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Book Review – Die Möglichkeit der Normen by Christoph Möllers

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Christoph Möllers. *Die Möglichkeit der Normen: Über eine Praxis jenseits von Moralität und Kausalität Inhalt.* Suhrkamp 2015. 461 pp. €34.95 EUR (Hardcover ISBN 9783518586112).

With his most recent book, *Die Möglichkeit der Normen (The Possibility of Norms)*, legal philosopher Christoph Möllers (Humbolt Universität Berlin) puts forward a surprisingly novel and highly adaptive account of normativity. What initially strikes the reader as a simple, intuitive definition of a norm entails rigorous engagement with and distinction from conventional normative and ethical theories. *Die Möglichkeit der Normen* stands out for its tremendous breadth and depth as Möllers draws not only on his practical legal experience, but also on art and literature to highlight shared aspects of various social norms. It is particularly Möllers' broadmindedness that makes this book of pertinent interest to scholars of numerous disciplines, not just philosophers in a narrow sense, but also literary scholars, art historians, sociologists, and political theorists.

Möllers defines norms early on and immediately makes clear that he purposefully sidelines the question of justification of norms. His task is thus more descriptive than normative. The goal is to show the shared underpinnings of all social norms. Whereas other normative theories end up as normative themselves in their attempts to derive proper norms (or proper procedures for deriving norms), Möllers' account strives to remain descriptive and avoid its own normative proclamations. For Möllers, 'norms are to be understood as *positively marked possibilities*. Norms point towards a possible condition or a possible event. The positive marking of a *possibility* shows that it *should be realized*. ... Normativity hinges on the possibility of a divergent constitution of our world (*Weltbeschaffenheit*)' (13-14). With this definition in tow, Möllers proceeds to highlight its commonalities with, and distinctions from, prevailing ethical theories.

In the first chapter, Möllers draws two main distinctions between his notion of normativity and that of prevailing ethical theories. On the one hand, he distances himself from the idea that norms are reducible to good reasons, or reasonability. On the other hand, he criticizes ethical theories' overemphasis on action. Shifting attention away from mere action, Möllers reminds us that many norms derive their direction from our notion of what kind of a person we strive to be. Normativity thus also concerns notions of being, of our identity, which in turn, of course, affect our chosen actions.

The book's second chapter examines moral philosophy's failure to account for the actual social practice of normativity. Thus, a neo-Kantian approach to ethics, such as Habermas' discourse ethics, ends up downplaying the void between ideal and actual ethical practice, thereby becoming both too demanding and not demanding enough in Möllers' account. In addition to Kant and Habermas, Möllers focuses on similar challenges for the likes of Hume, Foucault, and Halbig, among others. Building on these critical assessments, Möllers includes a stimulating intermezzo that works through a number of false conceptual alternatives for describing norms. For example, Möllers challenges a number of historically posited either-or descriptions of norms, such as that between 'enforcement' (Hume) versus 'reasonability' (Kant), 'command' versus 'recognition' of norms, and

normative autonomy versus effectiveness, among others. Here, Möllers' experience in legal proceedings shines through, using numerous practical examples to show how both descriptive elements of these dichotomies pertain to the practice of social normativity.

Moving from this critical discussion of other normative theories, chapters 3 and 4 flesh out Möllers' own definition of norms as *possibilities to be positively marked*. The overarching question concerns the conceptual preconditions of social normativity, and Möllers quickly highlights two central themes that will run through the remainder of the book: the distinction between *counterfactuality* and *afactuality* of norms (as well as art) and the aesthetic challenge of articulating a norm. The latter is a topic previously addressed by G.E.M. Anscombe, who saw that regardless of any moral philosophical justification of a given norm, there arises the fundamentally different task of successfully articulating said norm at a pragmatic level, extending beyond the realm of moral philosophy. The former topic concerns predominant views of how a given norm is understood in relation to our present reality. Whereas an envisioned possible action or condition is often understood to be *counterfactual*, Möllers urges us to consider the term *afactual* instead, thereby 'expressing the difference, but not the opposition from facts' (131).

These themes play out together most explicitly in yet another intermezzo about art aesthetics and their connection to normativity. In enticing detail, Möllers highlights thought processes that are fundamentally shared in both normative and aesthetic discourses. Cautious to differentiate between norms and fictions, he nonetheless concludes that both 'occupy a space in between the real and the possible' (244), in which future possibilities can be imagined and fleshed out. The crucial difference can be found in their varying levels of obligation. While norms imagine possibilities that urge realization, fiction enjoys a certain luxury in being able to 'dwell in ambiguity' (268).

Möllers' reflections on aesthetics, however, are not a mere sidenote to his project. In outlining the operation of norms, that is, the authorization, transmission, updating, and enforcing thereof, his reflections on norms and texts as artefacts figure prominently in understanding the lived actualization of norms. Some challenges in implementing norms include expressing the abstract normative idea into a tangible yet malleable form; distinguishing between a future-oriented norm and a historically instituted custom; and grasping authorship of social norms.

In the closing two chapters, Möllers offers holistic reflections on the preceding sections of the book, tying the numerous strands of thought together and offering some further considerations for envisioning and articulating normativity. In chapter 5, for example, we are reminded that the *afactual* character of norms necessitates continuous debate, and that many of the most important norms in society are accompanied by intense disagreement. What further complicates normative discourse is the idea that normative orders, which are distinct from individual norms, can themselves contain conflicting norms. Chapter 6 then concludes by appealing to rigorous empirical reflections upon social normativity as lived out, as opposed to only reflecting on the rigidity offered by moral philosophical arguments alone. In his closing pages, Möllers leaves the reader with two considerations. One concerns the legitimacy of norms that require strong, even violent enforcement; the other,

the stigma of breaking with a norm. If a norm requires severe means of enforcement, this brings the norm itself into question, for which means of reassessing and rearticulating it must be found. In line with his focus on the enabling aspect of norms (as opposed to the restrictive aspect), Möllers ends his book with an encouragement to treat norms with a greater awareness of their inherent fluidity and to realize that they don't necessarily give concrete guides to action or being, but rather open up a field of options to choose from.

What initially comes across as a potentially simplistic account of social norms opens up surprisingly new viewpoints on the broad topic of normativity. Some readers will take issue with individual readings of other thinkers, but such questions are secondary to Möllers' main intention of stirring up debate about social norms in their entire breadth. His positive account of norms as opening up possibilities is certainly one that goes against the contemporary *Zeitgeist*. And in its German reception, the book has already received vocal pushback from the likes of Rainer Forst. For him and others, Möllers' purposeful sidelining of the question of justification is anathema to any ethical theory. But such critiques also miss the methodological scope self-imposed by Möllers in this rich account. Though written with an academic audience in mind, *Die Möglichkeit der Normen* stands out for its focus on social practice and its ambition to considerably rethink how we think about norms. The book as a whole, as well as its individual chapters, provide challenging and example-laden readings of normativity for moral philosophy, literary criticism, cultural studies, political theory, legal theory, and sociology for years to come, and the debates it stirs up should be no less interesting.

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