

Competent Need-Interpretation and Discourse Ethics

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Jürgen Habermas has argued that the justification of moral norms requires a maximally inclusive process of argumentation among real individuals under ideal conditions. As he is well aware, there is a tension here. If the critical and epistemic force of the process of moral justification is to be retained, it must not be reduced to the *de facto* conditions, given how distorted they often are. But if the justificatory process he terms “practical discourse” is to avoid the presumptuousness of imagining what others would find acceptable, it must retain the requirement of actual dialogue.¹

In his attempts to address this tension, Habermas typically focuses on idealizations involving unlimited time, unrestricted participation, and sameness of meaning, but he has said little about requirements regarding the competence of participants. In this essay, I focus on one set of capacities that participants in practical discourse clearly expect of one another, namely, the capacity to perceive and express their own needs, desires, interests, feelings, and concerns. Habermas is very clear that “need-interpretation” is an essential aspect of practical discourse, but less clear about what I propose to call “need-interpretive competence.” Once it is recognized that participants in practical discourse demand this set of capacities of one another, the tension between the real and the ideal reemerges. This puts pressure on Habermas to revise his discourse ethics in a way that better appreciates the pragmatic nature of the presuppositions of practical discourse.

I begin by reconstructing an account of need-interpretive competence, on the basis of what Habermas says about need-interpretation and about the idealizing presuppositions of practical discourse. I then note several unwelcome implications of this requirement, focusing on what I call the “trilemma of inclusive and stringent consensus.” I go on, in section 3, to consider several attempts that Habermas could make to avoid this trilemma, none of which succeeds. I then reexamine the three horns of the trilemma and argue that although two of

them should be avoided, the third horn is not a threat to discourse ethics, although it does involve reconceptualizing the idealizing presuppositions of discourse in a way that is *normative all the way down*.

1. Need-Interpretive Competence as a Presupposition of Practical Discourse

The basic outlines of Habermas's discourse ethics can be stated as follows. Discourse ethics is a proceduralist account of moral rightness, as Habermas's "discourse principle" makes clear: "Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity *as participants in a practical discourse*."² If this approval is to be part of a process that participants can consider rational, the process must meet certain conditions that, upon examination, turn out to be rather demanding, including freedom from coercion, unlimited time, and the availability of all relevant information.³ These conditions are not, however, externally imposed criteria developed by the moral theorist. Rather, they are found within the attitudes of the participants themselves. For in order for participants to be able to think of the justificatory process as good enough for what they agree on to count as fully valid, they must consider each other to have met these conditions. They may discover, of course, that these conditions do not hold, but this does not diminish their critical potential. As Habermas puts it:

The idealization of justificatory conditions that we undertake in rational discourses constitutes the standard in terms of which reservations can be raised at any point regarding the degree of decentralization [that is, inclusion] attained by that justificatory community....When those affected are excluded from participation, or topics are suppressed and relevant contributions pushed aside, when compelling interests are not forthrightly articulated or convincingly formulated, when others are not respected in their otherness, we have to reckon with the fact that a rationally motivated positions will not be forthcoming or even broached.⁴

Thus a norm can count as valid only if agreement on it can be reached under conditions that no participant finds at all objectionable. On Habermas's current formulation of the key discourse-ethical principle (U), "A norm is valid when the foreseeable consequences and

side effects of its general observance for the interests and value-orientations of *each individual* could be *jointly (gemeinsam)* accepted by *all* concerned without coercion.”⁵

For my purposes here, the crucial points in the two passages just quoted are, first, that participants’ “interests and value-orientations” are decisive for acceptability of a norm and, second, that these concerns must be “forthrightly articulated” and “convincingly formulated”. It is here that we see the roots of the requirement of need-interpretive competence.

The first point is straightforward. It is hard to see how a defensible form of moral justification could neglect the needs, interests, desires, values, feelings, and self-understanding of individuals. As I read him, Habermas uses the terms “needs” and “interests” in a broad way, to include this variety of instantiations of the “partiality that determines our subjective attitudes in relation to the external world.”⁶ Although he has, at various points, preferred talk of “needs” or “generalizable interests,” his current writings suggest a broader view:

The phrase “interests and value-orientations” points to the role played by the pragmatic and ethical reasons of the individual participants in practical discourse. These inputs are designed to prevent the marginalization of the self-understanding and worldviews of particular individuals or groups and, in general, to foster a hermeneutic sensitivity to a sufficiently broad spectrum of contributions.⁷

Indeed, it fits best with his anti-foundationalist approach to justification that Habermas avoid privileging any particular class of considerations as especially morally relevant and instead conceive of moral discourse in a way that is open for a variety of inputs.⁸ To highlight this variety, I will typically use the phrase “needs, desires, interests, feelings, and concerns.”

Talk of “need-interpretation” should be understood to be similarly broad. Moreover, as Habermas has emphasized from his first writings on discourse ethics, a person’s needs, desires, interests, feelings, and concerns are not given but are subject to reinterpretation. Because they “are accessible only under interpretations dependent upon traditions, the individual actor cannot himself be the *final* instance in developing and revising his interpretations of needs.”⁹ This public contestability of need-interpretations does not,

however, displace the need for individual competence and effort, for there is, as Habermas might say, “no functional equivalent” for the subject’s own expression, articulation, and interpretation of her needs, desires, interests, feelings, and concerns.

This leads to a second and less frequently noted point. If participants are *unable* to articulate their concerns, practical discourse will not be fully rational, any more than if they were being excluded or interrupted. This point is crucial. It would be easy to misunderstand discourse ethics’ “freedom from coercion” requirement as a moral prohibition against coercion. But this is actually an epistemic point about what conditions stand in the way of a fully rational justificatory procedure. And these conditions include not only the presence of interfering factors but also the absence of sustaining conditions, such as full information, adequate time, and the ability to perceive and express one’s needs. And to the extent to which participants in practical discourse lack this last-mentioned ability – what I am calling “need-interpretive competence” – the process will be epistemically deficient. That is, participants will have reason to view their deliberations as inconclusive.

What does the requirement of need-interpretive competence entail? Because this question can only be answered as a reconstruction of the presuppositions of discourse participants, there are no substantive criteria to be specified theoretically.¹⁰ As a hypothesis, however, I would propose characterizing full need-interpretive competence as the ability to provide interpretations of one’s needs, desires, interests, feelings, and concerns that are complete, non-illusory, articulate, and intelligible. (And this is to leave to one side the crucially important *interpersonal* capacities that are also necessary for give-and-take about one’s need-interpretations.¹¹)

To satisfy the first requirement, that of *completeness*, need-interpretively competent individuals must be able to introduce into practical discourse all their needs, desires, interests, feelings, and concerns, insofar as they are relevant to the discussion of the norm in question. This will typically involve the acquisition of self-awareness, the removal of pathologically repressive mechanisms, and the development of sensitivities to the subtleties of one’s inner life.

Second, those with full need-interpretive competence not only leave nothing out, they

also don't include anything extra. They must filter out the needs, desires, interests, feelings, and concerns that are based in *illusions*, whether cases of outright (self-)deception or the more subtle cases in which one mistakes low-priority whims and urges for the needs and values that really matter to one.¹²

A third feature, *articulation*, is crucial for interpreting components of one's "inner nature" in such a way that their status as morally relevant considerations can become clear. In part, this is a matter of accuracy, since one's needs, desires, interests, feelings, and concerns are often complex. One must have the language to disambiguate them and to capture their nuance and tone. In addition, articulate self-interpretation is a condition for the possibility of gaining access to the normative character of certain needs, desires, interests, feelings, and concerns. This is because, as Charles Taylor has shown, "certain modes of experience are not possible without certain self-descriptions," and this is especially true of "import-bearing" modes of responding to situations.¹³

Fourth and finally is the requirement of intelligibility, the inclusion of which has the most far-reaching implications. Intelligibility is necessary in both a *cultural* and a *personal* sense. Culturally, the evaluative language one uses to articulate one's needs must resonate with others: "Evaluative expressions or standards of value have justificatory force when they characterize a need in such a way that addressees can, in the framework of a common cultural heritage, recognize in these interpretations their own needs."¹⁴ For example, if I appeal to my neighbor not to chop down her tree on the grounds that the loss of shade would leave me feeling "exposed to the sun in a demoralizing way", this appeal has justificatory force only if my reaction is recognizable and not some bizarre phobia. This need-interpretation must also be intelligible in the *personal* sense. The avowed importance of my neighbor's tree must find support in the rest of my life. If I hacked down my *own* shade trees without remorse or spend most of my vacations in desert landscapes, the authenticity of my appeal would be undermined. In general, one must be able to situate one's needs, desires, interests, feelings, and concerns both vertically, as part of one's life-story, and horizontally, as cohering with what one else one cares about.¹⁵

Despite the breadth of this account of full need-interpretation, it should be

distinguished from what Habermas discusses under the rubric of either “personality” or “ethical-existential discourse”. Unlike need-interpretive competence, personality is a personal resource that enables a person to negotiate conflicting demands of morality and inclination, as well as different role obligations. And even where personality and character are involved in dialogically transforming an agent’s needs, desires, interests, feelings, and concerns in a way that reconciles them with the demands of morality, it is still the quite different *epistemic* capacities for articulation and interpretation that are at the heart of need-interpretive competence.¹⁶

It is a bit more complicated to distinguish need-interpretation from what Habermas calls “ethical-existential questions,” since they involve the questions we ask ourselves about what we *really* want. Habermas makes clear that the capacity and willingness to engage in reflection on ethical-existential questions is not a generally required presupposition but rather an optional lifestyle choice, one that “already presupposes, on the part of the addressee, a striving to live an authentic life.... In this respect, ethical-existential discourse remains contingent on the *prior* telos of a *consciously* pursued way of life.”¹⁷ However, although individuals who are interested in such self-clarification are more likely to have need-interpretive competence, the status of the imperative is quite different. For, unlike a commitment to ethical-existential self-clarification, need-interpretive competence is an unavoidable presupposition of practical discourse.

As usual, the unavoidability of this presupposition is revealed in cases where it is disappointed. Our attempts to resolve practical conflicts discursively run aground as soon as it becomes clear that our interlocutors are unable to make crucial distinctions between passing whims and serious needs, who respond rigidly in the face of ambiguous or ambivalent emotions, or who have been brutalized in ways that leave them unable to trust their own intuitions about what their own preferences are.¹⁸ Cases of small children, victims of brain injury, or sociopaths provide examples, but the decisive factor is not the fact that someone fits some category of psychopathology but rather that, in these cases, the presuppositions underwriting an attitude of discursive engagement with that person can no longer be sustained.¹⁹ Once the evidence of need-interpretive incompetence accumulates and

cannot be explained away, we can no longer think of our deliberations as meeting the standards of rational justification. We may still have the option of treating others *as if* they had the relevant competence – and, under certain circumstances, this may even be ethically required of us – but that is already a different attitude, and not one that can sustain genuine discourse.²⁰

In sum, I have argued that Habermas's conception of practical discourse entails the view that participants in discourse presuppose of one another that they are able to interpret fully and accurately their needs, desires, interests, feelings, and concerns. Insofar as they cannot sustain this presupposition, conditions of practical discourse are not met and the process of justification must be viewed as incomplete and inconclusive. There are back-ups and alternatives – institutionalized political discourse, compromises, and so on – but the standards of *discourse* have not been met.

2. Some Potential Difficulties with the Requirement of Need-Interpretive Competence

It is perhaps not surprising that Habermas has not elaborated a requirement of need-interpretive competence as a presupposition for practical discourse, for such an elaboration brings to the surface several thorny issues for discourse ethics, some familiar and some new. In this section, I will mention several difficulties and the initial responses to them that Habermas might offer. My analysis leads up to what I see as the central trilemma generated by the inclusion of need-interpretive competence as a presupposition of practical discourse.

(a) The first difficulty has to do with the familiar objection that the conditions for justification are unrealizable. Thus, including the requirement of need-interpretive competence might appear as the final straw in undermining the plausibility of ever realizing genuinely discursive conditions. Avoiding manipulation, exclusion, and faulty information is improbable enough. Including the requirement of need-interpretive competence adds a component that is particularly difficult to realize, given that it is a set of skills and attitudinal dispositions developed over time. After all, we all have pockets of rigidity, unexplored regions of the subconscious, and feelings we can't quite get a handle on.

Habermas would likely reply that this objection, at least as it is stated, misses both the

point and the pragmatics of discursive presuppositions as *counterfactual idealizations*. Their point is to keep alive the anticipation, built into the claims to rightness we actually make, of full and unrestricted validity. These presuppositions do *not* function as certificates of authentication that license us to think we have the final answer. Rather they are constitutive of the gamble that is made with any assertion about what is morally defensible, namely, that it could meet with acceptance even (or perhaps only) under conditions that are indefinitely improved beyond what we now have. “As the gerund ‘idealizing’ already reveals, idealizations are operations that we must undertake here and now, but *while performing them* we must not vitiate their context-transcending meaning.”²¹ Thus, rather than providing grounds for dropping the requirement of need-interpretive competence, the awareness that we fall short of the ideal reveals its relevance. While this reply is, I think, successful as it stands, it does not address some deeper problems in such idealizations, which I take up in section 3 below.

(b) A second, more political challenge is that this model of moral discourse seems to privilege those who have greatest access to what Nancy Fraser has called the “socio-cultural means of interpretation and communication.”²² If participation in practical discourse requires all the need-interpretive skills outlined above, then those less-well-educated into the hegemonic discourse and those who have grown up under difficult circumstances stand less chance of qualifying, as it were, for practical discourse.

This objection misses its mark. To begin with, it is a mistake to think of presuppositions as entry requirements, in the sense that some get to participate and others don’t. Unless *everyone* affected is competent to participate, conditions for discourse are not met, and no parties to any actual agreement reached under those circumstances can legitimately think of themselves as knowing what is right. Instead, under such circumstances, we must settle for the epistemically inferior status of “advocatory” deliberations.²³ Discourse ethics has much work still to do on the topic of advocacy, and the *de facto* unequal distribution of competence adds urgency to the question of who is supposed to advocate for whom – and of how such asymmetries could be defended. But these points do not apply to practical discourse proper. Against the objection that some idiolects of need-

interpretation might be hegemonic and exclusionary, Habermas very clearly insists that the language of need-interpretation is open to being challenged. As with other presuppositions of discourse, no charges of linguistic exclusion may remain standing if the discourse is to count as genuine.

Perhaps the most important issue raised by this objection – one I cannot address here – is the more general question of how much would need to be done to move current conditions closer to the idea of genuine discourse. The serious inequalities of access to acquiring need-interpretive competence pose an enormous challenge for such a task. Habermas has held such discussions at arm's length, in order to avoid having conditions of discourse be misunderstood as a *goal*, but Karl-Otto Apel, Axel Honneth, and others are right to call for more work on bridging the gap between the ideal of full competence and the current reality of widespread inequality.²⁴

(c) A third difficulty for discourse ethics lies in the possibility that requiring need-interpretive competence for practical discourse would radicalize a point made by Thomas McCarthy regarding intractable disagreements. As I mentioned earlier, for participants to consider each other need-interpretively competent, they must find one another's need-interpretation to be intelligible. However, since needs, desires, interests, feelings, and concerns are interpreted "in the light of cultural values,"²⁵ and because these cultural values are so divergent within and between contemporary cultures, the prospects for the agreement on need-interpretations appear dim:

So consensus could be achieved only if all participants could come to agree on the authentic interpretation of each's needs, and they would have to do so from the very different hermeneutic starting points afforded by a pluralistic and individualistic culture.²⁶

In other words, if it is true, as Habermas himself suggests, that needs interpretation requires "thickly" evaluative language, then it is hard to see how one can jointly assess the consequences of a norm's general observance as long as there is disagreement about how to interpret the needs, desires, feelings, and interests affected by acting in accordance with that norm. As a result, the validity of moral norms seems to presuppose a prior ethical agreement

on substantive values.

It might be thought that this conclusion could be avoided by separating “agreeing with someone’s need-interpretation” from the seemingly weaker “finding someone’s need-interpretation intelligible”. Couldn’t one know what a person meant without agreeing with them? In the case of factual assertions, this may be unproblematic. But in the case of evaluative claims, understanding them means appreciating what is being presented *as* worthy (or not). There is something incoherent about saying, “I don’t see what could be ennobling about driving a sport utility vehicle, but it makes sense to me when other say they find it to be so.” As with the appreciation of material inferences, the evaluative claims central to need-interpretation have intelligibility only once one is already within what one might call the “space of values,” to adapt a phrase of Wilfred Sellars.²⁷ Hence mutual assessment of intelligibility requires that interlocutors situate themselves in the same broad space of values, which involves achieving some degree of agreement.

Nor will it work to counter that differences are typically local or relatively minor issues, such as whether to cut down a shade tree, and thus that it would be no problem to concede that these issues are resolvable only within restricted contexts. But substantive differences of this sort are at the heart of disputes of an undeniably moral nature. This is clearly the case, for example, with regard to norms about sexual harassment. To identify and express the relevant considerations that bear on such norms, we must be able to sort out desires and emotions that are often complex or ambivalent. Moreover, such norms involve a highly contested evaluative language for discussing sexuality, physical attraction, and the sense of personal space. Although these disagreements are also about how to *apply* agreed-upon norms, the disagreements cannot be relegated to “application discourse,” since what is central to the discourse-ethical justification of norms, as we have seen, are the “the foreseeable consequences and side effects of its general observance for the interests and value-orientations of *each individual*”²⁸ – and these “consequences and side effects” can be assessed only in terms of need-*interpretations*.

Once it is clear how intimately substantive values are involved in the justification of norms, the implications of McCarthy’s analysis become serious. For unless participants in

discourse come to agree on their substantive “ethical” value-commitments – something antithetical to the formalism of Habermas’s moral theory – they will not be able to reach agreement on moral norms in practical discourse. McCarthy’s analysis focuses on reaching agreement on the need-interpretations themselves. These are disagreements about the subject-matter in dispute or about the relative weights of various considerations as reasons for or against adopting a norm. But these disagreements bring with them a deeper dissensus at the level of the very *presuppositions* of discourse. This is because being competent cannot be separated from being appropriately viewed as competent, and thus competence itself is something that requires intersubjective agreement.

Seeing this requires understanding how, as a normative or “deontic” status, need-interpretive competence differs from other capacities, such as basic color vision or the ability to run a four-minute mile. Whereas these latter capacities can be separated from the ability to tell whether one has succeeded in exercising it, intrinsically normative capacities, such as those for need-interpretation, practical reasoning, or language use, can be had only *within* a web of status-attributing attitudes. Just as one cannot be “the go-ahead run on second base” outside the nexus of rules, events, judgments, attitudes, and so on that make a baseball game a legitimate baseball game, such normative capacities as need-interpretive competence do not come into view except within the “game” in question.²⁹ Michael Dummett illustrates this point with the following joke: A man turns to a woman and asks, “Do you speak Spanish?” “I don’t know,” she replies, “I’ve never tried.” As Dummett points out, what has gone humorously wrong here is that if the woman doesn’t *already* speak Spanish, she won’t be able to know whether the sounds she makes are Spanish sounds or not.³⁰ In this sense, being a competent language-speaker is inseparable from already being in the game, that is, of being able to discriminate between when one is speaking the language and when one is uttering gibberish. It is not enough, of course, simply to *think* that you are making the right moves. Your judgments must accord with those of other competent judges. Thus, you are a Spanish speaker only if, in your interaction with other Spanish-speakers, you make what are considered to be the right moves. Similarly, I am suggesting, you are need-interpretively competent only if you can make what count as the right moves in the language-game of need-

interpretation. And one must earn – as an ongoing accomplishment – the ascription of competence from consociates, whose competence is similarly dependent on your finding them to be competent.

As McCarthy's analysis makes clear, however, in pluralistic societies it is likely that in at least some important domains, reasonable interlocutors will find one another's need-interpretations unintelligible enough to suspend the attribution of full need-interpretive competence. And to the extent to which this would continue to be the case under otherwise ideal conditions, large areas of social conflict will not be discursively resolvable.

This suggests a trilemma at the heart of discourse ethics: Habermas must (a) loosen the requirements of agreement and mutual intelligibility, particularly of having to agree for the same reasons, or (b) lower the expectations of need-interpretive competence as a presupposition of discourse, or (c) accept that agreement on norms will only be attainable if we limit the scope to those who share our evaluative language. At least at first sight, none of these is an attractive option for Habermas. Thus, before examining whether Habermas would actually be advised to take one of the horns of this trilemma – which I will refer to as the “trilemma of inclusive and stringent consensus” – it is worth asking what resources Habermas has for avoiding it altogether.

3. Can Discourse Ethics Avoid the Trilemma?

In this section, I consider two ways in which Habermas could try to argue that discourse ethics does not actually face this trilemma. The first involves understanding discourse about need-interpretations and discourse about the validity of a norm as distinct but complementary undertakings, such that the substantive value conflicts can be relegated to a non-moral context of justification. The second strategy involves reasserting the *counterfactual* nature of idealizing presuppositions of discourse mentioned earlier. I argue that both attempts are unsuccessful.

This first argumentative strategy can be seen as a response to McCarthy's charge that Habermas is committed, despite himself, to making moral discourse dependent on ethical discourse: “The separation of formal procedure from substantive content is never absolute:

we cannot agree on what is just without achieving some measure of agreement on what is good.”³¹ This is a problem for Habermas, who insists on the priority of the right over the good. One reply open to him is to grant that need-interpretation involves discussions of substantive values, but that they should be thought of as a supplement to moral discourse, without displacing the priority of moral discourse. Indeed, Habermas himself mentions the possibility of such complementary relationships between types of discourse: “The different forms of argumentation form a system precisely to the extent that they *refer internally to one another* owing to their need for supplementation.”³² Although he rejects, in this passage, Martin Seel’s proposal for a form of discourse that would mediate between moral, ethical, and other forms of discourse,³³ he still allows for the idea that the need might arise *within* the context of moral argumentation for the resolution of issues that are best addressed in a different context of argumentation, say, of deliberations about need-interpretation. In this way, Habermas could “outsource” the reliance on substantive values to a separate domain and drop the idea that need-interpretive competence has to be a presupposition of participants in practical discourse. In cases of breakdown of communication or the need for further clarification, participants could shift to an “ethical” mode, but they would not have to agree on evaluative standards of intelligibility as a *precondition* for moral discourse.

Upon reflection, however, it is unclear what this proposal can meet McCarthy’s objection in a way Habermas could accept. The separation of the two contexts cannot be too sharp. The results of deliberations in the domain of need-interpretation must still be construed as relevant input into and correctives on moral discourse, at least to the degree that application discourse is. To this extent, moral discourse remains dependent on need-interpretive discourse. Moreover, this would not eliminate the problem-generating need for convergence on the substantive values, since participants in moral discourse have grounds for accepting the results of the need-interpretive discourse only if they can accept the intelligibility of the perspectives raised. Habermas could, alternatively, adopt an approach parallel to McCarthy’s suggestion that “*in practice* political deliberation is not so much an interweaving of separate discourses as a multifaceted communication process that allows for fluid transitions among questions and arguments of different sorts.”³⁴ But at that point the

complementarity would have been absorbed into a single, inclusive discourse. However sensible such a view is, it would amount to giving up the hoped-for possibility of exporting value disagreements out of practical discourse proper.

The second way in which Habermas could try to avoid the trilemma of inclusive and stringent consensus is by arguing that the trilemma is based on a misunderstanding of the *counterfactual* nature of the presuppositions of practical discourse. I have been speaking as if contexts of moral and political deliberation would break down if we did not attribute full need-interpretive competence to one another. But this is obviously not true. Despite deep and sometimes violent conflicts over moral issues, there is remarkable stability in those discussions and increasingly widespread acknowledgment of the legitimacy, in principle, of human rights claims. The explanation, it could be argued, is that when conditions are less than ideal, the presuppositions of discourse are not thereby falsified. They retain, as I noted earlier, their essential corrective status.

But in light of the account I have offered of need-interpretive competence, the talk of counterfactuals is a bit more complicated, for what participants anticipate is not easily represented as the progressive reduction of limitations. In the case of time limits, we know what it would mean to “counterfactually presuppose unlimited time for discussion,” for it is simply an extension of familiar experiences, such as extending the length of a meeting in order to handle new business. Similarly, we can imagine a situation free from coercion by abstracting away the forms of manipulation with which we are all too familiar. Requirements of competence are, however, quite different. Not only does idealization presuppose the teleological anticipation of where a developmental process is heading, the state of affairs being “counterfactually presupposed” is one that involves participants *actually* viewing each other as competent. This follows from the earlier point that being need-interpretively competent is a normative status that emerges within a nexus of attributive attitudes. But this makes the very notion of “idealizing” competence problematic. For the state of the world in which full need-interpretive competence would be attained would also be a world in which there was agreement, among competent attributors, on the evidence. But, since the relevant evidence is that others’ need-interpretations are intelligible in light of shared value-

commitments, the idealization presupposed in practical discourse is of conditions incompatible with reasonable pluralism about values.

One response open to Habermas, which he has taken in his debate with McCarthy, is to insist that we *can* anticipate, as an idealizing presupposition of discourse, a context of pure communication unimpeded by any difficulties of translation, including those between evaluative vocabularies. In his discussion of Bernard Peters's model of a society characterized by "purely communicative social relations," Habermas suggests that, as a "methodological fiction," we can still conceptualize a situation unburdened by differences in competence, attention, or even language.³⁵

The fact that this is a *counterfactual* presupposition doesn't solve the problem, however. Many critics will, of course, view such a leveling of difference as precisely the nightmare scenario that they have always suspected Habermas's view to entail. But one doesn't have to be a postmodernist to be concerned. For if ideal conditions for discourse include full need-interpretive competence, and if that requires mutual attribution of the competence -- which in turn requires convergence on essentially evaluative standards of intelligibility-- then the realization of ideal conditions would seem to involve a situation in which we share the same evaluative standards and vocabulary. Unfortunately, at the conceptual level, realizing that condition would entail the elimination of competing and incommensurable value-orientations. But such evaluative diversity just *is* what reasonable pluralism about values involves. In this way, discourse ethics seems to be at odds with a commitment to the legitimacy of value pluralism.

Habermas can respond in two ways to this line of critique, by showing that sharing an evaluative language does not amount to cultural homogenization and by emphasizing that discourse not be thought of as "concrete".

For Habermas, the idea that our evaluative vocabularies form unbridgeable divides is a decidedly *unpragmatic* position, rooted in "culturalist" assumptions about language as "world-disclosing" rather than problem-solving.³⁶ Rather, in contexts of communication, interlocutors face the joint and symmetrical task of finding a language in which to address the issue at hand. Indeed, progress on this task must already be made before the issue can come

up as one that is shared. In a recent response to McCarthy, Habermas emphasizes this point.

The everyday hermeneutics of mass communications actually constitutes a melting pot, in which subcultural value-orientations *interpenetrate* and in which the evaluative vocabularies of public language are subjected to constant revision. To this extent, the common language in which citizens reach understanding regarding the interpretation of their needs is always already a fact.³⁷

In part, this is a matter of the usual task of finding the language in which to proceed communicatively. But, as William Rehg emphasizes, there is also an epistemic component to this task of finding a mutually acceptable way of formulating the issues and the considerations raised. A focus on the world-disclosing or “constitutive semantic power of language,” as in Charles Taylor’s approach,

...does not do justice to the fact that such [evaluative] languages, in constituting answers to moral questions, thereby raise validity claims the illocutionary force of which goes beyond the boundaries of the language in which the answer was first formulated....[In cases of conflict,] neither side can rest content, in a cognitive sense, with the constitutive power of *its* language, but must enter into a dialogical reflection with the others so as to reach a consensus settling both the cognitive uncertainty and the practical conflict.”³⁸

Once it is recognized that, like other value differences, conflicts over the attribution of need-interpretive competence are not to be viewed as *necessarily irresolvable owing to essential differences between persons or cultures*, but rather as practical problems that must be faced by individuals seeking a fair basis for coordinating their action – and thus as conflicts that can be resolved *legitimately* only by finding a *mutually* shared language. Nor is there any suggestion here of assimilating what the other says into one’s own language, since finding common ground typically means moving to new ground.

Despite its pragmatic character, this “melting pot” approach still represents ideal conditions as involving convergence of evaluative languages, and this might be thought to be incompatible with an endorsement of pluralism. But a further rejoinder can be found in

Habermas's insistence on avoiding an overly "concretistic" understanding of ideal conditions of discourse. Rather than anticipating a single moment of global fusion, the idealizing presuppositions are best understood in terms of a decentralized process that includes a variety of contexts of argumentation, to a variety of audiences, to resolve a variety of concrete conflicts, in a variety of evaluative languages. The idealization of discursive inclusivity – in many ways the key idea of discourse ethics – is decidedly *not* to be thought of as a large meeting but rather as a decentralized and ongoing process.³⁹ Only if one forgets this, Habermas could argue, is there anything to the charge that realizing ideal conditions of discourse would require negating pluralism about values.

Compelling as this approach is, it is not clear that Habermas is willing to accept the implications of such a thoroughgoing decentralization. In particular, this pragmatist decentralization of the process of finding agreement seriously undermines the grounds for expecting that these dispersed agreements will involve reaching agreement *for the same reasons*. For example, as part of developing such a decentralizing approach, Rehg suggests that "it is possible to conceive of universally valid claims that nonetheless must be defended in terms tailored to particular audiences."⁴⁰ This means that agreement on one norm could be reached within different communities of discourse on grounds that might not be acceptable to all. Thus, the advantages of understanding practical discourse in terms of a decentralized process are to be purchased at the price of a looser connection between the acceptability of the norm and acceptability of the reasons for the norm. This is not a conclusion that Habermas has been willing to accept. At the very least, this is not a strategy for avoiding the trilemma, since giving up the requirement of agreeing for the same reasons was one of the horns of the trilemma. It remains to be seen, however, whether taking this horn is the best available option for Habermas.

4. Shared Reasons, Abstract Principles, and Modest Expectations

Once it is granted that Habermas cannot escape the "trilemma of inclusive and stringent consensus," the question becomes which of the three horns is least problematic. That trilemma, again, is that (a) unless Habermas weakens his conception of agreement by

giving up the view that normative rightness is established only by participants in practical discourse agreeing *for the same reasons*, then either (b) participants will find agreement on norms only with those who share their substantive value-commitments, or (c) participants must lower their expectations and adopt less stringent requirements for ideal discourse.

(a) As I have mentioned, Habermas insists that the validity of a norm depends on participants in practical discourse agreeing on the norm for the same reasons. His motivation for this is complex, but the key argument is that the “binding/bonding force” of mutual understanding requires that interlocutors find each other’s speech act offers acceptable not merely for their own, sometimes strategic, reasons, but for reasons that make the speech act offer acceptable in general.⁴¹ In any event, it is clear that Habermas would resist taking the first horn of the trilemma.

McCarthy has, however, provided reasons for reconsidering Habermas’s sharp divide between agreeing for the same reasons and making a strategic compromise. There is, he suggests, room for “*rationally motivated agreement*” that “may well involve elements of conciliation, compromise, consent, accommodation, and the like.”⁴² Understanding this alternative requires appreciating the status of participants in practical discourse as “reflective participants.” McCarthy argues that although, as participants in discourse, we cannot avoid presupposing that agreement could be reached, we also have access to an *observer* perspective. And if, from that observer perspective, we have reason to believe that conditions for agreement are unfavorable, that insight will affect our expectations: “As ‘participants,’ to use Habermas’s terminology, we want to justify our actions to others on grounds that all could rationally accept. As ‘observers,’ however, we note the fact of reasonable pluralism and anticipate that some of the reasons acceptable to us will be unacceptable to others.”⁴³ In the case of attributing need-interpretive competence, we may know that, even if conditions of discourse are otherwise ideal, our interlocutors are so far from sharing our standards of intelligible need-interpretation that the only way to reach any agreement at all is to “bracket” critical consideration of their reasons for the avowed urgency of their needs, desires, interests, feelings, and concerns. In general, McCarthy is urging Habermas to move in the direction of John Rawls’s view that, in light of the “fact of reasonable pluralism,” individuals must

assume the “burdens of reason” and become tolerant and self-restrained in their judgments about others’ “comprehensive doctrines.”⁴⁴

Habermas’s response to this proposal has been sharply critical, claiming that if we follow McCarthy’s proposal, “we end up with something resembling Carl Schmitt’s understanding of politics.”⁴⁵ While this accusation goes too far, I think Habermas is right to argue that settling for rationally motivated agreement (without agreement for the same reasons) is acceptable only if doing so is licensed by a more fundamental principle on which there *is* agreement for the same reason. Whenever we agree to disagree, the agreement providing the parameters for legitimate disagreement demands agreement for the same reasons.⁴⁶

Moreover, as McCarthy himself says about Rawls’s approach, it is important not to let the observer’s perspective push out the participant’s perspective. Although McCarthy is enough of a Kantian to know that neither the observer nor the participant standpoint is “more true” than the other, there is still a tendency in his account of reflective participation to assume an asymmetry between the two. The observer perspective is presented as putting a check on participants’ performative presupposition that agreement could be reached. It offers a dose of realism that serves to correct the participant perspective that is caught up in its own engaged perspective, the way one might get caught up in a conversation and lose track of time. This makes it seem as if the participant’s perspective is something to which one succumbs, rather than a source of insight. Indeed, it is only against the background of the assumed privilege of the observer perspective that the expectations of disagreement could be treated as grounds for scaling back our discursive presuppositions. The danger is that normative judgment about the presuppositions of discourse is held hostage to concerns about stability.⁴⁷

One final reason for avoiding this first horn of the trilemma, despite McCarthy’s arguments, has to do with the difficulties in extending this view to the toleration of less-than-full competence. Although I have tried to extend McCarthy’s proposal to contexts in which we withhold the attribution of need-interpretive competence owing to value difference, it is much easier to accept the idea of agreeing to disagree about our value-orientations than to

agree to ignore relative incompetence. Being more tolerant of value differences may, however, be of a piece with rethinking what is required for “competence,” and so I shall return to this point below, in applying the idea of reflective participation to the third horn of the trilemma.

(b) Perhaps, then, we should consider accepting the possibility that agreement will be found only among those who share value-orientations. Such a concession seems antithetical to the universalism of discourse ethics until one considers the way Habermas distinguishes “morality” from “ethics”.⁴⁸ Morally valid norms – as well as the fundamental principles underlying democratic political procedures – are those that could meet with universal acceptance. Thus, on one reading, taking this second horn of the trilemma simply involves acknowledging that there will be relatively few norms and principles on which everyone can agree. Indeed, this is exactly the position Habermas takes in response to McCarthy: “the sphere of questions that can be answered rationally from the moral point of view shrinks in the course of the development toward multiculturalism within particular societies and toward a world society at the international level.”⁴⁹ Habermas thus appears to grant McCarthy’s point that some common ground may be needed but believes we can still hold fast to moral universalism. This is because we have no reason to believe that we could never find agreement on enough core norms and procedures to establish the backbone for a system of norms and values that would prohibit most of the violence, coercion, and inhumanity that drive our moral intuitions. And that, he argues, is all that is needed, since abstract principles can be sufficiently powerful to preserve universalism as a bulwark against the parochial abuses that contextualism permits.

While I think Habermas is right to emphasize the power of abstraction to provide differentiated integration of the moral world, there are several problems with the way he develops this approach, including the view that it is an “empirical question” whether an issue such as abortion is a *moral* issue, depending on whether universal agreement can actually be found regarding this issue.⁵⁰ Most relevant for my purposes, however, is the difficulty that the narrow but adequate common ground on which these core moral norms come to be accepted must still meet the ideal conditions of practical discourse, including, I have argued,

the mutual attribution of need-interpretive competence. Thus, what would have to be assumed is that by moving toward more abstract norms, it becomes more likely that participants in practical discourse will mutually attribute need-interpretive competence.

I see no reason to think, however, that either the give-and-take of disputed reasons or the ongoing reciprocal assessment of need-interpretive competence will be any easier in discussions of abstract principles. Assuming that establishing the validity of these more abstract norms and principles is not to be conceptualized as overlapping consensus but rather as the result of agreement in practical discourse, Habermas cannot ignore the dynamics of practical discourse even about abstract norms. Given how much weight such principles are designed to carry, one would expect the dynamics to be at least as contentious. This is not a psychological point, but a point about the level at which the abstraction is occurring. That is, the thinness and the abstractness of the norms under discussion may allow one to move away from contentious substantive values *at the level of what is being discussed*, but this is quite a different matter from the business of attributing need-interpretive competence, since that requires the broader sort of person-oriented evidence described in section 1 above. To resolve this issue, discourse ethics seems to need something analogous to thinner and more abstract norms. And this is just what is involved in taking the third horn of the trilemma.

(c) The third horn involves weakening the notion of the ideal standards for practical discourse. It might be argued that the real source of the problematic dissensus I have identified lies with the stringency of the standard of full need-interpretive competence. Perhaps discourse ethics would do better with a less demanding standard here. Indeed, Habermas does talk about conditions needing to be “sufficiently ideal.”⁵¹ But simply scaling back on the standards would be problematic. It would require discourse ethics to provide criterial specifications that define “sufficiency” and the perspective from which one assesses it. This requirement would ultimately force us to give up on the key discourse-ethical understanding of “ideal conditions” as calling for the constant improvement of real discourse. To be acceptable, then, any moderation of the stringency of presuppositions for discourse will have to be conceptualized in a way that does not undermine the pragmatics of idealizing presuppositions as always reaching beyond the given context.

The way to do this is to focus again on the attributive and deontic status of need-interpretive competence. The requirement of need-interpretive competence is the requirement that one count as someone to whom it is appropriate to attribute that competence. In the dynamics of social contexts, including practical discourse, that attribution is presupposed and retained as long as interlocutors provide the evidence that, for all practical purposes, they have the relevant capabilities. As McCarthy has emphasized more generally, the key move lies in the idea that discourse requires no more than the mutual attribution of need-interpretive competence as an *ongoing achievement of engaged participants for all practical purposes*.⁵² Once this is understood, it becomes clear that more evidence is relevant in some contexts than in others. And this opens up an interesting possibility for addressing the difficulties that intractable value dissensus poses for the requirement of need-interpretive competence.

The key to this solution lies in noticing that the degree of evidence that we expect of one another as backing for our attributing need-interpretive competence varies across contexts. In some situations, straightforward evidence of the ability to register acute pain might be adequate (although even *that* could become disputed under some circumstances). In other circumstances, the potential for disagreement on the attribution of need-interpretive competence diminishes because less evidence is necessary for practical purposes. A natural way of thinking about the variation in the requisite evidence is in terms of two continua running in tandem. One continuum represents the degree of stringency of expectations regarding the evidence of need-interpretive competence.⁵³ The other continuum represents the degree of inclusiveness of the discourse that can be expected to secure agreement, that is, the degree to which disagreements over substantive values stand in the way of individuals recognizing each other as competently participating in discourse. In terms of the issue at the heart of the trilemma we have been discussing, this second continuum has to do with the reduced potential for agreement that comes with including an increasing number of participants of diverse value-orientations.

The interesting question is whether these two continua map onto each other. If we could think of contexts in which the least evidence is expected as also being contexts in

which the greatest inclusivity of participation – that is, the most universal norms – is to be expected, and if we could think of contexts in which expectations are highest as the contexts in which one need only convince the narrower ethical community of “significant others,”⁵⁴ then this approach might give us universality and particularity in just the right places. This approach achieves much of what Habermas intended with his morality-ethics distinction: the thinly evaluative demands of moral discourse allow for maximal inclusiveness in practical discourse, while the demands for a richer, more substantive account would be in contexts where it is less important that everyone be consulted. If we think of these two continua mapping onto each other in this way, we seem to have a palatable way of taking the third horn of the trilemma and thereby accommodating the substantive nature of need-interpretation within a universalistic moral theory.

As I argued above regarding the trilemma’s second horn, however, it is still not clear why the two continua should map onto each other in this way. Why should it be the case that discussions of universal moral norms require less evidence of need-interpretive competence? Some account is still needed here.

One answer builds on McCarthy’s account of reflective participation. We could think of the level of evidence expected as informed by the observer’s knowledge that, under some circumstances, intractable differences of substantive values mean that we are not likely to get evidence to meet demanding standards of need-interpretive competence. Like context-sensitive travelers who soften their usual reactions to the seemingly bizarre behavior of others, reflective participants could scale back their standards of evidence for need-interpretive competence when they know that the cultural context is marked by disagreement about evaluative language. If we know, for example, that our interlocutors are ethically opposed to viewing sexuality in the language of “basic needs,” then we have grounds to view their relative silence regarding the impact of a norm on their potential for sexual satisfaction as something other than a repressed relation-to-self. Given that it is appropriate, adopting this less demanding standard of evidence provides an increased basis for reflective participants viewing each other, *for practical purposes*, as competent. At the same time, by insisting that the attribution of need-interpretive competence still has to be *earned*, this

approach differs from the blanket liberal suspension of judgment. Thus, if a person's silence about issues of sexuality is complete and rigid, that might still count as evidence of a lack of need-interpretive competence.

Although this approach views the relationship between the potential for agreement and the demandingness of our expectations as an ongoingly negotiated feature of the pragmatics of argumentation, it ultimately means that we scale back our presuppositions for discourse out of a concern for stability. Consequently, it appears that we have given priority to the observer perspective and empirical predictions of where agreement is likely – just the problem I noted in McCarthy's proposal above.

The way to avoid this, I suggest, is to realize that the pragmatics of idealizing presuppositions is *normative all the way down*. The level of competence to be expected, on this view, is determined neither by an independent criterion nor by the social need to find agreements. Rather, it is determined by judgments that admit of degrees of appropriateness. Instead of assuming that there is a fact of the matter about how much evidence for need-interpretive competence to expect under what conditions, judgments about the appropriateness of how much evidence to expect are subject to challenge and admit of argumentation. Sometimes the social norms license attributing need-interpretive competence on the basis of relatively little evidence; at other times, they demand more.

Consider the parallel normativist account that could be offered for the *point* behind the liberal presumption against making personal tastes, say in sweaters or cars, objects of intersubjective criticism. It's not that there is something about tastes themselves that induces our liberal reservation to criticize them. Rather, certain judgments are constituted *as matters of taste* by the way in which they fit into certain normative patterns of judgment. We find it important to allow for this sort of leeway, and there is a whole array of norms, practices, institutions, customs, and inculcated dispositions that define and reinforce this normative pattern. It is crucial to get the order of explanation the right way around. The norms constitute "matters of taste" as such; they are not response to any fact about tastes.⁵⁵

Similarly, my proposal involves treating expectations regarding the degree of evidence to be expected regarding need-interpretive competence as answered in terms of the

norms governing such expectations. Thus, the question of how much agreement on substantive values to expect as part of the conditional presupposition of need-interpretive competence is a context-sensitive matter governed by higher-order expectations, that is, expectations about what it is appropriate to expect.⁵⁶ For example, we may not expect that, when dealing with issues of sexuality, we will be able to find everyone to be equally open about their feelings, whereas when it comes to issues of painful or denigrating mistreatment, we have high expectations of convergence regarding the evidence for need-interpretive competence. In this context, expectation is not a matter of thinking that agreement is empirically likely but is rather a directly normative judgment that strong evidence of need-interpretive competence is appropriate.

This approach does, of course, represent a departure from the quasi-transcendental character of Habermas's reconstruction of the presuppositions of practical discourse.⁵⁷ Rather than building an account of the idealizing presuppositions on the basis of purported universals about "what we cannot help but expect", the present proposal grounds the presuppositions only in the normative judgments of the participants, that is, in what we view as *appropriate* to expect of others. Does this move involve a slide into conventionalism – are we basing the key critical standard of idealizing presuppositions on whatever norms happen to have currency? It does entail a more *constructivist* account of the presuppositions of practical discourse, at least regarding the requirement of need-interpretive competence. But such an account need not be problematic, as long as we understand its standard of appropriateness as caught up in a complex and inescapable web in which competence as well as the authority to attribute competence is intersubjectively attributed, contested, revised, and so on. That is, my proposal need have no relativistic implications.⁵⁸ In many domains, the results will probably not depart from the claims of Habermas's reconstructive universalism. But the analysis will be different, for the question of whether disagreement is problematic will depend not on whether the question is a moral or ethical question or an empirical prediction about chance for agreement but rather on whether, for relevant purposes, the disagreement is viewed as problematic in a cognitive sense.

Taken together, these considerations suggest that taking the third horn of the trilemma

might be the best option, whatever complexities it might bring with it. If it is true, as I have argued throughout this essay, that need-interpretive competence is an unavoidable presupposition of practical discourse, and if it is true, as McCarthy has argued, that the disputes over substantive values are implicated in moral discourse because of the evaluative nature of need-interpretation, then some account is needed of how agreement on moral norms is still possible within pluralistic societies. The normative account just sketched offers one promising and pragmatic avenue for filling this gap within discourse ethics.⁵⁹

NOTES

¹Habermas, *The Theory of Communicative Action*, 2 vols., trans. Thomas McCarthy (Boston: Beacon Press, 1987), 1: 95.

² Habermas, "Discourse Ethics: Notes on a Program of Philosophical Justification," in *Moral Consciousness and Communicative Action*, trans. C. Lenhardt and S. W. Nicholsen (Cambridge: MIT Press, 1990), p. 66.

³For one proposed list of such conditions, see Robert Alexy, "A Theory of Practical Discourse," trans. D. Frisby, in S. Benhabib and F. Dallmayr, eds., *The Communicative Ethics Controversy* (Cambridge, Mass.: MIT Press, 1990), pp. 163-76.

⁴Habermas, "Richtigkeit versus Wahrheit: Zum Sinn der Sollgeltung moralischer Urteile und Normen," in *Wahrheit und Rechtfertigung: Philosophische Aufsätze* (Frankfurt: Suhrkamp, 1999), p. 298.

⁵Jürgen Habermas, "A Genealogical Analysis of the Cognitive Content of Morality," in *The Inclusion of the Other*, ed. C. Cronin and P. Degreiff (Cambridge: MIT Press, 1998), p. 42 (emphasis in the original). For the earlier, better-known version, which does not include a reference to "value-orientations"; see "Discourse Ethics", p. 65.

⁶Habermas, *Theory of Communicative Action*, 1: 92. Indeed, the breadth of the German original (*Bedürfnisstruktur* or *-natur*) is highlighted in McCarthy's translation as "desires and feelings" (ibid, p. 20) and William Rehg's rendering as "appetitive structures" [in *Insight and Solidarity: The Discourse Ethics of Jürgen Habermas* (Berkeley: University of California Press, 1994), pp. 49-54].

⁷Jürgen Habermas, "A Genealogical Analysis of the Cognitive Content of Morality," p. 42; cf. "Richtigkeit versus Wahrheit," pp. 309-11.

⁸William Rehg suggests a slightly different view, according to which needs and interests operate at different

levels: “whether one finds the constraints and impacts of a norm’s general observance acceptable or not depends on how one understands certain interests, which in turn depends on one’s need interpretations.” (*Insight and Solidarity*, p. 55). Although I doubt that much depends on this difference, it seems important for avoiding foundationalism that discourse ethics avoid introducing distinctions of levels among morally relevant considerations.

⁹Habermas, *Theory of Communicative Action*, 2: 96. This is already clear in “Moral Development and Ego Identity,” in *Communication and the Evolution of Society*, trans. T. McCarthy (Boston: Beacon Press, 1979), pp. 69-94. See also Habermas, “Genealogical Analysis of the Cognitive Content of Morality,” p. 42 and “Discourse Ethics,” pp. 67-8. On the intersubjective contestation of need-interpretation, see also Seyla Benhabib, “The Generalized and the Concrete Other: The Kohlberg-Gilligan Controversy and Feminist Theory,” *Praxis International* 5 (1986): 402-24; Nancy Fraser, “Toward a Discourse Ethic of Solidarity,” *ibid.*, pp. 425-29; and Thomas McCarthy, “Practical Discourse: On the Relation of Morality to Politics,” in McCarthy, *Ideals and Illusions: On Reconstruction and Deconstruction in Contemporary Critical Theory* (Cambridge, Mass.: MIT Press, 1991), pp. 181-99.

¹⁰On the difficulties with criterialist approaches, see Michael Williams, *Unnatural Doubts* (Princeton: Princeton University Press, 1996), ch. 3; and Joseph Heath, *Communicative Action and Rational Choice* (Cambridge, Mass.: MIT Press, forthcoming), ch. 5.

¹¹Habermas has increasingly acknowledged the importance of empathy for discourse ethics [see “Morality, Society, Ethics: An Interview with Torben Hviid Nielsen,” in *Justification and Application: Remarks on Discourse Ethics*, trans. C. Cronin (Cambridge, Mass.: MIT Press, 1993), pp. 174-5], and now speaks of “unrepressed openness to others’ self-interpretations and situation-interpretations” (“Richtigkeit versus Wahrheit,” p. 311). The need for this account is stressed by Mattias Iser in “Habermas on Virtue,” in *Proceedings of the Twentieth World Congress of Philosophy*, vol. 7 (Bowling Green: Philosophy Documentation Center, in press). Habermas recent emphasis on empathy goes some way toward vaccinating discourse ethics against criticisms from Levinasians or Asian ethicists, to the effect that the responsibility of being competent lies with the listener, not the speaker [see June Ock Yum, “The Impact of Confucianism on Interpersonal Relationships and Communication Patterns in East Asia,” *Communication Monograph* 55 (1988): 374-88].

¹²Eliminating illusions from one’s need-interpretations – and thus increasing one’s need-interpretive competence – is typically the subject of what Habermas calls “therapeutic critique”; see *Theory of Communicative Action*, 1: 20-1. Elijah Millgram usefully distinguishes the sort of conative state that deserves uptake in practical

reasoning (what he calls “genuine desires”) from mere whims, wishes, etc. in *Practical Induction* (Cambridge, Mass.: Harvard University Press, 1997).

¹³Taylor, “What is Human Agency?” in *Human Agency and Language*, vol. 1 of *Philosophical Papers* (New York: Cambridge University Press, 1985), p. 37. For a further discussion of Taylor’s views in this regard, see my “The Personal Lives of Strong Evaluators: Identity, Pluralism, and Ontology in Charles Taylor’s Value Theory,” *Constellations* 3 (1996): 17-38.

¹⁴Habermas, *Theory of Communicative Action*, 1: 92; see also *ibid.*, pp.16-7 regarding the distinction between problematically “idiosyncratic” expressions of sensibilities and those that are “innovative”.

¹⁵See my “Starke Wertungen, Wünsche zweiter Ordnung und Intersubjektive Kritik: Überlegungen zum Begriff ethischer Autonomie.” *Deutsche Zeitschrift für Philosophie* 42 (1994): 97-119.

¹⁶On the separation of justificatory and motivational capacities, see Habermas, “Questions and Counterquestions,” trans. J. Bohman, in *Habermas and Modernity*, ed. R. Bernstein, (Cambridge: Polity Press, 1985), p. 214; “Moral Consciousness and Communicative Action,” in *Moral Consciousness and Communicative Action*, p. 182; and “Morality and Ethical Life,” *ibid.*, pp. 207-9. For formulations that suggest a more transformative model of practical discourse as personally liberating, see “Moral Development and Ego Identity,” p. 78 and, very recently, “Richtigkeit versus Wahrheit,” p. 312.

¹⁷Habermas, “On the Pragmatic, the Ethical, and the Moral Employments of Practical Reason,” in *Justification and Application*, p. 12.

¹⁸On rigid personality structures, see David Shapiro, *Autonomy and Rigid Character* (New York: Basic Books, 1981). On how rape and torture can cut victims off from viewing their felt needs as supporting legitimate claims, see Axel Honneth, *The Struggle for Recognition: The Moral Grammar of Social Conflicts*, trans. J. Anderson (Cambridge: Polity Press, 1995), ch. 6; and Trudy Govier, “Self-Trust, Autonomy, and Self-Esteem,” *Hypatia* 8 (1993): 99-120.

¹⁹On the notion of having to switching to a different mode of interaction when certain presuppositions cannot be sustained, see especially Peter Strawson, “Freedom and Resentment,” in *Freedom and Resentment and Other Essays* (London: Methuen, 1974), pp. 1-25.

²⁰This distinction is not made clearly by Seyla Benhabib when she writes that “every communication with an infant counterfactually presupposes that that infant is a being who must be treated as if she had fully developed wants and intentions” [“In the Shadow of Aristotle and Hegel: Communicative Ethics and Current Controversies in Practical Philosophy,” in *Situating the Self: Gender, Community and Postmodernism in*

Contemporary Ethics (New York: Routledge, 1992), p. 58]. As an ethical stance toward those lacking need-interpretive competence, this seems to be largely exactly right. But we must not confuse the ethical imperatives governing concrete contexts of interaction with the very different matter of the idealizing presuppositions necessary for engaging in discourse about the validity of a norm.

²¹Habermas, "Reply to Symposium Participants, Benjamin N. Cardozo School of Law," in *Habermas on Law and Democracy: Critical Exchanges*, ed. M. Rosenfeld and A. Arato (Berkeley: University of California Press, 1998), p. 452 (hereafter cited as "Cardozo Reply"). The idea of referring to an assertion as a gamble is Michael Dummett's ["What is a Theory of Meaning?" in *Truth and Meaning*, ed. G. Evans and J. McDowell (Oxford: Clarendon, 1976), p. 126.]

²²See Fraser's "Toward a Discourse Ethic of Solidarity" and "Struggle over Needs: Outline of a Socialist-Feminist Critical Theory of Late Capitalist Political Culture," in Fraser, *Unruly Practices: Power, Discourse, and Gender in Contemporary Social Theory* (Minneapolis: University of Minnesota Press, 1989), pp. 161-90. For an excellent discussion of inequalities in deliberative political contexts, see James Bohman, *Public Deliberation: Pluralism, Complexity, and Democracy* (Cambridge, Mass.: MIT Press, 1996), esp. ch. 3.

²³On advocacy discourse, which also applies to those who will be affected in the future but are not now, see Micha Brumlik, "Über die Ansprüche Ungeborener und Unmündiger: Wie advokatorisch ist die diskursive Ethik?" in *Moralität und Sittlichkeit: Das Problem Hegels und die Diskursethik*, ed. W. Kuhlmann (Frankfurt: Suhrkamp, 1986), pp. 183-93. Decision-making in representative democracies has similarities with advocacy discourse; see Habermas's *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*, trans. W. Rehg (Cambridge: MIT Press, 1996).

²⁴See, e.g., Honneth, *The Struggle for Recognition*; Karl-Otto Apel, *Diskurs und Verantwortung: Das Problem des Übergangs zur postkonventionellen Moral* (Frankfurt: Suhrkamp, 1988); and Bohman, *Public Deliberation*, esp. ch. 3.

²⁵Habermas, "Discourse Ethics," pp. 67-8.

²⁶McCarthy, "Practical Discourse," p. 191. Cf. Habermas's concurring restatement of this in his "Replik," *Revue Internationale de Philosophie* 49 (1995): 557 (hereafter cited as "Revue Replik").

²⁷On the notion of the "space of reasons," see Sellars, "Empiricism and the Philosophy of Mind," in *Science, Perception, and Reality* (London: Routledge, 1963), pp. 140ff. John McDowell has done much to make articulate the force of this metaphor, e.g., in *Mind and World* (Cambridge, Mass.: Harvard University Press, 1994), as has Charles Taylor in his talk of "horizons of value" in *Sources of the Self: The Making of Modern*

Identity (Cambridge, Mass.: Harvard University Press, 1989), part 1.

²⁸Habermas, "A Genealogical Analysis of the Cognitive Content of Morality," p. 42.

²⁹Robert B. Brandom, *Making it Explicit: Reasoning, Representing, and Discursive Commitment* (Cambridge, Mass.: Harvard University Press, 1994), pp. 230-1.

³⁰Michael Dummett, "Soll der Begriff der Wahrheit der fundamentale Begriff der Semantik sein?" interview by Sven Rosenkranz and Thomas Sturm, *Information Philosophie* (June 1996): 22-30, here p. 22. Dummett attributes the joke to P. G. Wodehouse.

³¹McCarthy, "Practical Discourse," p. 192. See also Rehg, *Insight and Solidarity*, pp. 54-5.

³² Habermas, "Reply," in A. Honneth and H. Joas (eds.), *Communicative Action: Essays on Jürgen Habermas's "The Theory of Communicative Action,"* trans. J. Gains and D. L. Jones (Cambridge: Polity, 1991), p. 226, emphasis in the original (hereafter cited as "*Communicative Action Reply*").

³³Seel, "The Two Meanings of 'Communicative' Rationality: Remarks on Habermas's Critique of a Plural Concept of Reason," in Honneth and Joas (eds.), *Communicative Action*, pp. 36-48. See also "Das Gute und das Richtige," in C. Menke and M. Seel (eds.), *Zur Verteidigung der Vernunft gegen ihre Liebhaber und Verächter* (Frankfurt: Suhrkamp, 1993), pp. 219-40.

³⁴McCarthy, "Legitimacy and Diversity," in Rosenfeld and Arato (eds.), *Habermas on Law and Democracy*, p. 135.

³⁵Habermas, *Between Facts and Norms*, pp. 322-6.

³⁶Habermas, "*Communicative Action Reply*," pp. 215-22.

³⁷ Habermas, "*Revue Replik*," p. 558. See also Davidson, "On the Very Idea of a Conceptual Scheme," in *Inquiries into Truth and Interpretation* (Oxford: Clarendon Press, 1984), pp. 183-98.

³⁸Rehg, *Insight and Solidarity*, p. 156. On the contestability of the vocabulary for interpreting needs, see Habermas, "Remarks on Discourse Ethics," pp. 58, 90, and 96-105 and *Between Facts and Norms*, pp. 312-4; Fraser, "Struggle over Needs"; Richard Rorty, "Feminism and Pragmatism," *Michigan Quarterly Review* 30 (1991): 231-58; and Honneth, *The Struggle for Recognition*, pp. 126-8.

³⁹Habermas, "Remarks on Discourse Ethics," in *Justification and Application*, pp. 103-5.

⁴⁰Rehg, *Insight and Solidarity*, p. 243. Other writers on discourse ethics who have defended such a decentralization appear to accept a loosening of the requirement that rational agreement must be "for the same reasons." See McCarthy, "Legitimacy and Diversity"; and Heath, *Communicative Action and Rational Choice*, ch. 6, sec. 4.

⁴¹Habermas, "Some Further Clarifications of the Concept of Communicative Rationality," in *On the Pragmatics of Communication*, trans. M. Cooke (Cambridge: MIT Press, 1998), p. 328.

⁴²McCarthy, "Practical Discourse," p. 197.

⁴³ McCarthy, "Kantian Constructivism and Reconstructivism: Rawls and Habermas in Dialogue," *Ethics* 105 (1994): 58. See also "Practical Discourse," p. 196; and "Legitimacy and Diversity," pp. 146f.

⁴⁴McCarthy, "Kantian Constructivism and Reconstructivism." Rawls's view can be found in *Political Liberalism* paperback edition (New York: Columbia University Press, 1996). See also his debate with Habermas (*ibid*, pp. 372-434) and Habermas's contributions (*The Inclusion of the Other*, ch. 2-3).

⁴⁵Habermas, "Cardozo Reply," p. 395.

⁴⁶Habermas, "Cardozo Reply," p. 402; see also "Revue Replik," pp. 558-9.

⁴⁷This is not to say that stability cannot be a relevant concern, but only that it should not be made foundational with regard to issues of legitimacy.

⁴⁸On the morality-ethics distinction, see esp. Habermas, "On the Pragmatic, Ethical, and Moral Employments of Practical Reason," in *Justification and Application*, pp. 1-17.

⁴⁹Habermas, "Remarks on Discourse Ethics," p. 91.

⁵⁰Habermas, "Remarks on Discourse Ethics," pp. 59, 91.

⁵¹See, for example, Habermas, "Remarks on Discourse Ethics," pp. 55-7.

⁵²See McCarthy, "On the Pragmatics of Communicative Reason," chapter three of David Couzens Hoy and Thomas McCarthy, *Critical Theory* (Cambridge, Mass.: Blackwell, 1994).

⁵³See Rehg, *Insight and Solidarity*, p. 102: "moral norms have an internal relation to individual need interpretations, such that the values by which those norms are expressed – in terms of which they are internalized as 'needs' – lie along a continuum of values stretching from the more particular to the more universal."

⁵⁴See my "Überlegungen zum Begriff ethischer Autonomie," pp. 117-9; and Rainer Forst, *Kontexte der Gerechtigkeit: Politische Philosophie jenseits von Liberalismus und Kommunitarismus* (Frankfurt: Suhrkamp, 1994), pp. 393-5.

⁵⁵The example of taste in sweaters and cars is actually Habermas's, in a passage in which he seems to make the mistake of thinking that there is something about such questions involving "trivial preferences" that must be accommodated by refraining from criticism; see Habermas, "Employments of Practical Reason," p. 4. Closer to the view I am defending is his discussion of "private autonomy" in *Between Facts and Norms*, p. 120. Cf.

Elizabeth Anderson, *Value in Ethics and Economics* (Cambridge, Mass.: Harvard University Press, 1993), pp. 91-103.

⁵⁶For a parallel, see Allan Gibbard's discussion of "higher-order norms" in *Wise Choice, Apt Feelings: A Theory of Normative Judgment* (Oxford: Clarendon, 1990), pp. 168-70. Note that there need be no regress here, since the supposition is not that all authority for expectations at level n comes from an expectation at level $n+1$.

⁵⁷See, e.g., Habermas, "Philosophy as Stand-In and Interpreter," in *Moral Consciousness and Communicative Action*, pp. 1-20.

⁵⁸One very good model for this "web" is Brandom's discussion of the I-thou sociality underwriting the proprieties that govern deontic scorekeeping practices; see *Making It Explicit*, esp. ch. 9.

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