



# Beyond strong institutionalism in politics: a criticism of Jürgen Habermas's juridical-political procedural paradigm

*Para além do institucionalismo forte em política: uma crítica ao procedimentalismo jurídico-político de Jürgen Habermas*

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## Abstract

This article argues that Habermas's division of the process of Western modernization into cultural modernity (a pure normative sphere) and social-economic modernization (a pure technical-logical or instrumental sphere) and his use of this theoretical-political standpoint in order to ground a model of radical political democracy as an impartial, neutral, impersonal and formal procedural juridical-political paradigm based on the dialectics between institutionalization and spontaneity lead to strong institutionalism in politics. The notion of modern social systems or institutions as structures of impartial, neutral, formal and impersonal proceduralism with a technical-logical or instrumental sense, constitution and evolution implies their non-political and non-normative

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understanding, depoliticizing them. As a consequence, institutions (especially political and economic ones) become self-referential and self-subsisting structures-subjects which are centralized and managed by institutional elites and technicians from a technical-logical standpoint-dynamics. We argue that a model of radical political democracy must overcome such separation between cultural modernity and social-economic modernization, politicizing the social systems and making them normative-political institutions-subjects streamlined and defined by social struggles between conflicting social classes, their hegemony and counterpoints.

**Keywords:** Modernization. Proceduralism. Strong Institutionalism. Radical Democracy.

### **Resumo**

*Argumentamos no artigo que a divisão do processo de modernização ocidental, por Habermas, em modernidade cultural (esfera puramente normativa) e modernização econômico-social (esfera puramente lógico-técnica ou instrumental) e seu uso desta base teórico-política com o objetivo de fundamentar um modelo de política radical enquanto um procedimentalismo jurídico-político imparcial, neutro, formal e impessoal baseado na dialética entre institucionalização e espontaneidade levam ao institucionalismo forte em política. Os sistemas sociais ou instituições modernos, como estruturas de procedimentalismo imparcial, neutro, formal e impessoal com sentido, constituição e evolução lógico-técnicos ou instrumentais, tornam-se estruturas-sujeitos não políticos e não normativos, despolarizando-se. Como consequência, as instituições (especialmente econômicas e políticas) transformam-se em estruturas-sujeitos autorreferenciais e autossustentáveis que são centralizados e administrados por elites e técnicos institucionais a partir de uma base e de uma dinâmica lógico-técnicas. Argumentamos que um modelo de política democrática radical deve superar tal separação entre modernidade cultural e modernização econômico-social, politizando os sistemas sociais, tornando-os instituições-sujeitos político-normativos dinamizados e definidos pelas lutas sociais entre classes opostas e concorrentes, com sua hegemonia e contrapontos.*

**Palavras-chave:** Modernização. Procedimentalismo. Institucionalismo Forte. Democracia Radical.

## Habermas's Theory of Modernity and his Juridical-Political Procedural Paradigm

Habermas's theory of modernity, a theory of the process of Western or European modernization (see HABERMAS, 2012a, p. 09-11, 355; 1997, p. 140-153), is characterized by a correlation between normative theory and institutional theory, that is, between philosophy (which grounds a normative paradigm for social criticism and political praxis) and sociology (an institutional paradigm which allows empirical diagnosis of the modern social systems' constitution, development and pathologies). On the one hand, the normative theory enables the critical point of view that grounds and streamlines a social analysis and a political praxis; on the other hand, the institutional paradigm, in the moment that it conceives of basic social systems as the fundamental ground of Western modernization, enables the sociological diagnosis regarding the structural movements, dynamics and subjects which determine — at least in the case of some objective consequences — the senses and the ways of institutional constitution as the main tendencies of social evolution. In the critical social theory, this correlation between normativism and institutionalism is the fundamental core-role from which the critical social analysis and the emancipatory political praxis are founded on and performed in relation to the process of Western modernization, its potentialities and pathologies and its future.

What is Habermas's strategy for that? In other words, how can Habermas construct an imbricated and correlated *normative and institutional paradigm* concerning the process of Western modernization? By means of a dual understanding of the process of Western modernization, which is characterized as cultural and social-economic rationalization (see HABERMAS, 2012a, p. 09-11, 588; 2012b, p. 275). Such a dual process is imbricated and mutually dependent, of course, but in a manner that each part maintains its specificity regarding the other, so that they are linked, but not totally fused or completely determined. In this sense, Habermas's study of the constitution and development of modern Europe (which is his paradigmatic societal-cultural-epistemological pattern of Western modernization) can show us this specificity

of Europe and, then, the meaning of a dual (although imbricated) understanding of European constitution and development. Indeed, following Max Weber, Habermas conceives of the constitution of modern Europe as a process of cultural rationalization which deconstructs the traditional world's mythical-religious basis and the metaphysical-theological foundations of traditionalism (see HABERMAS, 2012a, p. 140-141, 299). Therefore, if a traditional society is defined by the strong imbrication between nature or objective world, culture or society and individuality, in the sense that society and its social-political relations and status quo are naturalized, since nature is anthropomorphized, and if consequently there is no reflexive individuality, in contrast modern European society, streamlined by cultural rationalization, is characterized exactly by such a separation between nature, society and individuality (see HABERMAS, 2012a, p. 94-141, 590-591). Therefore, in modern European society, there is the denaturalization and the politicization of culture and institutions by the emergence of a very strong notion of self-reflexive individuality, which is the basic epistemological-political subject of any possible normative grounding — in the same way, if in traditional societies nature appears as an anthropomorphized world accessed only by magic; in modern European society, nature becomes a pure material object, basically Renée Descartes's *res extensa*. As a consequence, in the modern European society there is social criticism and political mobility, contrarily to the non-rational and non-critical worldview constituted by mythical-religious traditional society itself.

Now, it is *from this ontogenetic process of cultural rationalization* that the modern institutions or social systems — first of all, the modern bureaucratic-administrative State and the capitalist market — emerge as sets of formal, impartial, impersonal and neutral procedures, practices, codes and self-authorized legal staffs which centralize and monopolize from a technical-logical perspective each field of social evolution. The social-economic modernization (modern State and capitalism), therefore, is generated by cultural modernity and assumed over time a much particularized constitution and development which differentiated and autonomized it in relation to cultural modernity (see HABERMAS, 2012a, p. 588; 2012b, p. 278). Cultural modernity or cultural rationalization can

be defined by the institutional-cultural secularization of the societal naturalization and of the anthropomorphic understanding of nature found in traditionalism. In this sense, cultural modernity denaturalizes and politicizes society, its institutions and status quo. From now on, the epistemological-political grounding is possible only from a process of intersubjective dialog and *praxis* based on neutral, impartial, impersonal and formal reasons which are provided by a fair proceduralism that assembles and involves all individuals and social-cultural groups into a dialogic and interactive praxis. These individuals and social-cultural groups cannot impose their particular comprehensive doctrines on society as a whole — such an attitude does not allow and intersubjective agreement. So, in order to achieve the socially binding universal point of view, modern individuals and social-cultural groups must argue and act from the basis of generic concepts and practices which are not a priori committed to particular contents and subjects of a metaphysical-theological-naturalized comprehensive doctrine. By doing that, modern individuals and social-cultural groups gradually consolidate a kind of post-conventional culture-consciousness-paradigm characterized as an impartial, neutral, impersonal and formal proceduralism regarding epistemological-moral grounding (see HABERMAS, 2012a, p. 142-146, 383-385, 448; 2012b, p. 316-323, 525-540).

It leads, therefore, to a non-egocentric and non-ethnocentric epistemological-moral perspective which constitutes Europe's rationalism as a higher stage both in terms of human evolution and of normative paradigm in relation to traditionalism. In this sense, there is European modernity as rationalization and the rest of the world as traditionalism. Modern Europe in terms of society, culture, consciousness and normative paradigm, becomes universalism itself, that is, an impartial, neutral, impersonal and formal society, culture, consciousness and paradigm which can embrace all particular contexts, practices and subjects, becoming the normative umbrella, the universal epistemological-moral normative paradigm of all particular epistemological-moral-normative-paradigms. It is in this sense — the association between modernization, rationalization, universalism and human evolution — that a notion of social normativity or epistemological-moral universalism is built from

the thematization of cultural modernity as a process of human development that leads to universalism by the fact it is highly independent and separated in relation to social-economic modernization. From here, critical social theory can assume modernity's normative paradigm as the basis for social criticism and political praxis within Western modernization and beyond. Communicative reason, that is, normative reason, is the result of the process of cultural modernity, and it means that any kind of intersubjective praxis in modern society is based and dependent on this normative paradigm-consciousness instituted by European cultural modernity (see HABERMAS, 2012b, p. 141-196).

The social-economic modernization, that is, the emergence, development and consolidation of modern social systems or institutions, comes about after this process of cultural modernization and as its consequence. This means two important theoretical-political points. First, the normative paradigm allowed by cultural modernity (communicative reason, lifeworld), by the fact that it generated social-economical modernization, can serve as normative framework to measure and to moderate the impacts of social systems on civil society as a normative-political sphere, praxis and subjects (see HABERMAS, 2012b, p. 355; 2003b, p. 83-85). Second, the modern social systems are characterized as an impartial, neutral, impersonal and formal institutional proceduralism with a non-political and non-normative core-role, assuming and performing a technical-logical constitution, legitimation and evolution. That is the meaning of Habermas's association between modern social systems *and instrumental reason*: the modern social systems work from such a technical-logical, non-political and non-normative programming and functioning (see HABERMAS, 2012b, p. 365). Thus, they have the tendency in their development to colonize the lifeworld from a technical-logical standpoint, from an instrumental action, and it is from here that the critical social theory — critical social analysis and emancipatory political praxis — can act in order to thematize, frame and even change the pathologic movement of social-economic modernization into cultural modernity, because the problem lies in social-economic modernization, which imposes a technical-logical dynamics on and into the lifeworld, substituting a normative-political praxis with

a technical-logical or instrumental proceduralism (see HABERMAS, 2012b, p. 330-331, 355).

Now, it is here that the problems with Habermas's theory of modernity directly emerge. In our case, it is fundamental to mention a very difficult issue that defines the sense of a radical democratic political praxis for a contemporary society grounded on the process of Western modernization in the double sense developed above, that is, the correlation and, at the same time, the separation between cultural modernity (epistemological-moral universalism) as a pure normative sphere and social-economic modernization as constituted by pure technical-logical institutions or social systems. Indeed, such paradigmatic understanding of both the process of Western modernization as a whole and of the differentiation between normative cultural modernity and technical-logical social-economic modernization implies a very specific comprehension of the possible emancipatory political praxis — as of the possible political-normative subjects — of a contemporary democratic society, for a contemporary democratic society. So, two questions arise from this dual understanding of the process of Western modernization: first, what kind of democratic political praxis is possible in relation to modern social systems in order to limit and frame them from normative-political principles, practices and subjects? Second, who is the political-normative subject of the social-political transformation in contemporary societies based on the process of Western modernization? Finally, one more question: is a *political-normative reading-framing-changing* of the modern *technical-logical social systems* by political-normative subjects who assume the cultural modernity's epistemological-moral universalism possible?

Now, in order to answer these questions, it is very important to evidence explicit the meaning of the use of systems theory — not only by Habermas, but also by liberal and social-democratic contemporary political theories (HAYEK, 2013; RAWLS, 2000, 2003; PARSONS, 2010a, 2010b; LUHMANN, 2006; GIDDENS, 1996, 2000, 2001 etc.) — as the epistemological-political basis for the understanding of the process of Western modernization. From the perspective of systems theory, Western modernization is characterized as a process of institutional

self-differentiation, self-referentiality and self-subsistence, in the sense that the modern social systems emerge, consolidate and develop themselves as particularized, closed and autonomous structures both regarding each other *and in relation to civil society or lifeworld*. In this point, institutionalism is the great consequence of the consolidation of social-economic modernization as systemic self-differentiation, self-referentiality and self-subsistence of technical-logical institutions. Here, another very fundamental characteristic of these modern social systems appears, that is, they are technical-logical structures with internal instrumental procedures, codes and practices managed by a technical-logical legal staff *as the institutions' normative-political-epistemological subjects* and *as the institutions' dynamics of functioning and programming*. Now, technical-logical institutions are non-political and non-normative structures, they have a depoliticized functioning and programming, which is strictly logical-technical. In the same way, they have a very internal and closed technical-logical dynamics of functioning and programming that is assumed and managed by institutional self-authorized legal staffs with a non-political and non-normative role.

So, how is a political-normative framing of and intervention into the social systems from the epistemological-normative basis constituted by the lifeworld possible? Habermas says that the lifeworld is a normative sphere which offers the epistemological-political core from which the technical-logical social systems can be measured in their imposition of the instrumental reason on the lifeworld itself. However, here we have the movement of the social systems towards the colonization of the lifeworld. And how about the opposite movement, that is, the movement of the lifeworld towards the limitation and reorientation of the technical-logical functioning and programming of the social systems? In the first case, the lifeworld is impacted on by the social systems' instrumental reason, which allows a social diagnosis based on the technical-logical destruction of the normative core and role of the lifeworld. On the other hand, in the second case, we have the necessity of resistance and contraposition to the lifeworld regarding technical-logical social systems. So, in this second case, how is such a resistance

possible? How is a *direct normative-political intervention* into the technical-logical social systems possible and who can perform it? It is here that Habermas's model of radical democratic political praxis shows its very problematic and non-radical core-role.

Indeed, Habermas argues that a direct normative-political intervention into the social systems is not possible due to the fact that they are technical-logical structures with a very internal instrumental proceduralism centralized and monopolized by the social systems' elites and technicians. This is actually the direct theoretical-political consequence of the division of the process of Western modernization into normative cultural modernity and technical-logical social-economic modernization; that is the consequence of the understanding of the modern social systems as self-referential, self-differentiated, self-subsisting and autonomous instrumental structures-subjects with no political-normative basis. How can a pure normative sphere politically intervene into a technical-logical structure? And how is it possible to politically and normatively change such a technical-logical structure which is also closed and autonomized regarding political praxis and social normativity? A non-political and non-normative structure characterized by its self-referentiality and self-subsistence, a structure which is determined, streamlined and managed basically from internal and by an instrumental proceduralism only admits technical-logical practices and codes, as much as it only admits technical-logical subjects of programming and managing. As a consequence, a technical-logical social system, which is a self-referential and self-subsisting arena-movement-subject, is an unpolitical structure which does not allow a political democracy based on social normativity, effacing political democracy and social normativity as the basis of its functioning and programming over time. That is the reason why Habermas argues that only an *indirect political intervention* of civil society or lifeworld into social systems is viable, possible to contemporary political praxis in order to *sensitize and limit from outside* — not directly — the social systems' imposition of instrumental reason on the normative lifeworld, colonizing it (see HABERMAS, 2003b, p. 147-148). Now, it is from here that Habermas's juridical-political procedural paradigm is constructed and streamlined,

that is, from the dual understanding of the process of Western modernization and from the affirmation of systems theory as the basis to the understanding of modern institutions or social systems, including the political-juridical institutions.

### **The Juridical-Political Procedural Paradigm as Strong Institutionalism**

*Between Facts and Norms*, which is a consequence of *The Theory of Communicative Action*, starts with a double criticism: against conservative liberalism's individualization of society, its institutions and political subjects and against republicanism's model of direct democratic political praxis regarding institutions by civil society's macro political subjects (see HABERMAS, 2003a, p. 242, 331-355; 2002a, p. 83-88). Conservative liberalism individualizes social institutions and political subjects, and *society* becomes totally particularized, losing its structural sense, dynamics and range; likewise, political subjects, according to conservative liberalism, are individuals that have no class consciousness and belonging, so that they cannot perform a political praxis as macro political subjects and macro political classes — political actions are always very singularized, because of the inexistence of social classes and structural institutional dynamics-actions (see HABERMAS, 2003a, p. 337, 355). Furthermore, social evolution occurs from individual actions into the economic field as economic actions — and economic actions are not political actions, they must be measured from an economic or technical or scientific standpoint. It is from the economic activity within the economic sphere that codes, practices, rules and institutions are constructed, organized and streamlined over time, and their purpose is exactly to protect and to foment the economic field as a *spontaneous* and *anonymous* context and practice for social evolution (see HAYEK, 2013). Now, the political consequence of a society with no macro-structures and social classes is the fact that all societal dynamics is streamlined and defined by individual actions, which means that the only normative principle for the legitimation and definition of the *status quo* is meritocracy. In this case, political institutions have no

power to politically impose a model of social normativity on the economic sphere, because there are no macro structures and social classes which define the status quo as an institutional and classist movement. In other words, by denying institutions as macro structures and social classes as macro political subjects which determine social evolution and status quo, the conservative liberal paradigm can deny political interventionism, social normativity and the direct democratic political praxis by civil society's political-normative subjects. The only political-normative basis is the unpolitical individual which is an economic subject — and economy as a non-structural and non-political basis is the epistemological-political framework to the organization and action of political institutions and democratic political praxis as well. In the same way, the economic field must be measured from a technical-logical standpoint, from a scientific, objective, neutral basis, not from a political-normative basis.

On the other hand, republicanism intends to ground a model of radical and direct democratic political praxis which presupposes the correlation between institutionalism and social classes as macro political subjects. In this sense, as a result of class struggles, of class hegemony, institutions are a consequence of a more primary social-political fact, which is exactly the social conflict between opposed political classes as the basis of societal-institutional constitution, legitimation and evolution. Starting from this normative-political standpoint, republicanism can correlatively affirm the linking of the institutions with a hegemonic social-political class and the social struggles as the very political-normative praxis from which institutions are constructed and defined in their evolution. As a consequence, the direct political praxis from civil society as the fundamental normative-political arena and the social-political classes as the basic normative-political (macro) subjects lead to the fact that a direct political praxis is the way and the instrument for social constitution, legitimation and evolution, which means that the institutions are put in a second place in terms of political action (see HABERMAS, p. 332-333, 338). Indeed, in republicanism, institutions are not independent of class struggles between opposed social-political classes, as they are not neutral regarding them. That is

the reason why it is possible to perform a direct political praxis from civil society against institutions, since the political praxis is ultimately performed from an emancipatory social class which can face conservatism and give a democratic and fair configuration to institutions.

Now, Habermas agrees and disagrees with conservative liberalism, as he agrees and disagrees with republicanism. Habermas agrees with conservative liberalism in terms of the individualization of the social-political subjects, which do not constitute themselves anymore, in contemporary democratic societies, as social classes, as macro political subjects — contemporary politics is made and streamlined by individuals and particularized social-cultural groups with no class belonging and consciousness. On the other hand, Habermas disagrees with conservative liberalism in terms of the understanding of the social institutions. According to Habermas, institutions are macro structures with macro social-political effects, so that the status quo is instituted and defined by institutional structural dynamics in all fields of society, and not simply by meritocracy. Therefore, against conservative liberalism, it is important to affirm the democratic political praxis and the political institutions as fundamental moments and instruments for the constitution, legitimation and evolution of democratic societies. Habermas agrees with republicanism about the importance of political praxis as a medium for institutional framing and changing. However, he does not accept two ideas of republicanism, namely the institution as a product of class struggle and hegemony and the social class as the basic (macro) political subject. Institutions do exist as macro structures, but they are overlapped with social classes; likewise, the social class is no longer a fact of contemporary societies, which are characterized by the individualization of the social-political subjects. In this sense, a democratic political praxis against institutions and based on social class and class struggle is an illusion. A democratic political praxis for the contemporary societies has the juridical-political institutions as the basic medium and as the fundamental arena-subject for the political structuring of society (see HABERMAS, 2003b, p. 21, 186-187).

From here, Habermas uses the term *complex society* to develop the epistemological-political context from which the procedural

juridical-political paradigm is based on (see HABERMAS, 2003a, p. 17-18). Contemporary societies are complex societies in a double sense: first, they are the result of the process of Western modernization, so they are constituted by differentiated and particularized technical-logical social systems or institutions which are self-referential and self-subsisting regarding each other, especially regarding political praxis and social normativity, becoming non-political and non-normative structures-subjects; second, they have very particularized social-political subjects with no class consciousness and belonging. Now, a contemporary society, which is the result of the process of Western modernization characterized as self-differentiation, self-referentiality and self-subsistence of closed and autonomous technical-logical social systems, is a decentered society, that is, it is a society with no institutional core (see HABERMAS, 2003b, p. 21). Indeed, the very first consequence of that model of contemporary complex society is, according to Habermas, the fact that the State and politics are no longer the core of the society (see HABERMAS, 2003b, p. 25). They must live side by side with other particularized social systems and in competition with them, with other forms of power than political power, becoming limited in their action by the closure and autonomization and depoliticization of the other social systems (see HABERMAS, 2003a, p. 61-62). As societies constituted by many individualized social systems and with no institutional nuclear core, with no political center, contemporary societies are no longer social totalities, political-normative totalities very imbricated in their parts and with self-consciousness about their dynamics and capable of self-criticism and self-transformation for a super-dimensioned political subject (see HABERMAS, 2003b, p. 21).

A complex society constituted by many, particularized and closed technical-logical social systems, therefore, (a) is not a politically and normatively imbricated totality in all of their particular social systems; and (b) has many, differentiated and competing forms of institutional powers, not only a central political power, so that it cannot be totally politically and normatively controlled and managed. In this sense, each technical-logical social system is a center of power regarding its specific social field, becoming the very social field that it represents.

In the same way, (c) contemporary complex societies have no macro political subjects or social classes, which means that they are characterized by the individualization of the social-political subjects and cultural groups. In this sense, no individualized political subject can assume the public fomentation of social normativity nor perform a macro political praxis in the name of all society and its subjects. There is no longer a social class as a super-dimensioned political subject that can represent all the social groups and subjects, which can act in the name of all society. So, what does remain in contemporary societies? The juridical-political institutions as an impartial, neutral, impersonal and formal proceduralism which is neutral or overlapped in relation to forms of life and social-political subjects, which represents a very general institutional and normative-political context, arena, instrument and subject from which social claims and political subjects can act, be discussed and instituted as basic principles, arenas and subjects of a democratic society (see HABERMAS, 2003a, p. 24, 83). Democratic juridical-political institutions, in the moment that the notions of social class, class hegemony and class struggle are overcome, assume a central political-normative-constitutional core-role in terms of political self-constitution of a contemporary democratic society (see HABERMAS, 2003b, p. 22-25).

Habermas's (as Rawls's and Giddens's) juridical-political procedural paradigm says that a radical political praxis for a contemporary society is based on the correlation between juridical-political institutions and civil society's political spontaneity (see HABERMAS, 2003a, p. 227-228; 2003b, p. 33-34). In Habermas's terms, the radical political democracy for contemporary societies is based on the correlation between formal spheres, codes and subjects *with* informal spheres, codes and subjects. On the one hand, juridical-political institutions as an impartial, neutral, impersonal and formal proceduralism are neutral and overlapped with class struggles and hegemony and the political subjects of civil society, becoming the normative umbrella (procedures, practices, subjects and arenas) from which the political subjects of civil society can perform their normative-political vindications and praxis. As a consequence, they can centralize, monopolize and streamline the constitution, the legitimation and the public fomentation of social

normativity, becoming the arbiter of the social-political subjects of civil society, because of this institutional impartial, neutral, impersonal and formal proceduralism. On the other hand, the political subjects of civil society, which are informal, by their political action in relation to institutions, can sensitize and frame them concerning the impacts of the technical-logical social systems into the lifeworld. Likewise, the political subjects of civil society can offer a counterpoint to the institutional elites, technicians and political parties, in order to moderate institutionalism. It is from this correlation between formal institutions-subjects and informal political praxis-subjects that a radical democracy is forged and streamlined (see HABERMAS, 2003b, p. 21-23).

Such a model presupposes two important theoretical-political points. First, formal juridical-political institutions, procedures and subjects cannot be substituted with informal social-political arenas, praxis and subjects. They are also a social system, with internal technical-logical proceduralism, codes, practices and institutional staffs (e.g., courts and political parties) which condition over time the kind of institutional constitution, legitimation and evolution that the juridical-political institutions will effectively assume, determining from here how social subjects can act and vindicate to each other and to institutions social claims and political contents-actors. In this sense, the *informal* democratic political praxis from the political subjects of civil society can never substitute the *formal* institutions, their internal technical-logical proceduralism, codes, practices and authorized legal staffs (see HABERMAS, 2003b, p. 23, 104-106). As Habermas said, the political subjects of civil society can sensitize juridical-political institutions, offering a counterpoint to them, but never substitute them or their technical-logical internal proceduralism. The institutions are the very basis, arena, principle, practice and subject of their own evolution, including here the juridical-political institutions — juridical-political institutions are neutral and overlapped with the political subjects of civil society, becoming an impartial, neutral, impersonal and formal proceduralism which, from this unpolitical basis and as a formal (unpolitical) arena and subject, determine institutional structuration and social evolution. The *political* subjects and the *political* arena and praxis are constituted

and provided by the institutions themselves and their legal staffs, from an internal and closed procedure of self-constitution, self-legitimation and self-evolution which eliminates the political subjects of civil society, becoming overlapped with them and independent of them.

Second, the democratic political praxis from civil society and the institutional political role are limited and framed by the understanding, for contemporary political theories, of the process of Western modernization as systemic self-differentiation, self-referentiality and self-subsistence of modern institutions. In this sense, what are the sense and the range of the political praxis in terms of economic framing and changing? Indeed, a technical-logical social system is a non-political and non-normative sphere, practice and subject of purely instrumental character. As a consequence, it does not admit external intervention and framing of its internal proceduralism — it is the same regarding economic and juridical-political institutions (but, of course, more pungent in the economic institutions than in the juridical-political institutions). In the case of economic institutions, their technical-logical, non-political and non-normative constitution, legitimation and evolution delegitimize the political-normative direct intervention into this instrumental, technical-logical and unpolitical sphere. Thus, by assuming systems theory as the basis of the understanding of the contemporary process of Western modernization, Habermas must accept institutional closure, autonomy and depoliticization as a consequence. Here, the technical-logical social systems put down the idea of a direct democratic political praxis as the basis of institutional and societal criticism, framing and transformation. The social systems are the only basis, procedure and subject of their own internal constitution, legitimation and evolution. Democratic political praxis can at best indirectly influence and sensitize the technical-logical functioning and programming of these social systems, but never substitute or frame them from normative-political principles, praxis and subjects (see HABERMAS, 2003b, p. 147-148). Likewise, democratic political praxis can at best constantly emphasize the frontier between social systems and lifeworld against the systemic-institutional colonization of the lifeworld,

but never substitute a technical-logical structuration, functioning and subject for a normative-political praxis and subject (see HABERMAS, 2002b, p. 504).

The juridical-political procedural paradigm assumes-affirms the centrality of institutional proceduralism in terms of the institutions' structuration and legitimation and of societal evolution over time. That is a kind of strong institutionalism that centralizes and monopolizes the institutional and societal constitution into the technical-logical institutions, by technical-logical institutions, both economic and juridical-political ones (see HABERMAS, 2003b, p. 72, 104-106). Here, the social systems' technical-logical constitution and their self-referential, self-subsisting, closed and autonomous dynamics of functioning, programming and managing are taken as a methodological-programmatic assumption for the construction of a critical social theory and a democratic radical political praxis for the process of Western modernization. Now, at this point, *non-political, non-normative and technical-logical structures, procedures and subjects are taken by Habermas for the construction of a political-normative theory of the process of Western modernization!* For us, that is unintelligible! That is the reason why we are arguing that such a dual model of Western modernization defined fundamentally by systems theory, by depoliticizing social systems, by conceiving of them as technical-logical structures-subjects with a self-referential and self-subsisting proceduralism, leads to strong institutionalism in politics. It is a kind of strong institutionalism that correlatively depoliticizes the institutions themselves and weakens the political praxis and political subjects of civil society. Institutions become political super-subjects with a very technical-logical, non-political and non-normative sense and range, minimizing the power and the legitimacy of the spontaneous or informal democratic political praxis to frame and change the institutions. Likewise, the assumption of systems theory by contemporary political theories (and by Habermas's political theory in particular) in order to explicate the modern institutions leads to the fact that technical-logical institutions as the subjects, proceduralism and arena of their own self-constitution and self-legitimation become overlapped and neutral in relation to the political subjects of civil society and social

struggles, as if the institutions were disconnected of them. It is from this technical-logical and unpolitical self-comprehension that institutional proceduralism can become depoliticized, depoliticizing the political praxis and political subjects of civil society, weakening a radical democratic political praxis which is the basis for facing our contemporary most dangerous characteristic, namely the correlation between strong institutionalism, political parties and economic oligarchies based on this pure political-institutional proceduralism as an impartial, neutral, impersonal and formal practice, arena and subject of societal-institutional constitution and evolution — a kind of conservative political proceduralism which uses a technical-logical, unpolitical, self-referential and self-subsisting notion of social system or institution. Now, the association between contemporary political theory and institutionalism leads to an unpolitical or depoliticized democratic praxis in which political-juridical institutions are autonomized regarding civil society, blocking its political praxis and political subjects and becoming limited by the technical-logical economic system as a non-political and non-normative sphere. Here, it is important for an alternative radical and direct political praxis to deconstruct both the technical-logical, non-political and non-normative understanding of modern social systems and to face institutional proceduralism as an impartial, neutral, impersonal and formal practice, arena and subject of institutional and societal constitution. It is necessary to completely politicize the institutions and the political subjects of civil society as imbricated, dependent and mutually supported political-normative praxis and subjects. The institutional neutrality, formalism, impersonality and overlapping with civil society, as presupposed by proceduralism, is a dangerous illusion to an emancipatory and radical democratic political praxis. Likewise, the technical-logical understanding of modern social systems puts down the democratic political praxis as the basis of the institutional and societal constitution, legitimation and evolution by depoliticizing the social systems, which is an important theoretical-political mistake-consequence-assumption of the juridical-political procedural paradigm.

Indeed, the most problematic consequence of the correlation between systems theory (as the basis of the understanding of the process

of Western modernization) and juridical-political proceduralism (as the basis of the legitimation of democratic political praxis and institutions) is that (a) institutions become a self-referential and self-subsisting structure-dynamic-subject, which is highly overlapped with the political subjects of civil society and class struggles, assuming a very strong technical-logical constitution, legitimation and evolution as an impartial, neutral, formal and impersonal proceduralism which can adopt a very unpolitical core-role (due to being technical-logical and internal, with no external link and roots, as limited by self-referential and self-subsisting depoliticized economic system); as (b) institutions become the epistemological-political arena, dynamics, procedure, value and subject of their internal structuration, functioning and programming and of societal evolution as a whole. Therefore, this kind of technical-logical self-referential and self-subsisting institution and its internal unpolitical proceduralism are the normative-political core from which social classes and social struggles are framed, evaluated and legitimized or not. In other words, systemic institutions and their internal unpolitical proceduralism become the basis for social criticism and political praxis, and not civil society, its political subjects and social struggles. In this sense, institutions become the (un)political subject, the technical-logical arbiter of the social classes and their political struggles, legitimizing or delegitimizing their political core, clashes and vindications, becoming also overlapped with them, pre-political or over-political, but not effectively political: that is the consequence of the application of systems theory to politics and the meaning of unpolitical proceduralism: the institutions' unpoliticality and overlapping regarding social classes and political struggles; the institutions' depoliticization of their internal constitution, legitimation and evolution, as well as of the political subjects and political praxis of civil society, which are framed and subsumed by institutional technical-logical subjects, dynamics, procedures and values.

Here, the political subjects are the unpolitical and technical-logical institutions; the political arena is constituted by the depoliticized, impartial, impersonal, neutral and formal juridical-political arena and values in particular and by the technical-logical field and rules

of social systems in general; and finally the main political subjects are constituted by these technical-logical institutions and their unpolitical, impartial and impersonal self-authorized legal staffs as institutional elites and technicians. The civil society's political-normative arena, praxis and subjects acquire a peripheral core-role which is secondary regarding the technical-logical social systems' dynamics, arenas and subjects both in political-juridical and economic terms. Here, strong institutionalism appears with all its power: it centralizes, monopolizes and streamlines both the institutional and societal constitution, legitimation and evolution from a technical-logical standpoint-procedure assumed by institutional elites beyond the political subjects, praxis and struggles of civil society; it technicizes and depoliticizes the institutional-societal dynamics of constitution, legitimation and evolution, by individualizing the social spheres and conceiving of them as particularized social systems with a very internal, closed, autonomous, self-referential and self-subsisting dynamics; it institutes a very clear and closed barrier between what is proper to social systems (and about what is a social system) and what is proper to civil society, what is institutional dynamics and what is a political-normative praxis of civil society, what is an institutional legal staff and what is a social class or a political subject. The consequence of this correlation of systems theory (technical-logical, self-referential and self-subsisting unpolitical institutions) and the impartial, neutral, formal and impersonal juridical-political procedural paradigm (as the basis of the link between political institutions and civil society), which leads to strong institutionalism, is the weakening of the direct democratic political praxis assumed by the political subjects of civil society against institutional self-referentiality, self-subsistence and technical-logical core-role, in the sense that political democracy performed by the political subjects of civil society is delegitimized as the political-normative core of institutional-societal evolution over time, as the social classes and their struggles are depoliticized and definitely removed as the real and effective subjects of institutional-societal constitution, legitimation and evolution. It seems as if institutions were pure technical-logical structures and subjects with an impartial, neutral, formal and impersonal proceduralism as

the basis of their dynamics of functioning, programming and managing; it seems as if the institutions' self-authorized legal staffs were basically technicians who act institutionally from an instrumental and objectively scientific practice; finally, it seems as if institutions, their internal dynamics, procedures, values and subjects were unpolitical, totally overlapped with social classes and classes struggles.

There is a cut between social systems and civil society, institutional proceduralism and political praxis, institutional self-authorized legal staffs and the political subjects of civil society, which is definitively and strongly instituted by the correlation of systems theory and the juridical-political procedural paradigm, a cut that cannot be overcome by Habermas's proposal of the correlation between institutionalization and spontaneity as the basis of the democratic political praxis legitimized by the juridical-political procedural paradigm. Indeed, as was argued along the paper, the juridical-political proceduralism, by assuming the notion of social system or institution taken from systems theory and using the notion of complex society (a society with no political center-core; consolidation of the particularized and closed social systems; anonymity and individualization of the political subjects) taken from liberalism and social-democracy, leads to (a) a very strict institutionalism, in the sense that juridical-political institutions are the medium, that is, the political-normative arena-dynamic-subject, which links social systems and lifeworld, juridical-political institutions and their self-authorized legal staffs and the political subjects of civil society; (b) an impartial, neutral, formal and impersonal proceduralism as the real praxis of institutional-societal constitution, legitimation and evolution, that is, as an unpolitical praxis for democracy; (c) the technical-logical institutional constitution, legitimation and evolution, which renders them very unpolitical structures-subjects, overlapped with social classes and their struggles, as structures-subjects with no carnality and politics; and (d) the consolidation of an insurmountable barrier, differentiation and opposition between social systems and lifeworld, juridical-political institutions and civil society, institutional self-authorized legal staffs and social classes, institutional unpolitical proceduralism and social struggles.

Now, such a theoretical-political basis of Habermas's juridical-political procedural paradigm as a radical democracy for a democratic complex society grounded on and defined by the process of Western modernization — a dual understanding of Western modernization as cultural modernity and social-economical modernization, the understanding of the process of social-economic modernization as self-differentiation, self-referentiality and self-subsistence of technical-logical social systems regarding political praxis and social normativity, and the impartial, neutral, formal and impersonal juridical-political procedural paradigm as the arena and dynamics of institutional constitution and legitimation, as the basis of the correlation between juridical-political institutions and civil society — is not fruitful in order to face the main contemporary political challenge, which is the correlation between strong institutionalism, political parties and economic oligarchies that affirms such an unpolitical and technical-logical understanding of the social systems and political institutions as the basis of the institutional, societal and economic restructuring both in terms of adjusting to global capitalism and in terms of political weakening of the participative and inclusive democracy (see PIKETTY, 2014; RANCIÈRE, 2014). Now, as a reaction against this mutual support and link between strong institutionalism, political parties and economic oligarchies, a reaction for which Habermas's dual understanding-division of the process of Western modernization and the consequent unpolitical juridical-political proceduralism cannot help us; we think that it is important to emphasize two theoretical-political points: first, the refusal of this dual understanding of the process of Western modernization, which means both the complete politicization of this process and the abandonment of systems theory as theoretical-political platform for the comprehension-framing-grounding of modern institutions; second, the recovery and the renewal of the notions of social class and class struggles as the basis of societal-institutional understanding, constitution, legitimation and evolution, which means the refusal of conceiving of modern social systems as technical-logical, self-referential and self-subsisting pure structures-subjects with an internal dynamics of functioning, programming and managing which is non-political and non-normative.

This also means the refusal of the institutional overlapping regarding social classes and class struggles, regarding the civil society's political subjects, political praxis and social struggles.

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