



Between Facts & Norms: Contributions to a Discourse Theory of Law & Democracy (Studies in Contemporary German Social Thought)

Jürgen Habermas, William Rehg (Translator)

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"[A] fascinating synthesis of Continental and Anglo-American legal theory. . . full of interesting insights, acute criticisms, and striking passages".

-- Richard A. Posner, "The New Republic" In "Between Facts and Norms" Jürgen Habermas works out the legal and political implications of his "Theory of Communicative Action" (1981), bringing to fruition the project announced with his publication of "The Structural Transformation of the Public Sphere" in 1962. This new work is a major contribution to recent debates on the rule of law and the possibilities of democracy in postindustrial societies. It offers a sweeping, sociologically informed conceptualization of law and basic rights, a normative account of the rule of law and the constitutional state, an attempt to bridge normative and empirical approaches to democracy, and an account of the social context required for democracy. The work concludes with a bold proposal for a new paradigm of law that goes beyond the dichotomies that have afflicted modern political theory from its inception and that still underlie current controversies between so-called liberals and civic republicans.

Between Facts & Norms: Contributions to a Discourse Theory of Law & Democracy (Studies in Contemporary German Social Thought) Details

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From Reader Review Between Facts & Norms: Contributions to a Discourse Theory of Law & Democracy (Studies in Contemporary German Social Thought) for online ebook

John Borthwick says

Habermas is a philosopher that I rarely see getting a lot of credit or discussion, and if I do he is usually being criticized. However his political and sociological work have had a huge impact on me and the way I view civilization and power. So I'm writing a review (1.) to say this is a really good book. And (2.) that I think a lot of the criticism of Habermas comes from misinterpretation.

Habermas's magnum opus, "The Theory of Communicative Action", is a sprawling and difficult work to read. If you are planning on reading "Facts and Norms" you should at least read a summary of that work. The two volumes have been criticized for applying principles in language to political theory that are too abstract to be taken seriously, and creating a theory and standard of communication that is idealistic and unrealistic to impose on social and political institutions. This is where I think the misinterpretation begins. I agree that in his early work his dissection of language can be tedious. However his overarching concept, that language and communication creates a crucial medium for the relation of power structures is a huge idea. From here readers are able to move beyond social ontologies of political institutions, to the utility of their actions through dialogue. I also don't think Habermas is trying to create an ideal language for us to perfectly adhere to. Instead he creates an ontology of communication that allows one to hold institutions such as government, bureaucracy, media etc. to a standard of how they engage with each other and with civil society.

So "Between Facts and Norms" continues the TCA project into discussing what makes democracy and law ideal, and what we as citizens and political bodies should expect from political order. I actually found his later work much more focused and extremely on point. His meditations on law and democracy often fall on binary oppositions and how we define rights, government, leadership, and morals within the democratic framework. How do we decide what is normative vs a certain truth? How do we create universal maxims while remaining in a pluralistic society? Do we as citizens take a conservative view and see ourselves as agents for the state? Or do we take a liberal stance that the state exists for us and the benefit of our social relations? A huge amount of questions are taken into account and discussed, in addition to other great political philosophers such as Rawls, Khun, Weber, Parsons, Dworkin and more.

My only criticism of this book is that he includes only a short section in the last chapter on the necessity of the integration feminist political and ethical theory into democracy and law.. Habermas gets points for being a philosopher that has addressed the need for philosophy and political theory to take feminism more seriously, but this theme could be a book in it's own right. His take on the necessity of paying attention to women's rights and equal opportunity and the need to move away from essentialist views of gender is powerful and I wish he had spent more time on it. Other than that this is an incredible book and if you are looking for a more modern work on political philosophy I highly recommend it.

Bookshark says

This book is a very interesting attempt and I think largely successful attempt to bring together the liberal/rights strain of democratic thought and the republican/popular sovereignty strain. I see a lot of

Habermas's thinking in contemporary democratic political theory, although this debt often goes unacknowledged. This book is also dizzyingly complex - if you think you know Habermas from only his essays you have no idea what you're in for. Of the arguments I understood, I found them quite innovative; but I suspect this will require several re-reads before I am fully comfortable with it. Further review to follow upon re-reads. A classic for good reason.

Ft. Sheridan says

youdayoudabest.

Sue says

Important thinker on democracy. Highlights the importance of political discourse in the private sphere and the need for us all to become critical thinkers. But difficult to get through, probably because of translations. Not an easy read.

Paul Cisneros says

A very insightful critique of systems theory and a strong call for civil action.

Kalle Eriksson says

Habermas har många intressanta idéer om demokrati och framför allt statens roll samt dess relation till civilsamhället. Texten är dock allt annat än lättsmält och jag hade nog kunnat tillgodogöra mig den lite bättre om jag läst The theory of communicative action innan.

James says

read this way back in my twenties, when i was surely more into "reading the right books" than attempting to develop an understanding of where the ideas fit into a framework for thinking and living... still, Habermas is a strong writer and brilliant thinker... probably better on theory than he is on application...

Stefan Szczelkun says

Habermas takes the insights of his Theory of Communicative Action and applies them to a study of jurisprudence. The book loops its argumentation through a wide variety of discourses and can be repetitive. I found this repetition useful as a contemplative device. The aim is to argue for a legal system that is underpinned by a set of inclusive democratic validations. Law and law making that is a dynamic and

continually re-evaluated enactment of the peoples will.

As usual with Habermas his refusal to entertain arguments that are imaginative or emotive (e.g. lead to class antagonism) are both a strength and weakness.

Reeder says

Too many long words. Even if he only used the word "hermeneutically" just once that is way too often...

Fleur says

Incredibly hard going!

Sorina says

I mean I understood about every other page (if I was lucky). But seriously, apart from writing on things that I believed he could have said in much common sense terms, he does make a couple of valid points on discourse theory and law, mostly his discussions in regards to the relationship between law and morality.

Risa says

Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy (Studies in Contemporary German Social Thought) by Jurgen Habermas (1998)
