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JÜRGEN HABERMAS' ANALYSIS OF LEGITIMISATION CRISIS IN THE STATES OF LATE CAPITALISM AS A PRELUDE TO THE RE-VALIDATION OF NORMATIVE SYSTEM OF LAW

| Abstract

- *Goal* – an analysis of the essential elements – from the perspective of legitimisation of normative systems – of Jürgen Habermas' philosophical thought and his views on the problems that modern capitalist societies face with relationship to the expiration of the pre-modern sources of legitimisation.
- *Research methodology* – analysis of literature, critical method of comparison of secondary views in the literature on Habermas' original theses. Descriptive method.
- *Score/results* – views presented by the author of the *Legitimation Crisis* are based on the works of the representatives of The Frankfurt School. Critical Theory presented in their many works has its development and explication in the works of Habermas, with his innovative solutions to the unsolved problems of the fatalistic diagnosis of the early generation of the Frankfurt School. Habermas attributed a significant importance to the changes in the relationship of work, capital and intersubjective assignment of meaning in various society organisational forms, from traditional to late-capitalist one. His diagnosis of the legitimisation crisis in late-capitalism further points towards his roots in the Frankfurt School. His solution to this problem, related to the communicative actions and a possibility for a rational discourse ending in a consensus and the detailed elements of his analysis of the crisis of legitimisation, shall become a point of analysis in further papers.
- *Originality/value* – Jürgen Habermas works maintain their importance in the XXI century, especially in the face of further turbulences that await the democratic systems in the European civilization sphere. This work compiles some of the basic elements of the origin of Habermas' thought, including the references to the Polish works on

Habermas that have not been translated into English; and it is a development of the master's thesis on Habermas' concept of legitimisation. The paper's thesis can be further developed as a related analysis in the future papers.

| **Keywords:** Habermas, Frankfurt School, Legitimation crisis, validation

1. Introduction. The roots in The Frankfurt School

Jürgen Habermas is one of the most recognizable contemporary representatives of the Frankfurt School [Gottlieb, 1981: 280]. This can be considered as a point of reference for his arguments on the diagnosis of the crisis of legitimisation in its correlation with the economic mechanisms of late capitalism. However, his relationship with the School is not unambiguous, as the affiliation itself is sometimes questioned and paradoxically expressed itself in criticism of some of the School's stances [Hohendahl, 1991: 103]¹. The complicated relationship of Habermas' intellectual efforts with the critical theory presented by the Frankfurt School has led him to propose a unique solution of introducing the communicative perspective into the work and capital analysis of the crisis tendencies in various historical societies.

The Frankfurt School itself dates to the founding of the Institute for Social Research in 1924. As early as in 1930, Max Horkheimer became it's Director and, together with Theodore Adorno, Herbert Marcuse, Erich Fromm or Leo Lowenthal, to name a few representatives of the original circle of collaborators at the Institute, began the research that laid the foundations of the critical theory. While the early years of the institute were characterized by an orthodox connection with Marxism, the later periods, after Horkheimer took the helm, were characterized by a less dogmatic, open attitude towards the various intellectual trends of the time [Antonio, 1983: 329–330]. At the same time, there was an opening to a critical perspective not only in relation to economic dependencies (and the element of work), but also towards culture. It is worth pointing out that in 1930s there was partial implementation of a Marxist paradigm in the views of the School's representatives [Hohendahl, 1991: 5]. The "Marxist problem" in the

¹ Habermas has also been called a representative of the second generation of Frankfurt-ers, especially with regard to his works written after 1969 and the Theodore Adorno's death.

Frankfurters' works becomes even more complex after World War II, especially in West Germany, where some of them returned after earlier escape from the German Nazi regime. As indicated by P. Hohendahl, Adorno, and Horkheimer had already mastered the ability to mask their position during their stay in the United States by evading direct application of Marxist terminology in their works – for example, by removing elements of it from the content of the *Dialectic of the Enlightenment* before it was published in 1947, thus succumbing to the pressure of ideological discourse taking place in post-war America [Hohendahl, 1991: 5]. Similar pressure, of course, took place in the post-war Germany on the Allied side, which limited the influence of pre-war works on the further fate of critical thought at that time, at least until the mid-60s. Despite the removal of the overt elements of Marxist theory, a clear critique of contemporary capitalism remained visible, by using the fundamental elements of Marx's thought to analyse social change. J. Habermas was associated with the Frankfurt Institute for Social Research since 1956, where he worked as Adorno's assistant². In 1957, however, his theses, referring to orthodox Marxism, seemed to draw too much unfavourable attention to the organization, especially because of the ongoing Cold War. His works were part of the 1960s shift towards the founding elements of the Frankfurt School, including works of Walter Benjamin (whose works, before having been published in Social Research Magazine³, where his works were censored by Horkheimer and Adorno of Marxist elements according to the New Left movement). Habermas, in his works from this period, *inter alia* in *Theory and Practice* (1963), tried to start a discussion of social changes and to redefine the project of Critical Theory by re-examining classical texts, from Hobbes to Marx, thus aiming at overcoming the pessimism which burdened the thought of the Frankfurters [Hohendahl, 1991: 7–9]. J. Habermas' position was one of the reasons for his expulsion from the Institute. He would return to Frankfurt a few years later, in 1965, to take over Horkheimer's place as the head of philosophy and sociology department for the next 6 years.

² However, as indicated in *Dialektik der Rationalisierung*, “there was no critical theory for me, no doctrine associated in the whole. Adorno was writing critical essays about culture and was conducting a seminar about Hegel. Some Marxist background was modernized. And that was it”. This theory was out of reach for younger members of the institute, and, as A.M. Kaniowski indicated, literally closed in a box in the basement of the Institute, as Habermas claimed that in a conversation with A. Honneth [Kaniowski, 1990: 18].

³ *Zeitschrift für Sozialforschung*.

M. Horkheimer in *Eclipse of Reason* published in 1947 and in *Dialectic of the Enlightenment* published simultaneously with T. Adorno, expounded a “pessimistic historiosophy” [Szahaj, 1990: 133]. The pessimism common to this generation of representatives of the Frankfurt School about the possibility of overcoming the injustices of the class system influenced Jürgen Habermas’s vision of Critical Theory [Kaniowski, 1976: 111–124]. The Frankfurt School attempted to create a theory that would allow to find the answers to questions posed by both Heidegger and the representatives of the Vienna Circle: the answers to the question of what an impact on philosophy and social life had the science and the implementation of scientific theories [Bowie, 2003: 221–223]. The author of the 1937 article, *Traditional theory vs. critical theory*, presented the basic assumptions of the critical theory in the field of the relationship between the society and science [Kaniowski, 1987: 13]. The critical theory, having been in opposition to the traditional theory, connected the subject and the object. School’s representatives argued that the interpretation through separation of those, especially in sociology, is impossible. Epistemological division of those two spheres created only an illusion of objectivity of the subject’s cognition by the object. A coherent, holistic analysis of reality through an interdisciplinary synthesis of conclusions from many disciplines of science, from philosophy to sociology, was required to overcome that problem.

At this point it is possible to notice the influence of Marxism historicism on the Frankfurt School’s representatives’ line of thought, as in its: “perspective – partially taken by the Frankfurters – ‘both objects seen as perceived acts are a social and historical product’ [Hylewski, Burdzik, 2014: 117]. Defining the subject as determined by the historical and social conditions in which the subject has found himself leads them to attempts to create ways of emancipation – through a reflective analysis of these determinisms. This analysis has led them to a pessimistic approach, as the legacy of the Enlightenment and the legacy of bourgeois ambitions and individualism, of which Weber wrote [Habermas, 1983: 441], having its outlet in the society of capitalism, led to the dominant presence, in the social sphere, of actions based on the criteria of instrumental rationality. The rationality of this type was particularly criticized by Adorno and Horkheimer, as they claimed that such actions tend to reify other entities. As J. Habermas points out himself, in his analysis of *Dialectics of the Enlightenment*, “Enlightenment thinking was understood both as an opposite and as an opposing force to a myth. As a contrast, because [...] the force of the tradition [...] is opposed to a coercion of a greater argument acting without coercion [...].”

[Habermas, 2000: 128]. However, the pessimism mentioned before has returned. One of the goals of the critical theory was to bring about the emancipation of the individual, even if the effect of criticism of the Enlightenment was to endanger the entire project of Enlightenment. According to the first fatalistic generation of the Frankfurters, this emancipation was, however, impossible – if no miracle was to be expected. Emancipation would require a break to happen with the socio-historical continuity of the entire Western civilization, as in this linearity they saw the of the irreversible instrumentalization of reason [Szahaj, 1990: 211–214].

Habermas claimed, however, that the pessimistic conclusions drawn by Horkheimer and Adorno did not give any prospects of escaping from the effects of the rise of the expert culture or of reducing the critical possibilities of individuals resulting from the consolidation of validity claims and claims to power [Habermas, 2000: 134–135]. He also stated that the basis of this fatalistic point of view resulted from the reception of Max Weber's theses of the societal loss of meaning due to rationalization and disenchantment of the world, and while Weber had an ambivalent attitude toward these processes, the representatives of the Frankfurt School evaluated them negatively. Through observation they witnessed the development of an all-encompassing system, as a result of the development of mass culture and industrial apparatus. The attainment of freedom became impossible because a free thought either immediately became absorbed by the system, or, as Adorno pointed out in *Negative Dialectic*⁴ – the reified consciousness, being a fatal force, became a total force.

2. Critical Theory aspects by Jürgen Habermas – an escape from fatalism

The criticism of the capitalist society was present in the deliberations of the representatives of the Frankfurt School from the very beginning. As indicated by W. Lorenc: "Economic processes, according to 'Frankfurters', have an influence on the whole immaterial world by social relations" [Lorenc, 1990: 75]. Moreover,

⁴ The dialectics of the Enlightenment was supposed to mean that "the process of transforming cognitive forms, which, on the one hand, is about gradual rationalization, which is a transfer from magic to knowledge, on the other hand, is gradual enslavement" [Kaniowski, 1987: 13].

Marx's question of why the poor, the marginalized and the persecuted submitted to the same institutions and laws, whether religious, economic or political, which caused them to be marginalized and subjugated remained for J. Habermas not an outdated issue. His search for an answer led the author of *Crisis of Legitimacy* to the analysis of economic organization and its relationship with ideology. In his thought it seems equally important to emphasize the separation of the internal and external nature of subjects, with particular emphasis on a man's desire to dominate nature [Habermas, 1983]. However, it is a matter of reason, and thus the type of applied rationality. This tension has led Habermas, through criticism of instrumental rationality, towards the creation of the concept of *communicative rationality* – a hope for societal reversion from the domination of self-reflection to the intersubjectivity.

Habermas, who criticized the students' protests in 1968, was rejected by the New Left, but this was only a material manifestation of deeper disagreements in the area of the Critical Theory. Despite this, the second generation of Frankfurters seemed to agree that it reached a turning point and the Adorno's theory reached a dead end, as illustrated, *inter alia* by the reaction of reviewers to the *Ästhetische Theorie* by Adorno, published in 1960s [Hohendahl, 1991: 103]. The shape of the Critical Theory in Western Europe and the United States would happen to be a result of the reception of Habermas' works⁵. Although *Structural Transformations of the Public Sphere* (1962) and *Erkenntnis und Interesse* (1968) showed two differences in relation to the older generation of the Frankfurt School representatives: he reassessed the tradition of the Enlightenment and restored the value of modernism, turning to the issues of justification and stating that all forms of knowledge are based on an anthropological definition of needs and interests [Hohendahl, 1991: 11]. Even more radical change in the analysis of social theories has been noticeable since the work *Legitimation Crisis* of 1973.

The basis of Habermas' critique of contemporary capitalism is "the perception of a tendency to transfer the structures of an action characteristic for technical progress to the whole of social life – the interference of intentional and rational actions in spheres reserved for interaction (that is, coordination through communication activities)" [Stasiuk, 2003: 93]. Originally, Habermas

⁵ Its evolution and attempts to lead it out of the fatalistic finale can be observed while reading some of his works, starting from *Theory and Practice* (1963), through *Crisis of Legitimacy* (1973) to *Theory of Communication Activity* (1981), indicating only a few.

took elements of a model similar to psychoanalysis, self-reflection, as the bases for justifying the critical theory as a source of emancipatory possibilities. "Emancipatory self-reflection consists of removing barriers that interfere with the process of communication", thus is connected with the process of communication immanently. Z. Krasnodębski claimed in the afterword to *Theory and Practice* that "The disproportion between a man's rational disposing of natural processes and irrationality in the sphere of social practice [...] the desire to abolish the natural mechanism of the development of history and to subject this development to conscious rational control is the thread around which Habermas' whole thought is also centred" [Krasnodębski, 1983: 536]. However, the critical theory acquired by Habermas, both from Adorno's and Horkheimer's point of view, or Marxist theories, underestimated the aspect of intersubjective work in social practice. Habermas stated that, although Marxist criticism of ideology or Freud's psychoanalysis are classic examples of critical thinking, those cannot be a paradigm in emancipatory aspirations [McCarthy, 1996: 75]. Psychoanalysis itself, as a theory and a way to rectification of the systematically disturbed communication, had, according to Habermas, an inexpressible, but *a priori*, need for a theory of undisturbed communication [McCarthy, 1979: XVIII]. Emphasizing the intersubjective element would result in a reflection on the reproduction of symbolic structures through an analysis of internal and external nature (the aforementioned desire to control the surrounding nature by a man). Habermas indicated that the process of socialization was both a process of work and a process of communication with the use of language acts. "The introduction of the dimension of communication as a constitutive dimension of the social development, which underlies the material reproduction, is of the great importance from both an epistemological and a political point of view" [Kaniowski, 1990: 63–64]. Solutions to problems in this sphere should therefore be sought on the inter-subjective level, and not by creating systemic solutions. Moreover, the intersubjective dimension would be Habermas' escape from the dead end of the Critical Theory of the classical Frankfurters – i.e., the problem of justifying criticism, its claims to the truth and the rightness. The general theory of rationality, based on the fact that the nature of all societies is essentially communicative, would allow to search for the emancipatory character of the critical theory on a new level of research. That is to say, as a criticism personifying knowledge, allowing to decipher slavery – through the rational formation of power relations. The concept of universal interest and unforced consent would be introduced by Habermas here.

As indicated earlier, the issue of the influence of technological development on social relations and on power relations, and the accompanying rationalization, were one of the essential elements of his analysis of reality. The concept of work, by K. Marx contained the emancipatory potential, thus *inter alia*, Horkheimer pointed to the “source of all evil” resulting from its (work) instrumental model of action [Szahaj, 1990: 142]. The tendencies of the increasing bureaucracy to be reified, to be legitimized, present in the societies of modern capitalist states have been the subject of Habermas’ many works, which will be discussed further. On the basis of these analyses, Habermas distinguishes critical knowledge and knowledge of technical applications⁶. The observation of this dichotomy would allow to “expose the conditions of their possible existence [forms of social experience defined as ‘false consciousness’ which should be demystified], and, at the same time, to criticize these forms. On the other hand, it is a ‘positive’ criticism of one’s own theoretical assumptions, positive in the sense that it reveals these assumptions as a historically necessary project of distortion-free communicative rationality” [Folkierska, 1990: 65]. This would later enable Habermas to create a concept of conditions for interference-free communication, defined by universal pragmatics and ethics of discourse.

3. The possibility of a legitimization crisis

It should be noted that the above considerations were aimed at by Habermas’ to, among other things, analyse late capitalist society; a critical-oriented society, geared towards emancipation⁷. The critical theory did not exhaust itself in the construction of a concept describing the development of social structures, but it also assumed a historical analysis of contemporary society with the intention of reconstructing the bases for its reflective critique [McCarthy, 1979:

⁶ The first of these categories of knowledge leads a man to free himself from the systems of power and from his own subconsciousness (cultural conditioning) – this is an element of the human personality and *institutions*. The second type of knowledge is more characteristic of the systems of work and production, it is a feature of technology and of industrial development. Also, the social activity affected by both of these types of knowledge would be related to other types of an object – namely, work and interaction are “separate spheres of social reality. The first one would be matched by technical knowledge; the latter would find its completion in critical knowledge.” [Rainko, 1983: 5].

⁷ More about self-reflection, emancipation in the context of the theory of criticism and freedom of communication see i.e.: [Geuss, 1981: 69–75].

XXIII]. The social development described by rationalization and transformation of concepts is mainly illustrated by the transformation of forms of validation (and legitimisation).

In *Legitimationsprobleme im Spatkapitalismus* (1973) Habermas distinguishes four models of social formations: primitive, traditional, liberal-capitalist and late-capitalist, in which the issue of unequal distribution of burdens and rewards is one of the problems of upkeeping the legitimacy of the system [Habermas, 1975: 17]. We will not trace the evolution of the above formations here. However, it is necessary to shortly indicate important elements distinguishing those individual types. As stated by A.M. Kaniowski “the most important feature of the first formation [...] is that the controlling role has a system of kinship. The productive forces embedded in this framework contribute little to the modernization of social relations” [Kaniowski, 1990: 143]. This was associated with the limited importance of rationality-oriented actions by their inseparability with symbolic interactions, whereas the relationship itself, as an institution, organized the whole (or the dominant part) of social relations. This totality of kinship as a source of essential social norms excluded the need to seek legitimacy in other areas [Habermas, 1975: 18]⁸. The division of social integration and integration of systems is not present here. Any occurring identity crises were of external origin [Habermas, 1975: 24]. There was also no possibility of exerting pressure on the increased work in this case, as there were no systemic motives for producing goods on a greater scale the necessary ones for the current satisfaction of basic needs. Due to the concentration of the organization of social interaction around kinship, the indicated possibilities of crises had to come from outside, through wars or conquests, demographic or commercial changes [Habermas, 1975: 18]. This formation clearly differs from the traditional and capitalist ones, through the separation between work (characterized by deliberate and rational actions) and symbolic interactions. This separation allows to “collect and extent the technically useful knowledge regardless of the ways in which the social world is interpreted, and thus independently of social interactions” [Kaniowski, 1990: 143]. This separation of social norms from institutions in late capitalism would further trigger the need to seek legitimacy on a different basis than before.

⁸ The institutional core is the kinship system, which at this stage of development represents a total institution; family structures determine the totality of social intercourse [...] they simultaneously secure social and system integration. World-views and norms are scarcely differentiated from one another. Both [...] require no independent sanctions [Habermas, 1975: 17].

The process of the crisis of legitimacy, for example in the traditional formation, has been still limited. Intentional-rational actions in their separateness from institutions have been still limited by tradition and religion, i.e., it is not possible to undermine them with one's separate interpretation of the world. The bonds of blood, which form the basis of the organization, ceased to be of crucial importance. The transfer of power centres toward the state would allow for the privatization of ownership of the means of production, and the progressive separation between authority and legal order would find opposition in counterfactual (i.e., immaterial) justifications and moral norms. Habermas points out that the institutional separation of secular and religious power would correspond to this, increasing the autonomy of the systems, and the resulting privatization of the means of production, together with the associated institutionalization of the class (and the pluralism of the centres of power), would constitute the potential for conflicts [Habermas, 1975: 19]. At the same time, the problem of legitimization arises, because the above conflicts can be removed from the current issues in a social discourse only by means of an increased legitimate authority (and the power supported by it) – and despite this, it can only happen temporarily. The withdrawal toward traditional normative orders would serve as legitimizing authority [Habermas, 1975: 19]. However, the source of the crisis has already been present in the very interior of this formation, due to the difference between social integration and the system [Habermas, 1975: 24]. This contradiction focuses on the claims to the validity of systems of norms and their justification, which cannot explicitly legitimize the exploitation of work – in the face of a class structure based on the privilege of some in the distribution of goods, which ultimately leads to disturbances in social integration, to a crisis and the search for new bases of legitimization [Habermas, 1975: 20]. In the liberal-capitalist formation (early capitalism), the element of legitimization would fall from the source of the socio-cultural system, where the economic system based on the relationship of work and capital, along with the anonymization of class domination, would face a state that only externally fulfils its previous political tasks, for example by safeguarding territorial integrity. Inside, the centre of legitimate power is to be realized only in the form of guaranteeing the possibility of using the means of production – the control centre would move into the area of economic exchange [Habermas, 1975: 21]. Thus, in addition to the depersonalization of political domination (economic mechanisms replace traditional forms of domination), the ownership of goods and the means of production also become stripped of

their forms related to the political ones, and thus seem to legitimize themselves by economic processes [Habermas, 1975: 22]. Such a clear separation of the socio-cultural and economic system is connected with opening up to the domination of a way of thinking based on searching for the most effective means to achieve the assumed objective, in this case the income, and thus, in essence, deliberate and rational thinking. The mystification of tensions, in the way it has been in traditional and primitive formations, is no longer possible. The emerging tensions in the area of justification and reality must be confronted. Such a transfer of the problems of controlling systems, instead of social integration into the economic sphere, causes that a possible crisis, due to the threat to identity, takes the form of a crisis of the system, unlike in the previously described social formations [Habermas, 1975: 23].

In rationalized social organizations, i.e., in capitalist ones, after the process of disenchantment of the world has occurred, a new horizon of rationality is created, based on intersubjective actions. Habermas would also point to a new mechanism, created in capitalist societies, which would allow deliberate rational activities to self-extend as dominant ones. It coincides with Weber's process of rationalization, in an instrumental sense, and is also visible in the sphere of jurisdictional tendencies present in post-liberal capitalism⁹. In his work *What Does a Crisis Mean Today? Legitimation Problems in Late Capitalism* (1973) he presents the particular structural features of societies of late capitalism. At this point, it should be noted that the state's substitution of market mechanisms to the sphere of the administrative system is a response to the fact that: "the functional weaknesses of the market and the dysfunctional side effects of the market mechanism 'are accompanied by the breakdown of the basic capitalist ideology – the ideology of fair exchange'" [Habermas, 1983: 454]. The solution to the problems of legitimacy in this sphere seemed to be presented by formal democracy, which, due to the shape of its institutions, separated administrative decisions from specific goals and motives which are guided in particular by citizens. However, as Habermas points out: "the broad participation of citizens in the processes of the formation of the political will [...] would reveal a contradiction between administratively socialized production and the invariably

⁹ I am referring to, as J. Habermas, an aporia of aspirations of bourgeois thinking of equality and freedom and, inherent in liberal capitalism, the desire to freely manipulate the private property; and the state's participation in the market sphere, or in accordance with the demands of the *welfare state* concept or other types of direct manipulation of market trends. See: Habermas, 1988: 135–147.

private form of appropriation of produced values [...] the administrative system must [therefore] be sufficiently independent of the process of formation of the will as the basis for validation [...] by [...] the process of validation, which ensures the loyalty of the masses, but does not allow to participate” [Habermas, 1983: 455]. This is a reaction on the re-politization of relations of production, as T. McCarthy stated in the face of the extinction of the legitimate power of the principle of fair exchange, which raised the need to fill this gap with another program [McCarthy, 1996: 368].

As can be seen above, the crisis tendencies of the states of late capitalism are addressed in detail by Habermas in *Legitimation Crisis*. He described the transformation of social formations, the problems of the occurrence of crises, and on the example of free-market capitalism, on what is the social crisis, which for the first time occurs precisely in this social formation. There are “unsolvable system contradictions or unsolvable control problems” present, as A.M. Kaniowski points out [Kaniowski, 1976: 116]. Habermas points out that the nature of the crisis changed after capitalism moved into an organized form, after the state took over some of the functions previously assigned to the market. The previously basic ideology of fair exchange legitimizing the social system, has been disturbed, and therefore there is a need to look for another source of justification.

4. Legitimacy in late capitalism

Due to the fact that the economic system lost its functional autonomy to state structures, the manifestations of the crisis in late capitalism “lost their natural character”, in this sense the crisis referred to in the context of the liberal-capitalist formation, i.e. the crisis of the system as a whole would not occur [Habermas, 1975: 92]. However, there are crisis tendencies that the administrative system, effectively or not, tries to manage. The broken-down ideology of fair exchange moved the burden of legitimization of the social system towards the mechanisms of the state. The state has the task of fulfilling certain elements of the functioning of the market. It is a system exercising ‘legitimate power’. The decisions made by the administrative apparatus are the output of the system, whereas the loyalty of the masses is the entry. The crisis can affect either the output of the system – then it takes the form of a crisis of rationality (the system does not properly fulfil the *control orders* resulting from the taken over

market functions); or the entry of the system – which takes *the form of validation crises*, which is particularly important when considering the issues¹⁰. Habermas pointed out that the possibility of administrative moulding of the public opinion, social manipulation and an administrative creation of meaning is very limited. Meaning is not produced administratively – there is an incompatibility between the activities of the sphere of administration and those of the sphere of culture. And as he points out, “administrative planning must have a legitimate power” [Habermas, 1983: 463]. The growing need for legitimacy is caused by the aforementioned jurisdictional tendencies and by the “reifying signs present in developed capitalist societies” [Habermas, 1988: 135]. The loss of traditional, cultural sources of legitimacy and the transfer into the sphere of public discussion previously recognized as obvious values “threatens the privatism of the citizen” [Habermas, 1983: 454]. Habermas concludes that “late-capitalist societies suffer from a lack of legitimacy” [Habermas, 1983: 466]. However, he would not completely reject the claim that the state cannot create the meaning administratively and manipulate culture at will. Filling the gap, in the form of the lack of sense, by creating a compensation system, can lead to a crisis at a time when the demands for compensation exceed the system’s capacity – the form of legitimacy proper to formal democracy becomes too expensive, and results in observable competition between political parties in terms of the possibilities offered to the population to meet ever-growing expectations. The very realization of the concept of democracy has changed together with the changes that have affected the state – it has been pushed from the guardian of the order to the interventionist creator of social reality [Kaniowski, 1990: 28]. Communication, in terms of interpretation and reinterpretation of fulfilling the needs of collectivized individuals is disturbed and “can only be replaced by intense manipulation, that is, increased indirect control” [Kaniowski, 1990: 29]. Although in free-competitive capitalism there were systems of values of a universalistic nature (due to the need to coordinate exchange, what is important, equivalent), so in capitalism organized by the state the basis of such a model of legitimacy was broken, and just as in fascism it was not able to withdraw consciousness

¹⁰ Habermas describes it further by the perspective of the need to meet the specific needs of the population (in a rational way for the whole society) – in its absence there is a shortage of administrative rationality; and to satisfy the need for validation (which seems to arise from individual needs) – in its absence there is a shortage of validation [Habermas, 1983: 454].

below the gathered level of knowledge and scientific convictions, similarly, it seems impossible to reverse the system of morality below the effects of practical discourse on the values and sources of legitimacy¹¹.

To sum up the characteristics of crisis trends, Habermas points to three conclusions. Firstly, the crises characteristic of capitalism, after the economic sphere had lost its autonomy to the state, lost their natural character – and their continued management by the administration, if originally effective, led, instead of their cyclical appearance, to a permanent state of crisis. Secondly, the economic crisis shifted, by reacting actions to its emergence, into the political sphere. As a result, there was a link between the deficits of legitimacy and the capacity to rationalization, the relationship between the resources having the value and the meaning was of fundamental importance, thus the former being a substitute for the lack of sense, which had its limits and gives room to predict the crisis. Thirdly, the less proper motivation and sense a socio-cultural system can produce, the more consumable (usable) values the economic system must produce. Moreover, the structures that originally produced the legitimization basis and the ideological veil for the class system are, in advanced capitalism, the source of demands directed directly to the political and economic system. One solution to this problem could be, according to Habermas, removing the pressure of legitimacy claims against the administrative system, by moving the process of socialization beyond the sphere of validation of standards based on processes occurring earlier. As indicated by A.M. Kaniowski, Habermas, ultimately advocates the need to investigate the legitimacy of social norm systems. It seems to be a transition to a form of “justifying norms of action and conditions of valuation [... through] a discursive constitution” [Kaniowski, 1976: 120].

¹¹ In the societal formation of late capitalism, Habermas distinguishes four crisis tendencies. It is an economic, a rationality, a legitimacy (justification or validation) and a motivation crisis. In a word of introduction to their detailed description, he indicates the factors of an economic nature which are at the foundation of these tendencies. More about this, for example, in Chapter 3 of *Legitimation Crisis* – “System crisis eluded through the example of the Liberal-capitalist crisis cycle”, where Habermas, on the example of liberal capitalism, illustrates the very concept of economic crisis and its source, described in this work earlier, capitalist economic mechanisms and the transfer of contradictions within the system beyond the sphere of self-reflection, which makes economic crises seemingly cases arising from the very nature of things inaccessible to intersubjective actions aimed at stopping them [Habermas, 1975: 24–31].

Habermas claims that social relations are, in principle, communicative in nature. Furthermore, individuals “want to know why they should obey a certain order. In the long run, they can submit to it only when it seems legitimate.” [Dupeyrix, 2013: 119]. Legitimacy in a modern state means a possibility of reflective consent and, as a result, the feeling that acceptance of a given order results from a free choice. The understanding of meaning is an experience “that cannot be carried out monologically, because it is a communication experience. Understanding of a symbolic expression requires, in principle, participation in the process of understanding. At the same time, one should abandon the objectivising attitude of the observer toward (physically measurable) states and events in favour of the performative attitude of the participant of the communication” [Habermas, 1982: 550; Kaniowski, 1986: 131]. The validation of any system of norms, including law, is related to the action that aims at the agreement – in the scope of mutual understanding of the meanings that are the basis of a given justification. As he claims that “Legitimacy means that there are good arguments for the claim of political order to be considered righteous and just; a legitimized order is one that is *considered* legitimate” [Habermas, 1979: 178].

5. Conclusion

Habermas' approach to the problem of legitimacy of social order and normative order has its roots in his search for a way out of the *dead-end street*, in which the critical theory has found itself. As stated by A. Szahaj, the analytical separation of independent types of rationality, i.e., technical-technological and ethical-social (communicative), led him to the conclusion that “[...] the history of mankind has not exhausted its emancipatory potential yet” [Szahaj, 1990: 215]. Habermas tried to shift the burden of reflection to the rationalization of ‘forms of life’, not identifying it only with the aspect of disenchantment and objectification (like Max Weber did), but with the release of critical communication abilities in the society which were supposed to lead to a reflection on the concepts of ‘traditional order and hierarchy’. The distinction between two types of activity – work and interaction, where work would be a *rational* activity in the scope of achieving a certain objective, while the interaction would be a type of communicative activity (in which symbols act as a medium) is the foundation of the structure of Habermas' philosophy. This division allows to point out the key concepts for the whole theory of communicative action: *the system*, and above all: *lifeworld*

(Lebenswelt)¹², which acted as “the background of communication activities” [Kaniowski, 1986: 59]. Jürgen Habermas proposes to examine the legitimacy of normative systems through the prism of communication activities. He reconstructs the concept of legitimacy by examining the legitimacy foundations present at subsequent stages of cultural development, moving to rationalized late capitalism, where the power of legitimacy was taken over by the procedures and formal conditions of legitimacy. A detailed analysis of the Habermas’ analysis of the gradual subordination of the spheres of social life based on communication activities and the *colonization of the lifeworld* will require a separate scientific inquiry. But as the author of *Crisis of Legitimacy* points out in an interview with A. Honneth: “Today, economic and administrative imperatives are entering areas from which the world of life can no longer step down” [Habermas, 1987: 97]. Appearing crisis of the social orders and the normative system of law is related to the communication being affected by the systematic distortions [Morawski, 1990: 118–120]. This state of affairs in particular results in the increase in the formalization of spheres of life, previously covered by arrangements resulting from language agreements, which derive their justification from the interpretive resources of the world of life. The influence of law on these structures becomes foreign. Already in the case of pre-capitalist societies, some spheres connected with the world of life (such as political activity) were regulated by law – but this law drew its power from the existing moral and customary structures. The transformation of the mechanisms that structured the legitimization bases resulted in the fact that, in the face of the expiration of the original legitimization grounds, the law maintains its binding force, drawing it from sources other than before. The separation of law from morality and other structures connected with the world of life meant that it is no longer connected with the structures of communication activities [Szahaj, 1987: 178–179]. The tendencies of jurisdiction and the influence of systemic phenomena on communication structures [Habermas, 2002: 589] cause crisis phenomena – including the most important phenomenon from the perspective of this work, the feeling of the lack of legitimacy of political and economic structures, which Habermas would describe as the deficit of legitimacy of late capitalism.

¹² The concept of the world of life did not arise solely from Habermas’ closed conclusions – similar terms were used, for example, by Wittgenstein or Searle – who pointed to the necessity of certain cultural meanings, accepted in silence, for a full understanding of the expression.

Jürgen Habermas proposes to examine the legitimacy of normative systems through the prism of communication activities. He reconstructs the concept of legitimacy by examining the legitimacy foundations present at subsequent stages of cultural development, moving to rationalized late capitalism, where the power of legitimacy was taken over by the procedures and formal conditions of legitimacy. The specific conditions that would enable the law system to include the legitimizing force of communicative actions in its goal to be legitimized, the possibility of discursive, and therefore cognitive acceptance or rejection of justification, shall be a topic of another paper as it requires further study.

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