

There is no contradiction, however, between being realistic about the way things are and determined to try to improve those realities. (Yiris Marion Young, *Global Challenges*)

One of the most pressing tasks of political theory and philosophy today consists in the discussion about global matters. Debates of this sort are exciting as well as demanding for they can no more rely on widely shared assumptions and univocal conceptual tools. Discourses about democracy, law and justice have entered an «abnormal» phase, as Nancy Fraser (2008: 49) puts it quoting Kuhn's *The Structure of Scientific Revolutions*. Traditional categories and paradigms of political theorization are being deeply challenged by phenomena such as state sovereignty dilemmas, globalizing movements of capital supported by neoliberal ideologies, ongoing human rights violations, intercultural hybridations, religious identity conflicts and the list goes on. This constellation of tendencies keeps pace with the emergence of new forms of *discursive arenas* that by means of new Internet-based communication forms constantly cross national borders. In this article, I will focus on the emerging forms of transnational publics from a *normative* point of view, whose functions, ideals, conditions, limitations are still controversial and contested in present debates.

As a starting point of my analysis, I will take into account the so-called *deliberative model* of public sphere outlined by Jürgen Habermas and developed further by some of his scholars. Such a model claims to contribute both to *constructivist* and *critical theories* of democracy. To begin with, although it might seem to be basically coined by a Westphalian or national, political imaginary, I would like to investigate into how and to what extent the Habermasian idea of public sphere can be translated into a *transnational* context (1). Furthermore, I aim at briefly unraveling the main skeptical remarks that could be raised against a transnationalizing redraft of the national public. I also argue that, within these discussions, the critical potential of global arenas is wrongly addressed (2). Finally, I will propose a conceptual framework for a transnational critical praxis by sketching out a *two-track model* of public sphere, whereby its ideal and normative aspects are interwoven with the factual and non-ideal ones.

1. In *Between Facts and Norms*, Habermas defines «publicity» as «the *social space* generated in communicative action» (Habermas 1996: 360). A public sphere can be seen as a discursive space in which speakers exchange not simply opinions but opinions that are drawn upon reasons, and are oriented toward rational agreements.

The public sphere is a space that lies between a civil society, which is characterized by free and spontaneous communicative flows, and a political central infrastructure, in which deliberations and decisions take effectively place. The public discursive activity connects these poles in two ways: Firstly, it discerns social problems by filtering the communicative flows of civil society into parliamentary will-formation processes; secondly, it informs civil society of the parliament's deliberative outcomes and promotes discussions about them. The deliberative practice of political self-determination can develop *legitimately* only in the interplay between these two poles, the informal public pole and the formal institutional one (Habermas 1996: 275).

One can introduce a further specification by tracing out two different versions of such "bipolarity" that have inspired Habermas' account of the democratic system: The first one refers to the so called «strong publics/weak publics» model conceived by Nancy Fraser (1993) and the second one to the «center/periphery» model outlined by Bernhard Peters (1993: 340 ff.). According to Fraser, both democratic institutions *as well as* civil society and public sphere(s) rely on deliberative procedures, that is, on intersubjective communicative practices. The difference between them is that the institutional - «strong» - political deliberation is seen as strongly oriented towards an agreement that leads immediately to practical decisions, whereas the «weak» publics are defined as «wild», «anarchic» and «unrestricted» and don't have any specific goal. Because of their political responsibility, deliberative institutions are structured according to juridical normative bounds that discipline, direct and limit conversations. The informal deliberation of the weak public sphere, on the contrary, does not know of any limitation, and is always able to spontaneously exercise its pressure and influence on the institutional strong public. As you can see, this model grants much confidence to the real effectiveness of communicative power (Habermas 1996: 307-308).

In Peters's model, the socio-political system appears as more deeply split between a communicative sphere (periphery) and a not-communicative one (administrative center). In order to be effective in making decisions and politically act, the political «center» has to shorten and cut communicative processes and restrict itself to functional imperatives. According to this model, the political system works mainly within this core area, through the activity of institutional complexes of administration (including the Government), parliamentary bodies, judicial system, party system and so on. The «periphery» is basically composed of two layers: an «inner» periphery, which is located at the edges of the administrative center (universities, public insurance systems, professional agencies and associations, foundations, etc.) and an «outer» periphery, which branches into «customers» and «suppliers» (public agencies and private organizations, business associations, interest groups, charitable organizations, cultural establishments). While the institutions belonging to inner periphery are equipped with rights of self-governance and with various kinds of legislative functions delegated by the state, the outer periphery fulfills various coordination functions on the one hand and voices social problems making broad demands and articulating public interests and needs on the other (Habermas 1996: 354-355). Only this second function of the “offshoot” periphery belongs properly to «the civil-social infrastructure of a public sphere», which works through communicative practices «dominated by mass media»: on the whole, the effect of communicative power is rather modest in Peters's model (cf. Schuermann: 1999).

Now, in order to keep the communicative normativity of the political system alive, both versions of public sphere must presuppose some *idealized conditions*. They can be summed up in the following way: a) *infinite audience*: nobody can be excluded from public discussion; b) *no thematic selection*: no relevant topic can be excluded; c) *freedom from ideology and from power*: public discussion must be free of distortions or restrictions in communication; d) *negativity*: the public sphere is assumed to exert *negative, critical tasks* as, for example, challenging and undermining crude appeals to prejudices, exposing and contesting every kind of coercion and will manipulation, disclosing and preventing exclusionary mechanisms (cf. Bohman & Rehg 2002: 46-47; Bohman 2004: 133-134).

With regard to Habermas' general discourse theory, one can point out that these conditions of the public sphere actually match the idealized conditions that are implicit in everyday communicative action and are made partially explicit in the argumentative

discourse (*Diskurs*), especially in moral discourses (Habermas 1999: 43-116). According to the sociological approach that Habermas has developed in his major work, *Theory of Communicative Action*, the paradigmatic social space for communicative action, the *life-world* (*Lebenswelt*), is assumed to be to a great extent free from economic and political domination. In *Between Facts and Norms* and Habermas' following political writings, the concept of life-world is, at least partially, translated into that of *civil society*, while the public sphere can be seen, to put it roughly, as the paradigmatic social space for argumentative discourses about matters of general interest. It is through the mediation of the discursive activity of the public sphere that the spontaneous communicative potential of civil society is able to influence the *bargaining* and *strategic* activity of central political institutions. This process is ensured and stabilized by formal juridical procedures that are both factually *effective*, mainly because of their coercive potential, and normatively *legitimizing*, as they preserve an internal connection with communicative reason.

As Nancy Fraser has lately pointed out in an influential work, such a model of public sphere is shaped, more or less explicitly, by a Westphalian-national framing. According to this account, public opinion would address a national state, which is supposed to be capable of regulating its citizens' affairs; participants in public discussions are conceived of as fellow members of a bounded political community and the principal topics of discussions would refer to its organization (Fraser 2008: 79-80).

However, as an increasing body of political empirical inquiries shows, the present reality of the public sphere contradicts such Westphalian-national image: Current mobilizations of public opinion seldom stop at the borders of state's territory, speakers and interlocutors do not constitute a "demos" or a political citizenry and the problems deliberated are frequently inherently trans-territorial and can be neither located nor resolved within national spaces. Moreover, the existence of post-national governance and government forms, international institutions, intergovernmental networks and non-governmental organizations has deeply challenged the sovereignty of the national state.

A *normative* model of the public sphere should therefore take these *factual* transformations into account, trying to draw on the emancipatory and critical possibilities of the present constellation. In this regard, Fraser's specific contribution consists in the reconstruction of the normative conditions of a *legitimate* and *politically efficacious* public

sphere on a global scale. Briefly stated, such a reconstruction aims at transnationalizing subjects, topics, spaces and modes of public communicative practices (Fraser 2008: 92-96).

It seems to me that Fraser's position does not represent a criticism of Habermas' paradigm as robust as she tends to insinuate. Rather, her project can be seen as an attempt to *make explicit* the global range of the normative conditions *implicit* in the Habermasian model of the public sphere. As a matter of fact, the concept of public discussion that has been outlined in this model cannot be considered *per se* as a nationally bounded sphere (cf. Bohman 1998: 205). As I have already suggested, since the peculiarity of the Habermasian idea of publicity is that of being a social space for exchanging and mutually criticizing reasons, this can be seen as the space where the argumentative *Diskurse* can be concretely realized.

Discourses about moral questions, in particular, have to deal with claims about the *universal* validity of norms of general concern. These norms seek to be investigated and maintained beyond each particular context and therefore require the broadest possible audience discussing, agreeing or rejecting their context transcending validity. As Habermas had argued in *Moral Consciousness and Communicative Action*, such a cooperative evaluation of controversial moral claims cannot be decided in a restricted or exclusive circle, like a philosophical or theoretical one, but it is supposed to take place in a «real» process of argumentation that can rely on the «actual» participation (Habermas 1999: 67) of all possibly affected persons.

It seems therefore plausible that these argumentative dynamics can be realized to the highest level of approximation within public spaces that are also not restricted to territorial boundaries. In a recent essay, Habermas explicitly says that communicative flows are inherently characterized by delimiting dynamics (*entgrenzende Dynamik*), applying also on territorial or national boundaries (Habermas 2007: 436). Such a conception of publicity can be also conveyed by the Habermasian idea of a «subjectless form of communication» (Habermas 1996: 486), namely by a communication that is not performed by a national or territorial subjectivity.

2. Some skeptical remarks might, nevertheless, be raised, and have actually *been*, against a transnational public sphere paradigm. I propose to simplify the possible different objections by singling out two main types. Let me call the first critical approach *realistic skepticism* and the second one, *legitimacy reductionism*.

The realistic skepticism is influenced by the classical approach of international relations (IR) studies, according to which, briefly stated, the global dimension has to be envisioned as a Hobbesian state of nature between Westphalian-national entities. In such a warlike realm all binding commitments to agreement, mutual recognition or responsibility cannot find any fertile ground; peaceful coexistence can only be achieved through an interaction logic based on strategic bargaining, and the only meaningful orienting principle is *raison d'état*. This implies that global spaces are devoid of any universal shared horizons relying on communicative and discursive integration forms (like a life-world or a civil society) that might ground argumentative and critical publicities. For a realistic skeptical approach, the discursive practices of international arenas cannot be but the result of strategic activities that reflect asymmetries, unbalances and hegemonic conflicts between national and supranational powers.

Since couple of decades, many political theorists have started to challenge the realistic IR paradigm, also prominently relying on Habermasian categories. To begin with, Andrew Linklater revised the young early Habermas' theory of knowledge, as mainly presented in *Knowledge and Human Interests* (1968), with the aim of illustrating forms of interaction on the international level not only relying on a «technical», instrumental and strategic interest, but also on a practical and critical one. This second "alternative" kind of interest enables international *learning processes* that result in diplomatic rules for peaceful cohabitation and, more demanding, universal norms orienting the progress of just global orders (Linklater 1990). Moreover, in his most influential book (cf. Linklater 1998), Linklater develops a critical theoretical framework composed of three dimensions: Firstly, a normative dimension, committed to the justification of «not arbitrary principles» that function as criteria for criticism; secondly, a sociological one, committed to the empirical analysis of exclusionary mechanisms and orders of privileges both on domestic and global levels; and finally, a practical dimension, aimed at reconstructing social emancipatory potentials («moral capitals»).

In the wake of the path opened by Linklater, Harald Müller introduced the Habermasian category of «communicative action» within the IR research field, giving birth to a debate about the conditions of possibility, on the postnational level, for communicative interaction oriented towards agreement (Müller 1994). Without being able to reconstruct this debate here (known as ZIB-Debatte, as it was hosted by the journal called *Zeitschrift für Internationale Beziehungen*), I would like briefly to mention one objection that may be raised against the possibility of internationalizing the category of communicative action: this way of challenging the realistic IR paradigm may indeed run the risk of projecting the normative idealized stance implied in Habermas discourse theory on an empirical subject-matter (Herborth 2007: 167-168). That is the risk of metaphysically and dogmatically assuming, on the global scale, a factual empirical presence of communicative spaces.

In his attempt of sketching out the basic features of a discursive theory of post-national political and juridical institutions, Habermas seems to be aware of this difficulty. The Habermasian model for a future international order has the main purpose of giving an answer to the question of how to conceive a «global domestic politics without world government». In this regard, Habermas is seeking an intermediary way between an institutional cosmopolitanism that would link the possibility of implementing a global politics with the existence of a world government and the anti-cosmopolitan view of the international order as strictly limited to the recognition of multilateral treaties among fully sovereign states. As a third way, he proposes a multilevel and «heterarchical» account of the global order (cf. Lafont 2008), which consists of three levels: First of all, a «supranational level», which fulfills the vital but circumscribed functions of securing peace and promoting human rights set by the UN Charter; secondly, a «transnational level», where the major powers address global economic and ecological problems within the framework of permanent conferences and negotiation systems^[1]; and finally, the already established national level (cf. Habermas 2008b: 312 ff.). The example of the European Union enriches and further complicates the frame (cf. Habermas 2012: 1-70).

In this context, Habermas acknowledges that the transition from classical international law to a post-national “semi-cosmopolitan” order is «plunged in communicative-strategic twilight», that is to say, communicative actions cannot be easily told apart from strategic ones. More explicitly, Habermas states that, in contrast to life-world practices, communicative processes on the post-national level are noticeably «controlled by power»

(*machtgesteuert*) (Habermas 2007: 420). This means that tentative global learning processes, «anticipatory law constructions» (*vorgreifende Rechtskonstruktionen*) and prudentially and normatively curbed assessments of power are confined to the edges of an «imperialistic politics of power»[2].

Such Habermasian caution in maintaining the effectiveness of a communicative power that transcends national boundaries entitles one to introduce the second kind of skepticism against a transnational public sphere, which is based on what I have previously mentioned as “legitimacy reductionism”. This perspective has been mainly developed by Habermasian scholars and, in contrast to the realistic one, does not a priori bypass the possibility of communication forms that cross boundaries and hypothetically enable overcoming the international state of nature. On the contrary, this kind of skepticism laments rather the factual lack of global (cosmopolitan, supranational, transnational or the like) adequate juridical democratic institutions. According to this position, one can argue that, since the emerging forms of global communication cannot find support in democratic institutions yet, they constitute merely *sporadic* and *aggregative* forms of publicity, rather than spaces of mutual accountability, responsiveness, argumentation and critique (Bohman 1998: 212).

This kind of skepticism may be called “legitimacy reductionism” for it seems to take for granted that the most important function of global public spheres actually consists in a contribution to the legitimation process of deliberative democracy. As previously presented within the national frame, the legitimacy-bound role of publicity consists in a mediating and translating activity between civil society and central political institutions. On the global level, this function is assumed not to change: Public spheres have to legitimate political global orders by transforming global public opinion into global democratic decision-making. Nancy Fraser, for instance, asserts the need of *constructing*

new addresses for public opinion, in the sense of new, transnational public powers that possess the administrative capacity to solve transnational problems. The challenge, accordingly, is twofold: on the one hand, to create new, transnational public powers; on the other, to make them accountable to new, transnational public spheres (Fraser 2008: 98; on the same vein cf. also Bohman 1998: 197; Bohman 2004: 148; Nanz & Steffek 2007: 92-94).

In a recent article, Habermas places himself on this wake, arguing that successful global democratic institutions have to be rooted in some kind of solidarity between citizens. Solidarity would result from learning processes relying on «appropriately extended communicative processes» that «can take on concrete form only as the national public spheres gradually *open themselves up to each other*» (Habermas 2012: 48).

The condition of possibility of a well-functioning transnational public sphere appears to be thus deeply tied to the condition of the possibility of *establishing* well-functioning democratic orders above and beyond nation states. This perspective tends to focus only on the transformation of global public opinion into legislative and executive processes, thus underestimating, unfortunately, the negative, critical side of the public sphere. To put it with the categories previously introduced by Fraser, the «anarchic» and «wild» communicative flows of the «weak publics» can play a role within transnational contexts only as they are viewed as resources for the «strong publics», where institutional deliberations take place.

The legitimating function of public deliberation does, however, in a certain sense include the critical function: the legitimacy of norms, institutions and political orders depends, from the normative point of view, on the fact that they are able to shoulder criticism. Correspondingly, if these norms, institutions and orders are to prove their legitimacy, they must stay open to any possible further critique. This ought not to lead us, however, to the equation or confusion of such positive legitimating function of publicity with its negative and critical task. Transnational *critical* practices do, namely, not necessarily coincide with transnational democratizing processes, both on the domestic and the post-national level. While from the legitimating perspective, the activity of the public sphere aims at achieving a democratic order that should be considered in some way legitimated, the purpose of a critical publicity is that of critically inquiring and problematizing already given, more or less democratic post-national structures.

3. In order to rehabilitate the negative, critical function of publicity, I'm now going to sketch out a *two-track* model of the public sphere, which is largely inspired by the "dialectical"

approach of Habermas' first major work *The Structural Transformation of the Public Sphere* (1991). The two-track model I am proposing aims at integrating both the descriptive and diagnostic features of the realistic perspective on international relationships and the normative and counterfactual potential of the communicative paradigm that Habermas and his scholars have been developing since the eighties, on a domestic as well as on a global scale.

In his first important research, Habermas provides an account of the public sphere that intends to closely combine the normative perspective with a historical and diagnostic one. More precisely, the public sphere is here defined both as a normative resource for critique of ideology and as an ideological issue itself subjected to critical analysis. He traces the historical roots of the idea of *Öffentlichkeit* back to the 18th and 19th century, where, especially in France and England, the emerging bourgeoisie was struggling to impose itself as the hegemonic social class against the aristocracy and the church. The bourgeois public gathered at first in coffee houses and saloons, discussing matters of «common concern» and taking position against the political power of the absolutistic state. It was precisely in this social and cultural milieu that, according to Habermas, the idea of a close link between power and reason, or law and truth, began to make its way into political discourses (Habermas 1991: 53). Habermas identified the presupposition of the rational critical function fulfilled by these public discourses in the idea of equality between peers. The participants in the public spheres were in fact all regarded as equal, *that is*, as private citizens, property owners and cultivated individuals: «The bourgeois public's critical public debate took place in principle without regard to all preexisting social and political rank and in accord with universal rules» (Habermas 1991: 54). Alone on this basis, the «authority of the better argument could assert itself against that of hierarchy» (Habermas 1991: 36).

Differently than in other works, in *The Structural Transformation of the Public Sphere* Habermas makes explicit that the normative contents of his conception of publicity (equality of the participants, universality claim, freedom from power, critical rationality) are rooted in and simultaneously ideologically distorted by a particular historical context that is interwoven by power struggles and by the interests of a particular social group involved in such a struggle. The ideological component of the public sphere can be unraveled as following: A public that denies access to all those who do not share the bourgeois marks – those that do

not have any private property, any culture and are not (white) males – cannot properly realize its own concept, that pivots on the intent of a rational and universal critique of power.

This intrinsic contradiction defining the conception of a (bourgeois) public sphere has not failed to disappoint some critical theorists. As some of them have remarked, the overlapping of the normative and the historical level either attributes a normative universal status to historically constituted ideals or seeks ontologically to ground these ideals in the nature of social life. In both cases, this framework weakens the critical approach to historical social relationships, while uncritically accepting its normative stance (Postone 1993: 167-168; Fraser 1993).

I think, on the contrary, that Habermas was well aware of the consequences implied in the two-track structure, both normative and factual, of its public sphere account. In his first work, he emphasizes that the normative critical role of publicity «can be grasped only in relation to that specific phase in the developmental history of civil society as a whole in which commodity exchange and social labor became largely emancipated from governmental directives». He states that «the social precondition for this “developed” bourgeois public sphere was a market that, tending to be liberalized, made affairs in the sphere of social reproduction as much as possible a matter of private people left to themselves and so finally completed the privatization of civil society» (Habermas 1991: 74). The thesis that can be formulated at this point reads as follows: The condition for the public sphere to exercise its critique against one form of power (that of the absolute state and its leading classes) is to be found within another form of power (that of the emerging liberal capitalism).

This structure does not question the normativity of the idea of publicity though. If it is true that the bourgeois public sphere was an ideological construction, it was «more than mere ideology» as well. Ideologies «are not only manifestations of the socially necessary consciousness in its essential falsity», but also «there is an aspect to them that can lay a claim to truth inasmuch as it transcends the status quo in utopian fashion» (Habermas 1991: 88).

In order to maintain the critical potential of a public sphere, whose ideological shape can transcend itself and push reality to change and transformation, I would suggest to combine both the normative and the factual dimensions also on the transnational level. To be

sure, the later Habermas also maintains this two-track structure (cf. Habermas 2008a: 168; 179-184), even though he prefers to underline how the empirical and factual world does comply (*entgegenkommen*) with the ideal normative level (Habermas 2008b: 332). This later outlook fails thus to properly develop the critical side of the public sphere, which mainly just consists in unraveling the disconnection between the factual and the normative side. The purpose of the two-track model that I would like to propose is twofold: Firstly, it aims at sketching out the basic features of a normative frame as enabling condition for transnational critical praxis and, secondly, it aims at re-establishing the historical perspective as a descriptive and diagnostic one.

As *normative* framing, the transnational public sphere displays more or less the same idealizing conditions previously mentioned in (1): Nobody and no argument can be excluded from public discussion; discussion must be exempt from any form of coercion and manipulation; every participant must be able to take a critical stance toward the statements of other participants. There are also a few other normative conditions that are not given in the traditional Habermasian model but that turn out to be indispensable on the more complex global level. To begin with, Fraser's plea for a *plurality of competing different publics* (Fraser 1993: 122-126) assumes now a fundamental weight, since the question of cultural, political and also economic diversity appears as extremely urgent on the transnational level. That is to say, transnational publicity is not to be viewed just as one all-including public sphere, that «can generate a critical vantage point from which to scrutinize civil society» (Held 2010: 41); it must be rather figured out as composed by a multiplicity of diverse specific, contextual (not necessarily national) arenas that stay open to each other. Only an ongoing interpenetration of different publics may facilitate the inclusion of marginal and not-hegemonic voices, thus fostering mutual learning and criticizing processes.

Furthermore, discussions connecting such dispersed and decentered forms of publicity ought to be conceived as not exempt from conflicts. Critical and problematizing practices imply a negativity that cannot be tamed: as Peters states, «the idea of public deliberation is that of reaching an agreement passing through disagreement» (Peters 2001: 665). This agonistic understanding of the public sphere does not deny the possibility of communication oriented towards agreement; it does not share with contemporary realist theorists (e.g. Mouffe) the strong ontological assumption according to which political antagonisms and exclusionary mechanisms are unavoidable and constitutive for political praxis both on the

domestic and the international level. Stressing the negative, conflictual element within the rational praxis of communicative and discursive agency makes explicit the condition under which anarchic, untamed publicities maintain a strong critical potential by questioning any (ideological) crystallization of dominant opinions and world-views (cf. Habermas 1996: 308; 357).

After having argued about the critical potential of the public sphere, now the question arises: What is the main target of critical public sphere? I would like to suggest that the very target of the critical praxis is to be understood as *the public sphere itself*. As historically constituted spaces, transnational forms of publicity have to be described as spaces emerging from a context made of social and political relations of power and domination, asymmetries, hegemony conflicts, hierarchies, struggles for achieving recognition or imposing one's own interest etc. From a factual perspective, transnational discursive public practices mirror and reproduce these relations.

I would now, finally, like to briefly note that, from this perspective, the two-track account of transnational publicities can reintegrate the realistic approach previously mentioned, yet turning the skepticism into a strong critical negative stance. Critical diagnoses may investigate, for example, how, why and by whom a specific stretch of the transnational public sphere is manipulated; which are the hegemonic (super)-powers and the imposing interests at stake; how real-existing global organizations and institutions that belong both to the global civil society and to transnational political orders (UN or EU entities, CSOs, international courts) are influenced by, or influence such a publicity. A critical conception of the public sphere, to put it with the words of Robert Cox, «does not take institutions and social and power relations for granted but calls them into question by concerning itself with their origins and how and whatever they might be in the process of changing. It is directed toward an appraisal of the very framework for action, or problematic» (Cox 1981: 208). «Critical theory, in my mind, does not propound remedies or make predictions about the emerging shape of things, world order for example. It attempts rather, by analysis of forces and trends, to discern possible futures and to point to the conflicts and contradictions in the existing world order that could move things towards one or other of the possible futures» (Cox 2010).

Thus recapping, a two-track conception of public sphere puts two virtues forward: First, it outlines a normative framework that would enable a transnational critical praxis; second, it

prevents the risk of leading overall to a too sanguine view of global affairs by unmasking transnational domination structures that reproduce themselves through discursive public practices.

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[1] Institutions that belong to this level are, *inter alia*, WHO, ILO, UNHCR, UNESCO, WTO, IMF, World Bank, G8 and G20, etc.

[2] Habermas is here referring to USA foreign politics after 11th September 2001.

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