This book critically engages Jürgen Habermas’s comprehensive vision of constitutional democracy in the European Union. John P. McCormick draws on the writings of Max Weber (and Habermas’s own critique of them) to confront the difficulty of theorizing progressive politics during moments of radical state transformation. Both theorists anachronistically employ normative and empirical categories drawn from earlier historical epochs to analyze contemporary structural transformations: Weber evaluated the emergence of the Sozialstaat with antedated categories derived from nineteenth-century and premodern historical examples, while Habermas understands the EU almost exclusively in terms of the liberal (Rechtsstaat) and welfare state (Sozialstaat) paradigms. Largely forsaking the focus on structural transformation that characterized his early work, Habermas conceptualizes the EU as a territorially expanded nation-state, a continental polity to which he believes his discourse theory of law and democracy can be applied unproblematically. McCormick demonstrates the deficiencies of such an approach and outlines a more appropriate normative-empirical model, the supranational Sektoralstaat, for evaluating prospects for constitutional and social democracy in the EU.

John P. McCormick is professor of political science at the University of Chicago. He has received several fellowships, grants, and awards, including a Fulbright to the Center for European Law and Politics at the University of Bremen, Germany, and a Monnet at the European University Institute in Florence, Italy. Professor McCormick is the author of Carl Schmitt’s Critique of Liberalism: Against Politics as Technology (Cambridge, 1997) and the editor of Confronting Mass Democracy and Industrial Technology: German Political and Social Thought from Nietzsche to Habermas (2002). He has published numerous articles on twentieth-century continental legal-political theory and Renaissance political and constitutional thought in scholarly journals such as the American Political Science Review (1992, 1999, 2001, 2006) and Political Theory (1994, 1998, 2001, 2003, 2006).
Weber, Habermas, and Transformations of the European State

Constitutional, Social, and Supranational Democracy

JOHN P. McCORMICK

University of Chicago
For Kay and Angie,

In loving memory
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Acknowledgments

This project began during my graduate studies in the mid-1990s while attending a seminar on Max Weber’s sociology of law conducted by Stephen Holmes and Richard Posner in the Law School at the University of Chicago. At the time, I was also engaged in constant and vigorous conversation with Neil Brenner over Jürgen Habermas’s social and political theory. In this milieu, I began to ponder the adequacy of Weber’s account of the transformation from the liberal state to the welfare state and the role of law within this transition, and to reconsider Habermas’s attempt to make up for the deficiencies of Weber’s narrative in his own theoretical project. Furthermore, I ventured to ask whether Habermas’s framework stood up to the demands of the present situation in which the welfare state was transforming under supranational or global imperatives and pressures. In graduate school, my thoughts on these issues were also deeply influenced by courses and conversations with Robert Pippin, Moishe Postone, Lloyd Rudolph, and Susanne Hoeber Rudolph, as well as by intellectual exchange and enduring friendship with Dan Carpenter.

These ideas continued to develop as I spent successive years as a postdoctoral Fellow at institutions devoted to the study of the legal dimensions of European integration: the Centers for Social Policy (ZeS) and European Legal Policy (ZERP) at the University of Bremen, Germany, and the Departments of Law and Political-Social Science at the European University Institute in Florence, Italy. I thank the faculty and staff of both venues for their support, in particular Christian Joerges, an intellectual-institutional pillar at both universities: Christian supported the project...
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JPM
Chicago, Illinois
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Abbreviations

Max Weber

Jürgen Habermas
Abbreviations


