

Public Sphere, Democratic Deliberation, and Judicial Review

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Abstract: As articulated in *Between Facts and Norms*, Jürgen Habermas's deliberative theory conceptualizes judicial review as an institutional practice whose primary function is to contribute to deliberative democracy by protecting the discursive quality of both legislative decision-making and public deliberation, as well as by facilitating the transmission of reasons from weak publics to formal political institutions. Christopher Zurn and Cristina Lafont endorse participatory conceptions of deliberative democracy in which judicial review is integrated into the two-track model of deliberative politics. Zurn advocates institutional reforms and the incorporation of civic mini-publics into constitutional review, whereas Lafont resists empowering such bodies and emphasizes the political significance of judicial review when it initiates processes of constitutionalization of public debates. These different strategies seek to articulate judicial review as an institutional mechanism to channel citizen empowerment and democratic appropriation.

Keywords: Constitutionalism, Deliberative democracy, Judicial review, Public sphere.

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