

Tobias Lieber

Diskursive Vernunft und formelle Gleichheit

Zu Demokratie, Gewaltenteilung und Rechtsanwendung in der Rechtstheorie von Jürgen Habermas

[Discursive Rationality and Formal Equality. Democracy, Separation of Powers and Application of the Law in the Legal Theory of Jürgen Habermas.]

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Tobias Lieber examines Jürgen Habermas' discourse theory of law and democracy from a lawyer's perspective. In his critique, he takes into account the large amount of secondary literature, including many American authors. Tobias Lieber takes a critical approach towards Habermas' understanding of democracy, basic rights and the separation of powers as well as the discourse theory of legal adjudication. His careful examination of the primary literature demonstrates contradictions and shortcomings in Habermas' theories. Based on these, the author modifies the discourse theory of law along the lines of an understanding of legitimate law which includes discursive rationality as well as a concept of fairness or formal equality which applies to all citizens. On the basis of this binary coded account of legitimate law, Tobias Lieber succeeds in giving a convincing explanation of the institutional structures in a state which has its foundations in democracy and the rule of law.

Tobias Lieber Geboren 1976; Studium der Rechts- und Politikwissenschaft in Freiburg und Sydney; 2005 Promotion in Berlin; seit 2007 Rechtsanwalt in Freiburg.



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