



## Deliberative democracy in Habermas

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### Abstract

Habermas always proposes public discussion among all citizens as the fundamental element of the deliberative democratic process. From his point of view, the fundamental is always the search for democratic legitimacy, through the participation of the entire citizenry in the broadest and most deliberative way possible, only in this way must political-legislative decisions once approved be obeyed by all citizens, because they are perceived as right choices. He argues that for there to be a true democracy, it is not enough for political decisions and laws to simply result from the votes of the majority of citizens or, as is the case today in parliamentary democracies, their elected representatives. Indeed, he proposes, in his theory of participatory and deliberative democracy, that decisions can only be considered legitimate insofar as they result from a rich and articulate process of citizen participation in a public discussion, which takes place mainly in informal contexts, in public opinion, in the media and not only in parliaments. Only the passage through these filters (and not just the normal elections provided for in democratic states) authorises what Habermas calls a presumption of democratic-participatory reasonableness for the whole citizenry to share in the results and laws finally arrived at. Ultimately, he proposes a major reform of all democratic systems that we know so that they actually make citizens participate, making them feel like creators of the rules they obey.

**Keywords:** *Deliberative democracy; active participation; public sphere; discursive interactions; democratic self-legislation; active citizenship.*

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## **1. Introduction.**

It is very important and also interesting to consider how Habermas proposes, despite the current crisis of active participation of citizens in democracies (Fornaro 2025), in the public discussion, among all the people concerned, the completion of a political system that can truly be called democratic. In this difficult journey, the absolutely essential and indispensable element is the active participation of people in the democratic process. This participatory discussion takes place in the public sphere, which is "a collective space of intermediation, essential for the free formation of the political will, for democratic deliberation" (Habermas 2023) and for learning and reflection, which must involve, if possible, everyone. From his point of view, the search for legitimacy is fundamental, through participation in political-legislative decisions that must be approved by all citizens who want to participate in the decision-making process. He argues that 'it is not enough to say that it simply results from the fact that these decisions result from the vote of the majority of citizens or their representatives' (Habermas 2023), as is the case in all contemporary liberal-democracies. In fact, he proposes, in his theory of deliberative democracy, that decisions can only be 'legitimate insofar as they result from a rich and articulate process of public discussion, which takes place in informal contexts, in public opinion, in the media' (Petruciani 2024) and, therefore, not only in elected parliaments. Only the passage through these filters (and not just the simple normal elections provided for in constitutional democratic states) "authorises what Habermas calls a 'presumption of reasonableness'" (Petruciani 2024), for legislative decisions, which are finally reached. Results that obviously, in a true democracy, are always reviewable and modifiable for the better, with the presentation of new arguments that are more just and objectively more convincing or the re-proposition even of old arguments that rationally seem better than the choices made in the past that did not work perfectly.

Throughout his intellectual journey, "Habermas remains faithful to his" profound "basic conviction: the democratic public sphere is not only (as the 'realists' claim) an arena where economic and media powers, manipulations and demagogic discourses reign; it is also, at least potentially" (Petruciani 2024), but, in perspective, should increasingly be, a space where good reasons are always exchanged, for the common good of the entire community. A negative macroscopic example of low democratic participation, according to Jürgen Habermas, is the mismanagement of the various economic crises of recent years in Europe (Habermas 2012), the failure to valorise the European Parliament as an instrument of mass democratic participation and, as a consequence, the increasingly low political legitimisation of the Union aroused in the European citizens themselves. These are the main limits of the current European Union (Habermas 2017), as long as it is not only the parliament directly elected by the citizens that makes laws in the interests of the citizens themselves there will be no real democratic legitimacy. More democracy, with more democratic participation of European citizens, with greater and more widespread solidarity (Volpe 2021), are the only antidotes that Habermas proposes in order to bring about a reform that is now necessary and absolutely unmissable (Habermas, Streeck 2020), one that is "capable of pulling the European Union out of the institutional and credibility crisis in which it has been struggling for too long" (Piketty 2015). The situation is extremely critical, not least because there is still a lack of a truly progressive political

force that can interpret the real needs of the European peoples and be capable of leading this necessary turnaround.

The Habermasian public sphere is composed of the set of 'discursive interactions that are constructed and interwoven in civil society and in the relationships' (Petruciani 2024), which must be continuous, between the public sphere itself and the liberal democratic political system: in the public sphere is produced, according to Habermas, the 'communicative power', i.e. the strength and power of the ideas of all citizens and 'of the arguments, beliefs and opinions, which then compete (together or against other powers) to determine the course of political decisions' (Petruciani 2024) which, let us remember, affect everyone. "And this is why the public sphere arises as a conflictual place, in a positive sense, both of legitimation and, on the contrary, of de-legitimation and contestation of political and social institutions" (Florida 2024). The normative assumption from which the public discussion starts is that the public sphere is to be understood as that absolutely irreplaceable space where all citizens can participate equally in the entire decision-making process, considering themselves, through participation, as co-authors of rights, which they grant each other as members of an association of free and equal human beings, united by the fundamental bond of solidarity. This is what Habermas fundamentally means by true democracy that can work and involve, "and this is what we must bet on if the irreplaceable modern idea of the democratic self-legislation of citizens is still to have a chance" (Florida 2024).

A major innovation can be found in the latter part of Habermas' political thought, where 'the distinction between "citizen of the state" (Staatsbürger) and "citizen of society" (Gesellschafts-bürger) finally falls away. He now considers all people who actively participate in the life of society, for example by contributing to the production of goods and services, to be citizens. The principle applies that all people actually have the same rights beyond national citizenship, in a cosmopolitan sense' (Habermas 1992). It is very interesting in Habermas and absolutely revealing that "The concept of inclusion is considered fundamental, which must never involve processes of assimilation, but lead to an opening up of society, in an intercultural sense, open to diversity by legitimising it, so much so that the German philosopher and sociologist places great hope in the potential for opposition, innovation and resistance entrusted to these unjustly marginalised existences and in the third sector associationism that works for the inclusion of all the excluded and non-citizens. He makes it clear that a democratic state to be such must always be based on "universalistic principles of the democratic rule of law", (Habermas 1998).

It is now clear that it is therefore a matter of enucleating a universalism that is extremely sensitive to differences. It becomes essential to clarify the concept of inclusion, which is in no way social assimilation or cultural imposition, for 'Inclusion here does not mean assimilatory grabbing, nor does it mean closure against what is different. Rather, inclusion of the other means that the boundaries of the community are open to all: also - and above all- to those who are mutually strangers and who want to remain strangers" (Habermas 1998), he still insists on the concept of inclusiveness that "no one who can make a relevant contribution should be excluded from participation" (Habermas 2007); but he goes on to state forcefully that increasingly ""Inclusion" means that this political order can serve to equalise the discriminated and to include the marginalised, without thereby locking them into the uniformity of a homogenised Volksgemeinschaft", (Habermas 1998).

## **2. Indispensable importance of law.**

In arguing for the fundamental importance of law Habermas wrote a few years ago in *Moral Theory* that: "only a legal institutionalisation can ensure the general observance of morally valid norms. This is a moral reason for law in general" (Habermas 1994). He sees law thematised from two important points of view: One is the perspective of a practical-normative analysis, where law is the necessary development of morality, because only if there are guarantees of the observance of norms by all, can the individual be required to observe them. And from the point of view of social analysis, where law is a tool (medium) to control and coordinate the actions of individuals, whose functions appear irreplaceable in a society, such as the contemporary, complex, modern and differentiated one. Both these profiles are presented and developed by Habermas in *Facts and Norms* (Habermas 1996), where he claims a strong autonomy of law from morality in polemic with Apel (Apel, 1997, 1992, 1977), who tends to establish a hierarchical relationship between morality and law. Although law, Habermas argues, has a double face reflecting the difference between Facticity (*faktizität*) and Validity (*Geltung*). To be characterised in this way, therefore, law must consider the continuous tension between validity and facticity as important. On the one hand 'validity', in fact it claims to be legitimate, given the strong internal link that binds law and morality, so strong that it is able to guide the conduct of people by virtue of the mere validity of what it prescribes; on the other hand 'facticity', insofar as it is connected to sanctions, it is capable of guiding the conduct even of those subjects who do not recognise the validity of what is prescribed, because they are only interested in pursuing their own selfish goals, who are induced to comply with the rule by the threat of sanction. Law turns out to be very effective even where morality is not, as it is only able to guide the conduct of those who, taking the moral standpoint of those who hold others accountable for their actions, recognise its validity. By virtue of this duplicity, law is the main instrument of societal integration. To sum up, for the social actor, law is seen, on the one hand, as a prescription that strategic rationality, prevailing in contemporary societies, requires one to obey, in order to avoid the consequent risk of sanction, and, on the other hand, as a legitimate norm, endowed with validity, which one can obey, if one wishes, even without the risk of sanction. In this last aspect, a similarity can be seen with Rawls' approach (1995, 1994, 1997, 2001), which considers the legal order as it 'ought to be', i.e. as the driving force for the constitution of a just and well-ordered society.

In the Habermasian view, law constitutes a method, as well as a fundamental and irreplaceable mechanism, for regulating and coordinating the actions of individuals in today's democratic societies, but the renunciation of moral reasons for founding the legal order (which entails the most radical break with what has been argued previously) does not remove the essential fact that a legal order can only function effectively insofar as it is recognised as legitimate by the citizenry. For this reason, all social norms, both moral and legal, must have their legitimacy grounded in discursive processes that always take into account the 'democratic principle: only laws that can claim legitimate validity that can be approved by all the citizens in a discursive process of adjudication that is itself legally constituted' (Habermas 1996).

The democratic principle, which is always of fundamental importance, is nothing other than the institutionalisation of the discourse principle (Habermas 1985), in the form

of the system of rights, which ensures everyone, or should do so to the greatest extent possible, the same important opportunities to participate in discursive processes, in the production of legal norms. The democratic principle is the junction point between the discursive principle and the legal medium, it becomes 'the fundamental' and absolute principle that generates legitimate and objective law because it is discursively founded. The discourses that generate legal norms are institutionalised through the complex structures and procedures of a truly democratic society, endowed with a discursive public sphere of opinion that is always properly informed, where communicative freedoms can be exercised, and in institutionalised forums of debate (elected parliaments), with a view to the production of legislation such as representative parliaments.

Habermas always tries to show us how the relationship between the private autonomy of citizens (principle of liberal derivation) and public autonomy (democratic principle), if correctly understood, are not in any relation of competition or conflict between them, but rather are strongly linked by a strong indissoluble nexus of Complementarity and Co-originality: in other words, they are such that one, in order to be fully realised, needs the other, since there is no possibility of obtaining true private autonomy without public autonomy and vice versa. Since public autonomy or popular sovereignty is understood as a great discursive process (albeit institutionalised in certain procedures and norms), then it is clear that private autonomy and individual rights are its true indispensable condition, since free subjects of public discourse can only be citizens guaranteed in their fundamental rights: the system of rights 'defines precisely the conditions under which the forms of communication necessary for legitimate legal production can also be juridically institutionalised' (Habermas 1996). On the other hand, there is no true private autonomy without true public autonomy. Because the free exercise of private autonomy would not really be possible without public recognition of its legitimacy. From a normative point of view, the two autonomies or rather the two freedoms "presuppose each other, in the sense that one would be incomplete without the other. But how - in order to adequately realise the rights of the citizen - public and private competences and responsibilities are to be concretely distributed depends, of course, on historical circumstances ... the sphere of the autonomous pursuit of private interests cannot be circumscribed once and for all against the sphere in which the 'common good' is realised' (Habermas 1996).

The dialogical system of communicative acting, in Habermas, envisages the participation of citizens oriented towards understanding, but the essential condition for everything to proceed in the right direction must be the lack of selfishness among the dialoguers. In fact, if it is not 'strategic acting' that determines the confrontation between the participants, it is possible to reach an agreement that can provide the best solution for everyone, even for those who do not participate in the discussion.

The central issue in the perspective of Habermas's political analysis is the notion of public space, as defined by Rawls or as he specifies, of the public sphere understood as a space of confrontation and debate, where each of the participants in the dialogue has an equal capacity, or should have it as much as possible, to judge political things, and public discussion is the best premise for the final 'deliberation'. It must be specified, however, that in order to be able to participate in public discussion, certain characteristics are required that are objectively not easy to realise in today's world. In particular, it would be necessary to have an information system that is not influenced by the powerful economic groups that nowadays, as Habermas analysed some time ago, "colonise the world of life"

(Habermas 1986), an information system that is also linked to a very effective educational system (Goga & Șerban, 2018) that is truly open to all, and which can allow all the participants in the dialogue to be correctly informed; and, equally important, to have received an education (Serban, 2024), instruction and preparation that allows everyone to participate in the dialogue with adequate critical and decision-making capacities.

Even in their differences, Rawls's perspective on political liberalism (Rawls 1999<sup>2</sup>) and Habermas's perspective on deliberative democracy (Palazzo 2002, Privitera 2021, Rodotà 1997), certainly converge on the central idea that a pluralist democracy finds in the public use of reason its main resource for arriving at rational and shared solutions.

The public sphere presupposes the sharing by citizens of both fundamental political values, the fundamental respect for human rights, solidarity, tolerance towards the different ideas of fellow citizens and the free sovereignty of the people, and the proceduralism of positive law so that interests, needs, claims or expectations are allowed in the free 'conversation' between citizens themselves.

The explanation is that 'communicative power is transformed - through procedures and legal institutions - into administrative power' (Ceppa 2001).

The public space model envisages that individuals participate in public discussion about the interests of all, about policies, ultimately about the ultimate rules to be changed when they no longer meet general needs. The process of deliberative politics must finally lead to the 'decentralisation' of the concept of society linked to the central state and its administrations with the corresponding hierarchical order: from top to bottom with the preference for a bottom-up decision-making system. In the Habermasian vision, in order to make citizens even more aware and participatory, the Constitution itself must be able to be changed, or rather, updated "with each generation" by always resorting to the direct participation of citizens in a "process through which citizens agree on their rules of coexistence" (Habermas 1997).

Privitera believes that 'Civil society constitutes, for Habermas, the infrastructure of the public sphere; therein lies that fabric of associative life in which problems and sensibilities are elaborated and then publicly articulated in the public space' (Privitera 2021).

Civil society should no longer be considered, as in the traditional Hegel-Marxist tradition, as opposed to the state (Bobbio 1995), but as 'an intermediate sphere to which belong associations, churches, foundations, cultural and sports clubs, movements not organised in a stable form, civic initiatives' (Privitera 2021). It is evident how it is possible in this 'material substratum' to form a public opinion that is autonomous and independent of conditioning, in particular from economic power.

The social conflicts that shape the democratic public space are conflicts for the recognition of the excluded. The outcome of such conflicts, if it is a successful outcome, makes those who participate in the public sphere reasonable. The political stakes become those of the recognition of once excluded identities.

Discursive democracy is always, as we have emphasised, co-original complementarity of public and private autonomy. In the resulting Habermasian system of rights, both aspects of freedom (negative and positive) are inseparable. In the Habermasian system, rights are arranged as follows:

1. Rights that protect equal individual freedoms;

2. Rights that define the status of an associate member;
3. Rights to take legal action to protect one's rights;
4. Rights to participate in discursive processes of law-making, in other words rights to exercise political autonomy;
5. Rights of social distribution, in other words rights to enjoy living conditions that allow the previous listed rights to be utilised with equal opportunities (Habermas 1996).

In democracy, public discourse is institutionalised through this system of rights. Democratic political legitimacy is fundamentally based on discursive procedures (always on two levels that have to harmonise with each other, the informal level of public opinion and the formalised level of parliaments). In the public sphere of discussion 'the democratic community of citizens makes its own the presumption that the participants in the discourse engage in a cooperative search for the best solutions and that the best arguments prevail' (Privitera 2021).

### **3. Model of deliberative and participatory democracy.**

Habermas seeks to construct a new model of discursive (or "Deliberative") democracy that is distinct and/or alternative to the classical liberal or communitarian political systems, but also different from the models of deliberative democracy known so far (Bobbio 2006). "Habermasian 'deliberative democracy' "is a complementary theory to representative democracy and is the complex and multivocal fruit of a debate that has developed since the very early 1980s and represents, to date, one of the most important reflections on contemporary democracy" (Saward 2000). But on the other hand, his political theory is intended to contribute to the debate and analysis of actual political processes. Indeed, he harshly criticises (and is equally harshly reciprocated by) realist views of democratic political reality, arguing that: "unrealistic is the assumption that all social behaviour can be thought of as strategic action and thus explained in terms of egocentric and utilitarian calculation. This model has a manifestly limited power of sociological explanation" (Habermas 1996). Habermas wants, through his 'discursive reconstruction' of the philosophical-legal disciplines, to renew the idea of modernity (Habermas 1987) born with the Enlightenment (Kant, Foucault, Habermas 2021), which, as we have noted, he calls an 'unfinished project' (Habermas 2019) but still relevant, not failed, therefore absolutely to be revived and brought back into vogue, with the appropriate and necessary adjustments. The great renewer of the Frankfurt School wants to carry forward the project of modernity through the 'new' legal-philosophical paradigm of radical democracy, which replaces the old paradigms of class philosophy and the dialectic of history as conceived by its masters. With the full recovery of the proceduralism of law (Faralli 2002, Palombelli 2002), Habermas believes he succeeds in enhancing the fundamental 'socio-integrative' function of law. In the transition from traditional societies to modern secularised societies, integration between different people and the various expressions of solidarity are only possible through the existence of this abstract plane that is law. Positive law, which is certainly one of the main achievements of modernity, enables peaceful coexistence in today's societies of democratic proceduralism, through the values of solidarity, justice, particularism, respect for the various multi-racial identities present and universalism. In his attempt to reconstruct the 'solidarity among strangers' of the present world, he seeks to overcome the opposition between progressive 'liberals' à la Rawls and progressive 'communitarians' à la Dworkin (Dworkin 1982, 1989, 1990, Hart

1965), which has occurred particularly in North American cultural circles. In attempting to always achieve the common good through communicative understanding, achieved through the free exchange of ideas, neither the interest of the individual nor the rules (even ethical rules as Habermas understands them), (Habermas 1985), of the various communities to which they belong must ever be sacrificed. But from time to time, with absolute respect for democratic laws, the most appropriate solutions must be found.

The effective functioning of deliberative democracy depends, in the majority of cases, on the receptiveness and mobilisation of civil society towards the administrative apparatus of the state, in defence, in particular, of the welfare state, to enable all citizens to receive quality education in order to be able to inform themselves and participate, with equal dignity, in public life.

According to the Habermasian vision, we need to revive democratic politics (normative, solidaristic and communicative) against the prevailing logic of the markets, which today is based on selfishness. Political communication takes place through the image of water locks, that is, a complicated 'exchange game' between the communicative anarchism of society and the decision-making proceduralism of the responsible bodies (parliaments, regional and provincial councils, etc.).

He believes that 'the communicative freedoms of citizens must be asserted in the public use of reason (to use this expression from Kant and Rawls). And the influence exerted by different opinions in the political public sphere, as well as the communicative power derived from the democratic procedures of the public sphere, can only assert themselves if they condition - without intentions of violent conquest - that administrative power which it is a matter of planning and controlling', (Habermas 1997).

One can certainly speak of citizen self-government and widespread solidarity in the democracy of the future: "In a democratic state based on the rule of law, struggles for recognition will only have legitimising force to the extent that all groups can access the political sphere, make their voices heard, articulate their needs, in short, only to the extent that no one is marginalised or excluded", (Habermas 1997). The topic of deliberative democracy is to be regarded as highly relevant in theoretical-political considerations, as evidenced by the countless interventions and considerable discussions that keep the philosophical-political debate on the subject alive (Palazzo 2002, Petrucciani 2004).

In common, all proponents of deliberative democracy claim that it is linked to the freedom of discussion, to the peaceful conflict of arguments; this is the very essence of democracy, in a world of pluralism and accentuated differences, where the need for peaceful and rational dialogue is the true primary need. In a system based on deliberative democracy, everyone can advance his or her own conception of the 'good' but must not expect others to follow their conceptions and convictions. Instead, it becomes "necessary for a real and genuine argumentative interpretation, in which all stakeholders take part, and they must be willing to change their opinion if it proves to be untenable. Deliberative democracy is a method to make people change their opinion in a civilised manner. As is well known, this is Habermas' critique and at least on this point one cannot blame him, even after Rawls' reply" (Viola 2003).

Moreover, it should be borne in mind that 'When one then considers that public life does not consist only in establishing reasonable principles that everyone can accept, but above all in interpreting and applying them in an argued and impartial manner, one understands that public reason is an always open building site in which what is built is



never definitive nor complete. It is not a matter of arriving at a right solution once and for all. It 'is valid in relation to given contexts, given circumstances and always has a provisional character.... In this sense deliberation has an 'infinite' character, as is known to be proper to the search for truth' (Viola 2003). We think that Habermas would subscribe to these statements by Viola, but what must be added is that, in a deliberative attitude, rational argumentation always prevails over pre-established identities, and in this way one approaches impartiality and reasonableness. As a result, it will be possible to recognise 'others' as having the same rights as us, and thus to cooperate in view of a society based on reciprocity and a feeling of equality.

However, one must recognise the great practical difficulties in achieving deliberative democracy, even considering the great diversity of proposals by its theorists themselves (Florida 2017, 2013, Politi 2022, Pairetti 2013, Bosetti, Maffettone 2004). But it is certainly important to be able to hope for a society where the democratic public sphere leads to more effective participation and rational discussion by citizens; this should be a real possibility to which everyone should be able to aspire. For any form of democracy "demands deliberation, that is, a culture of argumentation, and it also demands a body of citizens sensitive, at least in theory (and sometimes in practice), to the best arguments", (Walzer 2001).

As Habermas wrote in his habilitation thesis, in order to have an effective democracy, it is useful and necessary for there to be a 'political public' that through the political public sphere, a place of confrontation and discussion, acquires an 'institutionalised' influence on the government. The public succeeds in influencing the rulers because 'the exercise of political power is effectively subjected to the democratic obligation of publicity', (Habermas 1971).

An interesting consideration to consider is undoubtedly that "one of the generative principles of modern democracy is the opening up of an unlimited space for critical questioning" (Ciaramelli 2003).

The legal validity of norms of conduct must therefore safeguard human coexistence (both nationally and from a supranational perspective) because it is always founded on respect for universally shared and recognised human rights. Moreover, let us recall that in Habermas, 'popular sovereignty and human rights, democracy and the rule of law, are conceptually intertwined. The initial decision to democratically give itself a law can only be implemented on condition that it realises those rights that the participants must mutually grant themselves, if they legitimately wish to regulate their coexistence with the instruments of positive law. This again requires, as a guarantee of legitimacy, a procedure of legal production that durably regulates the elaboration of the 'system of rights'. According to Rousseau's formula, everyone must decide the same thing about everyone. Fundamental rights thus arise from the idea of giving legal institutionalisation to this procedure of democratic self-legislation' (Habermas 1998). Habermas's questions of law and politics are well defined by Leonardo Ceppa as: 'An ambitious discursive theory of law and democracy that - more and more explicitly oriented towards the American legal normativism of Rawls and Dworkin - studies the possibility of integrating normative and systemic approaches, reconnecting the private dimension of moral reflection (what should I do?) with the public dimension of ethical and political self-enlightenment (who do we want to be?). By transferring the idea of justice from the ethical to the political and institutional realm, law should be able to reconcile the

liberalism of Locke and Kant with the democracy of Rousseau, in other words, the theory of civil rights with the theory of the will of the people' (Ceppa 1993<sup>2</sup>).

#### **4. Conclusions**

All this belongs inseparably to the intellectual journey of Jürgen Habermas, who has always aimed at an inclusive and dialoguing society, where all people are on the same level of effective equality and parity. In particular, he proposes a very participatory form of democracy, where citizens are much more involved in political decisions, deliberative democracy. In our current representative democracy, the citizen's opinion is only concretely manifested at the moment of voting, as defined by Habermas: 'with electoral behaviour'. Liberal democracy functions with political communication by the parties, political propaganda, the formation of public opinion, without actual discussion of the problems of society by the citizenry, "and closes with the expression of the vote, guaranteeing, with these modalities, the realisation of the normative principle of the government of public power in public", (Bobbio 1995). The second idea of the public sphere, that is, the one that revolves around the concept of deliberation-interaction-participation, was developed in relation to the issue of the institutional design of deliberative frames, in the context of participatory practices and the formation of 'sectoral publics'. These are not exclusively expressed in 'generalised communicative influence' but go as far as determining content and decisions in the public policy agenda. The distinction between representative democracy and deliberative democracy, as understood in the concept of public opinion, consists in the difference that passes between the role of information and the role of actual knowledge of arguments in the formation of opinions. It is, in other words, the difference that passes between the citizen with essentially 'low informational rationality' and the citizen competent on public issues. In other words, if for the mechanisms of representative democracy, a thin citizenship, even one with low rationality and low cognitive commitment, is sufficient" (Mazzoleni 2004), this is not the case for the exercise of deliberative democracy, which instead presupposes that "those who decide for themselves must know what they are deciding on", (Sartori 1995). The passage from representative democracy to participative-deliberative democracy presupposes the completion of a 'leap' in terms of the cognitive competence of citizenship, from the dimension of opinion on problems to that of knowledge on the merits of problems. It stands as a tertium genus between the liberal model on the one hand and the republican-participatory model of direct democracy on the other. This is because it mediates between the purely instrumental dimension of politics and the dialogical one, between 'negotiations' and important 'discourses of justice'. In this way, Habermas believes that in the democratic process there are "stronger normative features than in the liberal model", but at the same time weaker "than in the republican model, [the participatory and deliberative democratic ideal] takes ... elements typical of both sides and coordinates them in a new form", (Habermas 1998). The deliberative theory of democracy does not limit itself to viewing the democratic state as merely the 'guardian' of market society, but neither does it claim to redefine today's 'complex' societies as ethical communities, Habermasian discourse theory points to a 'higher level' of communicative intersubjectivity 'which characterises the processes of understanding that take place on the one hand in the form of parliamentary debates and on the other in the communicative network of political public spheres', (Habermas 1998). The idea of deliberative democracy as a new form of democracy, different from representative democracy and direct

democracy, can be reconstructed starting from the conceptual space (Almagisti 2002, Passerin d'Entrevès 1995, Vitale 2000), defined by Habermas' thought, also partly inspired by Dewey (Dewey 1971) and Arendt (Arendt 2003), i.e. founded on the conceptual triad constituted by "public sphere, discourse and reason" (Habermas 2007). In particular, it is an idea of politics that is objectively very difficult to practise, understood as participation that is always informed and with great capacity on the part of the entire citizenry to express dissent that must be as constructive as possible, the 'capacity to act in common', always to achieve 'the common good', always taking into account the complexity and plurality of our present-day societies, as a way of achieving democratic consensus through the exchange of reasons that tend to enhance the well-being of all as much as possible, i.e. as 'public enquiry', always capable of combining thought and concrete facts for the solution of problems of collective relevance. A form of collective participation (Corchia 2009), by citizens engaged in addressing, in the public sphere, issues related to the 'production of public goods' and for the common good, i.e. shared decisions, as much as possible, on the resolution of problems, which constitute the fundamental element that can unify democratic politics.

When Habermas thinks of the principles of justice, he is thinking above all of a broader process of political will formation that includes a public sphere that is not formally structured but is able to exercise control and influence in political decisions that affect the whole of society. This explains why the Habermasian model of democracy is more inclusive and places no restrictions on what can become the subject of deliberative discourse.

The openness of the deliberative process to any topic of public relevance must be emphasised. What Habermas explicitly calls 'the constitution as an unfinished project', citizens must relate to their own constitution as an unfinished project to which something must be added with each generation. But this is still not possible today, with today's rigid constitutions limiting the 'public use of reason', which does not have the character of total political autonomy, but only the function of stabilising the political order in a non-violent manner. In this way, 'the concept of popular sovereignty is also consequently transformed. It no longer resides either in the concreteness of a physically present people or in the exclusive abstraction of constitutional law. A decentralised society corresponds to a proceduralised sovereignty: the legal community, intersubjectively reinterpreted "disappears into the subjectless communicative forms that regulate the flow of the 'discursive formation of opinion and will' (J. Habermas, *Facts and Norms*, cit., p. 356)" (Ceppa 2009). Ceppa specifies that it is a communicative and procedural power 'that arises from the interaction between an institutionalised formation of the will as the rule of law, on the one hand, and culturally mobilised public spheres, on the other; the latter, in turn, resting on the associations of a civil society equally separate from both the state and the economy' (Ceppa 2009).

In the reality of these years, where we observe significant changes at the global level that are likely to lead us towards a more pluralist and multipolar world, with more competing emerging countries, we need to strive to create, as soon as possible, truly democratic and representative international institutions that are adequate for the governance of the world system (Dalio 2022). These new institutions should be based on the recognition of the interdependence of all nations and thus on political, legal and cultural pluralism. Law with a democratic world constitution should play a key role in structuring and stabilising this possible 'new global order'. After all, the role of law cannot

exist without a reciprocal recognition of cooperative and trusting relationships between states (Greek 2021), just as it does between people. The current geopolitical moment poses dangers and adversities on the brink: 'Humanity is today experiencing one of the most dangerous periods in its history. In some respects, what is happening is unprecedented, but in other respects it remains in line with the conflicts that have pitted the West against its adversaries in the past' (Maalouf 2024), it is clear that all of humanity should seek to resolve these conflicts through constructive confrontation based on democracy, the active participation of people, respect and recognition (Honneth 2015, 2019), of each other's rights.

Most likely, in a system, or 'world of life', as defined by Habermas, founded with these right criteria, wars would no longer be considered at all, "with all the enormous benefits that would accrue, in particular, with more funds available for education and training, research, healthcare, social services and infrastructure" (Stiglitz 2024). "Without considering the immeasurable importance of a society made up of thinking, free and autonomous people where the personal selfishness of individuals can be put aside in order to achieve in solidarity" (Cotturri 2024, 2020, 2013), that which approaches the "best possible solution" that always "effectively concerns the common good and the actual needs of all people" (Limone 2005), of all members of society without any difference of any kind.

### **Authors contributions**

Michele Blanco was involved in research design, the literature review, data collection, analysis and interpretation, and drafting conclusions. Luigia Altieri was involved in the literature review and drafting of conclusions.

### **Declaration of conflicting interests**

The authors declare no potential conflicts of interest with respect to the research, authorship, and/or publication of this article.

### **Funding**

The authors received no financial support for the research, authorship, and/or publication of this article.

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Received: February, 22<sup>th</sup> 2025

Reviewed date: March, 15<sup>th</sup> 2025

Accepted for Publication: June, 16<sup>th</sup> 2025