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William Rehg's Introduction on: Between Facts and Norms for Jurgen Habermas

Rahim Nobahar*

Abstract

In this article William Rehg first refers to the basic features of Habermas's conceptual framework on Law and then sketches the key arguments of: "Between Facts and Norms." Referring to relationships between the ideas raised in the book with the theory of "Communicative Action", Rehg explains how Habermas bases the legitimacy of law upon "discourse" instead of morality, integrity and metaphysical claims. According to Habermas, due to the growth of pluralism in modern societies, and the weakness of holistic worldviews, and development of a complex differentiation of functional spheres and consequently the distinction between communicative action from strategic action, Modern law as a means for social coordination problems should process on the other. From a methodological point of view, to provide a rich theory of law, Habermas chooses a way between Rawls and Luhman. To Habermas an account of modern law must incorporate a dual approach and combine internal and external perspectives. He also proposes to examine law from both normative and empirical perspectives. In section two, William Rehg explains Habermas's normative understanding of the modern rule of law and its internal relation with deliberative democracy. Choosing a way between classical liberal and republicans account, Habermas argues for an "internal relation" between private and public autonomy and tries to do justice to both sides. For this, he proposes a "system of rights." Rehg also explains Habermas's account on different interactions between the State and the legal system, between law and judicial precedent as two other aspects of the gap between facticity and validity and illustrates the proceduralist conception of law supported by Habermas.

Keywords: Jurgen Habermas, Legal system, Deliberative Democracy, Proceduralist Law.

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