The Cambridge Companion to
HABERMAS

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6 Communicative rationality and cultural values

In elaborating his theory of communicative action, Habermas distinguishes the scope of rational agreement available to theoretical and practical discourse, on the one hand, from that available to aesthetic criticism, on the other. In doing so, he distinguishes moral norms from cultural values and questions of justice from questions of the good life. In this essay, I want to examine the grounds Habermas finds for this distinction and explore the conception of communicative reason on which it rests.

I. COMMUNICATIVELY ACHIEVED AGREEMENT

The general question with which Habermas's account of communicative rationality begins might be reconstructed as the question of how language has the ability to coordinate action in a consensual or cooperative way as opposed to a forced or manipulated one. In other words, how does the employment of language in contexts of interaction produce mutual agreement on a course of action, a fact in the world, an aesthetic evaluation, or an expression of intention, desire, need or the like? The presumption here is that there is a difference between consensual agreement and simple compliance and Habermas grounds this presumption in a reconstruction of the pretheoretical knowledge of competent speakers and actors. Competent speakers and actors can themselves distinguish the cases in which they are attempting to come to agreement with others from the cases in which they are using any means possible to bring about compliance, including deceit, manipulation, or outright coercion. Moreover, according to Habermas even this capacity to force compliance can be shown to rest on the possibility of acting communica-

tively. That is, the "communicative" use of language to reach agreement is the "original" mode of language use upon which its "strategic" use to bring about compliance "is parasitic."[1] In order to make this argument Habermas turns to Austin's distinction between illocutionary and perlocutionary effects.

Austin distinguishes the locutionary aspect of a speech act which designates its propositional content ("p" or "that p") from its illocutionary and perlocutionary aspects. By its illocutionary aspect he refers to the action a speaker performs in saying "p" or "that p," in other words, to such actions as promising, avowing, or commanding. By perlocutionary acts, Austin designates the effect the speaker produces on the hearer. For his part, Habermas distinguishes between two sorts of illocutionary effect – first, the understanding and, second the acceptance of a speech act offer – and three sorts of perlocutionary effects.[2] A perlocutionary effect$_1$ refers to that effect that the speech act produces on the hearer merely because of what follows from its meaning; this sort of perlocutionary effect thus counts as a grammatically regulated one. By a perlocutionary effect$_2$, Habermas refers to an effect on the hearer that is not grammatically legislated by the speech act itself but that could be revealed to the participants in the communication without affecting their understanding and acceptance of the speech act offer. Finally, perlocutionary effects$_3$ refer to those effects that are not grammatically legislated by the speech act and that could *not* be revealed to the participants in the communication *without* affecting their understanding and acceptance of the speech act offer.

Suppose, then, that a hearer understands and accepts a request that she give Y some money. Understanding and accepting the request, are its illocutionary effects. That the hearer actually gives Y some money is a perlocutionary effect$_1$. If the hearer thereby pleases her husband, this perlocutionary effect$_2$ could be a consequence of which she could be aware without changing the course of her action. But if the speaker is trying to convince her to give Y money so that Y can commit some sort of crime and her prior knowledge of this consequence must be prevented if the speech act offer is to succeed, then her giving Y the money is a perlocutionary effect$_3$. This third kind of perlocutionary effect is allied with strategic action insofar as it eschews consensual cooperation and depends on causal inducements, in this case deceit. But the example also shows that perlocu-

tionary effects$_3$ depend upon the illocutionary effects in which hearers can understand and accept speech act offers. That is, only because a hearer assumes that the speech act offer is oriented toward mutual understanding and accepts it at face value can the offer have a hidden strategic influence. As Habermas writes, perlocutionary effects$_3$ are possible only "if the speaker pretends to pursue the illocutionary goal of his speech act unreservedly and thereby leaves the hearer unclear as to the actually present one-sided infraction of the presuppositions of action oriented towards understanding."[3]

But if communicative and strategic uses of language are distinct and if the communicative use is "original," how is it possible? How does a speech act offer issue in cooperative acceptance and agreement? Habermas argues, first, that accepting a speech act offer requires accepting all the grammatically regulated effects that follow from it. And he argues, second, that the possibility of accepting these effects rests on the guarantee that the speaker implicitly raises to redeem the validity claims contained in the speech act offer if challenged. If, for example, a speaker tells a hearer that rain will ruin a vacation the hearer has planned, the ability of the hearer to understand this claim, to accept it as a good prediction, and to act accordingly depends upon knowing the conditions under which the validity claim that it will rain could be accepted. But knowing the "acceptability conditions" of this claim, in turn, requires knowing the sorts of reasons or evidence that the hearer could point to in order to support it. Hence, the ability of the hearer to coordinate her action cooperatively depends on the sort of warranty that the speaker can offer for her claim. As Habermas writes, "A speaker owes the binding . . . force of his illocutionary act not to the validity of what is said but to the coordinating effect of the warranty that he offers: namely to redeem, if necessary, the validity claim raised with speech act."[4]

At issue in a prediction of rain is a claim to the truth of the statements contained in the speech act offer. But hearers can challenge validity claims in other dimensions as well. If a speaker says, "I am hereby ordering you to stop smoking," the hearer's ability to accept the order depends upon knowing the normative or institutional conditions under which the order would be legitimate. There is a difference here, Habermas insists, between backing this claim with power – for instance, with the threat of sanctions – and invoking le-

gitimate authority for the order. If speaker and hearer are to arrive at a communicative agreement, then the speaker must be able to refer to existing norms and regulations concerning smoking and the hearer must be able to adopt what Habermas calls a "yes or no" attitude toward their legal or moral-practical validity. Again, the ability of the claim to lead to the coordination of action depends upon the speaker's implicit guarantee that she could point to evidence that would support the claim to the rightness or appropriateness of both the order and the norms or regulations backing it if the hearer challenged her to do so.

Just as the prediction that it will rain on someone's vacation raises a claim to truth, the order cited above raises a claim to normative rightness. Statements that Habermas refers to as expressive self-presentations raise validity claims to truthfulness or sincerity. If a speaker says that she intends to visit her grandmother, the condition of accepting this speech act offer is a hearer's satisfaction that the speaker really does intend to do as she says. To this extent, the conditions of acceptability of the speech act offer continue to depend upon the implicit guarantee the speaker offers with her speech act to redeem the validity claim if challenged.

But if the acceptability of speech act offers rests on the possibility of redeeming the validity claims they contain, then the acceptability of speech act offers is also tied to reason. Language has the ability to achieve mutual understanding and to coordinate action in a consensual or cooperative way because its original, communicative use involves raising validity claims and supporting them if challenged. Thus Habermas ends the statement I cited above by arguing that "In all cases in which the illocutionary role expresses not a power claim but a validity claim, the place of the empirically motivating force of sanctions . . . is taken by the rationally motivating force of accepting a speaker's guarantee for securing claims to validity."[5] And as he writes elsewhere, "Both ego, who raises a validity claim with his utterance, and alter, who recognizes or rejects it, base their decisions on potential grounds or reasons."[6]

But what concept of rationality is required here if we are to make sense out of the way reason grounds mutual understanding and the cooperative coordination of action? Since Habermas's answer to the question of how language makes understanding possible points to the "validity basis of speech," we now need to explore the concept

of reason that is suitable to the function of redeeming validity. In order to do so, I shall return to the "preliminary specification" of rationality with which Habermas begins *The Theory of Communicative Action*:

II. "RATIONALITY – A PRELIMINARY SPECIFICATION"

Habermas's account of Western rationality begins with the assessment of teleological or goal-directed actions. To the question of what concept of reason supports claims to validity, the answer on a "cognitive-instrumental" view is simply that concept which assumes certain goals or life plans as given and focuses on the most effective means of achieving them. Habermas claims that this concept "has, through empiricism, deeply marked the self-understanding of the modern era."[7] But he also contends that crucial to it is its connection to criticizable knowledge. Teleological actions presuppose knowledge about the situation in which one wants to intervene as well as knowledge of what means are available and what the consequences of the action might be. In all these respects, however, we can be mistaken and we can be shown to be mistaken by others who can point to consequences, circumstances, or means that we have overlooked. But once we acknowledge the criticizability of our knowledge, we have already expanded the concept of rationality beyond narrow instrumental dimensions to include an assessment of the presuppositions or assertions in which we claim effectiveness for our means and truth for our knowledge of situations and consequences.

Goal-directed actions and assertions, Habermas claims, involve the same knowledge content employed in different ways. In the first case, propositional knowledge allows for a successful intervention in the world while in the second case, it allows for "an understanding among participants in communication." Both forms of knowledge are susceptible to criticism insofar as both contain knowledge that can be contested. We can be wrong about the situation in which we intervene to realize our goals and we can be equally wrong about the claims we assert as objectively true. Still this difference affects the concept of rationality. Whereas the rational adjudication of a teleological action involves the – potentially monological – assessment of its actual success, with regard to the expression of the prop-

ositional knowledge presupposed by the action rational adjudication involves the – necessarily dialogical – capacity to defend one's beliefs and assertions against challenges and hence to give reasons that others can accept.

But if this is the case, it becomes clear that reason has a still broader application than that pertaining either to the assessment of teleological actions or to the defense of the propositional knowledge embodied in assertions. If, in these cases the idea of rationality is connected ultimately to the willingness to defend criticizable validity claims, then this connection also applies to other sorts of expressions in which we also raise criticizable validity claims and also try to defend them. As Habermas writes:

> In contexts of communicative action, we call someone rational not only if he is able to put forward an assertion and, when criticized, to provide grounds for it by pointing to appropriate evidence, but also if he is following an established norm and is able, when criticized, to justify his action by explicating the given situation in the light of legitimate expectations. We even call someone rational if he makes known a desire or an intention, expresses a feeling or a mood, shares a secret, confesses a deed etc., and is then able to reassure critics in regard to the revealed experience by drawing practical consequences from it and behaving consistently thereafter.[8]

Hence, only if we withdraw the concept of rationality entirely from intersubjective communication, can we restrict its province to the instrumental domain. But we cannot do this unless we also accept a naive realism according to which there is no need to ground our beliefs about the world in consensus because the world is immediately and identically accessible to all without intersubjective checking or collaborative interpretation. Once we move beyond "the ontological presupposition of an objective world," however, to an inquiry into the way in which "the world gains objectivity" by "*counting* as one and the same world *for* a community of speaking and acting subjects,"[9] we have moved to a communicative concept of reason that also must include the way in which norms, expressions, and evaluations count as valid.

We saw earlier that the power of language to coordinate cooperative action lay in the rational or validity basis of speech. We have now seen that the concept of rationality must extend beyond the question of the rationality of assertions or teleological actions to

include a wider spectrum of contexts in which validity claims are raised and redeemed. Still, Habermas insists that the logic of rationally redeeming validity claims differs depending upon their structural or "formal-pragmatic" features. Claims to the truth of statements and rightness of actions or norms of action require a discursive justification to which claims to truthfulness or sincerity are not subject. Habermas also exempts from discursive justification "a type of expression that is not invested with a clear-cut validity claim, namely, evaluative expressions."[10] These are such preferences and desires as the "desire for a vacation," a "preference for autumn landscapes" or the "rejection of the military" and, in his view, stand midway between merely subjective self-presentations and normative regulations. In order to get clearer on the distinctions with which Habermas is concerned here and, particularly, on the distinction he asserts between normative questions and questions of the good life, I shall turn to his analysis of discourse, on the one hand, and aesthetic criticism, on the other.

III. DISCOURSE AND AESTHETIC CRITICISM

Habermas's argument for the discursive redemption of the validity claims of truth and rightness looks to the pragmatic structure of communication oriented to understanding in these cases. In considering or deliberating about disputed claims to truth or normative rightness what must the participants to the discussion presuppose? In the first place, if acceptance of the disputed claim is to be cooperative and based on reasons, then the communication must be one in which participants are free to raise and challenge claims without fear of coercion, intimidation, deceit, or the like and in which all have equal chances to speak, to make assertions, self-presentations, and normative claims and to challenge others. The point here is that we can only be said to have redeemed a disputed claim if all can assent to the reasons given in its support and hence if all have equal chances to raise challenges and assert claims. In the second place, if the communication is to secure the validity of a disputed claim it must follow certain rules: "Participants thematize a problematic validity claim and, relieved of the pressure of action and experience, in a hypothetical attitude, test with reasons, and only with reasons, whether the claim defended by the proponents rightfully stands or

not."[11] Finally, following Toulmin, Habermas claims that the product of the communication must have a certain general structure; it must form a conclusion with a ground obtained by means of a rule (such as a rule of inference) and backed by certain forms of evidence.

Taken together, these "formal-pragmatic" aspects of validity securing communication constitute a theory of discourse. To the extent that speakers and hearers are concerned to reach agreement over a disputed claim to truth or rightness, they necessarily make certain assumptions about the structure of their argumentation. They assume that it prohibits all constraints that would exclude or diminish the equal voice of all concerned and hence that the agreement reached is the unconstrained agreement of a universal communication community. They also assume that all those involved ignore all motives other than the cooperative search for truth in a hypothetical attitude. And finally, they assume that only the force of the better argument may hold sway.

Habermas is not concerned with how arguments are actually conducted in the course of trying rationally to assess claims to truth or rightness. He is rather concerned with the pragmatic presuppositions that competent speakers and actors necessarily make in trying to reach agreements over disputed claims with others. And the consequence of denying these presuppositions is what, following Karl-Otto Apel, he terms a performative contradiction. Were we to raise the claim that argumentation does not have this pragmatic structure we would have to presuppose that it did in assuming that precisely this claim could be justified. In other words, we would have to suppose that the claim that argumentation does not have this pragmatic structure is true in the sense that it would be reached by a universal communication community of free and equal participants in a hypothetical attitude, engaged in a cooperative search for truth and motivated only by the force of the better argument.[12]

These conditions do not hold for either expressive self-presentations or evaluations. If a hearer challenges the truthfulness of a speaker's claim, the speaker cannot show her sincerity by arguing, because the truthfulness of her expressions, including her arguments, is precisely that which is at issue. Instead, she can show her sincerity only by acting in a manner consistent with her expressed intentions. The same holds for expressions in which a speaker reveals a feeling or mood, shares a secret, or confesses a

deed. The capacity to redeem the claims raised here depends, as in the case of intentions, upon the speaker's capacity to draw "practical consequences" from her expressions and behave "consistently thereafter."[13]

Similar conditions anchor evaluative judgments, according to Habermas. Evaluations possess a rational basis insofar as a speaker can have good reasons for her desires and preferences. If, to use an example he takes from Richard Norman, I desire a saucer of mud, I make this desire intelligible to others by giving reasons for wanting it, by referring, for instance, to its "rich river smell." The enjoyment of a rich river smell, just as a desire for a vacation or the rejection of the military, reflects the substantive content of a particular form of life in which certain likes, attitudes, and ideas of work and life, if not shared, are at least intelligible. Thus, Habermas claims that we can "call a person rational who interprets the nature of his desires and feelings [Bedürfnisnatur] in the light of culturally established standards of value."

We call someone rational especially if she "can adopt a reflective attitude" to these standards, Habermas thinks,[14] and he terms this reflective attitude aesthetic criticism. Still, he insists that it does not have the same scope as discourse does, nor does the better argument in aesthetic criticism possess the same force as it is meant to in discourse. First, the cultural standards of value at issue do not include a claim to universality. As Habermas puts the point, "The circle of intersubjective recognition that forms around cultural values does not yet in any way imply a claim that they would meet with general assent within a culture, not to mention universal assent."[15] Habermas's position is not that the truth of an assertion or the validity of a norm can serve as the rational ground of action only after we have actually secured the assent of all under the specified conditions. Still, the regulative ideal in these cases remains one of universal agreement in which only the force of the better argument may hold sway. In neither the case of expressive self-presentations nor that of evaluative judgments, does universal agreement serve even as an ideal. I do not rest the validity of my evaluations on giving arguments to skeptics as to why they must accept them. Nor does their validity rest on all concerned being able to accept them. Rather it rests on their providing me with authentic motivations for action, in expressing my feelings in an undistorted way and in my being

able to make myself at least intelligible to some others within the culture to which I belong.

But, second, in trying to make myself and my values intelligible to others, the force of reasons is only indirect. If someone does not understand my enjoyment of rich river smells, I can refer to other sorts of experiences, pleasures, and memories that I connect with the smell and I can try to connect these considerations up with her values. But these experiences, pleasures, and memories cannot force agreement in the way that argument can. Habermas puts the argument in terms of works of art:

> In this context reasons have the peculiar function of *bringing us to see* a work or performance in such a way that it can be perceived as an authentic expression of an exemplary experience, in general as the embodiment of a claim to authenticity. . . . In practical discourse reasons or grounds are meant to show that a norm recommended for acceptance expresses a generalizable interest; in aesthetic criticism grounds or reasons serve to guide perception and to make the authenticity of a work so evident that this aesthetic experience can itself become a rational motive for accepting the corresponding standards of value.[16]

Thus, whereas practical discourse secures the validity of norms for a universal audience through the direct force of reasons, aesthetic criticism secures the validity of values only for a circumscribed audience where reasons function merely to guide perception. This distinction, however, is not as rigorous as Habermas sometimes seems to suggest. He admits that rationally justified norms must be applied to concrete situations of action which are already interpreted in light of cultural values. Moreover, he insists that "any universalistic morality is dependent upon a form of life that *meets it halfway*."[17] In the remainder of this essay, I want to look more closely at these claims since they seem to me to imply even more complex relations between normative principles and cultural values than the ones on which Habermas has thus far focused.

IV. APPLICATION AND FORMS OF LIFE

Participants in practical discourses take up what Habermas calls a hypothesis-testing attitude toward disputed norms. The norms they consider are those that have become problematic within the cultural

context of an ongoing form of life. Discourse disconnects them from the unquestioned validity of this context and examines them in terms of the question of whether they would find the uncoerced assent of all those potentially affected under ideal conditions. This assent establishes the legitimacy of norms and principles, but it does not yet contain prescriptions for their application to concrete situations of action. Moreover, concrete situations of action may be already interpreted in terms of standards of value and conceptions of the good that express evaluative rather than normative claims. Examples of the sort of problem that might arise here are the controversies over abortion in the United States and the conflicts over immigration in Germany. These seem to be cases in which a consensus on normative principles such as liberty, equality, the sanctity of life, and human rights in general threatens to split apart as soon as the principles are applied to circumstances in which cultural values, religious beliefs, national identities, and the like still hold sway.

Hence, Habermas argues that the "decontextualization" of norms in practical discourse requires "an offsetting compensation"[18] that can make good on their application. Justificatory discourses must be supplemented by discourses of application that can determine "which of the norms already accepted as valid is appropriate in a given case in the light of all the relevant features of the situation conceived as exhaustively as possible."[19] Habermas rejects an Aristotelian approach to the sort of compensation needed here. In his view, we cannot rely upon our capacities for prudence or sensitive judgment because these capacities remained tied to "the parochial context of some hermeneutic starting point" and hence may involve values and prejudices on which we need more critical reflection. Instead, he looks to certain classical principles of application such as those requiring that "all relevant aspects of a case . . . be considered and that means . . . be proportionate to ends."[20] These principles can be rationally justified and thereby allow for some distance from hermeneutic starting points. Moreover, he claims that the history of basic human rights is a directed one, exhibiting "shall we cautiously say, a less and less selective reading and utilization of the universalistic meaning that fundamental-rights norms have."[21]

Habermas's point, then, is that while the procedural justification of disputed norms requires a hypothesis-testing abstraction from concrete forms of life and while rationally justified norms must be

applied to concrete situations of action, the impartial justification of norms accomplished in practical discourses can be supplemented by a learned capacity for impartial application. We need not simply succumb to the cultural values and prejudices with which we initially understand specific situations of action. Rather, we can rely upon discourses of application that can justify our judgments of the appropriateness of applying specific normative principles to specific cases.[22]

But it is not clear that issues of application can be so neatly resolved. Take the question of the morality of abortion. We might think of this question either as a question of the way we think justified principles of life, liberty, and equality are to be applied in a concrete instance or as a question of which justified principles, those of life or those of liberty, are to be applied. Still, in the first case, it remains unclear what standards determine the proper mode of application. While we might be able to assent to the principle that all relevant aspects of a case must be considered in its adjudication, this principle seems itself to require some sort of "offsetting compensation." In other words, if we are to apply this principle, we must be able to give some content to the notion of relevance. But the content we give would seem both to depend upon and to differ with our values. In particular it would seem to depend upon and to differ with our religious traditions and heritage, so that from the point of view of some religious perspectives all that will be considered relevant is the sanctity of life, while, from other more secular perspectives, considerations about the quality of a woman's or a child's life might seem equally relevant.

We might also diverge in ways that depend upon cultural values in our applications of the principle that the means must be proportionate to a given end. If we equate abortion with the ungodly killing of innocent life, then any act that interrupts the work of abortion clinics may seem proportionate to the end. If we oppose legal abortions but place even higher importance on the rule of law and on legislative or constitutional attempts to resolve the issue, then such actions do not seem to count as legitimate means. It is not clear that such disagreements on the way classical principles of application are themselves to be understood or applied can be resolved in discourses of application. Rather, these principles appear themselves to be tied to a hermeneutic starting point from which forms of evaluative ori-

entation cannot be eradicated. We must apply justified norms to concrete situations of action that we already interpret in light of our cultural values but the influence of our cultural values seems to extend right through the way we understand principles of application and judgments of appropriateness themselves.

With regard to the second case, in which we view the debate over abortion as a debate about which justified principles we are to apply to it, again the hermeneutic dimensions of the problem seem to be neglected. That is, it does not seem adequate to limit the question of application to the question of which of the norms we already accept as valid is to be applied to the specific case. Rather, the question of application seems to extend to the meaning of norms, to the question of how we are to understand the norms we apply or, indeed, which principles of liberty or life are to be applied. We might say that both sides in the abortion debate take the same principles to be justified and that what divides them is the way these principles are understood. So-called pro-life proponents understand the principle of the sanctity of life in terms of the biological life of the fetus, while so-called pro-choice proponents understand it in terms of the quality of life of women and children. Pro-life proponents understand the principle of liberty in terms of the rights of fetuses to the opportunities and life chances due them as members of the human species; pro-choice proponents understand the same principle in terms of the right of women and families to choose when and under what circumstances it makes sense for them to have children.

Perhaps because of the possibility of interpretive conflicts of this kind, Habermas insists that a "universalistic morality is dependent upon a form of life that *meets it halfway.*" As long as the principles justified in practical discourses are to determine action within concrete forms of life, those forms of life as well as the orientations, sensibilities, and forms of understanding they permit must already be constructed in a certain way. As Habermas explains, there must be some congruence between moral norms and the socialization and educational practices of the society; the education system must help in the "requisite internalization of superego controls and the abstractness of ego identities";[23] and finally there must be sufficient fit between morality and sociopolitical institutions. This fit is not automatic. If Habermas is unwilling to leave questions of application up to Aristotelian capacities for prudence, he is also unwilling

to leave the motivational and contextual embodiment of normative principles up to Hegelian spirit. "Rather," he writes, "it is chiefly a function of collective efforts and sacrifices made by sociopolitical movements." And, as he concludes, "Philosophy would do well to avoid haughtily dismissing these movements and the larger historical dimension from which they spring."[24]

Habermas's conception of the way a form of life meets universalistic morality halfway begins from top down, as it were, in terms of the question of how a form of life and the cultural values and orientations that compose it must be molded to meet the requirements for the application of rationally justified norms. But the question I would like to examine in the rest of this essay is whether we also have to think of the relation of normative justification and evaluative judgment from the bottom up, in terms of the question of how the meaning of such rationally justified principles as those we have explored in the debate over abortion must be molded to meet the requirements of forms of life, cultural values, and traditions through which people find their lives meaningful. This way of putting the issue is clearly indebted to Charles Taylor and I shall therefore turn to one of his recent essays in order to explore it.[25]

V. CULTURAL VALUES AND LIBERAL PRINCIPLES

The problem with which Taylor is concerned in "The Politics of Recognition" is whether liberal pluralistic societies can satisfy the demand for recognition of minority cultures or forms of life within them. According to one view of liberalism, liberal societies must base their legitimacy on the ability to guarantee fundamental rights for all citizens. Principles of justice are neutral with regard to different conceptions of the good and secure the equal treatment by the state of individuals without regard for race, sex, religion, or the like. Neutrality and equal treatment are themselves based on some version of the principle of universalization, which Habermas, for his part, grounds in the normative implications of communication oriented to understanding.

But suppose one's conception of the good requires more from the society than neutrality? Suppose the survival of one's culture requires a conception of a collective right to cultural survival as opposed to the individual rights secured by liberal principles? This is

the challenge Quebec raises against the Canadian Charter of Rights, according to Taylor. While the Charter defines a set of individual rights guaranteeing equal treatment regardless of race, sex, or other irrelevant grounds, the Quebeckers maintain that the survival of their culture requires certain restrictions on precisely these rights. For example, French-speaking citizens are not to send their children to English-language schools, businesses of more than fifty employees are to be run in French, and no commercial signs are to be written in English. But such restrictions seem inherently discriminatory. Why should Francophones not be able to send their children to any school to which they want to send them provided they can afford it? Why should individuals in Quebec not run their businesses in English or write signs in the language they prefer?

Taylor suggests that in order to answer this question, we need to acknowledge another conception of liberalism to the one sketched above. If "Liberalism 1"[26] is committed to individual rights and remains adamantly neutral with regard to cultural identities and projects, "Liberalism 2" allows for a state that is "committed to the survival and flourishing of a particular nation, culture, or religion, or of a (limited) set of nations, cultures and religions – so long as the basic rights of citizens who have different commitments or no such commitments are protected."[27] The Quebeckers assume that the survival and flourishing of French culture in Quebec is a good. Moreover, they assume that this survival requires more than the simple tolerance of the French language. Rather, policies are required that can sustain the French language in Quebec, create new members of French culture and assure that future generations identify themselves as French. Liberalism 2 thus distinguishes between fundamental rights such as "rights to life, liberty, due process, free speech, free practice of religion and so on" from other "privileges and immunities that are important but that can be revoked or restricted for reasons of public policy."[28] As Taylor puts the point, this form of liberalism is "willing to weigh the importance of certain forms of uniform treatment against the importance of cultural survival, and opt sometimes in favor of the latter."[29]

This view thus conceives of the relation between universal principles and cultural values in the opposite way to Habermas's conception. On Taylor's view, it is not clear that the latter must always

mold themselves to fit the former. Rather, the "politics of recognition," which Taylor also refers to as the politics of difference, seems to involve a demand by diverse cultures that liberal principles themselves be molded to allow for the value of particular cultures and their conceptions of the good. In cases in which the survival of a culture that is perceived as a good is at stake it may be necessary to reinterpret the meaning of principles so that they allow not just for individual rights such as the right to send one's child to the school of one's choice but for collective rights, such as the right of Quebec's French culture to survive. But, if this is the case, then cultural values and orientations must be acknowledged not just as elements of the concrete situations to which principles of justice apply but as codeterminers of their meaning. Taylor's conclusions seems to affirm at a more general level the conclusion we reached in exploring the debate over abortion. The normative principles that are justified in discourse can be interpreted differently and the politics of difference is just the demand that we recognize and respect these interpretive differences. Indeed, respect for the importance of and difference in the cultural values of different groups leads us to understand the meaning of liberal principles not in terms of Liberalism 1 but rather in terms of Liberalism 2.

We do not, then, require a rigorous neutrality or uniform treatment. In his comment on Taylor's essay, Michael Walzer insists that the official neutrality of the United States, for example, itself makes sense only as a consequence of Liberalism 2 rather than Liberalism 1. The United States is a country of immigrants who have chosen the risks to their cultural identity that emigrating to the United States involves. Moreover, it is a country of such multiple and diverse cultures that, in this case, official neutrality may simply constitute the best chance for any one culture's survival. But many liberal states, Walzer argues, are more similar to Quebec than to the United States. The governments of Norway, France, and the Netherlands do not claim to be neutral with regard to the language, history, literature, and "even the minor mores" of the majority culture. Rather, they actively support this culture while, at the same time, "tolerating and respecting ethnic and religious differences and allowing all minorities an equal freedom to organize their members, express their cultural values, and reproduce their way of life in civil

society and in the family." In Walzer's view, as presumably Taylor's, this form of Liberalism 2 makes sense for them and for Quebec just as Liberalism 1 makes sense for the United States:

> Liberalism 1 chosen from within Liberalism 2. *From within:* that means that the choice is not governed by an absolute commitment to state neutrality and individual rights – nor by the deep dislike of particularist identities (short of citizenship) that is common among liberals of the first sort. It is governed instead by the social condition and the actual life choices of *these* men and women.[30]

One might argue that the considerations that Taylor and Walzer raise pertain only to questions of scope. The problem is simply one of how different countries apply principles of individual rights that guarantee equal treatment to all citizens regardless of race, sex, religion, or other irrelevant grounds. In some liberal countries the sphere in which neutrality is appropriate will be wider than others, but in none will rights to life, liberty, due process, free speech, free practice of religion, and so on be curtailed. But the argument seems to go further than this objection allows. Taylor and Walzer are concerned not simply with the scope of liberal principles but with what liberalism means. And because of the good of cultural values and traditions, they think liberalism means Liberalism 2 as opposed to Liberalism 1. Hence, if forms of life have to be molded to meet liberal principles halfway, as Habermas stresses, we need to emphasize the opposite as well: that the meaning of consensually justified principles must be molded to meet cultural values and traditions halfway as well.

But a question seems to arise at this point. Must we allow for any way in which principles meet cultural values halfway or, indeed, for any cultural values that principles are to meet halfway? Taylor rejects a procedural model of liberalism for one grounded "on judgments about what makes a good life – judgments in which the integrity of cultures has an important place."[31] But are all judgments about what makes a good life of equal standing here? Must principles be modified to accommodate the integrity of any culture?

For his part, Taylor begins with a presumption in favor of an affirmative answer to this question or, in other words, with a presumption of the worth of diverse cultures. "As a presumption, the claim is that all human cultures that have animated whole societies

over some considerable stretch of time have something important to say to all human beings." At the same time, this presumption has to be worked out and checked in the actual study of a particular culture. To this extent, Taylor thinks that the demand for recognition that the politics of difference raises is somewhat odd. Respect cannot be demanded as a right. Rather, it has to be gained in the assessment of others that the culture does indeed "have something important to say."[32]

Still, Taylor points to the transformative aspect of the study of alien cultures. If we approach a culture as one of even merely possible value, then we cannot simply impose our preexisting standards upon it. Instead, we must be open to the way in which the "something important" it has to say to us can involve precisely those standards:

> To approach, say, a raga with the presumptions of value implicit in the well-tempered clavier would be forever to miss the point. What has to happen is what Gadamer has called a "fusion of horizons." We learn to move in a broader horizon, within which what we have formerly taken for granted as the background to valuation can be situated as one possibility alongside the different background of the formerly unfamiliar culture.[33]

At issue here is not only Gadamer's fusion of horizons but also what he calls a preconception of completeness or perfection.[34] We must provisionally assume that other cultures have something important to say to us, Gadamer thinks, in order both to understand them and to test our own prejudices about ourselves. If we assume that other cultures have nothing important to say to us, then we also have no way of checking the adequacy of our own initial prejudices about them. We will find, as Saul Bellow seems to have done, that the Zulus have no resource as valuable as a Tolstoy (or as he is said to have said "when the Zulus produce a Tolstoy we will read him"[35]), because we will be able only to maintain our initial parochial assumptions as to what is valuable. But these assumptions prevent us from discovering what the Zulus do have and how what they have might provide a productive mirror for viewing ourselves.

But this notion that we might learn to understand our own values and standards differently in our efforts to understand those of others seems to complicate the issue of whether principles must be shaped to accommodate preexisting cultural values. On the one hand, ac-

cording to Taylor, we are not to accord respect to any culture simply because it is a culture. Rather, we are to accord it the provisional respect that allows us to study it seriously and assess it in terms of what of importance it has to say to us. On the other hand, we cannot simply impose our standards of value upon it but must be open to seeing ourselves through the standards it offers. But how are we to know, then, when we have learned to understand our values within a wider perspective and when we understand them within a worse one? How can we guarantee that the politics of recognition opens up for us the value of cultures that have a value and when this politics leads us simply to abandon standards of value altogether?

This question, of course, is at the heart of current debates not only over university curricula, Western values, and the Western literary canon but also over the value of Western democratic values. Is the effect of opening the canon up to women's diary writing or African oral traditions one of enriching the Western literary tradition or of debasing its standards? Is the effect of placing Western values within a wider perspective one of better understanding them or learning to tolerate fanatics, totalitarians, and the like? If we combine Habermas's conception of practical discourse with the emphasis Taylor and Walzer place on cultural values and forms of life, it seems to me, we might have a way of beginning to answer these questions.

The argument I have tried to pursue thus far is the following. In the course of developing a communicative conception of reason, Habermas distinguishes between the sorts of discourse in which we justify claims to truth and rightness and other less universalistic and less consensually inclined discussions in which we consider our evaluative assessments and cultural values. He also recognizes that the principles and norms of action justified in practical discourse must be applied to concrete situations of action and therefore calls for offsetting compensations and judgments of appropriateness in which the evaluative assessments and cultural values that comprise forms of life can be reshaped to fit rationally justified norms and principles. Considerations that Taylor and Walzer raise, however, suggest that rationally justified norms and principles must also be shaped to fit the evaluative assessments and cultural values that comprise forms of life. Still there is a limit here. In elaborating the contours of Liberalism 2, Taylor and Walzer rely upon a principle

of tolerance. Liberalism 2 can encourage the survival of particular cultures by officially fostering their language, history, literature, and mores while remaining neutral with regard to the language, history, literature, and mores of others. But it cannot try to eradicate these others. Rather, Liberalism 2 distinguishes fundamental rights that cannot be violated for the survival of cultures from other privileges and immunities that can be "revoked or restricted for reasons of public policy."[36] Hence, although Liberalism 2 is not neutral with regard to official support for certain cultural conceptions of the good, it also cannot retreat behind a principle of tolerance.

But how is such a principle justified? Habermas refers to the conditions of discourse. Principles of tolerance are principles to which all concerned could assent in a communication unconstrained by overt coercion or relations of power in which all participants are free and equal and in which only the force of the better argument holds sway. To this extent and despite the revision Liberalism 2 exacts from Liberalism 1, its foundation would seem to be built on procedural grounds. Not every life choice of men and women, to use Walzer's language, would be admissible, but only those that comply with the conditions of tolerance or discourse.

But we might also find a hermeneutic ground or starting point for the principle of tolerance in the claims Taylor makes for the survival and flourishing of cultures and in the claims Gadamer makes for the fusion of horizons and the preconception of completeness or perfection. If we start, no: from the side of principles, as Habermas does, but from the side of cultural values, then the question we might pose is what principles are necessary to the survival and flourishing of our own cultures? In my view the answer has to be the one Gadamer suggests, namely the possibility of discussions in which I can use the standards and evaluative orientations of other cultures to check and develop my own. Part of what the survival and flourishing of a culture would seem to mean is a capacity to reflect on and assure itself of its own worth and to be able to communicate that worth to a new generation. But this would seem to entail its capacity to show its worth in relation to the worth of other cultures, to be able to enrich itself with what it takes to be valuable in other cultures, to show its own members how its values stack up against those of others, where it fits in the panoply of cultures and so on. Cultures and traditions survive and flourish not by enforcing an end-

less and exact reproduction but by developing and enriching themselves and by remaining relevant to new generations.

But this consideration seems to mean that the survival and flourishing of one's own culture depends upon the survival and flourishing of others against which I can test my own, in terms of which I can see its value, and from which I can even borrow. Hence, I must maintain a principle of tolerance toward other cultural values as a condition of the health of my own. In contrast, if we extend Liberalism 2 to include not only the interest in "the survival and flourishing of a particular nation, culture, or religion, or of a (limited) set of nations, cultures, and religions" but also the interest in eradicating others with "different commitments or no such commitments," we also risk the ossification of our own. If cultures are to be living cultures, they must live with others, for a serious effort to understand the values and cultures of others is our only option for reflecting upon our own.

Although this argument begins with the good of the flourishing of distinct cultures, it is not antithetical to a modified principle of ideal speech. If our capacity to reflect on our cultural values depends upon interaction with those that differ, then we must encourage those differences, and such encouragement would seem to mean that we must question any evaluative orientation or set of cultural values that tries to restrict in advance the evaluative orientations or cultural values to which we can have access. In other words, the survival and flourishing of our own culture requires the survival and flourishing of those that differ as well as the possibility of nonexclusive and nondiscriminatory discussions in which we review our values against those of others. But these conditions are the idealized conditions of discourse. We need to assure the sort of universal participation in our discussions that is not impeded by power, wealth, race, or gender. Otherwise we deny just the conditions under which our own cultures can survive and flourish.

Still, universal participation does not necessitate universal assent to concrete meaning. Our discussions of both our principles and our values are to exclude direct or implicit force, the effects of relations of power, fear, or the threat of sanctions. Even so, the world might still contain as many legitimate interpretations of the meaning of its universal principles as Habermas's own notion of aesthetic criticism indicates it has of its art and literature. It follows that normative

discourse and aesthetic criticism are perhaps closer or more complexly related than Habermas has yet explained.

NOTES

1. Jürgen Habermas, *The Theory of Communicative Action*, Vol. I, *Reason and the Rationalization of Society*, trans. Thomas McCarthy (Boston: Beacon Press, 1984), p. 288.
2. Jürgen Habermas, "Handlungen, Sprechakt, sprachlich vermittelte Interaktionen und Lebenswelt," in *Nachmetaphysischen Denken* (Frankfurt: Suhrkamp, 1988).
3. Ibid., p. 72.
4. *Theory of Communicative Action*, Vol. I, p. 302.
5. Ibid.
6. Ibid., p. 287.
7. Ibid., p. 10.
8. Ibid., p. 15.
9. Ibid., pp. 12–13.
10. Ibid., p. 16.
11. Ibid., p. 25.
12. Habermas, "Discourse Ethics: Notes on a Program of Philosophical Justification," in Habermas, *Moral Consciousness and Communicative Action* (Cambridge, Mass.: MIT Press, 1990), pp. 79–82.
13. *Theory of Communicative Action*, p. 15.
14. Ibid., p. 20.
15. Ibid.
16. Ibid.; emphasis in original.
17. Habermas, "Morality and Ethical Life," in *Moral Consciousness and Communicative Action*, p. 207.
18. "Discourse Ethics," p. 106.
19. Habermas, "On the Pragmatic, the Ethical and the Moral Employments of Practical Reason," in *Justification and Application: Remarks on Discourse Ethics*, trans. Ciaran P. Cronin (Cambridge, Mass.: MIT Press, 1993), p. 14.
20. "Morality and Ethical Life," p. 206.
21. Ibid., p. 208.
22. See Habermas, "Remarks on Discourse Ethics," in *Justification and Application*, pp. 35–38.
23. "Morality and Ethical Life," p. 207.
24. Ibid., p. 208.
25. See Charles Taylor, "The Politics of Recognition," in Amy Gutmann, ed., *Multiculturalism and "The Politics of Recognition"* (Princeton,

N.J.: Princeton University Press, 1992), pp. 25–73. My analysis of this essay and its relevance to the question of the relations of cultural values and normative principles was written too early to benefit from Habermas's own analysis of Taylor's essay in "Struggles for Recognition in Constitutional States," which appeared in the *European Journal of Philosophy* 1, no. 2 (Aug. 1993). Here, Habermas reemphasizes the necessity for democratic procedures in the application of universal principles and argues that these procedures guarantee respect for cultural ciples and argues that these procedures guarantee respect for cultural values insofar as those who debate and apply universal principles do so both as citizens and as private persons. My concern in turning to Taylor's essay, however, is not only cultural values that must meet universal principles halfway but differences in these cultural values. How do we guarantee respect for differences in the interpretation of norms and principles, how do we distinguish legitimate from illegitimate interpretations and how should we conceive of continuing "legitimate" disagreement in interpretation that stems from differences in cultural value?

26. See Michael Walzer, "Comment," in Guttmann, *Multiculturalism and "The Politics of Recognition,"* pp. 99–103.
27. Ibid., p. 99.
28. Taylor, "Politics of Recognition," p. 59.
29. Ibid., p. 61.
30. Walzer, "Comment," p. 102.
31. Taylor, "Politics of Recognition," p. 59.
32. Ibid., p. 66.
33. Ibid., p. 67.
34. See *Truth and Method*, (New York: Seabury Press, 1974).
35. Taylor, "Politics of Recognition," p. 42. It should be noted that Taylor also says, "I have no idea whether this statement was actually made in this form by Saul Bellow or by anyone else."
36. Ibid., p. 59.

J. DONALD MOON

7 Practical discourse and communicative ethics

As the idea of an ultimate foundation for moral and political beliefs has become increasingly implausible, theorists have turned to "discourse" to provide a basis on which to defend the legitimacy of social and political practices. The turn to discourse, which includes but is not limited to communicative ethics, is in part a move from a substantive to a procedural conception of moral and political theory. Rather than providing values grounded in an account of human nature or reason, discourse-based approaches offer a set of procedures that, if followed, would yield principles legitimating social practices and institutions. The fundamental intuition underlying the move to discourse is the ideal of a moral community, one whose norms and practices are fully acceptable to those subject to them, a society based not on imposition, but on the agreement of free and equal persons.

Jürgen Habermas has presented one of the most powerful accounts of a discourse-based morality; it is grounded in an understanding of practical reason which explains how the validity of norms can be tested, thereby demonstrating their cognitive character. According to Habermas, valid norms can be freely accepted by all of the individuals who are affected by them. Thus, a society whose institutions and practices were governed by valid norms would instantiate the ideal of a moral community.

Habermas's account is rigorously procedural. Unlike theorists such as John Rawls, he does not advance specific norms or principles, nor does he project a vision of a just society. Nonetheless, his project raises the obvious question of what sorts of norms could be vindicated in the way he proposes, and whether they could adequately provide for the "just resolution of conflict."[1] I will argue

that there are good reasons to believe that moral community, in the sense suggested above, may not be possible in societies characterized by value pluralism – and these are the very societies in which discourse ethics is most applicable. My point in making this argument is not that we should abandon the project of a discourse-based ethics, but that we need to recognize what might be called an "agonistic" element or dimension of our moral and political lives. I will develop my argument in three steps. In the first, I will set out Habermas's theory, in part by contrasting it with Rawls's discourse-based approach, and use it to explore the possibility of discovering valid norms under conditions of moral pluralism. In the second, I will develop a brief account of the agonistic dimension of moral life. In the third, I will briefly present the implications of my argument for the issue of political legitimation, which will lead me to return to the contrast between Rawls and Habermas with which the essay begins. I will suggest how Rawls's original strategy might be reformulated in light of Habermas's criticism to provide a more satisfactory approach to this problem. The reformulation I propose is broadly compatible with Habermas's most recent thinking about how political life ought to be structured in contemporary societies.[2]

I. GROUNDING COMMUNICATIVE ETHICS

As early as 1958 Rawls put forward his well-known conception of "justice as fairness" in explicitly procedural terms.[3] Although Rawls's argument bears important similarities to classical social contract theories, his move to discourse differs from standard forms of contractarianism in that it is not based on "a general theory of human motivation" nor does it "establish any particular society or practice."[4] In making this proceduralist turn, Rawls had a specific purpose in mind: to put forward a particular theory of justice which, he argued, would be adopted by individuals who followed the procedures he established. His argument was not intended to provide a foundation for morality in general; indeed, it explicitly *presupposes* such moral conceptions as a "duty of fair play." This point is often misunderstood, as Rawls is frequently interpreted as offering an account of justice as a modus vivendi among amoral, purely self-interested agents. But even in his earliest formulations, he insisted that "The conception at which we have arriveḍ . . . is that the prin-

ciples of justice may be thought of as arising *once the constraints of having a morality* are imposed on mutually self-interested parties. . . ."[5]

Habermas's conception of communicative ethics is in one way a much more ambitious undertaking than Rawls's, for he seeks to use discourse to establish the moral constraints that Rawls takes for granted:

It is incumbent on moral theory to explain and ground the moral point of view. What moral *theory* can do and should be trusted to do is to clarify the universal core of our moral intuitions and thereby to refute value skepticism.[6]

On the other hand, in another respect Habermas's program is more limited than Rawls's, for

What [moral theory] cannot do is make any kind of substantive contribution. . . . Moral philosophy does not have privileged access to particular moral truths.[7]

Although their theories are often seen as competing, they might be seen as pursuing complementary projects. Where Rawls *assumes* "the moral point of view," using it to derive substantive principles of a just political and social order, Habermas aims to ground the moral point of view itself. Both accounts are broadly discourse-based and proceduralist, but are aimed at different ends.

There is obviously a certain priority to Habermas's project, since an adequate account of the "universal core of our moral intuitions" could significantly affect the substantive conclusions that we might reach. Habermas himself has criticized Rawls for misunderstanding the requirement of impartiality, which is an essential component of the moral point of view. Rawls conceives of impartiality in terms of the idea of an "original position" in which free and equal individuals, who are ignorant of their own particular identities, determine the principles of justice to govern a social order in which they will be assigned places in the future. Because they are ignorant of the interests that divide them from others, and because they do not know what positions they will hold in the social order, individuals so conceived could only choose principles that are impartial or fair to everyone. Lacking the information necessary to advance their

own, partial interests, they could only decide on the basis of general interests.

Rawls's construction is obviously not intended to describe the steps people would actually go through in discussing and agreeing to principles of justice, for we could never literally forget who we are. Rather, it is intended to model the concept of impartiality that is an essential aspect of the moral point of view. Its inadequacy, according to Habermas, can be seen once we realize how morality is rooted in the structure of what he calls communicative action. In communicative action, we coordinate our plans with each other in a consensual way, by making or invoking claims that all concerned accept as valid or binding. Habermas distinguishes communicative action from strategic action, action that is rationally chosen in order to influence "the decisions of a rational opponent" in order simply to achieve the agent's own goals. In acting communicatively, I do not seek to manipulate you, that is, merely to cause or influence you to do something that I want you to do. Rather, I hope to harmonize my plans with yours on the basis of our having, or coming to have, a common understanding of the situation we are in.[8] When we are dining together and I say, "Please pass the salt," I hope that you will pass me the salt not because you fear what I might do to you if you don't, nor because you expect to get some advantage from me by obeying my request, but because you recognize the validity of the rules of etiquette and so recognize that passing the salt is the required or appropriate response to my request. By making this request I invoke a norm that I implicitly take to be valid. And in the case of moral norms, Habermas argues, I undertake an obligation to show its validity if it should be challenged.[9]

We could avoid this conclusion if we could imagine a successfully functioning form of life in which actors relate to one another only in strategic terms, but such a society is not possible. Elster (among others) has convincingly shown the limitations of the model of instrumental rationality in explaining social order, arguing that "social norms provide an important kind of motivation for action that is irreducible to rationality or indeed to any other form of optimizing mechanism."[10] Habermas has argued that the reproduction of the forms of culture, social integration, and individual personality systems takes place through communicative action.[11] These social

functions can be performed only as long as there is at least a de facto acceptance of some set of social norms.

For many social interactions, de facto acceptance of norms is sufficient to ensure that the behaviors of different actors are coordinated. We commonly invoke norms in the expectation that they are accepted by those to whom our actions are directed, but we do not necessarily have to accept those norms ourselves. Indeed, we do not even have to assume that the others accept the norms in question as valid, but only that they will in fact respond according to them. I may not think that the social roles of waiter and customer are morally defensible, but – lacking any practical options – I may still eat at restaurants, at least on occasion. And my waiter may share my view, yet he or she will still take my order and bring me my food. And I will undoubtedly leave a tip, even if I think the practice of tipping is reprehensible. Although we implicitly invoke these norms, neither of us would seek to "redeem" them as valid. We simply use them in order to achieve our various ends, given that we live in the society we do.

Although these actions are obviously purposive, it would be misleading to suggest that they are examples of strategic action, since the type of interaction in question is "coordinated on the basis of mutual understanding."[12] Such interactions might be called "incomplete communicative action"; coordination is achieved because participants have mutually compatible expectations, even though they do not accept the same normative validity claims. A limiting case of coordination achieved communicatively occurs when parties successfully employ a set of symbols to regulate their interactions, but when the symbols do not have the same meaning for all participants. As Wallace has argued, "cognitive sharing is not necessary for stable interaction."[13] Indeed, "cognitive nonsharing" may even be essential for a social order as "it permits a more complex system to arise than most, or any, of its participants can comprehend," and "it liberates the participants in a system from the heavy burden of learning and knowing each other's motivations and cognitions."[14] What is critical is that the participants be able to predict each other's behavior, rather than that they possess the same "cognitive maps" of their society and culture.

Incomplete communicative action is common, but it is hard to

imagine that it could be the only kind of communicative action in which social actors engage. Even if we do not always make normative validity claims that we are prepared to redeem, we must do so in some interactions. Unless some of the norms we invoked were norms that we accepted as valid, it is hard to see how any norms could have motivational force. In incomplete communicative action, normative validity claims are "bracketed," but the norms could always be called into question, thereby disrupting the interaction. If the participants wished to continue acting communicatively, they would have to raise validity claims explicitly, and negotiate rules that all could accept to govern their interaction.

Thus, our success in coordinating our behavior through communicative action does not depend on the actual validity of the norms we invoke, but on our having a common understanding of the situation. This common understanding must be based on "the speaker's guarantee that he will, if necessary, make efforts to redeem the claim that the hearer has accepted."[15] These validity claims can be redeemed only through "practical discourses" among the social actors involved.

Given this analysis of the concept of norms and their validation, we can see why Rawls's construction is problematic. When the validity of a norm is challenged, the coordination sought through communicative action is disturbed and so the parties must enter "into a process of moral argumentation" through which they "continue their communicative action in a reflexive attitude with the aim of restoring a consensus that has been disrupted."[16] When they are successful in reaching a consensus on the validity of the norms governing their interaction, their agreement "expresses a *common will*," an agreement that is reflexive in the sense that the parties know "that they have collectively become convinced of something."[17] Only an actual discourse among the affected parties can produce such an agreement. As a general account of normative validity, the Rawlsian model of a hypothetical agreement of parties in an original position is inadequate because it fails to provide scope for the reflexivity that is essential to the idea of morality.

Let us agree that Habermas has shown that the idea of normative validity is implicit in communicative action, and that challenges to the validity of a particular norm must be met through "a process of moral argumentation." But why, the skeptic might ask, should we

expect such argumentation to yield results? Moral arguments obviously can't be deductive in form, for deductive arguments presuppose the (contestable) truth of their premises. Rather, we need a principle of argumentation for normative questions analogous to the principle of induction for empirical questions. According to Habermas, that need is met by the principle of universalization. Every valid norm, he argues, must fulfill the condition that

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).[18]

The principle of universalization is implicit in the idea of moral argumentation itself. Any "process of argumentation must, among other things, make presuppositions"[19] such as:

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

Understanding "what it means to discuss hypothetically whether norms of action ought to be adopted"[21] amounts to "implicitly acknowledging" the principle of universalization.[22] If interlocutors follow these "rules of discourse," then "a contested norm cannot meet with the consent of the participants in a practical discourse unless" the principle of universalization is satisfied.[23]

This argument rests on the idea of a "performative contradiction": People engaging in communicative action at least implicitly invoke and so presuppose the validity of certain norms, whose validity could only be tested through argumentation. If they were to reject the cognitive status of judgments of normative validity, they would have to engage in forms of argumentation that implicitly support the principle of universalization itself.

This account effectively brings out the ways in which communicative action involves validity claims that are subject to criticism.

Whenever I invoke a norm to influence your behavior, I implicitly recognize you as a partner in a dialogue in which that norm could be justified. We are able to coordinate our interactions consensually because we have or are able to achieve a common understanding of our situation. What is critical here is that "a speaker can *rationally motivate* a hearer to accept his speech act offer because . . . he can assume the *warranty* for providing, if necessary, convincing reasons that would stand up to a hearer's criticism of the validity claim."[24] In communicative action, one undertakes "to redeem, if necessary, the validity claim raised with [one's] speech act,"[25] rather than seeking to manipulate or coerce the other. Thus, communicative action can be said to "presuppose those very relationships of reciprocity and mutual recognition around which *all* moral ideas revolve in everyday life."[26]

But if the principle of universalization provides a cognitive status to moral judgments, the significance of this status is not entirely clear. For one could accept the principle of universalization without necessarily believing that there are any norms that could pass the test of universal acceptance. Habermas argues that "moral-practical issues can be decided on the basis of reasons"[27] since "anyone who takes part in argumentation of any sort is in principle able to reach the same judgments on the acceptability of norms of action."[28] But this is true only if those affected by an action or norm have values, emotions, affections, and preferences that are more or less compatible, for only in that case could they "reach consensus on generalizable maxims."[29]

The possibility that participants might fail to reach consensus follows from Habermas's understanding of the nature of practical discourse. In Habermas's account, moral discourse is limited to determining the acceptability of *norms* or the rules that we have a duty to observe, as opposed to the *values* or ends that we pursue. While the former involve questions of justice, the latter reflect views of what constitutes a good life and are based on our conceptions of ourselves and our basic identities, which are rooted in the culture in which we live and to which we are socialized. "Moral-practical discourses" about the validity of norms "require a break with all of the unquestioned truths of an established, concrete ethical life, in addition to distancing oneself from the contexts of life with which one's identity is inextricably interwoven."[30]

Part of becoming a mature adult is learning to distinguish rules that are merely conventional from those that are valid, and so genuinely binding. But one cannot distance oneself in a similar manner from the ends or values one pursues, because to do so would be to abstract oneself from "the fabric of the communicative practices of everyday life through which the individual's life is shaped and his identity is secured," and to question "the forms of life in which his identity has been shaped [is to question] his very existence."[31] Thus, we do not have the capacity to call our values into question in the way that we can interrogate the norms to which we are subject. We are faced with an irresolvable plurality of value configurations in modern, pluralist societies, and at the international level in relations among different societies. But because of this plurality, it may be impossible to find norms that are "equally in the interests of all," and which could therefore pass Habermas's universalization test.

Habermas rejects this suggestion, arguing that the "need-interpretations" that individuals bring to discourse can be challenged and may be revised in such a way as to discover common interests.[32] In the process of moral argumentation, individuals do not simply confront each other, divided by the conflicting interests and values they hold prior to discourse. Rather, "the principle of universalization requires each participant to project himself into the perspectives of all others" and to be open to "reciprocal criticism of the appropriateness of interpretive perspectives and need interpretations." Discourse is a process of "ideal role taking" in which participants are engaged in "checking and reciprocally reversing interpretive perspectives," thereby enabling them to alter their own need-interpretations and to discover common or generalizable interests.[33]

Although Habermas separates questions of justice from questions of the good, he does not make this a radical separation. Both justice and the good, he argues, are rooted in "the specific vulnerability of the human species, which individuates itself through sociation. Morality . . . cannot protect the rights of the individual without also protecting the well-being of the community to which he belongs."[34] Because we exist as individuals only through our membership in concrete forms of life, justice cannot be conceived without some form of solidarity. Thus, the norms that could be reached through discourse must enable individuals to realize certain common values that are central to their way of life.

Because discourse ethics conceives of a universal "communication community that includes all subjects capable of speech and action," solidarity in some form must extend to include all humans.[35] But since people vary a great deal in the particular values and identities they hold, discourse ethics must include, according to Habermas, "those structural aspects of the good life that can be distinguished from the concrete totality of specific forms of life."[36] Because the forms of the good are plural and because all humans are subject to common vulnerabilities, the solidarity projected by a discourse ethics must be based largely on a vision of "the damaged life" rather than an affirmative view of the "good life."[37]

To the extent that all humans are vulnerable in similar ways, it is plausible to suppose that there are "generalizable interests" that could provide the basis for norms that would command universal assent.[38] Obvious examples include a right to life and bodily integrity, but even these examples are problematic, inasmuch as a consensus on such norms is likely to mask deep conflicts over their application and the conditions under which they may be overridden.[39] Moreover, it would appear that norms could be valid without being acceptable to *everyone* who is capable of participating in discourse. The principle of universalization requires only that those *affected* by a norm accept it. Many of the norms invoked in communicative action are limited in their application to particular forms of life because they make use of culturally specific concepts such as particular role definitions. If there is a universal moral community, it is constituted by a relatively narrow set of norms. But we are all members of a number of different, overlapping moral communities, which are constituted by a richer set of norms that are binding on their members; the range of behaviors that are normatively regulated and that could constitute occasions for resentment are greater in such communities, but these behavioral expectations apply to fewer people.

There are, then, reasons to believe that some norms could be validated through discourse, but it is far from obvious that they would be sufficient to settle the conflicts that arise in a pluralist world. We might be able to avoid this conclusion, and to guarantee universally acceptable norms, if "all other goals and purposes are subordinated to that of reaching agreement."[40] There are points where Habermas seems to flirt with this idea, as when he writes that communicative

actions are those in which participants "coordinate their individual plans *unreservedly* on the basis of communicatively achieved agreement,"[41] but it is hard to see how this strong model of communicative action could be vindicated. The power of Habermas's argument is that it brings out the way in which redeemable normative validity claims are rooted in "communicative action," a form of action that is essential to social life. But, it is only a "weak" model of communicative action that is essential to the constitution of a social lifeworld; it is only the weak model that is implicated in the "performative contradiction" committed by one who would reject the idea of normative validity altogether. Unfortunately, the weak model cannot guarantee the existence of universal norms.

II. PLURALISM AND AGONISTIC CONFLICT

One possible response to this dilemma is to reject the distinction between normative and evaluative discourses, or between questions of justice and questions of the good life. In this vein, Benhabib criticizes Habermas's (qualified) restriction of moral-practical discourse to questions of justice, arguing that, "there is no privileged subject matter of moral disputation." She insists that "the language of rights can . . . be challenged in light of our need interpretations, and that the object domain of moral theory [be] so enlarged that not only issues of justice but questions of the good life as well are moved to the center of discourse."[42] Benhabib concludes that we must "reconsider, revise and perhaps reject the dichotomies between justice versus the good life, interests versus needs, norms versus values upon which the discourse model, upon Habermas's interpretation of it, rests."[43]

In making this argument Benhabib deepens the critiques of traditional ethical theory articulated from a feminist perspective. In her interpretation, "universalistic moral theories from the social contract tradition down to Rawls's and Kohlberg's work" enshrine an "ideal of autonomy" that presupposes an understanding of "the 'personal,' in the sense of the intimate, domestic sphere, as ahistorical, immutable and unchanging," and so "removed from discussion and reflexion."[44] This conception, she argues, is implicitly gendered and so fails adequately to account for the experience of women.

In place of Habermas's model of a discourse ethics, Benhabib sub-

stitutes what she calls "interactive universalism." In contrast to the model of both Rawls and Habermas, this model conceives of moral thought relationships as holding between concrete or particular selves, rather than merely "abstract" individuals. Traditional universalism is oriented to the "generalized" other, in which "each individual is a moral person endowed with the same rights as ourselves," and is capable of respecting others' rights while pursuing his or her own "vision of the good." Interactive universalism accepts this ideal, but also insists upon the "standpoint of the concrete other," which "enjoins us to view every moral person as a unique individual, with a certain life history, disposition and endowment, as well as needs and limitations."[45] When we look upon other people only from the standpoint of the "generalized other," we replace the concrete plurality of acting subjects with a "definitional identity" among persons. For interactive universalism, the moral point of view involves the individual's ability to take up the perspective of the other[46] and to develop an "enlarged mentality," a sensitivity to, and appreciation of, the wide range of moral considerations that are relevant in particular settings.[47] Because traditional universalism annuls or abstracts from differences among people, it "leads to *incomplete reversibility*, for the primary requisite of reversibility, namely, a coherent distinction between me and you, the self and the other, cannot be sustained under these circumstances."[48]

Not surprisingly, Benhabib rejects Habermas's core idea that for a norm to be valid "all affected can *freely* accept the consequences and the side effects that the *general* observance of a controversial norm can be expected to have for the satisfaction of the interests of *each individual*."[49] If moral discourse must include questions of the good life as well as questions of justice, and if it must acknowledge others in their concrete particularity, then the ideal of a universal consensus must elude us. Rather, our goal should be to sustain moral dialogue and "the relationships through which we practice the reversibility of perspectives implicit in adult human relationships."[50] Similarly, in our political lives, we should act to ensure that "collective decisions be reached through procedures which are radically open and fair to all."[51]

There is no denying the force of these concerns, but it must be recognized that extending moral discourse to include questions of the good life would make agreement on norms more difficult, and

therefore make Habermas's "just resolution of conflict"[52] less likely. However, it might be possible to overcome or at least to ameliorate these difficulties if we were to explicitly recognize what might be called an "agonistic" dimension to communicative ethics. Without abandoning the demand for impartiality, we must also acknowledge that there may be deep conflicts of values which preclude agreement on norms that all could accept. In such cases, justice may be impossible, since there may be no way of resolving conflicts that all could accept.

The idea that the moral point of view involves the "reversibility of perspectives," an idea that is central to all formulations of a discourse ethics, is often presented in a one-sided manner, to the neglect of the claims that each individual can make for his or her own aspirations and ideals. The overriding commitment to the idea of the reversibility of perspectives is particularly problematic when it is extended to include the viewpoint of the concrete other. In many of our relationships with concrete others (most especially in the family and among friends, but not only in such intimate contexts), reciprocity typically involves creating patterns of mutual affirmation and reciprocal recognition.[53] But reciprocal recognition in such settings is only the beginning of mature human relationships. Even or especially when recognition is genuinely reciprocal, when both parties to a relationship practice the reversibility of perspectives and view issues from the point of view of the concrete other, each often comes to depend on the other's response for an affirmation of his or her own sense of worth or value: I value myself because you recognize me, and vice-versa. Each thus becomes vulnerable to the other and, in a world where our hopes and expectations are inevitably disappointed from time to time, each develops a motive to protect oneself by limiting the ways in which one exposes oneself to the other. Fear of disapproval, of the withdrawal of recognition, can lead one to repress some aspects of oneself. Thus, there is an important limit to the ways in which either party can develop – and to the intimacy they can achieve – in their relationship. As long as a relationship is rooted in the idea of reciprocal recognition, it can become self-limiting in this way.

To go beyond reciprocal recognition requires that one value oneself enough that one can act more self-affirmatively. Rather than responding to the expectations or needs of others in order to receive

approbation, one must sometimes act on one's own aspirations, even at the risk of conflict and disapproval. That does not mean that one no longer recognizes or tries to understand and respond to another's needs; on the contrary, it may free one to be more open to others and to offer them more, because the desire for their recognition and approval is no longer a basic motive for one's action. It also makes greater intimacy possible, as self-disclosure need no longer be limited by the fear of rejection. In acting in this way an agent goes beyond the idea of mutual recognition as the source of his or her activity.

I do not offer these reflections as criticisms of Habermas's or Benhabib's views, which are not necessarily inconsistent with this line of reflection. It might be said that the kind of relationship I am describing is a pathological form of reciprocal recognition, and in many ways it is. But it is also very common. More important, we don't have the concepts to understand and overcome it as long as we take our departure principally from the idea of the "reversibility of perspectives." Mature forms of reciprocal recognition involve other elements as well, including an internal sense of self-worth, that may involve an agent's acting in a way that frustrates or disappoints another.

The one-sidedness of "reciprocal recognition" in private life has a political analogue in the politics of resentment and victimization. Both are characterized by the centrality of resentment, as aggrieved parties feel outrage at groups or conditions that are felt to deny their dignity (thereby feeding whatever self-doubts they may have).[54] There are of course any number of occasions when resentment is an appropriate response to a "breach of a generalized norm or behavioral expectations.[55] Even in such cases, though, it is a dangerous emotion, sometimes blinding us to the humanity of those who perpetrated the wrong.[56] Moreover, and perhaps more important, it is often the case that the norm or expectation that was violated was not one that could survive discursive testing, and in yet other cases there may be countervailing considerations that at least mitigate (if they do not excuse or even justify) the violation. We cannot expect that everyone who is affected by our actions will accept what we do, at least not in a world where goods are scarce, where self-esteem and identities are vulnerable, and where what we desire or need is often that others respond to us in ways that may or may not meet

or reflect their needs. Hurt feelings, anger, disappointment, conflict, struggle – all are essential parts of our moral and political lives. All of these (and related) feelings are often experienced and expressed as resentment and indignation. An adequate morality must recognize the place of agonistic struggle in moral and political experience, even commending the integrity displayed by those who advance their purposes while refraining from the insult of insisting that others acknowledge that they are "right."

In principle, there is no reason why a discourse ethic could not accommodate this concern. Indeed, to the extent that it incorporates a strong principle of universalization, there are likely to be relatively few areas of social interaction governed by moral norms, and so there would be significant scope within which people must work out the issues that divide them as best they can. At least this would be true for a communicative ethics based on a "weak" model of communicative action, in which (at least some) of one's purposes are not subordinated to achieving understanding. But when a discourse ethic puts too much emphasis on "reciprocal recognition," it can contribute to the pervasiveness of inappropriate resentment in both politics and personal life. We must have "the will and the readiness to seek understanding with the other and to reach some reasonable agreement,"[57] but we must also recognize that agreement may elude us. At times we must act without agreement or approval, and so acting is not always a reason for self-condemnation or for resentment toward others.

III. LEGITIMATION AND THE BRACKETING OF DIFFERENCES

I would now like to return to Habermas's criticism of Rawls, that Rawls's conception of a hypothetical agreement of parties in an "original position" fails to provide scope for the reflexivity that is essential to the idea of morality. Moral norms, Habermas argues, must be tested in actual argumentation among the affected parties. Rawls's construction of a practical discourse, by contrast, is essentially "monological" in that it allows every individual "to justify basic norms on his own." Rather than viewing his work as the "contribution of a participant in argumentation to a process of discursive

will formation," Rawls mistakenly sees it "as the outcome of a 'theory of justice,' which he as an expert is qualified to construct."[58]

In one sense this criticism is well taken. If we follow Habermas in seeing the moral point of view as rooted in the structure of communicative action, then moral norms can be vindicated only through the affirmations of social actors as they reach mutual understanding through processes of argumentation, broadly conceived. But we might view Rawls's theory not as an "expert" construction to which citizens should defer, but as a proposed *strategy* for the discovery of norms that all can accept under conditions of moral pluralism. Critical to this strategy is that it enjoins what we might call the "bracketing of difference." Argumentation at the level of defining fundamental principles of justice, Rawls proposes, should be based on the interests that are broadly shared, rather than on identities and interests that differentiate us, making us specific, concrete persons.[59] By bracketing our differences behind a veil of ignorance, we can discover norms that all can accept because they would be impartial, protecting widely shared interests and incorporating a genuinely common good.

Rawls's specific formulation of the "bracketing strategy," however, is not sufficiently inclusive. Some participants in actual discourses would not be willing to bracket their differences in the way the Rawlsian strategy requires because doing so would prevent them from articulating their needs and aspirations.[60] In Rawls's theory, the principles of justice determine the appropriate distribution of "primary goods," goods that are necessary or instrumental to the realization of our basic interests. In Rawls's view, we have "two highest-order interests," to realize and exercise our capacity for justice and our capacity to form and pursue a conception of the good. In addition, Rawls's persons have an interest in advancing their "determinate conceptions of the good," but this is subordinate to the first two interests.[61] It is crucial to note that "what are to count as primary goods is not decided by asking what general means are essential for achieving the final ends which a comprehensive empirical or historical survey might show that people usually or normally have in common." Whatever ends people actually adopt, and whatever means may be required for those ends, the primary goods are determined "in the light of a conception of the person given in advance."[62]

This restriction on the concept of the "original position" means that the scope of conflict is limited by the conception of the person on the basis of which Rawls constructs his theory of justice. Certain kinds of issues and claims will not be given a hearing, certain voices will be excluded on the grounds that they do not express legitimate claims. Excluded are people for whom the "capacity to form and pursue a conception of the good" is not subordinate to their "determinate conceptions of the good," that is, those for whom the capacity for agency may be overridden by their particular moral beliefs or religious views. This exclusion does not reflect a rational consensus of citizens, but is a *presupposition* of the processes through which a rational consensus is formed, delimiting the range of political choice prior to public discourse and debate. This will not pose a problem if moral pluralism is sufficiently limited that such voices do not exist. But if Rawls's concept of the person is not universally shared in a society, then his theory of justice cannot serve as the basis for a moral community. Those whose voices are excluded will experience this as an imposition and thus as unjust.

Habermas and Benhabib insist on the open-ended character of discourse, and the need to include all voices and perspectives, requirements that Rawls's theory fails to meet. But Rawls's work suggests that it is only by reducing the scope of issues that must be authoritatively decided that we can have hope of finding norms that are broadly acceptable in a society characterized by value pluralism.

In this context we might follow some hints Habermas offers in his discussion of justice and solidarity. Although there may be a plurality of forms of human flourishing, there may be much less diversity in the forms of suffering and vulnerability to which we are subject. In particular, the very idea of a society whose practices are vindicated through discourse rests on a conception of human agency, in which we see ourselves as beings who are at least sometimes "doers," who control and direct some of our actions according to our purposes and beliefs. A notion of agency is inherent in the idea of giving or withholding assent to a particular proposition, not to mention the idea that we can be bound, and bind ourselves, to norms that regulate our interactions. The impairment of one's capacity for agency results in a "damaged life," a judgment that can be accepted by people who have widely divergent notions of what constitutes a good life. Bracketing questions of the good life and fo-

cusing on a common interest in protecting our capacity for agency, therefore, could provide a suitable basis for achieving the agreement necessary to a discourse-based view of political legitimacy.

Norms protecting the capacity for agency include a basic set of rights protecting the privacy and integrity of individuals, and rights to speak and communicate.[63] They would also include a set of welfare rights, providing the resources necessary for participation in the political community and the institutions of political democracy.[64] But they would allow significant scope for individual liberty, a significant sphere of private – in the sense of nonpolitical – life, within which individuals and groups would be free to pursue their distinct, and often conflicting, ideals and purposes. Employing a "bracketing strategy" of the sort originally suggested by Rawls holds out the hope of discovering a sufficient level of commonality to make a discourse ethics determinate, and so suitable to the task of creating a political community that can accommodate moral pluralism.[65]

Such a society would be one where deep conflicts would still occur, including conflicts over the specification of the rights and responsibilities necessary for agency. In some cases, as Habermas observes, there may be problems such as abortion "that cannot be resolved from the moral point of view" because they are so "inextricably interwoven with individual self-descriptions of persons and groups, and thus with their identities and life projects."[66] Many of these disputes can be managed by discovering "how the integrity and the coexistence of [different] ways of life and worldviews . . . can be secured,"[67] but we might also find that the differences are so great that citizens will not be able to find reasonable compromises that all can accept. Some will therefore experience whatever decision is reached as an imposition. But we can hope that such occasions will be sufficiently rare so that the ideal of a social order whose norms are fully acceptable to its members can be a reasonable goal for us to pursue.

NOTES

1 Jürgen Habermas, *Justification and Application* (Cambridge, Mass.: MIT Press, 1993), p. 9.

2 See, for example, Jürgen Habermas, "Three Normative Models of Democracy," presented at the 1993 meeting of the Conference for the

Study of Political Thought, "Democracy and Difference," Yale University, New Haven, Conn., April 1993.

3 John Rawls, "Justice as Fairness," *Philosophical Review* 67 (1958), reprinted in a somewhat revised form in *Philosophy, Politics, and Society*, ed. Peter Laslett and W. G. Runciman, 2d series (Oxford: Blackwell, 1962), from which all quotations have been taken. See the discussion in sec. 3–5 (pp. 136–49 in Laslett), where the procedural character of Rawls's construction is brought out clearly.

4 Ibid., pp. 141, 142.

5 Ibid., p. 148, my emphasis.

6 Jürgen Habermas, *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholsen (Cambridge, Mass.: MIT Press, 1990), p. 211. Hereafter cited as MCCA.

7 Ibid., p. 211.

8 Jürgen Habermas, *The Theory of Communicative Action*, Vol. I, (Boston: Beacon Press, 1984), pp. 285, 287.

9 Ibid., p. 302. Rules of etiquette should not be confused with moral norms. Habermas describes them as "customary rules that are followed for the most part without needing, or being amenable to, rational justification," *Justification and Application*, p. 161.

10 Jon Elster, *The Cement of Society* (Cambridge: Cambridge University Press, 1989), p. 15. See ch. 3 of that text for a full statement of his argument, and his *Solomonic Judgments* (Cambridge: Cambridge University Press, 1989), chs. 1 and 4, for an analysis of the limitations of the model of instrumental rationality.

11 See *Theory of Communicative Action*, Vol. II, *Lifeworld and System* (Boston: Beacon Press, 1987), pp. 119–52.

12 Kenneth Baynes, *Normative Grounds of Social Criticism* (Albany: State University of New York Press, 1982). Habermas would exclude "latently strategic action, in which the speaker *inconspicuously* employs illocutionary results for perlocutionary purposes," from the category of communicative action. Although my action is obviously purposive, it is not "latently strategic"; I am not "pursuing undeclared ends" nor seeking to influence another through power or sanctions.

13 Anthony F. C. Wallace, *Culture and Personality*, 2d ed. (New York: Random House, 1970), p. 32.

14 Ibid., p. 35.

15 MCCA, p. 58. Habermas discusses several types of communicative action and the validity claims they involve, but I will focus my discussion on the problem of normative validity.

16 MCCA, p. 67.

17 Ibid.

18 Ibid., p. 65.

19 Ibid., p. 92.

20 Ibid., p. 89. In developing this argument, Habermas draws on the work of Robert Alexy. See Alexy's "A Theory of Practical Discourse," in *The Communicative Ethics Controversy*, ed. Seyla Benhabib and Fred Dallmayr (Cambridge, Mass.: MIT Press, 1990). Alexy discusses the rules of argumentation cited in the text on pp. 209–10.

21 MCCA, p. 92.

22 Kenneth Baynes, in his *Normative Grounds of Social Criticism*, stresses that the derivation of "a distinctively *moral* principle of universalizability" requires not only the acceptance of rules of argumentation but also "the idea of what it means to justify a norm of action" (p. 114).

23 MCCA, p. 93.

24 *Theory of Communicative Action*, Vol. I, p. 302.

25 Ibid.

26 MCCA, p. 130.

27 Ibid., p. 120.

28 Ibid., p. 121.

29 Ibid., p. 120.

30 *Justification and Application*, p. 12.

31 MCCA, pp. 177–78.

32 For an excellent discussion of this aspect of Habermas's account, see Stephen K. White, *The Recent Work of Jürgen Habermas* (Cambridge: Cambridge University Press, 1988), esp. ch. 4.

33 *Justification and Application*, p. 52. As Rehg puts it, "the individual's needs, values, or interests become *normative* only if they find the assent of others" (William Rehg, "Discourse and the Moral Point of View," *Inquiry* 34 (March 1991, p. 44).

34 MCCA, p. 200.

35 Jürgen Habermas, "Justice and Solidarity," *Philosophical Forum* 21 (1989–90), pp. 48–49.

36 MCCA, p. 203.

37 Ibid., p. 205.

38 Habermas often speaks of valid norms as being "equally in the interest of all" (e.g., *Justification and Application*, p. 29), or "equally good for all" (e.g., p. 151). This appears to be an unnecessarily strong requirement; in a pluralist world, it is not obvious that there could be a metric that could be used to measure the extent to which a norm served the interest or the good of people whose values differ significantly.

39 Habermas argues that "discourses of application" must be separated from "discourses of justification." In discourses of application, we must decide which norm(s) are most appropriate to apply to a particular situa-

tion. In discourses of justification, we attempt to anticipate the kinds of situations to which a norm would apply, but it is obviously impossible to anticipate every eventuality. See *Justification and Application*, pp. 35–39.

40 Baynes, *Normative Grounds of Social Criticism*, p. 84.

41 *Theory of Communicative Action*, Vol. I, p. 305, my emphasis. Similarly, Habermas writes that in communicative action participants carry out their plans "only on condition that consent has been reached," which suggests that only a strong model of communicative action is adequate ["Remarks on the Concept of Communicative Action," in *Social Action*, ed. Gottfried Seebass and Raimo Tuomela (Dordrecht: D. Reidel, 1985), p. 154].

42 Seyla Benhabib, *Situating the Self* (New York: Routledge, 1992), p. 169.

43 Ibid., p. 170.

44 Ibid.; see also pp. 185–87.

45 Ibid., p. 10.

46 Ibid., p. 29ff.

47 Ibid., pp. 53, 165.

48 Ibid., p. 162.

49 Habermas, MCCA, p. 93.

50 Benhabib, *Situating the Self*, p. 52.

51 Ibid., p. 9.

52 Habermas, *Justification and Application*, p. 9.

53 Benhabib, *Situating the Self*, p. 52.

54 Following Stawson, Habermas argues that it is the feeling of resentment, and the way it is tied to the belief that a perpetrator has "violated something impersonal or at least suprapersonal, namely a generalized expectation that both parties hold," which provides the phenomenological grounding for morality, an experience that noncognitivist and prescriptivist views of morality are incapable of capturing (MCCA, pp. 45–50).

55 Ibid., pp. 48–49.

56 While working on this essay I watched a program on MTV with my thirteen-year-old daughter on racist, skinhead groups and their music. Part of the program involved informal interviews with skinheads as they talked and joked with the interviewer and each other. She found the episode confusing, seeing them acting in ways that were recognizably "like us." "It would be so much easier just to hate them if they weren't like us at all," she observed.

57 Benhabib, *Situating the Self*, p. 9.

58 Habermas, MCCA, p. 66.

59 There are other conditions defining the original position, of course, such as reciprocity and freedom: we must see ourselves as free and equal per-

sons and society as a system of mutual advantage. I focus on the idea of the veil or ignorance and the related notion that deriving principles of justice requires a model of hypothetical rather than actual discourse.

60 The following discussion draws on my *Constructing Community* (Princeton, N.J.: Princeton University Press, 1994), pp. 56–57.

61 John Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond*, ed. A. Sen and B. Williams (Cambridge: Cambridge University Press, 1982), p. 165.

62 Ibid., pp. 166–67.

63 See Jean Cohen's development of this theme in her "Discourse Ethics and Civil Society," in *Universalism vs. Communitarianism*, ed. David Rasmussen (Cambridge, Mass.: MIT Press, 1990), pp. 88ff.

64 See Habermas's defense of positive rights in *Justification and Application*, pp. 68–69.

65 I have developed the ideas hinted at in this concluding section at much greater length in my *Constructing Community*.

66 *Justification and Application*, p. 59.

67 Ibid.

Part IV

DISCURSIVE DEMOCRACY