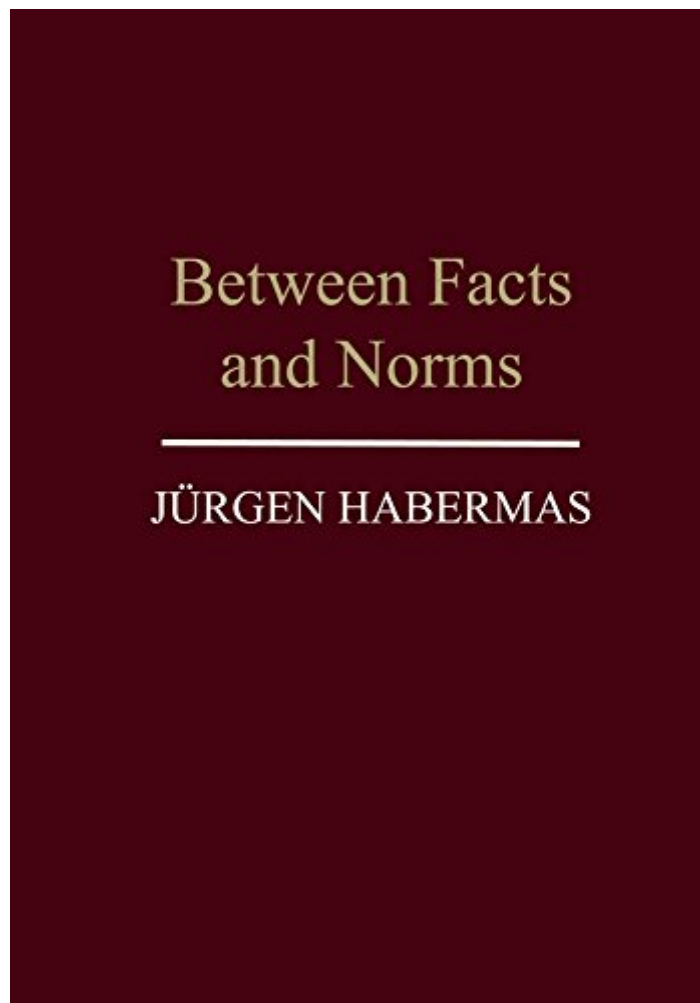


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# Between Facts And Norms: Contributions To A Discourse Theory Of Law And Democracy



## Synopsis

This is Habermas's long awaited work on law, democracy and the modern constitutional state in which he develops his own account of the nature of law and democracy.

## Book Information

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## Customer Reviews

A big book on the big topic of 'how do we all get along' by one of the biggest of living philosophers. I'll not address the details of the argument or Habermas's place in left-wing politics. Instead, I'll address the intellectual and cultural context. What Habermas says he is doing is looking for a way to hold societies together that are no longer composed only of one ethnic group; that are no longer made up of adherents of one religion; and are no longer made up of people who accept one myth of their nation or one philosophy of life. We wouldn't need his contribution here, he is saying, if we were not in "postmetaphysical" times--by which he means two things. First, he means that we're in a scientific, secular era when the educated classes, anyway, of major Western countries can no longer be convinced of much of anything by \*religious\* arguments. Religion doesn't command much belief among social elites, and many others, let alone the kind of universal belief it once inspired. And theology has long since been driven from the position of being 'queen of

the sciences' by physics. The second thing he means by "postmetaphysical" (which he uses instead of "postmodern") is that we live in a time when it's hard for any of us to believe that only what we believe is true, and that what we believe is totally true...because our world is so interconnected and we are aware of so many different religions and worldviews people have. That is, religious and worldview pluralism relativizes the authority any one religion or worldview could have now. Mostly Habermas thinks our "enlightened" state of cosmopolitan equality is really good. But he acknowledges that we've lost something in losing the certainties and meaning and ethics of religions.

Some commentators of Habermas' work have argued that he changed his position from "The Theory of Communicative Action" (see review in here at .com) to "Between Facts and Norms" (BF&N). In the preface of the English edition of BF&N the author himself replies to this issue: Habermas hopes that the book will clear the impression that "the theory of communicative action is blind to institutional reality -or that it could even have anarchist consequences (p. xi)". Thus, the purpose of BF&N is to apply discourse theory to the analysis of democracy in modern societies and not to change the route of his critical theory, as some have argued. Having said this, the reader may be interested to know whether it is possible to understand this book without reading TCA first. I would reply to this question with a cautious "yes". But, of course, something of the understanding will be missed without the theoretical background of Habermas' magnum opus. For someone who would like to read BF&N but is not willing to digest TCA's two volumes, I recommend reading his essay "Three Normative Models of Democracy" (in "The Inclusion of the Other", ed. by Ciaran Cronin and Pablo de Greiff, Cambridge: MIT Press, 1998). This essay presents an outline of the arguments that Habermas will fully develop in BF&N. In this book, he proposes a normative model of democracy as a middle point alternative to the republican and the liberal models. While the republican model relies on Rousseau's idea of collective opinion and will-formation, which demands communication and consensus, the liberal model attributes supremacy to the institutional protection of individual freedom. Habermas affirms that his proposal is normatively "stronger" than the liberal model, but "weaker" than the republican model.

The ideas and thinking here are striking and original. It loses a star however because for someone who cares as much about communication as Habermas and his translator do, between the two of them they are guilty of repeatedly making the ideas here as opaque as possible through sloppy writing. What I mean by this is that this is very slow reading as the reader has to often read the

same sentence repeatedly parsing it out in various ways to attempt to discern what relation is intended between various clauses. For example, from page 11 (chosen at random): "Both moments--that a thought overshoots the bounds of an individual consciousness and that its content is independent of an individual's stream of experience--can only be described in such a way that linguistic expressions have /identical meanings/ for different users." What, exactly, does that even mean? Habermas is apparently talking about the Fregean distinction between thoughts and representations that he has just outlined as the foundation of the "linguistic turn." All fine and good. But then there's the unusual word choice of "moments." That's philosopher-ese and means something like "aspect" or "factor" (a bit of jargon that I've never personally seen much use for. Just say aspect if you mean aspect). The word choice is unsettling even for someone who is versed in the jargon because in this context, a discussion of the history of the linguistic turn in the philosophy of mind, makes the word unnecessarily vague. Occurring as it does at the beginning of a sentence, immediately followed by an extended explicatory aside, it might just as easily mean the more usual definition of moment: a point in time. This, combined with the disconnect of the subject of this sentence with its predicate makes everything all the more confusing.

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