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Reflections on Reflective Practice (6c/7)



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Part 6c: Discourse ethics and deliberative democracy, or the difficult path to communicative practice – Habermas 3 (1st half) In two previous essays of the series of reflections on reflective practice, we examined the methodological foundations of Habermas' practical philosophy. Practical philosophy is concerned with the nature of human practice and ways to improve it, as distinguished from the attempt of theoretical philosophy to help us understand the nature of the world and of our knowledge about it. We first focused on Habermas' *formal pragmatics*, an account of the deep structures of rational communication (Ulrich, 2009c), and then on what we called the *Toulmin-Habermas model of argumentation*, a pragmatic logic of cogent argumentation (Ulrich, 2009d). The former explains the general validity basis of speech and thus of communicatively secured mutual understanding, whereas the latter aims at a general model of discourse and thus also of practical discourse in the sense in which "practical" is understood in practical philosophy, meaning as much as raising, or being about, normative questions. The two models embody closely interdependent theoretical attempts to elucidate the *general pragmatic presuppositions of communicative rationality*, that is, to explain how practice can in principle be rationalized through dialogical means (see, e.g., Habermas, 1984, pp. 25 and 34; 1998, p. 44; 2009, Vol. 2, p. 266). As a convenient term for both models, I will speak of the formal-pragmatic framework (or model) of rational practice.

The central question to which we now turn is this: Does this framework lend itself to practice, and to the extent it is not practicable without further ado, how might we pragmatize it? To put it differently, the question that interests us particularly in this third part is whether the practical philosophy of Habermas is merely an original and insightful theory *of* practice or whether it also provides a theory *for* practice, a framework of thought about good practice that allows of discursive realization. Since our overall aim in this

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Note: This is the first half of the third of three articles on the practical philosophy of Jurgen Habermas within the "Reflections on reflective practice" series. The second half will appear in a next *Bimonthly*. The previous Parts 6a and 6b are available in the *Bimonthly* issues of September-October and November-December, 2009.

series is to revive the almost forgotten idea of practical reason as a missing element in contemporary notions of reflective professional practice, we can also formulate the above question as follows: Is it possible to employ the formal-pragmatic framework so as *to breathe new life into the concept of practical reason*? I suggest to discuss this question by considering two major applications of the framework that promise to be relevant to the aim of promoting reflective professional practice:

1. *Discourse ethics*: What light does formal pragmatics shed on the importance and possibility of moral reasoning with a view to recovering the ethical dimension of rational practice?
2. *Deliberative democracy*: What light does formal pragmatics shed on the political and legal control of power with a view to strengthening the democratic constitution of modern societies?

For the first question we can partly draw on two previous essays in which we explored Habermas' notion of discourse ethics (see Ulrich, 2010a and b). Although they are not part of the current series of reflections on reflective practice, they were indeed written with a view to preparing the present effort, so that we need not burden the current analysis with so much theoretical background discussion. It will be worthwhile though to recall some of the basic earlier conjectures on the idea of a discursive grounding of ethical practice. The focus, however, will be on the more specific question: Can discourse ethics become a relevant part of actual professional practice?

The second question aims at the need for grounding good practice not only ethically but also democratically, that is, in democratically institutionalized processes of decision-making about matters of not purely private concern. We need to understand the ways in which an adequate ethical grounding of practice relates to its democratic grounding, and how a formal-pragmatic framework might help us in doing justice to this interdependence. Can there be an ethically relevant and practicable concept of democracy as discursive practice?

It should be clear though that the institutional issues involved in a democratic grounding of professional practice reach deeply into the fields of political philosophy, philosophy of law, and theory of democracy, and thus beyond practical philosophy. Since our main interest in this series is in the practical-philosophical leg of reflective professional practice, I will address

the topic of deliberative democracy in a relatively cursory manner and only inasmuch as it plays a complementary role to the discussion of discourse ethics; the focus of the present *Bimonthly* will be on discourse ethics.

Discourse ethics Discourse ethics is Habermas' answer to Kant's practical philosophy. It aims at a contemporary interpretation of the tradition of rational ethics and its core idea of grounding ethics in reason rather than in personal virtue, social custom and convention, or religious faith and authority. At the same time, discourse ethics is a major application and to some extent also an extension of the basic methodological framework that Habermas proposes as a basis for critical social theory and practice, formal pragmatics.

We can thus introduce discourse ethics in two ways: first, by analyzing its basic motives and conjectures against the background of Kant's conception of rational ethics as we discussed it previously (see Ulrich, 2009b, 2010a, b; in addition, Ulrich, 2011c, offers a concise introduction to Kant's rational ethics); and second, by understanding it as a development of Habermas' framework of formal pragmatics as we equally discussed it earlier (see Ulrich, 2009c and d). We will follow both paths. Our main interest will be in discussing discourse ethics as a special application of formal pragmatics, while situating discourse ethics in the tradition of rational ethics will be useful to prepare us for that discussion. First, however, we need to clarify some basic terminological issues, concerning the relationship of ethical to moral questions on the one hand and of practical to pragmatic reasoning on the other hand.

Some terminological basics

Ethical and moral questions General usage subsumes under "ethics" two different types of normative issues. On the one hand, there is the basic issue of how people's notions of the good – their worldviews and values – condition what they consider to be desirable ways to live and act, say, with a view to "improving" an unsatisfactory situation or ensuring "good" professional practice. On the other hand, there is the more specific issue of how people try to handle conflicting notions of the good, an issue that in the face of increasing cultural diversity and ethical pluralism becomes ever more important. Both issues may be called "ethical," but only the second is also

"moral"; it raises the question of what kind of standards (if any) there are to resolve ethical conflicts. We thus arrive at three concepts of ethics as shown in Fig. 5. Ethics as a generic term includes all questions of value judgment, including reflections on the nature of such questions, that is, ethical issues and judgments (*meta-ethical questions*). In the present essay, we will focus on the two more specific kinds of ethical issues at the lower level of Fig. 5. They concern people's personal notions of what is good and desirable ("What makes us happy?") on the one hand and interpersonal notions of justice or fairness ("What is right?") on the other hand. For the sake of brevity and clarity, I will refer to the first kind of issues as *ethical questions* and to the second as *moral questions*. Finally, the term *evaluative questions* will refer to ethical issues that may include ethics in the wider and the narrower sense but not moral questions, while the term *normative questions* will also include the latter.



Fig. 5: Concepts of ethics: ethical and moral questions

The narrower concept of ethics appears to become more prominent recently. In media discussions for example, politicians nowadays talk of "ethical *and* moral issues" as if it were a matter of course to distinguish between the two and everyone understood the difference (I doubt everybody does). The implicit idea seems to be that due to different cultural backgrounds and personal experiences, people have increasingly divergent views about good and desirable ways to live and hence, that ethics in the face of such value pluralism cannot make itself the arbiter of right and wrong. Ethics is thus moving closer to *ethos*, a personal stance that we may or may not share with others but which we cannot meaningfully say to be right or wrong. *Your* way

of life is just that and it would be presumptuous for me to claim that my different way of life is better.

Ethically alert readers are bound to sniff danger here: such ethical relativism threatens to undermine any solid basis for rationally defensible, yet ethically grounded action. This is why a second concept of ethics is needed, morality. *Morality* is concerned with the ways an agent's personal ethics may clash with that of other people and may affect their lives, by constraining their options to live and act in accordance with *their* personal ethics. We are confronted with a collective issue of reconciling different notions of what is a proper way to live and to act. Moral questions thus cannot avoid the issue of defining some basic *interpersonal standards* for handling ethical clashes. That makes them difficult questions. Such standards are not easy to find; they must *arguably* deserve recognition by everyone who might face a similar situation, for example, because they treat people with equal respect for their individual needs and values and in this sense may count as impartial. To the extent such standards can indeed be found, moral questions become rationally decidable and in this respect are easier to handle than other ethical questions. Whether a certain action or action-related proposal is up to standard can then be systematically examined, for example, by considering past experiences or anticipated consequences of a proposed action and measuring them against such a moral standard. *Morality is the territory on which ethics and rationality can meet and can support one another.*

An important methodological difference emerges here between moral and other normative questions. We can *argue* about the moral implications of an action with a view to determining whether a proposal is right or wrong, but we can only *reflect* on the underlying ethos and discuss it with a view to understanding people's assumptions, say, about what would constitute an improvement of a specific situation of concern to them. In short, we can *dispute* and *justify* moral claims, but we can at best *recognize* (in the double sense of understanding and tolerating) ethical claims.

Discourse ethics accordingly focuses on moral questions, as the only kind of normative issues that allow of rational decision-making. Insofar the name of discourse ethics is a misnomer. Discourse ethics is neither a general method for discussing ethical questions nor an ethical code of conduct for discourse

in general. Rather, it is a specific piece of meta-ethical theorizing in the tradition of Kantian rational ethics. Habermas really intends with it a new approach to *moral theory*, understood as a general theory of moral action. A name such as "discourse theory of morality" or "communicative moral philosophy" would have expressed this intention more clearly. Not unlike other contemporary work on moral philosophy written in this tradition, such as Baier's (1958) account of the moral point of view, Rawls's (1971) theory of justice, Hare's (1981) account of moral thinking, or Kohlberg's (1981) theory of moral development, to name just a few outstanding examples, it aims at clarifying the methodological foundations and formal properties of *moral reasoning*. This theoretical aim is not to be confused with the different, "applied" aim of explaining how the requirements of moral reasoning thus identified can be met in practice, or what substantial norms of action an agent should rely on in a specific situation.

In one respect though, "discourse ethics" is not an entirely ill-chosen name for Habermas' project: discourse ethics indeed seeks to ground the theory of moral action in an *ethos of communicative practice*. It embodies a response to the ethical pluralism of our epoch that wants us to rely on rationally motivated, *argued* reconciliation of interests and value conflicts rather than on non-argumentative means such as recourse to authority, power, or manipulation. At the bottom of the moral aim of discourse ethics lies Habermas' overall ethical vision of a communicative rationalization of society. In this respect the impetus of discourse ethics reaches beyond moral theory, towards a form of life that we may associate with an Enlightenment ethos in the tradition of Kant. This is the ethos of citizens who, because they see themselves as free and responsible members of a community that offers space for a plurality of forms of life, are prepared to settle conflicts with others on the basis of mutual tolerance, respect, and deliberation. So the name "discourse ethics," despite the terminological difficulty it raises, is indeed programmatic; it stands for the double ambition of reconstructing moral philosophy *and* promoting an ethos of communicative practice.

Practical and pragmatic questions A second terminological difficulty arises from the close link between discourse ethics and communicative practice. Communicative practice faces not only ethical questions in the two senses we have distinguished above, relating to "good" (desirable) and "right" (just)

ways to act, but also empirical questions of "fact" (circumstances to be considered) and "feasibility" (effective and purposive ways to act). In his often-cited essay "On the pragmatic, the ethical, and the moral employment of practical reason," Habermas summarizes these different kinds of "practical" (i.e., action-related) problems under the question "*What should I do?*" and aligns them with "moral, ethical, and pragmatic questions" (1993a, p. 2 and 8f). Further, he distinguishes a "pragmatic" from an ethical or moral perspective by its orientation to a "horizon of purposive rationality, its goal being to discover appropriate techniques, strategies, or programs" (1993a, pp. 3 and 9). He also emphasizes that practical discourse need not "neglect the calculation of consequences of actions rightly emphasized by utilitarianism nor exclude from the sphere of discursive problematization the questions of the good life accorded prominence by classical ethics, abandoning them to irrational emotional dispositions or decisions." (1993a, p. 2)

We can appreciate Habermas' intent: there is no need to limit the relevance of practical discourse and discourse ethics to any particular tradition of ethical and/or moral thought. Nor should we as a matter of principle immunize any kind of ethical assumptions or claims against careful questioning and deliberation, by relegating them from the outset to a sphere of nonrational acts of faith only. Even so, we better try to avoid the terminological confusion that threatens here. In particular, I do not think we should equate a *pragmatic* perspective with purposive-rationality. The essence of pragmatic thinking consists in considering the meaning and validity of a claim in the light of its actual or potential consequences, which does not imply a merely instrumental or strategic concept of rationality at all, as little as it implies a merely utilitarian ethics. Well-understood pragmatic thinking remains open to different notions of rationality (including communicative rationality) and ethics (including Aristotelian ethics and Kantian morality). Likewise, we better avoid subsuming under *practical* questions each and all action-related issues. The question "What should I do?" is philosophically ambivalent; it stands for questions not only of practical reason (i.e., normative issues) but also of theoretical reason (i.e., instrumental or strategic issues). Associating these with "practical" discourse may correspond to an everyday usage of these terms but runs counter to standard usage in practical philosophy, where "practical" reason, following

Aristotle and Kant, stands for a specifically normative dimension of reason that is distinct from its theoretical-instrumental dimension.

To be sure, the answers we give to questions of feasibility and purposiveness may and usually do have normative implications, just as the answers we give to ethical and moral questions may in turn raise instrumental or strategic questions. In discursive practice, theoretical-instrumental and practical-normative questions tend to come up together. For instance, the choice of means to achieve an end (an instrumental question of purposiveness) always also entails normative questions (how do different means affect different groups of concerned parties), just as the selection of the ends to be reached (an ethical and often also moral question) raises questions of feasibility and purposiveness. Even so, it is essential to distinguish between issues of "practical" (i.e., normative) and "theoretical" (i.e., instrumental) reason; for they pose different methodological demands. Thus seen, associating "practical" discourse with all action-related question of the type "What should I do?" is unfortunate. A more exact way of talking might have said that the quest for *rational practice* (as distinguished from practical reason) raises different kinds of action-related or "What should we do?" type of questions, some of which confront us primarily with issues of *theoretical reason* (What is the feasible and purposive thing to do?) and others, with issues of *practical reason* (What is the good and right thing to do?).

Terminological confusion threatens because Habermas, without saying so, switches between everyday and philosophical usage of terms such as "should," "practical," and "pragmatic." While in everyday language these terms are used loosely to refer to both normative and instrumental or strategic forms of reasoning, in philosophical usage they refer to genuinely normative forms of reasoning *only* and that is how we will employ them here.^{15) 16)} We will thus continue to associate "practical discourse" with genuinely normative questions only. This excludes questions of feasibility and purposiveness, which fall under the jurisdiction of theoretical discourse; they may and usually will come up in practical discourses, but they need to be clarified by the specific means of theoretical-instrumental reasoning and scientific discourse (think of tools such as feasibility studies, cost-benefit analysis, forecasting, risk assessment, strategic management, etc.). As soon as we enter into such discussions of feasibility and purposiveness, we have in

fact switched to theoretical discourse. Conversely, inasmuch as theoretical-instrumental questions entail normative questions, the latter of course fall under the jurisdiction of genuinely practical reason and discourse and thus are proper subjects of discourse ethics. Further, we will not equate "pragmatic" reasoning with a particular focus on instrumental and strategic questions; rather, we will continue to understand a pragmatic perspective as encompassing all forms of theoretical-instrumental *and* practical-normative reasoning inasmuch as they regard a claim's consequences as the touchstone for assessing its meaning and validity. This use of language is in line with Kant's distinction between the "pure" and the "pragmatic" employment of practical reason: both entail moral reasoning but the former relies on *a priori* reasoning only, so that its resulting rules of action are not conditioned by any empirical contingencies, whereas the latter does consider empirical circumstances. In short, practical reason is "pragmatic" whenever it is not pure, but in either case its rationality is of a moral kind (see Kant, 1787, B828, and the brief discussion in Ulrich, 2006b, p. 58f).

We are now ready to introduce the essential ideas of discourse ethics, beginning as announced with a short glimpse back at Kant's cognitive turn of ethics.

Discourse ethics and Kantian ethics

The cognitive core of ethics Kant saw the ultimate root of morality in the good will of mature, responsible agents who act with respect for others and therefore place themselves in the situation of those concerned by an action. Such an understanding of ethics confronts moral agents with major cognitive demands. Agents need to understand the implications of their ways of acting for other people as well as for the communities of which they are part, along with other communities and ultimately the global human community, now and in future. Further, it is not good enough to have a "good will" and lean back; a good will must also express itself in an active effort to pursue the good, which in turn demands an effort of finding out, through careful reflection and observation, what "good" action means in specific situations.

As we learned from Kant, agents who are not willing to make such an effort will hardly be able for long to guide and justify their conduct without entangling themselves in contradictions. An agent who egoistically acts

without considering the implications of his conduct for others, risks treating other people in ways they do not want to be treated, for example, because they hold different ethical and cultural values or because they may have to bear adverse consequences. Such an agent tacitly claims to be entitled to treat others in ways he or she would not want to be treated by them, that is, without *their* consideration and respect for his needs and values. We briefly considered the example of so-called tax heavens (see Ulrich, 2009b, note 3, and Ulrich, 2010b, p. 22f): tax heavens allow banking secrecy to facilitate tax evasion on the part of the citizens of other countries, yet they would not want their own citizens to find shelter from paying taxes in these other countries. Or, to use two of Kant's examples, a liar does not want others to lie at him, just as a murderer does not want others to murder himself.

The immorality of such actions roots in the fact that agents – whether consciously or not – claim for themselves exceptions from principles they expect others to respect, or privileges they do not grant to other people. Accordingly they cannot justify their conduct except by exempting themselves from the implications of their actions. They therefore cannot help but argue inconsistently, by invoking norms or rules of conduct they do not respect themselves. This is why they are bound to become caught up in contradictions. "We cannot demand from others what we refuse to respect. It is a practical impossibility." (Mead, 1934, p. 381). It is, in fact, both an emotional and a logical impossibility: those affected will feel moral indignation, and those involved will be unable to argue consistently. This, in short, is why Kant sought to give morality a rational foundation: *one cannot shut one's eyes to the moral dimension of action and still claim to have reason on one's side.*

Kant thus became the pioneer of *rational ethics*, the idea that morality resides in the agent's moral alertness and reflection rather than in some external authority such as tradition or convention, or religious or political leaders who tell us what is allowed and what is not. If there is any philosophical basis for grounding ethics, Kant taught us, it is to be found in *reason's internal demands*, that is, in those general structures and requirements of rationality without which it cannot operate. For example, reason cannot help but regard itself as free; it cannot allow itself to be inconsistent; and quite generally, it needs to preserve its own integrity (cf.

the earlier discussion in Ulrich, 2009b, p. 9f).

Ever since, practical philosophy has been the philosophical discipline that examines the question of how moral issues can be handled "with reason." There exists, for Kant, a *deep link between morality and rationality*: we cannot be moral without being reasonable. Ethical traditionalism consequently gave way to *ethical cognitivism*; the moral authority of custom, dogma, and power was replaced by the quality of the agent's moral sense and reasoning or, to speak with Baier (1958), by the agent's cultivating the *moral point of view*.

We say of someone that he is a person of good will if he is always prepared (should it be necessary) to enter, before acting, into moral deliberation, that is to say, to work out what is, morally speaking, the best course open to him, that is, the course supported by the best moral reasons, and also prepared to act in accordance with the outcome of such deliberations. (Baier, 1958, p. 82)

As we further learned from Kant, the link between the moral and the rational involves the idea of *moral universalization*: our subjective maxims or principles of action, and with them the normative implications of what we claim and do, can be rationally justified to the extent they are generalizable – generalizable, that is, in the strong sense that we not only may expect any mature (or "reasonable") person to accept them (factual acceptance) but also can explain why they *deserve* being generally accepted (good grounds). For example, as I have hinted above, they might deserve such recognition because they are impartial, that is, they treat everyone according to the same criteria and do not privilege any particular interests or (possibly hidden) private agenda. Accordingly, we should also be able to defend such principles *publicly* and to teach them *generally* across all cultures and customs (see Ulrich, 2010c).¹⁷⁾

The communicative turn of cognitivist ethics Kant's way of tying morality to reason was ingenious and fruitful; but it has its difficulties and in some respects I think he methodologically overburdened it. What in Kant's epoch may have been a reasonable demand – that agents of good will should consider all the implications their ways of acting may have from the perspective of those concerned – appears to become increasingly difficult in an age of ethical pluralism and global interconnectedness. Who in this complex world of ours can claim to anticipate and appreciate (let alone justify) all the implications an action may have for all the parties possibly

affected in some way, here and there, now and in future? True, Kant emphasized the overriding importance of the agent's *good will* as compared to the importance of correctly anticipating and appreciating all conceivable *consequences*; even so, it is clear that our notions of what a "good will" means in a specific situation of action originate in our perceptions of *the world we live in* and in our previous accumulated experience of the effects that our conduct and that of others has had on that world we live in. Therein consists the cognitive kernel of all ethics and morality, to which Kant drew our attention more than anyone before.

To some extent, one might argue, the historically increasing cognitive burden of good-willed action is compensated for by the hugely expanded knowledge and tools of inquiry and expertise that are at our disposal today. This is indeed so. But there is another, even more fundamental difficulty: by formulating the core idea of rational ethics as an abstract principle of moral universalization, Kant removed it entirely from the context in which moral consciousness originates in the first place, the *social lifeworld* of interacting and communicating individuals in which mutual recognition, respect, and responsibility can naturally develop and unfold.

The first critic who famously (and somewhat unjustly) accused Kant of proposing a mere "moral formalism" that was removed from the social context of moral consciousness, was of course Hegel (1802, p. 331). Habermas (1973a, p. 150; cf. 1990c, pp. 195f, 201-211) took up Hegel's critique in an early discussion that anticipated some aspects of his later communication-theoretical turn. Habermas found that Kant indeed missed the essentially interactive and communicative nature of moral practice from the outset. Moral practice is fundamentally constituted by communicating individuals who out of mutual recognition and respect try to coordinate their actions with reason rather than with force. In one phrase, morality roots in a fundamentally cooperative stance. As we might put it (not following Habermas), *the essence of morality is cooperation*. What Habermas (1973a, p. 150) beautifully describes as morality's inherent utopia of "unbroken intersubjectivity" is, I would argue, indeed implicit in Kant's notion of good will. The problem is, by assuming that agents of good will are both willing and able to put themselves in the situation of everyone concerned, Kant's formulation of the moral principle takes such unimpaired intersubjectivity

for granted rather than showing how it can be supported – so much so that in the end it does not emerge as a methodological issue of moral theory at all, much less as a challenge to moral practice.

Both from the everyday perspective of a contemporary understanding of responsible practice and from the theoretical perspective of formal pragmatics as Habermas has elaborated it meanwhile, the categorical imperative really calls for being freed from the "monological" straitjacket in which Kant put it. Rather than conceiving of moral universalization as an "exercise of abstraction" (Habermas, 1993b, p. 24, cf. 1990c, p. 195), we might situate it directly in communicative contexts in which *participants* can voice their concerns authentically and can challenge one another's assumptions and conclusions. From an everyday perspective it is obvious that under modern conditions of life characterized by ethical and cultural pluralism, philosophy can no longer credibly play the role of an arbiter and decree on behalf of ordinary people what are proper forms of life and of conduct. Rather,

How one lives one's life becomes the sole responsibility of socialized individuals themselves and must be judged from the participant perspective. Hence, what is capable of commanding universal assent becomes restricted to the *procedure* of rational will formation. (Habermas, 1993d, p. 150; different transl. in 1992b, p. 248)

From a formal-pragmatic perspective, the question arises of how under contemporary conditions of ethical pluralism, rational will formation about normative questions is still possible at all. The answer can only be that rational ethics must limit its ambition to those normative questions that we have earlier called moral questions, that is, questions that implicitly refer to generalizable standards and which accordingly, to the extent such standards can be found, lend themselves to *interpersonally binding answers*.

We can't expect to find a generally binding answer when we ask what is good for me or for us or for them; instead, we must ask what is *equally good for all*. This "moral point of view" throws a sharp, but narrow, spotlight that picks out from the mass of evaluative questions practical conflicts that can be *resolved* by appeal to a generalizable interest; in other words, questions of justice. [Only these questions] are so structured that they can be resolved equitably in the equal interest of all. Moral judgments must meet with agreement from the perspective of all those possibly affected and not, as with ethical questions, merely from the perspective of some individual's or group's self-understanding or worldview. Hence moral theories, if they adopt a cognitivist approach, are essentially theories of justice. (Habermas, 1993d, p. 151; different transl. in 1992b, p. 248)

The fundamental standard that the moral point of view brings into play is the

quest for *impartial* answers to moral questions. The binding force of such answers originates in the *interpersonal* acceptability and persuasiveness of ideas such as reciprocity of behavior and expectations; respect for the intrinsic autonomy and dignity of all individuals; equal consideration for the different views and values of everyone concerned; fair treatment for all; or in short, what Habermas refers to as "justice." This, in a nutshell, is the basically simple, although in its philosophical execution complex, change of perspective introduced by the *communicative turn of ethics*. The fundamental question that it entails is how interpersonally binding answers to moral questions can be rationally identified and justified through communicative interaction.

The discursive turn of communicative ethics Readers will remember from the previous two parts of this introduction to the practical philosophy of Habermas that he calls interactions "communicative" when they entail an obligation to redeem a claim *discursively*, by relying on argumentative rather than nonargumentative means. Here is a somewhat longer extract from his "Notes" on discourse ethics that summarizes the main ideas:

I call interactions *communicative* when the participants coordinate their plans of actions consensually, with the agreement reached at any point being evaluated in terms of the intersubjective recognition of validity claims....Further, I distinguish between communicative and strategic action. Whereas in strategic action one actor seeks to *influence* the behavior of another by means of the threat of sanctions or the prospect of gratification in order to *cause* the interaction to continue as the first actor desires, in communicative action one actor seeks *rationally* to *motivate* another by relying on [the performative or regulative function of] his speech act.

The fact that a speaker can rationally motivate a hearer ... is due not to the validity of what he says but to the speaker's guarantee that he will, if necessary, make efforts to redeem the claim that the hearer has accepted.... As soon as the hearer accepts the guarantee offered by the speaker, obligations are assumed that have consequences for the interaction, obligations that are contained in the meaning of what was said. In the case of orders and directives, for instance, the obligations to act hold primarily for the hearer, in the case of promises and announcements, they hold for the speaker, in the case of agreements and contracts, they are symmetrical, holding for both parties, and in the case of substantive normative recommendations and warnings, they hold asymmetrically for both parties.

... Owing to the fact that communication oriented to reaching understanding has a validity basis, a speaker can persuade a hearer to accept a speech-act offer by guaranteeing that he will redeem a criticizable validity claim. In so doing, he creates a binding/bonding effect between speaker and hearer that makes the continuation of their interaction possible. (Habermas, 1990a, p. 58f; similarly 1984, p. 302)

In short, the *validity basis of communicative practice* resides in a tacit offer by the participants to redeem all validity claims they raise, if asked to do so,

by providing convincing grounds or "reasons." Communicative interaction is effective so long, and only so long, as this offer is credible. Successful communicative interaction thus depends on an *anticipation of cogent argumentation*. In fact, I would add, not only the validity but also the meaning of a moral judgment is difficult to appreciate without grasping a speaker's reasons. "To understand what moral judgments and claims mean, we need to understand how we can *argue* them." (Ulrich, 2010b, p. 13) Such argumentation need not actually take place so long as the participants can recognize each other's motives and do trust in the readiness of the other participants to redeem their claims explicitly if asked to do so. But implicitly, it is at all times clear that

To say that I *ought* to do something means that I *have good reasons* for doing it.
(1990a, p. 49)

Rationality and reason-giving are inseparable, in practical-normative questions no less than in theoretical-instrumental or other questions. So, what kind of good reasons might allow us to appreciate and justify normative claims? A previous discussion of Strawson's (1974) analysis of the nature of moral consciousness pointed to the kind of reasons we need: they should help us in *reestablishing the sense of unbroken or unimpaired intersubjectivity* that has been lost or is at peril whenever normative expectations are violated (cf. Ulrich, 2010b, p. 10f). Unresolved moral issues tend to undermine the tacitly shared validity basis of communicative practice. Unless a shared validity basis can be reestablished, communicative practice risks breaking down.

It follows that communicative ethics depends on a model of argumentation that can remedy a lost or impaired communicative basis. What, then, does cogent argumentation to that end mean? How can a shared validity basis be reestablished in practical discourse once it has been lost? A communicative turn of rational ethics can succeed only to the extent it can answer this sort of question convincingly. The project of communicative ethics thus amounts to the task of "recasting moral theory in the form of an analysis of moral argumentation" (Habermas, 1990a, p. 57) or, slightly more accurately, of reformulating Kant's moral philosophy in the terms of a "special theory of argumentation" (1990a, p. 44). This is where our earlier discussion of Habermas' framework of formal pragmatics comes into play.

Discourse ethics and formal pragmatics

Presuppositions of moral argumentation It may be helpful at the outset to recall some of the major ideas that inform a formal-pragmatic approach to argumentation theory. Basically, argumentation theory begins where deductive logic ends: with nontrivial, because substantial, judgments of fact or value. Justification of such judgments reaches beyond deductive-logical consistency and instead raises empirical and normative questions. That is, it involves both *epistemological* and *practical-philosophical* validity claims – claims to the truth of knowledge (regarding judgments about disputed facts or instrumental relationships) and to the rightness of norms (regarding judgments about value conflicts or interpersonal relationships). A logic of substantial argumentation cannot hope to establish certainty about such questions of theoretical-empirical or practical-normative validity in a way that would be comparable to analytical necessity; for when it comes to such questions, alternative premises or conclusions are always conceivable. Nor can it credibly go back today to Kant's presumption of an absolute, context-independent philosophical viewpoint in the form of "transcendental" philosophy. Consequently, the only manner in which we may still hope to achieve some certainty is by reflecting on those unavoidable presuppositions of reasoning and argumentation that *in principle* would allow us to reason and argue compellingly, even though in the practice of empirical inquiry and moral reasoning they may not usually obtain. To put it differently, What are the presuppositions that we *cannot help but* pragmatically assume to hold in raising and discussing empirical or normative validity claims, regardless of the extent to which they may actually obtain in ordinary discursive practice? If we could identify such unavoidable presuppositions of argumentation, we might understand them as a kind of "social-practical analogues of Kant's ideas of reason," as McCarthy (1994, p. 38) aptly puts it.

This sort of *presuppositional analysis* (cf. Habermas, 1990a, pp. 83-86) represents a post-Kantian, quasi-transcendental type of reflection in the tradition of Peirce's (1878) pioneering account of the "indefinite community of investigators" as an unavoidable presupposition of a pragmatic logic of inquiry. A number of authors took this idea up prior to Habermas and applied it to the logic of theoretical or moral justification, among them notably Royce (1913, cited in Apel, 1972, notes 4 and 5), Mead (1934), Collingwood

(1940), Apel (1967-70, 1972, 1973, 1980, 1980a, 1981, 1987; cf. Mendieta, 2002 on the importance of this somewhat neglected source of inspiration and collaboration for Habermas), Peters (1974, cited in Habermas, 1993a, p. 84f), and Watt (1975, cited in Habermas 1993a, p. 83). The basic argument it yields in Apel and Habermas' development of Peirce's approach on the basis of speech-act theory is that there are argumentative presuppositions that we cannot reasonably dispute without entangling ourselves in a *performative contradiction*, that is, a misfit between what we say (the propositional content of a speech act) and what we mean to achieve by saying it (its performative, or relational, aspect; cf. Apel, 1987, p. 277; Habermas, 1990a, pp. 80-82, 89, 95; 1990b, p. 129; 1993b, p. 33; 1993d, p. 162). For example, it would mean to succumb to a performative contradiction if a speaker were to argue against some specific claim to normative validity (performative aspect: I want to convince you of this normative claim through my argument) by asserting that "rational argument about normative claims is not possible" (propositional content: normative claims cannot be argued). Much the same observation holds true, if we are to believe Apel and Habermas, for all the conditions on which rational argumentation as such depends, quite regardless of what it is about. There are features of the *process* of argumentation that we cannot help but assume to be respected by everyone who means to seriously participate in an argument. As Habermas sums up these unavoidable requirements:

The four most important features are: (i) that nobody who could make a relevant contribution may be excluded; (ii) that all participants are granted an equal opportunity to make contributions; (iii) that all participants must mean what they say; and (iv) that communication must be freed from external and internal coercion so that the "yes" or "no" stances that participants adopt on criticizable validity claims are motivated solely by the rational force of the better reasons. (Habermas, 1998, p. 44; cf. his similar lists in 1973c, p. 255f, and 1990a, pp. 87-89, the latter with reference to the account by Alexy, 1990, pp. 163-167, which in turn goes back to Alexy, 1978, p. 156f; for our own previous short summary, see Ulrich, 2009c, p. 22).

Although these requirements stand for counterfactual ideals, "every speaker knows intuitively that an alleged argument is not a serious one if the appropriate conditions are violated – for example, if certain individuals are not allowed to participate, issues or contributions are suppressed, agreement or disagreement is manipulated by insinuations or by threat of sanctions, and the like." (Habermas, 1993b, p. 56) The power of these ideals is that a speaker cannot deny their relevance without getting caught up in a performative self-contradiction. This is what Habermas (e.g., 1973c, p. 258)

means when he declares that although being counterfactual, they are nevertheless "operative" in any discourse. They embody a part of the general validity basis of speech that is merely "anticipated yet effective" (1971c, p. 140).

In the terms of our previous introduction to formal pragmatics (Ulrich, 2009c and d), we are dealing with *general pragmatic presuppositions of argumentation* on which we "always already" rely as soon as we argue (cf. Habermas, 1984, pp. 25 and 34; 1998, p. 44; 2009, Vol. 2, p. 266). Formal pragmatics, since it is able to explain the unavoidability of these presuppositions by the means of language analysis, speech-act theory, and argumentation theory rather than by taking recourse to transcendental philosophy, offers itself as a framework for elaborating contemporary concepts of rationality both in epistemology (esp. science-theory) and practical philosophy (esp. moral theory). Compared to transcendental philosophy, its appeal is not only that it is more accessible and can build on a broader basis of philosophical tools than were available to Kant, but also that it can do so with weaker assumptions – assumptions closer to life, as it were, as communication and argumentation are such central features of our social lifeworld.

From this perspective, then, we may understand discourse ethics as a *special application of presuppositional analysis*. It is an attempt to explain what kind of specific argumentative conditions would allow justifying moral claims cogently. These conditions, so goes the reasoning, we cannot help but assume to be operational whenever we want to bring to bear in communicative practice the moral point of view, as the one viewpoint from which can decide rationally about clashing normative claims. In short, discourse ethics assumes the methodological function of a presuppositional analysis of what it means to practice the moral point of view discursively. Let us have a closer look, then.

Two fundamental principles of discourse ethics When Habermas introduced discourse ethics, he was exploring new theoretical terrain. Although he was addressing theorists rather than practitioners, he could not presuppose that they were all familiar with the idea of a communicative turn of ethics (which he had pioneered in close exchange with Apel, e.g., 1972,

1980a, 1990) or even with his own formal-pragmatic framework of the logic of substantial argumentation (which he had developed drawing on Toulmin's work, esp. 2003/1958). He therefore needed to explain why a discourse-theoretical reformulation of rational ethics made sense in the first place and how it situated itself in the broader context of contemporary ethical theorizing. Accordingly his early essays on discourse ethics (esp. 1990a, b; 1993a, b, c) focus on discussing its cognitivist, universalist, procedural, and formal perspectives and how they relate to the ideas of other contemporary theorists such as Baier (1958), Singer (1961), Rawls (1971, 1985), Apel (1972, 1973, 1980, 1981, 1988), Frankena (1973), Strawson (1974), Hare (1981), Kohlberg (1981, 1984), MacIntyre (1981), Mead (1934), Strawson (1974), Toulmin (1970, 1972, 2003), Tugendhat (1982, 1984, 1989), Watt (1975), and Williams (1985); compare Ulrich (2010a, b) for a highly selective review and discussion aimed at preparing the present essay.

The same circumstances may explain why Habermas, rather than explicitly and systematically deriving discourse ethics from formal pragmatics, chose to introduce and discuss it in terms of two distinctive principles: the principle of discourse ethics (D) and the principle of moral universalization (U). This has largely remained so in his later essays (see in particular 1993d, 1996a, 1998, 1998a; 2003a; 2009a); there is, unfortunately, no systematic book by Habermas on discourse ethics. I'll briefly introduce the two principles before discussing them in more detail.

The principle of discourse ethics (D) stipulates that

(D) Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity *as participants in a practical discourse*. (Habermas, 1990a, p. 66, similarly p. 93 and 1990c, p. 197)

and hence, that:

(D) Every valid norm would meet with the approval of all concerned if they could take part in a practical discourse. (Habermas, 1990b, p. 121)

(D) Just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses. (Habermas, 1996a, p. 107)

(D) Only those norms can claim validity that could meet with the acceptance of all concerned in practical discourse. (Habermas, 1998a, p. 41)

(D) embodies both Habermas' communicative turn of the concept of rational justification in general and the communicative turn of rational ethics in

particular. As a specific principle of discourse *ethics*, the above formulations of (D) refer to the aim of justifying *norms*, that is, to questions of moral rightness. It is clear though that the underlying general principle of a discursive examination and substantiation of validity claims is also relevant and applicable to questions of truth and instrumental rationality, and quite generally to all questions that lend themselves to rational consideration of supporting assumptions and foreseeable consequences. Habermas (e.g., 1996a, p. 107) mentions the example of questions of democratic legitimacy; I would add questions of legal compliance and other forms of value-rationality in the general sense of conformity to defined values (e.g., social and ecological standards). These different questions imply different validity standards but not different principles of discourse; in particular, there will be different criteria for determining who counts as "concerned" and what kinds of "reasons" count as relevant. In questions of truth, for example, those concerned will be competent inquirers, and relevant reasons will refer to high-quality observations about pertinent empirical circumstances; whereas in questions of democratic legitimacy, those concerned will include all citizens and relevant reasons will refer to applicable citizens rights, legal and constitutional norms, the common good, principles of equal treatment and minority protection, previous democratically grounded decisions in the matter at issue, and so on. It helps to substitute "claims" for "norms" in the above-cited formulations of (D), to render the generic nature of the discursive principle obvious. The core idea remains the same across all areas of application; it is that discursive procedures of will-formation allow for consideration of different perspectives and concerns, doubts and reasons, and thus provide for a broad basis of information and legitimation. In short, discursive will-formation is reasonable regardless of the matter to be decided.

Although Habermas introduces (D) as a specific principle of discourse ethics, I therefore propose that we take it to embody the basic procedural requirement of communicative rationality in general. There is no reason to restrict its relevance to moral discourse only. In the terms of formal pragmatics, (D) stands for the *general* pragmatic presuppositions of valid argumentation in any kind of discourse; these presuppositions, as we have seen, are to make sure that all relevant contributions and concerns can be articulated and their consideration is free from external or internal sources of

distortion. This is not to say that (D) is devoid of any ethical concern, on the contrary; the principle may indeed be understood to provide a *basic ethical grounding of all discourses*, in the form of the cooperative stance to which we have referred above and which sets the quest for communicative rationality off from mere reliance on strategic rationality or non-argumentative forces. Strictly speaking though, (D) is a discourse-*ethical* principle only inasmuch as it stipulates the indispensable ethical core of *all* communicative rationality, rather than in the further-reaching sense in which Habermas usually employs the label "discourse ethics," of a discursive approach to moral theory.

To avoid confusion, (D) might thus better be called a discourse-*theoretical* principle, or simply a *general discourse principle*. Its basic message is: *communicative rationality and communicative reciprocity go together*. It belongs to the cognitive core not only of ethics but of all rationality that we take others' views and concerns seriously and consider them in an unbiased and impartial way. In this *intrinsic reference to the idea of impartiality* lies the methodological secret of formal pragmatics as it were: since impartiality – doing justice to the perspectives of others – is both a cognitive and a normative principle, the demands of rationality and morality converge. That is what Habermas means, I suspect, when he seeks to "derive" discourse ethics from the general presuppositions of discourse rather than by normatively introducing a moral principle.

Such a reading of (D) suggests that it is indeed a fundamental principle of all rational will-formation; but it also suggests that (D) does not furnish a sufficiently specific, constitutive principle of discourse ethics. Even philosophers cannot have the cake and eat it – (D) is either a general principle of reason or it is a specific principle of moral reasoning, but not both at once. Reference to the shared ethical core of all communicative practice does not enough to specify moral discourse, no more than other specific kind of discourse. What (D) fails to specify is the particular aspects of rationality under which different types of theoretical and practical questions need to be discussed: What does it mean to substantiate a claim to moral rightness as distinguished from a claim to truth, to purposive-rationality, or to value-rationality? That is, what are the specific kinds of "good reasons" that are required in each case? To specify the particular

nature of moral discourse and moral reasons, discourse ethics therefore needs an additional principle:

The principle of moral universalization (U) stipulates that

(U) For a norm to be valid, the consequences and side effects that its *general* observance can be expected to have for the satisfaction of the particular interests of *each* person affected must be such that *all* affected can accept them freely. (Habermas 1990b, p. 120, similarly 1990c, p. 197)

and hence, that::

A contested norm cannot meet with the consent of the participants in a practical discourse unless (U) holds, that is, unless all affected can *freely* accept the consequences and the side effects that the *general* observance of a controversial norm can be expected to have for the satisfaction of the interest of each individual. (Habermas, 1990a, p. 93)

(U) Every valid norm must satisfy the condition that the consequences and side effects its *general* observance can be anticipated to have for the satisfaction of the interests of *each* could be freely accepted by *all* affected (and be preferred to those of known alternative possibilities for regulation). (Habermas, 1993b, p. 32)

(U) A norm is valid when the foreseeable consequences and side effects of its general observance for the interests and value-orientations of *each individual* could be *jointly* accepted by *all* concerned without coercion. (Habermas, 1998a, p. 42)

We recognize in (U) the Kantian principle of moral universalization, *discursively redefined*. Quite in a Kantian spirit, the italicized parts of Habermas' definitions are to make sure "that a practice of justification conducted in this manner selects norms that are capable of commanding universal agreement – for example, norms expressing human rights." (Habermas, 1998a, p. 43) Unlike in Kant's formulation of the principle, however, empirical aspects do play a certain role; there is reference to the consequences and side-effects of norms of action, and to the individual interests and value-orientations of the participants. This allows moral discourses to be more than mere exercises of abstraction and instead to take into account the particular experiences and concerns that shape the participants' notions of what is good and right. Therein consists one of the basic points of a communicatively turned moral universalism: it creates room for considering norms from the different vantage points of *participants*, although with a view to giving the moral point of view a chance.

The purpose of (U), then, is not to enforce a "pure" Kantian morality in communicative disguise. To be sure, moral discourse is to overcome a *merely*

egocentric perspective or private stance of the participants; but that need not mean it has to ignore their individual views and values. Discourse makes sense in the first place because and to the extent those involved bring in different perspectives. The aim of moral deliberation is not to abstract from all personal motives but only to make sure that these motives are controlled by respect and responsibility for the concerns of others. As Habermas (1998a, p. 40) puts it, the aim is "equal respect for everyone else demanded by a moral universalism sensitive to difference." This is clearly a normative consideration, one that may be seen to reach beyond the minimal normative content of argumentation to which (D) has already drawn our attention. Still, it is not *just* a normative consideration; for taking an interest in others' interests is also an intrinsic requirement of communicative rationality as such. (U) and (D) are closely related in this regard – a circumstance that is to be expected, given the ties between the moral and the rational that we have encountered earlier. As one of Habermas' translators explains the rationale of (U):

In choosing to argue, each party commits itself not just to its own rational conviction but to that of others as well. This is the kernel of intersubjectivity in (U)... The commitment to rational conviction must involve something like taking an interest in others' interests. (Rehg, 1994, p. 70f)

One may wonder indeed whether the same statement would not provide a better description of the rationale of (D). As I see it, reference to the *kernel of intersubjectivity* underspecifies the methodological intent of (U), but it sums up the intent of (D) rather well. Be that as it may, so much is clear: together, (D) and (U) establish a fundamental nexus between the two concerns of ensuring communicative rationality among those involved on the one hand and equal respect and responsibility for all others on the other hand – the two major concerns to which refers the title of Habermas' (1990) first collection of discourse-ethical essays, *Moral Consciousness and Communicative Action*. Thus seen (D) stands for the generic intersubjective kernel of all communicative action whereas (U) adds the specifically moral point of view that is constitutive of moral action. While (D) takes care of the communicative requirements of rational will-formation as such, (U) is to ensure that the reasons a discourse identifies as good grounds for accepting a claim are *moral* reasons – "good" reasons not just for those involved but for everyone else concerned as well, in the strong sense of being *equally good for all* (Habermas, 1993d, p. 151; cf, 1990a, pp. 68-72, and 1992b, p. 248).

In this "equally good for all" consists the justification of good reasons as moral reasons. Cogent moral arguments refer us to reasons that *deserve* recognition by all, even those not involved as participants, as they satisfy both (D) and (U).

How do (D) and (U) relate to one another? The fact that Habermas explains discourse ethics in terms of the two apparently similar principles (D) and (U) has caused considerable confusion about their relationship. Many a reader may feel a need for some additional discussion of this rather difficult issue before moving on to a critical discussion of discourse ethics. The present and the next subsection are for them. Readers who at this stage prefer to gain some critical distance before they burden themselves with more details about the two discourse-ethical principles and how they relate to one another, may wish to jump directly to the next main section titled "[Critical Discussion](#)" and then to come back to the present discussion later.

Some text passages in Habermas' discourse-ethical writings suggest that (D) is presupposed in (U), for instance when he refers to the communicative kernel that only waited to be uncovered in Kant's moral principle or when he explains that "for the justification of moral norms, the discourse principle *takes the form* of a universalization principle" (1996a, p. 109, italics added). On other occasions he seems to suggest that things are the other way round in that (U) is presupposed in (D), for example when he explains that "the principle of discourse ethics (D) ... already *presupposes* that we *can* justify our choice of a norm [by means of (U)]" (1990a, p. 66) or that "to introduce such a discourse principle already presupposes that practical questions can be judged impartially and decided rationally." (1996a, p. 109). Quite frequently he also states that (U) is "derived" or "abducted" from (D) or "operationalizes" it (e.g., 1990a, p. 82f and 92f; 1996a, p. 109; 1998a, pp. 43 and 46).

It is one of the innovative features of discourse ethics that it seeks to avoid the need for "introducing" the principle of moral universalization in ways that would boil down to a mere appeal to the moral sense or good will of those involved. Instead, it locates the principle within the formal properties of practical discourse, where it is "always already" presupposed in the form of "universal presuppositions of argumentation" (1998a, p. 43). In this

respect it seems adequate to say that discourse ethics *derives* the moral principle (U) from the discourse principle (D) and thus does not merely postulate it but actually justifies it. There are some difficulties involved though. Strictly speaking, (U) is then to be considered an argumentative (or logical) rather than a normative (moral) principle; it explains how moral claims can be buttressed argumentatively but not why they should, that is, why people *ought* to reason and act morally. By implication, practical discourse can be expected to produce moral *insight* (i.e., moral reason) but not necessarily also the *will* to act accordingly (i.e., moral motivation). Habermas recognizes the difficulty when he points out that "it is part of the cognitivist understanding of morality that justified moral commands and corresponding moral insights only have the weak motivating force of good reasons." (1993b, p. 33) It remains unclear how discourse ethics is to close the resulting gap between moral reason (as an ideal of universalizing moral discourse) and moral motivation (as a normative force that inspires and regulates moral practice).

A related difficulty is this. Deriving (U) from (D) does not appear to account for the fact that the moral point of view unfolds normative force not only in its discursive employment but also in individual moral conscience, reflection, and action. Significantly the idea of moral universalization as it is contained in well-known moral principles such as the ancient Golden Rule or the categorical imperative, along with Mead's (1934) plea for "universal role-taking" and Baier's (1958) account of "the moral point of view," is much older than the idea of rationally motivated moral discourse. But if this is so – if moral universalization was a meaningful idea long before the communicative turn of ethics and thus can apparently inspire moral consciousness and conduct *directly* without discursive detour – it is difficult to see how one can claim that it is *grounded* in discourse rather than *brought into it*, say, by an act of good will on the part of the participants. I suspect Habermas' might respond that we indeed need to distinguish systematically between moral universalization as an argumentative device in discourse and as a motivating force that may very well be effective prior to discourse and reach beyond it, for instance, in the form of a cooperative stance that shapes "that complicated web of attitudes and feelings which form moral life as we know it" (Strawson, 1974, p. 24, as discussed in Ulrich, 2010b, p. 9f). As an argumentative device, the principle of moral universalization may then be

assumed to be contained in the presuppositions of discourse without precluding the possibility that as a motivating force, it shapes people's individual moral consciousness quite independently of its discursive employment.

Conversely, inasmuch as a communicative turn of ethics is already anticipated in Kant's categorical imperative, from where it just needed to be extracted, discourse ethics might be understood to imply that when it comes to moral reasoning, the discourse principle (D) is contained in (U) and thus can be systematically derived from it rather than needing to be "introduced" previously as a discourse-*ethical* principle or by reference to the intrinsic requirements of linguistic competence and cogent argumentation. Note that the limitation we just considered above – that (U) can be derived from (D) only in its capacity as a formal principle of argumentation but not as a motivating normative force – does not apply to the derivation of (D) from (U); for the moral principle can very well be understood as a normative force that motivates an agent and still implies an orientation towards communicative rationality.

As a further difficulty, Habermas obviously cannot and does not intend a *mutual* derivation of (D) and (U) from one another. That would amount to circular reasoning and thus would yield a rather dubious basis for claiming that *both* principles represent inescapable presuppositions of practical discourse rather than mere conventions (cf. 1990a, pp. 89 and 93). Even so he occasionally (e.g. 1990a, pp. 86 and 94) hints at the possibility that such a simultaneous derivation of (D) from (U) and of (U) from (D) would not necessarily be circular, inasmuch as the former derivation would work at the level of moral consciousness (morality as a motivating force implies an orientation to communicative rationality) and the second, at the level of argumentative requirements (morality as an argumentative force implies an orientation to moral universalization). Be that as it may: a more credible way of grounding discourse ethics language-analytically would consist in demonstrating that one of the two principles is contained in the requirements of rational discourse and the other is contained in the former principle. Habermas does not choose this option, however, as both principles are equally fundamental to him; declaring either to be more basic than the other would unavoidably cause new theoretical problems. A one-sided derivation

of (U) from (D) might question the claim of discourse ethics to provide a genuine development of cognitivist ethics in the tradition of Kantian rational ethics; conversely, a one-sided derivation of (D) from (U) might question the claim of providing a new, language-analytical grounding of moral theory. Unfortunately though, the price to pay for avoiding these difficulties is another difficulty: discourse ethics remains strangely undecided, if not ambivalent, as to how the supposed "derivation" of its two core principles from language-analytical foundations is to be understood and how, in consequence, the two principles relate to one another. In short, a certain lack of clarity does creep in.

Some doubts and difficulties The above-quoted definitions of (D) and (U) are so strikingly – and confusingly – similar that it is far from obvious that both principles are needed and if so, what are the crucial differences and the division of roles between them. Not surprisingly, a lot of discussion can be found in the secondary literature about this issue. Perhaps best known is Benhabib's (1990) carefully argued suggestion that (U) should be altogether discarded as in her view, it is fully implied in (D). As she sees it, the requirements for which (D) stands, of rational argumentation and agreement, entail strong ethical assumptions such as equal consideration and respect for all concerned, assumptions that amount to what she calls "the principle of universal moral respect" (1990, p. 337). Such a view is in line with the basic aim of discourse ethics, of finding a new basis for moral theory in the linguistic structure of rationally motivated communication. Inasmuch as (D) adequately captures these linguistic presuppositions, introducing an additional principle (U) looks at best unnecessary to Benhabib but is more likely confusing. For example, she finds it confusing that Habermas tends to assign to (U) the role of argumentatively guaranteeing *consensus* on moral validity claims; for doing so risks turning our attention away from the procedural focus of (D), by which discourse ethics means to replace the earlier substantial focus of rational ethics. As she argues:

Consent alone can never be a criterion of anything, neither of truth nor of moral validity; rather, it is always the rationality of the procedure for attaining agreement which is of philosophical interest. We must interpret consent not as an end-goal but as a process.... It is not the *result* of the process of moral judgment alone that counts but the process [as such]. Consent is a misleading term for capturing [this] core idea behind communicative ethics.... (Benhabib, 1990, p. 345)

As a second concern, Benhabib fears that (U)'s formulation is prone to misinterpretation. Rather than elucidating the procedural focus of discourse ethics as it applies specifically to moral judgment, it may open up the door to *utilitarian* reasoning and thereby might have us regress behind the level of Kant's moral reasoning:

Habermas has given "U" such a consequentialist formulation that his theory is now subject to the kinds of arguments that deontological rights theorists have always successfully brought against utilitarians. Without some stronger constraints about how we are to interpret "U," we run the risk of regressing behind the achievements of Kant's moral philosophy. (Benhabib, 1990, p. 343)

As Benhabib concludes:

I want to suggest that (U) is really redundant in Habermas' theory and that it adds little but consequentialist confusion to the basic premise of discourse ethics. (D) [as the expression of this premise] states that only those norms can claim to be valid that meet (or could meet) with the approval of all concerned in their capacity as participants in a practical discourse. (D), together with [the] rules of argument [that it entails] and the normative content [that] I summarized as the principles of universal respect and egalitarian reciprocity, are in my view quite adequate to serve as the only universalizability test. (Benhabib, 1990, p. 344)

And hence,

It is my claim that this core intuition, together with an interpretation of the normative constraints of argument in light of the principles of universal respect and egalitarian reciprocity, are sufficient to accomplish what (U) was intended to accomplish, but only at the price of consequentialist confusion. (Benhabib, 1990, p. 345)

At first glance, Benhabib's argument seems to blur the fine line between the two notions of morality that we considered above, as a normative force and as an argumentative device. At a closer look, however, this defect is probably one of formulation rather than substance. Substantially, the circumstance that Habermas finds it necessary to qualify (U) as an argumentative rather than normative principle may be seen to strengthen Benhabib's case; for if (U) is a merely or at least mainly argumentative principle, one may indeed ask why it still needs to be stipulated (or "derived") as a separate principle rather than simply being considered an integral part of the presuppositions of rational argumentation according to (D). One might even take Benhabib's doubts further and support it with the following observation. Should it turn out that unlike what Benhabib suggests, moral universalization entails some methodological requirements that are not contained in (D), including possibly the need for some source of normative force that reaches beyond the general ethical core of a communicative stance, then (U) would indeed

amount to an indispensable addition to (D); in which case some serious doubts about the success of Habermas' theoretical project would be in order. One might then have to conclude that counter to what discourse ethics proposes, a sufficient grounding of moral theory in the general presuppositions of communicative rationality is not possible without "introducing" an additional normative principle (introducing, that is, with an appeal to the good will of those involved); or else, if it is possible, that discourse ethics has failed to elaborate such a grounding in an adequate manner.

I share some of these doubts, as well as Benhabib's view that the relationship of (D) and (U) is not sufficiently clear. More importantly, as I will further explain in the subsequent critical discussion of discourse ethics, I doubt whether discourse ethics achieves what a good moral theory should accomplish, namely, providing us with adequate guidance for moral practice. My main interest in discourse ethics is indeed with a view to supporting moral practice, and it is in this respect that I find in it reasons for concern. On the other hand, this practical interest has the advantage that I need not be concerned primarily about the theoretical merits or defects of discourse ethics, except insofar as these merits or defects relate to its value as a framework for good practice. Putting (U) to good argumentative use does not depend so much on how discourse ethics explains and justifies the principle but rather, on the way we understand and employ it for practical purposes. Basically a discourse-centered, procedural, and participative conception of morality such as discourse ethics outlines it does appear relevant to an epoch characterized by a plurality of forms of life and conflicting ethical positions, quite regardless of how successful discourse ethics is as a moral theory.

With a view to practice, the one serious doubt that is bound to come up with the two discourse-ethical principles (D) and (U) is whether and to what extent they lend themselves to pragmatization. Although it would seem to me that the communicative turn of practical philosophy should indeed open up new chances for pragmatizing the idea of practical reason, it is difficult to overlook the circumstance that discourse ethics does not have a good track record in this respect. It has achieved conspicuously little in terms of how practical people (citizens, professionals and decision-makers both in the public and private sectors) understand and handle moral claims. The

far-reaching impact it has had on moral theory is not at all matched by a nearly comparable impact on practice. It is indeed striking to see that in the huge body of literature about discourse ethics, one hardly finds examples of specific courses of actions that would have been identified, discussed, and justified by means of discourse ethics. One must wonder, therefore, whether discourse ethics elaborates the idea of communicative rationality in a manner that is practically as relevant as it could and should be. The frequent reference of discourse ethics to the "pragmatic" presuppositions of argumentation cannot mask its lack of pragmatic orientation in the fundamental sense of an orientation towards actual moral practice. Due to the idealizing formulation of both (D) and (U), its "pragmatic" orientation remains theoretical rather than paving the way to suitable pragmatization.

In conclusion, the main issue regarding (D) and (U) that should concern us is not so much how exactly they relate to one another and whether we might or should discard one or the other, so that at the end of the day we might perhaps be able to "derive" discourse ethics in a theoretically more stringent way from the inherent requirements of rational thought and argument. I do not know whether that is possible, nor do I think it is of primary importance. More important to me is how we might translate (D) and (U) into good professional and everyday practice. We have understood that the two principles are "unavoidable" ideas in the sense of a presuppositional analysis of rational practical discourse, which alone can credibly replace today Kant's "transcendental" philosophy; we have also understood that they accordingly function, in McCarthy's (1994, p. 34) earlier-cited formulation, as a kind of "social-practical analogues of Kant's ideas of reason." But how, given their ideal character, can we render them practicable? Therein I would see the true touchstone for a satisfactory account of (D) and (U), including the way they can mutually support one another. With this challenge in mind, I would now like to offer some further, critical discussion of ways to understand and employ (D) and (U).

Critical discussion

I suggest we examine discourse ethics and the roles it assigns to (D) and particularly to (U) from three perspectives: (i) against the background of formal pragmatics; (ii) against the background of Kantian rational ethics; and (iii) with a view to application. I'll begin with the first perspective, as it is

most immediately useful for clarifying the relationship of (D) and (U). The two other perspectives will then help us prepare the ground for later pragmatization.

Critical discussion (i) – Examining (D) and (U) against the background of formal pragmatics: Where does morality lie? How exactly do (D) and (U) link up with the framework of formal pragmatics? While it is clear that Habermas conceives of discourse ethics as a special application of formal pragmatics, his discourse-ethical writings do not discuss the question systematically. To clarify the issue, I find it helpful to return to our earlier analysis of the framework (see Ulrich, 2009c and d), where we distinguished three levels of pragmatic presuppositions that together should not only give everyone concerned a fair chance of articulating their views and values but should also make sure that the outcome of communicative practice can count as rational.

The three levels stand for what Habermas described as the "process," "procedural," and "product" aspects of argumentation, respectively. For the reader's convenience, here is the earlier table in which we summed up our account of formal pragmatics (see Table 3):

**Table 3 (reproduced from Ulrich, 2009c, p. 14):
Rationality aspects of discourse, or: What makes a "good" argument?**

(abstracted from Habermas, 1984, pp. 8-42, and Wenzel, 1992, pp. 124-136;
reproduced here from Ulrich, 2009c, p. 14)

Perspective	Aim	Key requirement	Crucial step
Rhetoric, or "process" perspective	Effective communication	"Rational motivation" (communicative competence guided by cooperative attitude)	Step from strategic to communicative action
Dialectic, or "procedure" perspective	Critical interchange	"Ideal speech situation" (uncoerced and undistorted discourse)	Step from communicative action to discourse
Logical, or "product" perspective	Sound argumentation	"Cogent argumentation" (pragmatic logic of argumentation)	Step from a deductive to a pragmatic logic of argumentation
(All of the above)	Self-reflecting discourse practice	"Meta-levels of discourse" (radicalization of discourse)	Step from initial to higher levels of reflection

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As readers will recall, we interpreted the three levels as crucial methodological steps that lead us first from strategic to communicative action, then from communicative action to discourse, and finally from a deductive to a pragmatic logic of argumentation (compare the full discussion of the three steps in Ulrich, 2009c, pp. 17-24, and 2009d, pp. 3-32). Taken together, the methodological requirements involved in these three steps amount to the formal-pragmatic presuppositions of communicative rationality.

If we now try to situate the two discourse-ethical principles (D) and (U) in Table 3, we gain a new shorthand version of formal pragmatics as applied to moral discourse. It relates (D) and (U) to different "steps" or levels (standing for different methodological requirements) in the quest for cogent moral argumentation, as shown in Table 6.

Table 6: Formal-pragmatic aspects of discourse ethics, or: What makes a moral argument cogent?

(adapted from Table 3 in Ulrich, 2009c, p. 14)"

Formal-pragmatic aspect	Crucial step towards moral practice	Key requirement	Methodological core concept
Rhetoric, or "process" perspective	Step from strategic to communicative action	Rational motivation (communicative competence guided by cooperative attitude)	<i>Communicative action:</i> Coordinate your actions through mutual understanding!
Dialectic, or "procedure" perspective	Step from communicative action to <i>moral</i> discourse	Pragmatic presuppositions of discourse (general symmetry conditions)	<i>Discursive principle (D):</i> Redeem the normative core of your claims, if asked to do so, by cogent arguments as defined by (U)!
Logical, or "product" perspective	Step from a deductive to a pragmatic logic of <i>moral</i> argumentation	Cogent argumentation (universal role-taking, considering possible consequences and side-effects)	<i>Moral principle (U):</i> Review your arguments in the light of universal role-taking among all those concerned as participants in a rationally motivated discourse as defined by (D)!
(All of the above)	(Moral practice)	(Universal role-taking, participatively realized)	(The moral point of view, discursively secured)

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Table 6 embodies my summary account of the methodological core concepts of discourse ethics as seen against the background of formal pragmatics. It assigns (D) and (U) to the "procedure" and "product" levels of moral discourse. By thus relating (D) and (U) to formal pragmatics, we gain a

clearer understanding of their function within the underlying Toulmin-Habermas model of argumentation. Since according to this model, the general layout of argumentation is "field independent," that is, remains the same across different types and contexts of argumentation, it is indeed legitimate to try and locate in it the structure of moral argumentation and consequently, the roles of (D) and (U).

A formal-pragmatic model of *moral* argumentation thus works basically with the same three basic levels of presuppositions and related methodological concepts as does the general model. It becomes a *specific* model of moral argumentation by specifying some of the methodological steps and requirements involved and more importantly, by assigning the two discourse-ethical principles (D) and (U) to the procedure and product levels.

The need for specifying a theory of moral argumentation in this way explains why Habermas formulated not only (U) but also (D) in terms that are specific to discourse ethics. This circumstance should not have us overlook the fact that only (U) is strictly speaking specific to moral discourse, whereas (D) could, and in my view should, be reformulated so as to capture the methodological core concern of that level in field-independent terms, that is, as a general discourse principle. The step from communicative action to discourse is obviously inherent in all forms of discourse. Just as obviously, the same pragmatic presuppositions apply regarding the openness and symmetry of argumentative conditions (see Ulrich, 2009c, p. 21f, for a short summary of these conditions). Only at the subsequent, "product" or "logical" level of argumentation, *cogent* argumentation entails specific requirements according to the type of questions to be dealt with.

Since the need for (D) and (U) emerges at different levels of argumentation and since moreover (U), unlike (D), is not field-independent, it is clear that the two principles fulfil different methodological roles. Accordingly, neither can really replace the other. Thus seen, it appears that Benhabib's (1990) above-cited call for discarding (U) fails to do justice to the deep structure of communicative rationality as formal pragmatics understands it.

Having situated (D) and (U) in formal pragmatics, a few additional observations offer themselves concerning their different but complementary functions within the deep structure of communicative rationality. To begin

with (D), the way Table 6 situates it in formal pragmatics should make it clear that it is much more than a relatively trivial kind of participatory principle, a principle that would exhaust itself in "calling" for a participative or communicative approach. As such it would have belonged to the "process" rather than the "procedure" level, if it were to be given a place within formal pragmatics at all. Rather, (D) renders the participation of all those concerned an intrinsic requirement of communicative rationality, both in theoretical and in practical discourses. It makes participation a part of the *general symmetry conditions* of rational argumentation (see Ulrich, 2009c, p. 23f, for a definition of the term). Participation thus becomes a core requirement of rationality at the procedural level, for all argumentation in general (as summed up in Table 3) and specifically for *moral* argumentation (as summed up in Table 6).

Further, since (D) remains unspecific with regard to the nature of cogent argumentation required for different types of discourse, it refers us to the need for defining specific standards or rules of argumentation at the subsequent level. In the case of practical discourse, as we have seen, this argumentative standard is supplied by the principle of moral universalization (U). Indirectly, by calling for more specific standards at the logical level, (D) thus also ties the idea of moral universalization to the same general symmetry conditions to which it ties the ideas of rational motivation on the part of all those involved and of participation on the part of all those concerned: if (D) is to be relevant to moral discourse, it depends on an additional principle of argumentation such as (U). In this way, (D) as applied to practical discourse helps us appreciate the deep *link between the moral and the rational*, to which Kant first drew our attention. Important as this link was to Kant's monological concept of practical reason as a process of moral universalization in the agent's mind, it thus turns out to be no less important today, within a discursive framework of "real," cooperative processes of argumentation among participants:

If we keep in mind the action-coordinating function that normative validity claims play in the communicative practice of everyday life, we see why the problems to be resolved in moral argumentation cannot be handled monologically but require a cooperative effort. By entering into a process of moral argumentation, the participants continue their communicative action in a reflective attitude with the aim of restoring a consensus that has been disrupted. Moral argumentation thus serves to settle conflicts of action by consensual means.... Agreement of this kind expresses a *common will*. If moral argumentation is to produce this kind of agreement, however, it is not enough for the individual to reflect on whether he can assent to a norm. It is not even

enough for each individual to reflect in this way and then to register his vote. What is needed is a "real" process of argumentation in which the individuals concerned cooperate. Only an intersubjective process of reaching understanding can produce an agreement that is reflexive in nature; only it can give the participants the knowledge that they have collectively become convinced of something.... Nothing better prevents others from perspectively distorting one's own interests than actual participation. (Habermas, 1990a, p. 66f; cf. also p. 94 for the emphasis on "real" discourses)

The irony, of course, is that discourse ethics explains why "real" discursive processes of moral universalization are needed but not, how they might be made real. The basic idea remains nonetheless valid: there is a deep link between normative validity and communicative rationality. An analogous statement could be made for scientific truth, whether in the form of factual knowledge or of theoretical generalizations: there is a deep link between empirical validity and rational, open discourse (ie., discourse that is accessible to all those who are interested and competent or have some relevant observations or conjectures to contribute). Although not always recognized, this link inheres all scientific and technical insights. But this topic, important as it is, would lead us away from our present focus on the normative foundations of rational practice and I therefore will not pursue it further here.

Moving on from the procedural to the logical level of moral discourse, the role assigned to (U) also becomes more clear. Through it, the Kantian universalization principle is to be salvaged for use in "real" processes of argumentation but thereby gains a new role. Instead of embodying an unconditional moral imperative and thus also a directly motivating force of action, it now takes on the more modest role of a *rule of moral argumentation* (see, e.g., Habermas, 1990a, pp. 63, 86, and 93f; 1990b, p. 121; 1990c, p. 197; 1993b, p. 32f; 1998, pp. 42 and 45). As Habermas argues, it can serve as a *moral principle* that need not be "introduced" by recourse to some additional source of normative orientation such as Kant's "good will" or moral "law" or "duty," as it is part of the specific logic of moral argumentation and as such provides a standard of justification that goes beyond the general symmetry conditions required by (D):

[Such an approach to moral theory] avoids confusions in the use of the term "moral principle." The only moral principle here is the universalization principle (U), which is conceived as a rule of argumentation and is part of the logic of practical discourses. (U) must be carefully distinguished from ... the principle of discourse ethics (D), which stipulates the basic idea of a moral theory but does not form part of a *logic* of argumentation. (Habermas, 1990a, p. 93, italics added)

(U), then, is a "moral principle" in the limited sense of a justification principle that is grounded in the requirements of cogent moral argumentation, so that it need not be introduced by a mere appeal to the good will of those involved. To the extent one accepts the claim of discourse ethics to having demonstrated such a non-voluntarist grounding of morality in communicatively turned practical *reason*, the one remaining precondition that the participants still need to bring into the discourse is that they be "rationally motivated," that is, prepared to argue rationally according to (D). The voluntarist core of discourse ethics thus shrinks to a basic *will to reason* or, to put it with less pathos, to an ordinary desire of not being convicted of a lack of sound reasoning. *Moral logic*, combined with rational motivation, takes the place of moral motivation, as it were.

(D)'s requirement of rational motivation thus translates, at the logical level of argumentation, into (U)'s demand for equal argumentative consideration of the views and values of all those concerned. (U) goes beyond (D) in that it implies a *specifically moral perspective of inclusiveness*: those to be included are to be included not just because they may have something to contribute (e.g., knowledge or skills) but also, and primarily, because they are to be treated as equals (i.e., out of respect for them). Therein consists (U)'s *genuine normative content*; although, if we want to believe Habermas, it is a normative content contained in the very presuppositions of rational moral argumentation as such.

It is clear that in the framework of formal pragmatics, this concern for inclusiveness remains basically an argumentative rather than a normative principle, a linguistically grounded requirement of moral justification to which Habermas refers as a "rule of argumentation." Still, one may doubt whether discourse ethics, despite its focus on the logic of moral justification, can really do without assigning some intrinsic normative force to the moral principle (U) that would reach beyond the minimal normative core (or *ethos*) that Apel and Habermas uncovered in the general presuppositions of practical discourse. How else, we need to ask, is moral discourse supposed to unfold some interpersonally binding, normative force *beyond* the process of argumentation itself? As Habermas avows:

It is by no means self-evident that rules that are unavoidable within discourses can also claim to be valid for regulating action outside of discourses. Even if participants in an argumentation are forced to make substantive normative

presuppositions (e.g., to respect one another as competent subjects, to treat one another as equal partners, to assume one another's truthfulness, and to cooperate with one another), they can still shake off this transcendental-pragmatic compulsion when they leave the field of argumentation. The necessity of making such presuppositions is not transferred directly from discourse to action. In any case, a separate justification is required to explain why the normative content discovered in the pragmatic presuppositions of argumentation should have the power to regulate action. (Habermas, 1990a, p. 85f; cf. 1993b, p. 33, and 1998, p. 45)

Action-regulating and indeed, action-*motivating* justification of norms is thus a crucial *intended* contribution of (U), beyond that of (D), to rationally secured moral practice. I say "intended" because for all practical purposes, it remains doubtful whether (U) can fulfil its assigned function of a rule of justification; see points (ii) and (iii) of this critical discussion. By implication, its action-regulating function remains equally doubtful. The bad news is, while burdening (U) with a justificatory function does not appear indispensable for its meaningful use in practice as an argumentative device – insight into different moral perspectives does not depend on ultimate justification – expecting it to have some action-regulating force does appear indispensable for moral practice. While it is of theoretical interest for communicative ethics to ground moral discourse in the requirements of cogent moral argumentation only, moral practice unavoidably overrides this restriction and demands that such argumentation translate into a force of moral *motivation* that reaches beyond the process of argumentation itself.

It follows that unless moral discourse is to fall back on a mere appeal to the moral motives of discourse participants, which would mean to simply presuppose rather than produce morality, this normative force must be part and parcel of the same rational motivation that has the participants adopt (U) as a rule of moral argumentation. Although in practice there can be no guarantee that rationally motivated moral discourse will in each and every case go together with a corresponding moral motivation, I find it less problematic indeed to expect that (U) should in practice develop some action-regulating force than to burden it with a (theoretically sufficient) justificatory function. It is a distinctive feature of all cognitivist ethics that for a rational agent, moral insight translates naturally into a will to act accordingly, no less than insight into what is rational translates into a will to act accordingly. If it were otherwise, inconsistencies of reasoning and action would be difficult to avoid. In discourse practice this requirement of consistency boils down to two options: either the participants are indeed

motivated by good will (then there is no problem) or else, similarly to what we found necessary for (D), they are at least motivated by a basic *will to reason* in the minimal sense of not wishing to be convicted of inconsistent reasoning and action. I am prepared to grant that this is neither an entirely improbable nor an entirely unreasonable assumption to make.¹⁸⁾

Even so, one must wonder whether Habermas' attempt to ease the methodological burden of the universalization principle, by assigning to it a more modest role than that of a normative, action-regulating and motivating force such as the categorical imperative could still imply it, goes far enough. The difficulty is that his account of (U) as a mere rule of argumentation assumes an unnecessarily narrow concept of argumentation. In this account, cogent moral argumentation effectively converges with *justification*: it is by being able to either justify or else rebut disputed normative claims that discourse ethics is to resolve normative conflicts rationally. The aim is "to show that moral questions can be decided rationally" (1993b, p. 32), whereby a decision is taken to be "rational" to the extent it can refer to a *justified* norm or principle of action. To serve as a useful rule of moral argumentation, (U) would therefore need to amount to a rule (or device) of justification.

The methodological implications of tying rationality in moral questions so strongly to justification are precarious. As a rule of argumentation that is to provide a vehicle of moral justification, (U) requires nothing less than an *arguably successful effort of universal role-taking* – the core idea at this level of moral discourse, to which Mead (1913, 1925, 1934) contributed seminal considerations in his work on "symbolic interactionism" (see the earlier discussion in Ulrich, 2009b, pp. 17-23 and 30f) and which later became the epitome of postconventional morality in Kohlberg's (1968, 1976, 1981, 1984) work. Insightful as the concept of universal-role taking is for explaining the moral idea, it embodies an ideal that as such cannot be a possible outcome at the "product" or logical level of real moral discourses. Much less can discursive practice ever legitimately *claim* it to be an outcome of actual argumentation. It embodies a meaningful endeavor but not a meaningful claim. The attempt of discourse ethics to salvage the universalization principle for use in "real" processes of argumentation *breaks down* at this point. Its translation of Kant's universalization principle into

communicative terms may be expected to provide valuable *orientation* for discursive practice but *not* a practicable mode of justification.

Preliminary conclusion I would not go as far as Benhabib's call for discarding (U) altogether; I tend to agree with Habermas that (U) is indispensable for a logic of moral argumentation. The preliminary conclusion I draw is a more pragmatic one: the role we assign to (U) for moral practice needs to be still more modest than what discourse ethics proposes. That the universalization principle cannot carry the burden of *justifying* moral practice (a difficulty we will consider in more detail in the second half of this essay) need not mean it cannot usefully *inform* and *guide* "real" moral discourses. To this end, it will probably be indispensable to alleviate the argumentative burden that discourse ethics assigned it. Rather than the moral principle (U) itself, we may have to discard its role of a supposed vehicle of moral justification. Paradoxically, if we wish to strengthen the role that (U) can play in practice, we may first need to weaken the role we assign it in theory. Let us see.

(To be continued)

Notes

15) At least two terminological inaccuracies appear to be involved in Habermas' (1993a) often-quoted, but in my view confusing article "On the pragmatic, the ethical, and the moral employments of practical reason." First, Habermas expands his normal, Kantian use of the term "practical" (as in "practical reason") to an everyday usage that suddenly includes "technical" questions of purposiveness (i.e., theoretical reason). This terminological inaccuracy is combined with an equally inaccurate identification of the latter kind of questions, as they often come up in practical discourses, with "pragmatic" questions described as addressing questions of "purposive rationality" (1993a, p. 3), of "rational choice of means in the light of fixed purposes" (1993a, p. 2), of "rational assessment of goals in the light of existing preferences" (1993a, p. 3), and of "technical and strategic directions for action" (1993a, p. 9f). The references to utilitarianism in this connection do not help either. Although Habermas does not explicitly align pragmatism with utilitarianism, such an alignment is implicitly suggested, given that the two alternative employments of practical reason, concerning "ethical" and "moral" questions, are aligned with Aristotelian and with Kantian ethics, respectively, so that the third tradition of ethical reasoning to which Habermas refers, utilitarianism, apparently remains for the pragmatic employment of practical reason. Second, Habermas abruptly shifts his focus from "discourse ethics" (the term he set out to explain) to "theory of discourse," that is, to communicative practice in general. The nuance here is subtle but not insignificant: the Kantian focus on practical reason, as the only "court of appeal" of rational ethics, suddenly gives way to a widened focus on communicatively secured, rational practice, which may have as its court of appeal theoretical discourse. [\[BACK\]](#)

16) In essence, I have the following doubts about the terminological alignments in question. (a) Associating the pragmatic perspective with questions of purposiveness, or even with ethical utilitarianism, is arbitrary in that a pragmatic focus on consequences (the way "pragmatic" is usually understood) by no means implies a narrowing down of our perspective to the rational choice of means, much less to a particular ethical stance such as

utilitarianism. (b) The questions that Habermas aligns with the pragmatic use of practical reason – questions of purposive-rationality – are traditionally understood to address issues of theoretical, not practical, reason. (c) In Habermas' own framework of formal pragmatics, the core concern of communicative rationality is defined in opposition to instrumental and strategic rationality. And finally, (d) I would argue that philosophical pragmatism is basically a methodological stance that is open to different ethical perspectives (no less so than discourse ethics). It is hard to see why pragmatism should preclude a moral point of view in the tradition of Kantian ethics, yet this is what Habermas seems to imply by aligning the pragmatic use of practical reason with utilitarian ethics, and the latter with an orientation towards purposive-rationality. [\[BACK\]](#)

17) Note that this requirement does not question the idea of value pluralism. We are concerned here not with evaluative questions of the good life and the pursuit of happiness, where subjective value preferences and value pluralism have their proper place, but with moral questions of fairness and justice, that is, with the intersubjective resolution of conflicts that may arise *due to* value pluralism. Cognitive ethics assumes that these latter questions alone are rationally decidable. "By defining the sphere of the normative validity of action norms, discourse ethics sets the domain of moral validity off from the domain of cultural value contents." (Habermas, 1990b, p. 121) [\[BACK\]](#)

18) A theoretical purist might see in such an account an avowal of the failure of discourse ethics to live up to its declared ambition of grounding moral theory in communicative rationality; for if an additional moral principle in the form of (U) is needed to secure action-regulating moral force to rational consensus, the moral content of practical discourse can apparently not be located in the general presuppositions of competent argumentation alone (i.e., in the general validity basis of speech). That may be true, but I do not think this objection does justice to the closely intertwined working of (D) and (U). Just as well one might argue along Kantian lines of reasoning and assume that if only the requirements of all competent argumentation, as defined by (D), are consistently applied to moral discourse, the ethical core of all discourse will unfold into a basic will to argue *and act* according to (U). For a rational agent, there can be no strict separation between moral reasoning and action. In any case, I would argue that the quest for a "pure" grounding of discourse ethics in the validity basis of speech is not very relevant to its well-understood aim, which for me consists in explaining how the moral point of view can meaningfully be brought to life through communicative practice. With a view to this aim, the essential question is how we can *strengthen* (U)'s role by means of adequate qualification and pragmatization, rather than (as in Benhabib's discussion) whether we should not better discard it. [\[BACK\]](#)

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Picture data Digital photograph taken on 28 May 2012, around 1:00 p.m., in the community of Köniz, Switzerland. ISO 800, exposure mode program shift with aperture f/5.0 and exposure time 1/128 seconds, exposure bias -0.33, metering mode partial, contrast low, saturation normal, sharpness low. Focal length 131 mm, equivalent to 210 mm with a conventional 35 mm camera. Original resolution 5184 x 3456 pixels; current resolution 700 x 525 pixels, compressed to 256 KB.



One who certainly knows what communicative practice means, and who is good at it!

„We say of someone that he is a person of good will if he is always prepared to enter, before acting, into moral deliberation.”

(Kurt Baier, *The Moral Point of View*, 1958, p. 82)

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