AUTONOMY, RESPONSIBILITY, AND HEALTH CARE
Critical Reflections

edited by Bogdan Olaru
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THE LIMITS OF DISCOURSE ETHICS
CONCERNING THE RESPONSIBILITY TOWARD
NATURE, NONHUMAN ANIMALS,
AND FUTURE GENERATIONS

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1. INTRODUCTION

In a talk given to a group of students at Munich University during the winter of 1918-19, Max Weber distinguishes between two kinds of ethics: the ethics of ultimate ends and the ethics of responsibility. In his opinion, the main difference among them is that for the former, “the Christian does rightly and leaves the results with the Lord” and for the latter, “one has to give an account of the foreseeable results of one’s action.” Otherwise said, if for someone who follows the maxim of an ethics of ultimate ends an action fails to achieve a good intention, “in the actor’s eyes, not he but the world, or the stupidity of the other men, or God’s will that made them thus, is responsible for the evil.” On the contrary, someone who is committed to an ethics of responsibility does not presuppose the goodness or perfection of the people but takes into consideration “the conclusions that must be drawn according to the objective interests that came into

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1 This essay is an extended version of a previous paper published in the Romanian Journal of Bioethics entitled “From Consensus to Responsibility as Solidarity or How does Discursive Ethics Overcome its Critiques?” 5(2007):3.


3 Idem.
play and what is the main thing in view of responsibility toward the future which above all burdens the victor.\textsuperscript{4}

One could reply to Weber that his ethics of responsibility does not abandon a traditional ethical framework because he still thinks that the existence of a future world is obvious. Hans Jonas, among other ethicists, thinks that an ethics of responsibility should be concerned with the fact that the conditions for the persistence of life in the future can no longer be merely assumed. A simple awakening with respect to the dangerous situation in which the world is might be insufficient. Thus, our praxis should imply an obligation to preserve nature, as environment and as nonhuman animals surrounding us, and an obligation toward future generations. Everyone can notice that the number of species in danger of extinction has increased extremely fast.\textsuperscript{5} Along these lines, a question needs to be raised: how can one be responsible for something that neither belongs to our sphere of language nor exists yet but must exist tomorrow?

Jonas claims that Kant’s error concerning his categorical imperative lies in the fact that it entails the existence of a human community. While this fact was obvious for Kant, it is not an evidence anymore for Jonas. Kant’s maxim, which calls for an accord between our reason and the way we act, must be reviewed because it does not take into consideration the emergency of the situation. Jonas gives an argument for a new form of ethical obligation which entails the idea that human actions have to be in agreement with the future survival of humanity. How does discourse ethics, sometimes called an updated version of Kant’s ethics, answer to the challenge raised by Jonas? Is there a possibility for a model based on a symmetrical relationship among existing and

\textsuperscript{4} Ibid., p. 45.

communicative subjects to integrate a responsibility which implies an asymmetrical relation (linguistically non-reciprocal) or a non-existing subject? In other words, what can discourse ethics tell us about our responsibility with respect to nature, nonhuman animals, and future generations?

In the following pages, I will evaluate the way in which these questions have been answered by Jürgen Habermas and K.O. Apel. My paper will have a twofold structure. First, I will attempt to bring out Habermas’ definition of communicative normativity through speech-act theory. My purpose is to state clearly the governing conception of discourse ethics. In other words, I will point out the construction of the normative output of Habermas’ ethical model. Second, I will raise some critiques regarding the limits of this normativity. In doing so, I will test this normative framework to see if it is compatible or not with a real responsibility for nature, for nonhuman animals, and for future generations. These critiques point out, on the one hand, an inconsistent criterion that determines which attitudes are rationalizable and, on the other hand, an insufficiency of the communicative ethical model in non-reciprocal relations.

2. COMMUNICATIVE ACTION
AS SOURCE FOR NORMATIVITY

Unlike his predecessors Horkheimer and Adorno, Habermas realizes a ‘paradigmatic shift’ from a theory of consciousness to a communicative framework. This change entails that subjects are linguistically mediated before being instrumentally mediated. In his critique of instrumental reason, Habermas criticizes Horkheimer and Adorno on two main things. First, they have wrongly generalized the category of reification. Second, they failed to explain how

a subject-object relation could be constitutive for any “interpersonal relations subject to subject.” For Habermas, what is paradigmatic “is not the relation of a solitary subject to something objective in the world that can be represented and manipulated, but the intersubjective relation that subjects take up when they come to an understanding with one another about something.” Does he propose an alternative to this instrumental rationality understood as total reification and as “mastery of nature?” While he criticizes Lukacs for reducing the question of rationality only to its purposive aspect, Habermas asks himself if “the critique of the incomplete character of the rationalization that appears as reification does not suggest taking a complementary relation between cognitive instrumental rationality, on the one hand, and moral-practical and aesthetic-practical rationality, on the other, as a standard that is inherent in the unabridged concept of practice, that is to say, in communicative action itself.” Therefore, he shows here the limit of any theory which has a goal-directed form of rationality as a unique referent. He proposes a communicative rationality “based on the central experience of the unconstrained, unifying, consensus-bringing force of argumentative speech, in which different participants overcome their merely subjective views and, owing to the mutuality of rationally motivated conviction, assure themselves of both the unity of the objective world and the intersubjectivity of the lifeworld.”

The actor of a communicative action is not anymore a solitary subject related to something which can be manipulated in the world. Participants in a communicative action are in an intersubjective relation that “takes up when they come to an understanding with one

7 TCA, p. 379.
8 TCA, p. 392.
9 TCA, p. 379.
10 TCA, p. 363.
11 TCA, p. 10.
another about something.” Rationality is therefore defined in terms of validity claim and consensus. Habermas’ communicative shift interests us not only for having removed obstacles to understand the difference between a goal-directed action and communication but also for having found a solution regarding the question of the normative grounding. In this sense, one of his significant contributions is doubtlessly the theory of communicative ethics or as Habermas calls it, “a cognitivist ethics of language.” In the section 2 of my paper, I will lay out a brief outline of the theory of speech act upon which Habermas builds the communicative ethics as it is presented in the volume one, chapter three of *Theory of Communicative Action*. In the third section, I will focus on the question of norm-conformative attitude toward nature presented in *TCA* and in *Reply to my Critics*. I will also develop Habermas’ ethics of compassion and the question of the status of animals out of his book *Justification and Application*.

### 2.1 From speech act theory in *Theory of Communicative Action* to discourse ethics

Habermas wants to ground discourse ethics on a linguistic structure where moral claims are made and justified in a discursive argumentation. At the beginning of chapter III of volume I of *TCA*, he proposes a new schema regarding the different types of actions. There are two action situations: nonsocial and social; and two action orientations: one oriented to success and one oriented to reaching understanding. Using these criteria Habermas distinguishes three kinds of actions: instrumental action (nonsocial/oriented to success), strategic action (social/oriented to success), and communicative action (social/oriented to reach understanding). In Habermas’ opinion, it is impossible to have a

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12 *TCA*, p. 392.

nonsocial action oriented to reaching understanding because there is no understanding outside of a language experience. While the two actions oriented to success follows technical rules of action or rational choice and assess the efficiency of the intervention in complex circumstances or in the decisions of a rational opponent, the communicative action implies “agents involved […] and] coordinated not through egocentric calculations of success but to acts of reaching understanding.”¹⁴ He continues: “reaching understanding is considered to be a process of reaching agreement among speaking and acting subjects.”¹⁵

What does exactly Habermas mean by reaching an agreement or a consensus? For him, an agreement must be mutual and valid for the participants in a communicative action. Even more, an agreement “cannot be imposed by either party”¹⁶ because it is by definition a nonviolent communicative act. A consensus among two participants in a communicative action supposes a speech act which has passed from a ‘yes’ or ‘no’ position on a validity claim to a recognized, accepted position based on reasons given in an argument. Therefore, “reaching understanding is the inherent telos of human speech.”¹⁷ Certainly, Habermas does not say that all actions mediated linguistically are communicative action. In order for a speech act to be oriented to a communicative action, it has to support more than a validity claim. It needs that “the speaker claims that what she says is true, what her speech act is supposed to bring about is right, and that the expression she is giving of her own intentions and emotions is truthful or sincere.”¹⁸

Even though some speech acts might be used strategically, Habermas points out that their constitutive meaning appears only in a

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¹⁴ TCA, p. 286.
¹⁵ TCA, p. 287.
¹⁶ Idem.
¹⁷ Idem.
communicative action. This kind of action is purposely oriented toward an agreement that “will provide the basis for a consensual coordination of individually pursued plans of action.”¹⁹ The moment when an agreement is constituted is followed by certain obligations. Only a fully understood speech act can be accepted, and only something accepted rationally can raise a moral obligation for the other participants in the communicative action.

Without being able here to develop the entire Austinian and Searlian aspects of Habermas’ theory of speech acts we should take into consideration how the question of normativity appears. It is certainly related to the question of rightness in regulative speech acts. As Habermas will mention in a latter essay, “the central semantic component in a normative sentence is the fact that the speaker recommends or prescribes to the hearer a certain option from among alternative courses of action.”²⁰ In other words, saying that an option or a validity claim is right means that its rightness can be defended discursively by supporting it with arguments. Between two different utterances which both support a moral claim, one can choose precisely the one which gives sufficiently good reasons in order to be accepted not only by me but by all interlocutors. Thus, “the validity of normative claims can only be established via practical argumentations in which they are shown to be defensible with good grounds.”²¹ Discursive and practical arguments beyond any controversial validity claim are rationally motivated toward consensus. However, for Habermas, a consensus is far from being a compromise or a mere convenience.

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¹⁹ TCA, p. 296.
²¹ Seyla Benhabib, “The utopian dimension in communicative ethics,” p. 86.
In order for an argument to be a moral argument it has to presuppose a principle of universalization.\textsuperscript{22} Otherwise said, the structure of communication is supposed to allow one to formulate a principle which goes further than a cultural or a timely situated validity claim. This is the Habermesian \textit{principle D} which asserts that “only those norms can claim to be valid that meet (or could meet) the approval of all affected in their capacity as participants in a practical discourse.”\textsuperscript{23}

It is not difficult to identify this principle of universalization as a reinterpretation of a Kantian universalism. A moral argumentation committed to universalism has already assumed that validity exists in so far as all participants involved in that communicative action give their approval. Critics have seen in this principle of universalization a new form of Kantian transcendentalism. “Personal autonomy is determined by reasons which worth for all members of a moral community. This interpretation of the free will and practical reason transforms the moral community in an inclusive and auto-legislative community made by free and equal individuals that have reciprocally to understand each other as ends in themselves.”\textsuperscript{24} The principle of universalization appeals to an ideal moral community. It is the equivalent of an ideal speech situation which defines the formal properties of any discursive argumentation.


\textsuperscript{23} Jürgen Habermas, \textit{Moral Consciousness and Communicative Action}, p. 93.

Like in the latter situation, the moral argumentative discourse supposes symmetrical and reciprocal conditions. The former refers to speech acts alone and how to employ them. The second set of conditions refers to social conditions and requires a shift from an established egological center to a position of equality of the subjects involved in moral communicative action. Even if Habermas follows Kant, it is certainly in a weaker and fallibilist way. The transcendentalism of the former can hardly be separated from a rational argumentative reconstruction. He does not accept any form of substantive ethical theses but only “an ideal procedure for the justification of rightness claims: subjecting them to the scrutiny of a public discourse in which all affected are equally able to speak.”

One could summarize the main elements of the discourse ethics by articulating its four principal aspects. First, for Habermas, discourse ethics is a *universalistic moral theory*. The main function of the *principle D* is to go further than a cultural or historical consensus. Second, the discourse ethics is *formal or procedural* because it gives a principle of justification of moral norms. Third, this principle of justification plays as a “transcendental-pragmatic justification of a rule of argumentation with normative content.” Fourth, there is no *a priori moral claim* before any intersubjective discussion. Otherwise said, the question becomes: which are the conditions for a norm to be valid?

Habermas makes a double shift: first, from the question regarding when an act is good from an ethical perspective to the one of rightness or justice of a communicative action; second, from the question of happiness to the one concerned with the prescriptiveness of valid norms. Thus, the moral question about the rightness of a particular action has to be set apart from ethical questions which are concerned with our own preferential choices. The discourse ethics is a *deontological theory*.

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26 Habermas, *Moral Consciousness and Communicative Action*, p. 94.
It makes a sharp distinction between moral questions about norms and ethical questions about values. The everyday communication has to be divided in two parts: norms and values. “The first part of the domain of the practical [norms] is susceptible of requirement of moral justification in terms of its deontological validity; the second part, which consists of particular value configuration belonging to collective and individual modes of life, is not.”

After we have seen the way that normativity is the consequence of moral validity claim which successfully passed the test of universalization, we should ask ourselves what does Habermas mean when he talks about norm-conformative attitude toward nature? This aspect leads us to our next point regarding the relation between discourse ethics and nature.

2.2 The impossibility for a norm-conformative attitude toward external nature

In his examination of the formal-pragmatic relations, Habermas distinguishes between three basic attitudes (objectivating, norm-conformative, and expressive) and three worlds (objective, social, and subjective). Habermas includes the expressive and norm-conformative relation with nature in a large category called moral-aesthetic relation to a nonobjectivated environment. If the former is “provided by works of art, phenomena of style in general, but also theories in which a morphological way of looking at nature finds expression,” the latter seems to be exemplified by a “fraternal relationship with nature” not far from “anthropomorphizing treatment of animals.”

However, not all relations “permit […] a development of cultural value spheres with their own inner logic,” and therefore they are not valid systems of claim. In order to be a system of claim they have to be

27 Ibid., p. 177.
28 TCA, p. 236.
29 TCA, p. 237.
“sufficiently productive from the standpoint of acquiring knowledge.”

Thus, the norm-conformative attitude toward nature cannot be rationalized and consciously sublimated. Values spheres are distinguished by their production of knowledge which is not efficient outside of a learning process. Out of this analysis, Habermas thinks possible the rationalization of society as an arrangement of different levels of cultural values spheres.

This process occurs by a systematic institutionalization of each one of these spheres of value: instrumental rationality in scientific enterprise, aesthetic-practical rationality in artistic enterprise, and moral-practical rationality of the ethics of brotherliness in salvations religions. Hence, for Habermas, the norm-conformative attitude toward the objective world is not a value sphere and even less a part of the process of rationalization of society. Should we conclude that a communicative actor has only a cognitive instrumental relation with the external nature? It seems that Habermas’ position on this question supports this claim. “While we can indeed adopt a performative attitude to external nature, enter in a communicative relation with it, have aesthetic experiences and feelings analogous to morality with respect to it, there is for this domain of reality only one theoretically fruitful attitude, namely the objectivating attitude of the natural-scientific, experimenting observer.”

Why does Habermas think that any attempt to reconsider the unity of nature and morality is not a fruitful attitude? It is probably because Habermas fears a return to a metaphysical standpoint, and thus moving “behind the levels of learning reached in the modern age into a re-enchanted world.” Thereby Habermas precludes any possibility for a moral attitude with respect to external nature as long as “an ethical

30 Idem.
32 Jürgen Habermas, “A reply to my critics,” p. 245.
universalism supposes that a norm-conformative attitude of morally acting subjects restricts their view to interpersonal relations—here, too, nature-in-itself cannot become a theme.”

In Habermas opinion, the absence of a consensual normativity among a communicative actor and nature is mainly due to non-symmetrical and non-reciprocal aspects of their relationship. If we don’t have a moral normativity to regulate our relation with nature, how do analogous feelings to morality help us to integrate a certain form of non-instrumental behavior toward nature? As long as normativity is connected to language, can we deduce a form of responsibility toward nature? Otherwise said, what is it the answers of a communicative ethics to the question of responsibility for the environment?

2.3 Toward a theory of compassion

Habermas claims that we, as actors of a communicative action, cannot have a norm-conforming attitude toward nature as long as normativity is based on a consensus among participants. Nature does not have a ‘participant’ status in its relation with us. Therefore, Habermas speaks in terms of compassion and solidarity. “The impulse to provide assistance to wounded and debased creatures, to have solidarity with them, the compassion for their torments, abhorrence of the naked instrumentalisation of nature for purposes that are ours but not its, in short the intuitions which ethics of compassion place with undeniable right in the foreground, cannot be anthropocentrically blended out.”

Habermas mentions however a few difficulties regarding this project. First, an ethics of compassion will always run the risk of being grounded in naturalism, which, following Habermas, often entails a metaphysical point of view. Habermas raises this difficulty as a post-metaphysical thinker for whom there is no a priori worldview which can prevail on other worldviews.

33 Idem.
34 Idem.
Second, an ethics of compassion risks erasing the significant differences among moral concepts like equality or reciprocity. These key notions of the discourse ethics are also the central concepts of the theory of communicative action. There is no communication without symmetry understood as equal possibility for each participant to have the chance to start and to continue a communicative process, or assert, explain, or challenge justifications. At the same time, each actor of a communicative action must have the chance to express feelings, wishes, and intentions as well as to resist orders, to refuse them, or to ask for account from others. These conditions of symmetry and reciprocity are not available in the case of animals (or in an environmental case) because of their difference from humans, namely a linguistic difference. Thus, an ethics of compassion “would become accessible to moral consideration only if this ethics were extended beyond the domain of interpersonal relations to our relationship with creatures that cannot fulfill the conditions of responsible actions.” Due to their lack of participation in a communicative action and consequently to their lack of responsibility, living creatures involved in this form of ethics “would inevitably depend upon a form of paternalism inconsistent with modern conception of the moral point of view.”

Third, Habermas brings out that in the case on an ethics of compassion it is hard to define a clear criterion to designate for which living creatures we have to feel compassion. How do we have to deal when a moral principle might be in conflict with our own needs? In this case, if “the norm-conformative attitude toward external nature does not yield any problems susceptible of being worked up cognitively,” the last standpoint which will prevail is the normative validity. Therefore, one is not obligated, unless this person is committed to some religious

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37 Jürgen Habermas, “A reply to my critics,” p. 248.
maxim, to be a vegetarian by compassion for animals.\textsuperscript{38} The limit of our morality is reached when our vital interests conflict with those of animals. There is no similar moral duty for animals as for humans without a direct interaction, or without a communicative action.\textsuperscript{39} Moreover, for Habermas there is no moral duty without intersubjectivity.

Even though, in \textit{Justification and Application}, it seems that Habermas moves further from an ethical theory of compassion to a quasi-moral form of responsibility regarding animals and nature in general, there will always be an impassable limit. “Human beings always find themselves already within this horizon [of intersubjectivity] and as persons can never leave it, whereas animals belong to another species and other forms of life and are integrated into our forms of life only through participation in our interactions.”\textsuperscript{40} Habermas concedes an analogous moral duty with respect to animals as long as we admit that “asymmetries in the interaction admit comparison with relation of recognition between persons.”\textsuperscript{41} In other words, animals do not have an intrinsic value which would be the source of our moral duties but only to the extent “that we encounter them in the role of an alter ego as an other in need of protection.”\textsuperscript{42}

In short, the answer to the question concerning how Habermas integrates nature in his discourse ethics will help us to summarize the upshot of this first part. First, normativity in discourse ethics arises out


\textsuperscript{39} “By interaction, I understand communicative action, symbolic interaction. It is governed by binding consensual norms, which define reciprocal expectations about behavior and which must be understood and recognized by at least two acting subjects.” Jürgen Habermas, \textit{Towards a Rational Society}, trans. Jeremy Saphiro (London: Heinemann, 1971), p. 92.

\textsuperscript{40} Jürgen Habermas, “Remarks on discourse ethics,” p. 110-111.

\textsuperscript{41} Ibid., p. 110.

\textsuperscript{42} Ibid., p. 109.
of situations in which validity claims have been the object of a consensus among participants in a communicative action. This ethical theory has four main features. 1) It is a deontological moral theory because it focuses on the question of the validity of prescriptive norms of actions. 2) It has a cognitive aspect because moral questions for Habermas raise validity claims to truth. 3) Discourse ethics is also procedural because it embraces a principle of justification of moral norms. 4) Through its principle $D$, discourse ethics reaches a universal standpoint which overtakes cultural and historical worldviews. Thus, Habermas does not concede a norm-conformative attitude regarding nature. The only moral attitude toward nature that communicative actors are able to perform is through a stance of compassion or, at most, an analogous feeling to morality with respect to animals.

3. THE LIMITS OF NORMATIVITY CONCEPT BASED ON DISCOURSE ETHICS

A number of authors have tried to answer the question of what discourse ethics can tell us about our responsibility with respect to nature, nonhuman animals, and future generations. Intuitively, one might think that these questions are left out of our set of moral duties. As long as normativity is a consensual consequence of a communicative action, it is explicitly reserved to relations among existing humans. Thus, one could reasonably doubt about the ability of this ethical model to account for a norm-conformative attitude outside of a communicative framework.

The purpose of this second part is to present some of the limits of this ethical model. We will test Habermas’ ethics of discourse by showing how his theoretical apparatus functions in applied situations. The

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three critiques which are presented here are meant to reveal the limits of this ethical model. These critiques are related to the anthropocentrism of discourse ethics, to the ‘quasi’ status of moral duties toward nonhuman animals, and to the question of future generations.

3.1 Anthropocentrism and nature

In his article “The problem of nature in Habermas,” Joel Whitebook points out the impossibility for discourse ethics to understand nature other than instrumentally. He thinks that the major reason for Habermas’ point of view is his dualistic framework. “While the logic of instrumental rationality governs the domination of eternal nature, the logic of communicative rationality governs that of internal nature.”

Habermas tries to overcome the question of domination raised by his predecessors by dividing the realm of nature on three major levels: objective nature, subjective nature, and nature-in-itself. If the external nature or objective nature is the object of scientific observation, reification, or instrumentalisation, the subjective nature is the possibility for the internalization of intersubjective norms. Subjective nature aims to increase the autonomy of an individual by differentiating him from other communicative actors. As we have already seen in his Reply to my Critics, for Habermas nature-in-itself cannot be thematized as long as it is prehuman (prelinguistic) or nonhuman (nonlinguistic). Therefore, by losing the “connection between the domination of internal and external nature, and by granting a degree of relative autonomy to the communicative level, Habermas can conceptualize moral progress.”

How does Habermas conceptualize this moral aspect of the subjective nature? The pragmatic universal functions as a “quasi-


45 Jürgen Habermas, Knowledge and Human Interests, trans. J. Shapiro (Boston: Beacon Press, 1972), p. 27.

46 Joel Whitebook, “The problem of nature in Habermas,” p. 44.
The limits of discourse ethics

This universal is constructed from the perspective of any communicative actor as long as he supports his validity claims toward a rational consensus. “Our first sentence expresses unequivocally the intention of universal and unconstrained consensus.”

Along with Habermas, Whitebook raises the question: “Is it not plausible that the laws which were introduced into the course of evolution with the emergence of man as zoon logikon, and which constitutes conditions of possibility for human association, also constitutes the fundamental norm of this association?”

Habermas agrees on the emergence of a linguistic being as a constitutive element of any human association since he holds for true the premise that “what raises us out of the nature is the only thing whose nature we can know: language.” Therefore, we define the limits of our autonomy as well as the limits of our responsibility through the use of the language.

Whitebook maintains that Habermas’ doctrine of nature proceeds from “his transcendental investigation [which] reveals not only conditions of possibility of the evolution of species, but also the norm that Habermas employs as the basis of his communicational ethics.”

However, can the model of discourse ethics be pertinent in the context of the planetary ecological crisis as long as it presupposes a communicative competence? For Whitebook, the model of discourse ethics fails to perform an adequate answer. “This is due to the fact that, to use the terminology of traditional ethical theory, communicative ethics is thoroughly anthropocentric.” If there is no possibility for normativity regarding external nature because we are unable to engage in a communicative situation based on language, “communicative ethics represents

47 Ibid., p. 45.
48 Jürgen Habermas, Knowledge and Human Interests, p. 314.
49 Joel Whitebook, ibid., p. 46.
50 Jürgen Habermas, ibid., p. 314.
51 Joel Whitebook, ibid., p. 46.
52 Ibid., p. 52.
[only] a variation on the anthropocentric theme in that it maintains that man, by virtue of his communicative capacity, is the only value-bearing being that can be identified.”53 One could deduce that if our norm-conformative relation with nature cannot be the consequence of rationalization and does not offer us access to nature-in-itself, external nature cannot be conceived as an end-in-itself. Human beings as competent speakers and hearers are qualitatively different from the rest of natural world. This is certainly why for Habermas they have to be treated as ends-in-themselves.

At this point, Habermas attempts to open his discourse ethics to external nature by integrating the ideas of compassion and solidarity toward “wounded and debased creatures.”54 However, Whitebook says, insofar as nature remains merely an object of knowledge “our relation to nature can only be an instrumental control.”55 Habermas’ transcendental linguistic schema does not allow any living thing to be granted the intersubjective status of moral subject. Therefore, with respect to an increasing instrumentalisation of nature, one question persists: “Can we continue to deny all worth to nature and treat it as mere means without destroying the natural preconditions for the existence of subjects?”56 For this question seems to be no answer from a Habermesian perspective.

Furthermore, the restriction made by this ethical model of our moral duties toward nature could be equally attacked on an epistemological level. As we have already seen in 1.2, Habermas’ “conjecture is that only a few of these formal pragmatic relations are suitable for accumulation of knowledge.”57 His conclusion in Reply to my Critics follows the same steps of the TCA. “We cannot expect to be able to

53 Idem.
54 Jürgen Habermas, “A reply to my critics,” p. 245.
56 Ibid., p. 53.
57 Jürgen Habermas, “A Reply to my Critics,” p. 245.
use the experiential potential gathered in non-objectivating dealings with external nature for purposes of knowledge and to make them theoretically fruitful.”

The main critique of Habermas’ view on the question of the possibility of the rationalization of norm-conformative attitude toward nature has been raised by Thomas McCarthy in *Reflections on Rationalization*. As we have seen, for Habermas, the “only one theoretically fruitful attitude, is the objectivating attitude of the natural-scientific, experimenting observer.” In Habermas’ opinion, a non-restrictive objective attitude toward external nature creates a double risk. First, it destabilizes science in its effort to reestablish the unity of reason in the theoretical dimension. Second, it represents a step back to a metaphysical standpoint where external nature is an object of ethics since it possesses value. McCarthy lays out the two assumptions of this argument. First, “any attempt to rethink the unity of nature and morality would inevitably lead back to metaphysics.” Second, “any philosophy of nature that re-established this unity would have to compete with the modern sciences of nature.” Do we have models to rationalize nature in such a way to avoid Habermas’ fears?

It seems that Kant should be recalled in the first place. Both, Whitebook and McCarthy, point out the solution that Kant states in his *Critique of Judgment* to resolve the nature dilemma. Nature is a possible object for experience and in the mean time it has a teleological aspect. The Kantian question could be summarized as it follows: if nature, as a possible object of experience, can be reduced to a causal nexus, there is no place for purposefulness. Kant solves this difficulty by introducing

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58 Idem.
59 Ibid., p. 243.
61 Idem.
a difference among judgments: on the one hand, the “determinant judgments”⁶² are those through which a singular subject “determines the conditions of possibility of objects and knowledge of experience through an investigation act of transcendental consciousness”⁶³; on the other hand, the “reflective judgments,” founded on transcendental principles, lead to the idea that nature is systematically organized. McCarthy says that the latter form of judgments does not “compete with the causal explanation but is complementary to it.”⁶⁴ Even more, the reflective judgment is not a metaphysical judgment. In other words, Kant offers us a possibility to reconsider the question of the unity between theoretical and practical reason. Therefore, one should not fear a turn back to metaphysics as long as “there is no conceptual necessity for the philosophy of nature to take on the form of the metaphysics of the nature claiming a validity independent of and prior to science.”⁶⁵

The criterion for rationalization as possibility for accumulation of knowledge seems fruitful for McCarthy in social actions systems. Though, at this point, it is still problematic why aesthetic relations are considered to produce more knowledge than a norm-conformative attitude toward the world. McCarthy notes that “the view of the human species as in-and-of-nature that we would get from a non-objectivating perspective would be quite different from the view of human species as set-over-against nature that lies behind the objectivating sciences which are structured by a cognitive interest in prediction and control.”⁶⁶ In McCarthy’s view, this change in our attitude toward external nature should have consequences for our sense of obligation with respect to speechless living things. He does not pretend that there is a real

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⁶⁵ Idem.
⁶⁶ Idem.
interaction between nature and communicative actors. What he might pretend to make available is the formulation of the continuities between human history and natural history. At least, Habermas grants his theory this.\textsuperscript{67} The question regarding the continuity among humans and nature cannot explain, in Habermas’ opinion, the transition from prehuman to human nature.\textsuperscript{68} Moreover, “the analyses of the \textit{worlds} specific to species, serve as an example of the idea of a privative access to \textit{natura naturans} that is guided by a pre-understanding of the lifeworld specific to humans.”\textsuperscript{69} Habermas fears a turn back to a metaphysical standpoint. Thus, even if he makes some concessions to Whitebook and McCarthy, he does not think that there is continuity between humans and nature. In these terms, how should one understand the \textit{analogous feelings to morality} with respect to animals?

3.2 Avoiding pain as source of moral obligation for animals

In order for normativity to exist between at least two communicative subjects, there should be a consensual outcome of a linguistic interaction. Thus, if we find a common place on which there might be an ‘agreement’ among humans and nonhuman animals, this commonness will obligate humans to stand in a moral relationship to animals. Following this assumption, one could say with Günther Patzig and Mark Bernstein that humans are “under an obligation to prevent and mitigate animal pain and suffering.”\textsuperscript{70} Why are they? The argument claims that as long as all human beings avoid pain and suffering and they struggle to alleviate them, it \textit{would be rational} that humans do not cause the same painful experience to others. “If I expect you not to

\textsuperscript{67} Jürgen Habermas, “Questions and counterquestions,” in: \textit{Habermas and Modernity}, p. 211.

\textsuperscript{68} Jürgen Habermas, \textit{Knowledge and Human Interests}, p. 41.

\textsuperscript{69} Jürgen Habermas, “A reply to my critics,” p. 242-3.

cause pain to me, then on universalistic grounds I must acknowledge that I may not cause pain to you; and a general duty to refrain from hurting others is derived.”

Moreover, Bernstein emphasizes that in our relationship with non-human animals, we act in the presence of innocents. Thus, our moral behavior should be even more adjusted with respect to the welfare of those blameless beings. This assertion is based upon a philosophical distinction between moral agents and moral patients. Roughly, a moral patient is anything who could be ‘better off’ or ‘worse off’; in sum, anything whose welfare we have to consider when we act. A moral agent is someone able of moral thinking, or along with Habermas, someone who is able to participate in a communicative framework and internalize a rational consensus as norm of his moral actions. It seems obvious that all moral agents are moral patients. However, it is equally clear that not all moral patients are inherently moral agents as well. Children, severely brain damaged people, chronically senile or insane people, nonhuman animals, each one of these moral patients have welfare since they all feel pain and suffering. In the course of his actions, one ought to consider the welfare of moral patients anytime his conduct might affect it. In other words, moral patients have the right to enjoy their welfare and have no responsibility since they are not capable of moral reasoning.

Does this argument succeed in ascribing moral obligations in the case of nonhuman animals? If we consider that animals experience pain

71 Steve Vogel, ibid., p. 157.
72 See also, Mark Rowlands, Animals Like Us (NY: Verso, 2002), p. 63-66.
73 There is a large debate whether or not the notion of welfare should be extended to non-linguistic and non-conscious beings. For the brevity of the argument, we consider that anyone who feels pain and pleasure has a well-being. A counter position is held by Peter Carruthers, The Animals Issue (Cambridge: CUP, 1992), p. 56-62.
as well as humans do, one should performs actions in accord with this obligation of avoiding pain. By talking about duties toward animals, Patzig and Bernstein yearn for a principle of universalization of moral duties for humans and to the same extent for innocent and speechless living creatures. Habermas concedes that the force of this type of argument lies precisely in the fact that the latter does not “overstep the limits of an ethics without metaphysics.”

How far does this argument go? Patzig asks: “is it possible to extend the sphere of validity of moral obligation beyond the human realm to encompass all living creatures who are capable of experiencing pain and suffering but also pleasure?” He continues, “we run up against a clear barrier […] for animals cannot enter into relation of principled reciprocity with us of the kind that govern our conduct toward other human beings.”

Against this type of argument, Habermas argues that we can have duties only to creatures which stand in a symmetrical and reciprocal moral relation with us. This is the limit of responsibility for a competent user of language. Patzig’s and Bernstein’s arguments cannot be deontological because they do not succeed the test of the reciprocal universality. The only moral duty that humans could have for animals, Habermas thinks, is a quasi-duty similar to what humans have for “vulnerable creatures whose physical integrity we must protect for its own sake.”

74 Jürgen Habermas, “Remarks on discourse ethics,” in: Justification and Application, p. 106.
76 Günther Patzig, ibid., p. 67; Habermas, ibid., p. 106.
77 Habermas, “Remarks on discourse ethics,” in: Justification and Application, p. 106.
Two questions needs to be raised: What is the status of a moral obligation for and in respect of animals? What kind of responsibility toward animals does this quasi-duty determine? Habermas talks about a sense of being under categorical obligations with respect to animals. “The horror inspired by the torment of animals is, at any rate, more closely related to outrage at the violation of moral demands than to the pitying or condescending attitude toward people who, as we are wont to say, have made nothing of their lives or are failures by their own standards of authenticity.” Habermas moves here toward the defenders of animals and preservation of species by conceptualizing the possibility of an analogous moral obligation for living creatures. He does not speak about a similar moral obligation as for humans but about a quasi-moral responsibility toward animals. He concedes some forms of interaction which reveals a kind of continuity in our relation with domestic animals. However, they do not have an intrinsic value but a value “grounded in the potential for harm inherent in all social interaction.”

Humans should adopt a performative attitude toward animals because our forms of interaction are of the same kind as intersubjective relations. Therefore, one can speak about analogous moral duties based on the presupposition of a communicative action. However, these analogous moral duties do not define a responsibility toward animals and nature identical to the responsibility we have toward communicative actors. There are at least two examples when one is not under a moral obligation with respect to animals but one is under moral obligation with respect to communicative agents. In the case of animal experiments, it is permissible and not seen as a murder if there are fatal results but it would be morally abhorrent to experiment on communicative agents without their consent regardless any possible outcome. A similar permissibility appears in the case of nonvegetarians who are not under

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78 Ibid., p. 107.
79 Ibid., p. 109.
the obligation of changing their nutrition. Thus, these cases point out limits of our empathy with respect to nonhuman animals.

### 3.3 Does a moral communicative agent have a responsibility for future generations?

It seems difficult for discourse ethics to take into consideration the future generations because their non-existence renders them incapable to participate in a communicative action. One might be tempted in this case, as K.O. Apel thinks, to turn back to a metaphysical standpoint. Moreover, in the case of the ecological crisis, it is unclear how the question of responsibility could be raised as long as human activities “whose effects and side effects are most far-reaching and risky are usually not caused by individual actors.”

Therefore, one may ask: “Must an ethics meant to found our solidary responsibility for the collective actions of humanity in the midst of the present critical situation step behind Kant and revert to a religio-metaphysical belief that is incapable of a rational foundation?”

Deeply aware of the veracity of Jonas’ challenges, Apel and Habermas have reflected upon the possibility for a discourse ethics to integrate a responsibility for the future generations without stepping back to a metaphysical standpoint. They think that the ethics of responsibility has to confront itself with “the specifically novel and

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82 A similar moral argument could be applied also to the case of ‘the third world.’ Both examples, future generations and third world, represent two hypothetical situations of communicative actions.
simultaneously important aspects of today’s reality.”

Does solidarity as a genuine source of motivation for my moral behavior require, like the founders of discourse ethics think, that the moral agent places himself in communicative situation? If the answer is positive, how could be realized a communicative framework since future generations do not exist, and thereby cannot participate in a communicative action?

Sharing Jonas’ analyses, Apel discerns three novel problems for moral responsibility that have emerged as a consequence of our sociocultural evolution. First, science-based technology has completely changed our way of referring to ourselves and to nature in general. Often, we are not able to detect possible damage done by our technological intervention into the world until the harm is done like in the case of asbestos.

Second, a “scientific knowledge concerning the complex structure of the relevant facts and the possible effects and side-effects of our actions and sustainable activities” is needed today for a morally relevant decision making. In Apel’s opinion, this new challenge raised by our evolutionary situation shows that the common man can no longer listen to his inner sense to know what he ought to do.


85 “Since their effects and side-effects transcend every face-to-face encounter with the affected human persons, it becomes very difficult to compensate for this loss of proximity to one’s fellow human beings, say, through imagining what they might have to suffer from our actions or activities.” Ibid, p. 498.

86 Ibid., p. 499.

Third, as we have previously seen, “individual actors in a sense cannot be held accountable for these [technological] actions and activities in the way that individuals have been held responsible for their actions according to traditional morals.” If one seriously considers these new problems regarding the concept of responsibility, a question naturally arises: whether or not we actually need a novel ethics of responsibility. This question discloses Apel’s intention. He suggests a possible solution to our problem from a transcendental pragmatics of human communication. Apel thinks that “discourse ethics as [...] a postmetaphysical transformation of Kantian ethics” may fulfill our task. This argument, “as it is proposed by Jürgen Habermas and my self [Apel]” is based on three constitutive elements: the Kantian fact of practical reason, the regulative ideal, and the foundation for an ethics of responsibility conceived as an ethics commanding us to preserve the being of the real community of communication. Moreover, Apel thinks that the ideal community of communication needs progressively to be realized.

The fact of practical reason makes us, as real members of a communicational community, open our responsibility to all possible communicative actors. We are not responsible only for our real communication community but also for the progression toward the future.

89 Ibid., see also p. 501.
90 Ibid., p. 506.
92 For a full account of this argument, see Nicolae Morar, “Consensus and responsibility as solidarity,” in Romanian Journal of Bioethics, 5(2007):3, p. 29-32.
communication community. In that sense, we represent the interest for perpetuation for every non-linguistic realm. We have coreponsibility or a collective responsibility that the ideal communicational community must always remain to be realized—progressively. For Apel and Habermas, a promising answer to the ecological crisis, to the settlement of international conflicts, or to the question of future generations has to take the form of a discursive organization of solidary responsibility. Otherwise said, we express solidary responsibility for non-linguistic situation or living creatures by deliberating on their behalf and thereby engaging them in a representational way in an interaction with the real communicational community.

The concept of solidarity, as foundation for a new ethics of responsibility for the future, does not change the fact that our personal responsibility is morally accountable but introduces a primordial coreponsibility with respect to the global and indirect effects of our actions. It is a postconventional ethics based on a pragmatic-transcendental principle regulating our communicative actions. We share not only equal rights with all real and possible (future) communicative actors but also a collective responsibility for finding solutions to all problems which can be debated in an argumentative manner. Is this form of responsibility as solidarity a sufficient condition to motivate my own moral behavior?

As many critiques have pointed out, it is hardly conceivable that in virtue of some self-awareness of my language ability and of my membership to a communicative community, I will act in such a way that the hypothetical welfare of non-existing communicative actors will always be considered. Even if this philosophical model seems attractive, it is nonetheless implausible that putting myself in a hypothetical communicative situation will be a sufficient condition to act in a normative way with respect to the interests of the possible communicative actors. Thus, the notion of an ideal communication community that must always remain to be realized seems somehow being more a highly philosophical device than an adequate source of motivation for a moral behavior toward future generations.
4. CONCLUSIONS

Overall, the critiques raised in the second part of our paper have shown the limits of discourse ethics concerning our responsibility toward external nature, nonhuman animals, and future generations.

First, normativity is internally connected to language. If communicative actors raise and discursively debate their validity claims, they will probably reach a consensus for the best interest of each participant. In that sense, speechless beings will never be considered as participants in a discursive action. Thus, our linguistic ability is morally relevant in allowing us to treat nonhuman animals differently than humans. Therefore, even if Habermas concedes on some points that the discourse ethics can be the source of some performative attitudes toward living creatures, they will always be a natura naturans and not an end in itself. Our moral responsibility is both undermined by an instrumental treatment of speechless beings and by the idea that they have only a quasi-moral status. This enforces the special moral value of communicative actors.

Second, this linguistic disparity is certainly one of the reasons for the impossibility of rationalization of a norm-conformative attitude with respect to nonhuman living creatures. Habermas worries that if we agree to rationalize this formal-pragmatic relation, we have on one side to accept a metaphysical standpoint, and on the other side to lose the unity between the practical and theoretical discourses. Thus, without a process of rationalization of our relation with nature, the accumulated knowledge cannot be differentiated as a value sphere.

Third, even if Patzig and Bernstein suggest an ethics model without metaphysics, Habermas thinks that their argument fails the test of reciprocal universality. Once again, he grants our relation with nonhuman animals only with a moral similitude. Speechless beings “remain an object of morality which is to say that it may indeed have value but it does not determine value through its contributions to a normative
discourse.” As we pointed out, this quasi-form of normativity seems to fail whenever we bring into question our nutrition, experiments on animals, and probably also hunting and zoo.

In short, we can conclude that discourse ethics, as a postconventional ethics, fails to give a positive answer to the question of responsibility for nature, for nonhuman animals, and for future generations. Discourse ethics is certainly grounded on a pragmatic-transcendental principle. Normativity is a consequence of a consensual argumentative situation. Habermas and Apel attempt to integrate non-linguistic realms in a normative situation by appealing to highly sophisticated philosophical devices such as quasi-moral duties or solidary responsibility. However, as long as the linguistic ability confers to communicative actors a special moral status, it is unlikely that nature, nonhuman animals, and future generations will be considered differently than a second class of moral objects.


95 Special thanks to Martin Matustik, Netty Provost, Jonathan Beever, and Bogdan Olaru for their helpful comments on earlier versions of this paper.
We come across an era of strong and even more unusual individual claims, while the solution to often conflicting demands becomes increasingly elusive and parochial. One of the most intriguing philosophical questions is how to link human responsibility to those consequences of action which no one can fully foresee but, nevertheless, which no one can afford to neglect. Many biotechnological challenges are of this nature. This book is meant to give some insights in the mutual justification which ought to regulate the space between autonomy and responsibility by taking up a stance on some dilemmatic issues in the medical field.