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BEYOND THE APORIAS OF PROCEDURALISM:

Towards an Axiological Integration of Discourse Ethics

Más allá de las aporías del procedimentalismo:

hacia una integración axiológica de la Ética del discurso

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Abstract

The aim of this paper is to highlight the limits of discourse ethics' self-interpretation in procedural terms, by suggesting an integration of Karl-Otto Apel and Jürgen Habermas' moral theories with the intention to justify and articulate a thin conception of the good, which would make it both possible to guide and to ground the process of discursive justification of moral norms. I will propose first of all, following some authoritative voices in the debate, an immanent critique of Habermas' thesis of the compatibility of norm-(or moral-)universalism and value-(or ethical-)particularism, arguing for the necessity of some form of ethical universalism. In this way it will be possible to provide a universal conception of the good that is both sufficiently formal to be universally accepted and sufficiently substantial to give an orientation to human action. I will argue, following a suggestion from Charles Taylor, that such a theory of the good could be found by reflecting on the tacit presuppositions of discourse ethics itself, and justified through a radicalisation of Apel's ultimate foundation. Such a radicalisation consists in using Apel's transcendental-pragmatic way of arguing in order to justify the value of human existence as a rational form of life. In light of this, and following some hints made by Habermas himself as well as by Christine Korsgaard, I will try to sketch a conception of the highest good that could explain what a worthy or good life consists in, focusing on the role played in it by the exercise of practical reason.

Keywords: *Value-particularism; Norm-universalism; Thin theory of the good; Rational agency; Value of humanity.*

Resumen

El objetivo de este trabajo es poner de manifiesto los límites de la autointerpretación de la ética del discurso en términos procedimentales, sugiriendo una integración de las teorías morales de Karl-Otto Apel y Jürgen Habermas con la intención de justificar y articular una concepción delgada del bien, que permita orientar y fundamentar el proceso de justificación discursiva de las normas morales. Siguiendo algunas voces autorizadas en el debate, propondré, en primer lugar, una crítica inmanente a la tesis de Habermas de la compatibilidad del universalismo normativo (o moral) y el particularismo valorativo (o ético), argumentando la necesidad de alguna forma de universalismo ético. De este modo será posible proporcionar una concepción universal del bien que sea a la vez lo suficientemente formal para ser aceptada universalmente y lo suficientemente sustancial para dar una orientación a la acción humana. Argumentaré, siguiendo una sugerencia de Charles Taylor, que tal teoría del bien podría encontrarse al reflexionar sobre los presupuestos tácitos de la propia ética del discurso, y justificarse mediante una radicalización de la fundamentación última de Apel. Dicha radicalización consiste en utilizar el modo de argumentar trascendental-pragmático de Apel para justificar el valor de la existencia humana como forma de vida racional. A la luz de esto, y siguiendo algunas pistas delineadas por el propio Habermas así como por Christine Korsgaard, intentaré esbozar una concepción del bien supremo que pueda

explicar en qué consiste una vida digna o buena, centrándome en el papel que juega en ella el ejercicio de la razón práctica.

Palabras clave: *Particularismo valorativo; Universalismo normativo; Teoría del bien; Agencia racional; Valor de la humanidad.*

1. Priority of right over the good? The incompatibility of norm-universalism and value-particularism

In a famous passage of his text dedicated to the foundations of Discourse Ethics, Habermas writes that the principle of universalization (U), which according to him is the (only) moral principle that can be directly derived from the presuppositions of argumentation, "acts like a knife that makes razor-sharp cuts between evaluative statements and strictly normative ones, between the good and the just" (Habermas 1990, p. 104). The idea expressed here, such as in many other passages, (Habermas, 1984, pp. 39ff.; 1990, pp. 107ff; 1996, pp. 255ff.) is that evaluative statements, as well as conceptions of the good, cannot aim at universal validity, since every evaluation or idea of the good comes from a particular cultural tradition. Only moral norms can be universally valid, since they can be the object of rational consensus, which instead cannot be reached as far as values and conceptions of the good are concerned. Such Habermas' position, especially typical, although not exclusively, of his early writings in the field of ethics, can be characterized as a form of value-particularism, which, in his view, is not incompatible with moral universalism: rather, it seems to be a condition of it. Universal moral norms are possible, in fact, insofar as the principle of universalization cuts away from any considerations about values.

What probably led the author to argue for this position is the recognition of what John Rawls calls the "fact of pluralism", i.e. the irreversible fact that in our societies people coexist with different cultural and value traditions. In order for a theory of justice to be compatible with such fact, it has to identify principles of justice that can be rationally accepted by every citizen independently of one's "comprehensive doctrine" of the good. To express such perspective in a slogan, Rawls coined the phrase "priority

of right over the good", with which he means that the fact that people have different values and conceptions of the good cannot represent a justification to violate the norms of justice and equal respect; a conception of the good that requires such a violation is in no way justifiable. A theory of justice, indeed, does not need to presuppose a "thick" conception of the good, i.e. a "comprehensive" vision of what is good for a human being in the whole of his cultural, ethical and eventually religious aspects: a "thin" conception, which provides minimal requirements that can be accepted by all human beings, is enough. (Rawls, 1971, pp. 347-348) Thanks to this assumption, the fact of pluralism cannot represent an obstacle for the formulation of a theory of justice any more: even if people disagree about their fundamental values, they can share a theory of justice, only presupposing a minimal conception of the good.

Habermas makes Rawls´ slogan his own, radicalizing it further than Rawls´s intentions, (Benhabib, 1989, p. 377) i.e. claiming, first of all, that it is possible to justify a conception of the right without presupposing even a thin conception of the good, which involves, in the second place, that it is possible to reach a rational understanding about the right without the need to reach a rational understanding about the good. This thesis is, therefore, the one of a conceptual independence of the idea of the right from that of the good. Only by arguing for such a radical thesis Habermas could make his moral universalism compatible with his value-particularism, which goes beyond the mere acknowledgement of the "fact of pluralism", since it suggests that values cannot, *in principle*, be universalized. Both the value-particularism and his radicalized form of the priority of right over the good lay at the root of Habermas' drastic disjunction between the *moral*, which has to do with what is *right for everyone*, and the *ethical*, which has to do with what is *good for me* or a particular identity or community. (Habermas, 1998a, p. 26)

Such dichotomy between the two realms is highly problematic, as emphasized by many authors. Apel himself argues that Habermas' way of dealing with this distinction is too drastic. In particular, Apel criticizes Habermas' dichotomy between deontological and teleological ethics, which he rightly presents as another aspect of the distinction

between moral and ethical realms. According to Habermas, Discourse Ethics has to be considered as deontological ethics, since its aim consists in justifying *moral* norms, whose task is prescribing to us what we ought to do and not which aims are worth pursuing in order to live an *ethically* good life. Apel argues instead that Discourse Ethics has to be considered both as a deontological and a teleological ethics, since, in order to understand what one ought to do, one must also be able, of course, to make evaluations and to set goals. (Apel, 1993, p. 167ff.) Furthermore, Apel recognizes that, even from a post-Kantian point of view, such as that of Discourse Ethics, justice, intended as equal treatment of all human beings, has not only to be considered as a moral principle, but also as a good, which, in case of conflict, must have the priority, naturally, over merely individual goods. The formula of the priority of right over the good, which Apel declares to defend, (Apel, 1994, pp. 12ff.) is in this way similar to its Rawlsian original meaning, since it does not refer, as in Habermas, to the conceptual independence of any conception of the right from any idea of the good, but simply to the necessity of giving priority to what is right, in the sense of good for everyone, over what is good only "for me" or "for us" as members of a particular community. In other words, what is at stake here is not, actually, the dichotomy between the moral and the ethical realms, but the necessary boundaries between autonomous morality in the Kantian sense (*Moralität*) and ethical believes embodied in particular forms of life and institutions in the Hegelian sense (*Sittlichkeit*). Habermas' position, which is clearly motivated by the urgency of drawing a demarcation line between these two spheres, as being required for any post-conventional ethics, nonetheless goes a step further, which in my view is not legitimate.[1] In spite of these valuable differences compared to Habermas' view, however, Apel has

[1] In some passages of Habermas' text considered so far, the author does not seem to defend this strong version. For example, in the passage that follows the one we quoted at the beginning, related to the metaphor of the knife, the author writes that values that pass the test of the principle of universalization can claim for universal validity, insofar as they can be incorporated in universal moral norms. (Habermas, 1990, p. 104) This would be, of course, the only meaningful way of interpreting what happens in practical discourse, if one admits that through practical discourses it is possible to reach a rational understanding. It contradicts nonetheless clearly the thesis of value-particularism, which lies behind the idea that the principle of universalization makes a cut between the right and the good, and, as we saw, is reiterated in some other passages of the same text.

not adequately addressed the problem of the relationship between the right and the good, the moral and the ethical, and has not clearly distanced himself from value-particularism. (Apel, 1999, p. 63)

A more careful and crucial criticism of Habermas' position was raised by Thomas McCarthy, an American fellow of the "third generation" of the Frankfurt School who offers an "immanent critique" of Habermas' dichotomy of the ethical and the moral realms, arguing that what Habermas says "about needs, interests, and values pulls against what he says about rational consensus" (McCarthy, 1991, p. 182). Indeed, this author argues, "Habermas' understanding of 'the general will', 'the common interest' and the like has a Rousseauean strain. He is not talking of the aggregation of individual interests but of the transcendence of merely particular interests in a search for the common good" (McCarthy, 1991, p. 184). However, this contrasts with the idea that the validity of those values that come into play in practical discourse are limited within a particular cultural horizon that cannot be transcended. With McCarthy's words: "if the evaluative expressions used to interpret needs have 'justificatory force' only within 'the framework of a common cultural heritage', how can we reasonably expect to arrive at universal (i.e., transcultural) agreements on the acceptability of the consequences of a norm for the legitimate satisfaction of needs?" (McCarthy, 1991, p. 183). Indeed, he continues: "we cannot agree on what is just without achieving some measure of agreement on what is good. But practical discourse is conceived by Habermas to deal precisely with situations in which there is an absence of such agreement" (McCarthy, 1991, p. 192). These last statements go to the hearth of the problem: Habermas elaborates his model of practical discourse in order to take on the challenge posed by the "fact of pluralism", assuming that in the light of this it has to be considered impossible to reach a universal, therefore transcultural, understanding on matters of values. Such an assumption precisely renders his conception of practical reason as being meaningless. Habermas should therefore abandon this assumption in order to be coherent with the idea, strongly defended by himself, that it is possible to reach rational consensus through practical discourse.

A similar critique to Habermas' value-particularism has been raised by Hilary Putnam, who argues that "without our human manifold of values, there is no vocabulary for norms (…) to be stated in" (Putnam, 2001, p. 119). Instead of the word "values", he sometimes uses the phrase "thick ethical concepts", employing a typical expression of the analytical debate in meta-ethics, which refers to those concepts that are partially evaluative and partially descriptive, such as concepts related to virtues and vices (cruel, wise, courageous…). Putnam emphasizes that no maxim of action could be formulated without using these kinds of concepts, that have an irreducible evaluative content, next to the descriptive one. Therefore, if these concepts are supposed to be valid only within the boundaries of a particular cultural context, it becomes impossible to transform maxims into universal laws, as required by any Kantian approach such as Discourse Ethics.[2] Then, if values cannot be universalized, there cannot be universally valid norms.

Habermas himself seems however to recognize, in his later works, that the thesis of value-particularism, together with the radical interpretation of the priority of right over the good, is not tenable, even if he has never clearly admitted that a change of position has taken place. Some passages of *A Genealogical Analysis of the Cognitive Content of Morality*, in particular, can be understood as an ideal answer to the objections made previously by McCarthy and Putnam.[3] In this text Habermas declares openly that what is right can be seen as what is equally good for all, the reason why the "good" can be integrated into the "right", taking in this way "the very form of an intersubjectively shared ethos in general". (Habermas, 1998a, p. 30). Here it is clearly expressed that what is right is nothing more than what turns out to be good for everyone through the practice

[2] To be exact, discourse ethics, especially in Habermas' version, is not properly an ethics centred on maxims, since those that must be tested through discourse can be already called norms. However, I do not think this changes substantially the point emphasized by Putnam, who in this passage does not refer directly Habermas, but to Christine Korsgaard's work, in order to highlight the problematic aspects of contemporary Kantian moral theories in general. However, I do not think that Korsgaard's view shares the problems of Discourse Ethics discussed here: on the contrary it can be taken into account in order to integrate an axiological language into a merely normative one.

[3] Habermas deals directly with Putnam's position in Habermas 2003b, pp. 213-236. I do not think, however, that his arguments here are crucial in order to answer to Putnam's objections. As far as Habermas' answer to McCarthy is concerned (Habermas, 1991, pp. 200ff) and, in regard to an updated version of McCarthy's critique (Habermas, 1998b, pp. 390ff.).

of discourse. At this point it would be helpful to analyse how practical discourse is supposed to work in Habermas' perspective, if we purify it from the assumption of value-particularism. The aim of practical discourse is to justify a morally valid norm, i.e. a norm that every participant in a discourse could be in agreement with, insofar as each participant takes into account the point of view of all those virtually affected, as required by the principle (U). This means that every discourse partner should offer an interpretation of what the interests and needs are of all those affected, partially listening to what other discourse partners refer to when talking about their own interests and needs, partially mentally anticipating the hypothetical interests of those affected who cannot take part actively in the discourse (children, people who cannot speak because of any hindrances, the future generations, eventually also animals, embryos and the like). Interpreting the needs and interests of all possible affected partners and elaborating a synthetic imagining of them is only possible through the mediation of values. This aspect has been taken for the first time into account by Habermas in the last quoted text, where he proposes a reformulation of the principle (U) that refers not only to the interests, but also to the value orientations of people affected by the norm in discussion. (Habermas, 1998a, p. 42) Values should enable partners of discourse to obtain a sort of holistic vision of what is supposed to be good for everyone. (Ferrara,1994, pp. 44ff.) Such vision has then to be discussed with other partners of discourse, in order to modify and sharpen it, so that it is ideally possible to obtain a shared vision of what is good for everyone. Habermas expresses it this way: "What enters discourse as a desire or preference survives the generalization test only under the description of a value that appears to be generally acceptable to all participants as a basis for regulating the relevant matter" (Habermas, 1998a, p. 82). The process of conducting practical discourse in the public sphere should, therefore, make it possible to develop the intersubjectively shared ethos that Habermas refers to, which has to be protected through solidarity.

2. The aporias of proceduralism (I): the cognitive content of evaluations and the need of a thin theory of the good

The question is now what makes it possible to reach an understanding on ethical questions, namely the formation, in the long run, of an intersubjectively shared *ethos* beyond the boundaries of particular communities. This question can be also formulated in this way: is the principle of universalization sufficient to explain the possibility of a rational consensus on ethical issues? According to McCarthy, this is not the case: the "ideal role taking", which, following Habermas, discourse partners are required to adopt insofar as they take part in the argumentation, is not enough to make rational consensus possible. With the author's words: "According to Habermas, we can argumentatively agree on what is in the general interest only if every participant adopts an impartial standpoint from which his or her own particular interests count for no more nor less than those of another participant. (…) This is a lot to ask of participants in political debate, but it is not yet enough. (…) Only those value differences compatible with a post-conventional moral orientation can survive practical discourse. But we still have a way to go before we can arrive at rationally motivated consensus. For we now have somehow to 'synthesize' all of the various consequences, variously interpreted and variously assessed, into one unified judgment of rightness or wrongness" (McCarthy, 1991, pp. 190-191). What is at stake, here, is the possibility of a procedural ethics, i.e. the possibility of grounding the "moral point of view" and giving an orientation to moral action only by resorting to the constitutive rules of a given procedure. In the case of Discourse Ethics, the procedure in question is rational argumentation, which is supposed to be a "self-substitutive order" (Habermas) or an "uncircumventable" practice (Apel). Many authors, as we will see in a while, hardly criticize the possibility of a procedural ethics and the claim of Discourse Ethics as being able to ground universally valid moral principles resorting to the sole procedure of rational argumentation. First of all, however, a clarification must be made regarding the correct use of the expression "moral proceduralism". While Habermas has often insisted on defining his own moral theory as a procedural one, Apel prefers to underline the "substantive" side of Discourse

Ethics. Axel Honneth criticizes the mere procedural self-interpretation of the latter, arguing that the principle of universalization actually embodies a substantive concept of universal justice and thereby showing that the distinction between a procedural and a substantial ethics becomes in itself problematic. (Honneth, 1986, pp. 268ff; Forst, 2007, p. 5.) Such a statement seems to be well justified, inasmuch as Habermas himself declares that Discourse Ethics as a procedural ethics brings out, by the way, something "substantial". (Habermas, 1991, p. 14) I think, however, that the distinction maintains an explanatory value: Discourse Ethics is a procedural ethics insofar as it pretends to need nothing more than the procedure of rational argumentation in order to ground valid moral norms. This does not mean it is "substance-free", since the procedural principle of universalization, as Apel points out, embodies "substantial" principles of justice, co-responsibility and solidarity, which constitute the moral content of rational argumentation. Even admitting that, however, one could argue that this substance is not enough in order to completely avoid the classical objection of empty formalism levelled at Kantian ethics, since what it still lacks is a thin conception of the good that could make a correct application of the U principle possible. How can discourse participants decide when a norm is actually in the equal interest of all without having an even minimal idea of what qualifies as the human good? One could say, indeed, following Martin Seel's suggestion, which Habermas, in my opinion, wrongly rejects, that a conception of the good, which must be sufficiently formal to be, in principle, universally acceptable, but substantial enough to provide an orientation to action, is what provides the content for any conception of the right. (Seel, 1995)[4]

Putnam asks himself this question as well. As we have seen, he maintains that Discourse Ethics cannot justify universally valid norms without reaching an understanding about values. He criticizes therefore Habermas' value-particularism, defining it as a form of "naturalism" or "sociologism" about values. I quote the passage in which Putnam articulates this critique, since it is highly significant for our actual problem: "By a 'norm' Habermas understands a universally valid statement of

[4] As far as Habermas' critique of this perspective (Habermas, 1998a, p. 273).

obligation. Although the treatment of norms is 'Kantian' (…), 'values', in contrast, are treated naturalistically. They are seen as contingent social products that vary as the different 'life worlds' vary. Where the constraint of morality enters in connection with values is, so to speak, at the 'metalevel'. The Habermasian norm of 'communicative action' requires us to *defend* our values by means of communicative action (…). Only values that can survive such a defence are legitimate. But among the values that are legitimate, there cannot be *better* and *worse* in any sense that transcends the 'life world' of a particular group. As I have put it in our conversations (being, I admit, deliberately provocative): 'Jürgen, on your account, values - as opposed to 'norms' - are as noncognitive as they are to positivists!'" (Putnam, 2001, p. 112). The problem emphasized here is that, since many value-orientations can pass the filter of the U principle, this turns out to be insufficient to give answers to moral conflicts. In this passage there is, however, an indication to find a way out of the impasse, which we could not find, for example, in the last quoted text from McCarthy. Putnam writes, indeed, that, according to Habermas, "among the values that are legitimate, there cannot be *better* and *worse* in any sense that transcends the "life world" of a particular group" (Putnam, 2001, p. 112). If one does not recognize that it must be possible, in a certain situation, to give priority to a value on others that likewise pass the test of universalization for reasons that are independent from the U principle itself, i.e. for *intrinsic evaluative* reasons, one cannot break the impasse. The problem is, of course, what do such independent reasons consist of, i.e. what makes it possible to distinguish correct from incorrect evaluations.

Before tackling this central hard problem, we need to look at the way Habermas tries to address this kind of criticism. From his *Remarks on Discourse Ethics*, he starts to address the question of the cognitive content of what he terms as being the ethical realm. In particular, he introduces a tripartition of practical reason into pragmatical, moral and ethical, identifying three correspondent types of discourse. He argues, namely, that the ethical realm represents an autonomous sphere of normativity, which has a specific cognitive content that has to be investigated, without being led back to

the mere pragmatical sphere. The pragmatic use of reason involves choosing adequate means to reach whatever aim or, using Charles Taylor's terminology, which Habermas himself refers to, "weak evaluations", i.e. trivial preferences that imply unproblematic choices. The ethical use of practical reason refers instead to the choice of the aims themselves, namely to "strong evaluations", i.e. those evaluations related to the self-understanding of a person and his or her way of life, which are deeply interwoven with one's own identity. Habermas writes about existential self-understanding: "Two components are interwoven in it: the descriptive component of the ontogenesis of the ego and the normative component of the ego-ideal. (…) Bringing one's life history and its normative context to awareness in a critical manner does not lead to a value-neutral self-understanding; rather, the hermeneutically generated self-description is logically contingent upon a critical relation to self. (…) Ethical questions are generally answered by unconditional imperatives such as the following: 'You must embark on a career that affords you the assurance that you are helping other people'. The meaning of this imperative can be understood as an 'ought' that is not dependent on subjective purposes and preferences and yet is not absolute. What you 'should' or 'must' do has here the sense that it is 'good' for you to act in this way in the long run, all things considered" (Habermas, 1991, pp. 4-5). For our aim these last lines are very significant. Habermas recognizes that ethical imperatives are unconditional, and thereby not merely pragmatical. He states however at the same time that, just in the same way as pragmatical imperatives, they are not absolute, but relative. Indeed, they are not completely detached from the egocentric perspective, since they are relative to the identity of the person and are not universally valid for each person as is the case of moral imperatives. For sure, Habermas thinks that there can also be collective identities, whereby, as the author clarifies in *Between Facts and Norms,* ethical discourse can also be related to a "we" not only to a "I". Indeed, next to an *ethical-existential discourse*, there can be also an *ethical-political discourse.* (Habermas, 1996, p. 204) The use of the latter phrase already indicates, however, that the "we" that Habermas has in mind is limited to a particular political community, but cannot be extended to all humanity. This

explains why the ethical use of practical reason cannot have the same absoluteness as the moral one. In *A Genealogical Analysis of the Cognitive Content of Morality*, Habermas reaffirms this distinction by speaking of a *weak* cognitive content of the ethical sphere in opposition to the *strong* cognitive content of the moral one. (Habermas, 1998a, p. 6) The central reason for this distinction emerges from the following passage: "Moral reasons bind the will in a different way than do pragmatic and ethical reasons. (…) To be sure, every act of choice rests on grounds of practical reason; but as long as contingent, subjective determinations are still operative and the will does not act solely on grounds of practical reason, not every trace of compulsion has been expunged, and the will is not yet truly free. The authenticity of value-commitments points beyond the subject-centred horizon of instrumental rationality. But strong evaluations acquire objective force for the will only in connection with contingent, though intersubjectively shared, experiences, practices, and forms of life. In both cases the corresponding imperatives and recommendations can claim only conditional validity: they hold under the condition of subjectively given interests or intersubjectively shared traditions. (…) Only when the former are examined as to their compatibility with the interests and values of all others from the moral point of view has the will freed itself from heteronomy" (Habermas, 1998, pp. 31-32). At the root of these statements there is, in my opinion, a misunderstanding: I do not think that the fact that the ethical use of reason is connected with the self-understanding of a given identity implies a sort of heteronomous determination of the will, while it may be the case when pragmatical reasons are at stake. What we do in the process of self-understanding is to reflect on our given interests and preferences in order to evaluate them, in a process of critical appropriation of contingency. Reflecting does not mean rising above contingencies, but making it possible not to be completely determined by them. For sure, the fact that we consider a certain need or desire to be authentic or good for us does not allow us to pursue it, if this will damage someone else. But this does not mean that the ethical use of reason cannot ground absolute duties, while the moral one can. It does only mean that in such a case we are giving to our identity of single human beings a bigger value

than to that of other human beings affected by our behaviour. In order to avoid this, we have to enlarge our perspective, considering that our identity of single individuals involves taking part of a wider identity, that of humanity itself, in which all other affected parties take part also. (Ferrara, 1994, p. 46) What arises from this critical analysis is that the difference between strong and weak cognitivism is untenable, as well as value-particularism, with which it is strictly connected. The differentiation of different kinds of practical discourse has to be seen, however, as an unquestionable progress within Habermas' perspective, if one considers what he had argued from *The Theory of Communicative Action*. In this work, indeed, he had introduced a claim of the appropriateness of value-standards next to the other usually mentioned validity claims, arguing however that it could not be redeemed by genuine discourse, but only by an "aesthetic critique", which can at most "open the eyes" to discourse participants without pretending to convince them. The problem is that, even in the more recent texts that we have now analysed, the author is not willing to recognize that the validity claim raised in ethical discourses can be considered a universal validity claim. Therefore, now as then, the question arises: how can a validity claim not be universal? I think that the meaning of the expression "validity claim" in itself would fall short, if one does not admit the universality of this claim. Another critical aspect of the more recent position outlined so far is that the author has sometimes confused the analytical distinction between different kinds of practical discourse with a real distinction in the life world, where normally it is not possible to make such clear distinctions.[5] This is what he did, for example, in regards to the question of abortion. His thesis is that on such a subject it is not possible to reach a rational consensus, because it is a case of "reasonable pluralism", in which differences of values are at stake and all that one can do is discussing about the reasons that lead a person to defend a certain position, without pretending to reach an understanding. In other words, in this case, it is a matter of ethical not moral discourse: the fact that, according to the author, it is not possible to give a sole right answer to this question does not represent a limit of practical discourse as such, but only of a specific

[5] In this regard see also Forst (2007, p. 68).

sort of it. (Habermas, 1991, pp. 165-166) Instead moral discourse, according to Habermas, is able to lead the participants to a rational consensus, admitted that the rules of an "ideal speak situation" are followed. It is obvious, however, that such a clear demarcation does not exist, which is another way to say what we already have noticed, namely that the impossibility of reaching an understanding about the values cannot avoid having consequences as far as moral norms are concerned.

The only solution to the unresolved issues of Habermas' position can be, in my view, to abandon the thesis of value-particularism, drawing the necessary consequences from it, i.e. accepting that it is not possible to reach an understanding on ethical issues, and then on problematic moral issues, in the light of the sole universalization principle. Indeed, it is legitimate to ask: why can the sole moral principles in the narrow sense be considered in a certain way *a priori* valid, whether they are the principles of justice, co-responsibility and solidarity embodied in the universalization principle (Apel) or the universalization principle itself (Habermas)? Namely, why the same cannot be said of fundamental concepts of goodness such as, for instance, authenticity and well-being? We are now back to the hard problem we mentioned before, which can be reformulated as follows: how is it possible to identify and justify a basic, *thin* notion of the good, analogous to the *thin* notion of justice (and responsibility) identified and justified by supporters of Discourse Ethics?

3. The aporias of proceduralism (II): the concept of the good presupposed by Discourse Ethics

As suggested by Charles Taylor, the reason why supporters of Discourse Ethics do not take this step is probably that it is not possible to provide a foundation of a notion of the good within the boundaries of a procedural paradigm. The same author also emphasizes, however, that Discourse Ethics cannot actually avoid implicitly presupposing a conception of the good, which motivates the choice for a particular procedure and therefore lies at the basis of the moral principles justified through the procedure itself. This is the core of Taylor's constructive criticism of Discourse Ethics,

which can be summarized in the following quotation: "I want to state baldly that procedural theories seem to me to be incoherent, or, better put, that to be made coherent, they require restatement in a substantive form. (…) What makes it mandatory to follow the privileged procedures? The answer has to lie in some understanding of human life and reason, in some positive doctrine of man, and hence of the good. It is greatly to the credit of Kant that he recognizes this and spells out his view of man, or rather rational agency, and the dignity that attaches to it, that is, what makes it of infinitely higher worth than anything else in the universe. This allows one to see that the logic of "nature", "telos" and "the good" has not been escaped in these theories, but just displaced. (…) Any theory that claims to make the right primary really reposes on such a notion of the good, in the sense (a) that one needs to articulate this view of the good in order to make its motivations clear and (b) that an attempt to hold onto the theory of the right while denying any such underpinning in a theory of the good would collapse in incoherence. (Taylor, 1993, p. 349) The author argues here that procedural moral theories are not able to explain why one should follow the selected procedures, since they do not develop a conception of the human good through which it would be possible to account for the *value* that these procedures have for the human being. However, Taylor maintains that these theories cannot avoid presupposing, at least implicitly, such a conception of the human good, as well as of what makes human existence so valuable.[6] In *Sources of the Self* he introduces the term "hypergood" to indicate those goods which a moral theory considers to such an extent much more important than the others, that it avoids recognizing it, or even to recognize them as goods. (Taylor, 1989, p. 63.) According to Taylor, this is what happens in Discourse Ethics with the procedure of rational argumentation and the "moral point of view" that it presupposes, which therefore reveals itself to be a "hypergood", namely a fundamental value that is presupposed without being recognized as such.

I would now like to test this thesis by referring to Habermas' text *The future of human nature*, which can be seen as the end point of the path followed by the author starting

[6] A similar critique to discourse ethics has been raised in Taylor (1992).

from the 1980s with regard to the relation between the moral and the ethical. In this text, Habermas puts into question, in a radical way, what he has maintained until now about the relationship that the post-metaphysical philosophy that he defends should have with the issue of the "good life". Already in his *Remarks on Discourse Ethics*, as a matter of fact, he has admitted that it is possible to identify some "structural aspects of the good life" that are common to all forms of life. (Habermas, 1991, p. 203) However, such statements clearly contradict the value-particularism still defended, as we have just seen, in the (more recent) essay dedicated to the different types of practical discourse included in the same book. Also in *The future of human nature* there are some oscillations, but what is important for us, is that here, for the first time, the crucial problem has been raised of the high price philosophy has to pay if it definitively renounces its traditional role of giving an ethical orientation to human existence. For the first time, namely, the question of the good for human being, as such, becomes central. Habermas emphasizes that a concept of the good should be both substantive, insofar as it cannot be derived directly from the presuppositions of discourse, and formal, i.e. compatible with the plurality of legitimate ways of life. It is significant that, in order to introduce such a concept, he refers to Kierkegaard and his followers of twentieth-century Existentialism, (Habermas, 2003a, pp. 5ff.) since they recognize the fundamental value of human existence in the possibility of being oneself, (Habermas, 2004) in other words in an idea of *authenticity*. Apel also, by the way, refers in some essays to the concept of authenticity, in particular to "a (universally) valid duty to authentical self-realisation" (Apel, 1994, p. 14), which is understood as a duty towards oneself in the Kantian sense. This shows that both authors have, over time, given an increasing attention to the ethical domain in the narrow sense, as well as a more adequate conception of it, despite not drawing the necessary consequences from it, as will be apparent in the following.

Habermas has taken this turn by reflecting on the consequences of the recent development of genetic engineering, in particular by asking himself to what extent it should be allowed to make interventions on a fetus' genes as indicated by his or her

parents. According to the author, limitations to this type of procedure are required in order to not allow parents to make arbitrary and irreversible choices that children in the future could refuse, which would lead to the building of an asymmetric relationship. Facing this new possibility, that has arisen through technological improvements, we are unavoidably called to answer the question whether we *want* to continue to understand ourselves as beings who are free to determine themselves or do we want to allow someone else to decide for ourselves without our consent regarding what kind of people we will be. Following Habermas, this question cannot be understood as a moral question in the narrow sense, but as an ethical one, in particular as a "species ethics" question. Indeed, what is at stake here is not primary "what we owe to each other", but whether we still want to understand ourselves as beings who owe something to each other in general, namely as moral beings. Independently of the judgment one can give to Habermas' understanding of the specific problem of the moral consequences of genetic engineering, what is important for us here is that the author recognizes for the first time that, as far as ethical questions about the good are concerned, universal answers are possible or even necessary. Nonetheless, Habermas is keen to specify that such embedding of morality in the "species ethics" is not equivalent to the acknowledgment of a dependence of the validity of moral norms from an ethical perspective. This would compromise the unconditional validity of moral norms, since, once again, ethical reasons do not have the same binding force as moral reasons. However, the author identifies a criterion in order to decide which, among the different conceptions of "species ethics", have to be chosen: "not all of the ethical conceptions harmonize with our self-understanding as morally responsible persons to the same degree" (Habermas, 2003a, p. 93), he argues. Which means that only those species ethics are valid, that consider the possibility of our self-understanding as moral beings as a fundamental value.

What consequences can then be drawn from these considerations? For sure it should be recognized that Habermas in this text admits that morality must be considered as a value in itself that has to be preserved. This means that the question about the good for

human beings can be raised and answered, at least in the sense that one has legitimacy to state that our "communicative form of life" or the "moral community" of human beings is a fundamental good. Besides he proves to be sensitive to those attempts that have been made in the history of philosophy to elaborate on a conception of the good life that is, at the same time, formal and capable of giving a basic ethical orientation to human existence. However, he does not properly engage in articulating the content of a species ethics, and he simply states that it has to be compatible with moral values. Nor the text is able to provide an *ethical foundation* of the moral concepts: this would indeed violate, in Habermas' view, the autonomy of morality.[7] However, the author openly provides an evaluation on the human form of life, whose value lies in the fact that it opens up the possibility of our moral self-understanding, which proves then to be a hypergood. In this text, it seems to me, the vision of the good, or rather of human dignity, which has always been presupposed in Habermas' perspective, reveals itself. In a way, then, this text meets Taylor's requirement, according to which Discourse Ethics should make explicit the conception of the good that it presupposes. It can therefore be considered as a turning point, in which Habermas admits that the relationship between the moral and the ethical outlined so far needs to be revised. However, the author neither properly articulates a conception of the good, nor provides any basis for it. Rather, a sort of ultimate choice for morality is at stake here: if we want to continue to understand ourselves as moral beings, we have to preserve our moral form of life, establishing normative constraints to some applications of genetic engineering. After all, as is known, Habermas has always argued that an ultimate foundation for the "moral point of view" as the one proposed by Apel is impossible. According to him, the question "why be moral" does not make sense. Apel, on the opposing side, understands his

[7] As suggested by Korsgaard (Korgaard, 1996, pp. 109-110), it is a typical misunderstanding of modern moral philosophy to argue that trying to provide a foundation of the "moral point of view" in itself by answering the question "why be moral" is not allowed since it would undermine the autonomy of morality (this point of view is clearly expressed e.g. in Forst (2007, pp. 8, 32ff.). However, using ethical reasons to argue for morality cannot be seen as an attempt of grounding morality on something else, since the ethical point of view is nothing different from the moral point of view, rather, it is represents another connotation of the same thing, with the difference that referring to axiological instead of merely normative concepts makes it actually possible to provide a foundation of morality.

Letztbegründung as an answer to the question "why be moral?", but he does not interpret it as a question about the value or the sense of being moral for human beings, i.e. as an ethical question in the narrow sense we have referred to so far. Indeed, he distinguishes between a *meta-ethical* and an *existential* understanding of the question, arguing that the ultimate foundation is only aimed at giving an answer to the question in the first sense, but not for the second, that could at most be provided by religious or metaphysical perspectives. One thing would be, namely, providing a rational ground for being moral, i.e. a *foundation* of the "moral point of view", another is answering the question of the sense of being moral, i.e. *motivating* someone to personally take on the "moral point of view" and acting according to it. Habermas makes the distinction between the *epistemic* question of how valid moral judgments are possible and the existential question of the sense of such moral judgment. However, he maintains that, since Apel raises the question "why be moral", he cannot avoid taking on as well the existential side of the question despite arguing the opposite view. (Habermas, 1991, p. 186) I think that Habermas is right on this point, i.e. that these two aspects cannot actually be separated. However, compared to him, I would draw the opposite conclusions from this assessment. Namely, instead of refusing to pose the question at all, in order to avoid venturing down the path of metaphysics, I would try to raise the question in all its breadth. In fact, I do not think Apel and Habermas have good reasons not to do that. In what follows I will resume Apel's argument of the *Letztbegründung*, in order to show that it cannot be consistent without addressing the issue of the *value* of morality for human existence. Only in this way, I will argue, can a satisfying answer be provided to Taylor's question about the reason why we *should* follow the procedure of rational argumentation for the justification of moral norms.

4. Grounding a thin theory of the good: a transcendental-pragmatic argument for the value of human existence as rational existence

Apel's foundation strategy makes the answer to the question "why be moral" dependent on the answer to the question "why be rational". Indeed, if the first step of

the *Letztbegründung* consists in showing that one or more basic moral norms can be deduced from the presuppositions of argumentation, the second consists in bringing out that rational argumentation itself is not merely a specific activity, in which one can take part or not, since every human action that claims to make sense virtually presupposes it. In this way, rational argumentation turns out to be uncircumventable and takes thereby transcendental character. (Apel, 1992, p. 33) With this last move, Apel seems to go in the direction suggested by Taylor by trying to justify the reason why one should follow the rules of rational argumentation: his answer seems to be that, since rational argumentation is uncircumventable, one cannot avoid following its rules if one wants to act in a meaningful way. This "constitutivist" foundation's strategy of moral principles,[8] however, does not properly face the problem, raised by Taylor, of the *value* of rational argumentation. One could still ask, indeed, why should one aim at acting in a meaningful, namely, rational, way. The inescapability of rational agency is not in itself a sufficient reason to act according to its rules: in order to *motivate* someone to act rationally and, therefore, morally, it must be shown that the *value* of rational argumentation is, in itself, inescapable. Indeed, the uncircumventability of rational argumentation could also be perceived as being a cage from where one would like to escape. The question, now posed, is: why should I not have to escape from the rules imposed by my existence as a rational being by committing suicide? Why should I place value on my own nature as a rational being? This fundamental question has not been raised by Apel and Habermas, who limited themselves by arguing that, if one systematically renounces to take part in rational discourse, one cannot avoid facing self-destructive consequences. (Apel, 1998, p. 76; Habermas, 1990, pp. 100ff) One could still ask, however, why one has to avoid self-destructive consequences if one does not believe that one´s existence as being rational has any value. In order to give an answer to this question, one could attempt to use Apel transcendental-pragmatic argument (going further than Apel's intentions) to counter the nihilistic positions of those who

[8] In the meta-ethical debate those foundation's strategies of ethics are defined constitutivist that try to justify the "moral point of view" on the presuppositions of rational agency, considered as unescapable. For an intro duction to metaethical constitutivism see Katsafanas (2018).

maintain that our human existence as a rational form of existence does not have any value at all.

The first response to anyone who neglects to value human existence as a rational form of existence may consist in showing them that, by arguing for this thesis, they are implicitly *caring* for human existence as a rational existence. Therefore, denying this, involves a performative self-contradiction. Of course, the nihilist could, at this point, refuse to argue, by showing with their own actions that it is possible to decide not to care for rational argumentation.[9] However, the nihilist should recognize that, even in this case, they are not really escaping rational agency: even if they refuse to argue, indeed, they are claiming to perform a meaningful act, namely, an act that could be understood by other human beings and may be virtually justified in front of them. By recognizing this, the nihilist could go as far as to commit suicide, in order to show that they do not care for their own existence as rational beings and they are coherently ready to reject it. The same objection that we made previously against anyone's attempt to leave rational discourse can, however, be raised again against the decision of someone taking their life in order to demonstrate that it has no value at all. It is clear that even the act of committing suicide makes claim to be meaningful: committing suicide in order to deny the value of rational action, therefore, involves an "existential self-contradiction". (Apel, 1986, p. 135) However, this does not so much imply that rational agency is uncircumventable, since, one could, despite the lack of sense of this action, commit suicide and therefore escape rational agency. This argument shows, rather, that it does not make sense trying to escape it, since, even by escaping it one is already giving a value to it, which means that such a value cannot be denied and has to be recognized. Therefore, a first move in the direction suggested by Taylor has been made: by using Apel's transcendental-pragmatic argument for an axiological foundation of rational agency, we have provided a justification for the "hypergood" of rational argumentation and its moral presuppositions. However, one could now ask what role such a hypergood

[9] This is the typical objection of the refusal of discourse, used e.g. by Habermas himself in Habermas (1990, pp. 99ff.).

plays as part of a wider conception of the human good: namely, once it is admitted that rational agency contributes to ground the value of human existence, one could ask what kind of relation does it have with other values that may be constitutive of our existence.

Answering this kinds of questions is the aim of a thin theory of the good, which has a twofold role: on the one hand, it must provide a conception of human dignity, that should be able to explain *what makes us valuable*, namely, what ultimately justifies the value that we ascribe to ourselves, while, on the other hand, it must explain *what is valuable for us* as human beings that need to give an orientation to their existence. The role of rational agency is central as far as both these aspects are concerned: on the one hand, the fact that, as revealed by our transcendental-pragmatic argument, its value cannot not be recognized, shows that it plays a central role in grounding the value of human existence as such, which grounds its authority as a source of moral normativity. But this implies, on the other hand, that one could not live an overall worthy life without acting according to the rules of rational agency, including the moral rules. As this last consideration already suggests, ascribing a central value to our being rational creatures does not award rationality a privileged role in grounding human dignity at the expense of other worthy aspects of our existence. Indeed, following the rules of rational agency is what makes it possible for us to live a worthy life in its entirety. Therefore, grounding human dignity on our rational nature equates to grounding it on the capacity we all virtually have of living a good life. This line is argued by Christine Korsgaard, who defends Aristotle's function argument, according to which the good for the human being consists in doing well the human being's own function, which corresponds to being rational. (Korsgaard, 2008, p. 129) She does not interpret Aristotle in the way some contemporary Neo-Aristotelian naturalists do, as if he were saying that one ought to be rational because being rational is the function of human beings. (Korsgaard, 2008, p. 144) Rather, she emphasizes the connection between rationality and eudaimonia, arguing that being rational is constitutive for a good life. Reason is not something whose value is somehow added to the animal side of human beings, giving them greater value than all other living forms, but it is the specific way in which human beings carry out the functions they also

have in common with other animals. (Korsgaard, 2008, p. 142) Grounding human dignity on rational agency equates then to grounding it on what makes us capable of living a good life. Therefore, it is the possibility of living a good life that ultimately grounds our value, which does not mean, however, that rational activity must be seen as a mere means to make the reaching of the aim of a good life possible, as if the latter were a final value and the former a mere instrumental one. (Korsgaard, 2008, pp. 145-146) As a necessary condition or constitutive aspect of a good life, rather, its value is unconditional, in a way that makes it possible to confer value to other things: in the Korsgaardian view I want here to refer to, it is by virtue of our rational and reflective capacity that what presents itself to us as an impulse to act can eventually become a reason to act, acquiring in this way the status of a value. (Korsgaard, 1986, p. 93) What is, so to say, naturally attractive, then, becomes properly a value when it is approved through our rational reflection, which is a power that is not conditioned from what we actually come to desire, but is, instead, able to condition our actual desires in light of a wider conception of the good, one that each of us develops more or less explicitly over one's own life. The conceptions of the good that we come to elaborate this way will then work as guides in the orientations of our lives, representing the contents that have to be tested in the process of grounding moral norms in order to regulate the civic society. Even if these conceptions may vary from one person to another, depending on the person's identity and the particular communities one lives in, not all of them can be equally good, since they do not all contribute, in the same way, to the realisation of the value of the *person* in its entirety. I would like here to define the person, using Aristotelian terms, as a synolon of form and matter, where (practical) rationality is what gives a unitary form to the matter of impulses, attractions and repulsion, giving life to values that in turn represent the content of norms. The conceptions of the good that guide our lives cannot contradict the value of the person in this sense, which is centred on rational agency and its moral presuppositions, namely, on rational autonomy. Whatever conception one may have of one's good life, a good life must be coherent with the value of rational autonomy, which, in turn, is something valuable *for us* since it is

what makes possible what I like to call the "openness to value" as well as the good life itself. A good life for the human being, after all, can be defined as a life lived "according to reason", in the sense of a life lived reflectively, in which one aims at one's own authentic self-realisation, according to one's capacities and deepest aspirations, without losing the connection with all the virtual others, namely, without ceasing to identify oneself with one's humanity in the very same act of trying to realize what is unique in oneself.[10] This does not mean, obviously, that the so-called "non-moral goods", namely those goods that are trivially considered by each of us, despite to different degrees and in different forms being crucial aspects of the good life, like psycho-physical health, success in the realization of one's own goals, good interpersonal relationships, adequate material-economical conditions and so on, do not play any role in the articulation of a thin theory of the good. The point I want to emphasize here, however, is that these sorts of goods have, in a sense, a conditional value, since their value depends on the meaning of one's life as a whole. What has an unconditional value is instead the reflective capacity that makes it possible to relate, in the right proportions, the different aspects of a good life, so that one's life can assume an overall value that goes beyond the combined amount of these different aspects. In this perspective, a life lived according to reason in the outlined sense can be seen as the core of a conception of the highest good that has both Kantian and Aristotelian inspiration, whereby the non-moral goods properly assume a value throughout the process of reflection and in virtue of the work of practical reason that aims to unify one's existence in a meaningful whole. This rough painting wants to give some hints regarding how a thin theory of the good should look like, in order to offer an integration of classical discourse ethics, in the wake of what Habermas himself tried to do in *The future of human nature*. In doing so, Apel's transcendental-pragmatic way of arguing reveals itself crucial even beyond his own intentions and makes it possible to elaborate an argument for the value of humanity as

[10] An articulation of a theory of the good on these lines has been given e.g. in Ferrara (1998) and Gewirth (1998).

a rational form of life that should be, in my view, the starting point for every attempt to make a rational foundation of the "moral point of view".

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