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# Jürgen Habermas

## Between democratic deliberation and deliberative democracy

*Simon Susen*

### **Introduction**

It is widely acknowledged that Jürgen Habermas is an advocate of a deliberative model of democracy.<sup>1</sup> In essence, Habermas's discourse ethics constitutes a systematic attempt to locate the normative grounds of deliberative democracy in the rational foundations of language. From a Habermasian point of view, every time we engage in the co-existential exercise of seeking mutual understanding (*Verständigung*), we anticipate that we are capable of reaching agreements (*Einverständnisse*). Put differently, our communicative ability to understand one another equips us with the deliberative capacity to reach agreements with one another. Thus, the emancipatory potential of communicative action manifests itself not only in our 'weak' orientation towards intelligibility (*Verständlichkeit*) but also in our 'strong' orientation towards consensus-formation (*Konsensbildung*). Language use, irrespective of its quasi-transcendental features, is embedded in the pragmatics of interaction. Symbolic forms emerge in relation to spatio-temporally contingent modes of existence, whose political constitution is reflected in the socio-ontological significance of discursively motivated practices, which are vital to the construction of democracy. This chapter aims to demonstrate that Habermas's concern with democracy is inseparably linked to his interest in language. More specifically, it seeks to illustrate that the following ten elements are central to Habermas's multifaceted account of democracy: (1) deliberation, (2) reciprocity, (3) self-determination, (4) citizenship, (5) the state, (6) sovereignty, (7) communicative rationality, (8) regulation, (9) will-formation and (10) constitutional law. The chapter concludes by addressing a number of issues that arise when confronted with the task of assessing both the validity and the usefulness of Habermas's communication-theoretic account of democracy.

### **1. Democracy and deliberation**

One of the most fundamental features of democracy is that it allows human beings to engage in processes of *deliberation*. Acts of collective deliberation are processes of intersubjective contemplation aimed at the construction of symbolically mediated and materially relevant

arrangements shaped by potentially empowering dynamics of action co-ordination. To deliberate, then, means to reflect, to ponder and to contemplate. More specifically, to deliberate with others obliges us to navigate our way through situations of purposeful interaction that require context-sensitive frameworks of communication. If, following Habermas, we ‘shift the burden of justifying the effectiveness of practical reason from the mentality of citizens to the *deliberative forms of politics*’ (Habermas, 1998b, p. 386, italics added), we move the weight of substantiating the anthropological distinctiveness of communicative reason from the cognitive capacity of the subject to the recognitive potential built into experiences of intersubjectivity. Democratic decision-making processes can never be based solely on the self-referential motivations of isolated individuals; rather, they are founded on the mutually dependent wills of interconnected actors. One of the main objectives of deliberative forms of democracy is to give a rationally grounded voice to members of a particular community, whose capacity to develop a sense of solidarity constitutes a precondition for guaranteeing the relative stability of symbolically mediated and relationally constructed realities.

Democratic modes of social organisation cannot dispense with rationally determined processes of collective deliberation. Only insofar as we deliberate collectively over the purposive organisation and normative habitualisation of society can we ensure that the course of history is guided by the transperspectival force of shared responsibility. In this sense, the ‘*linguistic turn*<sup>2</sup> in the social sciences, which is motivated by the rejection of the atomistic presuppositions underlying traditional philosophies of consciousness and the defence of the intersubjectivist assumptions underpinning post-metaphysical sociologies of language,<sup>3</sup> is homological to the ‘*deliberative turn*’ in social reality, which is characterised by a shift from an arbitrarily ruled collective entity to a discursively constituted order, whose key institutions enjoy a considerable degree of legitimacy in terms of their capacity to regulate behavioural and ideological reference points shared by members of a given community (cf. Susen, 2010c, pp. 110–111, 116–117; cf. also Susen, 2014b). If, following Habermas, ‘a *discursive or deliberative model* replaces the contract model’ (Habermas, 1994, p. 137, italics added) and if, as a result, ‘the legal community constitutes itself not by way of a social contract but on the basis of a *discursively achieved agreement*’ (Habermas, 1994, p. 137, italics added), then the normative cornerstone of a democratically organised society is not simply its formal commitment to producing and protecting judicially confined social relations but, rather, its *substantive* capacity to enhance its members’ active participation in collective processes of consensus-oriented deliberation.<sup>4</sup>

## **2. Democracy and reciprocity**

A further central feature of democracy is that it permits human beings to build social relations based on *reciprocity*. Indeed, systems of democracy depend on relations of reciprocity; that is, we can shape the development of society democratically only insofar as we co-ordinate our actions reciprocally. The whole point of democracy is to do justice to the fact that human existence is a condition of *discursive reciprocity*: not only do we need to reciprocate each other’s socially embedded actions, but we also need to reciprocate each other’s linguistically articulated reflections, in order to provide society with the solidity of a collectively sustained, communicatively structured and rationally justified background of normativity for the daily construction of reality. The overall stability of society is contingent upon its capacity to incorporate, and to respond to, the demands of its members’ intersubjectively negotiated search for context-specific forms of validity.

Our quotidian quest for symbolically mediated modes of validity is indicative of the meaning-laden nature of society. Our constant exchange of linguistically uttered claims to validity illustrates that even large-scale systems of political representation hinge upon small-scale spheres of communicative deliberation. Thus, ‘the *reciprocity* of raising and responding to validity claims’ (Habermas, 2005, p. 384, italics added) is maintained by an intersubjectively constituted process derived from the co-existential necessity of articulating and exchanging legitimacy claims: the validity of collectively co-ordinated actions depends on the normative power they obtain through *mutually* established codes of legitimacy.<sup>5</sup> Democracy, then, is inconceivable without reciprocity because of the interdependence of individual and collective freedom: ‘the individual liberties of the subjects of private law and the public autonomy of enfranchised citizens *reciprocally* make each other possible’ (Habermas, 1994, p. 141, italics added; cf. Susen, 2009b, pp. 104–105). Just as the discursively motivated reciprocity between subjects is crucial to the functioning of democratic processes of collective deliberation, the confluence of autonomy and solidarity is central to successful bonding processes generating empowering dynamics of social integration.<sup>6</sup>

### 3. Democracy and self-determination

Another significant feature of democracy is that, due to its capacity to foster social relations based on mutual understanding and agreement, it allows for the emergence of both individual and collective forms of *self-determination*. Individual self-determination and collective self-determination are two complementary moments in the human striving for autonomy: the self-determination of individuals is pointless if not granted by collectives, just as the self-determination of collectives is worthless if not supported by individuals.<sup>7</sup>

Following Habermas, there are four conditions for subjects’ free association within a democratic framework:

- a. the consolidation of an effective political *apparatus*,
- b. the formation of a more or less clearly defined ‘*self*’,
- c. the construction of a *citizenry*, and
- d. the creation of an economic and social *milieu*.

(see Habermas, 2003, pp. 88–89)

In other words, genuine forms of democracy need to draw on various *political, cultural, institutional* and *economic* resources of a given society to claim that they have the legitimate power to affirm their bonding function within the domain of a territorially circumscribed reality.

To the extent that ‘[t]he identity requirement for the determination of a collective subject capable of *self-determination* and *self-direction* is fulfilled by the *sovereign territorial state* of classical international law’ (*ibidem*, p. 89),<sup>8</sup> the right to both individual and collective autonomy is inscribed in the agenda of democratically organised societies. In essence, the right to self-determination and self-direction designates the legitimate capacity to define what one does and where one goes – individually or collectively. If subjects are granted the right to self-determine their actions, they are entitled to fill the space of historical indeterminacy with the self-empowering force of autonomy.<sup>9</sup>

According to Habermas’s account of autonomy, however, the right to both individual and collective self-determination obtains not only *force* but also *legitimacy* insofar as its carriers

are *actively* and *directly* involved in discursive processes of opinion- and will-formation. For assertions of self-determination are embedded in processes of communication. In this sense, self-government rests upon both communicative power and political power. ‘*Communicative power* is the power that emerges from the exercise of political autonomy, and hence cannot be separated from the discursive processes of will-formation, i.e., from *democracy*’ (Preuss, 1998, p. 331, italics added). And *political power* is the power that emerges from the exercise of communicative freedom, and thus cannot be divorced from the linguistic processes of social integration, that is, from *everyday intersubjectivity*. Democracy and self-determination, then, are intimately intertwined because our ability to shape the course of history through communicative processes of critical intersubjectivity is indivisible from our capacity to develop a sense of individual and social responsibility by mobilising our species-constitutive resources<sup>10</sup> through which we, as human beings, acquire a sense of both personal and collective sovereignty.<sup>11</sup>

#### 4. Democracy and citizenship

A further key component of democracy in modern society is its dependence on different forms of *citizenship*. According to *universalist* conceptions of citizenship, *civil, political and social rights* constitute integral elements of modern democracies.<sup>12</sup> According to *differentialist* conceptions of citizenship, *numerous* rights – that is, not only *civil, political and social rights*, but also several other rights, such as *cultural, sexual and human rights* – represent vital ingredients of late modern democracies.<sup>13</sup>

The historical significance of civil, political and social rights manifests itself in the existence of three institutions that are central to the functioning of modern society: the law courts, the parliament and the welfare system (see Turner, 1994 [1990], p. 202; see also Turner, 2009, p. 68). The present-day relevance of the struggle over further – for instance, cultural, sexual and human – rights is illustrated in the commitment of an increasing number of modern democracies to protecting their citizens from both hidden and overt mechanisms of social discrimination. In the modern world, the pursuit of democracy cannot be disconnected from ‘the struggle for, and attainment of, citizenship’<sup>14</sup> – the ideal of democratic freedom cannot be realised without a commitment to the construction of democratic citizenry (cf. Habermas, 2003, p. 88).

It is far from uncontroversial, however, what the main elements of a democratic citizenry are and to what extent complex forms of society require complex forms of citizenship (see Susen, 2010b). Notwithstanding the issue of addressing the multiple challenges posed by high levels of societal complexity, it is hard to deny that the genealogy of large-scale systems of democracy is inconceivable without the establishment of differentiated models of citizenry.

When reflecting upon the relationship between democracy and citizenship in the contemporary context, we need to face up to three historical processes, which – from a sociological perspective – are of paramount importance: (a) the consolidation of the *neoliberal* project, (b) the emergence of a *post-communist* world and (c) the rise of *multicultural* politics (see *ibidem*, pp. 260–262).

- a. If, under the *neoliberal* model, citizenship has been converted into a privatised affair of an increasingly *commodified* society, the question remains to what extent modern democratic systems have the capacity to undermine, rather than to reinforce, the detrimental effects of economic reification processes.<sup>15</sup>

- b. If, in the *post-communist* context, citizenship has been transformed into a universalised affair of an ever more *globalised* society, the question remains to what extent modern democratic systems have the capacity to cope with both the intra-national demands ‘from below’ and the supra-national pressures ‘from above’ in a world characterised by an intensified degree of interdependence of local and global developments.<sup>16</sup>
- c. If, following *multicultural* agendas, citizenship has been turned into a hybridised affair of a culturally *fragmented* society, the question remains to what extent modern democratic systems have the capacity to translate the presence of advanced levels of cultural complexity into an empowering resource, rather than a disempowering obstacle, in the pursuit of social stability, economic prosperity and developmental elasticity.<sup>17</sup>

In short, the increasing differentiation of society has led to the complexification of the dynamic relationship between democracy and citizenship.<sup>18</sup>

## 5. Democracy and the state

One of the most controversial issues in contemporary social and political theory is the question of the extent to which democracy and *the state* constitute two irreducible components of modern society. More precisely, the question in this regard concerns the degree to which *democracy* and *the state* can be considered two *interdependent* foundations of highly advanced civilisational formations. From a historical point of view, it appears that the creation of modern democracies is inextricably linked to the consolidation of legitimate states. If there is a predominant – and, indeed, appropriate – consensus according to which, the ideal of democracy in the modern world can be realised only through the construction of a legitimate political state, then another controversial question arises, namely the following: What should such a state look like, in terms of both its ideological outlook and its institutional set-up?

From a Weberian perspective, ‘the *sovereign territorial state*’ constitutes a cornerstone of modern societies (Habermas, 2003, p. 89, italics in original). From a Habermasian standpoint, the ‘sovereign *Rechtsstaat*’ represents an indispensable source of political legitimacy in modern democracies (see, for example, Habermas, 1996 [1992]-a). Both interpretations illustrate that, in a world characterised by the ubiquity of large-scale bureaucratic organisations, it is difficult – or, perhaps, implausible – to examine the concepts of ‘democracy’ and ‘the state’ in isolation from one another. To the degree that the question of ‘democracy’ and the question of ‘the polity’ are intimately intertwined, it is impossible to dissociate the possibility of collective deliberation from the necessity of political organisation. Just as we need to accept that a ‘distinctive feature of the modern state is the possession of the monopoly of the means of *violence* within a given territory’ (Hirst & Thompson, 1995, p. 410, italics added), we need to recognise that a predominant feature of modern democracy is the possession of the monopoly of the means of political *discourse* within a given society (cf. Susen, 2010c, pp. 110–111, 116–117). The territorial integrity of the modern polity is a precondition for the legitimate affirmation of the state’s institutionally established sovereignty, and the pluralistic elasticity of modern democracy is a prerequisite for the legitimate consolidation of the state’s discursively negotiated autonomy.<sup>19</sup>

## 6. Democracy and sovereignty

Another key issue arising from debates around the constitution of democracy is its relation to the idea of both individual and collective *sovereignty*.

- a. The legitimacy of democracy depends on its capacity to protect and to promote the *individual sovereignty* of the members of a given society. At this level, democracy is aimed at converting the philosophical ideal of personal autonomy into a social reality based on individual responsibility and accountability (*Mündigkeit*) (see Habermas, 1987 [1965/1968], p. 311; see also Susen, 2007, pp. 37, 40, 69, 72, 82, 251).

According to the early Habermas, we – as a species capable of cognition and action – possess *knowledge-constitutive interests*, which manifest themselves in our ability to control, to comprehend and to critique particular aspects of reality by generating, and making use of, technological, hermeneutic and critical forms of knowledge (see esp. Habermas, 1987 [1965/1968]). According to the late Habermas, we – as a species capable of speech and action – possess *language-constitutive interests*, which permeate our ability to represent, to regulate and to relate to particular aspects of reality by raising assertive, normative and expressive validity claims.<sup>20</sup> Owing to the socio-ontological significance of our *species-constitutive interests*, we are obliged to recognise that the pursuit of individual and collective forms of sovereignty (*Eigenständigkeit*) is built into the nature of human linguisticity (*Sprachlichkeit*).

Our ‘*emancipatory cognitive interest*’ (Habermas, 1987 [1965/1968], pp. 310, 314, italics added) in personal and social liberation from ‘dependence on hypostatized powers’ (*ibidem*, pp. 310, 313) enables us to pursue our ‘human interest in autonomy and responsibility (*Mündigkeit*)’ (*ibidem*, p. 311). Our linguistic capacity to question the unquestioned and to discuss the undiscussed permits us to follow our human interest in acquiring an empowering degree of individual sovereignty by immersing ourselves in discursively mediated forms of critical intersubjectivity. In other words, the *emancipatory* value of democracy – in the Habermasian sense – depends on its capacity to defend both *the right* and *the will* to individual sovereignty, which is indispensable to both the construction of personal autonomy and the development of a sense of responsibility (cf. Susen, 2009a, 2015b). Put differently, democracy – understood in Habermasian terms – is inconceivable without the emergence of linguistically anchored and discursively cultivated modes of sovereignty.

- b. The legitimacy of democracy depends on its capacity to protect and to promote the *collective sovereignty* enjoyed by the members of a given society. In the modern world, *collective* sovereignty is typically associated with *national* sovereignty, that is, the sovereignty of nation-states. In essence, two key levels underlying collective sovereignty can be distinguished: *internal sovereignty* and *external sovereignty*.

Whereas *internal* sovereignty stems from a political body’s capacity to claim legitimacy in relation to a particular society, *external* sovereignty is reflected in a political body’s capacity to claim legitimacy in relation to other political bodies. The former enables a given government to assume the supreme command over civil society by virtue of both *de jure* – that is, legal – and *de facto* – that is, coercive – institutionalised means. The latter, by contrast, is derived from nation-states’ *mutual recognition* of their respective territorial integrity and political legitimacy. Put differently, collective sovereignty is consolidated and sustained on the basis of both *internal* and *external* sovereignty. Hence, rather than presuming that the capacity for sovereignty simply emanates ‘from within’, we need to acknowledge the fact that ‘to a significant degree the capacity for sovereignty came from *without*’ (Hirst & Thompson, 1995, p. 410, italics in original; on this point, see also Susen, 2015a, pp. 126, 127, 133, 134, 216, 225, 229).



If, therefore, we accept that the seemingly endogenous power of sovereignty is inextricably linked to its exogenous conditioning, we are compelled to concede that democracy is never simply a *local* or *national* affair, but always, at least in principle, also a *global* and *transnational* matter. Internally, democracy can work only insofar as the members of a given society are willing to engage in discursive forms of communicative intersubjectivity oriented towards collective deliberation. Externally, democracy can work only insofar as different polities are prepared to commit to transnational co-operation and transcultural dialogue, both of which are central to generating fruitful communication processes between different societies.

In brief, democracy and sovereignty are two elements necessary for the construction of a society that is shaped by discursively constituted and morally valuable modes of agency.<sup>21</sup>

## 7. Democracy and communicative rationality

Democracy, in the Habermasian sense, has another crucial ingredient: *communicative rationality*. Indeed, Habermas's plea for an *ethics founded on communicative rationality* can be conceived of as a proposition for a set of principles oriented towards deliberative democracy. The paradigmatic primacy ascribed to the construction of a discursively configured reality is motivated by the conviction that, as linguistic beings able to raise rationally justifiable validity claims, we can mobilise the empowering resource of communicative rationality to determine both the constitution and the evolution of society.

In order to make sense of the discursive nature of democracy, we need to reflect upon five – interrelated – dimensions of *communicative rationality*.<sup>22</sup>

- a. Communicative rationality is based on *Verstand* (reason): as such, it is derived from our rational capacity to attribute meaning to the world by virtue of linguistically articulated claims to validity.
- b. Communicative rationality enables us to engage in processes of *Verständigung* (communication): as such, it permits us not only to co-ordinate our actions, but also to attribute meaning to them by virtue of intersubjective practices oriented towards mutual understanding.
- c. Communicative rationality is the main driving force guiding our species-constitutive search for *Verstehen* (understanding): as such, it allows us to imbue the givenness of reality with the meaning-ladenness of language and thereby to permeate the facticity of worldly objectivity with the normativity of lifeworldly intersubjectivity.
- d. Communicative rationality is both a means and an end of our orientation towards *Verständlichkeit* (intelligibility): as such, its existence is symptomatic of the fact that, as subjects capable of speech and action, we make sense of the world by making sense of each other.
- e. Communicative rationality is the principal socio-ontological force behind our ability to reach an *Einverständnis* (agreement): as such, its presence demonstrates that we – as a communicative species – are capable of mutual understanding and that we – as a discursive species – are capable of reaching agreements.

This is the point at which *democracy* comes into play. Democracy rests upon the empowering potential of communicative rationality, because the symbolically mediated and intelligibly structured co-ordination of our actions within the sphere of reality lies at the heart of every discursively organised society.

- a. Democracy is inconceivable without *Verstand*: in democratic societies, the ultimate resource of justification is not faith but *reason*.
- b. Democracy is unthinkable without *Verständigung*: in democratic societies, the ultimate resource of argumentation is not monologue but *dialogue*.
- c. Democracy is impossible without *Verstehen*: in democratic societies, the ultimate resource of signification is not the acceptance of facticity but the struggle over *normativity*.
- d. Democracy is unimaginable without *Verständlichkeit*: in democratic societies, the ultimate resource of action co-ordination is not egotistic self-referentiality but mutual *intelligibility*.
- e. Democracy is unimaginable without *Einverständnis*: in democratic societies, the ultimate resource of both small-scale and large-scale organisation is not violence but the search for *agreements*, including – if necessary – the agreement to disagree.

In short, deliberative democracy and communicative rationality are two mutually inclusive conditions for the understanding-oriented co-existence of interdependent subjects.<sup>23</sup>

## 8. Democracy and regulation

It would be overly optimistic to suggest that the running of democracy is driven by exclusively empowering – notably, deliberative, communicative and discursive – forces. In fact, one of the less obvious dimensions of democracy is its *regulative* function (see Habermas, 1994, p. 138), which may be perceived as ambivalent in that it contains both positive and negative aspects:

- On the *positive* side, the regulative function of democracy is illustrated in the fact that its existence allows for the establishment of relatively *predictable* – and, thus, fairly stable – forms of both small-scale and large-scale social interaction.
- On the *negative* side, the regulative function of democracy is reflected in the fact that its existence can trigger inconveniently *rigid* – and, hence, excessively synchronised – forms of both small-scale and large-scale social interaction.

If ‘morality and law both serve to regulate interpersonal conflicts’ (*ibidem*, p. 138) and if ‘both are supposed to protect the autonomy of all participants and affected persons equally’ (*ibidem*, p. 138), a key function of democracy consists in organising human life forms in terms of both micro-sociological concerns, arising from people’s tangible experiences of *Gemeinschaft*, and macro-sociological issues, emerging from people’s intangible experiences of *Gesellschaft*. The validity claims of moral commands raised in the lifeworld (see *ibidem*, p. 139) and the legitimacy claims of legal norms imposed upon ordinary actors by the system (see *ibidem*, p. 139) form a dual regulative totality that permeates the praxeological horizon of every modern democracy.

Democracy, then, is not only a ‘legislative practice of justification’ (*ibidem*, p. 139), but also a regulative process of normalisation. Just as ‘different types of reason’ (*ibidem*, p. 139) can be brought forward to make a case for a particular kind of legislation, different collective strategies can be employed to shape the development of a given society by specific patterns of regulation. Indeed, what manifests itself in the functional interdependence of legislative practices of justification and regulative practices of normalisation is the intertwining of validity and normativity: rationally justified claims to validity that are aimed at equipping a collective entity with a framework of legislative regularity express a demand for normativity, without which there would be no meaningful organisation of society.

In this sense, ‘law has a more complex structure than morality’ (*ibidem*, p. 139): whereas the latter serves to regulate people’s interactions in the concrete realm of *Gemeinschaft*, the former operates as a legislative umbrella that stipulates people’s interactions in the abstract realm of *Gesellschaft*. The distinctive power of democracy, in this context, is its capacity to make both ordinary claims to moral validity and institutional claims to judicial legitimacy subject to critical scrutiny by virtue of communicative rationality. In a democratic society, understood in the Habermasian sense, it is not the *forceful force of symbolic or physical violence* but, on the contrary, the *forceless force of the better argument* which gives *validity* to moral patterns of justification as well as *legitimacy* to legislative patterns of normalisation.<sup>24</sup> In short, an important function of democracy is to guarantee the *regulation* of society – not by relying upon arbitrary forms of authority, but by drawing upon communicative rationality. Hermeneutically equipped entities capable of speech and action can determine the course of history by mobilising the discursive resources inherent in linguistically mediated practices of intersubjectivity.<sup>25</sup>

## 9. Democracy and will-formation

The construction of democracy is inextricably linked to the formation of both individual and collective *wills*. Put differently, democratic power is expressed in *will power*. Yet, democratic and non-democratic modes of will-formation are fundamentally different in the following sense:

- In the former, every member of society has the right to express their opinion and, consequently, to participate in both private and public debates.
- In the latter, some members or groups of society may be excluded from collective decision-making processes on relatively arbitrary – for example, economic, ideological, religious, cultural, ethnic, ‘racial’ or gender-specific – grounds.

The universal right to be directly and actively involved in collective processes of will-formation, then, is a *sine qua non* of genuine articulations of democracy – notwithstanding the question of whether they are supposed to operate as models of deliberative or representative participation. Collective processes of democratic will-formation, however, are far from straightforward and can be successful only to the extent that people are able to question – that is, both to recognise and to relativise – the perspectival determinacy of their claims to discursive validity.

Thus the opinion- and will-formation of the democratic legislature depends upon *a complicated network of discourses and bargaining* – and not simply on moral discourses. And unlike the clearly focused normative validity claim of moral commands, the legitimacy claim of legal norms – like the legislative practice of justification itself – is supported by *different types of reason*.

(Habermas, 1994, p. 139, italics added)

In other words, what we, as critical theorists of democracy, need to examine are the sociological implications of the fact that collective will-formation – as a process based on discursive negotiation and consensus-oriented communication – constitutes a normative challenge that requires actors who participate in practices of argumentation to *transcend* the perspectival determinacy of their claims to validity by engaging in the dialogical exercise of

communicative intersubjectivity. *Different people with different backgrounds, standards, principles and convictions* will mobilise *different types of reason* to describe, to analyse, to interpret, to explain and to assess *different kinds of situation*. The world of reason cannot be dissociated from the realm of experience. The manifold ways in which communicative actors make rational judgements are inevitably shaped by the normative standards to which they are exposed, and by the socio-culturally specific horizons in which they are embedded, when experiencing both the material and the symbolic dimensions of their lifeworlds. Collective will-formation is always a matter of social life-formation: what we want and how we decide is contingent upon what we have learned to want and how we have learned to decide. Our discursive problematisation of the world cannot be separated from our assimilative, adaptive and purposive immersion in the lifeworld.

To accept that in democratic systems ‘all government is by the people’ (Habermas, 2001b, p. 768; cf. Ferrara, 2001) means to do justice to the fact that ‘all society is by the people’. From a democratic point of view, those who make up society should also be those who decide over the context-laden roles of both the individual and the collective aspects of their everyday reality. Will-formation, in the democratic sense, is not a privilege of those who govern society ‘from above’, through the systemic force of the state, but, rather, a right of those who build society ‘from below’, through the communicative force of the lifeworld. Hence, ‘the discourse-theoretic interpretation of the democratic self-constitution of the constitutional state [*Verfassungsstaat*]’ (Habermas, 2001b, p. 776) concerns not only the systemic sphere of administrative structures put in place to determine the development of society ‘from above’, through processes of ‘functional integration’ (see Susen, 2007, pp. 67–68, 237), but also the ordinary sphere of communicative interactions whose linguistic resources are mobilised to shape the development of society ‘from below’, through processes of ‘social integration’ (see *ibidem*, pp. 67, 68, 69, 70, 71, 237, 258). In brief, collective will-formation cannot dispense with the communicative practices accomplished by human actors, whose quotidian performances are mediated by linguistically organised processes.<sup>26</sup>

## 10. Democracy and constitutional law

As elucidated above, democracy has a regulative function: democratic institutions and democratic practices allow for the regulation – and, thus, for the normalisation – of the interactions taking place between members of a given society. In the context of modern society, the institutional inscription of practical prescriptions into consolidated democracies reflects the systemic necessity to solidify interactional regularity through the consolidation of normative frameworks founded on *constitutional legality*. From a Habermasian point of view, the complementary connection between morality and law (see, for example, Habermas, 1994, pp. 139–141) is entrenched in the tension-laden relationship between lifeworld and system,<sup>27</sup> for the institutionalisation of legislative arrangements cannot be divorced from the socialisation processes of communicatively sustained engagements. If we regard ‘positive law as a functional complement to morality’ (Habermas, 1994, p. 140), then we locate the abstract superstructure of legislative imperatives in the concrete infrastructure of communicative practices.

Yet, not only is there an intimate link between the rule of law and everyday intelligibility, but, in addition, there is an ‘internal relation between the rule of law and democracy’ (*ibidem*, p. 141). Just as regulative processes of formal legislation are anchored in communicative processes of informal co-operation, the long-term acceptability of the rule of law depends on its capacity to gain legitimacy through democratic procedures based on

transparency, accountability and reasonability. As Habermas reminds us, '[I]f morality, so also legitimate law protects the equal autonomy of each person: no individual is free so long as all persons do not enjoy an equal freedom' (Habermas, 2001b, p. 779). Put differently, private and civic autonomy are complementary and mutually dependent elements of constitutionally legitimated democracies and democratically legitimated constitutions: '[t]he interdependence of constitutionalism and democracy comes to light in this complementary relationship between private and civic autonomy: each side is fed by resources it has from the other' (*ibidem*, p. 780).

If the *Dasein* (being-there) of every member of humanity cannot be detached from the *Miteinandersein* (being-with-one-another) experienced by all members of society, then the affirmation of personal autonomy is contingent upon the assertion of civic autonomy. It is the function of constitutional law to ensure that individual self-government and collective self-government co-exist as two complementary preconditions for the attainment of political legitimacy within democratically organised societies.<sup>28</sup>

## Conclusion

As illustrated in the previous analysis, Habermas's concern with democracy is inseparably linked to his interest in language. This chapter has aimed to demonstrate that ten elements are particularly important to Habermas's multifaceted account of democracy: (1) deliberation, (2) reciprocity, (3) self-determination, (4) citizenship, (5) the state, (6) sovereignty, (7) communicative rationality, (8) regulation, (9) will-formation and (10) constitutional law. From a Habermasian point of view, the construction of an emancipatory society is inconceivable without the sustained attempt to bring about a solid form of democracy based on the deliberative power that is embedded in people's communicative capacity. Subjects capable of speech and action are equipped with the competence to take both individual and collective decisions that are derived from intersubjective processes of reflection, justification and deliberation. The preceding enquiry has sought to identify the principal components underlying Habermas's conception of democracy. This concluding section endeavours to address a number of issues that arise when confronted with the task of assessing both the validity and the usefulness of Habermas's communication-theoretic account of democracy. Following the structure of the foregoing study, these issues can be summarised as follows:

1. There is no democracy without processes of *deliberation*. It is far from clear, however, to what extent *direct and deliberative* models of democracy are viable in large-scale societies, which – owing to their demographic and systemic complexity – tend to rely on *indirect and representative* forms of political participation.
2. There is no democracy without both dynamics and structures of *reciprocity*. It is not obvious, however, to what extent asymmetrical and power-laden modes of reciprocity can be challenged in order to build a society in which fundamental sociological variables – such as class, ethnicity, gender, age and ability – cease to have both a determining and a detrimental impact upon the political agendas set under the banner of democracy.
3. There is no democracy without the possibility of *self-determination*. It remains open to scrutiny, however, to what extent it is achievable to grant every individual or collective actor not only the *formal right* to, but also the *substantive resources* for, autonomy, self-government and self-realisation – especially in light of the fact that behavioural, ideological and institutional patterns are shot through with power relations.

4. There is no democracy without *citizenship*. It is a matter of debate, however, to what extent it is feasible to strike a healthy balance between, on the one hand, *rights and entitlements* and, on the other hand, *duties and obligations* – notably in societies that are characterised by high levels of internal cultural diversity and, hence, by advanced degrees of behavioural, ideological and institutional heterogeneity.
5. There is no democracy without a *state* – at least not in large-scale societies. One of the key issues that remain crucial in this respect, however, is the question of the extent to which it may be both viable and desirable to create a society whose members are capable of coordinating their actions and managing their affairs *without* relying on an institutional entity equivalent to a state or a polity. The question, then, is not simply to what degree and in which specific areas of social life the state should, or should not, have the right to intervene; more fundamentally, the question is whether or not, in the course of human history, the consolidation of a highly differentiated society *without* a polity can be considered a realistic possibility.
6. There is no democracy without *sovereignty*. Irrespective of whether we reflect on individual or collective, internal or external, real or imagined forms of sovereignty, it is far from evident, however, to what extent, in a global network society, actors have the potential, let alone the factual, power to make decisions as genuinely autonomous entities. In an age of increasing interconnectedness, the pivotal sources of agency appear to have shifted from a hitherto self-empowered humanity to an assemblage of constantly changing parameters of performativity, with no sense of direction, let alone an underlying teleology.
7. There is no democracy without *communicative rationality*. To be exact, the socio-ontological forces of *Verstand* (reason), *Verständigung* (communication), *Verstehen* (understanding), *Verständlichkeit* (intelligibility) and *Einverständnis* (agreement) play a foundational role in the construction of democracy. No less central, however, is the function of seemingly uncomfortable – yet, vastly influential – elements of democracy, such as the following: (a) not only belief and faith, but also madness and fanaticism; (b) not only miscommunication, but also silence and disengagement; (c) not only misunderstanding, misinterpretation and misconception, but also confusion, perplexity and bewilderment; (d) not only unintelligibility, incomprehensibility and obscurity, but also misrepresentation, distortion and manipulation; (e) not only disagreement, discrepancy and controversy, but also rupture, friction and hostility.
8. There is no democracy without *regulation*. The question that poses itself in this context, however, is to what extent democratically controlled processes of regulation can be converted into oppressive mechanisms of normalisation, habitualisation and disciplination capable of undermining human empowerment, autonomy and self-realisation.
9. There is no democracy without *will-formation*. The mere fact that, in democratic societies, subjects capable of speech and action are engaged in processes of opinion- and will-formation, however, does not reveal anything about the extent to which their views, beliefs, judgements and decisions are universally defensible, rather than applicable only to the limited horizon of context-specific modes of individual or collective agency. The construction of *value-laden*, *meaning-laden*, *perspective-laden*, *interest-laden*, *power-laden* and *tension-laden* realities manifests itself in the emergence of normativities, reflecting the contestability that inhabits symbolically mediated life forms as they evolve throughout history.
10. There is no democracy without *constitutional law* – at least not in highly differentiated societies. The fact that something is legal, however, does not make it legitimate. Constitutional legality is by no means a guarantee of social, political or moral legitimacy.

What is more, grass-roots democracy can dispense with the formalised rules, criteria and standards that are imposed ‘from above’ by constitutionally founded systems of legality. Genuine democracy is not simply a matter of imposing the lawfulness of procedural politics upon the relative arbitrariness of everyday occurrences; rather, it involves the challenge of ensuring that those whose lives are shaped – if not governed – by customs, conventions and principles are not only *entitled* but also *empowered* to negotiate – and, if necessary, to define – the normative parameters underlying their existence *themselves*.

## Notes

- 1 See, for instance: Brookfield (2005); Conover & Searing (2005); Cooke (2000); Eriksen & Weigård (2003); Festenstein (2004); Günther (1998); Habermas (1996 [1992]-b); Habermas (1998b); Habermas (2005); Janssen & Kies (2005); Johnson (1993); Pellizzoni (2001); Power (1998); Sintomer (1999); Susen (2009a); Susen (2010c: 110–111, 116–117); Young (1997b).
- 2 On the ‘*linguistic turn*’, see, for example: Apel (1976); Bohman (1996); Bourdieu (1982); Bourdieu (1992); Bourdieu (1993 [1984]); Fairclough (1995); Fillmore (1985); Gebauer (2005); Goldhammer (2001); Habermas (1988 [1967/1970]); Habermas (1976); Hacking (1975); Hacking (1982); Jäger (2002); Kirk (1997 [1994]); Krämer (2002); Krämer & König (2002); Lafont (1993); Lafont (1997); Lafont (1999 [1993]); Lee (1992); May (1996); Rigotti (1979); Rorty (1967a); Rorty (1967b); Rossi-Landi (1974 [1972]); Schöttler (1997); Susen (2007: chapters 1–4); Susen (2009a); Susen (2010c); Susen (2013a); Susen (2013c); Susen (2013d); Susen (2013e); Susen (2015a: 34, 244, 288 n. 159); Taylor (1991 [1986]); Wellmer (1977 [1976]).
- 3 On Habermas’s conception of ‘*postmetaphysical thinking*’, see, for instance: Habermas (1987 [1985]); Habermas (1992 [1988]); Habermas (2004). Cf. Rorty (1967b).
- 4 On the relationship between democracy and deliberation, see, for example: Brookfield (2005); Conover & Searing (2005); Cooke (2000); Eriksen & Weigård (2003); Festenstein (2004); Günther (1998); Habermas (1996 [1992]-b); Habermas (1994: 137); Habermas (1998b); Habermas (2005); Janssen & Kies (2005); Johnson (1993); Pellizzoni (2001); Power (1998); Sintomer (1999); Susen (2009a); Susen (2010c: 110–111, 116–117); Young (1997b).
- 5 On the link between ‘*validity claims*’ and ‘*legitimacy claims*’, see, for instance: Susen (2007: 248, 253, 257, 263, 286); Susen (2009b: 99, 100, 102, 103, 105, 113, 114, 115, 117, 119); Susen (2010c: 104, 106, 108, 109, 110, 111, 112, 114, 115, 116); Susen (2011b: 46, 55, 57, 58); Susen (2011c: 49, 53, 57, 60, 63, 64, 69, 70, 71, 75, 77, 80, 82); Susen (2013d: 200, 213, 218, 235 n. 87); Susen (2013e: 330, 331); Susen (2014b: 91, 92, 94, 95, 96, 97, 99, 100).
- 6 On the relationship between democracy and reciprocity, see, for example: Habermas (1994: 141); Habermas (2005: 384); Susen (2007: 23, 41, 51, 52, 72, 81, 84, 90, 91, 118, 124, 193, 194, 198, 201 n. 84, 311); Young (1997a).
- 7 On this point, see, for instance, Susen (2010a: 151–158, 198–208). See also, for instance: Browne & Susen (2014); Holloway & Susen (2013); Susen (2008a); Susen (2008b); Susen (2009a); Susen (2010d); Susen (2011b); Susen (2012a); Susen (2013d); Susen (2013e); Susen (2014a).
- 8 Italics added to ‘*self-determination*’ and ‘*self-direction*’; ‘*sovereign territorial state*’ is italicised in the original version.
- 9 On the concepts of ‘*indeterminacy*’ and ‘*autonomy*’, see Susen (2015a: esp. Chapter 4 and Chapter 5, respectively).
- 10 See Susen (2007: esp. Chapter 10). See also, for example: Boltanski, Honneth & Celikates (2014 [2009]); Boltanski, Rennes & Susen (2010); Boltanski, Rennes & Susen (2014 [2010]); Holloway & Susen (2013); Susen (2009a); Susen (2010c); Susen (2011a); Susen (2012b); Susen (2013d); Susen (2013e); Susen (2014 [2012]); Susen (2015b); Susen (2017).
- 11 On the relationship between democracy and self-determination, see, for example: Browne & Susen (2014); Habermas (2003: 88–89); Holloway & Susen (2013); Preuss (1998: 331); Susen (2008a); Susen (2008b); Susen (2009a); Susen (2010a: 151–158, 198–208); Susen (2010d); Susen (2011b); Susen (2012a); Susen (2013d); Susen (2013e); Susen (2014a); Young (1997b).
- 12 On this point, see Susen (2010b: 262–265) and Susen (2015a: Chapter 5). See also Marshall (1964 [1963]), Marshall (1981) and Turner (2009).

- 13 On this point, see Susen (2010b: 265–268, 271–274) and Susen (2015a: Chapter 5). See also, for instance, Young (1994 [1989]), Young (1997a) and Young (1997b).
- 14 Mann (1994 [1987]: 63). On this point, see also, for example: Basconzuelo, Morel & Susen (2010a); Basconzuelo, Morel & Susen (2010b); Susen (2010a); Susen (2015a: 127, 173, 174, 175, 177, 190, 207, 212, 216, 221, 222, 226, 274, 276).
- 15 On *the concept of neoliberalism*, see, for example: Berberoglu (2010); Browne & Susen (2014); Davies (2014); Harvey (2006); Marcos (1997); Outhwaite (2006: esp. Part I); Soederberg, Menz & Cerny (2005); Susen (2010b: 260–262); Susen (2012a); Susen (2015a: esp. Chapter 3 and Chapter 5).
- 16 On *the concept of globalisation*, see, for example: Amin-Khan (2012); Axford (2013); Bauman (1998); Bhambra (2007); Centeno & Cohen (2010); Chirico (2013); Dicken (2011 [1986]); Drake (2010); Featherstone, Lash & Robertson (1995); Franklin, Lury & Stacey (2000); Fraser (2007b); Hirst & Thompson (1995); Hirst & Thompson (1996); Hoogvelt (1997); Lash & Lury (2007); Martell (2010); Mayo (2005); Mittelman (1996); Mouzelis (2008: 159–161); Nederveen Pieterse (1995); Outhwaite & Ray (2005); Paulus (2001: 745); Petrella (1996); Piketty (2013); Redner (2013); Ritzer (2013 [1993]); Robertson (1995); Sassen (2004); Sklair (1995 [1991]); Sloterdijk (2013 [2005]); Susen (2010a: 182–197); Susen (2010b: 260–262); Susen (2015a: esp. Chapter 3); Tomlinson (1999); Williams, Bradley, Devadson & Erickson (2013).
- 17 On *the concept of multiculturalism*, see, for example: Barry (2001); Chevallier (2008 [2003]); Crowder (2013); Jullien (2014 [2008]); Kelly (2002); Khory (2012); Kymlicka (2005); Kymlicka (2007); Kymlicka & He (2005); Lutz, Herrera Vivar & Supik (2011); Modood (2013 [2007]); Nemoianu (2010); Parekh (2008); Phillips (2007); Schweppenhäuser (1997); Susen (2010a: 204–208); Susen (2010b: 260–262, 271–274); Susen (2013b: 93, 97, 100 n. 35); Susen (2015a: Chapter 5); Taylor & Gutmann (1992); Yar (2001).
- 18 On *the relationship between democracy and citizenship*, see, for example: Archibugi (2008); Bridges (1994); Crouch, Eder & Tambini (2001); Delanty (2000); Fraser (2007a); Habermas (2003: 88); Hutchings & Dannreuther (1999 [1998]); Isin (2000); Janoski (1998); Mann (1994 [1987]); Marshall (1964 [1963]); Marshall (1981); Mayo (2005); Miller (1993); Mouffe (1993); Smith (2007); Susen (2010b: 260–262, 262–265, 265–268, 271–274); Taylor (1989); Turner (1994 [1990]: 202); Turner (2009: 68); Vandenberg (2000); Young (1994 [1989]).
- 19 On *the relationship between democracy and the state*, see, for example: Anderson (1986); Armaline, Glasberg & Purkayastha (2014); Baraith & Gupta (2010); Boyer & Drache (1996); Chernilo (2007); Chernilo (2008); Crouch, Eder & Tambini (2001); Cudworth, Hall & McGovern (2007); Dunn (2000); Evans, Rueschemeyer & Skocpol (1985); Gill (2003); Habermas (1996 [1992]-a); Habermas (1999); Habermas (2001 [1998]); Habermas (2003: 89); Hall (1986); Hall (1994); Hall & Ikenberry (1989); Hay, Lister & Marsh (2006); Held (1991); Held (1995); Held (1985 [1983]); Hirst & Thompson (1995: 410); Jessop (2007); Keane (1988); King & Kendall (2004); Lachmann (2010); Pierson (2004 [1996]); Poggi (1978); Poggi (1990); Reid, Gill & Sears (2010); Skinner (1989); Skinner & Stråth (2003); Sørensen (2003); Thornhill (2013); van Creveld (1999); Wertheim (1992).
- 20 On this point, see, for instance: Habermas (1984 [1976]); Habermas (2001 [1984]-b); Habermas (2001 [1984]-c); Habermas (2001 [1984]-d). See also, for instance: Heath (1998); Ilting (1990 [1982]); Niemi (2005); Susen (2007: 75-95); Thompson (1982); Whitton (1992).
- 21 On *the relationship between democracy and sovereignty*, see, for example: Brittan (1998); Habermas (1987 [1965/1968]: 314); Hinsley (1986 [1966]); Hirst (1997); Hirst & Thompson (1995: 410); Khory (2012); King & Kendall (2004); Krasner (1988); Sassen (1996); Spruyt (1994); Susen (2007: 37, 40, 69, 72, 82, 251).
- 22 Cf. Susen (2013d) and Susen (2013e: 326). Cf. also, for instance, Susen (2007: 20, 49, 51, 52, 53, 54, 67, 69, 70, 72, 86–87, 97 n. 54, 107, 108, 110, 112, 116, 118, 119, 125, 161, 253, 255, 256, 260, 276, 304, 305, 307, 308, 314).
- 23 On *the relationship between democracy and communicative rationality*, see, for example: Abbas & McLean (2003); Apel (1990 [1985]); Benhabib & Dallmayr (1990); Bjola (2005); Breen (2004); Callinicos (1989); Eriksen & Weigård (2003); Gamwell (1997); Grant (2003); Günther (1998); Habermas (1970); Habermas (1985 [1984]); Habermas (1987 [1981]-b); Habermas (1987 [1981]-a); Habermas (1990 [1983]); Habermas (2001 [1984]-a); Habermas (2001a); Heath (2001); James (2003); Johnson (1991); McCarthy (1973); Outhwaite (2009 [1994]); Preuss (1998); Steinhoff



- (2001); Stryker (2000); Susen (2007: 97 n. 54); Susen (2009a); Susen (2010c); Susen (2013d); Susen (2013e: 326); Thompson (2000); Thompson (1983); Warnke (1995).
- 24 On this point, see, for example: Habermas (2001: 13, 45, 79). See also, for example: Apel (1990 [1985]: 35, 41–42, 50); Ray (2004: 317–318); Susen (2007: 114, 244, 251, 286); Susen (2009: 102–103, 114); Susen (2010: 109, 116); Whitton (1992: 307).
- 25 On *the relationship between democracy and regulation*, see, for example: Black (2000); Black (2001); Deflem (1994a); Deflem (1994b); Habermas (1994: 138–139); Palast, Oppenheim & MacGregor (2002); Starkey (2007); Williams & Matheny (1995).
- 26 On *the relationship between democracy and will-formation*, see, for example: Crouch, Eder & Tambini (2001); Ferrara (2001); Habermas (1994: 139); Habermas (1996 [1992]-a); Habermas (2001b: 768, 776); Mayo (2005); Mouffe (1993); Susen (2007: 116); Williams & Matheny (1995); Vandenberg (2000); Young (1994 [1989]).
- 27 On *Habermas's account of the relationship between 'lifeworld' and 'system'*, see, for example, Susen (2007: 61, 70, 71–73, 239, 245, 246, 305).
- 28 On *the relationship between democracy and constitutional law*, see, for example: Alexy (1998); Black (2000); Black (2001); Deflem (1994a); Deflem (1994b); Ferrara (2001); Guibentif (1994); Günther (1998); Habermas (1996 [1992]-a); Habermas (1998a); Habermas (1998b); Habermas (2001b); Hall (1986); Poggi (1978); Power (1998); Preuss (1998); Rasmussen (1994); Rosenfeld & Arato (1998); Thornhill (2013).

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