaining superpower, but also with great powers like China, India and Russia. The EU is a candidate for such a role, but still in need of attaining the capacity to speak with one voice.

4. I would like to ask you about the more existential or concrete aspects of human existence. I know, for instance, from my own experience that when I am present at the Board of the philosophy department I want the last issues on the agenda to pass quickly, because I need a cigarette. Then what about what existentialists refer to as the special demands of the situation? Is it possible to reach the better argument when such distracting existentialistic elements are at play?

J.H.: Let's remain in the field of politics, where we always deliberate under the pressure of arriving at decisions in time. We engage in deliberation while being aware of the fact that we can't expect to reach unanimous agreement. We must not even expect agreement on the kind of question at stake - whether what has to be settled is up for negotiation and bargaining or whether an appropriate regulation of the matter can be justified in the light of empirical or rather pragmatic, legal, moral, or reasons. We agree on decision-procedures, e.g. the majority

principle. Let me suggest that the procedural combination of discourse and decision must be interpreted in accordance with the idea that the democratic procedure can only confer legitimation to the resulting decisions in virtue of both, the equal, however indirect inclusion of everybody and the quality of deliberation that grounds the justified expectation of reasonable outcomes. A majority vote can then be understood as the interruption of an ongoing discussion. The vote is due to the existentialist pressure of time and gives the majority, for a limited period, the authority to act according to their prevailing view. Whereas the idea of an ongoing debate leaves the minority with the hope to convince the majority in the meantime and to reverse the vote next time. This is how in democratic politics the promissory note of “rational discourse” is reconciled with what existentialists call “the demands of the situation”.

5. I think it would be approximately correct to say that you define rationality as a disposition of communicative- and acting-competence. If so, this disposition is a foundation for the participation in a moral discourse and maybe the overall definition of a moral subject. What about those who lack the capacity to speak, those with a mental disability, children, and the like. What is their status in moral discourse? And what is the moral status of animals?

J.H.: Look, the idea of a moral discourse shouldn't be interpreted in too rationalist a way. To argue from a moral point of view requires participants to mutually take the perspective of all the others. It is a rather demanding obligation to step in the shoes of any other participant: you are expected to interpret and assess competing interests and values from within the world-view and the self-understandings of them.

If we then consider the kind of advocacy which children or people with relevant disabilities need for a due consideration of their interests, we should not forget, what Dr. Vetlessen once pointed out to me: A moral discourse would not meet its cognitive purpose if it did not ask participants for empathy, and even sympathy, with whatever strange perspectives and distant forms of life. As far as our moral obligations for animals are concerned, we perceive them as participants in an - asymmetrical - interaction. In this respect animals occupy for us the role of second persons as well. That defines their moral status.

6. If one of your more recent articles was to be translated into Norwegian for a broader public, which one would you recommend?

J.H. An author always likes his most recent product best: Therefore I recommend the last essay of my last book with the title: "A political constitution for the global society?"