

# Denver Law Review

---

Volume 76  
Issue 4 *Fifth Annual Legal Theory Symposium -  
Exploring Habermas on Law and Democracy*

---

Article 1

January 2021

## Vol. 76, no. 4: Table of Contents

Denver University Law Review

Follow this and additional works at: <https://digitalcommons.du.edu/dlr>

---

### Recommended Citation

Table of Contents, 76 Denv. U. L. Rev. [ix] (1999).

This Front Matter is brought to you for free and open access by the University of Denver Sturm College of Law at Digital Commons @ DU. It has been accepted for inclusion in Denver Law Review by an authorized editor of Digital Commons @ DU. For more information, please contact [jennifer.cox@du.edu](mailto:jennifer.cox@du.edu), [dig-commons@du.edu](mailto:dig-commons@du.edu).

Published by the  
University of Denver  
College of Law

DENVER  
UNIVERSITY  
LAW  
REVIEW

1999 Volume 76 Issue 4

---

FIFTH ANNUAL  
LEGAL THEORY SYMPOSIUM:

EXPLORING HABERMAS ON  
LAW AND DEMOCRACY

CONTENTS

Foreword .....	<i>Nancy Ehrenreich</i>	927
<i>Between Facts and Norms:</i>		
An Author's Reflections .....	<i>Jürgen Habermas</i>	937
Law Professors Read Habermas .....	<i>Mitchell Aboulfaria</i>	943
Accommodating Republicanism .....	<i>David M. Rasmussen</i>	955
Habermas Among the Americans:		
Some Reflections on the Common Law .....	<i>Catherine Kemp</i>	961
Still Facing "The Dilemma of the Fact":		
Gilligan and Habermas (Re)Visited .....	<i>Myra Bookman</i>	977
The View of Habermas from Below:		
Doubts About the Centrality of Law and the Legitimation Enterprise .....	<i>Brian Z. Tamanaha</i>	989
Morality, Identity and "Constitutional Patriotism" .....	<i>Frank I. Michelman</i>	1009
The Law and Late Modern Culture:		
Reflections on <i>Between Facts and Norms</i> from the Perspective of Critical Cultural Legal Studies .....	<i>Rosemary J. Coombe</i> <i>with Jonathan Cohen</i>	1029

The *Denver University Law Review* is published quarterly by the University of Denver College of Law through the Denver University Law Review Association.

Denver University Law Review  
7039 East 18th Avenue  
Denver, Colorado 80220  
(303) 871-6172  
dulr@student.law.du.edu  
www.du.edu/law/lawreview

Cite as: 76 DENV. U. L. REV. \_\_ (1999).

**Subscriptions:** Subscriptions to the *Law Review* are \$30.00 per volume (add \$5.00 for foreign mailing). All subscriptions will be renewed automatically unless the subscriber provides timely notice of cancellation.

**Single and Back Issues:** Single issues of the current volume are available from the Association at \$15.00 per issue. All previous volumes and issues of the *Law Review* are available exclusively from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209 (800) 828-7571.

**Copyright:** All articles copyright © 1999 by the *Denver University Law Review*, University of Denver (Colorado Seminary) College of Law. For all articles for which it holds the copyright, the *Law Review* permits copies to be made for classroom use, provided that (1) the user notifies the *Law Review* of the use, (2) the author and the *Denver University Law Review* are identified, and (3) the proper notice of copyright is affixed to each copy. For all other articles, contact the *Law Review* to request reprint permission.

**Form:** The *Law Review* generally conforms to *The Bluebook: A Uniform System for Citation* (16th ed. 1996) and to *The Chicago Manual of Style* (14th ed. 1993). It is the general policy of the *Law Review* not to keep unpublished sources used in articles, notes, or comments beyond their use for verification of citations. Inquiries as to the location of an unpublished source should be directed to the author of the article, note, or comment in which it is cited.

**Manuscripts:** The *Law Review* welcomes submissions from members of the bench, bar, and academy. Please address manuscripts to the Articles Editor, *Denver University Law Review*, 7039 East 18th Avenue, Denver, Colorado 80220. Manuscripts should be double-spaced and cannot be returned unless accompanied by a self-addressed, postage-paid envelope.

**Previous nomenclature:** Published as the *Denver Bar Association Record* from 1923 to 1928, *Dicta* from 1928 to 1965, and *Denver Law Journal* from 1966 to 1984.

**Postmaster:** Please send all address changes to *Denver University Law Review*, 7039 East 18th Avenue, Denver, Colorado 80220.

# DENVER UNIVERSITY LAW REVIEW

1998 Volume 76 Issue 1

---

*Editor-in-Chief*

KENT CHARLES MODESITT

*Managing Editor*

JOHN C. CLARK

*Business Editor*

CHRISTOPHER J. BALCH

*Senior Production Editor*

JOY CARRICO KOLGUSHEV

*Tenth Circuit Editor*

CHRISTOPHER DOPKE

*Senior Articles Editor*

ERIC K. WEINGARTEN

*Notes & Comments Editor*

CAMILLA GRACE MONTGOMERY

*Symposium Editor*

SUSAN J. KASLEY

*Natural Resources Symposium Editor*

MIRANDA K. PETERSON

*General Editors*

MELISSA C. BENDER  
MICHAEL E. BREWER

ROBERT P. HENLEY  
ANNA ITENBERG  
BRIAN S. POPP

TIMOTHY M. REYNOLDS  
CATHERINE L. SJOBERG

*Research and Technical Editors*

MICHAEL DULIN  
HEATHER CHRISTINE HUNT

PETER C. LEMIRE  
STACEY KAY MASTRIONA  
MATTHEW J. OCHS

WILLIAM H. PRYOR  
CHAD DAVID WILLIAMS

*Staff*

MEGAN M. AGRON  
NIKKI AHRENHOLZ  
CARL ANDREW ALGERMISSEN  
MARISA A. AMIN  
KRISTEN ANGUS  
INGRID CARLSON BARRIER  
LILA M. BATEMAN  
AVIVA BENDER  
CHRISTOPHER T. BROUSSEAU  
FLORENCE B. BURSTEIN  
ERIN GOFF CHRISBENS  
JEFFREY A. COLLIER  
ELIZABETH H. CONFER  
TAMARA D. CONSTANCE  
CHRISTINA L. CORDER  
KEVIN B. DAVIS  
STEVEN GAHLINGS

ANDREA FALEY-GAISFORD  
STEPHEN W. GIBSON  
KRISTOPHER L. GOTZMER  
HOLLI HARTMAN  
KIMI JACKSON  
JAMES T. JOHNSON  
ANDREW M. KARR  
SARAH E. KILLEEN  
CRAIG J. KNOBBE  
SUSAN A. KRAEMER  
SYLVIA R. LOVISONI  
GIAN MAURELLI  
ERIN A. MCALPIN  
JASON D. MELICHAR  
KEITH EDWARD NELSON  
FRED PERNER  
LAURA W. PHILLIPS

TAYLOR POLLOCK  
JASON POMERANTZ  
LIZBETH C. RODRIGUEZ  
SHERRI L. ROTERT  
KENNETH L. ROTHENBERG  
DEREK SAMUELSON  
ANTHONY C. SCHWARTZ  
AUDREY M. SIMON  
SCOTT P. SINOR  
KELLEY R. SOUTHERLAND  
JENNIFER SZYNSKIE SPECK  
ANDREW C. TESTERMAN  
MARK D. TRENNER  
HEATHER A. WECKBAUGH  
JONATHAN M. WARD  
STEPHEN S. WILLS  
DEBORAH S. WRENHOLT

*Faculty Advisor*

J. ROBERT BROWN, JR.

# University of Denver

## College of Law

### ADMINISTRATIVE OFFICERS

Daniel L. Ritchie, M.A., M.B.A., *Chancellor*  
William F. Zaranka, Ph.D., *Provost*  
Barry B. Hughes, Ph.D., *Vice Provost for Graduate Studies*  
Neill Jessup Newton, B.A., J.D., *Dean of the College of Law and Professor of Law*  
Keith M. Harrison, B.A., J.D., *Associate Dean of Academic Affairs and Associate Professor of Law*  
Gary L. Alexander, B.A., M.L.L., J.D., *Assistant Dean for Information Services and Technology*  
Cynthia Rold, B.A., J.D., *Assistant Dean for Student Services*  
Donna S. Ellis, B.S., *Financial Aid Director*  
Sally Fry, B.A., *Financial Officer*  
Johanna E. Kelly, A.B., *Executive Director of Development and External Affairs*  
Stephen Favreau, B.A., J.D., *Dean of Administration*  
Ann Polumbus, B.A., M.A.T., *Director of Alumni Relations*  
Susan Tobin, B.A., *Registrar*  
Claudia L. Tomlin, B.A., *Director of Admissions*  
Anne Stark Walker, B.S., J.D., *Director of Career Services*

### FACULTY

David W. Barnes, A.B., M.A., Ph.D., J.D., *Charles W. Delaney, Jr. Professor of Law and Director, Lawyering Process Program*  
William M. Beancy, A.B., LL.B., Ph.D., *Emeritus Professor of Law*  
Arthur Best, A.B., J.D., *Professor of Law*  
Jerome Borison, B.S., J.D., LL.M., *Associate Professor of Law*  
Burton F. Brody, B.S.C., J.D., LL.M., *Professor of Law*  
J. Robert "Jay" Brown, Jr., B.A., M.A., Ph.D., J.D., *Professor of Law*  
Penelope (Ingber) Bryan, B.S., M.A., J.D., *Associate Professor of Law*  
John A. Carver, Jr., A.B., LL.B., LL.D., *Emeritus Professor of Law*  
Federico Cheever, B.A., M.A., J.D., *Assistant Professor of Law*  
Alan K. Chen, B.A., J.D., *Associate Professor of Law*  
Alfred J. Coco, B.A., J.D., M.L.L., *Emeritus Professor of Law*  
Roberto L. Corrada, B.A., J.D., *Assistant Professor of Law*  
Edward A. Dauer, A.B., LL.B., *Dean Emeritus and Professor of Law*  
Paul Stephen Dempsey, A.B.J., J.D., LL.M., D.C.L., *Professor of Law and Director, Transportation Law Program*  
Nancy S. Ehrenreich, B.A., J.D., LL.M., *Associate Professor of Law*  
Martha M. Ertman, B.A., J.D., *Assistant Professor of Law*  
Robert M. Hardaway, B.A., J.D., *Professor of Law*  
Keith M. Harrison, B.A., J.D., *Associate Professor of Law and Associate Dean of Academic Affairs*  
Jeffrey H. Hartje, B.A., J.D., *Associate Professor of Law*  
Sheila K. Hyatt, B.A., J.D., *Professor of Law*  
Francis W. Jamison, B.A., J.D., *Professor of Law*  
Jan G. Laitos, B.A., J.D., S.J.D., *John A. Carver, Jr. Professor of Law and Director, Natural Resources Program*  
Harry O. Lawson, B.A., M.S., *Professor Emeritus of Judicial Administration and Co-Director, Master of Science in Legal Administration Program*  
Neil O. Littlefield, B.S., LL.B., LL.M., S.J.D., *Professor of Law*  
Dennis O. Lynch, B.A., J.D., LL.M., J.S.D., *Dean Emeritus and Professor of Law*  
Lucy A. Marsh, B.A., J.D., *Professor of Law*  
Christopher H. Munch, B.S., J.D., *Emeritus Professor of Law*  
Ved P. Nanda, B.A., M.A., LL.B., LL.M., *Thompson G. Marsh Professor of Law; Director, International Legal Studies Program; and Vice-Provost for Internationalization, Evans University Professor*  
Julie A. Nice, B.S., J.D., *Assistant Professor of Law*  
Stephen L. Pepper, A.B., J.D., *Professor of Law*  
George W. "Rock" Pring, B.A., J.D., *Professor of Law*  
Edward E. Pringle, J.D., LL.B., LL.D., *Emeritus Professor of Law, Former Chief Justice of the Colorado Supreme Court*  
John H. Reese, B.B.A., LL.B., LL.M., S.J.D., *Professor of Law*  
Paula R. Rhodes, B.A., J.D., *Associate Professor of Law*  
Edward J. Roche, Jr., B.B.A., J.D., *Professor of Law*  
Howard I. Rosenberg, B.A., LL.B., *Professor of Law*  
The Honorable Gregory Kellam Scott, B.S., Ed.M., J.D., *Emeritus Professor of Law and Justice, Colorado Supreme Court*  
John T. Soma, B.A., M.A., J.D., Ph.D., *Professor of Law*  
Joyce S. Sterling, B.A., M.A., Ph.D., *Professor of Law*