

## **Chapter IX**

### **Habermas in Portugal**

In:

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***Habermas Global. The Reception of his Work***

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## **1. Introduction: Habermas' intellectual development and contemporary Portugal**

When the 84-year old Jürgen Habermas visited Lisbon on October 28, 2013 to speak about democracy in Europe, he was greeted with a full house in the main hall of the Calouste Gulbenkian Foundation. The following day the main newspapers of the country reported his words approvingly. This was a sign of the times and of the changes that had taken place in the Portuguese academia. Habermas career began in the late 1950s and he achieved international recognition in the early 1960s. In Portugal, however, Habermas remained virtually unknown before the 1970s and it is only after the 1990s that he became a relatively well-known name. Why such a late reception? The question must be answered in the light of the major discontinuity in the political history of contemporary Portugal.

In 1974, Salazar's 48-year "Estado Novo" came to a somewhat abrupt end. His right-wing dictatorship severely limited the access of the population to Marxist and leftist ideas, before and after their reinvention by critical theorists. This had a significant negative effect upon the development of the social sciences in the country. Sociology, for instance, was only really institutionalised after 1974 with the establishment of democracy. Political theory, in turn, would develop as an academic specialism only decades later, after the 1990s. Law, long the remit of ideologically conservative thinking, was very resistant to opening up to "unorthodox" philosophies of law such as Habermas'. In sum, there are two very distinct facets to contemporary Portugal – one authoritarian, the other democratic – and that these facets have provided disparate contexts for the

reception of Habermas' ideas. While until the mid-1970s, there was little or no contact with his work; from the 1980s onwards, with the consolidation of the social sciences, the renovation of the humanities, and the democratisation of their curriculum, Habermas progressively gained the recognition he deserved, to eventually become in the 1990s the single most important representative of German social, political and legal theory in Portugal.

Habermas' notable resonance with democratic Portugal, however, requires two qualifications. The first qualification refers to Habermas' intellectual profile. The combination of left-wing, Frankfurt-style critical theory and highly abstract philosophical reflection may make of Habermas a typical product of German academia and intellectual circles more generally, but also makes it somewhat foreign in a country where French, Italian and, especially after 1945, Anglo-American ways of thinking have historically been the reference for the local elites. As a result, Habermas' reception in post-1974 Portugal has been confined to a segment of intellectual circles in academia and to the higher echelons of the judicial system. His writings on more popular topics, often circulated also through the German press, such as the future of Europe, have sometimes had their echo in the writings of Portuguese MEPs (e.g. Rangel 2009; Moreira 2012). But even if this secured momentary wider circulation, Habermas has never occupied more than a rather marginal role in the Portuguese public sphere.

The second qualification has to do with the patterns of development – before and after 1974 – in the political context and in the social, human and legal academic disciplines increasingly impacted by Habermas work in terms of curriculum and research. Broadly speaking, under authoritarian rule the

development of socio-legal knowledge in Portugal was confined to approaches that did not question the regime's central ideological tenets. These involved a set of paternalistic corporatist ideas commonly fashioned as an alternative to both Anglo-American liberal individualism and Soviet-style historical materialism. Needless to say, in such a context Habermas' variant of neo-Marxism did not fare well in the eyes of the Portuguese censorship mechanisms, hard or soft. Unsurprisingly, once the revolutionary transition to democracy is over and the country gradually establishes itself as a constitutional democracy, the conditions for the reception of Habermas' work improve markedly. In the 1980s, however, Habermas will have to face the competition of approaches that were by then capturing the attention of the Portuguese intellectual elite, much of which formed in exile, in France. These included, as elsewhere, postmodernism and French sociological theory, namely Pierre Bourdieu's genetic structuralism (e.g. Bourdieu and Passeron 1974; Bourdieu 1989) and Alain Touraine's ideas about postindustrialism and participant observation (e.g. Touraine 1982). Given the leftist ideological nature of Portugal's Carnations Revolution, from the mid-1970s into the 1980s, orthodox historical materialism played a prominent role from economics to sociology and beyond, which also contributed to occlude Habermas' heterodox strand of critical theory. As to political theory, it is introduced in the country in the 1990s, during the heyday of Rawls' political liberalism, and when Habermas is ever discussed, it is mostly as a collegial critic of Rawls.

It is therefore as if the patterns of development of Habermas' academic career and political commentary, on the one hand, and the disciplinary patterns of development in Portugal, on the other, only really met halfway. Even then,

however, Habermas' reception was less a matter of immediate recognition than a gradual and somewhat tense affair. This situation marks a stark contrast with Habermas' reception in Brazil, where his ideas circulated more widely from early on. The contrast comes explained by the relatively independent paths of development of the social and human sciences in the two lusophone countries. Contrary to the relationship between the UK and the US, cemented by a well-established network of publishers, academic cooperation, and funding schemes that goes back to the early twentieth-century, the intellectual exchange between Portugal and Brazil in the domain of the social sciences, *maxime* sociology, has been historically minute. This means that a work by Habermas can be a bestseller in São Paulo and be virtually absent from bookshops in Lisbon. The same can be said, incidentally, about the different trajectories of the social sciences in Portugal and neighbouring Spain. In Iberia too there has been relatively little dialogue and cooperation. Whereas in Spain, functionalism and Marxism were key paradigms in the development of sociology from the 1960s onwards, Marxism and functionalism never really got a footing in Portuguese sociology departments before 1974: first, for the simple reasons that such department did not exist up to then; second, because while Marxism made considerable headways amongst Portuguese social scientists after 1974, functionalism was kept at bay for being deemed "too conservative" for the dominant leftist post-revolutionary persuasion.

This reflects itself in the publishing market. The vast majority of the Portuguese reading public would not read German. Well until the 1990s, they would access Habermas' ideas primarily through the work of publication and translation of both Spanish and Brazilian publishers. Cultural intermediaries

such as Taurus and Paidós in Spain and Zahar and Tempo Brasileiro in Brazil provide some good quality translation, often accompanied with insightful introductions. These, together with a few French and English translations in circulation, played a key role in the dissemination of Habermas' work in Portugal.

## **2. Habermas and Portuguese sociology**

In 1962, the date of publication of Habermas' first major monograph, *Der Strukturwandel der Öffentlichkeit*, there was virtually no academic discipline, research centre, professional association or scholarly journal/publisher in the domain of sociology in Portugal (Silva 2015; but see Neto 2013; Ágoas 2013). This left Habermas without an obvious academic outlet for his ideas. However, the 1960s were also the decade that witnessed the first attempt at institutionalising sociology in the country. This occurred in Lisbon, under the intellectual and organisational direction of Adérito Sedas Nunes, with the "Grupo de Investigações Sociais" (GIS), widely credited for having established the roots for the academic discipline after 1974. Between 1963 and 1974, however, sociology was perhaps too big a name for what were in effect a few introductory courses by Sedas Nunes and the journal *Análise Social*, where the research undertaken by the members of GIS was published. No reverberation of Habermas' ideas can be seen through the courses or the academic journal. His writings on the nature of knowledge and the origins of the public sphere remained uncommented and indeed untranslated.

The state of sociology as an academic discipline changed significantly in the following decade. The first bachelor's degree is offered right in 1975 in

Lisbon (ISCTE), with several others to follow in the subsequent years. A central concern of the nascent democratic regime was to guarantee social welfare provision for the impoverished population (Vieira and Silva 2010). In fact, this social concern was of comparable importance to guaranteeing the civic and political rights of the Portuguese. This meant that the constitutional and legal creation of a welfare state, following the blueprint offered by the welfare states of the post-war Western European countries as well as of communist ones, was one of the first and most important political priorities of the new democratic authorities. This political commitment soon becomes a research topic for the nascent social sciences (e.g. Maia 1981, 1984), and it provides the context for the first meaningful engagement with Habermas' work, namely *Legitimationsprobleme im Spätkapitalismus* (1973).

In the late 1970s, early 1980s, academics in Portugal discover in Habermas a neo-Marxist theorist of the crises of capitalism and of the role of the welfare state in regulating such crises shedding important light upon the country's attempt at implementing a Western-style welfare state (e.g. Guibentif 1985). The fact that *Legitimation Crisis* was available in Spanish or French translation, and is one of Habermas' most accessible works, also helped. This combination of circumstances meant that Habermas' name first begins to circulate in Portugal in academic and policy circles as a sophisticated and useful source to help one reflect upon relevant political and economic issues. Parallel to this, the inclusion of Habermas in sociology syllabuses in this period focuses on his theory of cognitive interests. Here the concern is primarily pedagogical. Habermas' 1960s work on epistemology becomes a central component of the

methods courses in the new sociology curricula. Again, Spanish translations are the vehicle for undergraduate students to learn about Habermas' ideas.

Even more significant, however, is Habermas' 1981 thesis about the unfinished philosophical project of modernity. This is perhaps the most influential work of his long and especially productive career. In countless countries around the world, his debate with postmodernism will be followed attentively and will help shape the terms of the debate for years to come. Yet in Portugal Habermas' ideas about modernity are received in the context of a society that fashions itself as undergoing a rapid process of political, social and economic change – in short, the process of modernization that the Salazar regime had denied the country for almost half a century and that the current generation wanted to accelerate desperately, possibly with the help of the European Communities. Modernization, both as a future aspiration and a reality in-the-making, meant the Portuguese reception of Habermas' work varied between finding in it a realistic corrective to postmodernism (How could a country become postmodern without ever being modern?), and judging it too distant from the country's reality and therefore in need of adaptation (e.g. Costa and Machado 1998). In any case, from the mid-1980s onwards, Habermas becomes more of a household name among undergraduate university students, academics and opinion makers. His status changes to that of an intellectual heavyweight comparable yet distinct from revered such French luminaries as Derrida, Foucault or Lacan.

This is also an epoch in which the social sciences in Portugal give their first but sure steps toward consolidation. Professional associations start to organize annual meetings, new journals join *Análise Social* and publish regularly,



research funding begins to be distributed on a competitive basis, doctoral programmes are organised, and undergraduate syllabuses incorporate the international literature alongside national references for an ever larger number of students (e.g. Barreto 1996). This means that, for the first time, the country has the critical mass necessary to come to terms with one of Habermas' most important, if not *the* most important, monographs: the 1981 two-volume *Theorie des kommunikativen Handelns*. Again, one should not exaggerate the scope and depth of this encounter. It is not as if Lisbon in the 1980s had suddenly become the Paris of the 1950s where tens of thousands read Sartre and de Beauvoir's existentialist philosophical writings. First of all, access to *The Theory of Communicative Action* was severely limited. In the absence of a reliable, accessible Portuguese translation of the work, students and staff alike had to do with the available translations in the various university libraries. Second, the monumental scope combined with the philosophically dense and demanding writing style of the work also meant that among those who had access to it only a few did engage with it in a serious and methodical way. Yet it is through this work that from the mid-1980s, early 1990s, onwards Habermas becomes widely known as a key social theorist to a generation of social practitioners in Portugal, incidentally the country's first graduate training-wise.

Habermas' relative success was shadowed by structural factors, however. The internal organisation of sociology in Portugal, in particular, was not conducive to a more systematic and profound type of engagement. To start with, Frankfurt-style critical theory does not have a substantial readership or organisational basis in the country. In general, German sociology is less influential than French, Anglo-American or Italian sociologies, and this certainly

shaped the reception of his ideas in Portugal. The main sociological centres in the country take their epistemological-methodological inspiration in Bourdieu's practice theory (ISCTE, Lisbon), postmodern/postcolonial critical theory (CES, Coimbra), and historical sociology (New University, Lisbon). Habermas' philosophical-sociological grand theorizing thus occupies a niche position in certain core papers in university syllabuses, inspires a few publications and university seminars, but in rigour cannot be described as a research programme, let alone a paradigm with a substantial following. Again, this marks a stark contrast with the situation in Brazil or Spain, where thick networks of publishers, translators and commentators have collaborated for decades in disseminating Habermas' ideas in their home countries.

Social theorists, however, did engage with his ideas more systematically. Since the 1980s, Boaventura de Sousa Santos has used Habermas' positions as a negative yardstick against which to define his own postmodern strand of critical theory. Whereas Habermas is depicted as advocating a rationalist 'universal recipe', Santos argues for a contextual-sensitive approach that learns from locally produced forms of knowledge and experience (1988, 2000; see also Teixeira and Ramos 2011). From the outset, Filipe Carreira da Silva has assumed a more sympathetic position vis-à-vis Habermas' work. His longstanding engagement with American philosophical pragmatism can be said to be a direct result of this earlier encounter with Habermas. In the 2000s, he explored the conceptual development of the notion of "public sphere" in Habermas' thought (2002). Later he followed Habermas' appropriation of American pragmatism, namely John Dewey's political views (Silva 2004). This eventually led Carreira da

Silva to study G.H. Mead's intersubjective theory of the social self (Silva 2007, 2008), while continuing to comment on Habermas to this day (e.g. Silva 2014).

Within sociology proper, the specialisms that have engaged the most with his ideas are, on the one hand, sociology of the media and communication, and, on the other, sociology of the law. In the first case, the notion of public sphere has been of paramount importance (e.g. Carvalho e Casanova 2010). A fair number of publications and research projects have been developed to explore its implications and mutations in the digital age. In retrospect, it is clear that Habermas' emphasis on communicative rationality, the role of the public sphere, and of the mass media has helped create and develop the field of sociology of the media and has fostered the establishment of media and communication studies as an independent domain in its own right (e.g. Moreno 2013). The translation into Portuguese in 2002 of *Strukturwandel der Öffentlichkeit*, with an informative preface by João Pissarra Esteves (Habermas 2002), marks a highpoint in the reception of Habermas' ideas in this specialism (among social historians, see Araújo 2008). In the second specialism, which is much smaller in terms of number of students and staff, Habermas writings on law and society continue to exert a significant influence. With Coimbra and Lisbon (ISCTE) as its main institutional platforms, sociology of law has historically acted as an interdisciplinary gateway for commentary on Habermas' juridical-political writings in the country. ISCTE Professor Pierre Guibentif is a case in point. Positioned within the law and society tradition, Guibentif offers a systematic comparison of Habermas' rational-communicative approach to the law with the contributions made by Foucault, Luhmann and Bourdieu from the angle of the dichotomy agency vs. structure (2010).

Beyond the social sciences, Habermas' influence has made itself present in the realm of philosophy (e.g. Mendes 2011; Gouveia 2015). In particular, Habermas' appropriation of American philosophical pragmatism constitutes one of his most significant contributions in the domain of philosophy in Portugal. Portuguese philosophers' engagement with this philosophical approach begins in the 1980s, early 1990s with a series of translations (e.g. Murphy 1993) and publications of original works. As Manuel Maria Carrilho notes in his Foreword to William James 1907 *Pragmatism* (1997: 12), Habermas is to be credited for having helped revive the interest on American philosophical pragmatism among European Continental philosophers – Portuguese included – after the 1970s.

All in all, Habermas' philosophical-sociological outlook has provided a solid reference point to several generations of Portuguese sociologists, very much like he did internationally (Baert and Silva 2014). This was not a continuous process, however. Until the mid-1970s, his influence was negligible for reasons related to the specific path of development of the discipline in Portugal. After that, Habermas' ideas, namely on the project of modernity, communicative rationality and public sphere, exerted a degree of influence not dissimilar to that registered in other countries around the same epoch. But Habermas had always to face the competition of approaches or paradigms, from postmodernism to practice theory, which enjoyed a much larger following. As a consequence, Habermas' reception among sociologists in Portugal has been a positive yet limited affair that begins in the mid-1970s and which expands significantly in the course of the following decade. The publication of *Faktizität und Geltung. Beiträge zur Diskurstheorie des Rechts und des demokratischen*

*Rechtsstaats* in 1992 marks however a distinctive new stage in the reception of Habermas' ideas in Portugal as elsewhere.

### **3. Habermas' reception in political theory and law**

The audience for Habermas' last *magnum opus*, *Between Fact and Norms*, is markedly different from previous ones. If between the 1970s and the 1990s the main reading publics of his work were sociologists and, to a lesser extent, philosophers, from that point onwards jurists and political theorists will take the lead. The reasons for this are both external and internal to the text. In Portugal, the development of political science as an academic discipline occurs much later than in other Western countries. While during the dictatorship, political science was partly subsumed under the tutelary influence of law and administrative studies as to make it an obedient and useful tool of the government (e.g. Moreira 1964, 1979), in the post-revolutionary years, as the epistemological autonomy of the political realm was yet to be recognized, the study of the state, electoral behaviour, and the like was undertaken within political sociology (e.g. Stock 1985). Partly because of the influence of European integration, in the late 1980s, early 1990s this changes dramatically. As the social sciences grow in size and begin to differentiate, the international exposure also increases significantly. As a result, when *Between Facts and Norms* begins to circulate in the 1990s (the English translation is from 1996), it meets the first generation of political scientists trained in the country.

The topic and approach employed by Habermas in this work also explains why it was not sociologists, but political scientists and jurists who made more use of it. While *The Theory of Communicative Action* offered, alongside with a new sociological understanding of rationality, a canonical view of the past of sociological theory, *Between Facts and Norms* is a treatise in legal philosophy, which includes a purely procedural conception of deliberative democracy.

Deliberation is arguably one of the buzzwords of the 1990s. The main intellectual sources are, on the one hand, Habermas, and, on the other, John Rawls, notably in *Political Liberalism* (1993). The Rawls-Habermas debate on deliberation is one of the first international debates in political theory to be closely followed and commented upon in Portugal. This Kantian conversation (Baynes 1992) provides the intellectual context of the reception of Habermas' ideas on deliberation, which represent the participatory and radical democratic side vis-à-vis Rawls' more pronounced liberal position (e.g. Vieira 1999). More empirically-oriented political scientists in Portugal, in turn, have conducted studies of deliberative politics following the lead of likeminded attempts at implementing Habermas' theoretical agenda in the study of real-world phenomena. Between October 2006 and May 2007, Habermas' ideas on deliberation were given a concrete political expression with the European Citizens Consultations. Of Habermasian inspiration, the Consultations were aimed at creating a "truly European discussion, bringing citizens together at European events and linking simultaneous national debates on a shared agenda of ideas set by the citizens themselves".<sup>1</sup> In Portugal, much like elsewhere in Europe, it fell upon social scientists familiar with Habermas' ideas on deliberation to help organize this pan-European event. In sum, Portugal's nascent community of political scientists and theorists will find in Habermas one of their intellectual references, even though, as it happened in sociology a decade earlier, this encounter is limited in numbers and significance. As the deliberative wave subsided in the 2000s, so did the interest in Habermas' work on

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<sup>1</sup> <https://web.archive.org/web/20070810090357/http://www.european-citizens-consultations.eu/>

deliberative democratic theory. As a result, Habermas's inclusion in the canon of radical and progressive political thinkers is now said to be due not primarily to his deliberative conception of democracy but to his contributions as a whole (e.g. André et al. 2015).

*Between Facts and Norms*, however, offers much more than just a procedural conception of deliberative democracy. Habermas' deliberative approach extends to the very nature of the law. Jurists in Portugal were understandably drawn to it, particularly those of a less ideologically conservative persuasion. Unlike in the social sciences, a fair number of legal scholars read German, a circumstance that has certainly facilitated direct access to Habermas' work. Eminent constitutionalist José Gomes Canotilho offers a good illustration. In his annotated version of the Portuguese Constitution and cognate works (Moreira and Canotilho 2014; Canotilho 2003), Canotilho makes ample reference to Habermas' ideas on deliberation, communicative reason and on the eighteenth-century bourgeois public sphere as a normative ideal for present societies. Unsurprisingly, it was Canotilho who wrote the Introduction to the Portuguese translation of Habermas' 2011 *Zur Verfassung Europas - Ein Essay* (Habermas 2012).

The institutional contexts of this reception were law schools and research institutes, but also the courts, specifically the higher levels of the judicial system. Ever since the publication of *Between Facts and Norms*, legal opinions by justices in the Supreme Court, the Supreme Administrative Court and the Constitutional Court have referenced Habermas on occasion.<sup>2</sup> As a result, Habermas'

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<sup>2</sup> Rulings by the Supreme Court that cite Habermas include: 113/06.5TBORQ.E1.S2; 126/10.2JBLSB.L1.S1; 219/11.9TVLSB.L1.S1; 64/1996.L1; 1032/08.6TBMTA.L1.S1; 220/10.0TBPNI.L1.S1; 7/10.0YGLSB.S2-A; 06P2935; 06P1294; 22/07.0GACUB. E1.S1;



communicative conception of reason and procedural approach is nowadays one of the most respected legal paradigms in the country.

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Constitutional Court's decisions citing Habermas include: 420/2013; 437/2011; 453/97; 636/95; 432/93.

#### **4. Habermas and the challenges of European integration**

Beyond its significant impact in the Portuguese academia and courts, Habermas' peculiar strand of critical theory has helped inform critically minded discussions of the country's role in Europe and of the political consequences of the 2008 financial crisis and ensuing economic recession (e.g. Silva and Vieira 2012). This critical discussion was first directed at the nature of the process of European construction, and subsequently, during the crisis, at some of the dangers afflicting European integration, namely the crisis of legitimation of democratic representative institutions that prove unable to cope effectively and in a timely fashion with economic recessions.

Whoever considers the dilemmas Europe faces today would barely believe that in 2002 the members of the Convention on the Future of Europe were actively engaged in drafting a European Constitution as to clarify the nature of the Union and expand its powers as to better respond to future challenges. The idea of giving European integration a new impulse was applauded by many intellectuals across the Continent, Habermas included. Habermas' visionary proposal was for Europe to adopt an authentic Constitution, which was to be submitted to the scrutiny of the European peoples through rational processes of will-formation and approved via a popular referendum. What eventually happened was rather different. Europe's political-technocratic elite (barely) managed to produce yet another treaty, even though with constitutional flavour, approved by the member-states. The Europe of the citizens was to loose, once again, to the Europe of governments.

In the 2001 essay "Why Europe Needs a Constitution", an essay that was to have a significant impact among commentators in Portugal (e.g. Silva 2005),

Habermas stresses that “As a political collectivity, Europe cannot take hold in the consciousness of its citizens simply in the shape of a common currency.” This is because, he explains, the “intergovernmental arrangement at Maastricht lacks that power of symbolic crystallization” as well as the power of political mobilisation “which only a political act of foundation can give.” (2001: 6) In other words, Europe had to cease to be a mere common market to become a constitutionally defined political entity. This was hardly revolutionary. On the contrary, the challenge was to maintain, in the face of the challenges of economic and cultural globalisation, the democratic conquests of the European nation-state, beyond its own limits. This included both civil and social rights, the latter understood as the preconditions of private autonomy, of the exercise of democratic citizenship and cultural, social and political inclusion in the enlarged space of the European Union. This was, in a nutshell, Habermas’ proposed constitutional project: a new Constitution able to retain the universal principles, values and norms of liberalism while expanding Europe’s social model at a continental wide scale, whose political identity was not to be confused with that of individual member-states. Ill-fated as this proposal was, it nevertheless drew the attention of a number of Portuguese public intellectuals in the early 2000s.

One of the reasons for this proposal’s appeal among Portuguese commentators had to do with the concept of constitutional patriotism. In a country where nationalist sentiment was carefully nurtured by a right-wing dictatorship for almost half a century with a notable degree of success, Habermas’ conceptual antidote to the perils of xenophobic feelings of attachment to an imaginary homeland was bound to attract attention (e.g. Healy 2011: 27-28). Habermas had originally used this concept to address the resurgence of

nationalist sentiment in post-reunified Germany. He was now using it to address European-scale political problems, which also mattered to his readers' own national realities. The basic idea behind this concept is straightforward. It refers to forms of civic identification that, rather than being dependent on any particularistic types of bonds (ethnic, cultural, linguistic or even, in Habermas' understanding of the term, ethical), depend on universalist values, principles and ideals that are egalitarian *and* liberal. Neither cultural homogeneity, nor a common ethnic ancestry, let alone the exclusionary closure that both can generate and legitimate, are to be found in Habermas' conception of patriotism. Instead, his patriotism is first and foremost constitutional, i.e. defined through the language of human rights and the demoliberal principles and procedures that accompany it. For Habermas, it is necessary to redirect the citizens' loyalty away from dangerous pre-political categories such as the nation, ethnicity or the family, towards safer, more rational universal principles that are embedded in each country's political culture as well as enshrined in its fundamental law.

Many criticisms can and have been directed at this proposal (e.g. Markell 2000). For our purposes, it is particularly important to explore one such criticism as it reveals why *malgré tout* Habermas' ideas eventually played a significant role in crisis-ridden, bailed-out Portugal. In particular, we refer to the limitations of a theoretical strategy that envisages merely replacing a model of political identification with a concrete ethical-cultural object for another model where political identification functions by reference to an abstract universalist category. In order to do this, however, one first needs to return to Habermas' reaction to the numerous demonstrations against the murder of a three women family of Turkish origin that took place in Germany in late 1992. In an op-ed

published in *Die Zeit*, Habermas describes these demonstrations as an example of constitutional patriotism. For Habermas, the opposition to xenophobia and racism was not being led neither by political elites nor by the administrative officers responsible for these matters, but by anonymous members of the public: “especially after the Mölln killings”, Habermas writes, popular demonstrations and street protests such as the Munich vigil “have been putting a stop to the half-hearted and ambivalent reactions on high” (Habermas, 1993: 65). What is particularly striking about this article is the association that Habermas suggests between the concept of constitutional patriotism and the public expressions of “democratic indignation” towards the authorities and a political culture that allows for such atrocities while showing unmitigated “empathy” for the victims. Before this concrete case, and contrary to what one would expect given exclusively Habermas’ theoretical writings on the topic, Habermas does not hesitate in suggesting that the late 1992 demonstrations illustrate his understanding of what constitutional patriotism is all about. This is not because they are based on a positive identification with a certain set of abstract universalist principles that the neo-nazis would have violated. Rather it is because, he emphasises, these demonstrations express the capacity for critical reflection about political identity as German citizens. It is in the questioning of the processes of political identification that resides the radical democratic potential of the concept of constitutional patriotism, Habermas now asserts. This is a far more radical (and interesting) understanding than his earlier understanding of constitutional patriotism as a mere redirected form of identification. In other words, what this example shows is Habermas’ openness to the criticisms that have been levelled at his attempt at conciliating the

universalism of liberal and democratic normative principles and the particularism of concrete forms of identification with those principles in a simplistic way. On the contrary, what this example seems to indicate is Habermas' profound awareness of the tense and conflictive character of the relationship between particular and universal. The same is to say, Habermas seems acutely aware that constitutional patriotism, if it is to be a form of emancipatory identification, inevitably needs to recognize the controversial, incomplete and always in the making character of any form of identification with universal principles.

As it happens, this was exactly what originated the latest and one of the most exciting episodes in the history of the reception of Habermas' ideas in Portugal. The immediate background of this episode was the 2008 financial crisis and the ensuing economic downturn, of which the Portuguese economy – small, open and highly indebted – was one of the most severely hit. At stake were the cuts to welfare expenditure imposed by the Troika of international lenders – the International Monetary Fund (IMF), the European Financial Stabilisation Mechanism (EFSM), and the European Financial Stability Facility (EFSF) – in exchange to the 78 billion Euros bailout granted to the Portuguese republic in mid-2011. How would the Portuguese respond to this attempt to reform or dismantle, depending on one's ideological positioning, the country's welfare state, which happens to have co-originated with the democratic regime itself? Would this unprecedented crisis of the country's welfare state mean a questioning of the Portuguese's allegiance to representative democracy itself, perhaps paving the way to technocratic or populist alternative solutions?

The answer to these questions came in the form of a series of studies partly informed by Habermas' ideas. His emphasis on human rights in *Between Facts and Norms* as well as his conception of the *Lebenswelt*, a prediscursive dimension of reality where the values and ideals that make up political culture are located, both played a significant role. Social rights, in particular, have become an integral part of the "legal consciousness" of the Portuguese – i.e., the way they think about and act on the basis of their conception of social rights – for historical reasons that are easy to understand. As noted above, the new democratic regime and the Constitution it created gave a prominent role to the social functions of the state. In the intervening decades, political parties have explored with great electoral success the expansion of the welfare state distributing benefits to ever-larger segments of the population. This all suddenly came to an alt with the 2011 bailout. For the first time, the Portuguese were confronted with bankruptcy and a possible exit from the European Union, and the imminent reality of welfare retrenchment.

Focusing on the population's pragmatic attachment to the normative principles of the welfare state in the form of various constitutionally enshrined and politically construed social rights and benefits such as the right to health care, pensions of reform and unemployment benefit, a new generation of scholars conversant with both Habermas and American pragmatism have undertaken a series of studies that shed important light into the political consequences of the economic crisis afflicting their country. One such study shows that choice between universalistic and targeted models of welfare provision is significantly shaped by pre-existing understandings of social rights in Portugal, namely their politically contested character (Silva and Valadez

2015). As a sub-set of legal consciousness, 'social rights consciousness' is not a mere preference for rights (Ewick and Silbey 1998). Rather, it refers to a multidimensional understanding of rights as relational, reflexive, and contested. To have a right is to enter a political relation, to belong to a community whose norms include that right as something anybody can assert and that everybody can recognize. Rights require every member of the political community to take both roles or positions involved in a rights relation, that of entitlement and that of the obligation to respect it – this is how rights help constitute individual political identities. Rights are contested not only within oneself (i.e., one's legal consciousness is a dialectical process, responsive to concrete action-problems in real world situations, which evolves over time potentially in contradictory ways), but between different selves (politicians, judges, and ordinary citizens, for example, often disagree about the interpretation and application of rights). This pragmatic understanding of rights, whereby rights refer to doing more than having, can be traced back to the work of the early twentieth century American social psychologist G.H. Mead (2011: 211-322). This neo-Meadian salience of the contested nature of one's legal consciousness reflects not only Habermas' efforts in promoting American pragmatism but is in line with his emphasis on the critical questioning of the processes of political identification discussed above.

A subsequent study analysed the social attitudes of the Portuguese population before and after the economic crisis (Vieira, Silva and Pereira 2016). The immediate motivation behind this study was the quintessential Habermasian question of the crisis of legitimation of the political system (1975: 47). Was the economic crisis and the ensuing welfare retrenchment policy decisions translating themselves in a crisis of confidence on the part of the



citizenry in the basic democratic principles and institutions? When compared with other OECD countries, Portugal stands out for its combination of high insider employment protection and high labour market dualisation. This means that despite a generalized increase of vulnerability in the aftermath of liberalization reforms, insiders still enjoy strong employment rights, benefits and protective social security policies, both universal and contributory. Ever since the democratic regime has been established in Portugal, and the democratic welfare state started taking shape, political parties have made insider welfare constituencies their main constituency. This has resulted in insiders acquiring a clear understanding of their interests, a sense of entitlement, and an ability to use their vote to defend them politically. This study's findings reflect this: faced with the crisis, insiders, who are generally more reflexive about the trade-offs involved in social rights, shifted to the left, whose purported main policy objective remains to preserve and expand insider job security, while firmly holding to typical insider protections, namely social insurance that rewards continuous employment and full-contribution records.

By contrast, outsiders, who remain broadly unrepresented, constitute a looser group, with undefined boundaries, and uncertain political meaning, invisible to itself and others. Although they lean more to the left than insiders, outsiders advocate the same historical understanding of social rights that underpins insiders' sense of entitlement and they end up advocating contributory-based policies that would seem to *prima facie* benefit the latter group. In the light of this, system justification theory seems to provide a plausible explanation for outsiders' seemingly self-defeating preference for contributory schemes that cater for insider's protection, and are not, in

themselves, redistributive. But a more Habermas's inspired explanation seems to be required to make sense of what is effectively happening. Portuguese outsiders do not simply reproduce the system unreflectively, assuming extant hierarchies and structures in society to be fair. Rather, they seem to positively identify with key normative features of the policy design of a universal and contributory welfare system geared towards strong job security, sturdy employment rights, benefits, and attached social security privileges. This system is less something they adjust to despite having contrary interests, than something they may know not to cater to their current interests, but nevertheless aspire to: i.e., they want to see their labour status changed, not the welfare system.

This is, of course, but one example of the multiple ways in which Habermas' ideas have informed the Portuguese political public sphere's debates on the country's role in Europe in the aftermath of the 2008 financial crisis and resulting economic recession. Since the 1970s, Habermas has played a significant role in debates in Portugal on the future of the welfare state and on the various ways to deepen and strengthen democratic life. It was only recently, however, that his ideas actually triggered academic research on these issues in a systematic fashion. With the future of the welfare state in Portugal as elsewhere very much in the open, it is safe to suggest that Habermas' work will remain an important source for future generations to come.

#### **4. Conclusion**

Portuguese academia in the early twenty-first century is characterized by a significant effort to respond to the challenges of globalisation and internationalisation. This effort has been overwhelmingly coordinated and funded by the state, not the private sector. The domain of the social, human and juridical sciences is no exception to this. Teaching and research in these academic disciplines is increasingly oriented toward international arenas, either in terms of student and staff mobility or of the circulation of ideas. In this sense, the history of the social sciences in Portugal is but one nationally-specific episode of the global history of those sciences in the dawn of the twenty-first century (Backhouse and Fontaine 2010). Habermas' reception in Portugal is part and parcel of this broader process. His ideas, especially after the 1970s, helped shape and develop a number of scientific domains in the country. This happened due to Habermas' unique ability to occupy a central position in successive debates in different disciplines over the course of his career. This meant, in practice, that practitioners of such diverse fields as media studies or constitutional law, sociological theory or democratic theory, in a small and peripheral country such as Portugal will have been introduced to his work and will more likely than not be using it in their academic and professional careers. This is all the more remarkable as the translation into Portuguese of his work only really took off in the 1990s, is far from comprehensive, and is of variable quality. In other words, the reception of his ideas depended to a large extent in translations in languages other than Portuguese.

Future generations of Portuguese social and legal scholars are likely to be influenced by his ideas. This is for several reasons. First, the postmodernist

attack on modern certainties has been losing influence among the younger generations. Habermas' reconstruction of the project of the Enlightenment and its values is likely to remain a central reference to tackle challenges as varied as climate change, populism, authoritarianism or global terrorism. Second, the realization of the true scope of Habermas' intellectual achievement is only now becoming clear. Habermas' work is likely to continue to be commented upon by future generations of Portuguese thinkers as a key representative of German social thought, who regularly engages with the most pressing questions of his day. Third, it is possible and desirable that the editorial situation of his works in Portuguese translation improves. Once his *oeuvre* is made available in scholarly reliable and commercially accessible form, the message of confidence in reason and dialogue as the means to foster our understanding and explanations of the world while pointing towards a more just, democratic and less violent future that Habermas has been articulating since the beginning of his career will likely find new generations of followers.

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