Apelian Transcendental Pragmatics: The Strong Programme

A performative self-contradiction is an inconsistency that holds not between two propositional contents but between a content c which some speaker S claims is true (or in a sense comparable to that of being true: is valid in a certain way) and at least one presupposition among the presuppositions that are necessary and jointly sufficient to warrant taking S's act of claiming (e.g. asserting that p) as a valid act of claiming. Apel (unlike Habermas) develops this concept into the doctrine of rationally definitive justification ("Letztbegründung").

In other words: The notion of a "performative self-contradiction" is the notion of a predicament that rational evaluators like us would basically want to avoid in argumentation. We attribute a performative self-contradiction to someone, S, if S intends to claim validity for some suitable content c but c is such that if c is valid (in the sense intended by S) then we cannot sensibly attribute to S the very intention to claim validity for c. For Apel, a validity-claim for c counts as being rationally definitely grounded if two conditions jointly hold: The condition that it is the case that arguing for its negation involves one in a performative self-contradiction; and the condition that justifying the validity-claim c by representing c as the conclusion of a deductive argument involves one in the logical fallacy of begging the question (cf. Apel 1987).

Apel's Transcendental Pragmatic Approach ("Transzendentale Sprachpragmatik" identifies certain normative proprieties in the practice of argumentation which anyone who wants all competent participants to act as rational evaluators should want every competent participant to recognize as ideally regulating their discursive commitments. Basically, these proprieties qua necessary presuppositions of argumentative discourse consist in a set of requirements of equal mutual recognition between beings possessing the capability of argumentation, a set of requirements regulating the rational continuity of discourse episodes with past and possible future episodes of the same discourse; and a set of requirements distributing responsibilities concerning the agenda setting of discourse or the

deployment of discourse as a (always scarce though ubiquitously available) rational resource. For all these sets of requirements, irrefutability arguments that prove their rational necessity can be provided.

Apel (1988) favours an articulation of the moral relevance of some of the rationally necessary presuppositions of in terms of a moral co-responsibility (between actual as well as possible participants) for keeping all their actions in accordance with a generic deontic status of free and equal co-subjects: as ideally regulating the discursive commitments, whoever is involved in argumentation rationally should want interlocutors to accept certain proprieties of mutual recognition and symmetrical situatedness as binding on anyone so involved. There is mounting controversy between Apel (1998, 2000) and Habermas (2001) over how far Discourse Ethics must accommodate mundane constraints and how it can be "applied", i.e., be made practically relevant.

Classical Discourse Ethics: Apel and Habermas

Discourse ethics is both a paradigm of normative philosophical moral theory (ethics) as well as a set of beliefs about universally applicable standards for making moral judgments (a postconventional morality or ethos). Karl-Otto Apel argued that anyone who takes part in an argument implicitly acknowledges potentially all claims of all the members of the communication community if they can be justified by rational arguments (Apel 1980, p.277). Apel contended that all human needs, as potential claims that can be communicated interpersonally, are ethically relevant and must be acknowledged in as much as they can be justified interpersonally through arguments. This, together with a substantial normative assumption about the nature of morality – namely that "one should not unnecessarily sacrifice a finite, individual human interest" (ibid.) – led Apel to formulate the following basic normative principle of (Apelian) discourse ethics:

"all human *needs* – as potential *claims* – i.e. which can be reconciled with the needs of all the others by argumentation, must be made the concern of the communication community"

(Apel 1980, p.277)).

It is against this background that Habermas later proclaimed as "the distinctive idea of an ethics of discourse" the "discourse principle" (D) that "only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a *practical* discourse" (Habermas 1990, p.66). In its most general reading, the Habermasian D-Principle suggests that validity (as claimable of norms regulating ways of acting) depends on consensus-building (among those who stand to be affected by the norms) provided the consensus-building is rationally qualified ("in their capacity as participants in a practical discourse").

As such, D expresses (1) a general theoretical view of an intersubjectivist bent about the nature of validity and validity-claims (not necessarily only in a moral sense but generally in any normative sense) concerning norms that regulate ways of acting.

Only when D is read prescriptively, as prescribing how anyone in so far as we are rational *should* govern our recognition of norms, that D expresses (2) a normative principle.

And it is only when D is read prescriptively in a specifically moral sense, as prescribing how anyone in so far as we are rational should govern our recognition specifically of moral norms, that D expresses (3) a principle that is normative in a specifically moral sense.

In later writings, Habermas has strengthened the generality and scope of D by making a more abstract discourse principle D the centerpiece of a theory that would, if it could be fleshed out successfully, be a normative theory of modern law, democratic governance, and modern morality. In its revised form, D stipulates:

(D) "Just those action norms are valid to which all possibly affected persons could agree as

participants in *rational* discourses."

Any version of a discourse ethics must provide an account of its contention that validity-claims, at least in so far as they are a rational affair, depend on rationally qualified consensus-building. Under which conditions is consensus-building a "rational discourse" at all? And under which conditions is a rational discourse a "practical" or any other specifically distinguishable ("pragmatic", "ethical", "moral" etc.) kind of "discourse"? Different versions of discourse ethics differ, amongst other things, in how they link consensus-building that is qualified as discourse to validity-claims, and how they link both to rationality. For Apel and Habermas alike, the term discourse means, roughly, that argumentation is carried on under conditions of free and open dialogue. Habermas' more detailed account draws heavily on certain transfigured speech-act theoretical notions (e.g. "illocutionary obligations") and on a purportedly deep distinction between acting in a strategic way versus acting in a communicative way. Habermas has suggested that a rational discourse is a rational *moral* discourse if and only if all participants adopt as their decisive validity-determining question whether

"the foreseeable consequences and side effects of [a norm's] general observance for the interests and value-orientations of *each individual* could be freely accepted *jointly* by *all* concerned" (Habermas 1996).

Habermas refers to this question-formula as "the principle of universalization U" (cf. Habermas 1990 p.65). Typically, U is construed as "a rule for the impartial testing of norms for their moral worthiness" (Rehg 1994 p.38). Apel accepts Habermas' formula U heuristically. However, Apel points out that it is a mistake (cf. Apel 1998a, esp. p.789-793) to equate U (or for that matter any further determiner of moral worthiness in argumentative discourse) does, with the rational ethos of a discourse ethics. As Apel sees it, Habermas is prone to make this mistake (Kettner 2009). The reason why U cannot have the status of being the principle of a discourse ethics is that U would be unobjectionable only in a world in which it would be normatively natural for everyone to govern all controversial moral judgments discursively. In the actual world, however, the rational ethos of a discourse

ethics confronts, and must be supplemented in order to cope with, problems of application in all contexts where it is not (yet) normatively natural for us to govern all controversial moral judgments discursively.

Karl-Otto Apel conceives of how validity-claims depend on argument-driven consensus-building more like Charles Sanders Peirce conceived of how our beliefs about reality depend on an unlimited community of inquiry (Apel 1998b). In Apel's transcendental-pragmatic version of discourse ethics, the very idea of a discourse ethics is rooted in some general facts about the praxis of argumentative discourse. More specifically, a transcendental-pragmatic analysis of argumentation (i.e. a self-reflexive kind of presupposition-analysis) reveals that there are certain normative proprieties in the practice of argumentation which anyone who wants all competent participants to act as rational evaluators should want every competent participant to recognize as ideally regulating their discursive commitments.

A transcendental-pragmatic analysis of some practice P, or of some feature of P, is an analysis of P's significance for, or role in, enabling us to fix jointly beliefs about the goodness of reasons by using the informal public system of argumentation. More precisely, it is an analysis of how P contributes to what (we find) is necessary for everyone to acknowledge if anyone is to be permitted to give, take, or reject reasons specifically for claims which we intend to be universally acceptable (=acceptable from anyone's point of view), provided the claims and reasons are assessed by rational evaluators.

Discourse Ethics as a Thin Morality and as a Research Programme

For Apel, discourse ethics is in its central sense a thin morality *in* argumentation – a morality which is ingrained, so to speak, in the informal public system of argumentation, and as ubiquitous and practically important for us as is the very medium of argumentation.

Discourse ethics in the wider sense of a "program of philosophical justification" (Habermas 1993) in moral theory has the tasks of identifying and justifying whatever morally significant content can be derived specifically from, or arrived at via, the essential – i.e. indispensable to make and impossible to consistently deny – normative elements in the self-understanding of participants in argumentative discourse, and moreover, to probe the relevance of such content for questions of moral theory. For Habermas these tasks amount to a "theoretical justification of the moral point of view" (Habermas 1996); in Apel's normatively more ambitious approach they amount to a vindication of a thin but strongly universalistic rational ethos (Apel 1989, 1996).

Presuming there is some *moral* (Apel) or at least *morally relevant* (Habermas) content in argumentation amongst rational evaluators of reasons for validity-claims, a content that is always already recognized since it is *implicit* in argumentation and irrefutable on pain of a performative self-contradiction since it is implicit in *argumentation*, what is it?

Not surprizingly, such content concerns how anyone with whom we would, or who would together with us use (and think that it is rational to use) argumentation as our sole arbiter of the validity-claims that we associate with our reason-backed judgments, should treat anyone else who could so use argumentation. As ideally regulating the discursive commitments, all persons involved in such argumentation rationally should want with regard to all persons involved in such argumentation that certain proprieties of mutual recognition and symmetrical situadedness be the norm for all persons who are actually involved and for all persons who are possibly involved in discourse.

How Apel explicates the respective (moral) proprieties can be summarized in terms of a moral co-responsibility (between actual as well as possible participants) to keep all action in discourse in accordance with a generic deontic status of free and equal co-subjects.

Habermas explicates the respective (morally relevant) proprieties in terms of rules as follows: "that nobody who could make a relevant contribution may be excluded"; "that all

participants are afforded an equal opportunity to make contributions"; "that the participants must mean what they say: only truthful utterances are admissible"; "that communication must be freed from external and internal compulsion so that the *yes/no* stances that participants adopt on criticizable validity-claims are motivated solely by the rational force of the better reasons" (Habermas 1996, 1990 p.89).

Beyond the Classics: Discourse Ethics as Moral Responsibility for Discursive Power

Lacking in Apel's and Habermas' promissory explications of discourse ethics is a theory of good reasons and their assessment, specifically of moral reasons and our assessment of moral reasons when we make and confront moral judgments, and a theory of morality as providing such reasons. It is quite strange that neither Apel nor Habermas have much to say about the very point of morality and the point of construing the very point of morality in light of discourse ethics.

The best way to construe discourse ethics, I maintain, is to think of it as a set of moral responsibilities that conceptually belong to the deployment of a very special form of power, namely discourse power. The moral disambiguation of discourse power is the primary object of the morality that is inherent in discourse itself. And the primary task of discourse ethics is to manifest and secure the morality that is inherent in discourse itself.

As a consequence of this view, it becomes possible to derive (Kettner 1999) what I call the parameters of idealization which shape a discourse specifically into a "moral discourse". Moral discourse, in my sense of the term, is the reason-based argumentative consensus-building that is driven by discrepant moral judgments, as opposed to other kinds of discrepant judgements that drive other kinds of discourse. The route of the derivation is the following. We specify moral reasons, i.e. the reasons we use in order to justify the moral judgments we make. Such reasons represent whatever it is that we think *gives* our moral judgments the validity we claim for them within more or less defined reference groups of moral peers. Moral reasons are reasons that represent shared determinate interpretations

of the structure of moral responsibility (Kettner 2001). Moral responsibility consists in taking seriously, in a representative, reference-group related way, how controllable actions and omissions affect relevant others for their good or ill.

Once we are able to specify structurally what makes justifying reasons for judgments moral justifying reasons for moral judgments, we can identify specific challenges for the aim of maintaining the integrity of discourse power when sharing argumentation specifically in order to compare and assess moral reasons in the face of discrepant moral judgments, i.e. dissent about moral as opposed to other kinds of judgments. In light of to these challenges we see the rational role of certain idealizations that we want the conditions of real moral discourse to aspire to. These idealizations, or parameters of discourse, give the notion of a moral discourse its profile and distinguish a moral discourse from other kinds of discourse, e.g. discourse driven by discrepant judgments of facts.

In order to see the merits of viewing the moral integrity of discourse power as what is immediately at stake in discourse ethics it is necessary to get rid of a deep-seated philosophical prejudice. The prejudice is that reason and power are totally antithetical. Contrary to this misguided contemplative idealism, I prefer to take serious the metaphor of reason as being a form of power, albeit a very peculiar form. Argumentation, I maintain, is not only an exercise of some "purely rational capacities" but also an exercise of power.

In order too make the concept of discourse power more palatable, we have to set it against current interpretations of power that are too immediately causal. As a matter of fact, it is clearly possible to conceive of power as a capacity of a power holder to make a difference without causing a subject that is in the position of the object of power to do anything even if unwilling. "In the decisional" – and likewise in the discourse theoretical – "interpretation of power what matters (…) is less the impact that a power holder has upon the behaviour of some power subject, but (…) the capacity to make a difference in decision making, the outcomes of which may or may not cause another actor to behave in certain ways" (Lane & Stenlund 1984, p.395). Discourse power, in the sense that I would like to give the term, is the power to modify via argumentation, to change or to keep from changing the conviction

people have concerning what is right and wrong in their employment of the authority of good reasons.

Discourse power operates on our interpretations of reasons as better or worse. Change a person's judgments as to what reasons are good enough for justifying for whom doing what, and you change, if you will, that person's being-in-the-world. In due measure to how our ways of life give importance to keeping our actions in accordance with our interpretations of reasons as better or worse, discourse power operates massively if indirectly on our actual conduct. Discourse ethics, in the sense of a minimalist morality that is inherent in discourse itself, governs the use of discourse power in the governance of reasons.

In order to get clear about the sense in which some intrinsic elements of the normative texture of argumentative discursive practices amount to a minimal *morality* it is helpful first to consider the general notion of a morality.

Morality, Moralities

Morality in the most general sense of the term can be characterised as a social practice of governing what we do and want to do by a concern for (certain aspects of) the well-being of (certain sorts of) beings. In all commonly recognised moralities the set of beings with moral standing includes but need not be exhausted by human beings. Usually the "bearers" or "subjects" of moral beliefs will be members of one and the same community of moral concern, e.g. one's moral peers. However, different moralities draw the boundaries of their respective communities of moral concern in very different ways.

The definition, common with sociologists, of (any particular) morality as a (particular) "normative system" that regulates action by classifying action for "praise and blame" is overly general. For there are many different action guiding normative systems (e.g. law, religion, prudence, mores, etiquette) none of which is identical with, though each is

somehow related to, morality as we know it (Castaneda 1974).

Moralities are complex socio-evolutionary constructions: A morality is a more or less integrated yet open-textured (Brennan 1977) web of knowledge, emotional dispositions (e.g. moral emotions), character traits (e.g. virtues), motivational propensities (e.g. altruism), and interpretative resources (e.g. "moral principles", world views) (Gibbard 1990). This web provides us with the reasons, judgments, rules, norms etc. that we recognize as moral reasons, judgments, rules, norms etc. (Dancy 1993; Copp 1995; Gert 1998, Kettner 2003).

Moral reasons are reasons why certain things may or ought or ought not to be done, in a sense of these deontic modalities in which failing to do what one ought to do counts as *morally wrong* in a reference group of moral peers. Moral reasons in turn support our practice of moral judgments. Moral judgments are judgments of the moral rightness or wrongness of claims, or of the praiseworthiness or blameworthiness of actors and actions, concerning what morally may (ought, ought not to) be done.

A moral norm presents certain ways of action in certain circumstances as (morally) required of certain agents. There is, of course, a wide variety of norms only some of which are moral norms. Legal rules, rules of games, traffic regulations, etc., are all norms. Moral as opposed to other sorts of norms are norms which are recognised by one's moral peers as generally important. People who are unwilling, or unable to respect them (minimally as negative constraints, maximally as positive ideals) in their deliberations about what they shall do, those people will either be taken by their moral peers to act immorally or will not be counted as trustworthy moral agents by other moral agents. No morality comes without sanctions.

To bring out more clearly the sense in which moral reasons, judgments and norms differ from non-moral reasons, judgments, and norms, it is helpful to consider the notion of *moral responsibility.* Moral agents are persons who bear, and take their moral peers to bear, moral responsibility (Ladd 1982; Frankfurt 1983; French 1985, Kettner 2001). An agent's moral

responsibility is a responsibility that is neither exhausted by that agent's *causal* role in the outcome of actions nor in agents' liability that is relevant to a *juridical* assessment of their actions. Rather, the bearing of moral responsibility consists specifically in collectively taking seriously how the outcome of one's conduct, i.e. of possible actions or omissions, affects oneself or relevant others for their good or ill. Different moralities, of course, assign different contents to the structure of such responsibility: different ways of acting ("conduct"), different reference groups ("others"), different significant values ("good or ill").

Discourse ethics, in the sense of a minimal morality concerned with the moral integrity of discourse power as exercised in discourse, assigns the following interpretation to the structure of moral responsibility:

All participants in discourse ought to take seriously how the consequences of argumentative uses of discourse power affect peoples' capacities for governing whichever normative textures (textures of reasons) they perceive as having consequences for good or ill for relevant others.

The existing diversity of interpretations of the structure of moral responsibility does not imply moral relativism. Consider: Like natural languages, moralities are a pervasive feature of human culture. Yet whereas cross-translatability between any two natural languages seems to work fine, the fact of moral diversity (and value pluralism) has often been taken to support the view that it makes sense to speak of justified moral claims or commitments *only* with reference to *particular* cultures: cultural moral relativism. However, strong moral relativism and incommensurability of values across deeply different cultures or across subcultures are self-refuting theoretical views, as is the view that understanding across different value-horizons is impossible. A forceful counterexample against exaggerated claims of cultural moral relativism is the globally widening recognition of some deontic reasons and morally significant values that are part and parcel of our declared human rights.

Apparently, at a sufficiently abstract level (where moral deontic reasons take the form of "moral principles") we already have considerable areas of overlapping consensus across diverse cultures despite disagreement over their more fine-grained interpretation and ranking and despite disagreement over which social practices should be governed by which moral principles. A certain range of existentially important values (e.g. freedom, the provision of basic needs, integrity of primary affective bonds, sanity, cf. Gert 1990, 1998) and human capacities (Sen 2009) bear moral significance virtually everywhere. Yet their determinate interpretations in terms of moral action requirements, moral norms, may vary considerably across drastically different cultures. From the moral point of view in discourse ethics, homogenization of the global normative texture of moral standards is not in itself morally desirable. Nor is such homogenization required for moral discourse to get a grip on dissent in moral matters.

Rational Morality and the Burden of Universalism

The facts of moral diversity need to be sensibly accommodated in any "rational" morality and normative moral theory with universalistic aspirations. To see why, consider that universalistic moral claims make a claim on everyone who properly takes them into account. They purport to command the assent of whoever is a morally responsible rational agent. Yet those who make such claims are always members of some particular community in space, time, and culture. Hence they run the risk of imposing the claims of what they take to be their universalistic morality on others whose moral views, if only they were allowed to express themselves, could be seen to differ from the claims that they find imposed on them by the moral judgments of others.

Owing to the normative universalism that is part and parcel of our established notions of rational validity, any morality that aspires to be rational morality will also aspire to universalism. Yet a sensible universalism in morality, it seems, must not impose rigid moral principles on an unruly moral world of heterogeneous moral views. For if it does, it is buying uniformity at the cost of moral dogmatism or moral paternalism.

Both dogmatism and paternalism in imposing alienating moral views create avoidable moral wrong or, if you will, "moral costs". Moral dogmatism and moral paternalism are wrong according to the standards of a rational morality if a rational morality contains the moral ruel that it is morally wrong not to avoid avoidable moral wrong for no good reason. To the extent that an allegedly rational morality is insensitive to its own impact, or lacks the conceptual resources for the moral assessment of such impact in its application, it is seriously inadequate to the modern condition.

Towards Locating Discourse Ethics within Metaethics (1): Paradigms of Ethics

Roughly, four paradigms of normative moral theory and their respective central principles are at present in the foreground of philosophical ethics. These paradigms are the following. (1) Kantian deontologism with it principle that persons ought to be respected as ends-in-themselves (O'Neill 1989), (2) utilitarianism with its principle that utility ought to be impartially maximised (Sen & Williams 1982; Hare 1981), (3) contractualism with its principle that explicit or tacit agreements for mutual benefits ought to be honoured (Gauthier 1990), and (4), consensualism with its principle that all normative arrangements ought to be procedurally governed through free and open argumentative dialogue ("discourse"), ideally of everyone concerned. Of these, consensualism as developed into a "communicative" or "Discourse Ethics" is the most integrative and most flexible position.

For the reasons I give in the next section I assume that discourse ethics and its moral horizon (the horizon of taking seriously how the consequences of argumentative uses of discourse power affect peoples' capacities for governing normative textures that they perceive to have consequences for the good or ill of relevant others) is center-stage among moral horizons. This is not to say that Discourse Ethics replaces extant moral horizons. It is to say, rather, that discourse ethics is central in its capacity to synthesize and gauge *more or less different other* moral horizons.

Taking up what was said in the introductory section about the transcendental-pragmatic

background of discourse ethics, the main point can be reformulated thus: The stimulus behind the philosophical development of discourse ethics is the intuition that the reasons on which people claim that something is morally right must be such as to be conceivably acceptable from the first-person plural perspective ("we") of everyone concerned by the practice, activity or regulation whose moral rightness is at stake. Moral rightness then is a property of action-norms, a property ultimately dependent on the cooperative discursive practice of free and open dialogue between rational evaluators about discordant appreciations of allegedly good reasons.

This is not to say that all moral content is held to be generated in dialogue or that we would have to devote all our moral life to argumentation. Instead, the discourse principle (that the reasons on which people claim that N is morally right must be such as to be conceivably acceptable from the first-person plural perspective of everyone concerned by N) is a problem-driven principle i.e. its critical force is invoked only when particular issues cannot be satisfactorily handled by the conventional resources which the people concerned are used to take for granted. Hence it operates on subject matters which are always already pre-interpreted by whatever moral intuitions the participants happen to have already.

Moral discourse is the medium to modify and reshape them. In moral discourse, people work through their various moral perplexities in a cooperative effort at reaching a maximally value-respecting practical deliberation which everyone can support though it need not totally coincide with what each claimant would judge as the right way to go, given only each claimant's own moral horizon and supposing that other moral horizons were not part of the problem at hand. In fact, it may deviate considerably from "the right way to go" as judged exclusively within ones own moral horizon. However, there is the possibility of integrity-preserving genuinely moral compromise (Benjamin 1990).

A second point deserves mentioning. Within moral discourse we can emulate central principles of divergent moralities. For instance, if all people whose needs and interests are affected by some practice p were to agree in a moral discourse that p should be governed by, say, utilitarian standards then the discursively prompted consensus about the morally

right way of regulating p will result in p's being regulated so. Yet whatever substantial moral principle people would want to adopt (e.g., a utilitarian principle of maximising the average satisfaction of individuals' preferences) will become constrained in moral discourse by respect for the capacity of people to reach a common understanding about how they want to treat others and be treated by others, regardless of egocentric positional differences. Egocentric positional differences include ones's initial moral point of view. Personal moral points of view can progress within moral discourse.

Towards Locating Discourse Ethics within Metaethics (2): Norms, Values, and Facts

There are no moral problems *per se*, i.e. independent of people who are morally perplexed when they take a look at their practices from their personal moral point of view. As substantial interpretations of moral responsibility differ, what is a moral problem to one person is not always a moral problem to another. We find moral problems when we find people in doubt about whether a course of action expresses their sense of moral responsibility as it should.

Argumentation about responses to moral perplexity, to the extent that it is rational, is governed by a logic of discourse. This logic of discourse is rooted in our powers of raising and answering

- questions of fact
- questions of value
- questions of norms

Questions of fact take up senses in which something that we can believe is (not) the case.

Questions of value take up senses in which something that we can appreciate is (not) good.

Questions of norms take up senses in which something that we can do is (not) required of someone.

We discursivize questions of fact and their associated truth-claims by relating them to the availability and convincingness of the evidence for establishing what is the case.

We discursivize questions of value and their associated claims of evaluative commitment by relating them to the appropriateness and the importance of the properties that we assume make something good in some arguable sense of good. Whether the purported good-making or value-giving properties are really present is then in turn governed by discourse tailored to questions of fact.

We discursivize questions of norms by relating them to the values that the norm is held to subserve or express. Whether the values by reference to which someone claims that certain agents are required to do certain things in certain circumstances really authorize the disputed norm is then in turn governed by discourse tailored to questions of value and by discourse tailored factual questions.

Norms face the tribunal of discourse and experience corporately: commitment to some component normative texture N may turn out to mean, on pain of incoherence, subscription to (or refusal to accept) some other component normative texture N' (Will 1993). Furthermore, people turn to what each of them takes as the relevant values that bear on the disputed norms. And two people in disagreement about the sense in which they have reason to take something to be good must be prepared to scrutinise as many other of their evaluations as are found to be somehow related to the one in question. Values, like norms, face the tribunal of discourse and experience corporately. Someone cherishing some value V may find herself committed, on pain of incoherence, to some other value V'. Furthermore, people discuss which facts are to be taken as the relevant facts, relevant for the sense in which one is right to think that something's being good depends on these facts. The unfolding dialogical dynamics of relating factual, evaluative and normative questions, if

need be in many repetitions, generates rational inquiry in perplexity-driven discourse processes.

Using technical jargon to summarize this section: Normative differences discursively supervene on evaluational differences which in turn discursively supervene on factual differences. Supervenience, as I use this notion here, is a conceptual relation such that if properties of kind x supervene on properties of kind y then there can be no difference in x without some relevant difference in y. Discursive supervenience is a rational relation between types of discourse such that there can be no rational dissent in discourse about discrepant deontic judgments without some relevant dissent in discourse about discrepant evaluative judgments, and there can be no rational dissent in discourse about discrepant evaluative judgments without some relevant dissent in discourse about discrepant factual judgments.

Moral Discourse: Fife Parameters of Idealization

Where discourse power can be brought to bear on normative change in some target domain (as presumably is the case in "applied ethics"), the corresponding processes of argumentation represent *moral* discourse if they embody and express a set of parameters which jointly guarantee the moral integrity of the discourse power that the respective community of argumentation exerts.

Space does not permit to elaborate on the formulation and vindication of the following five parameters of idealization that shape the profile of a moral discourse. Suffice it to say that each parameter can be introduced as a well grounded partial answer to a general question. The general question can be framed thus: Are there any proprieties such that if they were not mutually required by and among co-subjects of argumentation then argumentation in the face of conflicting reasons that represent perceived moral responsibilities would not make sense?

Parameter 1: Reasonable Articulation of Need-Claims:

In a moral discourse, all participants should be capable of articulating any need-claim they perceive as morally significant.

Parameter 2: Bracketing of Power Differences:

In a moral discourse, extant differences in whatever forms of power (including extant differences in discourse power) between the participants should not give any participant a good reason for endorsing any moral judgment in discourse.

Parameter 3: Nonstrategic Transparency:

In a moral discourse, all participants should be able to convey their articulations of morally significant need-claims truthfully and without strategical reservations.

Parameter 4: Fusion of Moral Horizons:

In a moral discourse, all participants should sufficiently understand all articulated need-claims in the corresponding moral horizons of the participants who articulate the need-claims.

Parameter 5: Comprehensive Inclusion:

In a moral discourse, all participants must take into account whether their judgments of good reasons can be rehearsed by all non-participating others who figure in specifiable ways in the content of the moral judgments that result consensually in the participants' community of discourse.

Note that consensus-building in a moral discourse is not equivalent to a unanimity requirement, nor to majority vote, nor to any preference-aggregative decision procedure, e.g. bargaining. No morality is an algorithm for solving problem cases.

Note furthermore that the dynamics of consensus-building in moral discourse does not guarantee a unique "solution" to all moral issues. Staking out a range of moral permission might often turn out to be the best we can come up with. To some extent, morality must countenance tragic choices and persistent tensions. Ad best, such choices and tensions admit of alleviation, not of total resolution, and considerable "moral costs" are perhaps bound to remain. However, a consensus that is sufficiently tuned to the parameters of a moral discourse guarantees that all participants are mutually aware of all their different "moral costs", and that they are also mutually aware of the right-making reasons from every participant's moral horizon. Realistically, no rational morality can guarantee anything stronger than that. The possibility of reasonable moral disagreement (dissent) exists alongside the possibility of reasonable agreement (consensus), notwithstanding the conceptual truth that consensus envelopes dissent.

The consensual result of a moral discourse, if there is such a result, may as such express a moral compromise. In such a compromise, however, no-one's morally significant need-claims will have been compromised intolerably.

Further Important Distinctions for a Realistic Relaunch of Discourse Ethics

Discourse ethics is the name of a philosophical research program in ethics. The framework of discourse ethics is complex. It contains some directly morally-normative parts and also some parts that are not directly morally-normative: the meta-ethical part of the framework.

On the first tier of directly morally-normative parts, some completely general yet morally significant norms within the practice of argumentation are identified. This yields a minimal

morality concerned with the moral integrity of discourse power. Call this the *morality intrinsic in discourse* (MID) or for short, *morality in discourse.* The claims of MID range over any and every person capable of argumentation.

On the second tier, moralities are meta-ethically characterised as variations of a common basic structure of moral responsibility. Moral reasons represent how different moral communities fill out this basic structure with determinate content. By tracing challenges for the integrity of sustained discourse about moral reasons in the face of moral perplexity and the facts of moral diversity, we can derive some requirements that ideally would provide the necessary responses to the corresponding challenges: Hence the five "parameters of idealization" that define the type of discourse that is tailored to handling dissent in moral matters, i.e. *moral discourse.* The notion of a moral discourse must be introduced and specified before the question arises whether we are morally or in some other sense obliged to attempt to settle all our disagreements in moral matters via moral discourse. Hence, introducing and specifying moral discourse by its formative parameters of idealization can be attributed to the meta-ethical part of the framework of discourse ethics.

Moral discourse as specified within the framework of discourse ethics is a medium in which our moral convictions can face the tribunal of our diverse experience and divergent moral horizons without losing over to cultural relativism. Moral discourse is no end in itself. Moral discourse is a rational resource in our dealing with concrete practices and their problems, for instance, normative change. With respect to normative textures of practices in transition, the expectation is warranted that to extent that normative transitions are actually governed by moral discourse, normative textures in transition would not deteriorate and might even progress in their moral qualifications. With its notion of a moral discourse, discourse ethics gets a grip on a basic problem of applied ethics, namely on the very idea of intervening with certain moral convictions into concrete practices that already contain certain moral convictions. Within the framework of discourse ethics it is possible to appraise existing arrangements for moral communication (e.g. ethics committees within organisations) for their proximity or distance to a moral discourse, and to recommend considering organizational change towards moral discourse as an improvement both on moral and rational grounds.

Discourse ethics can offer to applied ethics a new tool: If we can analyze the distribution and dynamics of discourse power in a particular communicative arrangement (within an organization of a particular type and function, e.g. the Food and Drug Administration) then we can assess the opportunities that exist within this arrangement to review actual discourses by opening a moral discourse. Provided there are ample opportunities in the existing arrangement for review of discourse in moral discourse, we might want to qualify the respective discourses as *discourse-ethically sound* discourses (e.g. discourse-ethically sound scientific discourses). Requiring of discourses that they be discourse-ethically sound is, of course, not a statement within the meta-ethics tier of discourse ethics, but a morally-normative requirement and has to be justified with suitable moral reasons.

MID, the morality in discourse by itself is too thin to be on a par with full-blown moralities as we know them, e.g. common sense morality (Gert 1998). Also, recourse merely to the morality in discourse does not provide the reasons we need when we want to compare moralities and pronounce on their relative merits. Is a religious morality that is anchored in a Christian faith perspective any better than a religious morality that is anchored in a Muslim faith perspective? Is any religious morality a better morality than any secular morality (or vice versa)? Is a secular morality of universal respect for human beings (the ethos of human dignity) a better morality than a secular morality of the perfection of Aristotelian virtues? Everything here depends, of course, on the sense of "better" that is intended in such comparisons. The moral point of view that is associated with the morality in discourse only provides reasons for discriminating between moralities that contain moral prohibitions against subjecting their constitutive beliefs to argumentative scrutiny, and moralities that permit their constitutive beliefs to be examined in discourse. Call the latter *discourse-friendly moralities* and the former *discourse-aversive moralities.* If the spirit of a morality survives critical scrutiny of its constitutive beliefs in discourse unscathed, the corresponding morality is a *discursively robust morality.*

The morality in discourse certainly provides good reasons for preferring discourse-friendly moralities to discourse-aversive ones. Moreover, from the vantage point of the morality in discourse one has good reasons to judge that a discourse-friendly morality is morally better than a discourse-aversive one. However, the comparative "morally better", here, projects

only to one's moral peers as defined by the morality in discourse, that is, persons in their capacity of judging good reasons and moving in the space of reasons.

The morality in discourse can be made the focus of a thin but maximally person-inclusive rational ethos. This ethos, i.e. the ethically augmented morality in discourse, may properly be denoted by the term *discourse ethos*. The discourse ethos is a morally-normative stance. It is the moral stance that proponents of the discourse ethics framework will find natural and recommendable.

Representatives of discourse ethics, in the sense of a rational ethos, make the moral integrity of discourse power, and the formats and fora of actual communities of argumentation in the world, their foremost moral concern. According to Apel – and here we are back to the strong programme – the only unassailable hope for true moral progress is hope in the progressive globalization of the ethos of discourse.

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Discourse ethics, though in the american philosophical context usually associated with Habermas 1990 and 1993 (cf. Benhabib 1986, Baynes 1992, Cooke 1994, Rehg 1994), has its *locus classicus* (dating back to a lecture in 1967) in Apel's essay "The A Priori of the

Communication Community and the Foundations of Ethics" (Apel 1976/1980).

For an attempt to distinguish types of performative inconsistency see Kettner, M. (1993): Ansatz zu einer Taxonomie performativer Selbstwidersprüche. P.187-211 in: A. Dorschel, M. Kettner, W. Kuhlmann, M. Niquet, (Hg.): Transzendentalpragmatik. Ein Symposion für Karl-Otto Apel. Frankfurt: Suhrkamp. Generally on "Letztbegründung" see Kuhlmann, Wolfgang (2009): Unhintergehbarkeit und ,Kurze Diskurs'. Zum Streit über reflexive Letztbegründung. In: Kuhlmann: Unhintergehbarkeit. Studien zur Transzendentalpragmatik. Würzburg: Königshausen + Neumann. For a thorough critique of Apel's strong programme see Niquet, Marcel (1999): Nichthintergehbarkeit und Diskurs. Prolegomena zu einer Diskurstheorie des Transzendentalen. Berlin: Duncker & Humblot.

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Note that where Apel is referring to 'claims' here he is not only referring to what Habermas latter called universal validity-claims of speech acts (intelligibility, truth, rightness, truthfulnes) but to human needs generally considered as expressions that make certain demands on (other) human beings as potential fulfillers of these demands.

One important disagreement between Apel and Habermas is about the additional resources which each of them thinks are necessary and sufficient to move from 2 to 3: a philosophical theory of transcendental arguments (Apel), or a sociological theory of modernisation (Habermas). Elsewhere I have shown that this disagreement boils down to whether a clear sense can be given to calling some of the constitutive norms of argumentative discourse moral norms and that Apel is right (against Habermas) in that there is such a sense (Kettner 1999).

Habermas 1998 p.107. His reasons for revising D are complex and cannot be described here. Partly, they have to do with the problem of distinguishing different types of discourse

for different domains of validity-claims. (For a critical discussion of Habermas' distinctions between "theoretical", "pragmatic", "ethical", "moral" discourses, see Kettner 1995a.) Also, Habermas wants to avoid the charge of already building into his theory of normative validity the moral content that the theory purports to reveal, a charge to which his concept of communicative action (Habermas 1985) is already susceptible. This is how Habermas views the theoretical status of the revised discourse principle D: D "expresses the meaning of postconventional requirements of justification. Like the postconventional level of justification itself – the level at which substantial ethical life dissoves into its elements – this principle certainly has a normative content inasmuch as it explicates the meaning of impartiality in practical judgments. However, despite its normative content, it lies at a level of abstraction that is *still neutral* with respect to morality and law, for it refers to action norms in general. (…) The predicate "valid" (*gültig*) pertains to action norms and all the general normative propositions that express the meaning of such norms; it expresses normative validity in a nonspecific sense that is still indifferent to the distinction between morality and legitimacy. (…) `[R]ational discourse' should include *any* attempt to reach an understanding over problematic validity-claims insofar as this takes place under conditions of communication that enable the free processing of topics and contributions, information and reasons in the public space constituted by illocutionary obligations" (Habermas 1998 p.107f.). In my view, the proposed revision creates more problems than it solves (Kettner 1999c; cf. also Apel's criticism of Habermas, in Apel 1992a, 1998a), not the least of which is that Habermas' recent theory relativizes the concept of a rational morality to modern societies and the (psychologically rare) cognitive achievement of a "postconventional" level of moral consciousness. Another problem is that Habermas uses the notion of impartiality as if it were co-terminous with moral impartiality. These problems exacerbate already in Habermas 1996.

For illuminating discussions of how Habermas' "formal pragmatics" ties in with his theory of communicative action and with his discourse ethics, see Baynes 1992 p.88-115; Cooke 1994 p.1-29 and p.150-162; Rehg 1994 p.23-36. Roughly, *communicative action* covers both 1. social action in which from the perspective of the agent(s) the aim is to reach or maintain a common understanding (=*Einverständnis*, consensus) about validity-claims, and 2. any social action *a*, linguistic or other, which is a consensually validated way of acting and in which it is more important for the agent(s) to keep in the track of this consensual validation

than to attain any further goals the agent(s) may want to attain by doing *a* that are not in keeping with the consensus that validates doing *a.* "Strategic action" is social action in which it is overridingly important for the agent(s) to attain whatever goals they want to attain by doing the action. This typological distinction within a theory of social action is not without difficulties (cf. Baynes 1992 p.80).

For an early statement of Apel's position concerning application cf. Apel 1980 p.282; for Habermas critique of Apel, see section 10 in Habermas 1993.)

An example of a normative propriety of the kind described is the norm that logical contradiction be avoided. This norm, like all other norms of logical well-formedness of propositional contents, is not the kind of norm whose violation would normally count as a violation of a commitment of moral responsibility; it is a logical norm and, as such, not a moral norm.

Cf. Apel 1990a, 1990b, 1992b (esp. p.265f.), 2000.

Whereas "particularist" moralities draw the boundary narrowly it is also possible to extend the community of one's moral peers "universalistically" so as to include all human beings indifferent of cultural differences and spatial or temporal distances between them. Such universalism, far from being a lofty idealism, is a built-in possibility of people's moral-cognitive development. This development is patterned into a number of domains. For a fairly recent overview of the Kohlberg line of cognitive developmental psychology of moral thinking today, see Rest et al. (1999). For earlier statements of this line of research, see Colby & Kohlberg (1987) and Wren (1990). Habermas and Apel appropriated Kohlbergian research on moral stages in the eighties. Unfortunately, they have not followed up the scientific progress that has been made in this line of research since then.

I have discussed the difference between relativism and relativity elswhere (Kettner 2000).

Outka & Reeders 1993. For a less sanguine view, see Snare 1989.

For the first three, see Harman (1977).

For this misunderstanding see esp. p.7-15 in Walzer (1994).

E.g., an atheist will have no moral qualms about sacrilege, because for her the concept of the holy (on which the characterization of a certain action as sacrilege depends) will be an altogether empty concept. A roman catholic woman's belief that one ought not engage in sexual activity unless the two values of possible procreation and marital affective solidarity are conjoined will bear heavily on her moral evaluation of the impact of contraception practices as such practices ply apart ("de-naturalise", as some would say) procreation and the pursuit of sexual happiness, two endeavours whose natural nexus is a morally significant fact when considered from the catholic faith perspective.

I discuss the notion of a moral discourse more fully in Kettner (1999).

However, not making the morality in discourse the focus of a rational ethos does not implicate one in a performative self-contradiction, it seems. In this sense, identifying with the rational ethos cannot be said to be required by reason alone.

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