

A DEFENCE OF JÜRGEN HABERMAS'S DISCOURSE ETHICS

SO IS THERE A PLACE FOR MORALITY?
A DEFENCE OF JÜRGEN HABERMAS'S DISCOURSE ETHICS

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A Thesis
Submitted to the School of Graduate Studies
in Partial Fulfilment of the Requirements
for the Degree
Master of Arts

McMaster University

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MASTER OF ARTS (2000)
(Philosophy)

McMaster University
Hamilton, Ontario

TITLE: So is There a Place for Morality? A Defence of Jürgen Habermas's Discourse Ethics.

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NUMBER OF PAGES: vi, 93

Abstract

The purpose of this thesis is to offer a defence of Jürgen Habermas's discourse ethics against rival ethical theories that are oriented toward questions of the good life. Habermas's discourse ethics is founded on the Kantian distinction between the right and good. This distinction has come under fire from hermeneutically informed theorists, such as Georgia Warnke and Charles Taylor, as being either unattainable and unnecessary (Warnke), or contradictory as it must rely on the cultural contextuality in which it is formed (Taylor). But since Habermas's discourse ethics is discursive in nature and founded on the structural pragmatics of language use, it is able to effectively answer both Warnke's and Taylor's concerns. I attempt to prove this by showing that Habermas grounds discourse ethics through linking it with the perspective in which participants partake in actual discourse; thus providing a quasi-contextual basis, while it still remains Kantian in nature, as its scope and function is cognitive, universal and formal.

Acknowledgements

I would like to thank my family, Brenda, Michael and Paul Faucette, for providing support, both emotional and financial. A very special thanks to my advisors Dr. Elisabeth Boetzkes and Dr. Brigitte Sassen for their illuminating and helpful comments, and for taking on a project that fell outside their areas of interest. To Dr. Allison Weir and Dr. Nikolas Kompridis at Wilfrid Laurier University for introducing me to Habermas. I would also like to thank the graduate students in the department of philosophy during the years of 1998-2000, especially Michael Thomson. The penetrating discussions and comradery both inside and outside the class helped sharpen both my philosophic knowledge and this thesis topic, and gave me a sense of community amongst many good souls. To Amy, I really cannot put into words the contribution you have made to this project and my life in general. I just hope there is a way to repay you for all the things you have done.

And finally, this thesis is dedicated to the above mentioned people as I do not believe I could have completed this project without all of your help. I offer my deep gratitude as all of your unique contributions to this project have enriched my life. Thanks.

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LIST OF ABBREVIATIONS

Jürgen Habermas:

- MCCA* *Moral Consciousness and Communicative Action* (Cambridge MA: MIT Press, 1990)
- JA* *Justification and Application: Remarks on Discourse Ethics* (Cambridge MA: MIT Press, 1993)
- TCA, I* *The Theory of Communicative Action: Reason and the Rationalization of Society* vol. 1 (Boston: Beacon Press, 1984)
- PT* *Postmetaphysical Thinking: Philosophical Essays* (Cambridge MA: MIT Press, 1992)

Georgia Warnke:

- LD* *Legitimate Differences: Interpretation in the Abortion Controversy and Other Public Debates.* (Berkeley: University of California Press, 1999).
- JJ* *Justice and Interpretation.* (Cambridge MA: MIT Press, 1993)

Charles Taylor:

- SS* *Sources of the Self: The Making of the Modern Identity.* (Cambridge MA: Harvard University Press, 1989)

Introduction

Much of the debate in contemporary ethics and politics has focused on the cogency of making a distinction between the “right” and the “good.” In political theory this debate has revolved around the differences between Liberals and the so-called Communitarians. Liberal political theorists, such as John Rawls and Ronald Dworkin, argue that the state must remain neutral on questions of the good life and focus its concern on rights-based problems that do not in theory privilege one notion of the good over any other. Communitarians such as Charles Taylor and Michael Sandel, on the other hand, argue that the liberal notion of neutrality as it concerns questions of the good is a chimera, stating that it is either itself a vision of the good life or policies that stem from it in fact privilege certain notions of the good over others.¹ Since the state cannot remain neutral, it should return to its republican roots advocating civic participation and self-government.

In ethics, the debate has been somewhat similar. Neo-Kantians argue for a moral theory that is concerned with validating norms that regulate action and are universal in nature. While neo-Aristoteleans argue that our ethical and moral principles must reflect the political and ethical traditions of the cultures and forms of life in which they are

¹ Michael J. Sandel, *Democracy's Discontent: America in Search of a Public Philosophy*, (Cambridge MA: Harvard University Press, 1996), and Charles Taylor, “The Politics of Recognition.” In *Multiculturalism*, edited by Amy Gutmann, 25-74. (Princeton NJ: Princeton University Press, 1994).

embedded. As a result, ethical theory cannot take on a universal character, but is rather dependant on culture and time.

So far the problem with these debates is that neither side seems to have really learnt from the other. Instead solitudes have been erected between both traditions of thought, where each side is able to effectively point out the other's deficiencies but is unable to incorporate the other's strengths into its own approach. Thus, the debate has resulted in a stalemate.

One exception to this trend is the moral theory of Jürgen Habermas. Habermas's moral theory, also known as discourse ethics, is a rights-based approach to ethics. It is firmly entrenched in the Kantian moral tradition. So at first view it would seem that his approach reflects the same pattern I indicated above. But what separates Habermas from other neo-Kantians is that his discourse ethics is able to effectively account for the criticisms brought forward by hermeneutically informed neo-Aristotelean ethics of the good by incorporating some of their insights.

Hermeneutic thinkers such as Georgia Warnke and Charles Taylor, point out that Kantian inspired theories advocate a moral position that is abstracted from the moral horizon of the agents who must rely on it. Thus, on the one hand, the effectiveness of neo-Kantian moral theory to help answer our moral dilemmas is placed into question. While on the other hand, the abstract moral theory is unable to take account of the differing notions of the good life, forcing it to sacrifice the good while advocating the right. But as I shall argue in the following chapters, Habermas's discourse ethics offers an answer to these criticisms. Firstly, Habermas advocates a dualistic approach to ethics.

He brackets questions that concerned the right way to act (moral questions) from questions of the good life (ethical concerns). Both the moral and the ethical viewpoint play a role in his discourse ethics. As we shall see, each looks to answer questions that the other cannot take into account. Secondly, unlike other neo-Kantian approaches to ethics, Habermas's moral viewpoint—articulated in the principles of universalization (U) and discourse (D)—is not based on an external rationale that is abstract from the moral sensibilities of agents involved in moral discourse. His discourse ethics is rather grounded in the formal pragmatic structure of language use, which means that the moral viewpoint is derived from a participant-based perspective. Even though it looks to validate universal norms, its foundation and strength rest with a community of interlocutors who attempt to resolve their moral dilemmas discursively.

Chapter 1 is devoted to a discussion of Habermas's justification of discourse ethics. I am looking to delineate the primary facets of his cognitive discursive approach to moral questions. This will require a brief explication of some of the other thinkers—such as Lawrence Kohlberg, Jean Piaget, P. F. Strawson, and R. Alexy—that have influenced discourse ethics, and also its basis in Habermas's earlier work. The point of this chapter will be to account for the sharp distinction Habermas makes between moral and ethical questions, and his justification of a particular moral point of view which is not based on the values or standards of any one particular culture.

In Chapter 2 I shall discuss Georgia Warnke's criticism of Habermas's discourse ethics. Warnke, informed by an interpretive stance rooted in the pluralistic approach of

literary criticism, asserts that any moral theory that makes a distinction between moral and ethical questions and looks to find agreement on those moral questions is misguided. Warnke believes that ethics must instead look to account for the plurality of values that members of a given society or culture hold. She claims that an ethical theory must recognize that there is not only one correct interpretation of our moral dilemmas. It must facilitate the agent's acknowledgment of the interpretive character of her beliefs, which indicates that there is more than one valid interpretation and her own interpretation cannot fully account for the whole of the dilemma. Accepting such a position gives moral agents the chance to learn from other differing points of view, where they can improve their own understanding and create a common ground between them. Although I do not necessarily want to reject Warnke's interpretive pluralism altogether, I shall argue for the need for a particularly moral discourse. As we shall see, some of our debates require that we come to an agreement over what we believe to be right. The consequences of our actions require that we cannot remain ambivalent about their moral status.

Although I argue in Chapter 2 for the need for a distinctive moral discourse, I say very little about the cogency of Habermas's approach. I take up this concern in Chapter 3 through an examination of Charles Taylor's critique of procedurally based moral theories in his *Sources of the Self*. Taylor points out that procedural approaches rely on reasons that are external to the ethical or moral values of the cultural form of life in which the moral theory seeks its influence. But in order for moral norms to be convincing they have to refer to what Taylor calls hypergoods (such as autonomy and equal dignity), which are

derived from the values and tradition of a particular culture. Thus, deontological moral theories are caught in a self-referential contradiction because they must deny the relevance of hypergoods which they implicitly rely on. The crux of Taylor's criticism rests with his claim that the proceduralist uses an external reason to ground her moral theory. But as I shall argue, Habermas's discourse ethics is not motivated by reasons external to the way participants conduct moral discourse. Rather, it is based on the moral sensibilities of agents involved in discourse. By taking the participant's perspective, Habermas is able to find a justification that is internal to our moral feelings and yet remain abstracted from the values or standards of a given culture.

As we shall see, the strength of Habermas's discourse ethics does not merely lie in its ability to effectively counter the criticism of Warnke and Taylor. Rather, part of its strength rests in its ability to incorporate the central insights of both their ethical approaches as it looks to articulate the moral sensibilities of the actual agents who must use it, without jettisoning its Kantian roots which stipulate that moral norms must remain universal and non-biased in nature.

Chapter 1

Before we can move on to some of the objections raised against Habermas's discourse ethics, a thorough examination of his approach is in order. Habermas's discourse ethics cannot be understood by only looking at the theory developed in *Moral Consciousness and Communicative Action* and *Justification and Application*, but rather must be seen in light of Habermas's strategy that goes back at least to *The Theory of Communicative Action*.² It is a continuation, or a development of a line of thought that stretches back to his earlier work specifically on argumentation theory and communicative reason. As a result, one can only understand discourse ethics if one also understands what Habermas means by distinctions between communicative reason and instrumental reason, and between objective, social, and subjective world-relations to just name a few.

But the connections do not end there. Fundamental to Habermas's strategy is a reliance on the work of other thinkers from many different disciplines to help develop his own theoretical approach. Through understanding the work of others, Habermas is able to develop his own insights by modifying or changing the problematic sections of other like-minded thinkers, or by linking up his own method with others. A good example is

² The notions of an ideal communication community and a critical public sphere, which are central to Habermas's moral theory, was developed before *The Theory of Communicative Action*. But it is in *The Theory of Communicative Action* where they receive their most elaborate treatment and thus provide the basis for his work in moral theory subsequent to it.

his dependence on the developmental psychology of Lawrence Kohlberg and Jean Piaget to elaborate a ‘weak’ transcendental version of universality.³ So part and parcel of understanding Habermas is to also understand the work of others which he relies on.

Thus, this chapter shall be devoted to expounding Habermas’s basic argument for his moral theory. But before I can move on to this, I must lay the groundwork for a discursive approach to morality. This will require looking at the foundations of discourse ethics found mainly in *The Theory of Communicative Action* and in the work of Kohlberg and Piaget. Once this is accomplished the argument for discourse ethics will become apparent. Here I want to bring forth the tensions that have become prominent in some of the objections brought against discourse ethics by especially neo-Aristoteleans. These objections mainly revolve around a concern for procedural approaches to moral theory that hang on prioritizing questions concerning what is right or just over questions pertaining to the good life.

These themes will be discussed in the following sections:

- I. The Basic Structure of Argumentation and Habermas’s Three World Distinction
- II. Universality, and Kohlberg’s and Piaget’s Developmental Psychology
- III. Moral Feelings and Cognitivist Approaches to Moral Theory

³ Another example that I will discuss is how Habermas formulates his moral theory. Instead of just illustrating the tenets of discourse ethics, he develops it in comparison to other rival moral theories, namely neo-Aristotelian philosophers, like MacIntyre, Taylor, and Williams, and neo-Kantian ones such as Rawls.

- IV. Similarities and Differences Between Assertions of Truth and Normative Claims
- V. The Principle of Universalization (U) and the Principle of Discourse Ethics (D)
- VI. The Justification of the Principle of Universalization (U)
- VII. Moral Argumentation
- VIII. The Justification and Application of Norms

I The Basic Structure of Argumentation and Habermas's Three World

Distinction

Discourse ethics finds its closest affinity and main influence from the Kantian tradition. As Thomas McCarthy notes in his "Introduction" to *Moral Consciousness and Communicative Action*, Habermas, like Kant, "distinguishes the types of practical reasoning and corresponding types of 'ought' proper to questions about what is practically expedient, ethically prudent, and morally right" (*MCCA*, vii). In other words, Habermas is firmly situated in the Kantian tradition because he claims that moral and ethical questions must be answered separately and cannot be adequately answered by relying on instrumental (strategic) reason, which is motivated by mere preferences and aimed at strategic ends. Moral questions must instead live up to the standard of an 'ought,' in the sense that they are based on a strong cognitivist claim and must attain a level of universality. For Habermas, this implies that moral questions must be separated from ethical ones. Moral theory should be concerned with questions that involve the

impartial adjudication of differing interests that concern what all could consider to be right or just, rather than ethical questions that aim at answering existential questions of the good life (*MCCA*, vii).

But to understand Habermas's discourse ethics as strictly Kantian would be to significantly miss the essence of a moral theory that is primarily based in discourse that is oriented toward reaching an understanding. Discourse ethics denotes a substantial break with some of the main tenets of Kant's moral philosophy. The primary difference is that Habermas rejects Kant's categorical imperative in favour of a moral theory that is based on discourse. For Habermas, moral norms can no longer be validated by a monological test that is conducted by a solitary rational agent. The standard for moral validity must now depend on a discourse aimed at the rational consent of all individuals who are affected by the norm. McCarthy points out in *Critical Theory* that discourse ethics is "a communicative-theoretical reconstruction of the moral standpoint that Kant differentiated from the natural standpoint: the discourse model represents a procedural reformulation of Kant's categorical imperative."⁴ As a result, the categorical imperative is replaced with the ideal speech situation,⁵ the principle of universalization (U), and the principle of

⁴ Thomas McCarthy, "Reason in a Postmetaphysical Age." In *Critical Theory*. (Cambridge MA: Blackwell Publishers, 1994), 50.

⁵ In the popular literature on discourse ethics, the term 'ideal speech situation' takes on many different names, such as 'unlimited communication community' and 'ideal communication community.' Based on my own research, it is fair to claim that these terms refer to relatively the same thing. But it should be noted that differences do exist in the way that Habermas formulates this ideal and the way other thinkers do, such as Karl Otto-Apel.

discourse ethics (D) that act as regulating forces in determining the standard that must be met by validity claims that seek moral stature.

Although Habermas makes a radical break with Kant's approach to moral questions by situating moral claims in the agreement achieved by agents in discourse, he still picks up on an important distinction made by Kant. Just as Kant claims that moral duties cannot be justified by strategic ends, Habermas claims that the actual discourse used to test the validity of a norm is not strategic in nature. He differentiates between two types of rational action intuitively used by agents in discourse. Strategic action and communicative action are differentiated from one another by the particular orientation adopted by participants in discourse. Participants can either adopt an attitude that is merely oriented toward success (strategic action) or one that is oriented to reaching understanding (communicative action) (*TCA*, I, 286).

Strategic ends are connected only with power claims. The agent is not concerned if the other in discourse is convinced by the force of her argument, but rather is only concerned with persuading another by using any means possible. Hence, an agent may use coercion or deception in order to persuade another of her position because she is not concerned with the interests of the other. Strategic action does not produce a binding effect through the statement or claim that the speaker pronounces, rather the binding effect of the statement is a consequence of a force—such as a threat or a lie—that lies outside the actual statement made by the speaker.

In contrast, an agent who is oriented to communicative ends is concerned with convincing the hearer through the force of her argument. The acceptance or rejection of a

speaker's claim is the result of whether or not the hearer accepts the validity of the claim made by the speaker. As Habermas notes, communicative action is able to coordinate the actions of participants in interaction only insofar as they "intersubjectively [recognize] the *validity claims* they reciprocally raise" (*TCA*, I, 99, emphasis found in the original text). The main difference between the two orientations lies in the type of 'reasons' given for why one should accept a speaker's utterance. In strategic action the speaker may use threats to talk the hearer into accepting a certain assertion, while communicative actions stipulates that the acceptance of validity claims must be the result of the "unforced force of the better argument."

The force of communicative action is found in the speech situation itself.

Habermas claims that the roles speaker and hearer take in dialogue enforce a symmetry in the perspectives of participants (*PT*, 138). This symmetry rests on the possibility of the hearer accepting the position of the speaker and thus creating a common ground between them. Discourse itself has a regulating function. Participants are constrained in the methods they are able to use in communicative discourse. Since a speaker is attempting to convince another, she comes to understand her and the other's importance within the discursive situation. Through expressing her view, the speaker realizes that she is the one who is making the claim, for which she must take responsibility. As Habermas claims:

The performative attitude we have to take up if we want to reach understanding with one another about something gives every speaker the possibility (which certainly has not always been put to use) of employing the 'I' of the illocutionary act in such a way that it becomes linked to the comprehensible claim that I should be recognized as an individual person

who cannot be replaced in taking responsibility for my own life history.
(*PT*, 144)

The structure of discourse requires that all participants have an equal opportunity to take part in conversation and their statements be given equal weight. Once one realizes that one is an irreplaceable member of a community of interlocutors, one comes to understand that other participants must also be given that status. As a result, one must be concerned with the opinions and feelings of others one is interacting with, and act in such a way that allows all others the chance to be heard.

Since communicative action is analysed in connection with achieving mutual understanding it points, on the first hand, to the different forms of discursively redeemable validity claims, and on the other hand, to the world-relations that participants refer to in raising them (*TCA*, I, 75). The speaker and hearer must take up relations to one of three worlds: the objective, social, or subjective. The speaker orients her claim to at least one world with the aim that it will be accepted by the hearer. This entails that a speaker raises a claim that can be accepted or contested through how well her statement is able to convince others that it is either true as it pertains to an existing state of affairs; right with respect to a normative context; or that the statement of the speaker is truthful in that it does not contradict the speaker's intention (*TCA*, I, 99).

Each type of validity claim corresponds to at least one of the three different world-relations. The speaker is able to make a claim that refers to either: the truth of a statement, through representing states or events in the objective world (the totality of the present states of affairs); to the rightness of a statement in a given normative context,

whereby the speaker takes up a relation to something in the social world (the totality of the legitimate interpersonal relationships of a particular social group); or she makes a truthful statement, where she takes up a position to something in the subjective world (the totality of personal experiences) (*TCA*, I, 307-308, and *MCCA*, 58). Although a speaker may not only refer to one specific world in an utterance (e.g., a speaker may make a claim that refers to the truthfulness or sincerity of her claim and to its normative rightness), each world-relation is differentiated from the others.

The method in which Habermas separates these world-relations is by the type of claim that a speaker is attempting to raise. The standards that the claim must meet is different in each case, which means that the dynamics of the actual discourse is different depending on which world the speaker is referring to. In *Justification and Application*, Habermas illustrates some of these differences between the three worlds by investigating how his theory of discourse relates to practical questions connected to either the pragmatic, ethical, or moral point of view. He explicates this difference by showing how each orientation would answer the question of ‘What one should do?’.

Pragmatic concerns rely on the objective world, they are determined by the rational choice of means in light of a plan or purpose that is already fixed (*JA*, 2). Pragmatic claims are concerned with achieving a particular end, which is to say that they are goal oriented and strategic. The goal of this form of discourse is to articulate appropriate techniques, or strategies where one’s choice is determined through the observation or assessment of empirical data that is aimed at effectively solving the problem or concern (*JA*, 3). They are concerned with how we are to bring about a desired

state of affairs in the objective world, where their validity rests on the empirical knowledge from which they are derived (*JA*, 10). For example, if my car has broken down and is in need of repair, pragmatically I would be concerned with what is actually wrong with the car. Do I need to replace the engine? Or does the problem lie in the alternator? Other questions I may ask concern if I could do the work myself or if I need to take in my car to be looked at by a mechanic. Questions such as should I fix it, or should I buy a bicycle because I am concerned about the effects of excess car use on urban planning or the environment point to ethical concerns.

Ethical questions are connected with one's interests and inclinations. They are concerned with the life one would want to lead, or the kind of person one is or would like to be. Habermas uses Charles Taylor's notion of 'strong preferences' to describe the basic point behind ethical concerns. Habermas claims that 'strong preferences' describe "preferences that concern not merely contingent dispositions and inclinations but the self-understanding of a person, his character and way of life; they are inextricably interwoven with each individual's identity" (*JA*, 4). Ethical questions are both descriptive and normative; they offer an individual understanding of her self that is contingent upon critical self-reflection (*JA*, 5). They find their justification in what Habermas calls hermeneutic self-clarification, which means that they are not merely subjective preferences—devoid of justification—but also do not attain the status of absolute knowledge. Although ethical questions represent one's particular life-project, they still leave room for discourse. As Habermas claims, an individual can attain reflective distance from her life history only through the form of life that she shares with others,

which contributes to the context in which she can understand other life-projects or forms of life (*JA*,11). To go back to my example of the car in need of repair, ethically an individual may be concerned with how a car contributes to her identity. She may be concerned that a car is a representation of the rat race that she may find herself in and may be questioning certain career choices. Ethically she may also be concerned with how she understands the community in which she lives. She may believe that by giving up her car she is able to support an understanding of urban dwelling that tries to foster pedestrian, bicycle travel or public transit over car use. But if one is to be concerned with questions that pertain to the rights of the workers involved in the manufacturing of the car—maybe the car was made under conditions that have led to the denial of the basic human rights of workers—then one would be raising a moral concern.

Moral concerns come into view once one's opinions or actions affect the interests of another, which could possibly lead to conflict. From the moral point of view, says Habermas, one is concerned with the impartial adjudication of conflicts (*JA*, 6). It requires a break with a particular ethical life, which means that it is constituted under the communicative presuppositions of a universal discourse where all those who are possibly affected have an equal chance to take part in any discussion that leads to the moral adjudication of conflicts or the legitimacy of norms (*JA*, 12). One of the chief differences between moral concerns and ethical ones is in their scope. Ethical concerns cannot break from the egocentric perspective or the particular context of a historical form of life, while the moral point of view requires such a break. Habermas claims that by situating the determination of moral norms in discourse, his moral theory is able to overcome the non-

value neutral subjective position that is unexpressed in the ethical viewpoint, which is a moral requirement, without giving up the performative attitude of the participant perspective (*JA*, 12). As a result, the intention of an assertion made by a speaker is not merely a personal preference. Its force is rather derived from its reference to an intersubjectively recognized norm, which entails that the claim is meant to apply to anyone in a similar circumstance.⁶

II **Universality, and Kohlberg's and Piaget's Developmental Psychology**

One of the main influences for Habermas's development of the moral point of view comes from Lawrence Kohlberg's theory of moral development. Like Habermas, Kohlberg claims that questions that concern the right and just must remain separate from questions of the good life. The reason for this is that ethical questions are unable to be formulated theoretically. That is, they are unable to be rationally discussed in a way that is universally binding.⁷ Kohlberg, along with Piaget, explain universality in terms of developmental patterns that are not based on external factors such as economic, psychological, or sociological standards. Developmental patterns are rather determined by the internal logic of learning processes (*TCA*, I, 66, and *MCCA*, 35). Learning process can be evaluated internally through investigating the kinds of reasons given by a

⁶ William Rehg, "Discourse Ethics and the Communitarian Critique of Neo-Kantianism," *The Philosophical Forum* 22 (Winter 1990) 122.

⁷ Jürgen Habermas, "Justice and Solidarity: On the Discussion Concerning 'Stage 6'" *The Philosophical Forum* 21 (Fall-Winter 1989-90) 42.

particular individual or culture for why a claim is valid. From this Kohlberg develops a moral theory that is cognitivist, universalist and formalist in nature. Habermas picks up on these themes to develop his discourse ethics.

Discourse ethics, for Habermas, is based on a cognitivist claim. Moral principles must be formulated through reasons and thus cannot be merely expressions of contingent emotions and preferences (*MCCA*, 120). It presupposes that a moral theory must be able to distinguish between right and wrong moral judgements through the giving and accepting of reasons. Although an ethical or pragmatic position is able to make an epistemic contribution to moral discourse, the participant's motives or value orientations, which is endemic to such a position, are unable to play a role in moral deliberation.⁸ The reason for this is that a participant's motives or value orientation are not relevant reasons for accepting or rejecting a normative validity claim. Rather, the moral point of view requires that participants act cooperatively and thereby adopt an 'intersubjectively extended position' that transcends an ethical or pragmatic viewpoint.⁹ Discourse ethics is universal in that it rejects ethical relativism because the validity of rational norms cannot be justified by the standards of a particular culture (*MCCA*, 121). Finally, it is formalist because it is opposed to substantive questions of happiness or values that are particular to a form of life (*MCCA*, 121).

Habermas also refers to Piaget's notion of decentration to develop a non-

⁸ Jürgen Habermas, "On the Cognitive Content of Morality," *Proceedings of the Aristotelian Society*, (96), 1996, 344.

⁹ *Ibid.*, 345.

ethnocentric notion of universality. He claims that Piaget uses the concept of learning conditions to describe the “ontogenesis of structures of consciousness” (*TCA*, I, 68). As a culture becomes more decentred it develops reference systems for the demarcation of the objective, social and subjective worlds (*TCA*, I, 68). Habermas links Piaget’s decentration with communicative rationality because a decentred understanding of the world allows for the possibility of affirming evaluative validity claims discursively (*TCA*, I, 72). For Habermas, this allows for the possibility of developing a universal theory of discourse that does not have to refer to the standards of a particular historical form of life in order to assess the rational structures of different cultures.

III Moral Feelings and Cognitivist Approaches to Moral Theory

Although the moral viewpoint is directed toward cognitive moral validity claims that are abstracted from the perspective of a particular concrete community and are hence generalized to all relevant situations, the moral point of view is not separated from our feelings of humiliation or resentment. Yes Habermas claims that the moral point of view is not measured by the ethical perspective of a certain community, but this does not entail that universal norms are not derived from moral experience. It would seem that Habermas is Janus-faced. He seems to be saying on the one hand that moral norms are universalizable and are hence abstracted from the everyday ethical experiences of its participants. But on the other hand, he seems to be claiming that the moral point of view originates from our moral experiences. It would seem that these two positions are incompatible.

On first view Habermas does seem to place himself in a tight position. By demonstrating that moral feelings are the basis from which we are able to determine generalizable norms, he is attempting to bring an ethical perspective in through the back door. This will have the effect of weakening the division between the moral and ethical viewpoints. Habermas avoids this potential problem by referring to P. F. Strawson's phenomenology of moral feelings in order to indicate the underlying moral experience of reciprocal recognition that is endemic in the moral point of view.¹⁰ The point here for Habermas is to explain the character of the ought that is essential to norms and moral argumentation in terms of the participant perspective, i.e., in terms of the moral experience that we all feel.

The connection between the ought and the moral point of view lies within Strawson's connection between the emotional response of indignation and our moral experience. The point for Strawson is that because we feel indignation when we believe that we have been wronged, our moral viewpoint is substantive in the sense that it is part of our daily experiences, and is thus not *merely* a collection of abstract norms (*MCCA*, 45). When one is injured by another, one does not just abstractly relate to the violation. Rather, one *feels* cheated or robbed of something that is owed. The sting of the offense is a result of a violation of the norm-governed behavioural expectations that create a set of guidelines which regulate the modes of interaction between self and other. Hence, moral norms point to a background of normatively generalized behavioural expectations (*JA*,

¹⁰ Habermas is referring to P. F. Strawson's *Freedom and Resentment* (London: Methuen, 1974).

41). From this indignation that is felt by the violation of a moral norm, Habermas points out that Strawson is able to derive four conclusions.

Firstly when a perpetrator violates the integrity of another person, she may attempt to produce excuses or reasons for why the act was committed (*MCCA*, 45). The perpetrator may offer two types of excuses. The first type of excuse pertains to the competence of the perpetrator, where her capacity to act in a moral way is placed into question. The second type of excuse is meant to show that the perpetrator did not mean to be insulting, or the one who was subject to the infraction just took the other's actions in the wrong way. Strawson points out that the difference between the two types of excuses lies in the way the subject who was violated is able to react to the excuse given by the perpetrator. In the first case, the subject of the violation takes an objective attitude toward the situation and attempts to determine the culpability of the perpetrator, where her own feelings are not discussed (*MCCA*, 46). While in the second case the subject is able to take her own perspective and attempt to show why she felt violated in the first place (*MCCA*, 46). The point for Strawson is that it is only in the second example, if left unresolved, where the subject of the violation is able to develop feelings of resentment because she is attempting to explain to the perpetrator why she feels offended (*MCCA*, 46).

Following from the first point, Strawson claims that the everyday feelings and emotions that make up the experience of shame and hurtfulness can only be accessed from the performative attitude (*MCCA*, 47). One's feeling of outrage is not something that can be instrumentally controlled. The feeling is present whether or not one

acknowledges it. As a result, moral feelings are in a sense unavoidable, which means that we cannot neglect them nor disregard them in our self or in another. The reason why these feelings are moral for Habermas is not just that they are felt by an individual. Rather, the feeling of indignation results from a violation of a normative expectation. As Habermas explains,

Yet what makes this indignation moral is not the fact that the interaction between two concrete individuals has been disturbed but rather the violation of an underlying *normative expectation* that is valid not only for ego and alter but also for all members of a social group or even, in the case of moral norms in the strict sense, for all competent actors. (*MCCA*, 48, emphasis found in the original text)

This explains the feelings of shame or guilt felt by the perpetrator's acknowledgement of wrong doing. Habermas claims that it is the result of the perpetrator realizing that she has offended more than just a particular person, but has also violated "a generalized expectation that both parties hold" (*MCCA*, 48). Habermas's point is twofold. Firstly moral feelings that are accessed from the performative perspective are directed toward generalized norms that go beyond the feelings and concerns of individual persons. Secondly the norm or moral expectation finds its moral weight or authority in its validity, which is to say that authority is the sole function of the norm's justification (*MCCA*, 49).

Although moral norms are derived from the moral feelings that lead to action expectations between agents, they also have an impersonal character to them. The point for Habermas is that the cogency of a norm must be shown, in the sense that it must be justified. The ought that lies at the heart of any moral claim necessarily implies that one has good reasons for being obligated to perform such an action. As a result, the cogency

of a norm must be based on a cognitive foundation (*MCCA*, 49). One has to be able to convince another with reasons that said action is the right thing to do. The authority of the claim is not a result of the fact that it is part of a tradition, but must rather be justified on the strength of its reasons. As Habermas claims, “[o]bligation’ presupposes the intersubjective recognition of moral norms or customary practices which prescribe *in a convincing fashion* for a community what actors are obliged to do and what they can expect from one another.”¹¹ A moral justification serves to alter modes of actions or change our opinion of them through excuses, criticism or justification.

Habermas is able to avoid the problem of bringing an ethical perspective into his moral viewpoint through the type of cognitive claim he asserts. Since our moral feelings have an impersonal character to them in the sense that they point to a norm or expectation that lies beyond the ethical perspective of individuals, the cognitive function of his moral theory is grounded in a strong sense. A strong cognitive claim implies that participants who are involved in moral argumentation participate in a cooperative undertaking where each takes an intersubjectively *extended* position.¹² The value orientations of the participants involved in discourse are no longer considered to be the standard upon which the validity of the norm is judged. Rather, the justification of a norm is based on the consent of all affected participants, where the validity of that norm results in universal status in the sense that it is valid in all relevant situations. The reasons for accepting a

¹¹ Habermas, “On the Cognitive Content of Morality,” 335, emphasis found in the original text.

¹² *Ibid.*, 344.

norm are not based on the interests and self-understanding of the particular participants, but rather point beyond one's own egocentric position. The point here is that one's consent to a norm is not based on the fact that it is good for a particular individual or lines up with her values or beliefs. Rather, consent is based on the norm's ability to articulate normative expectations that encompass intersubjectively determined principles that are shared by all.

The strong cognitive claim is contrasted with a weak claim that most ethical theories of the good espouse. The validity of ethical questions are determined from what Habermas calls a first person plural perspective.¹³ Ethical questions are concerned with elucidating the values and preferences of a particular ethos that is shared by members of a community. Hence, the cogency of an ethical claim requires that it must be able to offer insight into a culture's way of life. "Practical reflection takes the form of a process of hermeneutic self-clarification. It articulates strong evaluations in light of which I orient my self-understanding."¹⁴ Unlike the strong cognitive claim, the weak cognitive claim is unable to see beyond the horizon of an intersubjective 'us,' where its validity claims are only valid for the members of the particular community or 'us.'

IV Similarities and Differences between Assertions of Truth and Normative Claims

Although moral claims are similar to truth claims in that they are both validated

¹³ Ibid., 340.

¹⁴ Ibid., 341.

through the speaker giving reasons, Habermas does not want to confuse an ‘is’ with an ‘ought.’ The similarity between the two is found in the similar cognitive function they both require, but they differ in the type of claim each is able to make. Habermas begins his discussion of the similarities and differences of truth claims and normative statements by pointing out that normative claims share much more in common with statements of propositional truth than they do with descriptive ones. Normative claims cannot be verified or falsified in the same way as descriptive statements, because normative claims are argued in a similar fashion as propositional truth (*MCCA*, 52).¹⁵ One is not making a claim about the characteristics of a moral norm in the same way that one would describe the different shades of colour of a particular object. The point is that the logical properties of normative claims are not similar to the logical properties of describing the characteristics—such as colour, weight, etc.—of an object. Rather, rightness is similar to truth because they both require a claim to validity which stipulates that convincing reasons must be given in order to determine if a particular action or belief is true or the right thing to do (*MCCA*, 53).

The difference between truth and rightness lies in the way they coordinate the actions of participants involved in communicative argumentation. Although normative validity claims are derived from both convictions and the sanctions that result from them, they also have an impersonal character. Since moral statements are intrinsically

¹⁵ Here Habermas is arguing against noncognitive approaches to ethics. I will be only briefly touching on the sections that refer to the similarities between normative and truth validity claims, which he uses in his rejection of the noncognitive approach. For Habermas’s argument against noncognitivism refer to *MCCA*, 52-55.

connected to the social world of legitimately determined normative expectations, they can be addressed secondarily through speech acts (*MCCA*, 60). A speaker may impersonally state the obligation that a norm requires. A sentence such as ‘one ought not to hurt another human being’ may not necessarily be offered as a speech act requiring one to take the statement as a conviction in need of justification (*MCCA*, 60). It could rather be the statement of an understood expectation that the speaker is referring to. Truth claims do not possess this dual function. Truth must rather always take the form of a proposition that seeks justification. As Habermas points out, the assertoric force and pragmatic value of a claim to truth would be negated if it were not uttered as a speech act (*MCCA*, 60). Truth claims do not determine the validity of the state of affairs that they are referring to. The actual entities, which constative speech acts are related to, are *thought* to exist regardless of whether or not it is formulated in a speech act. But if truth claims are to retain their pragmatic and assertoric value they must always be asserted and hence justified because “they are inherently related only to the constative speech acts by which we refer to entities when we use fact-stating locution to represent states of affairs” (*MCCA*, 61). Conversely normative speech acts, once validated, constitute the morally regulated social world, which means that their social currency indicates a connection between the norm’s existence and its justification; a connection, Habermas claims, which does not exist in the objective world of facts (*MCCA*, 62).

The objectivity of constative speech acts is different than that of regulative ones. Norms gain their moral weight through the “continual reestablishment of legitimately ordered interpersonal relationships” (*MCCA*, 61). They have to entail some type of

practical sense. The cogency of a norm is premised on the fact that we have to be able to see how the norm would actually regulate the actions of moral agents (although the justification of a norm is not determined by its application). We have to be able to envision agents recognizing an obligation to act in a certain way and also think of actions that would adhere to that rule. As stated above, the actual state of affairs is believed to exist separately from, which means that it is not constituted by, the speech acts that refer to them. In contrast the obligation of a truth claim is only possible if both speaker and hearer are able to come to an agreement about a “situational definition” that is in accordance with the speech act (*MCCA*, 60).

V Principle of Universalization (U) and the Principle of Discourse (D)

Since there is an asymmetry between truth and rightness, Habermas is presented with a difficulty. Inherent to discourse ethics is the position that moral validity claims must attain a level of justification that is similar to that of claims to propositional truth. Their justification entails that they are morally relevant in all similar situations and to all affected people. But since moral claims are different than that of truth—an ‘ought’ is not the same as an ‘is’—a justification that is similar to that of truth is not readily apparent. Moral claims receive their legitimacy from the social world that is comprised of moral agents. They exist in the sense that they are intersubjectively recognized. Truth claims refer to a particular state of affairs in the objective world. How can moral claims attain a similar status as that of truth?

Habermas’s approach to moral argumentation takes the form of an informal logic.

The reason for this is that it is impossible to force agreement on moral-practical issues, or theoretical positions through a deductive approach or by appealing to empirical evidence (*MCCA*, 63). By using an informal logical method to expound the principles of discourse ethics, Habermas is able to avoid Hans Albert's Münchhausen trilemma, which claims that any attempt to deductively justify moral principles must choose between three unattractive alternatives (*MCCA*, 79).¹⁶ In order for moral claims to attain an analogous status to that of truth, Habermas devises a 'bridging principle' that acts as a procedural rule. All normative validity claims must pass the principle of universalization before they are able to attain the status of universality. He takes the idea of a principle of universality from Kant's categorical imperative. But the idea behind Habermas's principle of universalization is that a norm must be able to meet with the unqualified assent of all who are affected by it. By taking such a strong dialogical stance on universality, Habermas's universalization principle differs greatly from Kant's categorical imperative.

Beside the fact that Kant takes a deductive approach, one of the chief differences between them is the concern over impartiality. Habermas's universalization test cannot be conducted monologically. Unlike Kant's categorical imperative, norms must actually meet with the assent of all affected. Impartiality cannot result from the deliberations of a single solitary rational agent. The point for Habermas is that true impartiality means that all must be on board. It entails that a norm must embody a position that is common to all, which can be only determined through active participation in the deliberation of the norm

¹⁶ I shall return to the Münchhausen trilemma later when I discuss Habermas's attempt to ground his universal moral theory.

which results in its eventual consent. One person is unable to speak for all, because a single person is unable to attain a position where she would be able to speak on another's behalf without doing violence to the views that she is trying to account for. The reason for this is that it is beyond the ability of a single person to reason what all could accept. Others must have an equal opportunity to participate, and not have someone else speak for them. For Habermas, moral norms cannot be justified through a proxy format, where people who are affected by the norm are left out of its construction and deliberation.

Requiring moral validity to meet with the assent of all who are affected is not meant to mean that even though all are allowed to participate one is only concerned with one's own position. Habermas wants to derive a stronger position from this requirement. The notion of including all in active deliberation is not hollow. It requires that each person must attempt to take a decentred position in the sense that one must see the other in discourse not as a strategic end, but as an equal member whose position is deserving of equal recognition to that of one's own. Habermas is making a Hegelian point: the moral point of view entails that the division between us and them—ego and alter—has to be blurred. The freedom for one to participate in discourse entails the freedom for all others to participate equally and have their position met with the same concern as that of one's own. Habermas sums up this point through reference to George Herbert Mead's notion of 'ideal role-taking.' For Mead, taking the position of the other (ideal role-taking) is essential in the development of a critical perspective.¹⁷ Through conversation that is

¹⁷ George Herbert Mead, *Mind, Self and Society; From the Standpoint of a Social Behaviorist*, edited by Charles W. Morris. (Chicago: The University of Chicago Press,

conducted in a cooperative manner, one is able to become self-critical, which for Mead involves social criticism. The point for Mead is that a critical perspective cannot be attained without attempting to understand the position of others. Hence, the thoughts and opinions of others become just as important as one's own.

Habermas defines his principle of universalization as follows:

(U) *All affected can accept the consequences and the side effects its general observance can be anticipated to have for the satisfaction of everyone's interests (and these consequences are preferred to those of known alternative possibilities for regulation). (MCCA, 65, emphasis found in the original text)*

(U) is meant to be a rule of argumentation that affords moral norms a universal intent that is analogous to that of truth claims. For Habermas, (U) guarantees two premises. Firstly moral argumentation can only be conducted among a plurality of participants; secondly "it suggests the perspective of real-life argumentation, in which all affected are admitted as participants" (MCCA, 66). This means that a participant of moral discourse cannot merely reflect on giving assent to another's will or merely "vote" for another's position. All participants must be an active member in argumentation. But (U) is not meant to be the actual rule of discourse ethics. Habermas develops a second principle that captures the guiding thread of discourse ethics:

(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. (MCCA, 66, emphasis found in the original text)*

The relationship between (U) and (D) is asymmetrical: (D) must presuppose (U). If

Habermas is able to justify (U) (the topic of the next section), then (D) becomes possible. The difference between the two lies in the fact that (U) is a moral principle and is meant to be part of the logic of argumentation, while (D) is meant to express the basic notion behind discourse ethics as a moral theory (*MCCA*, 93). It acts as a guiding idea that stipulates that moral norms can only find validity in a dialogical process premised on reciprocal recognition.

VI The Justification of the Principle of Universalization (U)

Habermas's justification of the principle of universalization attempts to counter two central problems that any procedural moral theory that claims universal import must be able to avoid. He must firstly refute the charge of ethnocentrism. If discourse ethics only privileges the standards of a certain community—namely the values of Western society—then moral norms would not be applicable to those who are not part of the privileged culture. This would mean that Habermas's moral theory would be unable to justify its claim to universality, which would contradict one of the basic tenets of discourse ethics. The answer to this charge has been shown through the type of claim to universality that Habermas defends. Since all participants who are affected by the application of a norm must consent to it and the moral point of view takes a decentred position where no one culture's values or orientations are privileged, discourse ethics has met the challenge of ethnocentrism. Secondly, in order to avoid the Münchhausen trilemma, Habermas has to come up with a justification that is non-deductive, and is yet able to make a transcendental claim—no matter how transcendently weak the claim—that

justifies the principle of universalization (U).

The central idea behind the Münchhausen trilemma is to trap a moral theory that is based on a cognitive claim into accepting one of three unacceptable alternatives. Once a cognitive moral theory seeks justification it will necessarily fall into one of the following three problems: “[1] putting up with an infinite regress, [2] arbitrarily breaking off the chain of deduction, and [3] making a circular argument” (*MCCA*, 79). Habermas is able to avoid having to accept one of these alternatives because the trilemma only arises if the moral theory attempts a justification that is based on a ‘semantic concept’ that develops a deductive logical inference (*MCCA*, 79). But since Habermas’s moral theory attempts to identify the pragmatic structure that all participants who are engaged in discourse oriented to reaching an understanding suppose, the justification of discourse ethics falls outside the purview of the trilemma’s web.

The consequence for discourse ethics is that it is unable to make a strong transcendental claim to an ultimate justification. As a result, Habermas relies on Karl Otto-Apel’s ‘marriage’ between a transcendental mode of justification and the structural pragmatics of language use, in order to determine what every participant ‘unavoidably’ presupposes while involved in a form of argumentation (*MCCA*, 80). This non-deductive justification takes the form of identifying the performative contradiction that a moral skeptic makes when trying to show why it is impossible to ground moral principles. Habermas defines the performative contradiction in the following manner: “A performative contradiction occurs when a constative speech act $k(p)$ rests on noncontingent presuppositions whose propositional content contradicts the asserted

proposition *p*” (*MCCA*, 80, emphasis found in the original text). Once the moral skeptic attempts to *convince* another that it is impossible to ground moral principles, she is automatically presupposing the pragmatic structure of argumentation that allows for the grounding of said principles. In effect, the skeptic is attempting to deny the very same thing that she is relying on in order to make her own *argument*. For example, if the skeptic makes the claim that moral principles are groundless because of the principle of fallibilism, she is contradicting herself because she is attempting to validate at least one claim: no claim can be valid (*MCCA*, 81). As a result, one cannot consistently argue for the position that it is impossible to validate an argumentative claim.

The notion of the performative contradiction works as a justification of universality because it is able to show that “every argumentation, regardless of the context in which it occurs, rests on pragmatic presuppositions from whose propositional content the principle of universalism (U) can be derived” (*MCCA*, 82). But the use of the performative contradiction only works as a “minimal logic,” showing that it is possible to ground moral principles. It has not shown that the principle of universalization (U) is the most cogent way to justify normative validity claims. Part of the reason for this is that since Habermas is justifying (U) inductively he is referring to presuppositions inherent in language use, he is not able to come to a deductive conclusion. As a result, Habermas is still left with the not too simple task of showing why discourse ethics is able to best exemplify the pragmatic structure of language use placed in the form of a moral theory. Part of the answer to this task has already been achieved through showing the connection between discourse ethics and the moral point of view. But we must now turn to the

structure of moral argumentation in order to see the connection between (U) and the pragmatic structure of language use.

VII Moral Argumentation

Although Habermas is unable to offer a deductive justification of (U), this does not mean that the presuppositions of moral argumentation are a matter of choice. The point of the performative contradiction is to show that it is necessarily the case that validity claims can be grounded. And it is this notion that is the starting point for Habermas's elaboration of the conditions of argumentative speech: showing that the principle of universalization is implied by the general presuppositions of argumentation.

Habermas structures his argument so that he is not just elucidating the principles of moral argumentation, but argumentation in general. The principle of universalization must be implicitly presupposed by “[e]very person who accepts the universal and necessary communicative presuppositions of argumentative speech and who know what it means to justify a norm of action” (*MCCA*, 86). In reference to R. Alexy's catalogue of argumentative presuppositions,¹⁸ he delineates 3 levels. The first level articulates logical and semantic rules that are concerned with consistency. They are designed to show that validity claims are meant to be intrinsically sound, non-contradictory, and can be redeemed or rejected. As a result, they have no moral or ethical content (*MCCA*, 87).

The second level is meant to point out that argumentation is a process that is

¹⁸ Habermas is referring to R. Alexy “Eine Theorie des praktischen Diskurses.” In *Normenbegründung, Normendurchsetzung*, edited by W. Oelmüller. (Paderborn, 1978).

oriented toward reaching understanding, where participants assume a hypothetical attitude in order to test validity claims that have become problematic (*MCCA*, 87). At this level argumentative rules are concerned with outlining the necessary procedural standards for a search for truth. They must be concerned with such matters as sincerity and appropriateness as they pertain to the giving of reasons. Two examples that Habermas cites from Alexy are, “(2.1) Every speaker may assert only what he really believes. (2.2) A person who disputes a proposition or norm not under discussion must provide a reason for wanting to do so.”¹⁹ Although the second level of presuppositions have an ethical import, they are not enough to elicit a position for moral argumentation per se (*MCCA*, 88). Argumentation points to a strong position on the inclusion of all relevant persons to take part in deliberation. Second level procedures place the onus on participants to be truthful and only consider those reasons that are relevant. They say nothing about who should be included in the argumentation process, nor do they have a strong position against coercion or repression.

At the third level—the rhetorical level of process—argumentation is understood as a process that counters repression and inequality because it approximates ideal conditions (*MCCA*, 88). This third level is meant to represent the ideal conditions that every speaker who attempts to participate in argumentation must presuppose as being adequately fulfilled (*MCCA*, 88). When one participates in an argument with another, one must presuppose that the other is being truthful and is willing to allow others to express their

¹⁹ Alexy, “Eine Theorie des praktischen Diskurses,” 37, quoted in Habermas, *MCCA*, 88.

point of view. Otherwise the conversation would break down as there would be no mutual trust between the participants involved. The difference here lies in that argumentative members are only motivated to partake in a ‘cooperative search for truth’ and not merely attempt to persuade others to accept one’s position at another’s expense. Habermas refers to Alexy’s rules of discourse in order to elaborate this level of discourse:

- (3.1) Every subject with the competence to speak and act is allowed to take part in a discourse.
- (3.2) a. Everyone is allowed to question any assertion whatever.
 b. Everyone is allowed to introduce any assertion whatever into the discourse
 c. Everyone is allowed to express his attitudes, desires, and needs.
- (3.3) No speaker may be prevented, by internal or external coercion, from exercising his rights as laid down in (3.1) and (3.2).²⁰

Acting as ideal conditions, R. Alexy’s rules of discourse are meant to define the general conditions of argumentation that are oriented toward reaching an understanding. They stipulate that *all* argumentatively competent agents must be allowed not only the opportunity to participate, but also all must be allowed an equal opportunity to express their point of view without the threat of coercion. It is only under these conditions that argumentation is able to attain a universal standard.

In addition these ideal conditions are not meant to be understood as conventions that prefer one form of communication over another. They are meant rather to express inescapable presuppositions. Habermas once again refers to the performative contradiction in order to show that to not recognize these ideal conditions would be inconsistent. The performative contradiction argument hinges on the point that a

²⁰ Ibid., 40, quoted in Habermas, *MCCA*, 89.

discourse that is oriented toward reaching an understanding presupposes these ideal conditions. The reason for this is twofold. Firstly communicative presuppositions are not relevant for all types of discourse, only discourse that is oriented toward uncoerced agreement. There are other types of discourse that do not elicit these presuppositions (e.g., bargaining, or certain forms of media discourse) and are not constrained by Alexy's rules. What is important though is that the possibly coercive forms of discourse do not point to moral argumentation, while communicative discourse does.

It is in this sense that communicative discourse cannot allow for any form of coercion to act as a mediating factor in the acceptance or rejection of validity claims. To allow coercion would amount to accepting a contradictory position. Habermas proves this point by referring to the qualitative difference between "to convince" another of something and to merely "talk one into" believing something. The difference lies in that to claim to convince someone through not being truthful would be inconsistent. The reason for this is that within our language structure "convictions rest on a consensus that has been attained discursively" (*MCCA*, 90). To talk one into accepting a position through deception contradicts what we mean by a conviction. Habermas's argument here is not based on an equivocation between two terms that essentially mean the same thing. Rather, the distinction between "to convince" and "to talk into" refers to our common understanding of their meaning. As Habermas claims one can just refer to a dictionary to understand the difference. In addition, the distinction between "to convince" and "to talk into" is not new, one can go back at least to the *Republic* where Plato comments on the

difference between the two.²¹

The distinction between to “convince” and “to talk into” is linked with argumentation because of the fact that it would be contradictory for one to attempt to justify the claim that one can convince another through lies. Once one attempts to provide reasons for why one should accept the claim that one can convince someone through lies, one is automatically accepting preconditions that reject the validity of this claim. One cannot consistently attempt to give truthful reasons for the claim that it is appropriate to not be truthful.

Since Alexy’s rules of discourse are shown to elicit presuppositions of argumentation, Habermas is able to justify (U). Because speakers entering moral argumentation must discursively redeem normative claims in such a way that they presuppose conditions of discourse that are expressed in Alexy’s rules of discourse, they “intuitively [accept] procedural conditions that amount to implicitly acknowledging (U)” (*MCCA*, 92-93). Thus, the principle of universalization acts as a procedurally formulated moral bridging principle, where it is meant to follow from the internal logic of practical discourse (*MCCA*, 93). (U) links up with the basic presuppositions of argumentative discourse in order to provide a connection between the inner logic of argumentation and

²¹ At the beginning of Book II of the *Republic* (357 a-b), Glaucon brings up the difference between to convince and to persuade. Here he is asking Socrates if he wants to convince his interlocutors of his position or merely persuade them. Socrates accepts the challenge to convince them of his position. The difference between the two rests in the notion that to convince someone requires giving acceptable reasons for why an action or position is right, which Socrates at this point has been unable to provide. While persuasion might entail accepting a position for reasons that do not speak of the actual position one is advocating.

discourse ethics that is expressed in (D). As a result, (U) is not a substantive basic norm nor the idea behind discourse ethics as a moral theory (*MCCA*, 93). Rather, it provides the argumentative and universal basis upon which discourse ethics rests.

VIII The Justification and Application of Norms

The focus of this chapter has been to delineate the justification of Habermas's discourse ethics. As I have shown, Habermas develops a cognitive, universal, and formal moral theory that prioritizes questions of justice and rightness over questions of the good life. But unlike other procedural approaches to ethics, discourse ethics is founded on a dialogical model premised on the perspective of participants who actually partake in the process of moral deliberation. Its theoretical justification is derived from a weak transcendental argument that points out the necessary presuppositions of a form of discourse that is oriented toward reaching an understanding. But questions such as how moral norms that are justified are to be applied have not been answered. Habermas's justification of discourse ethics only validates the moral point of view on a theoretical level, it has left open questions that pertain to how a norm could be applied in a concrete situation.

Habermas concedes the point that the form of justification he uses for his moral theory only outlines transcendental constraints and does not speak of how or why a particular norm ought to be applied in a particular situation. To understand (U) as entailing a method of application would be to miss its role as a moral principle that allows for the justification of *generalized* norms that only underlie their practice (*JA*, 35).

Habermas envisions a “distinction between the validity—or justice—of norms and the correctness of singular judgements that prescribe some particular action on the basis of a valid norm” (*JA*, 35-36). As a result, to determine the right thing to do requires “a two-stage process of argument consisting of justification followed by application of norms” (*JA*, 36).

Following Klaus Günther,²² Habermas points out that the meaning of a validity claim can be demarcated into two separate processes. The first process refers to the consensus reached in moral argumentation (*JA*, 36). The second is concerned with the norm’s appropriateness, which takes into account its application and the consequences of its implementation in a given situation (*JA*, 36). Both aspects of a validity claim must be satisfied. Since the validity claim’s justification is the sole function of the principle of universalization, Habermas outlines a discourse of application which determines its relevance. Such a discourse is concerned with the appropriateness of a norm in a given situation, regardless of whether its application is in the best interests of all who are affected by it (*JA*, 37). It is concerned with how the norm should be followed in relation to all the relevant features of a given situation.

Within discourses of application the ethical viewpoint plays a role in its deliberation by shedding light on the significance the norm will have in a specific situation (*JA*, 37-38). Hence, questions of the good life play a role in determining how a particular norm is to be applied. The reason for this is that since the norm is abstractly

²² Habermas is referring to Klaus Günther’s *Der Sinn für Angemessenheit*. (Frankfurt am Main: Suhrkamp, 1988), 23-100.

formulated so that it is not justified by the standards of a particular value orientation, it is devoid of a concrete or practical relevance. Questions of hermeneutic self-clarification are thus able to help bring to light the way in which the norm should be best applied. But can a moral theory that is oriented toward questions of rightness and justice allow for an ethical point of view to play a role in the application of its norms? If it is unclear how moral norms are relevant in concrete situations and an ethical insight is needed so that we can figure out their relevance, does this not place into question the need for moral norms in the first place? Could we not arrive at the same place through an ethics of the good and thus avoid a redundant moral theory? It would seem that by allowing for the ethical viewpoint to play a role in moral deliberation, Habermas has placed his whole project into question; for the simple reason that it is not entirely clear why abstract moral norms are necessary if we can arrive at the same point through an ethics of the good life. Some of these concerns are the subject of Georgia Warnke's critique of Habermas's discourse ethics.

Chapter 2

As indicated at the end of Chapter 1, it seems that Habermas's discourse ethics is caught in a troubling dilemma. If his procedural moral theory is only able to validate moral norms that are abstracted from concrete moral/ethical concerns and practices, it is not entirely clear that it would be of any practical value for agents who use it. This is not to say that the justification of a moral or ethical theory lies in its instrumental value for the members of a particular community. The claim is rather much different. If the concern over the relevance of Habermas's discourse ethics is found to be tenable, then the consistency of his moral theory is placed into question. The guiding thread behind Habermas's approach is to develop a moral theory that is based on the perspective of the participants who make and are affected by moral decisions. Thus, the validity of moral norms rests with the participants themselves and is not left to privileged figures in society such as philosophers or religious leaders. But if the principles behind discourse ethics—(U) and (D)—are unable to help determine the right thing to do, it fails the most important test of all: an ability to articulate the moral feelings of the agents involved and say something constructive about their moral dilemmas.

This concern over the relevance of Habermas's discourse ethics goes to the heart of Georgia Warnke's criticism. Although Warnke points out that Habermas maintains a strong stance on the inclusion of all relevant participants, and a difference between

discourse ethics. She points out that the driving force behind the deep divisions in our contemporary moral debates—such as contract pregnancy, abortion, and affirmative action to just name a few—is the fact that these debates are framed as moral concerns that stipulate that there is a single right/moral way of acting.²³ This way of framing our moral debates leads to the erection of solitudes between opposing sides, where an understanding or agreement over these issues becomes highly improbable.

For Warnke, the fact that agreement over moral concerns is not a foreseeable consequence of debate should lead us to give up on the idea that we will be able to find a definitive ever-lasting answer that will address all of our concerns. She points out that we must embrace the interpretative pluralism of our debates and accept the fact that the only ever-lasting characteristic of our differences is that difference will always exist. But it should be noted that this does not have to lead to relativism. Warnke's interpretative pluralism is based on a hermeneutic reading of literary criticism which accepts the fact that there are many equally legitimate ways of evaluating a text, without holding the position that all interpretations are valid. The point of moral/ethical discourse should no longer be oriented toward reaching agreement. Rather, discourse must serve a heuristic purpose: creating an openness among agents where each agent is able to learn from the others.

By understanding all of our moral/ethical differences as matters of differing

²³ Warnke develops this analysis by looking at contemporary debates in abortion, contract pregnancy, affirmative action, and pornography in *Legitimate Differences: Interpretation in the Abortion Controversy and Other Public Debates*. (Berkeley: University of California Press, 1999).

interpretations, Warnke does not leave any room for a distinctly moral discourse. Our concerns over equality, freedom, autonomy, etc. must now be seen as differences over the way we interpret these principles. She claims that particular ethical communities already share moral principles but differ in the way they are understood and applied. Hence, she does not see the need for a separate discourse that deals with moral matters. But the concern that I want to raise asks if she is able to fully account for our moral concerns in a discourse that looks only to make clear our interpretive differences. Can a form of discourse that is oriented toward elucidating what our moral concerns mean for us—the ways in which our identities are embedded within the positions we formulate—best account for a moral point of view that points to a decentred and universal perspective? Warnke's interpretive pluralism is premised on resolving the shortcomings of discourse ethics, but do her criticisms reflect a tension or oversight within discourse ethics, or a shortcoming of her own position? Can we salvage a distinction between the moral and ethical viewpoint?

These are some of the concerns that I will address in this chapter. I shall first remark on Warnke's criticism of Habermas's discourse ethics (I); followed by a discussion of her alternative that is embodied in her notion of interpretative pluralism (II). Finally, I shall discuss problems that result from such an approach, arguing for the need for a distinctly moral discourse: one that reflects the moral aspect of our current concerns over particularly troubling issues, and yet avoids the clash between moral solitudes that Warnke rightly points out and tries to avoid (III).

I Warnke's Critique of Habermas's Discourse Ethics

Warnke asserts that the standard a moral theory must achieve is one that reflects the moral and ethical sensibilities of the particular community in which it is formed. Ethics must be able to account for and relate to the principles and forms of reasoning that concrete agents hold. Thus, it must be able to say something about or shed light on the dilemmas that grip us. Without such a stipulation its value is greatly reduced, for it will be unable to speak to the agents who must rely on it for guidance. Warnke points out that the defining mark of at least Western civilization is the difference or pluralism of its members's beliefs and values. Rarely does it seem that we are able to agree on issues of ethical or moral importance. If there is one defining commonality among us it is the fact that we disagree about what we see as being either good or just. For both Habermas and Warnke, the pluralism of Western society is not a problem in need of a solution. It is rather an essential characteristic of our postmodern condition, one which must be valued. An ethical theory however cannot only be about difference. We need to be able to come to some type of solution about how we are to proceed on issues of a moral or ethical nature. So we must ask: how can we best account for the difference between our moral/ethical sensibilities and yet find ways of at least partly resolving those differences?

Warnke notes that Habermas offers a two-tiered approach to the above question. The moral viewpoint, articulated in principles (U) and (D), is meant to resolve some differences within a universal and rationally motivated consensus. But it leaves

unresolved our more ethically oriented evaluative and interpretive differences.²⁴ As noted in Chapter 1, these differences do not require the same type of normative consensus as claims concerning our actions. Since they only reflect a weak cognitive stance, we must come to an understanding about these differences through forms of hermeneutic clarification. What troubles Warnke though is the cogency of such a division. Can a moral theory separate interpretive claims from normative ones and still account for the differences in the moral and ethical outlook of the members of a particular community? Or does discourse ethics represent a false universalism?²⁵ Are normative claims, which remain independent of the substantive values of a society, able to resolve our moral questions or are they in need of further interpretative clarification?

Habermas states that because of the value pluralism of Western society, the only way we are able to come to agreement is by defining our moral norms in increasingly abstract terms. So instead of discussing norms that reflect or speak to particular situations, we must discuss general norms that are applicable in all relevant situations. Moral discourse on this level looks to find agreement on general or abstract normative expectations that are universal in nature. But it is unable to say how we are to understand them in a particular situation. Warnke questions such an approach. She claims that in order to even discuss a norm in the abstract requires participants to determine what the norm will mean for them. In any form of discourse one is always interpreting or

²⁴ Georgia Warnke, "Discourse Ethics and Feminist Dilemmas of Difference." In *Feminists Read Habermas*, edited by Johanna Meehan. (New York: Routledge, 1995), 249.

²⁵ *Ibid.*, 251.

evaluating what a certain claim means, or how it will be applied in a particular situation. As Warnke explains, “if any discourse over norms must specify what they are or mean, we seem to be already involved in questions of application that, in turn, engage our evaluative sensibilities.”²⁶ The point for Warnke is that to even accept a norm means that one must be able to understand it: to relate it to her own set of values or to relevant situations.²⁷ In order to clarify Warnke’s point, a practical example is in order.

One of the chief differences in the debate over contract pregnancy²⁸ is the concern over the autonomy of the surrogate mother.²⁹ Is the act of consenting to a contract that stipulates that the surrogate mother will carry a fetus to term and give the baby upon birth to the contracting parents a violation of her autonomy or an example of an autonomous act? The question in this case does not reflect a disagreement over the relevance of autonomy. We are not asking whether it is applicable in this case because both sides

²⁶ Ibid., 254.

²⁷ Ibid., 254.

²⁸ I am working with Warnke’s definition of contract pregnancy, which she gives in *Legitimate Differences*: “Surrogate mothering and contract pregnancy are terms that describe one of two arrangements. Either a woman agrees to be artificially inseminated with the sperm of a man in order to bear a child for him and his wife and is compensated for her services. Or eggs are harvested from one woman, fertilized in a petri dish by her husband’s sperm, and implanted in the womb of another woman, who brings the resulting fetus to term and is compensated for her services.” (*LD*, 31)

²⁹ I realize that the autonomy of the surrogate mother in the contract pregnancy debate is one of many concerns. The question of how we are to understand familial relations, the commodification of children, the possible social harms that result from the contracting out of one’s reproductive body, etc. are also important issues in the debate. As a result, I am not looking to offer a final solution, but rather just shed light on Warnke’s position.

believe that the autonomy of the birth mother is an important aspect of their argument.

Where they disagree, however, is over how to best understand and apply it in this case.

Lori B. Andrews, a proponent for the legality of contract pregnancy, claims that respect for women's autonomy requires that the option of becoming a surrogate mother should be open to women regardless of the potential risks involved. The government must not restrict the reproductive choices available to women, where it in effect chooses the kind of risks women should be allowed to make.³⁰ To do so would in fact be a violation of surrogate's ability to make her own decisions. Andrews goes on to argue that the claim that women are unable to give informed consent in contract pregnancy cases amounts to a step backward for the women's movement. Arguments that a woman cannot make an informed decision about carrying a fetus to term for another couple unless the potential surrogate mother has already had children, or that consent is not possible because of the hormonal changes women go through during pregnancy would mean that women are incapable of making their own decisions, which is degrading and would result in less autonomy for women.³¹ Although there are psychological risks involved that may lead to feelings of regret and doubt about the decision one makes, women should still be able to make that decision. Reproductive freedom, for Andrews, must allow women to make their own choices, even if they have some regrets about the

³⁰ Lori B. Andrews, "Surrogate Motherhood: The Challenge for Feminists." In *Surrogate Motherhood: Policies and Privacy*, edited by L. Gostin. (Bloomington: Indiana University Press, 1990), 171.

³¹ *Ibid.*, 172.

choices they have made.

Interestingly the opponents of contract pregnancy make the claim that the preservation of women's autonomy requires that it be forbidden under the legal code. Opponents claim that to allow contract pregnancy would in fact result in a violation of the surrogate mother's autonomy. Christine Overall points out that surrogacy relies on, and leads to class and sex inequalities.³² In the majority of paid surrogacy cases, the contracting parents are upper-middle to upper class white families who hire women of poorer economic classes. These women, Overall claims, are then subject to various forms of exploitation. They must undergo intensive and invasive background checks; they must surrender control over sexual activities, medical care, leisure time; and they usually have to obtain permission from the contracting couple (which in many cases means the father) to abort the fetus if medically necessary or if they so desire.³³ Even the money they are paid is grossly insufficient. Overall claims that surrogates usually receive payment of \$10 000 dollars for their services. If we consider that a surrogate mother is working 24 hours a day for 9 months, their pay works out to far less than minimum wage.³⁴ Overall goes on to point out that surrogate mothers are not given the same choices as women who choose ordinary adoption. Women in adoption cases are able to change their minds about

³² Christine Overall, "The Case Against Legalization of Contract Motherhood," *Human Reproduction: Principles, Practices, Policies*. (Toronto: Oxford University Press, 1993), 129.

³³ *Ibid.*, 129.

³⁴ *Ibid.*, 129.

surrendering the baby, a choice surrogates are unable to make.³⁵ As a result, women involved in surrogacy contracts are in fact given far less autonomy than women who are involved in typical adoption or pregnancy situations.

It would seem that an abstract notion of autonomy cannot offer much guidance in this matter. What is at issue is the way we should best ensure the autonomy of the surrogate mother, not a general abstract idea of autonomy that would be applicable in all similar circumstances. It seems to be the case that each side in the debate is relying on a different understanding of autonomy, which cannot be resolved at the moral level. Rather, it is a result of how we are to understand the surrogate mother's position. Should we respect her decision to enter into a surrogacy arrangement or should we forbid the arrangement altogether? Which one will best ensure that a loss of reproductive freedom will not take place? As Warnke points out in respect to the abortion debate, which I believe is equally relevant here, "we might say that both sides . . . take the same principles [of autonomy] to be justified and that what divides them is the way these principles are understood."³⁶

Moreover, the difference between Andrews's and Overall's position on the autonomy of the surrogate mother may even result in a difference over abstract principles. On the one hand Andrews argues for an idealized form of autonomy, where prime

³⁵ Ibid., 130.

³⁶ Georgia Warnke, "Communicative Rationality and Cultural Values." In *The Cambridge Companion to Habermas*, edited by Stephen K. White. (New York: Cambridge University Press, 1995), 132.

importance is placed on one's ability to make choices. While on the other, Overall relies on a more relational form of autonomy. She is looking to understand how one's autonomy is tied up with the autonomy of others. In this case, Overall claims that the autonomy of the surrogate mother is trumped by the contracting father. The importance of this difference is that it is informed by, and developed through the implications of the principle's application: how it stands up to real examples, what it means for the people involved. Habermas's discourse ethics is meant to meet a concrete ethical community halfway, where it is to be informed by and try to resolve the moral dilemmas that grip that community. But his approach for Warnke is pointed in the wrong direction. Habermas's "top-down" approach is unable to actually resolve the discord as it intends, because it asks the wrong type of questions. It is unable to take account of the particular and concrete concerns that inform our moral understanding. As a result, the basis for our differences is not a concern over norms that are universally applicable, but the way we interpret how best to apply those underlying moral principles.

The point for Warnke is that the resulting interpretive pluralism demands that we recognize and respect different ways of interpreting our dilemmas. She offers what she calls a "bottom up approach" that is meant to erase the distinction between moral and ethical discourse, where she links moral discourse with interpretation and evaluation that is informed by our cultural values and principles (*JJ*, 103). Agreement then comes no longer from the unforced force of the better argument, but is rather only possible where there is a sufficient overlapping of the agents's values and interpretations (*JJ*, 103). And in cases where there is little common ground, a respect for our interpretive differences is

in order, placing one in a position to learn from other ways of understanding.

II Warnke's Interpretive Pluralism

For Warnke, the most promising way to come to an understanding about our differences is to acknowledge their interpretive character. Too many times we frame our point of view in moral terms that take on an absolute nature. Since the moral point of view requires a right answer, we are at times unable to see that, on the one hand, there is the possibility of equally legitimate differing interpretations. And on the other hand, we fail to try to find common ground between them. As a result, Warnke advocates a particularly interpretive way of dealing with our differences. We must now understand our debates not as "moral debates over which principles we should adopt but rather interpretive debates over the meaning of the principles we already possess" (*LD*, 8).

Warnke looks to art and literary criticism, where the notion of difference plays a much stronger role in the critic's understanding of a text or work of art, as the basis for her approach. Here the critic expects many differences between other critics's interpretations and even within the same critic at different times.³⁷ This leads the critic to accept a position that many different interpretations of a text can be also legitimate, meaning that they are worthy of in-depth discussion and analysis. The point is that the critic does not necessarily want to try to resolve these differences or merely tolerate them.

³⁷ Warnke, "Discourse Ethics and the Feminist Dilemmas of Difference," 255.

Rather, she sees them as a way of checking and expanding on her own interpretation.³⁸ Difference is not always a matter of right or wrong. It can instead point to various ways of approaching a text, where one welcomes different interpretations as they shed light on aspects of the text one neglected or was unable to account for. But as Warnke notes this does not have to lead to a relativist position, which claims we cannot judge the validity of other interpretations. “We dismiss certain interpretations of a text or work of art as unworkable because they ignore significant parts of the text, fail to translate its language correctly, or make a shambles of its plot lines or characterizations. Yet, even if certain interpretations of a text or work of art can be wrong, we do not assume that only one interpretation of a text can be right.”³⁹ Even though we are unable to say that one interpretation gives the definitive explanation of a text, we do not have to slide into a position where we are unable to differentiate between acceptable and unacceptable interpretations.

Our standards for judging the validity of an interpretation is directed away from merely giving a yes or no response, to one of seeing if an interpretation is able to make light of the text it attempts to understand. The object of discussing a text is “that of examining, enriching, and developing our own evaluative and interpretive views, and not necessarily learning to agree with one another.”⁴⁰ The point for Warnke is that no

³⁸ Ibid., 256.

³⁹ Ibid., 255.

⁴⁰ Ibid., 257.

interpretation is able to fully account for the text or work of art as a whole. We must instead refer to many interpretations in order to develop a well rounded understanding. We must however, keep in mind that certain texts will be of little or no heuristic value. Some texts will be so alien to our own understanding that we will be unable to develop a bridge between it and ourselves, while other texts are antithetical to the notion of accepting difference. Racist or sexist texts are examples that are “distorted” to such an extent that we may not be in a position to learn from them. In such cases the point of the text is not so much one of critical evaluation, but of expounding forms of hate and intolerance. Warnke claims that we need to be able to identify such texts as ones that are not worthy of our consideration. She relies on Habermas’s distinction between distorted and undistorted forms of communication, which I discussed in the first chapter, to provide such a bulwark. For Warnke though, differentiating between undistorted and distorted forms of communication does not have to take on a universal character (*JJ*, 140). Instead of basing this distinction on the formal-pragmatic structure of language use, Warnke believes that we need to determine if the text looks to represent or speak on the behalf of another group without that group’s input into how they are characterized or depicted; to see if it represents them in a way that ignores or distorts their particular experiences or forms of life.

To understand the meaning of a text requires us to look at it in personal terms. We need to apply it to our own understanding and values, trying to create a bridge between the alien text and our own point of view. This notion of bridge building forms the basis of a hermeneutic political theory. Warnke claims that its task is to interpret

“shared social meanings, public values and common political traditions with the aim of formulating a conception of justice that is congruent with these” (*Jl*, 130). Our moral/ethical discourse needs to take the form of determining what we can learn from others, which will be conducted through a hermeneutic conversation that is oriented toward clarifying shared principles. Through such a process we are able to further develop our own understandings and help build a bridge or common ground between ourselves and others. As a result, our orientation toward our moral dilemmas changes from trying to determine which action or principle is morally right, to one of greater understanding. “The important question [becomes],” as Warnke puts it, “. . . how or why our interpretations differ and what new insights into the meaning of our traditions we might glean from the attempt to understand the cogency of interpretation different from our own” (*Jl*, 132).

Although the majority of our hermeneutic conversations will take place among people with whom we have developed a shared understanding, we must not become complacent about challenging our points of view. A full acceptance of the notion of interpretive pluralism requires that we not only learn from people of our own culture, but we must also expand our horizons to include people who hold radically different views from our own (*Jl*, 132). Interpretive pluralism is meant to teach us more than the fact that the political and moral traditions of others are valid. Rather, radically different traditions may be able to shed light on our own values and traditions, which could allow us to come to a better understanding of them.

The point for Warnke is that the recognition of difference requires us to take a

more global perspective, which is not necessarily “universal” in the way Habermas defines it. Habermas’s moral point of view is premised on a universal position that is decentred and non-biased. The standards upon which we are to judge the cogency of action-oriented norms must not reflect the traditions or values of any one cultural or historical community. But Warnke’s hermeneutic approach requires that our standards of evaluation must reflect our cultural values. Evaluation is in a sense personal. Our judgements will reflect what we are able to learn from and understand about another’s point of view. As Warnke notes, what is at “issue is no longer as much one of rightness or wrongness as one of continuing revision and reform” (*JJ*, 137).

Although the recognition of equally legitimate differing interpretations allow us to form a common ground between opposing views, it has not been said how we are able to make a decision on our moral and ethical differences. Even though interpretive pluralism may allow us to resolve our differences through an openness toward opposing views, it does not answer how we can determine the best course of action on issues where resolution is unforeseeable. This presents a similar problem for Warnke as for Habermas. By clarifying our values and exploring what they mean to us, we are taking an indirect route in trying to determine matters of public policy, which could result in its inability to help us resolve our troubling moral/ethical dilemmas. In response to this concern, Warnke relies on Nancy Fraser’s notion of need interpretation (*JJ*, 152).⁴¹

⁴¹ Warnke is referring to Nancy Fraser, *Unruly Practices: Power, Discourse and Gender in Contemporary Social Theory*. (Minneapolis: University of Minnesota Press, 1989), 161-187.

Warnke notes that Fraser develops a two-part schema for arbitrating between different need interpretations (*Jl*, 152). In the first part, one must be concerned with procedural considerations. One would look to see if our interpretations are exclusive or inclusive, or if they rely on or create a hierarchal or egalitarian structure between participants.⁴² The second aspect considers the consequences of differing interpretations. One would, for example, attempt to determine if an interpretation would result in disadvantaging certain participants while benefiting others, or see if some interpretations challenge social inequalities while others support them.⁴³

But Warnke goes on to point out that Fraser's two part schema is problematic in that it attempts to justify certain interpretations over others (*Jl*, 155). Political theory should not attempt to determine which interpretation is right or just. It should rather attempt to level the discursive playing field by giving less popular or more radical discourses the chance to equally participate.

The role of political theory. . . [is] threefold: insisting upon the fairness of the debate among different interpretations, uncovering the concrete social and economic factors militating against a fair, equal and democratic discussion and helping to articulate those interpretive perspectives to which the institutions and structures of the society as it stands do not give voice (*Jl*, 155).

As a result, Warnke does not reject either part of Fraser's two-part schema per se. But she also claims that its value does not lie in giving us the critical tools to determine one right interpretation over others. Fraser's two part schema rather gives us the means in

⁴² Fraser, *Unruly Practices*, 182, quoted in Warnke, *Jl*, 152.

⁴³ *Ibid.*, 182, quoted in Warnke *Jl*, 153.

which we will be able to better accommodate differing interpretations by providing a position (both procedural and consequentialist) from which we will be able to identify viewpoints that curb the acceptance of difference.

Warnke's answer to the concern over finding resolution to our moral debates only partly addresses the question of how to resolve our moral/ethical differences. She is content to say that the role of political theory should be only to provide the equal opportunity for interpretations to be heard. She believes that this can be best accomplished by excluding viewpoints that work to exclude differing opinions. Such an approach Warnke feels can bring us closer to resolving some of our differences because it compels participants to give an equal voice to opposing views and offers a possible self-educative function: the further development of one's own understanding. But Warnke believes that resolution should not be the primary goal of our moral discourse. It is in fact the idea that we must find resolution, a particularly "moral" ideal at that, which causes a lack of charity in the first place. The reason for this is that we always think *we* have the right answer and others do not. Although I believe that Warnke's interpretive pluralism provides an excellent position from which we can deal with some of our differences, I do not believe that it will be able to accommodate all of our concerns, especially our moral ones (in a Habermasian sense), which she claims it can do. The final section of this chapter will be a discussion of this concern.

III A Habermasian Response to Warnke

I would like to return to the debate over contract pregnancy in order to flesh out

some of the differences between moral and ethical concerns. In *Legitimate Differences*, Warnke claims that the majority of the debate over contract pregnancy is concerned with an opposition over “the meaning of motherhood and the autonomy and equality of women” (*LD*, 32). As I discussed earlier in this chapter, both sides seem to hold radically differing views over how we are to best understand the autonomy of the surrogate mother in contract pregnancy. Warnke claims that this difference is informed by another disagreement over the role of the surrogate mother and the effects this ‘untraditional’ role has on the family unit. Much of the debate has focused on clarifying the role of the surrogate mother (i.e., how best to understand the special character of women’s work, should the value of women be tied up with a nurturing role, etc.) in order to determine the best way to ensure her autonomy. The problem that Warnke sees with such an approach is that it will result in an attempt to develop one right interpretation of how best to ensure women’s autonomy (*LD*, 32). In contrast she takes as her starting supposition the idea “that there is no one correct or appropriate way to understand mothering or the relation between pregnancy, child birth, and liberty or equality” (*LD*, 32). By opening up the interpretive spectrum to include the possibility of more than one right interpretation of familial relations, Warnke notes that the focus of the debate changes dramatically. The predominant issue in the debate over contract pregnancy changes from a concern over autonomy and the role of mothering to the many different forms the family can take (*LD*, 32).

For Warnke, the debate over contract pregnancy can be best served by moving away from our moral concerns over autonomy to a more ethically based concern over the

way we are to understand the nature of the family. The reason for this is twofold. Firstly, as we have seen, the moral debate over autonomy has only led to irreconcilable differences between opposing views where neither side is able to learn from the other. Secondly, these moral differences amount to nothing more than different interpretations of the nature of autonomy which results from differing views on the nature of motherhood. Hence, they are only interpretive differences informed by one's vision of the good life. But can our moral concerns be reduced to only differences over values, which are then discussed in an interpretive and evaluative manner? Or is Warnke missing a valuable component of our moral concerns that her approach cannot account for? The possible infringement of the contracted child's autonomy, which is usually discussed as her enslavement or commodification, I believe provides such a counter example.⁴⁴

In the case of paid surrogacy, the contracting mother is paid an amount of money—usually \$10 000—for becoming pregnant, carrying the fetus to term, and giving the baby over to the contracting parents upon birth. Opposing views in this case argue over what the contracting parents are paying for. Proponents of contract pregnancy claim that the fee is for the services of the surrogate mother and the parental rights to the child after

⁴⁴ My shift to the discussion of the alleged commodification of the contracted child is not intended to imply that a similar argument cannot be made on behalf of the surrogate mother. The violation of the surrogate mother's autonomy also appeals to universal standards of freedom and equal dignity that cannot be adequately dealt with by Warnke's approach. I have decided to look at the commodification of children only because I believe that Warnke's comments on this issue provide a clearer contrast between the moral and the ethical, which will help explain why she cannot account for the former.

birth.⁴⁵ Opponents of contract pregnancy take a much different position. Christine Overall claims that it is not the parental rights that are at issue. But it is rather the child herself, for the simple reason that the parental rights to a child cannot be bought or sold.⁴⁶ She goes on to claim that the most important reason why contract pregnancy amounts to baby-selling is that if the surrogate mother changes her mind or the baby is stillborn she only receives a reduced fee of usually \$1 000.⁴⁷ As a result, the money the surrogate mother receives is meant to pay for a healthy baby.

So what are we to make of this debate over the argument that contract pregnancy is a form of baby-selling? Can Warnke's interpretive pluralism make sense out of this problem, or do we need to understand it as something more than just a difference over interpretation? Warnke claims that the baby-selling argument loses its force if we look at the value and love parents have for their children. She points out that parents love their children in many different ways, not all of which are altruistic. Even in cases where the parents want a child for what might be considered selfish reasons, such as a bone marrow match for one of their other children or as in earlier generations for help on the farm, they can still love and value them in other ways (*LD*, 49). Their love is not solely tied to the instrumental value the child brings to their lives. The point of this analogy is to show that even though the contracting parents paid a fee to the surrogate mother for the child, the

⁴⁵ Andrews, "Surrogate Motherhood," 170.

⁴⁶ Overall, "The Case Against the Legalization of Contract Motherhood," 122-123.

⁴⁷ *Ibid.*, 123.

surrogate and the contracting parents do not necessarily see the child as only a commodity.

But does Warnke's response adequately answer the charge of baby-selling? Overall claims that the contracting parents's love for, or the feelings of the surrogate mother toward the child does not adequately answer the charge of the baby-selling.⁴⁸ She notes that contract pregnancy does not necessarily have the best interests of the child in mind, because it violates the normal custody procedures that are meant to ensure the child's best interests are of primary concern.⁴⁹ But the most important reason why Warnke is unable to give a satisfactory response is because her ethical viewpoint is unable to account for the type of violation that results from this alleged practice. Her argument is based on the relationship between the surrogate mother and the child, and the contracting parents and the child. Since parents of any kind can love and value their children in more than one way, the act of selling or receiving a child for money does not constitute the whole of the parental relationship toward the child. But the argument against the commodification or slavery of human beings does not rest on how the 'slave traders' feel toward the enslaved. Rather, the commodification of other human beings points to a graver concern: the loss of equal human dignity that we must afford to *all* humans. No matter the circumstances in which the act takes place, if a certain act constitutes the enslavement of others it cannot be allowed. As a result, the question of

⁴⁸ Ibid., 123.

⁴⁹ Ibid., 123.

commodification takes on a universal moral perspective, because it violates a basic level of respect and dignity that we expect should be given to all human beings. And it is this moral perspective that cannot be adequately accounted for within Warnke's interpretive pluralism.

The point here is that certain moral concerns will take precedence over ethical ones. Although Warnke's discussion of the many different ways in which parents can love their children and the different family relationships that may result is important, a stronger moral concern takes precedence. The reason for this is that even though we may want to look at the different dynamics of a practice that affect our self-understanding and cultural institutions, the consequences and effects of actions that may harm others or degrade them as human beings require us to deal with them in a different way. They are concerns that need to be resolved in a Habermasian sense. Because of the possible consequences of such actions, tolerating disagreement will not do. Rather, we need to work toward agreement so we can be clear that our actions will not violate a general normative expectation we hold for all people. This does not mean that we must dogmatically assert our position on such matters. Such a stance will also not do. We must instead, work to find ways in which we can offer a solution that will result in all giving their consent.

So where does this leave us? If there are moral concerns that cannot be adequately dealt with under Warnke's interpretive pluralism, is it going to be possible for us to find a resolution to them? Warnke's argument is premised on the notion that our moral concerns can be best dealt with if we understand them as differing interpretations

of the same moral principles. She offers two reasons for this. Firstly, she claims that Habermas's moral viewpoint does not allow one to take an interpretive or evaluative stance that is crucial to understanding. Secondly, Warnke points out that framing our debates morally, where we look to resolve our differences through agreement, has led to exactly the opposite outcome. Each side believes they have the right answer and thus are unwilling to listen and learn from others. Although Warnke may be correct about the way many of our debates have been conducted, this does not apply to Habermas's moral point of view. Moral discourse to review, is premised on a decentred position that requires that we treat the views and opinions of others with the same respect as our own. It is informed by our moral feelings of indignation and resentment that result from a loss of dignity that we believe must be respected. The moral viewpoint also stipulates that our own standards or values are not the yardstick from which we are to judge the opinions of others. Rather, it requires an openness to others, where we treat another's position with the same consideration as one gives to her own point of view; a stance that is akin to the charitable standard guiding Warnke's interpretive pluralism.

Warnke's first premise holds if we are to understand evaluation as solely the product of the ethical realm. For Warnke, understanding is premised on being able to evaluate another's position in terms of the standards of one's own values and traditions: an approach that is rejected by Habermas's moral point of view. But this does not mean that participants are unable to evaluate and understand the positions of others in moral discourse. Endemic to the moral point of view is the ability of all participants to give a yes or no response to another's claim. To put it simply, to give such a response requires

that one judges and evaluates the cogency of the speaker's claims. The difference lies in that the standards from which such a judgement comes are informed by the moral viewpoint that is based on universal respect and dignity. Thus, the standards from which we judge the validity of certain actions cannot be viewed as simply the product of feelings and values of any one of the parties involved. They must rather, account for a generalized normative expectation that is a reflection of the beliefs and opinions of all the participants involved. This means for Habermas that a norm is valid only if "it could be accepted by *everybody* from the perspective of each individual."⁵⁰ Since the norm must account for a diversity of perspectives, participants must adopt an intersubjectively extended position, which requires each participant to determine through deliberation if the norm can be generalized from their own *and* the other participant's viewpoints. As a result, the standard upon which the norm will be judged will be a reflection of all the points of view of the participants involved in its deliberation, and not just a privileged set of values or beliefs.

But part of the question of the tenability of the moral point of view still remains. Although I have shown that there is a need for a moral viewpoint that is differentiated from the ethical, the universal perspective of Habermas's discourse ethics is still questionable. As Warnke points out, "[t]he task of moral and political philosophy cannot be to take a god's-eye view of this content and evaluate it according to standards independent of it because as moral and political philosophers we are already immersed in

⁵⁰ Habermas, "On the Cognitive Content of Morality," 344, emphasis added.

it.”⁵¹ So does Habermas, by offering a procedural moral theory that advocates a quasi-objective position, ignore the moral and ethical sensibilities of the participants involved? He offers a decentred and universal perspective that does not rely on the standards of any one culture. But does this entail that he neglects the moral sensibilities of the actual agents who must deal with our moral dilemmas? Charles Taylor in *Sources of the Self* offers such a criticism, asserting that Habermas’s procedural approach fails to articulate our underlying feelings and beliefs that inform our moral choices. Chapter 3 shall be an examination of Taylor’s criticism of Habermas.

⁵¹ Warnke, “Discourse Ethics and Feminists Dilemmas of Difference,” 257.

Chapter 3

Charles Taylor's recent contribution to the debate between neo-Kantians and neo-Aristoteleans has come in the form of a critique of procedural approaches to ethics in his *Sources of the Self*. His critique serves the purpose of laying the groundwork for his richly devised discussion of the sources of the moral and ethical outlook of post-Enlightenment culture. In this sense, Taylor attempts to show the difference between his substantive approach to ethics that places a considerable weight on the historical and cultural development of Western ethical values and intuitions, and moral theories that are merely derived from abstract principles that run counter to our own ethical tradition. Part of this criticism is directed against Jürgen Habermas's neo-Kantian-influenced discourse ethics, which prioritizes universal action-oriented principles over deliberations of the good life. Although the differences between Habermas and Taylor are quite large, it would be a disservice to only dwell on them. The reason for this is twofold: by looking only at the differences between the two, one would be neglecting the fact that their philosophical perspectives share a great deal. And through this investigation one can develop a richer understanding of where the two differ. So it would be prudent to digress in order to discuss some of these similarities.

On the most basic level both Taylor and Habermas attempt to develop a moral theory that is sensitive to the postmodernist's criticisms of modern philosophy, while still

avoiding the problem of subjectivism that neo-Nietzschean accounts run into.⁵²

Habermas and Taylor also come from a similar social democratic political perspective. They both offer a political theory that is rooted in a dialogical model of citizen-based participation that is concerned with recognizing the plurality of the modern polity without trivializing it. In fact the similarities between the two are so great that a current Frankfurt School theorist, Axel Honneth, claims that Taylor and Habermas offer similar major contributions to social theory by articulating versions of discourse that are free from domination. Thus, they advance a powerful strand of the critique of instrumental rationality that originated primarily in the work of Hannah Arendt.⁵³

Honneth goes on to point out similarities in their approach to ethics as well. He states that Taylor's and Habermas's grounding of ethical judgements allow for differentiations between "normal" and "pathological" types of social discourse.⁵⁴ One can see this especially in Taylor's grounding of moral sources. His project runs counter to what he calls the "naturalistic assumption," which asserts that it is possible for us to step outside our moral frameworks and adopt an objective and unbiased "view from

⁵² In fact Taylor's and Habermas's critique of postmodern thinkers is somewhat similar. They both try to articulate a middle ground between the modernist and their postmodern critics. Please refer to Charles Taylor, *Sources of the Self: The Making of the Modern Identity*. (Cambridge MA: Harvard University Press, 1989), 99-103 and Jürgen Habermas, *The Philosophic Discourse of Modernity* translated by Frederick G. Lawrence. (Cambridge MA: MIT Press, 1987).

⁵³ Axel Honneth, "Pathologies of the Social: The Past and Present of Social Philosophy," translated by James Swindal. In *The Handbook of Critical Theory*, edited by David Rasmussen. (Oxford: Basil Blackwell, 1996), 385.

⁵⁴ *Ibid.*, 393-394.

nowhere.” Since these frameworks are inescapable, Taylor frames the naturalist’s ideal in pathological terms. The characteristics that make up this ideal are seen from Taylor’s hermeneutic perspective as constituting an “appalling identity crisis.” “Such a person wouldn’t know where he stood on issues of fundamental importance, would have no orientation in these issues whatever, wouldn’t be able to answer for himself on them” (SS, 31). In other words, the naturalist’s ideal amounts to a negation of what constitutes an agent’s identity.

But this is where the similarities between the two end. Ironically it is through their articulations of moral and ethical judgments, which allow us to judge normal and pathological forms of discourse, that one can approach the differences in Taylor’s and Habermas’s moral outlook. The chief difference revolves around how both understand the role that ethical determinations—an orientation to the good life—play in constructing our moral viewpoint. To put it simply, Habermas’s discourse ethics, based on a neo-Kantian approach, prioritizes moral questions of rights and justice over determinations of the good life, while Taylor criticizes Habermas for this approach.

Taylor points out that Habermas’s discourse ethics takes a too reductive approach to moral questions. By sectioning off questions of the good life—which are based on hypergoods formed through qualitative distinctions—in favor of a moral theory that champions universal concerns such as freedom and dignity, he believes that Habermas is negating an essential aspect of what grounds our moral outlook. In fact Taylor notes that Habermas himself has to rely on making these qualitative distinctions in order to validate his own discourse ethics. He claims that the freedom and equality that it defends are

nothing more than hypergoods themselves, and thus must be understood as originating from the practices of particular historical communities. In effect Habermas is locked in a pragmatic contradiction because his theory must make use of certain hypergoods which it cannot recognize (SS, 88). If Taylor's criticisms are an accurate reflection of Habermas's discourse ethics, they will result in a devastating blow against a theoretical approach that attempts to synthesize both a moral and an ethical point of view. Unfortunately for Taylor his criticisms are short of the mark. The problem that Taylor runs into is that he is unable to identify the proverbial wolf that is covered in sheep's clothing. For Habermas, the moral viewpoint is not external to the sensibilities and intuitions of moral agents, as Taylor indicates. Rather, the moral point of view is internal to practical reason and thus finds its value from its use in discourse. As a result, although Taylor provides an effective critique of procedural approaches to ethics, he is unable to recognize that by taking a dialogical approach to ethics Habermas is able to offer an effective answer to his concerns; thus providing a theoretical approach that is able to accommodate both moral and ethical concerns.

I. The Connection between Morality and Identity: Taylor's Concept of Human Agency

Before I can discuss Taylor's criticisms of Habermas, I need to briefly develop the connection between our moral outlook and identity that Taylor draws primarily in Chapter 2 of *Sources of the Self*. Fundamental to Taylor's moral theory is the notion that frameworks are an inescapable part of the social matrix that constitutes our identity and

moral viewpoint. We develop frameworks through making what Taylor calls qualitative distinctions. These distinctions allude to aspects in our life and social space that we believe have priority. They indicate what one as an individual and as a member of a community values over other things. Taylor is not referring to minor judgements like preferring apple butter on your toast in the morning as compared to strawberry jam, but distinctions that point to the outlook of a particular community or individual. An example that Taylor discusses is the value that modern Western culture places on expressive freedom, which he defines as giving the power for individuals “to express and develop their own opinions, to define their own life conceptions, to draw up their own life plans” (SS, 25). This is contrasted with an earlier notion that individuals do not have the ability to decide for themselves on what to do with their lives, or how their life should have meaning. These decisions rather would already be made for them. For Taylor, this points to the fact that the particular distinctions we make are not eternal. We have not always believed in them. Rather, each individual and culture makes their own, which in turn is an essential part of our human condition.

The articulation of these qualitative distinctions is what makes up our cultural frameworks, which provides the background for our moral judgements, intuitions and reactions (SS, 26). In effect they provide the basis on which we can make certain decisions. For Taylor, the development and articulation of these frameworks also contribute to the formation of our identity. “My identity is defined by the commitments and identifications which provide the frame or horizon within which I can try to determine from case to case what is good, or valuable, or what ought to be done, or what I

endorse or oppose” (SS, 27). In other words, the constitution of human agency is determined by the development of “strongly qualified” frameworks. Underlying this belief is the premise that there is an intimate link between one’s moral outlook and identity. In fact the two are interdependent. One cannot have an identity without having a moral outlook and vice versa.

The interdependence of morality and identity leads Taylor to what he defines as his strong thesis: “I want to defend the strong thesis that doing without frameworks is utterly impossible for us; otherwise put, that the horizons within which we live our lives and which make sense of them have to include these strong qualitative distinctions” (SS, 27). Taylor’s point is that it is impossible for us to live without these frameworks because they are essential to who we are as human agents. They define what we believe to be the essence of our human condition. This is also the basis for Taylor’s scathing attack on what he terms the naturalist assumption that we can do without these frameworks, or slide between them at our will. As I indicated in the introduction to this chapter, the belief that we do not need these frameworks would lead to an identity crisis. In essence to negate our frameworks amounts to negating the primary source of what makes a particular individual *that* individual or a particular community *that* particular community.

In order to understand the importance of Taylor’s thesis, we need to look at little deeper into the connections between identity, morality and frameworks. As stated above, Taylor believes that our frameworks provide the orientation for our identity. This orientation is formed through the expression of one’s own feelings in the discovery of

one's moral horizon. Hence, the connection between our identity and the horizon in which it is framed is language. We have to be able to express to others our feelings about questions that concern us as moral agents. Our identity is socially constructed in a particular historical and moral space through discourse with others; otherwise put, without interlocution it would be impossible for one to form an understanding of oneself. This is why orientation is very important for Taylor. Since one is in dialogue with others, one has to be able to differentiate oneself from another. I have to know that I am the one who believes "that a," while it is my friend who believes "that b." Through this differentiation one comes to understand that certain beliefs and feelings are centered around oneself rather than around someone else, which in turn forms the basis for her identity.

It is also within discourse that one's self-understanding is formed. Through discourse one learns, on a simple level, feelings such as love or anger towards others, and on a more complex one, the formation of one's own set of beliefs and opinions. Taylor explains,

My self-definition is understood as an answer to the question Who I am. And this question finds its original sense in the interchange of speakers. I define who I am by defining where I speak from, in the family tree, in social space, in the geography of social statuses and functions, in my intimate relations to the ones I love, and also crucially in the space of moral and spiritual orientation within which my most important defining relations are lived out. (SS, 35)

The fact that we are selves because of our relation to others is inescapable. It forms the basis for what Taylor calls our transcendental condition. Upon having a grasp of our own language we will inevitably address ourselves to others. It compels us to engage with

others, to express our feelings and opinions to them and to listen to their responses. And it is through this articulation that one is able to form one's own set of beliefs; to develop one's own sense of who one is in comparison to others. Taylor points out that our transcendental condition not only applies to contexts of relating to one another face to face, but it includes "indirect confrontations" as well. Indirect encounters may include past writers, people/books from other cultures, etc. (SS, 38). The main point for Taylor though, is that the nature of our language makes interlocution—no matter the form—impossible for us to escape.

II. Moral Judgements, Qualitative Distinctions, and Hypergoods

In Chapter 3 of *Sources of the Self*, Taylor explicates the connection between moral thought and judgment. He is arguing against the prescriptivist and socio-biologist belief that it is possible to obtain an objective view and offer non-evaluative descriptions. He claims that this position is untenable for the simple reason that one cannot meaningfully separate the evaluative status of a term from its descriptive function. Since evaluation is part and parcel of the descriptive function, non-evaluative descriptions are incomprehensible. As a result, one cannot understand the meaning of a descriptive claim without trying to evaluate what the claim means or its importance (SS, 54). Although our moral judgments are caught up in the everyday use of language and thus cannot attain the neutral objective status that naturalism maintains, it does not mean that our evaluations of the good are devoid of any meaning at all. We must remember that since "our language of good and right makes sense only against a background understanding of the forms of

social interchange in a given society and its perceptions of the good,” they are not any less real, objective, or non-relative than any other part of the natural world (SS, 56). The end result of the loss of scientific objectivity is not the slide to subjectivism. As Taylor claims, something has meaning for us because we are moved by what good is in it, rather than that it is valuable because of our reaction to it; in other words, we are moved by its intrinsic value (SS, 74). In order to prove this point, Taylor claims that we need to break from our traditional understanding of moral questions.

Instead of understanding moral questions as attempting to ascertain what we believe we ought to do—questions that are concerned with our actions—we should concern ourselves with the type of questions (and answers) that allow us to make the greatest sense of our lives. We can judge our moral claims by determining which ones will, after deliberation and reflection, allow us to see ourselves in a better way than we did before. Taylor summarizes this approach in his BA principle: “The result of this search for clairvoyance yields the best account we can give at any given time, and no epistemological or metaphysical considerations of a more general kind about science or nature can justify setting this aside. The best account in the above sense is trumps” (SS, 58). The point of the BA principle is to allow us to still make judgments and thus avoid the relativist’s position, by taking into account our background assumptions and values which are rooted in everyday discourse. It allows us to have recourse to our strongly valued goods that we use for the purposes of deliberating, judging situations, etc. In other words, it links up our philosophic approach to moral questions to their everyday context in which we can understand them.

Most of us live with many goods that provide a framework for orienting our lives. Taylor explains that we rank these goods by making one of them of principal importance to the others. This provides the landmark for what one judges to be the direction of one's life, and thus plays a primary role in organizing one's identity. Taylor still maintains that we do recognize the existence of other goods, but his point is that we stand one of these goods in a qualitative contrast to the others. This notion of placing a hierarchy over the plurality of goods that affect our lives is what Taylor calls the formation of our "hypergoods." He defines them as "goods which not only are incomparably more important than others but provide the standpoint from which these must be weighed, judged, decided about" (SS, 63). Modern moral theory has had a penchant for making these types of qualitative distinctions. Taylor claims that both Kant and Habermas make this sort of a claim by arguing that questions that are concerned with rights and justice should take precedence over questions concerned with the good.⁵⁵ Making these distinctions is inevitable. So the question that remains is what is the best way to approach these hypergoods.

Taylor claims that there are two primary approaches we can take. The first one involves denying all other goods and only recognizing a single hypergood. The second approach asks us to affirm all goods by recognizing that they all, in their proper

⁵⁵ In fact, Taylor's point here goes to the heart of his criticism of moral theories based on a proceduralist approach. He claims that all procedural moral theories make an appeal to hypergoods such as freedom and equal dignity, as in the case with Kant and Habermas, in order to ground their moral principles. The problem they run into is that their theory must deny the existence of such goods, hence placing themselves into contradiction. I will elaborate on this point in subsequent sections.

proportion, contribute to the insights of those who are affected by them. The hypergood in this case would be the whole good life which amounts to all the goods together in their proper proportion, while hypergoods that take the moral viewpoint of justice through equal dignity are closer to the first approach (*SS*, 65-66).

III. Procedural Ethics and Basic Reasons: Taylor's Critique of Habermas

Procedural approaches to ethics rely on an external model of practical reason, where giving a reason implies offering considerations or reasons that are not embedded in our normal intuitions. Its purpose is to convince someone who is unmoved by the vision of the good, which she is asked to accept, by relying on an external principle that the hearer must acknowledge as having normative force (*SS*, 75). Taylor claims that procedural approaches rely on a "basic reason." Basic reasons, such as Kant's categorical imperative or Habermas's principles of universality (U) and discourse ethics (D), are meant to give a reason for why one should perform a certain action. The relationship between the action and reason is asymmetrical. The basic reason makes a certain action obligatory, while the action itself does not contribute to the justification of why one ought to follow the basic reason. So in a sense the basic reason is sectioned off from the action that it intends to influence. This causes cognitive and motivational problems for the theory that uses them. Although a basic reason shows why one should perform a certain action, it is rather unconvincing in that it is unable to account for the assumptions that would allow one to believe in the rule in the first place (*SS*, 76). Without recourse to the background assumptions that give force to our moral insights, it is not altogether certain

that one will be able to convince another of the basic reason's validity or why one should follow it.

The use of a basic reason runs counter to Taylor's vision of the good developed through qualitative distinctions. Taylor believes that we do not need basic reasons to articulate and argue about our moral understanding. He thinks that qualitative distinctions perform the same function as a basic reason, but in a much more convincing fashion because they allow us to articulate what underlies our moral/ethical choices. It is this belief that underlies Taylor's critique of Habermas. Because Habermas's discourse ethics offers a basic reason for one to follow a particular norm, his moral theory denies the fact that we make qualitative distinctions that are informed by our moral feelings and sensibilities. Habermas's moral theory is primarily concerned with determining the right action one is obligated to do, while qualitative distinctions offer us a clearer sense of the good life that articulates all of our moral intuitions. As Taylor puts it, "[t]he focus [of Kantian moral theories] is on the principles, or injunctions, or standards which guide *action*, while visions of the good are altogether neglected. Morality is narrowly concerned with what we ought to *do*, and not also with what is valuable in itself, or what we should admire or love" (SS, 84, emphasis found in the original text). Qualitative distinctions are able to provide what Taylor describes as a "language of thick description." They provide a much richer way of articulating the significance or importance that actions or feelings have within a particular culture.

Habermas grounds his discourse ethics through linking his basic reason, which supposes that an action-oriented norm is justified only if *all* could accept it without

coercion, to universality. The key here is that a norm's justification rests on gaining the assent of all relevant participants. To review, he grounds his approach through two separate principles. The first principle (U) is the principle of universality. It acts as a bridging principle between normative claims and truth claims, where it attempts to give normative claims an analogous status to that of truth. The second principle (D) functions as a regulating principle for his procedural approach to ethics. It acts as the guiding rule that must be followed in order to justify norms.

Taylor claims that the basis for Habermas's approach is to articulate the "free self-determination of diverse people." By attempting to give all relevant participants an equal voice in the determination of moral norms, Habermas relies on hypergoods such as freedom and equal dignity as the basis for his approach. His theory would not make sense, nor carry any weight if it did not rely on these goods. The problem for Taylor is that Habermas leaves "huge gaps" in his theory. He is unable to capture the background understanding that articulates the importance of freedom and equal dignity for us.

Habermas, says Taylor, "cannot capture the peculiar background sense, central to much of our moral life, that something incomparably important is involved" (SS, 87). Habermas attempts to seal off demands of universal validity (moral concerns) from goods that will differ from culture to culture. The idea behind this is that a universal moral theory must be able to make claims that will not in the end be dependent on a particular culture, but rather validity claims must be able to meet the assent of *all* and thus override cultural boundaries. But we are left asking the question: Why is this necessary in the first place? Why do we need a moral theory that is truly universal? Or more importantly, what costs

do we incur to our own culturally defined moral understanding by advocating such a theory?

IV. The Participant's Perspective: A Response to Taylor

Central to Taylor's criticism of Habermas is the notion that any procedural approach to moral questions will not be able to account for the ethical sensitivity they require. The ethical will have to be neglected for the moral, which will result in an overly sacrificial approach because the procedurally defined moral theory will be unable to adequately accommodate our concrete intuitions that inform the ethical point of view. Although Taylor's critique of procedural ethics may be accurate for other neo-Kantian approaches (a claim I can neither substantiate nor refute), it falls short of its mark when one takes a closer look at discourse ethics. In fact Taylor's criticism of Habermas is based on a misunderstanding of the central tenets of a discursive approach to morality. The moral point of view is not based on an external basic reason as Taylor claims, but is rather based on a dialogical model of morality that is developed from the perspective of participants in practical discourse. In order to answer these criticisms, we have to look at the analytical division that Habermas makes between ethical and moral forms of discourse.

As we saw in the first two chapters moral concerns can only be arbitrated by all participants taking the moral viewpoint: one must be open to the experiences and feelings of the other participants in discourse, giving the same consideration to another's point of view as one would give to one's own. For Habermas, the moral point of view is akin to

George Herbert Mead's "ideal role taking," which elicits the social-cognitive presuppositions of universal discourse.⁵⁶ In order to maintain impartiality all participants in a universal discourse must adopt the perspectives of all others in an equal and reciprocal balancing of interests (*MCCA*, 65). This requires that each participant takes a hypothetical, argumentative stance toward norms and modes of action whose validity has been placed into question, where they discuss all the relevant consequences that would be involved in the implementation of the questioned norm or principle.⁵⁷

Habermas's moral viewpoint is meant to be abstracted from the beliefs of a particular culture or community, which is what concerns Taylor. But this does not mean that Habermas excludes or neglects the context of moral feelings and intuitions where these questions find their relevance; thus excluding questions that take an ethical point of view. Because the moral point of view is derived from the perspective of participants involved in discourse, it cannot be abstracted completely from the context of everyday communication. Rather, it has to meet an actual community of interlocutors halfway, where participants try to approximate the ideals of the moral point of view.⁵⁸ Although it

⁵⁶ Jürgen Habermas, "Justice and Solidarity: On the Discussion Concerning 'Stage 6,'" 40.

⁵⁷ *Ibid.*, 42-43, and *JA*, 12.

⁵⁸ Although Habermas is quite vague about how participants are to approximate the ideals of the moral point of view, it is still possible to describe some concrete examples that point to this form of discourse. When agents attempt to reach an understanding with others they implicitly rely on the ideals of participating in a fair and open discourse. If we are genuinely concerned with convincing another of our position, we naturally must be concerned with the position of that other person. This is evident in the fact that we try to tailor our reasons to accommodate the concerns raised by our

places constraints on the interlocution of members of a community in moral discourse, it receives its meaning and validity only from that community because the norm's validity can only be determined by the consent of all the actual persons who participate in its deliberation. Moral questions can arise only in the space of an actual discourse, they are meant to repair a rift in a background consensus that previously existed. Thus, moral questions are not devoid of a background web of moral feelings, but rather find their weight only within such contexts. But this does not mean that moral norms are any less universal. Although they are validated through an actual discourse, the scope of the norm is still universal in nature. Since it must receive the consent of all who are affected by its application, the validity of the norm becomes universal in scope as it points to a consensus of participants who transcended their own egocentric position and looked to determine what could be just for all.

Habermas believes the impetus for such an approach is that ethical considerations are unable to fully take into account this impartiality, which leaves them open to ethnocentrism. Ethical questions take their orientation from the telos of a particular life or community. As a result, expressions that are alien to one's form of life can only acquire significance to the extent that they are shown to relate to that particular life-form.

partner in discourse. We thus attempt to take a generalized position that looks to determine if our reasons could be accepted by the people we are trying to convince. If our conversation pertains to questions of human rights or other questions of justice, we seem to come closer to approximating the conditions of the moral point of view. In concerns over justice or human rights the standard that validity claims must attain are based on a decentred position. We do not necessarily try to find out what is good for us or what best accounts for our way of doing things. Rather, we try to determine what is right for all, where our norms reflect a common will that is the construct of all participants.

For example, Taylor asserts that we can only positively judge the expressions of others to the extent that they make sense of our own life (the BA principle). Ethical feelings must be expressed within the framework of an intersubjectively shared form of life. They can only be framed within a particular historical community (*JA*, 6). Thus, they are not judged from an impartial or generalizable position, but rather from the standards and principles of a shared form of life. Habermas sums up the difference between ethical and moral concerns by stating that in the case of ethical discourse “what is being asked is whether a maxim is good for me and is appropriate in the given situation, [and in reference to moral discourse], whether I can will that a maxim should be followed by everyone as a general law” (*JA*, 7). As a result, the moral outlook performs a particular function that an ethical viewpoint is unable to account for. Without abstract universal principles, as Habermas claims, our standards of judging conflicting principles will be only from a particular ethical point of view.

Unfortunately Habermas’s analytical distinction between the ethical and moral viewpoints does not in itself answer all of Taylor’s central criticisms. Taylor at this point is able to retort: Is not Habermas just advocating a procedural moral theory that neglects its cultural relevance? Although he claims that the moral point of view can only find its relevance in its everyday use, it is still developed from a basic reason that is external to our moral intuitions, which in turn does violence to the ethical questions that Habermas tries to preserve. As Taylor points out, a moral theory that is based on the primacy of the right over the good does not exclude questions of the good life altogether, but rather restricts their use in such a way that they are rendered ineffectual.

The problem with Taylor's criticism is that it neglects the actual 'source' of Habermas's moral point of view. Habermas's procedural approach is not derived from a philosophical principle that is outside our moral intuitions. Rather, the moral viewpoint finds its force from the pragmatics of language use. Since the moral viewpoint is derived from an intertwining of participants taking the position of the other, it is able to offer a position of impartiality without divorcing itself from the performative attitude of the participants (*JA*, 12-13). "Moral-practical discourse represents," as Habermas explains, "the ideal extension of each individual communication community from *within* . . . the will determined by moral grounds does not remain external to argumentative reason; the autonomous will is completely internal to reason" (*JA*, 13, emphasis added). Taylor is right to claim that discourse ethics attempts to formulate standards that are external to any one particular community. But it is still grounded in the sensibilities or intuitions of actual interlocutors involved in discourse. As I noted earlier, the development and use of discourse ethics is premised on the presuppositions of the everyday communication of participants attempting to reach an understanding.⁵⁹

⁵⁹ In footnote 58 I give a description of some concrete examples of communication that is oriented toward reaching an understanding. The connection between the moral point of view and the pragmatic structure of language use is also evident in the feeling of resentment one feels when she believes that her voice is being silenced. We feel offended because we believe that we have a right to be heard. This is not necessarily because we feel we have something to say, but rather because we believe we have a right to be heard on matters that concern us. This type of moral resentment is not only a result of the value our culture places on the freedom of speech or to be included in on decisions that effect us. Rather, the resentment over being silenced is a natural consequence of a communicative form of discourse. Since communicative discourse holds a strong position on inclusion, which all of us at least implicitly share, when we feel that such an expectation has been violated we are naturally greatly

Habermas does not want to separate the moral viewpoint from our moral feelings and intuitions. His point is rather that the source of those feelings and intuitions come from language use itself and not from hypergoods as Taylor claims. Even though discourse ethics makes use of goods such as equal dignity and modern freedom that go back to the Enlightenment, his denial that they are hypergoods is not inconsistent. The notions of equal dignity and freedom are natural consequents of the moral point of view. Attempting to reach an understanding with others in discourse compels participants to take the view of others and thus partake in the reciprocal recognition of one's and other's perspectives. When we try to convince another of our position we must be responsive to their feelings and concerns, trying to account for them within our own understanding. As a result, the equal dignity that we bestow on others results from our attempts to engage with them in discourse, and reach an understanding with them, where both our positions contribute to the formation of a collective will.

Part of the problem of motivation that Taylor raises can be solved by the practice of moral argumentation. Taylor's claim rests on the fact that since Habermas's 'basic reason' is external to the sensibilities of moral agents, it is unable to provide a convincing reason for why one would want to accept it. But as we have seen, the moral viewpoint is in fact grounded in the presuppositions of argumentation. This means that one can point to the fact that its basis is found in the way that we partake in conversation with others. Furthermore the skeptic who attempts to refute this claim is caught in a self-referential

offended.

problem. By attempting to *argue* against grounding moral principles, the ethical skeptic “cannot adopt a standpoint outside the situation defined by the fact that he is taking part in a process of argumentation” (*MCCA*, 81). As a result, she must rely on the very same presuppositions of argumentation that she in the end is attempting to refute.

Although Habermas is able to effectively show that moral discourse is indeed a fundamental part of our communication practices, he is unable to fully answer the question of why be moral. He is left with only referring to the fact to deny it would be inconsistent. He still has to convince his interlocutor to be moral. But the motivation to act morally can be only answered by the effectiveness of the moral norms themselves. Since they are based on the consent of all relevant participants in discourse, their legitimacy stands and falls on their ability to stand against all other rival claims. In any event this becomes a question that must be addressed in an actual moral discourse. As a result, the moral philosopher is somewhat at a loss. Contrary to Taylor’s substantive approach to ethics, Habermas points out that moral questions must be ultimately decided in a real discourse. The moral philosopher does not have a privileged position from which to stand and arbitrate the formation of moral claims. She must rather take the position of a participant in discourse along with others and deliberate on what is right and just, where her position does not necessarily take greater priority than that of any other.

In sum, part of the difference between Habermas and Taylor rides on the distinction between a procedural and substantive approach to moral theory. But as I attempted to show this difference does not imply, counter to Taylor’s claim, that a procedural approach must separate itself from the same moral feelings and sensibilities

that substantive approaches to the good rely so heavily on. Rather, Habermas's discourse ethics finds the source for the moral point of view in the universal pragmatics of language; thus offering a strong impartial position that ethical deliberations are unable to account for.

Conclusion

The chief strength of Habermas's discourse ethics lies in its ability to incorporate the strengths of the hermeneutic approaches to ethics of the good, while still maintaining a strong Kantian distinction between moral and ethical concerns. The poignancy of Georgia Warnke's interpretive pluralism, I believe, rests with her attempt to acknowledge the plurality of our values while avoiding the relativist's position. One of the greatest problems with contemporary debates over moral or ethical questions has been our lack of charity toward the position of others. Although we may remain tolerant toward others who differ from us, we usually never place ourselves in a position to learn from them. Warnke picks up on this problem and advocates an approach that is premised on acknowledging the fact that differing points of view may be able to offer an insight into our own beliefs and opinions. Thus, moral/ethical discourse is no longer oriented toward finding the single right thing to do, but must rather explore our differences so we can improve our own understanding.

The problem that Warnke runs into is that she is unable to acknowledge our need to find a resolution to certain moral questions. When an action may violate the dignity or the autonomy of another human being, we cannot remain ambivalent about its moral status. This is where Habermas's moral point of view comes into play. The idea behind discourse ethics is to offer a way to resolve our moral differences under the rubric of a strong universal position. By stipulating that moral norms must receive the consent of all

need of answers. But what separates Habermas's approach is that moral discourse that seeks the consent of all relevant persons does not result in the erection of solitudes that Warnke so rightly tries to avoid. At the heart of discourse ethics is the stipulation that participants involved in moral discourse must view the opinions of others with the same consideration as one views one's own position. One does not judge validity claims based on one's beliefs alone, but rather looks to see if they represent a position that can be agreed to by all. Thus, we must remain open to others and find ways of resolving our differences.

Although in Chapter 2 I argue for the need to maintain a particular moral point of view that is defined by Habermas, I did not really test his justification of discourse ethics. This test is found in the third chapter where I discuss Charles Taylor's critique of procedural approaches to morality. The reason I discuss Taylor's critique is that it challenges some of the most basic principles of a dialogically based deontological moral theory. He raises a similar charge as that of Warnke in that he questions the ability of discourse ethics to articulate the moral feelings and sentiments of actual moral agents and still maintain a deontological universal position that is not based on any one culture or tradition. Taylor believes that discourse ethics is unable to accomplish this goal as it finds itself mired in a performative contradiction. But as I tried to show, by relying on the formal pragmatics of communication oriented toward reaching understanding, Habermas is able to draw upon a source for his moral viewpoint that goes beyond the contingent values or standards of a particular culture and tradition. Habermas's insight here lies in his recognition of a need to find a practical justification for his moral theory without

giving up on the universal perspective, which holds that norms must find validity from all.

And finally, I have been drawn toward discourse ethics because of its ability to synthesize what at first view seems to be mutually exclusive approaches to moral/ethical questions. I have devoted these three chapters to attempting to prove this difficult point. But it has not been my intention to claim that Habermas' discourse ethics is either without its flaws or could maybe learn more from hermeneutics.⁶⁰ Rather, its importance is a result of its ability to provide the most fertile ground from which to develop a nuanced approach to ethics: one that can say that all sides of the debate have something important to contribute, and that it is possible to incorporate the insights of the one into the other.

⁶⁰ Two out of many examples are, (1) as I stated in Chapter 3, Habermas is a little unclear about the practical implications of approximating the ideals of the moral point of view, (2) I think that Warnke's interpretive pluralism could provide a good corrective for Habermas's definition of the ethical viewpoint.

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