Unit E 18: The discourse ethics approach of Jürgen Habermas

1.   Summary

Discourse ethics has shaped discourse in Western Europe like hardly any other ethical approach. Two aspects are particularly important: on the one hand, discourse ethics as a "procedure of reason-guided argumentation" (Lienemann 2008:132), and on the other hand, the endeavor to find a pragmatic answer to social pluralism. Karl-Otto Apel and Jürgen Habermas are regarded as important representatives of discourse ethics.

2.   On discourse ethics

Discourse ethics, as elaborated by Karl Otto Apel (e.g. 1988) and Jürgen Habermas (esp. 1983:53ff. and 1991) (cf. Lienemann 2008:131) has become the most influential ethical approach, at least in the German-speaking world. Habermas, in particular, was aware very early on that liberal fundamental rights had to be complemented by welfare state regulations beyond their status as defensive rights against the (totalitarian) state.

But what is meant by discourse ethics?

According to Lienemann (2008:132), at the heart of discourse ethics is "the attempt to provide an answer to the question of determining 'good' or possibly 'just' action and behavior by seeking fundamental, indispensable rules for processes of understanding between people who, under conditions of social pluralism and antagonism, attempt to coordinate with one another according to principles that are generally shared or at least generally agreeable." In doing so, discourse ethics does not assume fixed, "generally shared ethical principles" but sees itself as a "procedure of reason-guided argumentation" (Lienemann 2008:132). Lienemann (2008:132) speaks of a "utopia of discourse ethics" that "consists in the replacement of the language of authority and violence by the unconstrained recognition of the power of the better argument among people who can respect each other, [even] where they struggle for mutual respect and recognition" (Lienemann 2008:132).

"According to discourse ethics, a norm may only claim validity if all those potentially affected by it, **as participants in a practical discourse**, reach (or would reach) agreement that this norm applies. This **discourse-ethical principle** (D), to which I return following the justification of the **universality principle** (U), already presupposes that the choice of norms can be justified. ... I have introduced (U) as a rule of argumentation that makes agreement in practical discourses possible whenever materials can be settled in the equal interest of all concerned" (Habermas 1983:76). Apel (1988:131) argues that there "may be no regression of ethics behind the ideal standard of judgment formulated in the principle (U) of discourse ethics."

Accordingly, according to Habermas, principle (U) excludes a monological application, whereby all concerned parties are to be admitted to the argumentation. Here Habermas (1983:76) sees a difference to the position of John Rawls, who in contrast to him - according to Habermas (1983:76/77) - does not aim at a discursive formation of wills about the basic institutions of late capitalist societies, but sees a just society as the result of his theory of justice.

According to Jürgen Habermas (1991:12), in discourse ethics "the procedure of moral argumentation takes the place of the Categorical Imperative." The following rules apply: First, "only those norms may claim validity ... that can find the consent of all concerned as participants in a practical discourse" (Habermas 1991:12), and second, "in the case of valid norms ... results and secondary consequences that are likely to result from general compliance for the satisfaction of everyone's interests must be able to be accepted without constraint by everyone" (Habermas 1991:12). In this context, Habermas (1991:13) calls the standpoint "from which moral questions can be judged impartially ... the 'moral point of view'."

Habermas (1991:20) distinguishes between "matters in need of regulation, which touch only particular interests and therefore depend on the negotiation of compromises, not on consensuses reached discursively" and moral norms required by differentiation of values, "which regulate the scope of action of individuals in the general interest" (Habermas 1991:23).

Habermas relates the values to a culture, while the norms in his discourse ethics have a universal character. Accordingly, only norms can be generally binding (cf. Habermas 1983:113f. and Scherzinger 2014:37). In this way, Habermas to a certain extent reverses the common view, which rather assumes universally valid, cross-cultural values and culture-specific rules of conduct and norms.

According to Lienemann (2008:133), discourse ethics is "obviously in the tradition of Kant's political ethics." In doing so, discourse ethics (1) consistently continues the "enlightenment[s] and liberty[s] positions in the wake of Kant" (Lienemann 2008:133), (2) opens up practical philosophy "for the primarily political and constitutional tasks of shaping world society" (Lienemann 2008: 133), enables (3) - at least in terms of intention - an egalitarian inclusion of potentially all people in discursive processes, and concretizes a "human rights and peace ethics orientation and foundation of applied ethics" (Lienemann 2008:133).

One strength of the discourse ethics approach is undoubtedly that, as Apel (1988:55) put it, it "fix[es] rationality" "not on different[n] forms of rationality, but rather on something uniform[m] and unambiguous[m] that can be opposed to the irrational - or, in other respects, to the arational" (Apel 1988:55). The point here is to strive for "agreements in the case of practical conflicts [that] are grounded in the **basic norm of an ethics of consensual communication**." In doing so, according to Apel (1988:61), "as a normative condition of the agreement to be sought, the **criterion of consensuality** is to be introduced **for all those concerned**, and **not only for those involved in the conflict**" (Apel 1988:61, emphasis by Apel). According to Apel (1988:61), only in this case, i.e. if an agreement at the expense of third parties is excluded, one can speak of ethical rationality.

More strongly than Habermas, Apel (1988:141) pointed out the divergence of the ideal communication community and the real communication community. Apel has derived from this a "double regulative principle for an ethics of responsibility" (Apel 1988:141): "First, all action must be concerned with ensuring the survival of the human species as the real communication community; second, it must be concerned with realizing the ideal

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communication community in the real one. The first goal is the necessary condition of the second goal; and the second goal gives the first its meaning - the meaning that is already anticipated by every argument" (Apel 1988:141). Apel calls this - in addition to Habermas's universality principle (U) - "moral-strategic complementary principle (E) for the justification of an ethics of responsibility."

Karl-Otto Apel (1988:11) points out that a history-based application of communication ethics requires its own justification part - this in contrast to "well-known application problems of moral norms". Apel (1988:12) accuses the Wittgensteinian language-game approach of not seeing, or not seeing enough, the problem of history-related application. But is it not rather a question of the implicitness and explicitness of historical content? After all, every language game arises within a concrete, socio-cultural situation - and also develops with it, or under certain circumstances against it. Thus, every language game is always historically conditioned and historically locatable.

To put it another way: discourse ethics - like every ethical approach - is also, in Wittgenstein's sense (1982), nothing but a kind of meta-language game - i.e. a kind of super-language game above other, limited language games -, each with its own rules and its claim to comprehensive validity.

2.1   Ideological pluralism and the position of Jürgen Habermas

Jürgen Habermas (2001:182) has very rightly pointed out that other-cultural or other-religious self-understandings are only recognized when those concerned find themselves in a cultural or religious environment other than their own: "As long as the co-players move within the same universe of discourse, the hermeneutic impulse to reflect on the self-evident motives that remain unspoken in the background is missing. This impetus for reflection does not hinder intercultural understanding, but makes it possible in the first place." Accordingly, the discourse participants must first become aware of their own particularity "before they can peel out the common discourse presuppositions, interpretations and value orientations." In other words, only when one's own particular

position encounters other positions does its specificity, but also its limitations, become apparent.

Jürgen Habermas (2005a:279ff. and 318ff.) emphasizes that the state recognizes "the legitimacy of continuing dissent"-that is, ideological differences of opinion (Habermas 2005a:319, cf. also Häberle 2011:58). According to Habermas (2005a:319), the state thereby secures for religious communities "only the freedom of movement to place themselves in a cognitively plausible relationship from the internal perspective of their own doctrines, which are untouched in substance, both to the beliefs of other religious communities and to the forms of thought and intercourse of their secular environments" (Habermas 2005a:319).

Basically, Jürgen Habermas advocates a model of "deliberative democracy" that is oriented toward the image of free and equal citizens "who regulate their common affairs through deliberation, i.e., through the exchange of arguments that, under ideal conditions, enable such communicative reason that the better arguments prevail in discourse" (Arndt 2014:93). In this process, only citizens who also have private autonomy can freely exchange arguments, which is why the state must assure its citizens of public autonomy. This is done through the fundamental rights in the constitution, which include freedom of expression and the right to political self-organization.

On several occasions - the later - Habermas has repeatedly pointed out the importance of religious communities for the secular state.

Häberle (2011:59) rightly notes on this position of Habermas that "hardly any tangible evidence can be found on this in the focus of his work before 1999," in other words, that Habermas clearly changed his position in this regard. Yes, Habermas went one step further. In his interview in the Berliner Tageszeitung (of 18.6.2009:6), Habermas asked rhetorically, "Who, then, besides the churches and religious communities, still releases motives from which collective and solidary action is taken?" (quoted from Wild 2011:32). Apart from the fact that this is simply not true historically - for example, enlightened liberalism, the labor movement, the women's movement, the environmental movement, and many other currents repeatedly gave ethical impulses for solidary and communally responsible action -

one must ask oneself whether Habermas is not overshooting his target here. It is true that Habermas can be agreed with when he writes: "Today, Judaism and Christianity, which have not only shaped Western culture but have also played an important role in the genealogy of the idea of equality, no longer have any fundamental difficulties with the egalitarian structure and the individualistic design of liberal orders" (Habermas 2005a:317).

Also, "the liberal state ... has an interest in the release of religious voices in the political public sphere as well as in the political participation of religious organizations. It must not discourage believers and religious communities from expressing themselves politically as such, because it cannot know whether secular society would otherwise cut itself off from important resources for the creation of meaning" (Habermas 2005b:137, emphasis by the author).

In this regard, Habermas is to be agreed with when he calls for "special respect for the voice of religion" (Wild 2011:32) because Christianity has had a precursor and catalytic function "for the normative self-understanding of modernity" (Habermas 2001:174). "The egalitarian universalism from which the idea of freedom and living together in solidarity, of autonomous living and emancipation, of individual conscience morality, human rights and democracy have sprung, is directly a heritage of the Jewish ethic of justice and the Christian ethic of love" (Habermas 2001:175).

According to Habermas, "to this day there is no alternative. Even in the face of current challenges ... we continue to draw on this substance. Everything else is postmodern talk" (Habermas 2001:175).

However-and this is the other side-Habermas (2005b:141) also points out that "the competition between worldviews and religious doctrines that claim to explain man's position in the whole of the world ... [cannot] be settled on the cognitive level." And Habermas (2005b:141/142) concludes from this: "As soon as, however, these cognitive dissonances reach into the foundations of the normatively regulated coexistence of citizens of the state, the political community is segmented into irreconcilable worldview and religious communities on the ground of a wavering modus vivendi" (Habermas 2005b:141/142).

Only the mutual "reciprocity of civic expectations" (Habermas 2005b:142) and political positional references could lead to an integrated polity held together by a common constitution-without abandoning the religious-ideological segmentation. But how can this reciprocity between citizens of different religious or ideological provenance come about? Habermas calls for nothing less than the replacement of the intra-religious, comprehensive discourse horizon by a discourse universe in which believers place their own religious views "self-reflexively in relation to the statements of competing doctrines of salvation in a way that does not endanger their own exclusive claim to truth" (Habermas 2005b:143). To this end, religious citizens would have to "find an epistemic attitude toward the obstinacy of secular knowledge and toward the socially institutionalized knowledge monopoly of scientific experts" and, furthermore, "embed the egalitarian individualism of rational law and universalistic morality in an insightful way in the context of their comprehensive doctrines" (Habermas 2005b:143). In plain language, this means nothing less than ceding the monopoly on truth in central areas to a scientific expertocracy and accepting an individualistic morality

Both, however, are problematic.

On the one hand, the question arises whether an "institutionalized knowledge monopoly of scientific experts" - if such a monopoly exists at all - can play an epistemic role at all, and whether a kind of displacement struggle of the most diverse knowledge claims or "knowledge language games" in the sense of Wittgenstein (1982) does not take place instead. Every language game in Wittgenstein's sense (1982:28ff.) can be understood as the generation of meaning via an interaction continuum that follows certain rules. In the context of the language game in question, this sense is total - but at the same time limited only to the language game in question: 'When I follow the rule, I do not choose. I follow the rule blindly" (Wittgenstein 1982:134). Accordingly, any interaction continuum whose members follow certain rules is as "rational" or "irrational" as the participants in the language game hold it to be. "Scientific language games" are thereby not above - or below - other language games, but alongside them and in competition with them.

Second, morality - or its ethical justification - is never exclusively individual. As the following scheme of the ethicist Monika Bobbert shows very nicely, every ethical or moral decision can be reflected under individual-ethical or social-ethical aspects, as well as under the aspect of an ethics of ought (normative ethics) or an ethics of aspiration (evaluative ethics).

	Individual Ethics	Social ethics or institutional ethics
Should ethics or normative ethics **Claim to validity:** Universalizability; obligatory	*Subject:* Action of individuals or small groups	*Subject:* Practices, rules and goals of a society and its institutions.
	Target: Moral rightness of actions	*Objective:* Moral rightness of practices, rules, and laws.
Ethics of aspiration or evaluative ethics **Validity claim:** Particularity; recommendatory, advisory	*Subject:* Individual life	*Subject:* Social coexistence
	Target: Success of life, good life management	*Ziel:* Gutes Zusammenleben

Source: Bobbert 2012:173.

At the very least, therefore, it would be necessary to specify what Habermas means by "egalitarian individualism of rational law and universalistic morality" (Habermas 2005b:143) and what this "comprehensive doctrine" would have to look like.

Another problem with Habermas's understanding of "rational discourse" and the "discourse community" has been pointed out by Lasse Thomassen (2008:11) in his book Deconstructing Habermas: „I argue – to a large extent by following Habermas himself – that there are not just empirical obstacles to rational discourse and rational consensus, but obstacles that are inherent to the very concept of rational discourse and consensus. That is, at the heart of the concept of rational consensus is an aprioria that we may sum up in the following way: if rational consensus is the end **of** communication, it is also the end **to** further communication and deliberation" (Thomassen 2008:11).

Thomassen (2008:11) points out that there is a close relationship between consensus and dissent, and accordingly that every consensus is only one among other possible consensuses

- that is, it is one - but by no means the only - possible outcome of political negotiations. If this is so, on the one hand every consensus has only a provisional character, and on the other hand every consensus, and thus every constitutional, legal, or state regulation - also of the relationship between religion and state - acquires something accidental or even arbitrary.

Thomassen (2008:11) concludes: If Habermas understands constitutional democracy as the close relationship of two components, namely constitutionality in the sense of fundamental rights and rules of law on the one hand and democracy as popular sovereignty on the other, it makes a difference whether the constitution emerged through a democratic mediation process or "paternalistically imposed on the citizens." Thomassen (2008:12) accuses Habermas of trying to reconcile democracy and constitutionalism with the help of a "quasi-theological history". In reality, however, the emergence of constitutional democracy has always been a struggle about what constitutional democracy is (Thomassen 2008:12).

2.2   On the problem of rational discourse

Two criticisms in particular have been made of the discourse ethics approach: On the one hand, it has been criticized - according to the Catholic theological side - that discourse ethics does not provide any substantive answers, but only represents a purely formal approach: "Discourse ethics is primarily interested in the method by which, thanks to debate, ethical principles and norms can be tested and become binding for all participants. It is essentially a procedure for testing the value of proposed norms, but it cannot produce new substantive content. Discourse ethics is thus a purely formal ethics that does not concern basic moral orientations. It runs the risk of being limited to the search for compromise" (International Theological Commission 2008:para. 8). However, it must be countered that precisely the ability to discourse and to reach consensus is an achievement of 500 years of Western or European history, which, among other things, was fought for precisely against religious claims to general validity.

The second critique of Habermas' discourse ethics approach seems more serious: it criticizes Habermas' restrictive concept of discourse (cf. Thomassen 2008:23). Representative for

others, Iris Marion Young can be considered as a representative of this criticism. "The model of deliberative democracy ... tends to assume that deliberation is both culturally neutral and universal" (Young 1996:123). The main criticism aims at the fact that Habermas' understanding of "rational discourse" excludes certain individuals and groups from this very discourse because their thinking, culture or worldview is qualified as "non-rational" and thus excluded from the discourse. Against the Habermasian notion of discourse and against historically developed democratic concepts and institutions in the West, which Young (1996:123) calls "elitist" and "exclusive," Iris Marion Young postulates a broad "communicative democracy" (Young 1996:123). This "communicative democracy" in Young's sense requires an "equally privileged form of communicative interaction" of all participants ("equal privileging of any forms of communicative interaction where people aim to reach understanding"; Young 1996:125). Young includes rhetorical language, narratives, and even civil disobedience among these other forms of interaction (cf. Thomassen 2008:23). For the purposes of our question, it suffices to note that the concept of rational discourse community stands or falls with the notion of rationality. For example, when actors in the "discourse community" dismiss Islamic law - or Catholic canon law! - as "not rational," these religions are automatically denied access to this discourse community as well - which ultimately exposes the Habermasian concept as "exclusive and violent" (Thomassen 2008:23).

Lorenz Krüger (1981:94-97) has argued in relation to rationality as follows: Rational is something to which each and everyone voluntarily subscribes or submits. Rational action is characterized - always according to Krüger (1981:95) - by the fact that it is "rule-conforming" and "rule-guided." These rules, however, must be justified in order to be considered rational. But this makes the argument circular: rational action consists in voluntarily following rules, but these rules must be reasonably justified-and this can be done by recourse to considerations and beliefs. And these considerations and convictions arise in their turn again by "thinking according to rules" etc. etc.

Further, according to Krüger (1981:97), rational action must fulfill two conditions already mentioned by Aristotle: First, the action must not be forced, and second, the agent must not

be in uncertainty about what he or she is doing. Third, according to John Kekes (1981:170), a necessary but not sufficient condition for rational action is "that a system of norms exists."

2.3   On the exclusivity claim of the rationality discourse

Because "rationality" is thus always culture- and context-bound, and because there are quite different "rationalities", or - in the words of Kurt Hübner (1981:14) in the sense of Wittgenstein "the meaning of a concept or a statement ... is only grasped through its use" - the concept of the "rational discourse community" does not lead any further.

Especially in front of the intercultural discourse in today's globalized world, the demand for a "rational discourse community" proves to be problematic: As Chantal Mouffe (2007:163) has rightly noted, there is a danger that the West tries to impose its form of modern and postmodern rationality discourse "worldwide without respect for the traditions and history of others" (Mouffe 2007:163). This critique of Eurocentrism or ethnocentrism was leveled against Habermas and his concept of the - predominantly Western-Western - discourse community some time ago. This criticism should be taken seriously and should be reflected in "multipolar" or "intercultural" forms of discourse to which all actors have access.

Moreover - according to Thomassen (2008:27) - Habermas seems to idealize the concept of rational discourse and "rational consensus".

In his extremely clever treatise "How irrational are myths and gods?", Kurt Hübner (1981:35) summarized the rationality problem as follows: It "turns out that rationality always occurs in the same form, namely semantically as the identical adherence to rules of a meaning (whatever it may consist in), empirically as the use of always the same explanatory attempts (whatever they may refer to), logically-operatively as the application of calculi (however they may be interpreted), normatively as the tracing back of purposes and norms to other purposes and norms (whatever their contents may be), rationality is thus something formal." But - and this is crucial - all these dimensions of rationality can vary extremely in content, which is why we should speak not of rationality but of rationalities.

The double-edged nature of the rationality argument can be seen, for example, in the discussion about the rationality or irrationality of human dignity (cf. Bielefeldt 2013:38): "The clarification of the question whether human dignity is something rational or something irrational depends essentially on what one understands by rationality. What is certain is that human dignity is not an 'objectively demonstrable' fact. Human dignity is neither an empirical fact accessible to external observation, nor can its claim to validity be compellingly proven by recourse to higher principles. Nor can it be understood solely through the exegesis of legal or other texts. Insofar as one restricts the concept of rationality to the realms of empirically describable facts, system-immanently compelling evidence, and perhaps methodological textual analysis, one must therefore conclude that human dignity lies outside rational argumentation" (Bielefeldt 2013:38). ".. Human dignity marks, as it were, an endpoint of normative reflection and discussion..." and is "a confession" (Bielefeldt 2013:39). So it is highly recommended to be careful with the rationality argument.

Chantal Mouffe's (2007:164) implication of this problem is interesting: she sees the claim for universal validity of human rights as a Western project and demands to "look for functional equivalents of human rights [to]" (Mouffe 2007:165). "If we accept that human rights are about human dignity, then this question manifestly open[s] up many possible answers. What Western culture calls 'human rights' ... [is] a culturally specific form of possible answers, an individualistic form characteristic of liberal culture that cannot ... [claim] to be the only legitimate one." Mouffe borrows here from Raimundo Panikkar (1982:81ff.), who has argued along these lines.

Without a doubt, Mouffe (2007:165) is right when she calls for a pluralization in the formulation of human rights. However, the unchallengeable core of human rights must not be affected. Pluralization must not lead to a relativization of human rights - as is demanded by individual Muslim but also Chinese authors - because then human rights lose their reference character for freedom and equality of all people (for a detailed discussion of the universality of human rights, cf. ► Unit I 6: "Human Rights - Universal or Culturally Specific?").

2.4   Discourse ethics versus ethics of liberation

Dussel (1995) criticizes discourse ethics that discourse ethics theory design ensures the rationality of human reasoning exclusively through a formal procedure, which is why discourse ethics is "content abstinent" (cf. Bohmeyer 2011:120). "Discourse ethics theorists are primarily concerned not with answering virulent questions of justice, but with the cognitivistically motivated reconstruction of a deontologically constituted moral point of view" (Bohmeyer 2011:8). In this context, an impartial and just procedure is supposed to enable the universalistic justification of norms.

In contrast to the liberation theological view - according to Bohmeyer 2011:121 - the excluded from the communication community "does not represent a central problem for discourse ethics", whereas liberation ethics places precisely these persons and groups in the center of its reflection. In this context, Dussel (2011:8) speaks of a "hegemonic character of discourse" and of a "hegemonic consensus."

According to Bohmeyer (2011:124), "[discourse ethics] ... resorts to a normative constitutional infrastructure with the help of which the discourse-ethical procedure can succeed in the first place. In other words, discourse ethics lives on normative presuppositions, but the conditions for reproducing them are not discussed." Accordingly, a "struggle for the recognition of the Other" (cf. Bohmeyer 2011:125/126) imposes itself.

On the importance of discourse ethics for business, see also ► Unit V23: "Business and Democracy," chapter 2.4.

3.   Control Questions

1.   How does Lienemann define discourse ethics?
2.   Why does Lienemann speak of the "utopia of discourse ethics"?
3.   Which two conditions must be fulfilled for a norm in the sense of Habermas' discourse ethics to demand validity?

4. Where does Habermas see a difference between his approach and the concept of John Rawls (for a detailed discussion of John Rawls, cf. ► Unit D 21: "The Concept of the State by John Rawls")?

5. What is the strength of Habermas' discourse ethics with respect to the problem of rationality?

6. Why does the specificity and particularity of one's own position only become apparent in the encounter with another, dissenting position? 7.

7. Why is the state interested in the continuation of (ideological) dissent?

8. What is meant by the expression "deliberative democracy"?

9. Why does Habermass demand "special respect for the voice of religion"?

10. Why can an excessive expansion of the "universe of discourse" demanded by habermas lead to an expertocracy and, in turn, to a restriction of democratic discourse?

11. Summarize Bobbert's scheme of individual ethical/social ethical approaches on the one hand and ought ethics/striving ethics on the other hand.

12. What dilemma does Thomassen point to regarding discourse and consensus in Habermas' approach to discourse ethics? Do you agree or disagree with this assessment? Give reasons!

13. Why is rational action, according to Krüger, based on circular reasoning?

14. Which two main criticisms have been raised against Habermas' discourse community?

4.   Links

Was ist Diskusethik?
https://boku.ac.at/fileadmin/data/H01000/H10220/H10240/ethikplattform/Biooekonomie/Vortrag_Diskursethik_M_Werner.pdf

Diskursethik: Foliensatz
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