

Is there a way of making the right prior to the good?

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Kant argued famously in his practical philosophy for the priority of the right over the good. It would be a mistake, one reads in the second *Critique*, “to begin with the concept of good in order to derive the laws of the will from it,” since “the concept of good and evil is not defined prior to the moral law, to which, it would seem, the former would have to serve as foundation; rather the concept of good and evil must be defined after and by means of the law.”¹ I take it as more or less established beyond reasonable doubt that Kant’s own attempts to offer some kind of proof for this deontological claim do not carry conviction — at least when considered from *our* contemporary point of view. The argument developed in the third part of the *Groundwork*, as Kant himself suggests, may be viciously circular. Moreover, it is deeply entangled with a metaphysics of the “noumenal self” and the “intelligible world” which has little appeal today. The not less mysterious doctrine of the “fact of reason,” as stated in the second *Critique*, on the other hand, cannot be seen as establishing what it should establish. Those views are as strange to us as the Form of the Good or the Unmoved Mover. They may be of interest for historians of philosophy; but they are not the primary concern of philosophers.

If we are then to find a satisfactory justification for the purported priority of the right over the good, we have to look elsewhere. My

¹ Kant, I. *Critique of Practical Reason*. Indianapolis: Bobbs-Merrill, 1956, p. 65.

main overall contention is that the attempt to make good the deontological claim fail. I have of course no definite proof for this contention. It could perhaps be reached "inductively," that is, through critical examination of some influential and sophisticated attempts in the broad Kantian tradition to ground the deontological "intuition." But this would go much beyond what I can achieve here. Instead I will be concerned in my talk with the details of *one* such influential attempt, developed in the so called discourse ethics. I shall devote a good deal of attention to a recent paper by Jürgen Habermas,² where he articulates again the main tenets of his version of discourse ethics. A large part of the task is to clarify Habermas's standpoint and critically follow its implications for main main question.

I

Habermas reconstructs the priority of the right over the good as the differentiation between at least two ways through which practical reason effectively binds our will. According to this distinction, "ethical insights" guide rational choice in contexts defined by questions of the good or not misspent life, "which arise in the context of a particular collective form of life or of an individual life history" (p. 341). "Moral insights," on the other hand, concern the more abstract question of what is equally in the interest of *all* human beings, including, of course, those human beings who form their individual and collective identities in cultures which do not share with my culture the same ethos and conception of the good. As Habermas puts it, the moral question "goes beyond the context-bound ethical question of what is best 'for me' or 'for us'" (p. 342).

² Habermas, J. "On the Cognitive Content of Morality." *Proceedings of the Aristotelian Society*, 46 (1996), pp. 335–358. Unless otherwise noted, page numbers in parentheses refer to that paper.

The difference is said to be "semantic" (p. 341) and is explained in terms of the binding character of (ethical) values on the one hand, and (moral) obligations and duties on the other. Values are defined by their "less binding character" (p. 348). What is morally right in that sense claims "categorical validity," while what is ethically worth striving for is only "conditionally valid." There may be good reasons for us to take account of the demands rooted in values, but *as ethical reasons* they remain, according to Habermas, confined to local community bounds, being, therefore, dependent on the substantive conception of the good shared by me and those who happen to be equally situated in the same historical tradition. By contrast, the universalistic potential of the cognitive content of everyday morality, as revealed by an adequate philosophical reconstruction, points to "an ethically neutral conception of justice" (p. 342) which accords the right an *absolute* priority over the good. Here, at least, moral theory should "uncouple the horizontal perspective in which interpersonal relations are regulated from the vertical perspective of my or our own life-project and treat moral questions separately" (p. 342).

Even a socially extended ethical perspective, which looks for a more "inclusive" conception of the good, is no real alternative for Habermas. First of all, it seems to him simply *improbable* that one could devise a conception of the good substantive enough to be both a conception of *the good* and also equally recognized by all human beings, as this would be required by the universal morality of equal respect. Of the utmost importance for him, however, is the circumstance that the limits for a tentative universalization of any conception of the good are not merely empirical, but, again, *conceptual*: the projection of a globally shared collective good would involve "the abstraction from all local contexts" and this, in turn, "would destroy the concept of the good itself" (p. 342).

II

The first question I would like to discuss here revolves around a certain tension within discourse ethics. On the one hand, Habermas describes the predicament in which modern human beings find themselves in terms of the impossibility to restore a consensus, lost for ever, on the fundamental values which should determine how they understand themselves and, ultimately, how they should conduct their lives. The members of modern societies are then in a sense obliged to learn to leave behind conceptions of what is better for them and to resort instead to some "ethically neutral" circumstance where they might find the normative elements with which their living together can be morally regulated. On the other hand, Habermas himself acknowledges the fact that even self-consciously deliberating men and women looking for justice and the right ultimately have to fall back on common features they already share with other men and women. They still draw on "a particular self-understanding," characteristic of human beings who currently participate in a certain community to which belong "all individuals who have been socialized into any communicative form of life" (p. 343). Indeed, Habermas even recognizes a genuine, albeit heuristic, value in "the intuition that issues of justice evolve from an idealising extension of the ethical problematic" (p. 342f.). There is for him after all a "remnant of the good at the core of the right" (p. 343), for it is only as members of an (admittedly broad) community — the community of the deliberators, so to speak — that individuals can expect equal respect from the others.

To be sure, Habermas restricts immediately the range of the good at the core of the right: it is only a "formal good" which can not begin to compete with the "commonalities" of traditionally structured forms of life. The formal good has its roots in a form of life, actually in a certain "practice of deliberation which we call 'argumentation.'" "This form of life is supposed to have "no functionally equivalent alternative" and to be "found in all cultures and societies" (p. 355). But what makes it "ethically neutral" is the purported fact that it offers no strong support

for our self-understanding, which in this respect needs a more substantive view of the good. In other words, we simply cannot refer the sense of a personal identity to those aspects of our culture which define the practice of deliberation itself. As a result, by adopting the point of view of the argumentative form of life, even in everyday situations, each deliberating human being definitely "transcends the limits of any actual community." Now, according to the statement quoted above, this "abstraction from all local contexts" should "destroy the concept of the good itself." The position Habermas is now urging us to accept admits that there remains after all some good at the core of the right. Characterizing this good as formal or, which is the same, saying that it cannot be the source of an encompassing *value*-consensus in pluralistic conditions, may resolve the apparent tension in this corner of Habermas's moral theory. However, some other problems arise in other corners. It should be noticed, for instance, that whatever guidance can be derived from the presumed "ethically neutral" practice of deliberation itself remains formal, that is, detached from our moving sense of personal identity and the stuff of ethical life. But under these conditions it is increasingly unclear why Habermas still attributes to ethical values, as those normative elements rooted in conceptions of the good, a "less binding character" than the merely formal moral obligations emerging from the intrinsic make-up of the practice of deliberation itself.

If I am convinced that something is really good for me, I have *ipso facto* bound my will. There is no need for an additional explanation for the fact that I now have *both* a direction *and* an overriding motive to act. On the other hand, an additional explanatory story has to be told or is somehow tacitly assumed if I offer the apprehension of some facts as a reason why I act in a certain way. As long as the apprehension of facts is conceived as in principle detached from my beliefs concerning my full-blooded good, it owes whatever motivating force it has to the cravings, desires, interests and, in some decisive cases, the sense of personal identity with which it is only contingently associated. And it makes no difference whether the facts in question are "empirical" or "formal" in charac-

ter. Knowing and reasoning, as Hume argues convincingly, can never be by themselves an "influence motive of the will." Kant, on the contrary, tried notoriously to impress on us the idea that pure reason can be practical in the sense that it has in itself features which would be action-directing absolutely, not contingently on the agent's desires. So he ends up conceiving reverence for the moral law as an emotion or a sentiment which is "*self-produced* by a rational concept," in opposition to the rather "empirical" sentiments originated in the self-love.³

The Kantian Habermas has no sympathy for Kant in this regard. From his point of view, only an uncritically accepted "Platonistic" premise to the effect that insight into the moral reality is intrinsically motivating could have led Kant to the assumption that a cognitivist position concerning moral judgments should cover also their illocutionary force.⁴ Habermas proposes the elimination of the offending premise and with this, consequently, the uncoupling of moral knowledge from moral motivation: "It is true ... that the uncoupling of morality from questions of the good life leads to a motivational deficit ... Discourse ethics even intensifies the intellectualist separation of moral judgment from action by locating the moral point of view in rational discourse. There is no direct route from discursively achieved insight to action" (p. 348). To avoid the charge of circularity in his attempt to ground discursively the moral point of view, Habermas refers all normative presuppositions of discourse "to the process of argumentation itself, not to interpersonal relations *outside* of this practice" and eliminates from these normative presuppositions "any *immediate* practical significance for actions and interactions beyond rational discourse" (p. 357).⁵ But by the same token "we lose the strongest motive for obeying moral commands" (p. 348). Emptied from any content, moral insights, so conceived, determine the will only when embedded in the richer contexts of institutionalized, socially legitimated full-blooded forms of life which furnish us with the right motives to act.⁶ It therefore turns out that, despite the initially asserted greater binding character of moral insights, they have only a weak motivating force, derived as it is from our ethical and pragmatic concerns:

"When we know what is morally right to do, we know that there is no good ... reason to act otherwise. But that does not prevent other motives from prevailing" (p. 348).

Even this concession is misleading, as it suggests that moral motives can be overridden by "other" motives. What really follows from the division of the practical landscape into moral concerns and ethical concerns is that motives can now be found only on the ethical side of the fence. Under the perspective of a cognitivism expunged of all "Platonistic" internal ties between moral knowledge and motivation, moral attitudes contain in themselves no more than the inert intellectualist apprehension of facts. Embedded in the right affective context, they may be *reason-giving*, but *per se* they are not *determining*. As if ignoring this, Habermas observes again in a misleading way that the autonomous will is bound by moral insights, although it could decide otherwise.⁷ It would be more adequate to acknowledge that ethical and pragmatic reasons do actually all the binding or determining here, *even when the will decides in accordance with moral reasons*. For it is only as backed by ethical and pragmatic concerns that moral insights become practically effective.

III

The last remarks put the semantic difference between ethical reasons, on the one side, and moral reasons, on the other, in a new light. The purported higher validity of moral judgments is purchased by discourse

3 Cf. Kant, I. *The Moral Law. Groundwork of the Metaphysics of Morals*. (Translated by H.J. Paton.) London: Routledge, 1948, p. 66f.

4 Habermas, J. *Erläuterungen zur Diskursethik*. Frankfurt a.M.: Suhrkamp, 1992, p. 136.

5 Cf. Habermas, J. *Erläuterungen zur Diskursethik*, p. 135.

6 Habermas, J. "Morality and Ethical Life: Does Hegel's Critique of Kant Apply to Discourse Ethics?" In J. Habermas. *Moral Consciousness and Communicative Action*. Cambridge, Mass.: The MIT Press, 1990, p. 207f.

7 So in Habermas, J. *Erläuterungen zur Diskursethik*, p. 136.

ethics at the price of an abstraction from the contents of our ethical life. Strong evaluations, as ethical reasons in general, put the will under “contingent, subjective determinations” and the imperatives they yield are merely conditional, since they depend on “subjectively given interests or intersubjectively shared traditions.” The will is then said to be determined “from without.” Only the elimination of all these “residues of compulsion” would make it possible for the will to be determined “from within” (p. 345). With these statements Habermas more assumes than proves that there is some determination left when reason abstracts from everything that gives content to the ethical life. The natural continuation of this line of reasoning should be an argument to the effect that there is some real substitute for Kant’s non-empirical moving interest, born in reason itself and capable of setting an aim in itself which everyone has to realize, independently of her actual preferences and inclinations. However, Habermas wants nothing of the sort. He so intellectualizes moral reasons that they end up entirely devoid of any determining force. The addressee of categorical imperatives, so interpreted, may indeed *know* that she has no reason to act otherwise; but as categorical imperatives now are no more immediately action-guiding, this still leaves open the *practical* decision to act in the way indicated by morality.

That this view should be termed “cognitivism” is again misleading. *Cognitivism* proper maintains that moral words have a descriptive meaning, not of some “inert” fact, but of something intrinsically evaluative and prescriptive, something whose determining aspects are not contingent upon our desires and inclinations. Moral terms would then be instrumental to the aim of introducing objectively prescriptives into our talk about action and choice. Apprehension of moral properties and relations would be reason-giving *and* determining in one. This view is offered as the best explanation for the *practicality* of moral statements, which is taken to be one with the “fact” that moral statements have illocutionary force as an integral part of their meaning, i.e., that their directive component is not really distinguishable from the descriptive aspects that make them “right” or “wrong” — or even “true” or “false.”

Habermas apparently commits himself to cognitivism proper when he observes that a valid moral judgment (in his sense of “moral”) *means* an obligation.⁸ However, the commitment is more verbal than substantial, as this obligation is conceived as a purely intellectual affair, which depends for its force and efficacy on a motivational background contingently associated with it. On the motivational background itself discourse ethics is silent. It leaves us, therefore, with no positive account of the practicality normally associated with moral judgments. But to give an account of the *prima facie* intrinsic prescriptivity of moral judgments is the problem which cognitivism proper tries to solve. Far from representing a possible solution for this problem, Habermas’s “cognitivism” simply passes over it.

IV

I now turn to the details of Habermas’s account of how ideals of good living operate in practical reasoning. Habermas points here — somehow *against* Kant — to a “layer of traditions in which identities are formed” (p. 346). At this level of reflection, my subjective preferences are submitted to a scrutiny with the aim of determining what is *really* good for me. Accordingly, I have to turn from the question of which course of action would best satisfy my actual desires to the question of which desires should go into the habits of action defining my own character.

Habermas starts here with a distinction between the form of reflection which takes an agent’s own interests, desires and inclinations as a datum and the form of reflection aiming to determine the agent’s real good. In the first case, the perspective is egocentric; and my attitudes, my private feelings about people and actions, my likes and dislikes have authority for me just by being mine. In the second case, by claiming and

⁸ Habermas, J. *Erläuterungen zur Diskursethik*, p. 135.

trying to justify that something *is good*, I appeal or seek to appeal to a higher and more authoritative standard. This breaks the narrow egocentric barrier. However — and this is the immediate point — the shift from the purely personal concerns of any individual agent to ethical standards of good living brings us only, according to Habermas, to institutions and values accepted in the society to which the agent and those with whom she establishes communication equally belong. Ethical reasoning “unfolds *within* the horizon of unquestioningly recognized norms” (p. 338). Hence, the ultimate source of the authoritative ethical standards is to be located in the context of historically conditioned forms of life. And if the hermeneutic articulation of our shared ethos points beyond the subjective world of private preferences and is not narrowly egocentric, it still adheres to an intuitively held particular point of view. That is why Habermas speaks here of “*self*-understanding” or “*self*-clarification.”

So much for Habermas on ethical reasoning. In what follows I shall not dispute his main contention that ethical ideals constitutive of our self-understanding (or socially embodied conceptions of the good in general) may radically differ from each other, beyond expressing some doubts about whether in that case the recourse to an ethically neutral stand would be really possible.

V

The question which I shall be concerned with comes to a head in connection with the requirement — which Habermas takes to be moral *par excellence* — “that each person should stand in and answer for a stranger who has formed his identity in completely different circumstances and who understands himself in terms of alien traditions.” With reference to such situations, Habermas writes:

Socialized individuals are particularly vulnerable in their integrity and are consequently in special need of protection because they can

only stabilize their identities in relations of reciprocal recognition. They therefore need to be able to appeal to an authority beyond their own community ... (p. 343)

The problem here is to give a practical sense to the use of “therefore.” If the “alien tradition” with which a socialized individual is confronted is constituted by ethical values more or less congruent with the values of his or her own community, there seems to be no need to appeal to a higher authority. In that case there is *ex hypothesi* agreement between the respective social conceptions of the good on which individuals draw their self-understanding; and the confrontation with an alien tradition does not represent a threat to the stabilization of identities. On the other hand, if traditions begin to radically diverge in the values in whose light their respective members understand themselves and their lives, there may follow out of their encounter some bad consequences for the personal integrity of those carried by the ensuing conflict. Consider, for instance, the case of a tradition whose concrete conception of the good looks, from my point of view, “perverse,” so that I may doubt whether we are talking about the same subject-matter when we are explaining and practically exemplifying our ideals of good living. Viewed from their, let us say, “super-spartan” stand, the very demand that I should be protected and actively supported in my efforts of self-realization, *conceived in my terms*, could be met with contempt, rather than with recognition. If the conflicting ideals and values are such that those subscribing to them are willing to tolerate some constraints upon the means by which they strive to reach their good, the case is not very different from the first one and we could appeal to *that* as part of a strategy for the consensual resolution of practical conflicts, eventually modifying or extending our self-understanding. But if there is no common ground in that respect, if the traditions confronting each other are really alien and the circumstances in which identities are formed are completely different, then it is plausible to assume that there is nothing short of force to which those afflicted with the feeling of destabilization in their identities could still appeal. For

there can be even no necessary guarantee that what is, from one point of view, a clear case of “unfair” destabilization of identity will be perceived as such by the other conflicting party, rather than as a “natural” consequence of a “crazy,” “vicious” way of living.

The crucial point which begins to emerge is that there seems to be no ethically uncontroversial way to specify those features of a society’s life which form the locus of the moral. Now, according to Habermas, the fundamental human needs to which morality answers have to do with the “unconspicuous necessity for participants [in social interactions] to become more and more individuated.” Habermas takes it as established that such individuation, in the case of normal human beings, is possible only through a specific kind of socialization mediated by language: to form the inner center of his or her personal identity, the human subject has no choice but to participate in increasingly differentiated interpersonal relations through language. This in turn is the source of a special sort of vulnerability. Finally, the socialized individuals’ need to stabilize their structurally fragile personal identities plays in Habermas’s philosophical ethics the role of a defining criterion for moral concerns. Accordingly, moral judgments refer essentially to this need: “Moral intuitions are intuitions that instruct us on how best to behave in situations where it is in our power to counteract the extreme vulnerability of others ... In anthropological terms, morality is a safety device compensating for a vulnerability built into the sociocultural form of life.”⁹ To know then whether a judgment should be counted as genuinely “moral” — as opposed to “ethical” and “pragmatic” — we have to ask whether its subject-matter is the satisfaction of the “universal” need to stabilize a personal identity. Also, by referring to the their implications for the satisfaction of this need, we could tell right and wrong judgments.

But what to say of the identification of the need in question? Is *this* concrete event a case of destabilization of identity calling for a spe-

cial “moral” regulation or rather one “ethical” affair, i.e., one of those “clinical questions of the successful and happy, or better, not misspent, life” requiring the “critique of self-deceptions and of symptoms of a compulsive or alienated mode of life” (p. 341)? The considerations above may have suggested that in crucial cases there is no clear-cut answer to this question. In such cases the categorization of an event as destabilization of the inner center of identity cannot be less dependent on the constitutive values of a collective life than the very process of forming a personal identity. Indeed, this categorization *is* an ethical judgment in Habermas’s sense. For it may be the object of a dispute which Habermas himself would have to classify as ethical.

So far my argument could proceed along quite immanent lines. It centers on the observation that personal identity, far from being an absolute datum, is determined by socially and historically situated strong commitments and evaluations which make up the “ethical” framework. But then a similar observation must be made concerning whatever is taken to be the most fundamental needs of the human self: what we are prepared to recognize as a fundamental need of human beings in each case keeps pace with the varying set of constitutive values of modes of living, i.e., with historically changing ethical outlooks. And any choice between ethical outlooks is simultaneously a choice between rival conceptions of human needs and the preferred ways to satisfy them. Habermas *formal* delimitation of the moral domain in terms of a special vulnerability of socialized human beings makes it look as if we had no need to fix *first* an interpretation scheme *and then* see where the personal vulnerability lies — and with it also how to locate our moral obligations. But if Habermas is right on the forming of identities, there is such a need and the relevant interpretation can again only be fixed in the context of historically conditioned forms of social life. The upshot of all this is that there are not two independent forms of practical deliberation, “discourses of self-clarification” and “discourses of normative justification,” by reference to which we could separate ethical from moral questions (p. 347f.).

⁹ Habermas, J. “Morality and Ethical Life,” p. 199.

VI

To finish, I will make some remarks on the character of the norms justified under the "moral point of view" whose most general articulation in discourse ethics is the rule of argumentation (U). The rule says that

a norm is valid when the foreseeable consequences and side effects of its general observance for the interests and value-orientations of each individual could be freely accepted *jointly* by *all* concerned. (p. 354)

Habermas's claim is again that the search, guided by the rule (U), for morally satisfying norms will lead to results which abstract entirely from any factors positively referring to the good life:

If the participants remain steadfast in their resolve to engage in deliberation and not abandon the moral regulation of their coexistence for a negotiated *modus vivendi*, they find that, in the absence of a substantive agreement on particular norms, they must rely on the 'neutral' circumstance that each of them participates in *some* communicative form of life. (p. 353)

Habermas is doing here what he otherwise considers to be definitely wrong: to *anticipate* in moral philosophy what only real practical discourses should establish. From his point of view, the object of moral theory is to fix the standpoint which allows for participants in discourses to find *themselves* the constitutive norms of their interaction.¹⁰ This is accomplished in discourse ethics by the specification of a rule of argumentation (U) out of which alone *no* moral obligation follows. Now, the rule of argumentation in question says nothing whatever about the necessity of "transcending" conceptions of the good or finding an "ethically neutral" circumstance on which moral duties and rights can be based — so as to better assure the stabilization of personal identities. It states only that norms should be tested by each individual from the perspective of

his or her interests and jointly accepted by all. Hence any claim to the effect that morally satisfying norms will contain no reference to elements pertaining to the good life goes *beyond* what is "logically" implied by the rule of argumentation (U) and stands in need of an extra, "empirical" support.

Still, whether transgressing or not his own methodological maxims for moral philosophy, Habermas *could* be right in his anticipatory claim. The important point to be kept in mind, however, is that considerations to be adduced for this claim have to show their value by connecting it with the fundamental needs on behalf of which morality has a point and a function. It is indeed possible to justify with considerations of this sort some general assumptions about the results of practical discourses without running them in "real time." For instance, it is safe to assume that norms selected according to the rule (U) will stand up to what Mackie calls the first stage of universalization (the elimination of numerical differences in the sense of individual reference to persons, groups, nations, and so on) and also the second stage (the elimination of principles which differentially favor those who happen to have certain characteristics or certain positions).¹¹

However, if norms satisfying the constraints of the second stage rationally compel each participant to adopt the perspective of others, they still do not take sufficiently into account the whole gamut of varying values and ideals: when putting herself in the place of another according to the second stage of universalization, each individual initially only asks for real possibilities of realizing *her* given values and ideals if she were to occupy the social position of another. But this may make us insensitive to the intrinsic worth of activities that are not attractive from the point of view of our values, which in turn may have bad consequences for the personal integrity of social actors.

¹⁰ See, for instance, Habermas, J. *Erläuterungen zur Diskursethik*, p. 124.

¹¹ Mackie, J. L. *Ethics*, Chapter 4.

To prevent such a development, participants in discourse could tentatively go in for Mackie's third stage of universalization: taking full account of all the interests that anyone has, including interests arising from the ideals and values that they do not actually share. However, as Mackie shows, the attempt to put oneself thoroughly into the other person's place, so as to take on not only his more "external" social position, but also and especially his ideals and values, is not feasible. For it then "hardly makes sense to talk of putting *oneself* in his place; hardly any of oneself is retained."¹² The fact is that systems of values differ and individuals may not be willing to eliminate completely the differences, as this may amount in their view to giving up important elements of their identities.

Habermas could agree with this negative appraisal of attempts to a full-blown universalization on values and ideals. Also, he could use it as evidence for the claim that participants in discourse would ultimately set out for features which only "refer negatively to the damaged life instead of pointing affirmatively to the good life."¹³ Also, since there can be no real universalization along the dimension of values, participants in discourses would have to "disengage problematic actions and norms from the substantive ethics of their lived contexts, subjecting them to hypothetical reasoning without regard to existing motives and institutions."¹⁴

But refraining from any engaging entanglement with conceptions of the good is *not* the only alternative to the impracticable all-inclusive ideal of a benevolent observer. Participants in discourse could instead work out a rationally acceptable compromise between not entirely homogeneous systems of values. A compromise of this sort could be motivated by what Dewey calls "intelligent sympathy," whose main point is to wide and deepen our concern for the consequences of our acts on the social welfare.¹⁵ Under some favorable conditions, this could lead to morally defensible constraints on the means by which individuals and groups strive to reach their aims.

There is of course no *a priori* reason why these conditions do not obtain. Habermas would counter with the observation that this pre-

supposes something like a "shared ethos," which is rapidly desintegrating in a society characterized by the pluralism of worldviews. However, it is implied in what is brought out in the last section that there are limits for the desintegration of a shared ethos in that sense. Trespass of these limits cannot be compensated by any amount of "discursive" intentions, for under such conditions we would very likely only discover that discourses are just impossible.

Thus an intelligent compromise between systems of values characterized partly by cooperation, partly by conflict can fulfill any function reasonably assigned to morality. Accordingly, participants in discourses organized around the rule of argumentation (U) are *not* coerced either by the rule itself or by the relevant facts to rely on the "formal" circumstance that they have been socialized in communicative forms of life. They could argue for and against proposed substantive interpretations of conceptions of the good with a view to best satisfy the "moral ends."

Any such substantive interpretation, if minimally acceptable, can be viewed as the expression of a negotiated *modus vivendi*. Now, in the passage quoted at the beginning of this section, Habermas seems radically to oppose the moral regulation of coexistence to negotiated *modi vivendi*. But under this reading, the claim that moral norms selected by discourses with the help of the rule of argumentation (U) will contain no positive reference to elements pertaining to the good life is tautologically uninformative. Habermas's position here can be rationally assessed only if negotiated *modi vivendi* are not excluded *a priori* from the legitimate options to be examined in discourses. As such, negotiated *modi vivendi* are not objectionable. They can be more or less intelligent (in Dewey's sense of intelligence). And it may be open to discourses to tell them apart.

12 Mackie, J. L. *Ethics*, p. 93.

13 Habermas, J. "Morality and Ethical Life," p. 205.

14 Habermas, J. "Morality and Ethical Life," p. 207.

15 Dewey, J. *Theory of the Moral Life*, p. 107.

While this may show that within the framework of discourse ethics it is not *necessary* to avoid any reference to elements pertaining to the good life, the considerations of the last sections suggest that it not *possible* either. It would be of course preposterous to generalize these results beyond the framework of discourse ethics, presenting them as a proof of the impossibility to ground the deontological claim that plays a prominent role in the moral philosophy of Kant and his followers. But I think I can now at least repeat, with a special skeptical emphasis, the very question with which I started this talk: is there a way of making the right prior to the good?

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 - 4.2 Podem ser formatados textos em **bold**, *italic*, superscript, subscript. Porém, não deverá ser formatado nenhum parágrafo, tabulação ou hifenizado.
 - 4.3 Caso não seja possível digitar os números das notas em superscript, digitar um espaço e a letra "n" antes do número. Ex.: n1 (que significa nota de rodapé número 1).
- 5 As notas não devem conter simples referências bibliográficas. Estas devem aparecer no corpo do texto com o seguinte formato: (sobrenome do autor/espaço/ano de publicação: página).
- 6 A bibliografia deve ser apresentada na seguinte forma:
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