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TIMELY THOUGHTS

Modern Challenges and Philosophical Responses

Contributions to inter-cultural dialogues

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Preface

This collection of essays has been selected in honor of my Chinese colleagues with whom I have collaborated for more than 15 years. Since 1994 this collaboration has taken place within the framework of a research project in comparative studies of cultural modernization in Europe and East-Asia, under the name of *Marco Polo*. This collaboration includes an exchange program between scholars at East China Normal University in Shanghai and at the University of Bergen – exchange of academic personal, exchange of publications, as well as inter-cultural seminars and conferences.

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INTRODUCTION

Modern societies are challenging in many ways, some of them asking for philosophical responses.

(i) Due to inter-cultural tensions we are faced with the question: enlightenment and human rights, are they universally valid or just "western"?

(ii) The ongoing rationalization of modern societies, what does it imply for culture and humanities?

(iii) With the expanding role of technology and scientific expertise, what are the conditions for ethical and political deliberations?

(iv) Considering the "hard cases" in bio-medical ethics, how should we conceive of the moral status of different sentient beings, humans and non-humans?

(v) In an age of one-state supremacy and power politics, how can universally binding principles be justified? Then I shall delineate their main points (II).

(I)

Norwegian philosophers, as citizens of one of the small States in North-Western Europe, are used to relate themselves to different national traditions and different modes of thought: In a small and open society one has to "trade" with everybody, also intellectually. One has to get acquainted with other languages and other ways of thinking. One has to learn how to move from one tradition to the next and thereby be able to see oneself through the eyes of the others.

Between analytic and continental philosophy

To be more specific: geo-culturally Norway is located between continental Europe and the English-speaking world. Hence Norwegian philosophy is influenced both by so-called continental and analytic philosophy – broadly speaking, by philosophy as reflection and philosophy as conceptual analysis, those two basic activities of professional philosophy. Various attempts to achieve a productive mediation between these philosophical traditions used to be a characteristic trend in Norwegian philosophy in the second half of the 20th century.

Political philosophy and philosophy of science

Two other characteristics could also be mentioned in this connection:

- In the aftermath of the Second World War (and Nazi-Germany's occupation of Norway) Norwegian philosophers took a sincere interest in political philosophy.
- In the same period, as Norway was rebuilt, the welfare state was established and the use of sciences expanded, Norwegian philosophers became deeply interested in the role of the sciences in modern societies and in the interrelationship between philosophy and science, including the social sciences and the humanities.

Interdisciplinary collaboration and the public sphere

Furthermore, these two interests led to a concern for supporting open and free discussion and will-formation in the public sphere, as well as for promoting competent and critical interdisciplinary collaboration with scientists and scholars. Hence, philosophers were not merely supposed to do their work within their own professional field; they were also supposed

to support enlightened public debates and cross-disciplinary discussions, both by participating in these activities and by supporting the cultural and institutional conditions for such activities.

Examen philosophicum
Finally, for institutional reasons – due to the compulsory philosophy courses for all first-semester university students (the *examen philosophicum*) – Norwegian philosophers, being teachers for these courses, had to acquire a broad education in the history of Western thought, and they had to express themselves in a way that is understandable for those who are not professional philosophers.

(II)

The first paper – "The Modernity Debate: Rationality – Universal and Plural?" – discusses the notion of modernity related to the debate on rationality. It argues in favor of a universalist notion of rationality, against the skeptical trend inherent in "the modern project". Taking skeptical arguments seriously, this is a "post-postmodernist rationalism", as it were. In positive terms it is based on a critical acquisition of argumentative virtues found in analytic philosophy and of self-reflective insights found in continental philosophy.

The paper contains a reconstructive narrative of some vital stages in my own development. This procedure is chosen since philosophical insight is not really acquired by referring to and comparing philosophical positions – in short, by "looking at the fasit" (looking at the answer book) – but rather by personal and time-consuming learning-processes.

The universalist notion of rationality defended in this paper is thus a peculiar one, motivated by skepticism, recognizing deep-seated pluralism and contextualism, but still strongly defending a pragmatic notion of universally binding rationality in terms of self-reflectively unavoidable validity-claims and argumentative procedures.

This defense of a reflective and procedural notion of rationality is not restricted to argumentation within given conceptual frames. It embraces a critical reflection on such preconditions. Furthermore, it is open for creative proposals for new conceptions for a better understanding of Man and the world – for instance, as to how to conceive the notion of a person, faced with the development in neuroscience and biotechnology, or how to conceive the role of culture and the humanities in the modern world. These are among the themes discussed in the proceeding papers.

All in all, these are "timely thoughts" in our age, torn as it is between cultural relativism and religious fundamentalism of various kinds.

The second paper – "A Crisis in the Humanities?" – is concerned with the role of culture in modern societies, *culture* understood as an institution in a sociological sense, also called "the life-world", in contrast to State and market.

The paper sets out discussing the humanities, that is, the scholarly disciplines which study Man and culture in ways that cannot be transformed into purposive maxims, as causally established knowledge of means-to-an-end, and which therefore cannot be seen as useful in this instrumental sense. However, the humanities relate themselves to our self-interpretation and hence to culture in the sense of the life-world. When they are self-critical and well done the humanities may therefore be highly important for culture in modern societies, and in that sense "useful".

But to the extent that the realm of the life-world is shrinking, the humanities will also suffer a "loss of domain". Both by the relocations of the major institutions in modern societies

and by the development of causally explaining sciences, the humanities are put under pressure. Nevertheless, in order to understand ourselves properly, as persons and as agents in a modern world, the humanities, well done, are required; but at the same time we also need to consider the contributions of causally explaining sciences and the force and functioning of institutional systems on a macro-level.

On the other hand, our basic self-understanding, the understanding of ourselves as agents in the world, cannot be eliminated. But it is always possible to improve our self-understanding and our understanding of the world, or at least, there is often a need for criticizing mistakes and inadequate conceptions.

Hence there is a dynamic interplay between our common sense, as agents and socialized persons in the life-world, and the various humanities, and also with the various causally explaining sciences. Philosophy, as a way of working that is sensitive to contextual varieties and conceptual nuances and capable of coping with validity-claims, has a role to play in this connection.

The third paper – "Technological Expertise and Global Ethics" – discusses the critical interface between technology and instrumental rationality on the one hand and democracy and a wider notion of rationality on the other hand, related to major projects, such as politically initiated projects for energy supply, with possible negative consequences, for instance of an ecological nature.

This discussion contains two major steps.

(i) Starting with normative decision theory and a few natural sciences (representing the underlying instrumental rationality of technological projects) the first step consists in an "overcoming from within", by showing the inherent need and rationally motivated demand for including other disciplines, including studies of Man and society, and thereby for a hermeneutic and reflective competence in assessing the different disciplines and their interrelationships, which means that the restricted rationality of normative decision theory is "overcome" by an unbound and discursive rationality.

(ii) This reflective and discursive rationality is thus motivated by the inherent need for improvement, for "overcoming" that which is shown to be less rational than it could be. Hence it points toward the need for the inclusion of all relevant perspectives and disciplines, all relevant information and interpretation, and of all those who are concerned and have a say as to the evaluation of some of the possible consequences. Hence there is a need for a mature political culture. This is the second step.

In short, this twin-argument, "bottom up" as it were, points toward the kind of discursive and reflective rationality that was presented and defended in the first paper. However, in referring to public debates and political decisions the practical and *melioristic* aspect of this notion of rationality is explicitly underlined.

The forth paper – "Ethical Gradualism, beyond Anthropocentrism and Biocentrism?" – makes two major points.

First and foremost it discusses whether a clear-cut ethical borderline can be convincingly established between Man and other sentient beings. The "hard cases" from bio-medical ethics are discussed in relation to advanced primates like chimpanzees, referring to actual, potential and potentially potential properties, and also to the possibility of a culturally or politically ascribed ethical status. The overall conclusion is one in favor of an ethical gradualism that recognizes the unique moral status of human existence, but which includes non-human sentient beings in a gradual sense, thus widening the ethical universe in a way which is eco-politically highly important.

Furthermore, this paper argues that our bio-bodily existence is a precondition, in a philosophical sense, for the participation in moral and ethical discussion. The vulnerability of the human body is a precondition for such "practical" discussions. This anthropological claim is raised and defended within the reflective and procedural notion of rationality presented in the first paper.

The fifth paper – "On the Possibility of a Philosophical Justification of Universally Binding Principles" – refers critically to unilateralism as a normative justification of international politics and military intervention. This criticism is raised on the basis of the notion of a universally binding rationality presented in the first paper. It is explicitly directed against US unilateralism, but also against other forms of unilateralism, including religious fundamentalism in various confessions.

The paper also points at the short-sightedness of military actions based on a few disciplines and perspectives, especially in cases of military intervention with the explicit aim of establishing a just and sustainable democratic society in a foreign territory.

Finally the paper argues in favor of considering also the lives and needs of all those, humans and non-humans, who can never take part in any multilateral discussion concerning matters that might be of vital importance for them and their offspring – thus following up on the discussion in the forth paper.

The sixth paper – "Postscript, a Summary" – delineates that which I see as the main characteristics of my way of working as a philosopher, emphasizing (i) the universalist notion of rationality, sensitive to plurality and situatedness, (ii) the concern for creativeness ("redescriptions"), not merely justification and argumentation, (iii) and thereby for different styles and literary genres, (iv) but also the concern for improved conceptual reconstructions of major experiences, (v) and finally, the concern for learning-processes ("application") in relation to other disciplines, to politics and public debates, and thereby to urgent issues of various kinds.

THE MODERNITY DEBATE:

RATIONALITY - UNIVERSAL AND PLURAL?

A praxeological contribution to the debate between universalist modernists and contextualist postmodernists[1]

Our theme is the modernity debate. One perspective in this respect is what we may call the intellectual rationalization of modernity, leading up to a post-metaphysical skepticism as to the possibility of justifying any idea of basic universal norms.[2] This is a modern insight and challenge – not in the empirical sense that it is recognized by everybody in contemporary societies, but as an underlying uneasiness, that should be taken seriously and that somehow influences our modern (sub)consciousness and thus our modern identity. These are certainly subtle questions, and at the outset I shall not try to elaborate them any further, but rather suggest that we take them for granted: modernity as a blend of pluralism and scepticism, and an urge for justification. This is also the reason why religious fundamentalists have serious problems in adapting to modern conditions, both intellectually and politically. But finally, modernity represents a challenge for all of us, religious and secular, Christian and Muslim, Chinese and European.[3]

First I shall give a few comments on some aspects of the public debate about modernity (A), and then focus on the discussion on rationality, from the perspective of philosophical pragmatics (B).

(A) The public debate about modernity: a few comments

There have been extensive discussions, not least in philosophy and sociology, on how we should best understand and explain modernity. Recently the term has been frequently used also in the media and in political rhetorics in some countries, not only negatively such as by postmodernist critics, but also positively such as by European neoliberalists and social-democrats alike, pleading for a "modernization" of institutions and values[4] – without any attempt to define the term or to relate their use of the term to the extensive professional discussions. When reading such pro-modernist writings, published by these politicians, one gets the impression that modernization is here basically understood as deregulation and privatization, that is, as a further expansion of the market institution and its social mechanisms and a weakening of the state institution and the public sector – for instance in order to reduce what is seen as competitively high social costs. But whereas the philosophical and sociological discussions on modernity are characterized by a rich repertoir of concepts elaborated within a variety of academic perspectives, it is striking that these party-political proponents of modernization tend to operate with concepts that are basically taken from one discipline, that of *economics* – a discipline, it should be added, whose *conceptual models* have a problematic relationship to what we used to call *the socio-historical world* (for instance, to the empirical variety of human motivation and behaviour).

These new rhetorics of modernization seem to strengthen a general trend these days: the tendency of implicitly conceiving *one* conceptual perspective, basically that of neo-liberalism, as the adequate way of understanding the major features of modern societies. With the fall of the Soviet Union, the dominating political language has to a large extent been that of human rights, market economy, and a multiparty democracy: Institutionally, history has reached its end! Ideologies are dead, both as Utopian aspiration and a basic criticism of this historical end-station (which *is* modernity, according to this interpretation). Cultural discussions go on (such as in postmodernist quarrels, identity politics, and science wars), and the process of globalization, driven by IT and market forces, implies a permanent and forceful development - but all this takes place within the same modern institutions and the same modern rationality. The quarrel between the Ancient and the Modern[5] has apparently been settled once and for all, in favor of modernity (in this sense).

This modernist language and world view has gained considerable strength: How can anyone be a serious opponent to the unavoidable development towards modernization, to the necessary modern institutions, and to modern rationality? Briefly stated: Marxist criticism of capitalist institutions, existentialist criticism of reification, the disillusioned criticism from Francophile postmodernists, or the ardent protest from cultural and religious traditionalists – they are all basically marginalized, and the new rhetoric has to a large degree become our second nature: this new-talk is seducing, exhausting, and simplifying, and therefore hard to oppose and hard to resist. - ”And really, haven’t many things become better, in many ways - so what is the matter?” - Certainly, but still much of this criticism has not lost its validity: the problem of institutional unbalance, the loss of social networks and of existential meaning, the problems of sustainability both for nature and socio-cultural reproduction, the problems of deprivation and poverty, the risks of regression and fatal crises, and the need for public reason and deliberative democracy. These critical points surely remain as important and urgent as ever before.

The debate on modernity is therefore not merely theoretically interesting. Intellectuals from different disciplines and with different life experiences should therefore have a special responsibility to relate to the public discourse on modernity in media and politics - at the same time as they explore these questions as professionals, each within one’s own discipline.

But in order to cope with modernity, we need a reflective multi-disciplinary discourse. Philosophy alone will not do. Sociology alone will not do. Various disciplines are required, within an intellectual culture enlightened by reflections stemming from the philosophy of the sciences and the humanities. Only in this way can we hope to avoid a too narrow and shallow understanding of modernity. Only in this way can we hopefully be able to cope both with the institutional differentiations and the question of the different forms of validity, including those of basic moral questions.

This being said, I already find myself within the substantial debate, as to the nature of modernity and of modern rationality – be it one or many, instrumental or strategic, communicative or argumentative, be it contextual or universal. Here I find myself within one of the debates on modernity, one that is focused on rationality. However, one cannot say everything at once; and interdisciplinarity is a collective project that takes time. Here I shall therefore merely try to say something about rationality, in a special perspective.

My approach is that of philosophical pragmatics,[6] elaborated through a discussion of contextualist praxeology and universal pragmatics.[7] I shall try to spell it out by presenting a narrative, rather than by discussing detailed arguments. This will be my contribution to the discussion of modernity and moral identity: a pragmatic notion of rationality, with implications for our conceptions of modernity and of moral identity.

After the pragmatic-linguistic turn some thinkers[8] regarded reason as bound to given linguistic or practical contexts, while others[9] conceived of discursive reason as inherently related to universal validity claims and to implicit ideas of ”redemption” by ”ideal consensus” through discussion in ”ideal speech situations”. As a further support, there are theories of socialization, of communication, of modernity and of modern law.[10] In this paper, questions of universality versus contextuality are approached from the perspective of a version of the pragmatic-linguistic turn, conceived through a mutual criticism of universal pragmatics (Apel, Habermas) and contextual praxeology (later Wittgenstein): Conceptual clarification is sought through case-analyses, for the most part in the form of thought experiments, often in the form of ”arguments from absurdity”, including absurdities stemming from performative self-contradictions. Such case-oriented arguments from absurdity are discussed in relation to a selection of transcendental arguments found in universal pragmatics.[11] Here I argue in favor of a revised version of universal pragmatics, including a ”meliorist gradualism”, and of epistemic pluralism, supporting the idea of pragmatically rooted obligations for the better arguments, hence for truth, and thus supporting an epistemic universalism; but without relying on the strongest counterfactual claims of pragmatically rooted and unavoidable ideals of truth qua final consents in ideal situations of communication.[12] In short, it is argued in favor of the idea of speech-act immanent reasons which entail obligations for still better arguments (or reasons), that is, situated reasons which transcend contingent contextual limitations and thus entail a universal force. In this sense a third position is defended, between

universalist modernists and contextualist postmodernists, that is, a notion of modern discursive reason as universally valid and binding, and contextually and pluralistically situated.

However, before I enter this main part of my paper, it might be worthwhile to make the following introductory remark: To some extent, not only our theories are contextual but we ourselves are situated, historically, culturally, institutionally, and existentially. Therefore it is useful also to reflect on the varieties of personal situatedness, among intellectuals, among professional philosophers and sociologists. For instance, not only is China different from the West, and the US from the EU, so is also Germany different from France, and Sweden from Finland. A reminder: In his early days, the philosophical skeptic, Arne Næss, used to walk around asking people what they held to be certain. The answers were far from trivial. There were those who referred to lifeworld certainties or to sense experiences, but some answered by referring to borderline experiences and deep crises. That was what they held to be really certain – for instance, *ein verlorener Krieg*, a lost war. Strange? Hardly. Lost or won, war experience, or the lack of it, makes a difference - as between Sweden and Finland, Germany and France, US and Europe. It is dangerous to generalize, but also dangerous to overlook. History is hard stuff, also for intellectuals: direct experiences, cultural impact, institutional changes. So there are not only academic, disciplinary differences between us. History, too, with a variety of institutional and cultural forms of situatedness, makes a difference. The persuasiveness of arguments and the point of arguing can therefore not always be taken for granted (as between Habermas and Rorty: war experience, and none - *ein verlorener Krieg,* and the question ”why is moral justification required?”). Argumentative reason is thus a delicate thing; rational communication and mutual understanding are precious goals. This situatedness is a part of our fallibility and perspectivity. It should not be overlooked.

Nor should we overlook the problem of evil. For evil is not merely to be seen as a qualified characteristic of the other - ”the evil other”, as it were.[13] There is more to it.

But despite of our situatedness, there is a pragmatically universal rationality, and despite moral “realism” on behalf of our shortcomings and the forces of evil, there is also a pragmatically rooted moral intuition and identity - as long as we are socialized and civilized persons.

These introductory remarks on our situatedness and finitude might be seen as a ”confession of a post-skeptic rationalist” (to rephrase Jean-Jacques Rousseau).

(B) A Narrative: stages toward a modern conception of rationality

A preliminary methodological remark should be added:

There are various ways of doing philosophy. There are various ways of making points and of trying to be correctly understood by a given audience, or of trying to convince them to change their minds. We redescribe, we point out, we present reasons – and in trying to present convincing reasons we have to take counterarguments into account, and then we are, at least virtually, already in a discursive situation with co-discussants and their points of view.

In the attempt to make sure that the points one is making are well understood one may try to describe one’s position and the philosophical landscape as it is seen from this point of view. However, one way of describing where one is standing consists in telling how one got there – from where one is coming, and why. That kind of narrative has the advantage of illuminating not merely one’s actual position, but the direction of one’s thinking.

Certainly, doing philosophy entails various activities, such as reading, writing, listening and talking,[14] and there are genuinely philosophical learning processes and experiences. However, acquiring such experiences, passing through such learning processes, does take time. It takes time to become well acquainted with some philosophical distinctions, for instance in biomedical ethics, and also to acquire the mastery of a critical discussion around these distinctions. These are formative processes which increase our sensitivity for these concepts and cases - but such learning processes are time-consuming.

In this paper I shall try to illuminate my point of view on some aspects of modern rationality by presenting a kind of narrative of the philosophical experiences that led me there. It is a brief and simplified version, and a version reconstructed in retrospect. At best I can hope to make myself somewhat better understood. A deeper understanding would demand time-consuming and mutual learning processes concerning the crucial concepts and cases. My narrative represents the first steps in such a discursive process, nothing more.

First stage

This reconstructive narrative starts with classical analytic philosophy – since, for me, the analytical way of doing philosophy turned out to be useful for the following reasons:[15]

a) Discussions on category mistakes (such as ”seven is green”) and contextual inconsistencies (such as ”the King of France is bold”) made it clear that there is a *third epistemological category*, different from that of empirical truth or falsity and that of formal (positive or negative) analyticity.

b) This third category points to necessary *conditions for meaningfulness*, more precisely, to conceptual and pragmatic preconditions for cognitive meaningfulness in terms of true or false statements. In neglecting or violating such preconditions, as in cases of category mistakes and of contextual or pragmatic inconsistencies, we end up with some meaninglessness or absurdity.[16] This opens for ”transcendental arguments” in terms of informal *reductio ad absurdum*-arguments,[17] or ”arguments from absurdity”: By neglecting or violating some such precondition we get an absurdity, and by reflecting on this absurdity we may become aware of the role of the neglected or violated precondition, that is, its status as a necessity for meaningfulness. This is not a transcendental argument in a traditional Kantian sense. These are conceptual arguments within a linguistic and pragmatic philosophy, not within a philosophy of consciousness. Starting with something given (or rather, a description of something given), the constitutive necessities that are shown by these arguments remain *relative to* this point of departure. In a semantic perspective this point opens for a discourse of ”frame and content”, the constitutive nature of these preconditions then being seen as dependent on a conception of the given frame-content relationship and thus as contingent in a philosophical sense.

c) Whatever the interpretation of the overall epistemic status of these preconditions, the analytic way of spelling them out makes us aware of *pluralities* of ”breakdowns”. For instance, the utterance ”my dog counts to ten” might be either true or false, whereas the utterance ”my dog counts to one thousand and eleven” is certainly empirically false, in the world known to us. Equally, the utterance ”my dog is green (by nature)” is empirically false, in the world known to us, whereas the utterance ”my dog reads newspapers” would probably rather be seen as nonsensical, not merely as empirically false – and even more so for the utterance ”my dog has a PhD in philosophy”: There is no point in investigating this claim empirically in order to find out. This utterance is so empirically implausible that we most likely would see it as absurd. But it is not absurd in the sense that we could not make a cartoon of a dog doing all sorts of things, not only reading newspapers but also rightfully obtaining its PhD - in Disney-like movies this is done all the time. If a case like this is said to be absurd, it should at least be added that such cases are thinkable in the sense just indicated. However, there are utterances which are absurd in the sense of being downright unthinkable, such as the utterance ”my dog is the first day of May”. In this case there is no way of making any cartoon, not even for a Disney movie.

The point is now that these cases do show us a *plurality* of ”falsehoods”, and even a *graduality* from empirical falsity to down-right absurdity: leading from empirical falsehood that can be empirically tested, to empirical falsehood that is so implausible that an empirical examination does not make sense, and further to absurdities that are thinkable, and ending with strictly meaningless utterances. This is the tentative conclusion from the first stage.

Second stage

With the *pragmatic turn* the semantic dichotomy of frame and content is overcome (as it were) in favor of an analysis of act-constitutive features. Speech-act analyses are carried out. The pupils of the later Wittgenstein are here of interest, such as the praxeology of Jakob Meløe.[18] His way of working philosophically is

characterized by detailed and cautious analyses of constitutive features in selected examples of simple actions – constitutive in the sense that a given action would have been impossible without these features.

For instance, that which is constitutive for a certain activity is not the whole of the agent's body as it actually is, but those parts and capabilities that are required for the agent in carrying out this specific act, for example the forging of a horse shoe. These parts and capabilities represent the body that is necessary for this very act; without them this kind of act would have been impossible.[19] Likewise, the insights that are required for the agent to do what he is doing represent the act-constitutive insights.[20] And the objects needed for this act represent the act-constitutive objects.[21] Hence, there are pragmatic (act-constitutive) necessities, not merely empirical facts and semantic decisions, not merely contingency and purely logical necessities.

Such a cautious analysis of constitutive factors inherent in chosen examples of acts could be seen as a "transcendental" reasoning: by a *via negativa*, that is, by some negation of a factor that is constitutive for meaning, we are faced with a meaninglessness, and from the recognition of this absurdity we try reflectively to recognize the constitutive nature of the factor denied. This is thus a genuinely philosophical use of examples, trying to obtain better insight into some precondition, not merely a pedagogical one, using examples to illustrate for other persons some point already known by the acting person.

Some preconditions are act-specific,[22] others (like "being-in-the-world" of "tautologous" bodies and objects) could be seen as common to all actions.[23] Hence, some of these body-related act-constitutive necessities are "contingent necessities", as it were – in the sense that our bodily constitution could in principle have been different from what it is. But given that it is as it is, some specific bodily features are constitutive for specific acts; in that sense they are necessary for this or that kind of action, even though it is somehow contingent, in a developmental perspective, that we have the body we have - but not absolutely contingent, if we are to remain "we".[24]

This is a pragmatic approach, not merely a semantic one. It is case-oriented and cautious, self-reflectively critical also for one's own use of language, thus avoiding "big words" that are not contextually or discursively situated. But we could object that its reflectiveness is often kept implicit and its skepticism for big words and airy theory has often led to a disregard for philosophy as an activity worth being analyzed and to a selection of examples that is too narrowly tied to simple craftsmanship and thus too remote from the modern world.

Third stage

Scientific and scholarly activities are examples of modern activities. They are institutionally situated and normatively regulated, for instance by the methodological norms of scientific and scholarly research and argumentation. This does not mean that there is no problem in pointing out these norms, nor that they are always obeyed. But there are reasons to claim that some such norms are constitutive for these activities, and case-oriented analyses could therefore be applied also for such acts.

This is what Knut Erik Tranøy has done, in focusing on what he calls "basic cognitive acts".[25] He makes a distinction between two kinds of basic cognitive acts, two kinds that are closely connected: "acquisition" of truth claims, where a person "accepts, rejects, or suspends judgment", and "communication", where a person "asserts, denies, or keeps quiet". Simply stated, the former focuses on the person-to-argument relation, the latter on the person-to-person relation. Since these analyses of our "basic cognitive acts" are themselves scholarly activities there is here an element of self-reference, indicating the transcendental-pragmatic character of these analyses.[26]

These are a few of the cases discussed by Tranøy:[27]

1) "It is not permitted to accept p if p is known to be false."
2) "It is obligatory to reject p if p is known to be false."
3) "It is obligatory to accept p if p is known to be true."
4) "It is not permitted to assert p unless one has evidence for p."[28]

These examples are formulated in a legalistic language. Tranøy suggests that a moral language would do. He also suggests that the epistemic status of these norms is that of constitutive conditions, since we could argue by the use of arguments from absurdity: a denial of any of these norms implies an absurdity.

What exactly is their epistemic status? With such examples we can ”look and see” (to find out), by careful analyses and discussions in each case. But here, in this narrative, we have to do it in a more sweeping way: when we consider the three former cases (from the ”acquisition” class), it could be argued that these norms are binding for any sane person. A sane and rational person who realizes that ”2 + 2 = 4” (as an example of a p known to be true) has to accept it and cannot reject it. This seems to be a necessity which is constitutive for being a person. If someone breaks any of these norms, we would probably say that this person has severe mental problems; we would see it as a *mental problem* rather that *a moral* (or *legal*) one.

However, the cases in which the validity question can be decided with certainty could be seen as borderline cases. Examples of such borderline cases could be: some cases of logical deduction (when no errors intervene), some cases of simple perception (in the absence of illusions), some cases of lifeworld certainties (such as the claim that life is finite), and – we could add - some philosophical arguments related to the avoidance of performative contradictions. But in most cases we have opinions that are more or less well established, that is, claims or opinions that are examined by communication and argumentation; the ”acquisition”-group is thus connected to the ”communication”-group: that which we accept as true in these cases (which are not the borderline cases) is presented to us through communication and argumentation. Thus we have the well-known principle of the ”force of the better argument,” a principle that plays a constitutive role in argumentation. Tranøy writes:[29] ”We blame someone who is unwilling to accept p (or who rejects p) when there are adequate arguments in favor of p.” In such cases the constitutive norm has undeniably the epistemic status of a *moral* norm. At the same time there are also, as indicated, some cases (some borderline cases) in which the ”must” (or the ”should”) primarily appears as *constitutive*, and hardly as moral.

When we consider the latter case, from the ”communication” class, the picture is different. It is possible to lie, that is, to tell others what one holds to be untrue, in a sense in which it is not possible to lie to oneself.[30] For that reason these norms, of the ”communication” class, have more of a *moral* status: Breaking them is blameworthy, not insane. But are they *constitutive*? An affirmative answer requires more of an *extended argument* than in the former cases.

(1) We can here argue by referring to our dependence on one another, as to the trade of truth, as it were: We are all fallible and finite, and cannot possibly by ourselves check all truth claims; hence we need each other for second-hand knowledge. A scientific or scholarly community therefore *requires* these norms for mutual trust. Not that these norms are never broken or violated now and then, but they are needed as confidence constitutive norms for this form of inquiry.

(2) But we could also argue in terms of universal pragmatics, which requires the acquisition of communicative competence: Mutual trust is needed - which, again, does not mean that one denies the empirical fact that persons also behave untrustworthily in many cases.

Each of these two approaches ((1) and (2)) implies an extensive argumentation in favor of the constitutive nature of the basic norms of the ”communication” class.

Three points are worth making:

a) The discussion of such cases points at major philosophical questions, namely those of the relationship between the constitutive and the normative (the moral).

b) The way of doing philosophy is that of careful case-analyses, in order to see and to show - careful analyses, with respect for nuances (as we say: ”The Devil is hidden in the details”).

c) In carrying out such analyses of the various cases, we may see that the epistemic status is not always identical from one case to the next: We have indicated that we can say that all the four cases contain ”constitutive norms”, but we have to argue more extensively in order to show their constitutive nature in the latter case than in the three former cases, and the norms of the latter case can more easily be called ”moral” than in the former three. If this is true, it illustrates a variety of epistemic statuses for these constitutive norms, and it indicates that some norms can be called moral in a sense which the others cannot. Both points

are philosophically important: an epistemic variety within transcendental reasoning, and a gradual difference in relation to the moral element involved in these constitutive norms – two points that suggest radical answers to the question of the unity of transcendental reason and to the much debated question as to how constitutive features can also be morally binding norms. These answers are made possible by our ”modest” method: a skepticism for big talk in philosophy, for working abstractly with big concepts and positions, and a confidence in careful analyses of a variety of cases.

Fourth stage

Apel and Habermas are philosophers who have made the ”pragmatic-linguistic turn” as a change of position and as a learning process, but hardly as a change in the way of doing philosophy; for the latter point (the new way of doing philosophy) there is more to learn from Wittgensteinian praxeologists than from Apel and Habermas. But both of them (Apel and Habermas) took part in a valuable elaboration of speech-act theory towards a universal pragmatics, although the two of them ended up conceiving it somewhat differently.

Habermas conceives his own work as one of reconstruction. He does not try to elaborate arguments from absurdity, and he thinks that Apel’s transcendental arguments from performative self-contradiction has only limited validity, restricted to the argumentative activity itself, without sufficient strength in other forms of discourse and communication. Whatever this controversy might imply, both Apel and Habermas support the general view that a universal pragmatics can be established: a theory of speech-act immanent validity claims (intelligibility, truth, rightness, and trustworthiness), two of these claims (truth and rightness) being argumentatively ”redeemable”, namely, under ideal speech conditions, pointing towards an ideal consensus as a guarantee for truth or rightness. But Habermas has all along had greater problems with the latter claims than Apel has had, and partly for this reason Habermas has felt a need to support his weakened version of universal pragmatics with other theories, such as theories of socialization and conceptual-moral development,[31] and theories of cultural modernization and communicative rationality,[32] and theories of the normative impact of the legal institution in modern societies.

What remains unsatisfactory in Habermas, despite all these impressive theoretical projects, is the lack of conceptual clarity through case-oriented analyses. With all his skepticism towards traditional philosophical theories and positions he remains basically confident in his own work with vast and vague concepts. Case-oriented analyses, also for arguments from absurdity, are not part of his philosophical practice.

Apel works in a similar way, but with his transcendental-pragmatics. We will comment on Apel in the next section. But first we will make an observation about Habermas: Since Habermas doubts that transcendental-pragmatics can successfully be done the way Apel believes it can be done, and since Habermas does not see any praxeological way of improving the Apelian project, he proceeds with reduced philosophical ambitions and relies partly on the support of alternative social and legal theories, and partly on the usage of conceptual dichotomies in order to avoid epistemic relativism, and above all to avoid relativism concerning basic moral norms. Hence he has operated with stiff dichotomies between Man and nature, justification and application, norms and values – dichotomies that turn out to be problematic when analyzed carefully. To the extent that the Apelian approach, taking arguments from absurdity seriously, can be improved and strengthened by case-oriented and pluralist analyses, to the same extent the Habermasian approach could have been improved and led away from its conceptual abstractness and stiff dichotomies.

This remark leads to our next section, on the notion of pragmatic rationality, through an improved version of the Apelian project, improved through a mutual criticism with a praxeological way of doing philosophy, inspired by the later Wittgenstein. For the support of this claim, we rely on the learning processes delineated through the various stages of this sketchy narrative: from classical analytic philosophy (1), over to Wittgensteinian praxeology (2) and basic cognitive acts in the philosophy of scientific and scholarly inquiries (3), to a revised version of transcendental pragmatics (4).

Fifth stage

Apel is to a large extent a fallibilist and a defender of ”the many rationalities”.[33] At the same time he is an ardent defender of transcendental-pragmatic reasoning qua ultimate justification (*Letztbegründung*). In this sense he is certainly a foundationalist and a spokesman for *die eine Vernuft*, for the uniqueness and unavoidability of performative and discursive reason: We have to avoid performative self-contradictions!

It is important to see that Apel's reasoning is not deductive, but pragmatically self-reflective. This is precisely what is overlooked by those who raise the counterargument that Apel runs into the Munchausen-trilemma of regression, circle or decisionism.[34] In fact, Apel argues extensively by the *via negativa* of arguments from absurdity, that is, from performative self-contradiction. He points at performative self-contradictions as strictly meaningless (*sinnlos*), and through this insight he tries to formulate the norms or principles which are violated and which thus are pragmatic preconditions for meaningfulness.

However, Apel seems to assume that there is but one kind of absurdity (*Sinnlosigkeit*) and hence, that all performatively established preconditions have one and the same epistemic status, that of strict unavoidability (*Nichthintergehbarkeit*). But how do we know? I would say: only by looking carefully at the various cases, to see whether the various cases of performative absurdity are identical or whether there are differences among them.

This means that the pragmatic-linguistic turn should not merely be conceived as a change of position - away from the philosophy of consciousness towards a pragmatic-linguistic approach - but also as a change in the way of doing philosophy: more case-oriented, more self-critical as to the adequacy of one's own theoretical concepts.[35]

I would argue that if this approach is chosen, we would see that there is a certain plurality of ”absurdities” also in these cases.[36] But in this narrative we cannot discuss this hypothesis thoroughly. We will only take a look at some of Apel's own cases in order to indicate how this work could have been done.[37]

(1) ”I hereby claim that I do not exist.”
(2) ”I hereby claim to you that you do not exist.”
(3) ”I defend, as a claim for which there can be consensus, the proposal that we should in principle replace consensus as a goal for discussion with dissent as a goal for discussion.”

We here restrict ourselves to these three utterances, in order to make some preliminary remarks on the question of the relationship between unity and plurality in arguments of performative self-contradiction.

First point: in these cases the pragmatic claims are stated explicitly and incorporated into the linguistic formulation. Thereby the performative contradictions are easier to see, which might be an advantage; but at the same time they are given a semantic form, thereby making their performative status less visible (as it were).[38]

Second point: There are conceptual ambiguities. For instance, in the formulation ”I hereby claim to you that you do not exist”, the word ”you” is ambiguous. It may refer to a concrete person, capable of understanding what is said. But there are also many situations where this utterance makes sense even when the ”you” is not a person who is present and capable of communicating. Think of the possibility of moving gradually towards the newly born or the newly deceased; in these cases, too, we can use a ”you”, even though this “you” is not a person with whom we can communicate verbally. (But maybe the term ”to you” is added just in order to indicate that in this case the ”you” should be conceived as a present person with whom one can communicate verbally.) This ambiguity influences the question of the “unity or plurality” of the absurdities created in the two first utterances.

To elucidate this ambiguity it might be useful to remind ourselves of the distinction between (i) *the borderline cases* of the ”acquisition” class and (ii) the cases of this (acquisition) class that are related to ”communication”: The first utterance (in our list of cases from Apel) can be seen as an example of a ”must” (of an obligatory shall), which is constitutive in the strong sense of the borderline cases of ”acquisition” class, since the existence of the person who speaks represents a truth that this person *has to accept*. But the existence of ”you”, of the other person, is not unavoidable in the same sense, even if we accept that the capability to use personal pronouns is internally related to our communicative competence (as it is

established in transcendental pragmatics). The affirmation of the existence of ”you”, of ”you” as a person, depends on further arguments (showing that this “you” does exist as a person). Conclusion: The absurdities of these two utterances (in Apel’s list) are not identical. Consequently, the constitutive preconditions for meaningfulness established by pragmatic contradictions are not epistemically identical either. Hence, if this argumentation is tenable there is a plurality inherent in the pragmatic-transcendental justification.

The last utterance on the list, on consensus as the goal of discussion, is theoretically more complicated than the two first utterances. One could here claim, opposing Apel on this point, that the role of the better argument would suffice and that the term consensus is here inconvenient, since it is ambiguous and since some reasonable interpretations of this term are philosophically problematical.[39] Briefly stated, the question is not: ”should we have consensus or dissent as a goal for discussion?” (which is suggested in the third utterance). Consequently one should look for better ways in which the term consensus could be used in transcendental pragmatics.

General point: The lack of situatedness makes it hard to cope with the ambiguities of the terms that are used in Apel. To this objection Apel could answer that these cases are meant to be idealized cases: the points of universal pragmatics are located in the deep pragmatics competences. This answer is to be taken seriously, but then the proponents should also feel obliged to show by careful analyses how the relationship between the deep level and the everyday level could best be conceived.

The following two questions are crucial in this connection: What is a concept? Where are the concepts? For, if one chooses to start with high level concepts, tied up to theoretical positions, one gets the problem of how to apply them to concrete situations where real speech acts are performed. The varieties of language usage in actual speech acts may then appear as ”merely empirical” and may therefore not be taken seriously on the philosophical level. However, this is exactly the position-oriented way of philosophizing that has been questioned ever since the pragmatic-linguistic turn, in favor of a more case-oriented and conceptually self-critical way of doing philosophy: When concepts are seen as inherent in our practices, and in our philosophical practices, then concepts are not something we merely possess through some theoretical position, but something that we time and again have to elaborate from the practices in which we are involved.[40] Certainly, these are tricky problems. Theoretical positions and perspectives are important for the concepts we use in order to cope with the world and try to see things straight. Yet nor should the varieties of our conceptual usages be overruled and overrun by some conceptual schemes taken from some theoretical position.

My argument consists in pointing to the need, in philosophy, to pay attention to the actual and plural usages of concepts in various kinds of situations. In short, I am warning against a strong confidence in the superiority of one’s own explicit and theory-bound concepts. Therefore, critical questions should be raised as to the claim that there is but one kind of performative absurdity and hence that the epistemic status of the established preconditions is one and the same in all these cases, that is, as to the view that all performative contradictions are strictly impossible and all transcendental-pragmatic preconditions strictly necessary.

To the extent that this argumentation is tenable, it does not mean that transcendental-pragmatic reasoning is weakened. It means that this kind of reasoning is less ”unitarian” and more plural. It could even be said that this argumentation strengthens the transcendental-pragmatic project since some of the counterarguments are taken well care of by this pluralistic and case-oriented way of doing the job. If so, we have pointed towards a more promising way of dealing with the question of justification of basic norms and of communicative competence, including communicative rationality.

Sixth stage

It is time to conclude: (1) In this reconstructed narrative of the learning processes leading up to a notion of a modern pragmatically conceived rationality we started within classical analytic philosophy, paying attention to its argumentative virtues, with special focus on arguments from absurdity as a genuinely philosophical way of doing conceptual analyses, at the same time as a plurality and even a certain graduality could be pointed out in the interplay between empirical falsity and philosophically established absurdities. (2) In the case-oriented analyses of basic human acts, undertaken by followers of the later Wittgenstein (the

praxeologists), one pays attention to the pragmatic dimension, not primarily the semantics – as one way of making the pragmatic-linguistic turn – thereby trying to show the factors that are constitutive for meaning, inherent in the different acts. (3) In order to focus on modern cases, not primarily on simple acts from craftsmanship, we moved on to the pragmatic analysis of the constitutive norms of scientific and scholarly inquiry, including argumentation, referring to the gradual interplay between the primarily constitutive nature of some such norms and others that are also moral by nature. (4) Continuing the reflection of the nature of pragmatic preconditions we approached the attempts made by Apel and Habermas to establish a pragmatic conception of speech-acts and communication. Speech-act inherent validity claims are crucial for both. To avoid some of the counterarguments raised against the strict version of transcendental-pragmatics as in Apel, Habermas has elaborated various theoretical approaches. However, leaving the strictly transcendental argumentation aside, he has tried to avoid relativism by insisting on dichotomies of various kinds. Nevertheless his dichotomies, his high level theorizing in relation to social sciences and his relative neglect of genuinely philosophical arguments in favor of his normative notion of rationality and communication are all under attack - this criticism implies that Apel's approach remains a challenge to Habermas. (5) But to strengthen his philosophy, Apel would have to pay more attention to a conceptually self-critical and case-oriented way of doing philosophy; thereby his somewhat essentialist and monolithic philosophy would have to be changed in favor of a more plural and flexible way of doing philosophy and of conceiving philosophical insights.

Concluding remarks

These are the main steps of a retrospectively reconstructed learning process, which maybe also delineates some decisive stages in the development of modern philosophy – and if so, all the more it might also be of a more general interest.

In order to indicate how this conclusion can be related to the ongoing debate not only of rationality, but also of modernity in general and of modern moral identity in particular, a few remarks should be added:

I take it that rationality, pragmatically conceived, is *one* and *universally binding* – first of all of strictly self-reflective reasons, but also because it can be argued by extended conceptual arguments that pragmatically conceived rationality is common to and unavoidable for all persons, as autonomous human beings. But its ways are fallible, and there is a *plurality* of perspectives and few syntheses, and always an urge for improvement, at least to avoid what can be shown to be less well established. In this sense our common and binding reason points to a dynamic "meliorism", nourished by the "force of the negative", the overcoming of weaknesses and shortcomings, rather than by an ideal of the one and final answer.

For performatively self-referential reasons we are bound by the better argument, and by the ongoing search for the even better one. As finite beings, in need of others for our socialization through role taking and for our search for better arguments, we are also obliged to try to include the others in our discussions and to recognize them as rational and fallible, and as vulnerable in a morally relevant sense, both bodily and as to our social identities.

These transcendental-pragmatic preconditions for the discursive and public use of reason implies *a peculiar modern identity*: Reflective and decentered, since we realize our fallibility and perspectivity, but at the same time also firm and flexible – firm to hold on to the better argument for the time being, resisting social temptation and pressure, and flexible to change when the arguments appear to be otherwise than we had seen so far. In this respect there is also a mutual egalitarian recognition: as fallible persons we are all basically equal, in our reason and finitude, and in our vulnerability.

But there are also those who are morally vulnerable without being persons present in a qualified sense. In biomedical ethics, in reflections on future generations, in reflections on biotechnological possibilities, and in our treatment of other sentient beings, we should extend our ability of role taking and give these beings a fair "advocatory representation" in our practical discussions. There is here a graduality as to the nature of our identity-formative role-taking, from persons, throughout humankind, to other sentient beings.

Modernist or postmodernist? Universal pragmatics or contingent pragmaticism? Anyhow: ideological simplifications and basic relativism, conceptual blindness and moral insensitivity, narrow-minded religious fundamentalism and arrogant cynicism – in the name of our pragmatic and public reason these tendencies should be fought, again and again. Modernist simplifications and naive optimism on behalf of the modern project will have to be criticized, and so will postmodernist looseness and fundamentalist idiosyncracies. These positions and the social identities that they create and by which they again are supported, will have to be criticized, again and again, in professional arenas and in media and politics.

Rationality in modern times? That is a task for philosophers, for sure - but not merely for them. It is also a challenge for scientists and scholars, for intellectuals, for all citizen of the world, each in his or her situation, in their lifeworlds and in the various modern institutions.

What have I done, so far? In a sense, fairly little; in another sense, rather much: I have told a story, to show where I am standing and how I got there: the place, the landscape and the way – *topos* and *odos*, as the Greek have it – *meth-odos* being the path by which one proceeds.

All along, at each stage, more work has to be done, and that is no one-man-show. And for those who follow, there is certainly more work ahead, of various kinds, for our various roles and according to our different capabilities.

This, it seems to me, is our task of the day, and for the days thereafter, our Sisyphus task – beyond optimism and pessimism, but conscious of who we are, though not knowing why we are, nor where or when it all will end. Exciting, to say the least. And as Camus reminds us: we should think of Sisyphus as being happy.[41] The challenges of the modern conditions have to be faced and fought, again and again.

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[1] This is a revised version of a chapter in the anthology *On Pragmatics*, ed. Gunnar Skirbekk, Skriftserien nr. 20, Department of Philosophy, University of Bergen, 2002 (ISSN 0802-4065, ISBN 82-90809-39-5), p. 217-235. German version in *Philosophieren aus dem Diskurs*, eds. Holger Burckhart and Horst Gronke, Würzburg: Königshausen & Neumann 2002, p. 89-104. French version in *Noesis – revue de philosophie*, 1(5) 2003, p. 25-58. Russian version in *Scepsis*, 3-4 2005 (ISSN 1683-5573), p. 130-139.

[2] Philosophically, this awareness of crisis is a Nietzschean point; politically and existentially it is paradigmatically rooted in the experiences of the Nazi regime. This experience of deep crisis is not merely a German experience, but an experience of crisis of modernity. As such it has to be taken seriously, and in this respect it does not suffice to reply that "I am a North-American" (cf Richard Rorty). However, this crisis should be taken seriously as an intellectual and political predicament of modernity, and that is precisely the underlying motivation of Apel and Habermas: their universal pragmatics is an attempt to overcome deep skepticism and nihilism, theoretically and in reality. Those who do not recognize this challenge, will hardly see the point of this attempt of a universal-pragmatic justification of basic universal norms and of communicative rationality.

[3] Cf Habermas' recent book on the legal and intellectual requirements for equal justice for all, religious and secular persons alike, and for a dialogue between different belief systems ("comprehensive doctrines") in pluralistic modern societies, cf Habermas 2005. According to Habermas the necessary "modernization of religious consciousness" includes three imperatives: one has to relate self-reflectively to other religious beliefs and competing doctrines, one has to realize the institutionalized monopoly of modern science concerning secular knowledge, and one has to recognize the priority of secular reasons in legal matters. (Habermas 2005, p. 143.)

[4] For instance in a public paper signed by Blair and Schröder, in which the term "modern" and its derived linguistic forms are used 25 times in 17 pages (in the German version) - in addition to a frequent use of the term "new" and its derived forms.

[5] Cf *la querelle des Anciens et des Modernes* (1688-97).

[6] Or, not quite: my first publication from the late fifties, with the title *Nihilisme?* (Skirbekk 1958), raises the question of the meaning and the normative foundation of human life. Its historical background is the contemporary experience of crisis (in philosophical terms: the problem of evil), its style is that of post-World-War-II existentialism, and its epistemic problem is that of modern self-reflective skepticism. (According to Kohlberg's developmental scheme, in Apel's and Habermas's interpretation: "stage 4,5" – in short, something close to a Nietzschean position.) In short, my starting point was that of crisis, epistemological and normative. The analytic approach came later.

[7] Cf Skirbekk 1993. For the term "praxeology", see also *Encyclopedia of Philosophy*, London: Routledge 1998.

[8] Such as Wittgenstein or Rorty.

[9] Like Apel and Habermas.

[10] Such as in Habermas.

[11] As in Apel.

[12] Cf the claims made by Apel, discussed later in this paper. For my critical view, cf Skirbekk 1993. Cf also Wellmer (e.g. 2004).

[13] Be they Serbs, communists, fascists, capitalists, male chauvinists, or Muslim terrorists.

[14] It also implies traveling, which in a philosophically relevant sense may open for creative encounters with thinkers from other philosophical traditions and with another training.

[15] In reality my way into philosophy started with existentialism. What follows is a simplified and reconstructed narrative, that could be read as a "key" for my book Skirbekk 1993.

[16] As in the cases above.

[17] For this philosophical use of the term "reductio ad absurdum", cf Ryle 1945.

[18] Cf Meløe "The Agent and His World", in Skirbekk 1983, p. 13-29.

[19] In the terminology of Meløe: they represent the "tautologuous" body (for this kind of activity).

[20] The agent knows what s/he has to know in order to do what s/he does.

[21] This kind of act-oriented analytic philosophy could thus be seen as a phenomenology, not a phenomenology of the kind that reflectively talks about all the preconditions for undertaking a phenomenological analysis, often without really doing it *in concreto*, but a phenomenology in the sense that constitutive features of acts, with agents and objects, are carefully described. Furthermore, in Meløe's praxeology, a critical point is made against Arne Næss's "possibilism" of the 1950s (cf Næss in Fjelland 1997, p. 32-51). Whereas Næss at that time argued that there are different possible "total views" without any neutral ground for a rational choice among them (cf the later debate around Kuhn's paradigms), and that the lifeworld is too imprecise for philosophical analyses, Meløe tried to show that there are constitutive features in lifeworld activities; not everything is merely possibilism, decisionism and contingency (cf Rorty's view on contingency, similar to Næss', but published at a later date, Rorty 1989).

[22] Being constitutive conditions for some specific kind of action.

[23] Cf Meløe's description of the berry-picker in his landscape, in his essay "The Agent and His World", reprinted in Fjelland 1997, p. 77-92. This description represents *reductio ad absurdum*-argument directed against a physicalistic conception of human actions, and also against an attempt to supplement physicalistic descriptions with intentionality. In this sense we have a case of *Sinnkritik* (Apel): Preconditions (for meaning) are demonstrated by the *via negativa* of a *reductio ad absurdum* (see Skirbekk 1993, ch. III). In Meløe's praxeology we encounter cautious analyses of constitutive ("tautologous") factors for *particular* acts (such as the

making of a pair of ski boots size 43 with the help of a given technology), but also analyses of constitutive factors that are unavoidable for *all* manual acts (such as our basic act-inherent knowing, located in-the-world). The latter point indicates a "fundamental praxeology" (reminding of Heidegger's "fundamental ontology"), and hence the Wittgensteinian tradition should not always be interpreted as contextualist.

[24] Concerning the possibility of a biotechnological reconstruction of Man, leading towards "superman", see: Lee 1999.

[25] Cf Tranøy "Norms of Inquiry: Methodologies as Normative Systems", reprinted in Fjelland 1997, p. 93-103.

[26] Such careful and case-oriented analyses may help us to spell out the interplay between the *constitutive* and the *moral* nature of the various norms, which is a point of special philosophical interest. See later on the interplay between methodological rules, some primarily constitutive, without a moral status, others also with a moral status. As a counterview, cf Ilting 1994.

[27] One possible candidate for p is "2 + 2 = 4" (another, a false one, is "2 + 2 = 3"). These are special cases (in the first case p is clearly true, in the latter it is clearly false). These cases illustrate well that we are bound to accept what we see as true (but they are hardly good examples to illustrate that we should not lie; what could possibly be a reasonable situation to make sense of the false claim that "2 + 2 = 3"?). But often we are not so sure (that a given p is true); cf Tranøy's comments in "Pragmatik der Forschung. Methodologien als normative Systeme", in Böhler 1986, p. 36-54.

[28] NB This is an attempt to articulate norms of scientific and scholarly argumentation, not of everyday behavior.

[29] Cf Tranøy in Böhler 1986, p. 36-54; quotation p. 43. (Transl. G.S.)

[30] But there are borderline cases of "lying to oneself", cf for instance the cases discussed by Jon Elster in "Belief, Bias and Ideology", in Hollis 1982, p. 123-148.

[31] Using for instance Lawrence Kohlberg.

[32] Elaborating for instance the works of Max Weber.

[33] Cf Apel 1996.

[34] Cf the criticism made by Popperians such as Hans Albert. Recently also in Keuth 1993.

[35] In that sense, more hermeneutical.

[36] Cf the arguments for similar pluralities in classical analytical philosophy (working with category mistakes and contextual inconsistencies).

[37] The cases are taken from Apel, "Fallibilismus, Konsenstheorie der Wahrheit und Letztbegründung", in Kuhlmann 1987, p. 116-211. See also Matthias Kettner, "Ansatz zu einer Taxonomie performativer Selbstwidersprüche", in Dorschel 1993, p. 187-211, especially note 10 p. 196-197. Kettner rightly comments on the strange formulations and the lack of careful analysis in Apel.
I here present, in my translation, Matthias Kettner's taxonomy and selection.
Dialogue-inherent, necessary existence-presuppositions:
(Existence of speaker)
"I hereby claim that I do not exist".
(Existence of addressee)
"I hereby claim to you that you do not exist".
Discourse-inherent validity claims:
(Intelligibility claim)
"I claim with an intelligibility claim that I do not make an intelligibility claim".
(Truth claim)
"I claim as true that I do not make a truth claim".
Discourse-inherent interpersonal relations:
(Equal rights)
"I claim that I do not have to recognize the equal rights of all possible *[denkbaren]* partners of argumentation".
(Free acceptability)
"I hereby claim as intersubjectively valid (= as freely acceptable to any discourse partner) that I do not have to recognize the norm of free acceptability of claims".
(Freedom from violence)
"I claim that all usage of language – also argumentation – is nothing but a practice of power".
Discourse-inherent goals:
(Consensus formation)
"I defend, as a claim for which there can be consensus *[als konsensfähig]*, the proposal that we should in principle replace consensus as a goal for discussion with dissent as a goal for discussion".

[38] This is not a criticism of semantics as such. But in this connection it is important to emphasize the difference between a pragmatic and a semantic approach.

[39] Cf for instance Grimen 1997.

[40] Cf Kjell S. Johannessen, "Rule Following, Intransitive Understanding, and Tacit Knowledge", in Fjelland 1997, p. 205-227.

[41] Cf the Greek myth of Sisyphus, who was condemned by the gods to carry a heavy stone up a steep hill, from where it always rolled back. (French original: *Il faut imaginer Sisyphe heureux*.)

A Crisis in the Humanities?
The challenges of culture in modern societies[1]

Questions are nowadays raised at regular intervals by those doing research in the humanistic disciplines about just what they are engaged in: whether we face a crisis in the humanities. Seminars are duly organized and committees appointed. As for the conclusions drawn, they are by and large expressive of a certain feeling of relief: it isn't, after all, the humanities that are in poor shape - quite the reverse, research and publication go ahead as never before - but money that is in short supply and academic posts that are few and far between. That's where the real crisis is to be found: at the universities, in the school system and in the social situation in general. The apparent crisis in the Humanities turns out to be a letdown on the economic front, a budgeting fiasco. Which in turn is all of a piece with a deplorable buckling of prestige patterns in favor of more practical kinds of expertise, whether technological, scientific or related to the social sciences.

The seminar participants and committee members can accordingly wander away, reassured, in their several directions after delivering themselves of the requisite screeds concerning the paramount importance of humane studies both for the individual and for society at large.

These pleas in defense of humanistic research vary somewhat in the paths they elect to follow. We offer a brief resume of some of the better represented viewpoints. Scholarly activity, like all other activities, has to be able to establish its credentials; it's partly a matter of being allowed to carry on with what one is doing, partly of actually getting financial support towards doing it. The key problem nowadays for humanistic research is that of establishing its credentials where financial backing is at stake.

There are, broadly speaking, three kinds of argument that are pressed into use to establish the credentials of scholarly activity: a general one, applicable to any such activity, and two that bear differently upon different kinds of disciplines.

The generally applicable one urges the value of truth in its own right and of the pursuit of truth in *its* own right. There is a permanent place for this argument, but it will not be pursued here. Then we have two types of argument whose relevance varies with the special field of research: that research is *useful* and that it is *culturally formative (bildend)*. It is arguments of this sort that claim our attention here, since it is in this respect that humanistic research is found to have its own special character.

When we here speak of research being useful, we have in mind the argument that research puts us in a better position to get done the things that want doing. Research can be usefully applied in the sense that the outcome of the inquiry can be put to use in a purposively rational connection; used, that is, as a means of bringing about something we (society) consider desirable. Thus the physical sciences, carried over into applied technological research, enable us to construct better bridges and aircraft, better houses and factories. This argument in terms of purposively rational usefulness, then, craws its strength from the fact that such research is quite simply sound business - something it pays to put money into.

True enough, this argument too takes on a more dubious aspect as we switch from applied to fundamental research, and is seen increasingly to cut both ways as we come to appreciate how many of the end-products of research for which there is a positive use can just as well be turned to destructive purposes; and this of course goes for the entire gamut of research results from nuclear physics to molecular biology.

But what really matters for us in this connection is the fact that humanistic research

cannot be put to use in this purposively rational sense, so that only the educational argument remains when it is humanistic research that has to be justified. Let us look a little more closely at the reason for this.

A branch of natural science such as classical physics is, methodologically considered, built up around laws that can be applied in carrying out purposively rational operations; a humanistic discipline, on the other hand - literary history, say - furnishes no such laws. The dividing line, we might say, falls between those disciplines which can be accommodated under Hempel's explanatory model and those which can't.[2]

We may sum up Hempel's celebrated thesis by saying that scientific explanation takes the form of a logical inference from given initial conditions together with general laws. His classic case in point is the car radiator that froze up. An explanation of this occurrence is made up of (1) that we make sure that certain initial conditions were met: the car was left out on the night in question, the temperature dropped below zero, the radiator was filled with water, the radiator is able to stand only a certain pressure, (2) that we are aware of a general law to the effect that water expands during freezing with a certain force, and (3) that we accordingly conclude (from 1 and 2) that the radiator was bound to burst that night. What here serves to explain something that's already taken place, can just as well be used to predict what is going to happen: *if* you leave your car outside on a frosty night with a certain amount of water in a radiator that won't stand up to pressure, and *if* we know that water expands at high pressure during freezing, *then* we can predict that your car radiator's going to burst. But that's only another way of making the point that you can *use* your acquaintance with this law to get your radiator to burst if that's what you want. So the law about water expanding during freezing can be *useful* in a rationally purposive connection. There is, in short, an internal relation between explanations, predictions, and technical maxims of this kind. Which is only another way of saying that those disciplines which come under this model of scientific explanation *can* be supplied with credentials via the usefulness argument.

A discipline such as literary history operates with no such laws, and disciplines of this kind *cannot* therefore rely on the usefulness argument for their credentials, but only on the cultural one (along with the argument, shared by all disciplines, about the intrinsic value of truth and the pursuit of truth).[3]

It is not suggested that disciplines like physics can have no cultural value. There are ample grounds for claiming that all scholarly endeavors are culturally rewarding *(bildend)*. We merely point out that such disciplines as literary history cannot be put to purposively rational use, and can consequently invoke only the cultural-benefit argument.

Much more might of course be said on methodological issues. But for now, enough is enough. We take it, moreover, that what we have said about scientific laws and forms of accreditation is relatively non-controversial.

We shall take this a step further, and assert that the humanistic disciplines admit of being negatively characterized as those not catered for by Hempel's model. This commits us to nothing about what positive characterization, if any, might be given to humanistic disciplines. This we will come back to. Nor do we propose to enter into a discussion of the extent to which Hempel's model is to be counted adequate vis-à-vis both the natural and the social sciences. Suffice it to say that to whatever extent explanatory ingredients of Hempelian type enter into what is traditionally regarded as humanistic research (e, g., historical research); these ingredients will have to be classed as non-humanistic.

On this basis, we are inclined to contend that humanistic research can establish its credentials only by means of the cultural-benefit argument and not by means of the usefulness argument. But it should be remembered that we here use the concept of usefulness in a distinctive way, associated with goal-directed rational operations. For it is evident that that kind of cultivation *(Bildung)* which the humanistic disciplines can bestow is likewise

"useful", for so much as a community has among its prerequisites the need for some sort of cultural base; a community demands, for instance, that those who live in it shall have a certain minimal acquaintance with, and identification with, the local language and local tradition. This is of great significance. The distinction between "useful" and "culture conferring" disciplines is not one between those that are requisite or desirable for meeting the community's functional demands and those that merely contribute to the delectation and edification of the individual, so enabling him to achieve self-fulfillment in ways that don't concern the community. It marks a sad decline in the Humanists' self-comprehension that the humanities should be defended from such a recreational standpoint. To base one's thinking on the distinction between work and play, and to locate the humanities on the recreational side (seeing them as individual consumption of cultural commodities) is to completely overlook the social indispensability of educatedness and culture. It is to be blind to the vast potential of the humanities for being socially "useful".

There is naturally more to be said about the concept of usefulness; about, for example, what is useful to *whom* - and we do not only have in mind the various political alignments and their divergent objectives, but more especially the question of who makes a plea for genuine, who for spurious needs, and who genuinely seeks to preserve the internal relationship between person and tradition. It is, moreover, as many will be aware, highly problematic to apply the concept of usefulness to that which useful things are useful *for*. Life is neither useful nor useless—any more than the time is seven or seven-thirty on the sun. Looked at in this way, the cultural refinement of those persons and that culture for which all the initiatives of goal-directed rationality are useful is itself neither useful nor useless. The point we were making above, however, was that lack of culture can be socially counterproductive - quite apart from the fact that an unnecessarily low level of cultural refinement is in itself to be deprecated.

It is appropriate at this point to say a little more about what we include in the concept of culture. Let us first note in passing that the sciences' cultural potential can be analyzed both in terms of scientific enquiry as an activity and in terms of science as an end-product. As already remarked, all scientific activity contributes to culture and cultivation by virtue of its requiring a questioning confrontation of phenomena and a mutual acceptance of fellow researchers as being both rational and fallible. We shall not now go into further detail about this,[4] but confine ourselves to emphasizing that the enterprise of research calls for a special assignment of social roles to the researchers. This, in fact, is one of the reasons why the systematic pursuit of truth may be said to be a good thing. But over and above the cultural benefits which accrue to the participants in the research process, we can also have cultural profit from enjoying the fruits of scientific enquiry. We are here thinking of culture *(Bildung)* partly as the result of acquiring knowledge, partly as the result of shaping one's own identity by assimilating the social pattern into which one fits as member of a given community. Thus both enlightenment and the assumption of a social role are involved. The deeper significance of the concept of culture and cultural refinement can be said to be connected with the aspect just mentioned, that of self-development.[5]

Yet when the matter is thought through, it soon becomes evident that there is a connection between enlightenment and the assumption of a social role. To assimilate scientific results in such a way that one really understands them is not at all the same as to learn to recapitulate isolated, disconnected truths, it requires us to in some measure appreciate the way in which the scientific result was attained (recognizing the operative methodological presuppositions and conceptual perspective), so as to see the result in its proper context, to acquire, that is to say, a full and complete grasp of what is and is not being said. But this precisely adds up to a demand for reflection reinforced assimilation - an exercise with its own culture-transmitting value. And in this respect we are entitled to say that an excessively sharp

dividing line between science as an activity and science as an end-product is a mere fabrication, since the latter presupposes the former, not least for the "users" themselves. But this amounts to saying that we have arrived in all probability at a certain parting of the ways between the humanistic disciplines and the rest: in the former, the end-product is in an even more fundamental sense accessible only to those who "play along". There is only one way to become a "user" of the end-product of research into literary history, and that is to immerse oneself in it. Whereas one can perfectly well make use of the end-product of technological research while having at most a sketchy insight into it—much as one can press a switch and turn on the light without knowing the first thing about electricity.

In general, then, we may say that all science can serve to transmit cultural values, partly by teaching us to distinguish between what we do and do not know, between sound and unsound supporting instances, and between arguments and the grounds on which they rest at various levels; partly by teaching us something about cultural, social and physical phenomena. Humanistic studies perform their special cultural function by treating man as a cultural agent. To bring out just what we are getting at here, let us call to mind the way in which, broadly speaking, the various disciplines tie in with the historical emergence of distinct institutions.[6] The emergence of the economy as an institution (in the developmental sociologist's sense) coincides with the operational progress of goal-directed rationality, and this, as industrialization sets in, goes hand in hand with technological advances that continually draw on the natural sciences for their support. In parallel with this goes the development of politics as a distinct institution: whereas the operations of goal directed rationality in the economy are regulated by money, its operations in the political arena are shaped by the legally sanctioned exercise of power via a judicially controlled administration. Economics, law, and in due course social science, get involved with these institutions. The entire field of operations concerning primary socialization and handing down of tradition was for a long time in all essentials virgin territory compared with the institutionalized domains of economy and politics - virtually untouched by the plans and actions of goal-directed rationality. Yet all along it was a social necessity that these cultural functions be performed, if only so that the economy and the political system should be supplied with articulate spokesmen whose cultural identity and loyalties could be counted upon. The emergence of the domains of art and culture as distinct institutions is of relatively recent date, just as is the attainment of distinctive status by the humanities.[7] This cultural sphere, which was originally catered for by linguistic-normative "handing down" (mainly in the family and in the immediate environment) has been subject to increasing political intervention, typically by jurisdiction concerned with schooling and family life,[8] as well as to economic forces, as when cultural phenomena are commercialized or given a twist convenient to the media.[9] Indeed, there are a number of reservations that must be made in using such concepts from developmental sociology as "differentiation" of "institutions" peculiar to politics, economy and culture. But what needs to be stressed in the present context is how the various branches of research are linked with professions which in their turn link up with developments in various fields; seen in this perspective, the humanities contribute neither to the furthering of industrial production nor to management and administration, but to the consolidation of culture as an institution in its own right.

We can illustrate what is distinctive of humanistic research and its subject-matter by distinguishing between "intersubjectivity" *(Lebenswelt)* and "system".[10] The distinction we here want to make is one between actions primarily governed by internalized norms and mutual understanding and actions primarily governed by a model of goal-directed rationality (system). This is used as the basis for distinguishing between traditional and modern communities. Actions and transactions were originally constituted via norms and concepts which the agents simply took over - caught on to and accepted—and which each individual

was aware that the others latched on to and accepted. This meant, in effect, that there was a conviction-carrying background consensus. Economically based division of labor, on the other hand, meant that the diverse functional roles and the associated norms and concepts came to depend on the way division of labor was structured. Everyone now sought to buy and sell commodities, working capacity included, each participant in the various activities attempting to maximize his own advantages through acts of goal-directed rationality motivated by needs and interests that were looked on as naturally "given". In the framework of "intersubjectivity", actions owe their identity to the concepts and norms in terms of which the agents understand each other. Within the "system" however the interplay of actions and transactions can for one thing be analyzed via a game-theoretic approach.

The point now being made is that humanistic studies relate to man as creative agent in the world of intersubjectivity - a world constitutively dependent on a background consensus of norms and concepts, not to man as a system-directed agent. We shall shortly pursue this point in greater depth, but it may not be inappropriate first to remark on possible levels within the world of intersubjectivity such as "culture", "community" and "identity".[11] These three levels may be said to be simultaneously present in intersubjectivity, not least because of their reciprocal dependence, but for analytic purposes each can be taken in its turn. "Culture", then, stands for the conviction-transmitting, "community" for what is structured by mutual norms, and "identity" for the shaping of the individual ego. Different theoreticians can be said to have concentrated on one or other of them - Heidegger on culture, Durkheim on community and Fromm on identity, to mention just three. The corresponding crisis phenomena are loss of meaning (life is felt to be hollow and pointless), weakening of solidarity (normlessness, anomie, supervenes), and finally crises of identity ("otherdirectedness" and weakening of the ego).[12]

Gathering up the threads, then, the real point of these distinctions taken from developmental sociology is to emphasize the place occupied by the humanities in our historical and social framework. We are including under "humanities" both humanistic research and its subject-matter. Up to now, our comments on the methodological basis for such research have been confined to saying that humanistic studies are not grounded in the Hempelian model with its invocation of laws. Using the concept of intersubjectivity *(Lebenswelt)*, we can now give some positive indication of what humanistic studies essentially are. Once it is granted that intersubjectivity's world takes shape via actions and attitudes based on mutual recognition and acceptance of concepts and norms by the agents involved, the way is open for research aimed at tracking down and giving an account of these norms and concepts. And this of course is the very foundation of "understanding" research.[13]

As members of the community we have, *ipso facto*, a certain access to the horizon of signification that comprises the world of intersubjectivity, and this is something we researchers can explore much more fully by a thorough scrutiny of our sources, supplemented by analysis and reflection, in an unending discursive spiral of inquiry.[14]

Within this range lie historical studies (so far as these do not incorporate explanatory devices from sociology and political economy), linguistics, comparative literary studies, aesthetic disciplines and philosophy, not to mention phenomenologically oriented social anthropology and psychology. Now, each of these branches of scholarship can evolve its own specialized and theory-laden concepts, concepts which go far beyond what is immediately comprehensible given the thought horizons of the current intersubjective context. The theories of linguists and philosophers spring to mind in this connection. Our present claim goes no further therefore than saying that the *point of entry* to humanistic studies must be accessible to people who inhabit the relevant intersubjective world (assuming them to be of normal competence, articulateness and willingness to communicate). But we do make a stronger claim than the commonplace thesis that all forms of learning must in principle be accessible to

others than those directly engaged in them (at least for those who will take the trouble to "do their homework"). In the first place, the absolutely basic credentials of humanistic research, which takes its stand on the bestowal of culture, will be drastically weakened if such learning cannot be acquired by those not engaged in it: whereas the utility-disciplines can establish their credentials by turning out packaged end-products along with an appropriate set of operating instructions for the uncomprehending masses, humanistic scholarship must constantly endeavor to put out its results in such a way that a reasonably large section of the public can keep abreast of what is going on. Secondly, it remains true that the effective substrate for concept formation in humanistic studies is more intimately related to the concepts present in intersubjectivity than are the concept-forming bases of other disciplines. Not that we would deny that the natural sciences, for instance, lean quite heavily upon mutual comprehension on the intersubjective level (as when researchers make arrangements with each other), nor are we forgetting that scientific concepts can carry over into daily life, so that it isn't only the sciences that are beholden to the concepts of intersubjectivity, but also the intersubjective world that is beholden to the sciences. What we do insist on is that humanistic research must always orient itself in relation to the horizon of intersubjectivity, whatever further processing and theoretical refinement the relevant concepts may undergo. This contextual frame is constitutive for humanistic research: the scrutinizing of deeds, attitudes and dealings on the intersubjective scene—starting out from those concepts which explicitly or implicitly play a central part in the agents' own understanding of themselves and their situation—is just the sort of thing for humanistic research to tackle.

This entails that humanistic studies are in a large measure descriptive. As, for instance, with the narrative presentation of doings and happenings in historical disciplines. The task here is to track down some problem, then put them in the form of a comprehensible narrative - comprehensible in the sense that it enables one's readers to relive the events in their own persons. Where the mental horizon of the historians differs from that of the parties involved, the task is one of reflective transposition from the one horizon to the other. While should the reader in turn relate to a third horizon, it will be up to him or her to perform comparable transpositions relating his own horizon to each of the other two. This again illustrates how the humanistic disciplines demand of the reader that he "go along", and how they involve, at the same time, a "cultural enhancement" *(Bildung)* of the reader, since this "transposition" is a process of personal involvement which imports a person's own identity and cultural background into the cognitive process.

Now, it is well known that there are numerous problems of principle involved in the writing of history, that, for example, of discovering the implicit intention behind what the persons involved said and did - of "understanding those involved better than they understood themselves" - either by seeing events in a wider perspective than the protagonists were able to, or by invoking ulterior motives and incentives, even using concepts beyond the ken of those involved, in order to win internal consistency for one's account of events. But even if such a strategic entertaining of suspicions is often quite legitimate and indeed unavoidable, it in any case invokes a mental horizon of conceivable mutual understanding between protagonist and researcher—and the ultimate aim is to enhance such understanding.

Structural analyses in linguistics, as indeed in philosophy and literary studies, may as already remarked go far beyond the conceptual horizons to which the "agents" (language-users) themselves relate on the intersubjective scene. But the point here is to get at implicit presuppositions behind what is done, said and thought, whether in a particular culture (or context), or more generally. Thus understood, we stick to what we have said, counting these disciplines too among the humanities.

The humanistic disciplines will in many cases have a restricted body of facts under scrutiny—the works of Ibsen, perhaps, or the sculptures of Rodin. And even though there can

here be no question of turning up fresh facts, the humanistic disciplines can still do serious research on such topics by reinterpreting the given material against ever new backgrounds and interconnections, including new patterns of insight arising in the researcher's special time and place.[15] So that we have an unfinished, open-ended epic of interpretation, taken up as every new page turns, rolling forever on as a give-and-take dialogue between the original work and the ever evolving traditions of interpretation.[16]

It is after all evident enough that literary studies, art history and other special disciplines accounted "aesthetic" can also engage in the qualitative assessment of works under consideration without abandoning their anchorage in intersubjectivity and argumentation. This is basically due to the interplay between the circumstantially assigned values and norms attached to the mental horizon framing the original work and those values and norms which have been evolved by the interpretative tradition. What has to be understood here is that concepts, norms and values alike are constitutive elements in intersubjectivity, so that particular phenomena and particular actions within a specific intersubjective world-context owe their very identity to these elements - elements which are at one and the same time conceptual, evaluative and normative, much as "goal" and "corner" are in football.[17]

We have now taken a look at the positive relation between humanistic studies and the "intersubjective world". Before turning to the more negative relationship between these disciplines and the "system", we next briefly call to mind some of the more distinctive institutions in which the several humanistic disciplines have a role to play.

The concept "humanities" is an equivocal one. It includes on the one hand the special kind of research we call humanistic and on the other hand much more. Literary studies, for instance, might be dubbed the top of the iceberg, the rest of which colossus is made up of the entire institution of letters: the writers who write the works to publishers who publish them, the booksellers who put them on sale, the libraries that lend them, the readers—whether purchasers or borrowers—who read them, and finally the critics who review them either in the press or through other debating channels. The bulk (and many will say, the real core) of all this lies submerged. Literature could exist without literary studies, literary studies without the writings (and all the rest) certainly couldn't.

This raises once again the question of what literary research really has to offer. Can we get by without it? The problem of establishing credentials is not to be brushed aside: we have those who produce literature, those who distribute it, those who read and review it and those who, in the schools and the media, initiate the rising generation into the literary tradition. What more does anyone need?

There's no straightforward answer. But we can get some way toward an answer by focusing on the fact that intersubjectivity is not some massive "working of nature" but a frail artifact, prone to stagnation and decline. There is the need for a perpetual traditionwise transfer of the communal horizon to new generations, and its due acquisition calls for a personal effort on the part of the individual that starts with his or her initial socialization and continues through life as a whole. There here takes place a vulnerable transference between intersubjective tradition—the mother tongue, for instance—and the separate individuals, who first acquire the stamp of culture through socialization. This transference can be rigidified and perverted, but it can also be refined and improved: there is, we may say, a simultaneous need for conservation on the one hand and for renewal and critical challenge on the other. We confront the tension, inherent in all culture, between the conservative and radical components, and this is where humanistic research joins the dance - in the tension between conscious acceptance and critical reservation. In addition to having its own special value as part of the search for truth, the study of literature has just such a "regenerative" function: in the interplay between new and old, between good and not so good, the processes of humanistic research take on a dialectic role in the institution of letters, posing problems in the most illuminating

contexts, distinguishing between felicitous and infelicitous interpretations, between appropriate and inappropriate instances - all in order to temper and ameliorate the perspective-generating insights which literature has to offer.

It is a responsibility which does not lie exclusively with those professionally engaged in research, and others may well have no small contribution to make, but in light of the present considerations authorized research has a special responsibility, and one which confers upon it its credentials.

We shall not here weary our readers by detailing how the other humanistic disciplines get involved with diverse specific institutions having greater or less resemblance to the institution of literature, and how their spheres of interest intersect, via, e.g., the school, the mass media, the theater and the museum.

We may sum up all we have so far said concerning methodology and institutional specialization with respect to the humanistic disciplines in the contention that humanistic research comprises the endeavor to investigate, interpret, describe, assess and reflect upon creative works and performances in the intersubjective realm, starting out from those concepts which they explicitly or implicitly incorporate. Their accreditation rests upon the level of culture these disciplines help to confer on the inhabitants of our own intersubjective world, always relative to the mental horizon there being established and perpetuated.

Having taken a look at the internal relation between the humanities and intersubjectivity, we turn to that between the humanities and the "system". Briefly, the contention here is that with the constant expansion of politics and economics as institutions, at the expense of the intersubjectively constituted cultural sphere, people are to an increasing extent made what they are by objective structures, in relative independence of any mutually accepted norms. And there is a corresponding diminution in the culturally formative potential of the humanities and of humanistic disciplines. Here we have the crisis in the humanities.

We are faced with fewer and fewer things we can "see" by relying simply on concepts from our intersubjective frame. Economics, politics, and technology operate in terms of concepts—frequently wielded via particular social or natural sciences—which just aren't accessible from the perspective of those engaged at the intersubjective level, or from any perspective towards which humanistic research can be of assistance.[18]

What all this means is that there is a marked falling-off in the educational potentialities traditionally claimed by the humanities and humanistic scholarship. For Aristotle it could seem feasible to understand himself and what went on in the city-state by further developing his intersubjectively based concepts via ethical reflection and a sort of taxonomic political science. We today are dependent on a complex chain of insight-transmission linking us with a multitude of disciplines (taking in both the "system" and the "intersubjective world"), if we are ever to attain anything like an adequate grasp of ourselves and the world we live in. It is an enterprise of daunting complexity, and certainly one that takes us far beyond what the humanities alone can provide.[19] A crisis, indeed, for the humanities—and also for the world, and for the culture, of which we are a part.

It is thus the primary responsibility of the humanities to acknowledge their historically conditioned boundaries. Perspectives from the sociology of culture and of knowledge are here essential, enabling us to understand culture not merely as a private asset and a leisure occupation, but as a functionally indispensable, perspective mediating intersubjective structure, interacting incessantly with other institutions. It is against this background that those energies which the humanities have at their rightful command can be brought into play, with a full awareness both of what their impact is worth and of the need for other kinds of endeavor to supplement them.

It isn't easy to see what all this means for the individual researcher in the humanistic

disciplines, or to say anything at all relevant at the most general level. It must be left to each individual to work out what the implications are for his own particular area. If we generalize at all, it can only be to stress how vital it is to intensify efforts within these fields of scholarship, and that this be done with a clear awareness of the structural problems in our society.

What we can perhaps do is to outline a few misconceived ways of going about things. (1) There are some who simply haven't concerned themselves with the sort of problem we have been talking about—who, untouched by inner disquiet on such issues, carry blithely and serenely on as if nothing had happened. This is the naively nonchalant response. (2) There are others who sense the problem, and feel the need to intensify humanistic research, but who show no awareness of the structural contractions taking place. This is typical of the earnest humanist who lacks perspective. (3) Others, again, have read about the structural problems and bring the matter up on ceremonial and political occasions, but do not let it affect the way they do their job. We could call them the week-end ideologists. (4) Lastly, there are those who have made an honest endeavor to get up to date with all these novel notions, and who strive zealously to import them into humanistic research, yet without really getting a proper grasp of developmental sociology. They proclaim with missionary zeal that books are commodities and language a social phenomenon. In short, the amateur sociologists.

But it isn't only for humanistic researchers that the world has become a more difficult place. All of us, implicated as we are, socially and politically, in our intersubjective world, face the same situation: it gets harder and harder to see the point of what other people are doing because it belongs to a pattern of activity to which we are strangers, while at the same time our own affairs intermesh with other goings-on in ways we could not have foreseen, alienating us both from ourselves and from each other. This can cause both solidarity and fellowship to disintegrate, leaving us bereft of both the integrity and the synoptic perspective necessary for a rational give-and-take, whether it be in relation to those nearest us in the intersubjective world or in relation to the economic and political structural problems. For, administration problems and the crisis of culture are two sides of the one coin—but that is something we shall pursue no further here. A later article must take over.[20]

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[1] An early version of this paper was presented at the international conference in Montréal in 1983. Translation by Kenneth Young.

[2] Cf Carl G. Hempel "The Function of General Law in History" in Feigl and Sellars (eds.) 1949, p. 459-471.

[3] There are, however, further complications. Humanistic disciplines such as literary criticism and literary history may contribute to the opening up of new perspectives (cd "world disclosure", e.g. in Habermas and Rorty), and these in turn may modify our concept of the goals which our goal-directed rationality is to aim at. Our

conception of a useful goal is thus dependent on cultural premises.

[4] Cf Apel and Habermas, who both underline the ethical presuppositions of scholarly and scientific activity, and especially for conducting a debate.

[5] Cf Humboldt and the German *Bildung* tradition.

[6] Cf e.g. T. Parsons *The Evolution of Societies*, N. J. 1977.

[7] The following disciplines were recognized at the University of Paris towards the close of the Middle Ages: (1) grammar, logic, dialectic - collectively: the *trivium*, (2) arithmetic, geometry, astronomy, music - collectively: the *quadrivium*. These were the *artes liberales*. There were, in addition, vocational studies in medicine, law and theology.

[8] Cf Habermas 1981, vol. II, p. 522-547 (esp. p. 534, 540).

[9] Habermas 1981, p. 512-522.

[10] The terms of *lifeworld* and of *system* are far from unproblematic: to which extent are they to be conceived of as clear-cut *ontological realities*, or are they rather to be conceived of as dominant aspects, perceived by special *perspectives*? Cf McCarthy 1991.

[11] Cf Habermas 1981, vol. II, p. 209 ff.

[12] 'Anomie'', in the sense of normlessness, is a term taken from Durkheim. 'Otherdirectedness' comes from David Riesman.

[13] Cf e.g. the account (with historical synopsis) in Apel 1979.

[14] Some will call this "hermeneutic", others "hypothetico-deductive in relation to message-laden data". Cf Gadamer: *Wahrheit und Methode*, and D. Föllesdal and L. Wallöe: *Argumentasjonsteori og vitenskapsfilosofi*, Oslo 1977, p. 80 ff., especially p. 107.

[15] Cf Jon Elster, who makes it a requirement for methodologically sound research that new facts can be found, e.g. in *Forklaring og dialektikk*, Oslo 1979, p. 108-109.

[16] Cf Wirkungsgeschichte in Gadamer.

[17] Cf Elizabeth Anscombe on brute facts, in Anscombe 1958.

[18] Cf "Science and Ethics" in Skirbekk (ed.) 1983. Meløe's praxeological analyses, with their simple lifeworld examples, illustrate what a purely humanistic standpoint does *not* enable us to see, cf his articles in Skirbekk, (ed.) 1983, and my critical comments in Skirbekk 1993.

[19] A one-sided orientation based on communicative interaction (intersubjectivity) leads to what Habermas has called "comprehension-centered sociology's hermeneutic idealism". A corresponding one-sidedness based on the system/environment model results in various short-cut versions of social theory ranging from grosser variants like those stemming from sociobiology to more sophisticated ones in the style of Niklas Luhmann.

[20] Cf e.g. "Modernization of the Lifeworld" in Skirbekk 1993.

Technological Expertise and Global Ethics
in an Age of Scientization and Ecological Crisis[1]

Introductory Remarks

The process of modernization is a complex phenomenon, for one thing characterized by new technology and by new institutions. The new ways of institutionalizing society imply, in one perspective, a transition from tradition-based local communities and nation states to interstate organizations and economical and technological networks in a global scale. Whereas traditional societies were largely based on informal relations, modern states and organizations are to a larger extent based on political decisions and legal constitutions (on the background of economic and cultural factors).[2]

There are certainly numerous problems in modern societies concerning these various institutions, for instance concerning the interplay between socio-cultural reproduction and economical forces, and concerning the functioning and legitimacy of the legal order.[3]

Furthermore, for various reasons, the organizational frame of national states has increasingly become inadequate for modern realities and problems: modern economy operates globally, through world markets characterized by anonymous relations and with distant effects on human actions and affairs. Modern technics and technologically organized institutions constitute an essential characteristic of this globally operating economy.

The devastating potentials of modern weapons and the general threat to our common biosphere caused by this technologically founded economy add to the rational demand for new forms of political, intellectual and ethical organizations working on an international level and in a long-term perspective.

The urgent need for international solutions, for inter-state institutions and for a global ethics, represents one aspect of the general need for a sustainable future. But in what sense and to what extent are such solutions possible? This question is to be seriously considered, both theoretically and institutionally.

One of the problems involved is that of the nature of technology. It can be stated briefly in this way: for one thing there is still a widespread optimistic belief in the possibility of solving all basic problems by means of some 'technical fix', some new technics correctly used by some experts. Thereby these issues are turned into *expertise questions* in a narrow sense. Hence complex problems, with sociological and ecological characteristics, tend to be described in technical and economical terms and to be defined as technological problems which can be solved by finding the appropriate technical and instrumental means.

This technological approach prepares for actions in accordance with cost-benefit analyses, where questions of cost and of safety are decided by experts. The intellectual strength of this technological approach is tied to its ability of being scientifically rationalized: once defined in technical and economical terms, the question of the adequacy of the various means can in principle be decided by scientific research. Science and technology can also create new means and improve old ones.

Hence, this technologically based cost-benefit approach can thus be nicely integrated in a free market economy. According to those having faith in this blend of technology and market, this system should then take care of itself and be self-correcting by the wisdom of 'the invisible hand'.

However, in this package of technological expertise and market economy there are several shortcomings: (i) In this perspective, problems are defined in terms of just *a few disciplines*, thus neglecting a broader and objectively more adequate (or less inadequate) view

of the problems. (ii) *Democratic participation* is discreetly left in the background, in favor of a narrow selection of experts and in favor of the anonymous forces of market economy. (iii) Thereby one also weakens the role of *a broader ethical discussion* of the problems and their possible solution, such as problems concerning socio-cultural and ecological reproduction and alternative ways of organizing society, for instance the role of state intervention in the market and the need of legal and political institutions in a global scale.

All in all, as intellectuals we have a special responsibility for maintaining the discussion of how to improve the situation and of how to prevent it from deteriorating unnecessarily. In this article I shall focus on the need for *a broader notion of expertise*, for *an enlightened public discussion* and for *a global political culture*.

Technological Expertise and Cost-Benefit Analyses

For centuries man's relation to nature has been one of increasing domination. In this process nature has been understood as an unproblematic resource for human goals. In the end nobody was really responsible for his actions toward nature. As far as nature is concerned everybody could pursue his own particular interests, at least to the extent that the property rights of other people were not encroached upon.

This attitude depended on the presupposition that nature takes care of itself. But gradually this presupposition has revealed itself as untenable, and in our times technological domination has led to a situation of permanent crisis. This crisis appears mainly through various and partly unpredicted negative consequences in nature as well as in society. Catchwords are greenhouse effect and climatic changes, pollution and deforestation, unbalanced demographic development and the extinction of innumerable animal and plant species, and connected to this, overwhelming destructive potentials and inadequate politico-economical institutions, and often inappropriate attitudes and expectations.

Gradually it has become evident that the ecological conditions for life are vulnerable. Slowly we experience that a more careful intercourse with nature is a requisite of life.

This experience of crisis does not only indicate limits of nature. There is also a growing awareness of limitations inherent in purely technological rationality and practice.

I shall discuss such limitations of technology itself and its need for being transformed and transcended into a more adequate (or less inadequate) version of rationality and practice. First I will focus on limits to technological rationality in the sense of purposive rationality, by referring to the rational core of cost-benefit analyses as found in normative decision theory. Then I will argue for the possibility and necessity of 'overcoming' (sublating) this purely technological rationality in favor of a hermeneutic and discursive rationality, conceived of in fallibilistic and melioristic terms. Finally I will indicate some political implications of this broader notion of rationality.

Normative decision theory is not meant to describe or explain our *actual* behavior in choice situations, but to describe and explain what it means to act *rationally* in such situations. In this sense it is a *normative*, not an empirical theory. The point is to clarify how we *ought* to choose if we want to be rational and if we are committed to the given choice situation with its constitutive goal.[4]

In spelling out the requirement for such rational behavior by an elaboration of normative decision theory, we envisage an interesting case of technological rationality in the sense of applied 'purposive rationality' (*Zweckrationalität* in the Weberian sense). This rationality implies a knowledge of causal connections, a knowledge which in principle allows us to control events, either by precluding an undesired event (by suppressing some causal element necessary for its occurrence) or by producing a desired event (by establishing the

causal elements constituting its sufficient condition). Causal explanation, prediction and technological maxims for action thus tend to converge.[5]

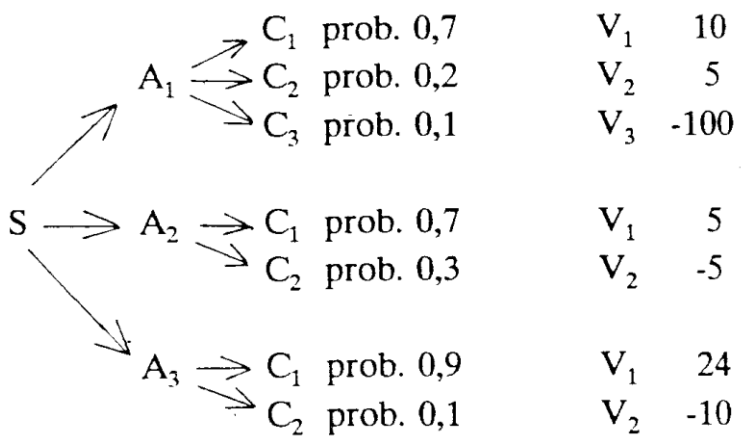
In the standard case of normative decision theory the goal is taken for granted, not in the sense that it cannot be changed, but in the sense that the rightness of the goal is not discussed within the decision-theoretical approach. To illustrate my points I choose an example, namely the question of energy supply in a given context, where the basic goal is that of acquiring 'enough energy now', and 'as cheap as possible'. How do we go about such an example, within the frame of a normative decision theory?[6]

Any such case represents a choice situation located in a given socio-political, economical and technological context. In former societies man gathered various combustibles to get energy; in addition one had muscle power, in man and in animals, and man learned how to exploit the force of winds and waters. Today the question of energy supply is raised through political institutions; a lot of different factors are involved, depending on the local situation, such as the question of available resources of wood, wind, waterfalls, coal, oil, gas, sun light and of nuclear power. Different packages can, in each case, be put together—different packages with different quantities of the available resources. Different efforts to improve energy exploitation, including ways of saving energy and of minimizing pollution, are simultaneously involved.[7]

In order to implement the goal of 'cheap energy now' in a rational way, we have to get a survey of the different alternatives, the different packages. The goal itself represents primarily a normative question. The elaboration of the alternative ways of acting and the explication of their consequences represent essentially a scientific task. In order to be able to judge the different alternatives in a rational way, relative to the goal, we have to look into the predictability of the various consequences for each alternative. In short, we have to know the probability of these consequences, and we have to decide the positive or negative value of each consequence. The question of the probability of the various consequences is in principle a scientific question. On the other hand, the question of the negative or positive evaluation of the various consequences is a normative question determined by the goal of the actual project, but also dependent on other values and norms which we support.

It is intuitively reasonable that in choosing rationally between such alternatives we emphasize the highly probable consequences compared with the improbable ones and emphasize consequences with highly positive or highly negative values. This intuition is taken care of in normative decision theory by using the sum of the mathematical products of the numerical size of probability and of desirability for each consequence, and by characterizing the choice of the alternative with the highest positive sum (or the lowest negative sum) as the rational choice. In its paradigm case, normative decision theory begins with a choice situation where various alternatives, each with more or less probable consequences, are available for the agent. The agent is rational, according to this theory, to the extent that he chooses the alternative with the highest sum of the mathematical products of probability values and of consequence evaluations.

This point can be illustrated by means of a scheme:



S: *Choice situation*; A: *Alternatives*; C: *Consequences*, and *C prob.*: *Quantification of the probability of a consequence.* Scale from zero to one is chosen here. We disregard in this case the possibility of operating with probability margins for the various probability values (e.g. "C_1 prob. 0.7 plus/minus 0,01"). V: *Values (desirability).*: *Quantification of the evaluation of a consequence.* Scale from zero to nearly infinity chosen here.

In this case we get following sums:

A1: 0,7 * 10 + 0,2 * 5 + 0,1 * (-100) = 7 + 1 - 10 = -2
A2: 0,7 * 5 + 0,3 * (-5) = 3,5 - 1,5 = 2
A3: 0,9 * 24 + 0,1 * (-10) = 21,6 - 1 = 20,6

In this case it is therefore rational to choose alternative A_3 (and to prefer A_2 before A_1).

This way of analyzing our decision making implies a differentiation between an *empirical* task, including the explication of the probability of the various possible alternatives and their consequences, and a *normative* task, including the evaluation of these alternatives and consequences.

The empirical task of explicating the possible alternatives and their probable consequences implies the use of different kinds of expertise, based on different scientific disciplines. In most cases of this kind, natural sciences like physics and geology are involved, and the same holds true for technology and engineering based on such disciplines. Chemistry, biology and economics are also frequently required. And these sciences and their experts are not only required in order to realize the possible alternatives and the probability of their consequences; they can also make new alternatives possible, by new technology.

The question of quantifying the various probabilities is thus part of the empirical task. For this purpose one often chooses to operate with a scale from zero to one. The question of quantifying the evaluation of the consequences is part of the normative task. For the purpose of quantifying the desirability and undesirability of the consequences one might choose a scale from minus one to plus one. But if one really wants to stress the absolute undesirability of a certain consequence, like the possibility of the extinction of all life, one might choose a scale from nearly minus infinity to nearly plus infinity. A consequence evaluated as nearly minus infinity gets a mathematical product of nearly minus infinity, even if its probability is very little, since a definite number multiplied with nearly minus infinity gives the product of nearly minus infinity. Consequently the sum of mathematical products will be nearly minus infinity, and therefore this alternative ought not to be chosen[8]—given that similar cases of

infinite values do not come up for other alternatives too.

Since it is often difficult to determine the probability value precisely, it is reasonable to operate with margins indicating upper and lower limits. If we want to 'play safe' we should use the lowest marginal values of probability for the desirable consequences and the highest marginal values of probability for the undesirable consequences. This choice between playing safe and gambling is a choice of strategy, which appears somewhat differently in cases where the actor plays with his own interests alone and in cases where the actor plays with the interests of other people (be it money, health or survival).

In trying to calculate the values involved we frequently encounter a structural problem, namely that the benefit pursued is local and short-term, whereas the damage caused is more or less global and long-term. This is the case for the radioactive pollution caused by the accident in Chernobyl, it is the case for the local usage of fossil combustibles, and it is the case for a huge range of ecological problems.[9] The consequences of our acts often interfere with those of other actors, to the extent that we do not notice our causal responsibility.

Being in general far-reaching in time and space, these negative consequences have to be visualized by the use of scientific research in order to be rightly understood, and to be treated by public institutions in order to be handled responsibly. But our political institutions are themselves for the most part local or regional or national, not global, and for the most part they are not acting on behalf of future generations, nor on behalf of species that are not themselves represented in our discourses. Our economical institutions, often more trans-national than our political institutions—an asymmetry which in itself causes trouble—they, too, tend to have a short-term perspective, namely that of regaining invested capital, and not the perspective of future survival of nature and mankind.[10]

This implies that the normative task, that of evaluating the positive and negative consequences of various actions, becomes extremely complicated. A range of relevant branches of expertise is required in order to realize the various consequences and to start discussing their negative and positive values—a task which partly gets its normative guidance from the goal of the actual project (that of getting cheap energy, in our case), but which also requires a broad public discussion (since moral judgment in a broad sense is required in cases of this complexity, and for such a moral judgment no single science or expertise can ever pretend to be the final arbiter).

The more far-reaching and intricate the consequences, the harder the task of getting hold of them, and further, of evaluating them and, finally, of institutionally handling them. The hardship of explicating the consequences is partly a question of the *amount* of work required—a question which includes its own economical and ecological dilemma, since resources are scarce, also for doing that kind of research—but partly it is a question of getting the *right kind* of expertise, i.e., of not operating with an inadequately narrow range of disciplines. The rational need for including ecological expertise in many large scale projects, for instance in those of energy supply, is just what in recent years has become overwhelmingly clear to everybody.

This is now a crucial point in our perspective: in taking the scheme of normative decision theory seriously, applied to cases like the one of energy supply, we are *forced* to recognize the rational need for *expanding* the range of required expertise, from one or a few technological and natural-scientific disciplines to a broader range of such disciplines. This is needed if we want to be *rational* in our attempt at understanding the case with its far-reaching consequences, and therefore also if we want to act rationally.

Since the very point of the use of scientific expertise is to create the optimal basis for the decision makers, be they politicians enlightened by public discussion or administrative or economical agents within more particularistic frames, it is furthermore required that the

various scientific contributions are adequately *mediated* to the decision makers: a hermeneutic mediation between the different disciplines, with their different conceptual and methodological presuppositions, is required. This demands a reflexive competence among the experts in their oral and written presentation of their contribution for the decision makers. But it also requires an effort and a reflexive competence among the same decision makers. This mediation therefore implies some mutual discursive activity between the experts and these actors.

The kind of rationality involved in this discursive mediation is not that of technological or purposive rationality. It is not a causally explaining rationality, not a means-to-end rationality, but a kind of rationality known as hermeneutics (or 'understanding' in contrast to 'explanation'),[11] or communicative and discursive rationality (in contrast to instrumental and strategic).[12]

Before commenting on the problem of mediation between various disciplines in order to get a realistic grasp of a given situation and its consequences, I will briefly focus on the explication of the *human* factor in such cases. When one calculates the various forms of risk in a project of energy supply (where, for instance, nuclear plants are considered) one has to look into the human factor. The risks and dangers involved cannot be fully grasped within the perspective of physics or of any other natural science. The danger involved includes that of human behavior, intentional behavior as well as unintentional behavior, i.e., sabotage and terrorism as well as bad routines. In order to get a (more) realistic grasp of dangers as well as of feasibilities we therefore have to include relevant expertise from *the sciences of man*.[13]

Thereby the problem of mediating between different disciplines becomes even more acute. An important point to consider in this perspective is the notion of *probability* in the sciences of man. Intuitively we tend to think of at least some human actions as not being predictable, and there are arguments supporting such an intuition.[14] If that is so, we should add an element of unpredictability to our calculation of probability values. This implies an uncertainty which cannot be adequately understood in terms of a technological rationality operating with empirical correlations or with causal connections of a natural scientific kind. This argument points toward some *modesty* as to our ambitions for technological planning.[15]

I would like to sum up the following points:

This case of normative decision theory exemplifies how *different* disciplines and types of expertise are required to explicate optimally the various alternatives and the probabilities of their consequences. Often we need different disciplines of natural science and technology, but since in many cases the human factor plays an important role for the inquiry into the various probabilities, we have to introduce social sciences and psychology.[16] Hence the inquiry into the various probabilities becomes more complicated, since human acts are only partially predictable.

Furthermore, this project-inherent need for *interdisciplinary pluralism* implies a need for interdisciplinary *mediation*, since the different expert reports should preferably be presented for the political agents as an intelligible whole. A hermeneutic mediation and methodological reflection on different disciplinary presuppositions and limits should therefore be undertaken. When, finally, the agents are the educated participants of a democracy, this need for critical interdisciplinary mediation between the various scientific contributions becomes even more essential. Without such a reflective mediation these agents would understand the issue less well. This need is therefore a rational one, which 'transcends' the scheme of normative decision theory *from within*—leading from monological single sciences to a dialogical and reflective mediation of a disciplinary plurality, leading from the scheme of decision theory to a free and open discussion.[17]

Since a *semantic* synthesis of the different scientific languages can hardly be expected, mediation in this case means primarily a *pragmatic* ability to move trans-disciplinarily—an ability which demands a certain multidisciplinary competence as well as a methodological competence. Pragmatic, in this sense, means a competence acquired through participation (like a tacit knowledge acquired through practice).[18]

Of course, in this process of mediation the question is not 'everything or nothing'. The question is one of improving, of avoiding what is worse. In these cases we therefore have a rational norm, a norm which requires that we constantly strive for the improvement of the cognitive situation (and which in this sense promotes an internal overcoming of the decision-theoretical scheme, in favor of open reflective discourse).

I referred to the case of energy supply: when the different long-term and partly detrimental consequences of this project have been explicated, it is *rational* to raise the critical question whether or not the constitutive goal of this project contradicts some other goals and values, e.g., such goals and values that have to be given even higher priority in the perspective of our socio-ecological survival. For this reason what we have is a rational need for a critical normative discussion, by which the given project has to be viewed in the light of *other goals and other projects*. In this discursive reflection on the original project, it might well turn out that a profound change of that original project would be the most rational thing to do, all vital values taken into account.

When we look at the different attitudes to such an 'overcoming transcendence' of the given decision-theoretical rationality, four extreme positions might be delineated:

(i) The 'technocrats', who only consider one or a few natural scientific or technological disciplines.

(ii) The 'humanists', who underestimate the importance of natural-scientific and technological disciplines and merely underline their destructive potential (while pleading, militantly or mildly, for soft values).

(iii) The 'total-refusers', who (post-modernistically) reject reason *tout court*.

(iv) And the 'overcomers' ('sublaters'), who try to actualize an internal overcoming of the natural-scientific and technological rationality in favor of a hermeneutic understanding, mediating between disciplines of different kinds and between research workers, executive agents and the general public.

The latter position is the one for which I am here arguing: it is a matter of enlarged interdisciplinary understanding, i.e., of *communicative rationality*. It is further a matter of dialogic reflection, i.e., of *discursive or argumentative rationality*. And a decisive point is the *rational* nature of this overcoming: it represents a rationally grounded imperative. Technologic-instrumental rationality is unavoidable, but it can be and ought to be overcome. In this sense we are bound and obliged by a discursive and reflective rationality.

Rational Expertise, Global Ethics, and Political Culture

I have tried to delineate an argumentation in favor of an overcoming (sublation) of technological expertise in favor of multidisciplinary and interdisciplinary expertise, leading further toward an open and enlightened public discussion where various goals and perspectives are freely and rationally discussed. In intellectual terms this is an internal overcoming of a narrow technological expertise toward a discursive and procedural rationality. In moral terms this is an internal overcoming of narrow cost-benefit schemes with short-term preferences toward a global ethics. And in political terms this is an internal overcoming of narrow-minded bureaucratic interests or market interests toward a political culture of co-responsibility.

I now assume that the argumentation has shown the rational possibility of such an

urgently needed broadening of the realm of expertise. But certainly, all the problems of implementation remain. For one thing, such an expansion does take time: time to obtain in each case the degree of double competence that is required, time to learn to see one's own hidden presuppositions, time to acquire confidence. And this task of steadily implementing a better set of expertise, creating 'supplementing expertise' (or counter-expertise) whenever needed,[19] can easily lead to conflicts, firstly on the professional level, provoking the prestige and self-understanding of the members of different disciplines, secondly on the economical and political level, provoking various particularistic short-term interests. But still, in its melioristic and fallibilistic version this is a feasible task, and one that is rationally grounded and rationally required.

However, when it comes to the need for a global ethics based on rational discourse, some objections should be considered, *objections against its theoretical possibility and not merely against its practical implementation.*

Before ending this paper with some comments on political culture, as a frame for implementing supplementing expertise and global ethics, I will therefore add a few words to the philosophical debate concerning the possibility of a rationally grounded, universalistic ethics.[20]

I will first consider the *positivist objection* (a) and then the *historicist (or neo-Aristotelian) objection* (b).

(a) The positivist objection, based on a distinction between facts *(is)* and norms *(ought)*, claims that the question of truth is restricted to fact questions. These are open for intersubjective observation and intersubjective testing. Basic normative questions are not. Hence, since no basic norms can ever be rationally grounded, nor can a universalistic ethics; its functionality can be rationally discussed, but not its normative claims.

If this were the final word, we would have to conclude that science and technology are among the factors which have created an urgent need for a universalistic ethics in our time, but at the same time science and technology, interpreted positivistically, teach us that this need for a rationally grounded global ethics cannot be fulfilled.

I will briefly refer to three counterarguments against this positivist denial of rational discourse and of a possible grounding of basic norms, the first two counterarguments being widely held today, the third being more controversial.

(i) The dichotomy of facts and norms can be questioned by counterarguments from post-empiricist philosophy of language, emphasizing the multiple use of language (e.g., through the idea of multiple language games), where for one thing we have to consider 'institutional facts', i.e., normatively constituted facts, as in chess or football.[21] Both facts and norms are conceptually constituted, in different ways according to the different language games. In short, we should pay attention to language, qua multiple practices, constituting both facts and norms within each specific institution. The positivist dichotomy of facts and norms is therefore to be modified.

This way of arguing, which today is a commonplace in analytic philosophy and which also reminds of hermeneutic philosophy, points toward an 'institutionalist' (or contextualist) conception of norms, referred to above as historicist (and neo-Aristotelian).

(ii) In this counterargument from linguistic philosophy the intersubjective dimension of practice and interaction is emphasized. The clear-cut subject-object dichotomy, inherent in positivism, is thereby overcome. The questions of subject-subject relations and of intersubjective structures have to be reconsidered. This implies an epistemological version of the former counterargument against positivism: norms are constitutive for the realm of

intersubjectivity. This holds true not only for human communication as a theme for research and comment, but also for human communication with those who do research or who speak. In this perspective we can talk about basic methodological norms that are constitutive (and therefore compelling) for scientific and scholarly work[22] and about various norms that are constitutive for various speech acts.[23]

(iii) The second counterargument [ii] against a positivist denial of the possibility of a rationally grounded, universal ethics can be radicalized by an argument of self-reflection and of pragmatic inconsistency, thereby claiming not only the existence of constitutive norms for contingent activities, but of constitutive norms for unavoidable activities, and thus of unavoidable norms. This argument, in favor of a core of universally valid norms, runs briefly as follows:[24] the very activity of arguing, also when arguing skeptically, implies some constitutive norms, such as the norm of not breaking the principle of contradiction, the norm of listening to other people's arguments and to change one's position in accordance with the strength of the arguments presented, and of not letting the social position of the discussants decide one's acceptance or rejection of an argument. To deny these norms is a self-stultifying act, which therefore shows their status as being undeniable.[25]

Discussions are peculiar activities—we do not, and cannot argue all the time—and norms that are unavoidable for discussions are not *eo ipso* unavoidable for other activities. But if one wants to know that one's own opinion is true, if one wants to try solving a disagreement rationally, one has to enter a process of research and discussion, whereby these discursive norms are necessarily presumed. And the option for a discursive treatment and solution does not represent an arbitrary choice; this option is part of our common predicament in a modern scientized world.

There are also various arguments in favor of the view that these norms of rational discourse are integrated into the processes of socialization in pluralistic societies, in the sense that these norms are present as dispositions also in those activities where we do not discuss or do research.[26] These procedural norms of the discursive activity thus represent a common mini-ethics of the modern world, universally valid while rationally irrefutable—but without metaphysical content, since they are procedural and formal (in a Kantian sense). They are merely claimed to be normatively binding as preconditions (or frames) of rational discourse; the various issues discussed *within* such a procedure (the various contents, as it were) - be it theoretical or normative issues - cannot be prescribed *a priori*.[27] What comes out as the content of a rational discussion, is an open question; and in many cases no consensus is reached even when people behave rationally - indicating that the issue under discussion rationally allows different views. And a consensus reached may later be challenged and changed by better arguments.

Still, this means that there is an unsurpassable meta-ethics, which is rationally binding—viz. a set of irrefutable norms for doing research, for discussing and for reaching rational consensus.

(b) By this latter argument I have already anticipated the criticism of the historicist (neo-Aristotelian) position, a position whose proponents are reluctant to ascribe universality and rational foundation to any normative system, thus ultimately tending toward contextualism or skepticism.

In leaving the counterarguments against the positivist denial of the possibility of a rational grounding for basic normative questions, I would just, once again, refer to the well-known standard argument against positivism; i.e. that of its self-referential inconsistency: the positivist claim that all cognitively meaningful statements are either empirically founded statements or statements of logical relations, this very claim is itself neither. In approaching

the contextualist ethics of the historicist or neo-Aristotelian kind, I will begin by stressing that this ethical position is inappropriate to cope with the need for a global or international ethics, since this contextualism is confined to given contexts, be it on the level of family or local community or on the level of formal institutions, national states included. This contextualism does not transcend these contexts, to become inter-contextual, international. Its apparent realism (its relatedness to actual traditions and institutions) is thus bought for the price of being inadequate in the face of the modern demand of a truly global and universal ethics.[28]

Hence, the intriguing moral questions of our time are not only related to the actual need for a global ethics, but also to the possibility of a rational justification of such a universal ethics. At this point the third counterargument against positivism reappears: in defending their contextualism, the contextualists presuppose the validity of their position; they presuppose that in an open discussion arguments will convincingly support their view. If this is not presupposed, they are not making a claim. If this is presupposed, they presuppose that there are universally valid truths and that there are discursive ways of deciding such questions, according to some basic norms for argumentation. In this sense the question is not whether there are universally binding norms and universally valid truths, but whether these contextualists in their basic claim are self-referential inconsistent.

Here again it is crucial to make it perfectly clear what this counterargument (against contextualism) entails, viz. that there is a claim of a self-referential or self-reflective 'unsurpassablity' for some procedural norms that are constitutive for argumentative activities.[29] There is a claim that validity claims, i.e., claims of truth as well as claims of normative rightness, can in principle be rationally solved by research and enlightened discussion without constraint, leading up to a rational consensus. But the result (consensus) of such a discursive procedure is fallible, open for future correction, and the result (consensus) is unpredictable, i.e., not a matter for *a priori* reasoning. Furthermore, in many cases the preconditions for discussion are absent. In other cases the result (consensus) might be that no rational consensus is possible (as in questions of taste), thus indicating the very important category of 'legitimate pluralism' or 'rational plurality' - opening for cultural differences and individual particularities; in short, an opening for liberality and tolerance on the level of cultural traditions and on the level of individual opinions and behavior.[30] Finally, the notion of normative rightness implies that all arguments are taken into account, which means that all relevant disciplines should have a say and that all persons possibly affected should have their say. This is the universalist and egalitarian aspect of the basic notion of justice embedded in argumentation.[31]

These are bold claims, though they are also in a sense fairly modest. In the end, what is claimed is the unavoidability of the regulative idea of a discursive search for theoretical and normative validity. This is a mini-rationality, including a mini-ethics, of a universally obligatory nature—being formal and procedural in a sense which does not imply any metaphysics. Hence it represents a modern, post-skeptical notion of rationality and ethics independent of cultural and religious differences.

Of course, this conception of rationality and ethics entails various philosophical and practical difficulties, partly related to the status of the self-reflective insight in the basic norms of discourse, partly related to the notion of a competent participant.[32] For instance, how do we settle the competence requirements for participation? Sure, through open and enlightened discussion. But still the question concerning reasonable demands for sufficient autonomy and competence in the various kinds of specialized discussions remains a tricky one. Nevertheless, the requirement for full transparency and fair procedures should at any rate be fulfilled.

In this paper I cannot go into detail concerning the intricacies of this universalistic and procedural notion of rationality. All I want to do is to point to the philosophical debate and briefly indicate my own philosophical preference, namely that of the relative strength of this

notion compared with positivism and (historicist or neo-Aristotelian) contextualism.

However, in the same way as I earlier criticized a narrowly technological (instrumentalist) rationality and practice without denying its relative importance, I now criticize contextualism but without denying the relative importance of many contextualist insights underlining our finitude as human beings and our embeddedness in traditions and in concrete contexts of various kinds. Again my point is a (Hegelian) overcoming, not a rejection.

At this point I will end my brief remarks on the possibility of a universalistic ethics, demanded in our times, and I will make a few comments on the broad and complicated question concerning institutional and cultural factors in favor of an *implementation* of rational expertise and global ethics.

Now, the *notion of political culture* is certainly in need for clarification on different levels and in different perspectives. In this connection I would like to emphasize three dimensions: the *sphere of rational and autonomous decision*, the *sphere of justice and legality*, and the *sphere of truth*—or, briefly: democracy, human rights and enlightenment.

Within the dimension of *democracy* there is a tension between different forms of direct democracy and different forms of representative and regulated democracy—regulated, e.g., by constitutional restrictions against possible harm to minority rights. Within the dimension of *human rights* there is a tension between actual rights ('positive law') and meta-procedures for changing legally existing rights, possibly for improving them in accordance with rational ethical requirements ('natural law'). Within the dimension of *enlightenment* there is a need for *avoiding* psychological and ideological distortion, as well as a need for *promoting* public education of attitudes and opinions (*Bildung*); and there is a tension between intellectual skepticism and attempts at a universalistic justification.[33]

In a normative sense political culture can be understood as a *balanced interplay* between these (three) dimensions, to the effect that each dimension on the one hand maintains its *peculiarity* and on the other hand is co-determined by this *reciprocal interplay*. This conceptual triangle is certainly very simplistic. The point is just to argue in favor of a normative notion of political culture which is multidimensional, with an interplay of autonomy and dependence between the various dimensions. I do not claim that there are just three (and just these three) 'angles'. (For one thing, the sphere of economy and the sphere of socio-cultural reproduction, of tradition, are left out.) I merely claim that there are at least these ones, viz. that a normative notion of political culture implies multi-dimensionality (and thereby entails an emphasis on a 'sufficient equilibrium' between the various dimensions).

Already by this simple picture (where for instance the economical and social dimensions are left out) it is clear that political culture should be understood as a balanced interplay between *different* dimensions. Political culture is not one-dimensional; it cannot be properly sought along one dimension alone and it cannot be judged in accordance to one parameter alone. This point represents a criticism of 'participation fundamentalists' who overlook the principles of (legalized) human rights and of enlightenment. It represents a criticism of 'legalists' (on behalf of human rights), who do not take properly account of the principles of participation and of enlightenment (including rational justification for human rights). And it represents a criticism of 'enlighteners', who do not pay enough attention to the principles of (legalized) human rights or of actual participation.

In short, anyone who politically tries to realize The Best, by maximizing one or just a few parameters, is on the wrong track. His endeavor is sooner or later doomed to defeat, often to the expenses of innocent citizens.[34] In short, the interesting political category is that of 'enough' and 'not enough', not that of utopic goals. It is the question of attaining some reasonable balance – or, negatively stated, of avoiding a fatal unbalance between institutions

and concerns.

Normal politics is not a realm for perfection and salvation.[35] However, when we seriously try to obtain and maintain a sufficiently well-balanced interplay between the various dimensions of our political scene, we enter a process of learning and formation (*Bildung*), entailing both personal experience and multidisciplinary insight.[36]

A decisive point for any normative political culture is therefore the following question: what, in each concrete case, does a *sufficiently good* interplay of these dimensions really mean? The quality of a political culture is not to be sought along one dimension, as the maximization of the value inherent in that dimension. The quality of a political culture is located in the competence of its members of prudently evaluating what is enough in order to maintain a balanced interplay of the various dimensions.

This means that scientific and scholarly insight on the one hand and philosophical justification of basic norms on the other have to be mediated by a *practically acquired experience* of what is enough and what not. At this point the relevance of a mediation of insights from historicist and neo-Aristotelian contextualism with multidisciplinary insight and philosophical justification becomes evident.

Both a personal experience within the various dimensions and a discursively enlightened knowledge is here required. How is such a competence acquired? Academic learning alone does not suffice. Practice alone does not suffice. What is needed is a multiple formation and personal experience, *together* with a discursively mediated insight in relevant disciplines and rational ethical reflection.[37]

The decisive question, about what counts as a sufficiently well-balanced interplay in each case, will probably often remain an open one, even under favorable conditions. This again means that we in these cases will often face a core of unresolved dissent, of reasonable disagreement, which asks for liberality and tolerance.

With these brief remarks about political culture, I would like to conclude this paper with a few comments on the institutional frames of an implementation of rational expertise and global ethics.

The modern world is a pluralistic one in many respects, also politically. But there are some constraints on politics due to the process of modernization. Catchwords are differentiation of formal and informal institutions and rationalization both in terms of instrumental control and in terms of discursive competence. In modern societies there are not only inherent rational needs for a relative differentiation between politics and religion, but likewise for some differentiation between economy and politics, and between socio-cultural reproduction (culture) on one side and economy and politics on the other. In short, monolithism has become problematic, whether it is traditionalistic or it is a fruit of recent events.

In this perspective it is safe to say that the old type of state socialism has become inappropriate. But it can also safely be said that a system primarily based on the laws and principles of market economy is doomed to run into problems, at least in the realm of ecology, and probably also in the realm of cultural reproduction and social cohesion.

The only option left is apparently some version of an enlightened and socially committed democracy, i.e., a system with an operating market economy within a frame of political and legal rule, on the basis of universal solidarity. How this should be realized in each concrete case - how the balance should be between market and politics—is a question to be decided within a sound political culture, as delineated above.

In this connection it is especially important to consider the various requirements stemming from the problems of ecology - this implies a ‘taming’ of technological rationality and practice, in favor of an ecologically enlightened and rational expertise.

In short, attention should not merely be given to close-at-hand political and economic questions. (i) Modern societies require a realm of open and enlightened discourse. This ranges from scientific and scholarly work to public debates and opinion formation, and it further embraces the realm of education, of art and of mass media, all of them with their various distributions of symbols and signs. (ii) It requires a sustainable socio-cultural reproduction, for one thing in order to have a sociologically necessary degree of social integration to counterbalance the trend toward socio-cultural disintegration in modern societies. (iii) And it requires a sustainable ecological reproduction, for reasons already mentioned.

Our modern predicament is exactly to get these different institutions established and developed in relative independence and still to have them integrated in some balanced interplay, finally for a sustainable future for the whole of our ecosphere—all this on the background of different situations, each filled with immense practical problems.

Hélas, confronted with these problems we may all too easily be tempted to make ours those famous words of the Great Inquisitor in Dostoevsky, asking whether this is not too much for finite, fragile and fallible human beings!

But realistically, there is no return. No way back. Regression as well as narrow-mindedness and short-sightedness without any view for a sustainable future, these two options are both impossible, and thus unrealistic.

In referring to the Bible we could safely ascertain that Man has eaten from the Tree of Knowledge and reached the Tower of Babel, where each discipline (and disciple) speaks its own language, unintelligible to the others, to end up in a Commercial Ark, bound for disaster.

But there is no way back to a prehistorical paradise. We can only "eat" again, hoping for better insight, for better mutual understanding, for a safer sailing on board of our common Ark—hoping that it does not end as a ship of fools.

For the sake of the future, I end this paper with a joint appeal to reasonableness, solidarity and co-responsibility.

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[1] This paper was written for the new Russian journal *Chelavyek* (The Human Being), edited by professor Boris Yudin at the Centre for the Sciences of Man at the Academy of Science in Moscow. A revised version was published in No. 1, 1(1991) p. 86-93. Three earlier articles are used in putting this paper together: "Methodological and Ethical Remarks to the Current Ecological Debate" in *Manuscripts on Rationality*, Bergen: Vitskapsteoretisk forum skriftserien nr. 2, 1984 (p. 75-91); „Politische Kultur - durch philosophische Tiefe oder alltägliche Gewohnheit?" in Kuhlmann (ed.) 1988 (p. 290-298); and "Contextual and Universal Pragmatics" in *Essays in Pragmatic Philosophy II* ed. H. Høibraaten, Oslo: Norwegian University Press 1990 (p. 56-100).

[2] Cf the discussion of these problems in Habermas 1981 (English translation *The Theory of Communicative Action*, Boston 1984 and 1987), with the catchwords "lifeworld" and "system" and their interrelations. Cf also the paper "A Crisis in the Humanities" in this collection.

[3] There are also cultural and religious dimensions to consider: in pluralistic societies the idea of a collective national identity is challenged, but still some degree of common cultural identity is needed for a functioning state with a universal welfare system. This gives rise to the question of legitimacy and illegitimacy for the different forms of 'particular collective identities'. The reintroduction of fundamentalist religion in politics, especially in the US and in Muslim countries, represents a special challenge in this connection.

[4] *Decision theory* includes the use of various kinds of this means-to-an-end rationality. Hence, for a discussion aiming at an overcoming of technological rationality I find it fruitful to refer to *normative* decision theory. I assume that in discussing normative decision theory in order to exemplify technological rationality, we would also be able to illustrate important points concerning the strength and shortcoming of this form of rationality. Hence we would demonstrate a need for an overcoming (in a Hegelian sense) of technological rationality, in favor of a deeper and broader rationality, i.e., a discursive and reflective rationality. However, some intellectuals attempt to ground the social sciences methodologically on rational choice theory (which is theoretically affiliated with normative decision theory). This program has its own problems, thoroughly discussed by opponents and proponents (cf e.g. Hollis 1987 and Elster 1989): to the extent that rational choice theory operates with the concepts of desire and of belief, mediated by action for the sake of maximizing the actor's utility, it gives a standard for rationality and an indication of what has to be explained (viz. that which appears as irrational). However, there is, for one thing, a discussion about the possibility of complete information, e.g., in complex and long-term situations and in situations where preferences are shaped and changed by information. Some discussants, like Herbert Simon and Martin Hollis, have criticized the idea of maximizing, in favor of an idea of satisfying (cf Hollis 1987, p. 113-129 and Herbert Simon 'From Substantive to Procedural Rationality' in Latsis ed. 1976). I will not enter those discussions. I merely assume that *normative decision theory* (and *rational choice theory*) represents a paradigmatic version of *instrumental rationality* and that it has an appropriate function within some realm of action. In this perspective my point is one of *sublating* (in the double sense of situating and of transcending) this kind of action and rationality. This implies that in discussing the relationship between theory of rational choice and theory of communicative or norm-regulated action my position is one in favor of giving the latter the upper hand (at the same time as the former is given its relative legitimacy within appropriate contexts).

[5] Cf Carl G. Hempel e.g. 'The Function of General Law in History' in Feigl and Sellars 1949, p. 459-471.

[6] Scandinavian philosophers (Jon Elster et al.) have delivered (critical) game-theoretical analyses along these lines concerning problems of energy supply in Scandinavia (e.g., for the Swedish Energy Commission, cf J. Elster 'Risk, Uncertainty and Nuclear Power' in Elster 1983, p. 185-207).

[7] In the process of elucidating and of implementing these various factors, different groups of experts are required. But in the end, the decisive questions should be settled in the political and public realm, both as public discussions between informed citizens and as transparent discussions and constitutional decisions on the political and administrative level.

[8] This, to be sure, is a point with some political importance in discussions on risk factors. Cf Ulrich Beck *Risikogesellschaft* (Frankfurt 1986).

[9] It is a problem that the ecological damage, caused by such acts, is often not immediately and clearly felt by the actors themselves (as opposed to for instance an act of nuclear warfare, which could involve disastrous consequences for the actors within a short period of time).

[10] As we know, pure exchange values are inherently problematic when they are understood in terms of a competitive and unrestricted exchange balance of "offer and demand" here and now. They are problematic relative to *future* generations, to *"third"* persons (to all kinds of "moral subjects" as third persons), and to the *"commons"* (as in "the problem of the commons").

[11] Cf for instance Apel 1979.

[12] Cf Habermas 1981.

[13] I here refer to the social sciences and psychology. Cf for instance the need for interdisciplinary expertise in the case of water development programs in Central and East Africa: 'A social scientist view of strategies in order that water development programs in Central and East Africa may attain their explicit and implicit goals', report 15.12.1982 from cand.polit. Mette Jørstad, NORAD (the official Norwegian agency for developmental aid). In the reported case the use of engineering expertise proved to be inadequate and detrimental to the program. Social sciences were needed. However, gradually one has realized that developmental aid is an ambiguous and problematic endeavor, cf e.g. Gunnar Håland 'Aid and Sustainable Development in a Dual Economy' in *Forum for utviklingsstudier*, Bergen, (1990), No. 1, p. 105-125.

[14] Cf, for instance, arguments in favor of the impossibility of a prediction of all human actions, in Popper 1969

[15] This, again, is a point of some political importance.

[16] Also history and cultural studies in cases where religious and cultural tensions are involved, possibly nurturing terrorist activities.

[17] Cf Apel and Habermas, and Skirbekk 1993.

[18] To put it briefly, I am skeptical concerning attempts at making 'holistic syntheses' of different disciplines with different conceptual and methodological presuppositions. I would argue that only a *pragmatic* competence to move between different disciplines can solve this problem of interdisciplinary mediation. Furthermore, I would argue that we (to some extent, at least) do have a *common life world*, as a common ground of reference, and I would also argue that we do have a *common argumentative and reflective competence*, making a fallible (and melioristic) procedural use of rationality possible.

[19] Concerning the term 'counter-expertise', cf Skirbekk (ed.) 1983, p. 134-145.

[20] Cf e.g. Apel 1988; Wellmer 1986; and Jonas 1979.

[21] Cf the later Wittgenstein, and Elizabeth Anscombe for an early discussion of 'brute facts' and 'institutional facts'.

[22] Cf the discussion on speech acts (from Searle et al.) and on constitutive norms of scientific work (e.g., Tranøy 'Norms of Inquiry, Methodology as Normative Systems', in Ryle (ed.) 1977, p. 1-13).

[23] Habermas, in his universal (or formal) pragmatics, elaborates the theory of speech acts from Austin and Searle in favor of a theory of communication which entails implicit normative obligations within everyday speech acts. Cf 'Was heisst Universalpragmatik?' 1976, reprinted in Habermas 1984 (English translation 'What is Universal Pragmatics?' in *Communication and the Evolution of Society*, Boston 1974; cf also 'Wahrheitstheorien' 1972). This Habermasian approach to the question of normative justification represents an alternative to that of Apel. Cf the Apelian version of the difference of opinion among these two Frankfurt philosophers: in Apel (1998), the last three papers, and Apel and Habermas in Böhler et al. (eds.) 2003.

[24] My views are formulated in Skirbekk 1993.

[25] Consider the pragmatic inconsistency involved in a case where a person in court makes the following claim: 'I am convinced that my version of what happened is the correct one. Therefore I do not want to hear any counter-arguments that possibly might support other versions of this event.'

[26] Cf the Habermasian position in Habermas1981.

[27] With the exception that any denial of these preconditions, such as a mutual equal recognition among the participants, is ruled out: normative ethnocentrism is thus excluded.

[28] At this point it is worthwhile noticing that these contextualists tend to operate with archaic cases (such as the hammering blacksmith, in both Wittgenstein and Heidegger) or at least not with typically modern cases, such as

those of an institutionally differentiated and rationalized world.

[29] German: *Nichthintergehbarkeit*. Cf a protagonist position defended by Wolfgang Kuhlmann in Kuhlmann 1985, and an antagonist position is defended by Hans Albert in Albert 1975.

[30] I do not see why there should be a need for a further '*right not* to be rational', cf e.g. Albrecht Wellmer 'Models of Freedom in the Modern World', in Kelly (ed.) 1990, p. 245. I cannot see how one could claim that the principle of discursive rationality 'reminds us that we have no 'right' not to be rational' (*op.cit*.). In a modern world there are certainly all kinds of weird contexts within which we are rightly allowed to be 'irrational' both in terms of discursive rationality and of strategic or instrumental rationality. To the extent that these contexts belong to the sphere of rational plurality and legitimate tolerance we have a right to 'mess around' as we want. (I am alluding to what Albrecht Wellmer calls Nozick's 'postmodernist' vision of a liberal utopia, cf op.cit. p. 239, referring to Nozick 1974, p. 312.) To be sure, there are intricate cultural and existential questions of depth and maturity, but as long as we move within discursively legitimate borders, the notion of discursive rationality does not prevent us from freely 'fooling around'.

[31] Since not everybody can take part in discussion—future generations not at all—there is a need for advocatory representation.

[32] Cf the discussions of these and other issues concerning this notion of discursive rationality, e.g. in *Funkkolleg, Praktische Philosophie/Ethik: Dialoge* Vol. I/II, Frankfurt a.M.: Fischer 1984, with Apel et al.

[33] In terms of rational foundation (German: *Letztbegründung*).

[34] This holds true whether the name is Stalin, Thatcher or Pol Pot.

[35] This holds true whether the name is Khomeini or Robespierre. It is worthwhile noticing that the fatal criticism of democracy by Carl Schmitt was based on an idealized version of democracy. Schmitt tried to show how the actual state of affairs differs from an ideal-type democracy, and this difference is then presented as a criticism of the actual democracy of Germany at that time (Weimar Republic). Schmitt here violates the point I am defending. (Still worse, Schmitt also used the reference to actual politics in order to criticize his own ideal-type democracy.)

[36] Pure mandarins and computer brains are not the paradigms of good politicians (whatever intellectuals or technocrats might think, be they French elite students or Czarist apparatnics of all times).

[37] Cf the debate about the relative role of *principles* and of *praxis*, between Viggo Rossvaer (Wittgensteinian) and Dietrich Böhler (transcendental-pragmatician), in Rossvaer 'Transzendentalpragmatik, transzendentale Hermeneutik und die Möglichkeit, Auschwitz zu verstehen', in Böhler et al. (eds.) 1986, p. 187-201, and in Böhler 'Die deutsche Zerstörung des politisch-ethischen Universalismus. Über die Gefahr des - heute (post-) modernen -Relativismus und Dezisionismus', in Kuhlmann (ed.) 1988, p. 166-216.

Ethical Gradualism,
beyond Anthropocentrism and Biocentrism?

The realm of ethics is most often restricted to man and the human world: only humans can act morally or immorally, only humans can be morally praised or blamed, only humans can have a worth or a value in themselves, only humans can be holders of rights; all other beings can merely be ascribed rights or values indirectly, relative to man. In short only humans can be moral agents and only humans can be moral subjects.

To which extent is this ethical anthropocentrism tenable? In this paper I shall consider arguments in favor of such a paradigmatically unique ethical standing for humans, and I shall look into arguments in favor of an ethical gradualism between humans and other mammals and between man and nature.

A Preliminary Methodological Point

In our ethical (or meta-ethical) thinking we tend to have some special cases in mind, sometimes without being fully aware of it, sometimes more consciously or even explicitly. I thus assume that ethical discussions could profit from a thematization of such underlying cases.

I also assume that we tend to argue either in terms of typical cases or in terms of degrees of similarity between related cases. The former way of arguing leads to paradigmatic thinking, the latter to gradualism. Each way of arguing has its virtues. The former makes us see differences; the latter makes us see continuities. In philosophy both are required.[1]

Arguments in Favor of Ethical Gradualism

I will begin by looking at some of the arguments which come to mind in favor of ethical gradualism, but first I will briefly recall the apparent strength of ethical anthropocentrism:

Morality is located in the socio-cultural world of acting and thinking human beings, and so are other norms and values, be they juridical or aesthetic. Nature can be the object of aesthetic attitudes and evaluations. Nature can also be the object of legal regulations, e.g., in terms of the right to own and to use natural resources. And nature can be the object of moral considerations, at least as far as biological nature is concerned: the extinction of endangered species is currently conceived of as a moral concern, and the unnecessary infliction of suffering upon sentient non-human beings is in general seen as morally wrong.[2]

Sentient animals, at least, are thus the subjects of human moral considerations. But these animals cannot themselves take part in these considerations. Nor can they act freely and rationally like human beings. They cannot act morally, nor immorally, only amorally, without responsibility or obligations of any kind. Animal rights are therefore asymmetrical, that is, the rights of animals entail obligations for man, without any obligations on the animal side. Not even a chimpanzee is taken to be morally responsible for its deeds.

Ethical anthropocentrism is therefore *prima facie* a reasonable position: morality belongs exclusively to man and the human world. Even when we play through a certain repertoire of cases, from physical nature to plants and sentient animals, this conclusion seems safe. Also in the more touchy case of the chimpanzee the same conclusion seems plausible.

However, there is an intensive discussion, especially in medical ethics, on the moral status of borderline cases. For instance, we have thorough discussions of the ethical status of a fetus and of people with severe brain damage (such as anencephaly). To what extent do they have

the moral status of persons? To what extent do they have human rights? There are academic discussions, there are public debates focusing on cases like abortion and euthanasia, and there are various initiatives on behalf of those who are not themselves able to participate in such discussions and debates.[3]

In these borderline cases we have members of the human species, such as fetuses or severely brain-damaged people, who do not perform like the paradigm case of a human being. The question concerning their moral status and their moral rights is therefore discussed by somebody else. This kind of 'advocatory' representation is the standard case for minors.[4] The parents are generally the first to be responsible for their behavior, for their upbringing, and for defending their interests, but other people or institutions might also be entitled to assume this role. This 'advocatory' responsibility and representation is supposed to be reduced gradually in accordance with the process of maturation; it formally ends at the time when the child reaches full legal age.[5]

The cases of advocatory representation in medical ethics are more extreme, as it were; they are located further away from the paradigm case of a mature and morally responsible human being than the cases of rearing children. We have fetuses at different stages, and we have those human beings who are still alive, but who at the end of their lives are no longer able to participate in a discussion about their own situation. We have people who are severely senile and people with severe brain damage. We have babies born with anencephaly who will never be able to participate in any such discussion.

Along the same lines, perhaps transcending the realm of medical ethics, we have the cases of an advocatory concern for the dignity of the recently deceased, and for the values and wishes they expressed while alive. And we have the cases of advocatory concern for coming generations and thus for hypothetical people, that is, for those who are not yet individualized, but who are statistically recognized, even though there are different scenarios with different numbers of people in the future.

To the extent that medical ethics and our ethical concern in general tend to include all such cases within the realm of human morality - thereby giving each of these human beings the status of a person with moral rights - we have taken a major step away from the paradigm case of human morality. With this expansion we include everyone who belongs to the human species regardless of his or her capabilities. We tend to include everybody who can become a mature human being. We include everybody who has been a mature human being. And we include everybody who once could have become a mature human being.

There are certainly great differences between these different cases. And in quite a few cases there is no unanimity about the moral status of the human beings concerned; the debates on abortion and euthanasia illustrate this point. But still there is a general tendency to proceed from the paradigm case of a normal human being toward cases where moral capabilities are increasingly absent, the limiting case being mere membership in the human species.

However, the relationship between potential membership in the human species and full membership is frequently questioned. A fetus is a potential person, but in what sense *is* it a person? The same goes for past membership in the human species. A terminal patient with severe brain damage has been a person, but in what sense is he still a person?

These are important questions in a practical sense, since we run into the moral distinction between murdering humans and killing non-humans, the former being morally unacceptable, the latter for the most part regarded as morally acceptable, at least when it is done without an undue infliction of pain.

These moral questions are to some extent forced upon us, since the development of modern technology has made it increasingly possible to medically intervene into these borderline cases of human existence. When these kinds of human existence are taken into account, we are forced to adapt a certain gradualism, namely a gradualism within the human

species.[6] So far it is primarily a question of an ontological gradualism, not an ethical gradualism, i.e., it recognizes the biological and psychological continuity between different individuals of the human species, but it still insists on the recognition of a moral status for them all. Their characteristics differ, but they are all human beings, with human dignity and human rights. This is a position of ethical anthropocentrism based on an awareness of the borderline cases from medical ethics.

So far we have not questioned the distinction between *Homo sapiens* and other species. However, at this point we ought to look carefully into borderline cases on the other side of the species border.

Everybody is aware of the fact that chimpanzees can act and communicate, and that they also can experience pain and pleasure. Genetically chimpanzees are close relatives to man, and they have well-developed brains and nervous systems.

Nevertheless, a chimpanzee does not possess the higher capabilities delineated above. It is not a moral agent: it is not a morally responsible being. Its use of language is neither reflexive nor creative. It is doubtful whether it can be said to have a social identity based on mutual recognition and verbal communication. But it does act, feel and communicate. It probably has some self-awareness and sense of identity. And it clearly has higher mental capabilities than some of the members of the human species that are represented advocatorily for the sake of their moral status as human beings. The latter point is a disturbing fact.

In self-defense we, the humans, could add that we do take the pain of sentient non-human beings into moral consideration. It is regarded as morally wrong to inflict unnecessary pain on sentient animals; in most countries it is even forbidden by law (although the decision as to what is necessary and unnecessary pain in each concrete case leaves room for considerable and corruptible judgment).

It is more controversial whether we have some kind of moral duty to promote well-being among sentient non-humans, in this case among higher mammals.[7] And there seems to be little support of the view that we ought to help these animals to get a long life—the main exception being special pets (who have their hospitals and even their own cemeteries). On the contrary, it is for the most part considered morally perfectly all right to kill any non-human sentient being, high-ranking mammals like chimpanzees included. The painless killing of animals is regarded as morally acceptable, an underlying assumption being that none of these animals has any awareness of its own death, except when a higher animal is threatened by death (and that is one of the painful experiences which humans should try not to inflict on animals).

What started as human self-defense here ends in embarrassment: some of our patients, as well as early human fetuses, do not have any awareness of their own death. Even worse: they would probably experience even less of a trauma by being killed than most of the higher mammals probably experience when we kill them.

It seems immediately reasonable to accept the following principle: equal cases should be treated equally. If there is a moral difference between two cases, there must also be some morally relevant difference in properties between the two.[8]

The decisive difference between the ‘deviant’ cases of *Homo sapiens* and the higher cases of other mammals can hardly be found on the level of *actual* properties: in some cases the nonhuman mammals rank higher in this respect than some members of the human species. In these cases we will have to argue in terms of past and of potential competence and characteristics in order to find a relevant difference: a member of the human species did have, or can develop, or could have developed such and such competence and characteristics.

These arguments *from potentiality* are partly reasonable. This is, for one thing, how the usual catholic (Aristotelian) argumentation goes, in favor of the moral status of the fetus

from the moment of conception. But biology is gradual and nature boundless. One can always go further. What about the potentialities of all human eggs, and of all human sperms?[9] Arguments from potentiality are therefore only partly reasonable.[10] Arguments from potentiality have to be balanced against arguments from actuality: how can we consider it moral to kill (and eventually eat) a vital chimpanzee when we strictly condemn active euthanasia for terminal patients with severe brain damage and with hardly any neurophysiological activity?

This is a field of deep emotions.[11] These emotions can easily be explained, just as our discrimination of other species can be explained and understood in various ways, psychologically and sociologically. But the same is true of most acts and attitudes, some of which we would hardly defend morally—like racial discrimination. And what do we have in this case but human racism on behalf of the human species?[12]

There might still be some fairly good reasons for this "speciesism". For one thing, it may serve to prevent the threat of moral deterioration. This is an argument with considerable weight, especially when we take the experience of The Third Reich into consideration. However, so far this point is primarily a sign of precaution, not a decisive argument.

The tricky point is just that biology works with continuity whereas we are used to think of morality in terms of absolute borders. Once this is said, and seen, it becomes difficult to feel intellectually satisfied with a position that largely seems to be a postulate, namely ethical speciesism—even though it is a postulate with praiseworthy intentions.[13]

However, what exactly is praiseworthy in this position? I would answer: the intention to protect the moral universe, the concern to protect human dignity. But then, are the moral universe and human dignity really threatened by a recognition of biological continuities? What about a more subtle rethinking of the relationship between paradigmatic cases and overlapping cases - would that be a better solution? We could say: human dignity would be threatened if we were to do to some humans (those lacking some faculties) what we do to animals. But the universe would be better off if we were to treat non-humans as part of the moral world. Ethical gradualism could thus either be conceived of restrictively, thereby threatening human dignity, or inclusively, and thereby 'upgrading' non-human animals.

Since we probably have a moral intuition in favor of ethical speciesism, how could we defend it? One attempt could be to reject any reference to actual properties in humans and in non-humans and to hold on to a purely genetic definition of humankind and of membership thereof.[14] But as pointed out earlier, so far this merely represents a position, not an argument in favor of this position.

An argument in defense of this position could be an egoistic one: we should defend ourselves! We are humans, we are the thinkers and the agents, and we define our borders and act in our defense![15] This might have some emotional impact, at least, but it is intellectually unsatisfactory. For one thing, the question remains open as to which 'We' should define which 'Us' (and how).

Such a biologically grounded speciesism runs into problems at another level too: if we are to believe Darwinism, there is no clear-cut borderline between humans and other higher mammals. There are mutations and different species, but there is also continuity. And regardless of what we think of Darwinism, we do know that *Homo sapiens* used to live side by side with less intelligent, but genetically fairly close relatives for quite some time. How should we have treated them, if by accident these creatures had survived? Would we have regarded them as morally responsible? Would we have ascribed to them human rights? Or would we have killed them with no moral remorse, and even possibly eaten them? And what about interbreeding and possible offspring between modern man and Neanderthals? This is

not merely a speculative thought-experiment. It is a fact that Neanderthals no longer exist, but in principle they certainly could. It merely so happens that they do not.

These questions seem particularly intriguing for a position that is grounded on genetics. It is hard to see how the proponents of genetically grounded speciesism can get around them. And it is hard to see how the final answer could be anything else than the recognition of some gradualism, which would undermine the core of speciesism.[16]

In this sense the great challenge is one of rethinking the interrelationship between paradigmatic thinking and gradualistic thinking, to the extent that the moral status of man is not confused, at the same time as gradualism on the biological level is not denied. This I think is feasible, as I will try to show shortly, namely in terms of discourse ethics. But a remaining question and a somewhat unpleasant task is still that of working through various cases in the borderline between man and other mammals in order to try out their moral status. It might then well turn out that we will have to reevaluate some mammals, and it might turn out that we will have to devaluate our traditional esteem of some cases of our own species—but, I suppose, without questioning the major paradigmatic differences between man and animals, and without questioning our moral intuitions in all of these borderline cases.

Arguments in Favor of Ethical Anthropocentrism

Despite the gradualist arguments from borderline cases between humans and higher mammals, we uphold the unique paradigmatic position of humans: man is a moral agent, not in the sense that human beings *de facto* act morally, but in the sense that human beings are able to do so. Man does not merely act, or react, from instinct. Man acts in accordance with socially determined norms and values, and he or she is aware of his or her doing so. She has the ability to reflect upon these norms and values, and argue for or against them; and she can more or less consciously change them. Hereby human beings show his or her freedom in relation to nature.

This freedom, which sets him off from nature, is tied to his status as a social being. He communicates on the basis of his socialization into a community. He communicates with a whole spectrum of linguistic speech acts, and he can therefore reflect and discuss, reject and improve, in short, acquire better insight and knowledge.

In acting she can choose between alternatives, for one thing by taking one step back in order to be able to take two steps forward at a later stage, thus transcending the limits of immediate adaptation. She can think and choose between hypothetical alternatives and she can base her actions on long-term goals.

Humans are agents, they are conscious and thinking beings, they are social beings living in a community. They do not only have material needs, they do not only live socially in a way which requires law and order; they also have personal identity acquired through a vulnerable process of socialization and individuation.

As social beings humans take part in a historical development; they participate in a process of conceptual and institutional differentiation, broadening the scope of moral capabilities (and of moral problems).

All these characteristics are paradigmatically appropriate to Man as a moral being. As a final remark I would add that these humans are us. We are the ones questioning and discussing Man and morality. Nobody else does, as far as we know. In short, Man as a moral agent is not just an external fact to observe; in seeking what is human we are inquiring into our own being.

I will leave it at that for the time being. These remarks I hold to be true, as claims within a phenomenology of Man as a moral being. They are true of Man. And in the universe known to us it is hard to see for whom else they might be said to be true. So evidently Man is

paradigmatically a moral being.

To help justify a moral distinction between human fetuses and infants on the one hand and higher mammals like chimpanzees on the other, we might choose, once again, to stress the notion of *potential properties* rather than that of *actual properties*.

(i) As an analysis of the *actual properties* of borderline cases has shown, arguments from actuality are not conclusive for a sharp distinction between man and other mammals. To begin with, there is a problem as to which actual properties should be considered. What are the relevant properties? Some major candidates are: an ability to act rationally and freely, an ability to make interest claims, and self-consciousness. But even if we should come to agreement on a clear and consistent notion of such actual properties, it is not likely that such a notion would support a moral difference between all mammals that genetically belong to the human species and all other mammals. For whatever actual properties we choose there will most probably be cases of genetically humans who fail to have these properties, and for quite a few such properties there will be some highly developed nonhumans who have more of them than some defective or less developed humans do. If for instance we choose conscious self-identity as such an ethically relevant property, we cannot include newborn human infants (thus we open the door for a legitimation of painless infanticide).[17] If we choose some basic brain functions as a morally decisive actual property, we will have a problem in making a moral distinction between a human fetus and a chimpanzee fetus, and we will have to recognize that normal chimpanzees have this actual property to a higher degree than some humans with brain damage. If we include human infants or people with severe brain damage we will have to include adult chimpanzees as well. It is therefore hard to see how any actual property could do the job of a sharp demarcation between humans and non-humans.

(ii) For this purpose arguments *from potentiality* are more promising, though not quite conclusive. If, for instance, we take the potentiality of a future self-conscious life to be the morally decisive property, we will certainly have cases of severely defective human infants with less of this potentiality than what we have in normal chimpanzee infants. However, at this point we could introduce the notion of a potentiality of second order, i.e., a potentiality of having potentialities, and on this basis we could argue in favor of a morally relevant distinction between these two cases: a brain-damaged human infant could have had a potentiality of becoming a self-conscious being in a sense which the normal chimpanzee infant could not. This is clearly an interesting point. But the twist of the argument consists in a change from considering the real potentialities of an individual to considering the potentialities of the species to which this individual belongs.

This again can be thought of in two ways, one more genetic, and the other more conceptual. The genetic approach views the notion of species in terms of genes. Each individual is merely an instantiation of the common gene pool, representing the species. The conceptual approach views the notion of species in terms of *universalia*, interpreted realistically (like in Plato). Accordingly, the idea of a species is understood as existing at a ‘higher level’ than each particular individual.

The problem with the former approach (in terms of genetics) is basically that the specific individual situation is underplayed in favor of the general genetic conditions. The specific realization is overlooked, implying that the dual condition of individuation—heritage and environment—is reduced to heritage alone. Thus we disregard all deviant forms of development, and thereby we exclude a large part of the difficult borderline cases.

If we want to maintain a sharp ethical distinction between humans and all other beings it is therefore tempting to choose an ethical anthropocentrism based on genetic membership to humankind, that is, we define the difference between humans and nonhumans in terms of genotype, not in terms of phenotype. The following question therefore remains: if two

creatures, for instance a human being and a chimpanzee, are basically the same as to their actual properties and thus as to their phenotype, why should this fact be regarded as morally insignificant, whereas a genotype difference between the two is regarded as morally decisive? This question becomes even more acute, since there are genetic deviations among individuals born and raised as humans (as in the case of Down's syndrome).[18]

The problem with the latter approach (that of conceptual realism) is well known: the strength of this argument depends on our willingness to talk in terms of *universalia*. The more we are willing to conceive the notion of a species not in nominalistic but in realistic terms, the more convincing this version of the argument from potentiality becomes.

However, there is something to be said in favor of taking different theoretical positions seriously (and not only dwell on different cases). As we know, there is no such thing as a brute fact or a theoretically neutral description. In this connection, though, we are taking a big step away from a quasi-descriptive analysis of cases and their properties toward a high-level theoretical reflection. This reflective insight is an indication of a need to overcome the kind of quasi-concrete analyses which we have been doing so far; we have to consider the different philosophical preconditions and positions. But this is also an indication of a possible shift from a notion of actuality to a notion of hypothetical potentiality and further to 'pure possibility': if we start talking in terms of potential potentialities we can easily find ourselves on slippery ground where quite extraordinary things 'could have been possible', also such things (as, for instance, highly developed apes) that would support an ethical gradualism.

Summing up, I would say that arguments from potentiality might give some support to a notion of ethical speciesism, though not unconditionally.[19]

(iii) Furthermore, there is also a theologically grounded anthropocentrism, claiming (for instance) that all humans and only humans are created in the image of God, thus holding a unique ethical standing. In this paper I choose to leave this theological version of ethical speciesism aside.[20]

(iv) There is, however, a sociological version of the anthropocentric position which I will briefly comment upon. This argument does not defend genetic anthropocentrism, or speciesism in the strict sense, but a social anthropocentrism. The argument is one in favor of personhood and moral rights, not as individually given independent of society, but as a moral status inherently ascribed to members of a community. Any being included in this community has moral rights in accordance with his or her role and function within this community (either egalitarian or hierarchical).[21]

By seeking a notion of a socially embedded moral standing we avoid a notion of individual rights connected to actual or potential properties in the individual. According to such a societal notion, all that matters is whether a being is included in a community, to a large extent regardless of individual properties. If a being is included, this being enjoys a moral status with certain rights (depending on the society and its internal differentiations). Beings that are not included have no such rights, regardless of their actual and potential properties. For instance, a society may include a severely brain-damaged human being as a member with a basic moral standing (as a moral subject, if not as a moral agent), and the same society may choose to exclude a chimpanzee with higher actual (and potential) properties. If such a society decides to make a sharp distinction between genetically humans and all other mammals, we have a case of a socially based anthropocentrism (or speciesism). In short, by tradition or by decision, a society[22] can posit an ethical anthropocentrism.

However, the price to pay is that of an ethical contextualism. We are at the mercy of a given tradition, or of a given form of decision making, as to the inclusion and exclusion of community members. The demarcation line between insiders and outsiders might in a given context be one that excludes groups of genetically human beings, regarding them as sub-human. An open discussion of the legitimacy of the given tradition and the given form of

decision making is therefore required. Only to the extent that these conditions are freely discussed and agreed upon by everybody concerned could we rightly claim that these conditions are legitimate. By such an attempt at legitimating or criticizing a given tradition, we transcend ethical contextualism and move toward discursive ethics.

(v) Discourse ethics, as a meta-ethical procedure, implies a certain anthropocentrism since all actual participants, in the world known to us, are humans.[23] But this is merely an empirical fact; in principle any speech-acting sentient being could be a candidate for participating in a discourse. There is also a demarcation problem for humans (defined genetically, theologically or socially) concerning the competence requirements for participation. In addition we have the problem of how to represent humans who are themselves unable to participate in ethical discourse. All in all this means that also in the case of discourse ethics there are borderline problems between humans and non-humans. The discourse-ethical support for ethical anthropocentrism is therefore conditional.

At this stage I will just add a few comments on some aspects of these problems: we have to reconsider the conditions for actual and advocatory participation in a (meta-) ethical discourse. Should speech-acting and intelligent Martians participate? According to the basic assumptions of discourse ethics the answer is affirmative. Should only mentally undeveloped humans be advocatorily represented and not higher mammals who actually are mentally more developed? According to the assumptions of discourse ethics the answer is negative: all "moral subjects" should be advocatorily represented, each according to its moral status (which opens for an ethical gradualism, e.g. from the more sentient beings to the less sentient).

At this level of meta-discourse we face intricate interrelationships between the conditions for being a *moral agent*, for being a *moral subject*, and for being a *moral discussant.* When we discuss *actual* and *advocatory participation* in (meta-)ethical discourse, the distinction between humans and non-humans once again gets blurred.

Some Major Theoretical Perspectives

There is more to be said about morally relevant continuity and discontinuity between humans and non-humans. There are various basic views on what counts as ethically relevant properties. At this stage I therefore choose to turn to some major theoretical perspectives (or positions), namely (a) utilitarianism, (b) the deontological position, and (c) discourse ethics.

(a) Utilitarianism

Again I will disregard the various versions of utilitarianism and their inherent problems. In focusing on the general concern for suffering (and well-being) in utilitarian thinking, I merely want to make the following point. In this utilitarian perspective it is not plausible to maintain a clear-cut ethical distinction between humans and other sentient beings. Analyzed in utilitarian terms, biological gradualism, and psychological gradualism, imply ethical gradualism. For that matter I think utilitarians such as Jeremy Bentham and Peter Singer are consistent in explicitly claiming an ethical gradualism. Jeremy Bentham puts it this way:

> The day *may* come when the rest of the animal creation may acquire those rights which never could have been witholden from them but by the hand of tyranny. The French have already discovered that the blackness of the skin is no reason why a human being should be abandoned without redress to the caprice of a tormentor. It may one day come to be recognized that the number of the legs, the villosity of the skin, or the termination of the *os sacrum*, are reasons equally insufficient for abandoning a sensitive being to the same fate. What else is it that should trace the insuperable line? Is it the faculty of reason, or perhaps the faculty

> of discourse? But a full-grown horse or dog is beyond comparison a more rational, as well as a more conversable animal, than an infant of a day, or a week, or even a month, old. But suppose they were otherwise, what would it avail? The question is not, Can they reason? nor Can they *talk*? but, *Can they suffer*?[24]

And in Peter Singer's words:

> If equality is to be related to any actual characteristics of humans, these characteristics must be some lowest common denominator, pitched so low that no human lacks them—but then the philosopher comes up against the catch that any such set of characteristics which covers *all* humans will not be possessed *only by humans*.[25] ...Surely every sentient being is capable of leading a life that is happier or less miserable than some alternative life, and hence has a claim to be taken into account. In this respect the distinction between humans and non-humans is not a sharp division, but rather a continuum along which we move gradually, and with overlaps between the species, from simple capacities for enjoyment and satisfaction, or pain and suffering, to more complex ones.[26]

Utilitarians describe the various cases in terms of suffering and well-being. These are the ethically relevant properties in utilitarianism. When they focus on borderline cases between humans and non-humans, it is therefore not surprising that the utilitarians tend toward an ethical gradualism.

(b) The Deontological Position

In a deontological perspective I will focus on proponents of individual rights. These proponents constitute a mixed group. The first point I will make is the following: to the extent that these theoreticians describe morally relevant cases in terms of individual rights, conceived for instance in terms of inborn rights to property,[27] to freedom of choice and to life, it is *prima facie* not likely that they would tend toward ethical gradualism (even when analyzing borderline cases between humans and non-humans). Although there are cases of human beings who are unable to enjoy these rights, there are hardly any non-humans (in the universe as we know it) who are able to enjoy these rights. So far there is, from this deontological perspective, some support for ethical anthropocentrism.

But this support is conditional. It all depends on whether nonhumans are capable of having moral rights, which again depends on their actual properties, like rationality and responsibility. By talking in terms of rights instead of talking in terms of utility, we move our focus from the status of moral subjects to that of moral agents, or rather, we make the conditions for being a moral subject more restrictive, thus delimiting a larger group of non-humans. But we still operate with properties which in principle are only contingently connected to humans, or rather, to mature and sane humans in developed societies.

It is possible to operate with lower-level rights, as it were, rights to enjoy natural freedom and to survive within a natural habitat. These rights could be ascribed to animals in terms of obligations for humans. In negative terms we could argue, from a deontological perspective, that humans should not, without good reasons, restrict the natural freedom of animals, nor intervene in their habitat, nor take their lives.

Moreover, to the extent that individual human rights are conceived of as rights to resources (to resources necessary for individual health and survival), we move from a libertarian notion of rights to a social-democratic notion of rights (or from formal rights to substantial rights). In the perspective of these latter rights, i.e., rights to basic welfare, the

distinction between deontological and utilitarian thinking becomes less sharp. For the same reason there will now be more of a gradualism in the conception of the borderline between humans and non-humans.

At this point I would like to add the following remark: within the current discussion concerning the moral status of animals we often encounter a general distinction between utilitarian positions and positions in terms of individual rights.[28] The former position, that of utilitarianism, has its own well-known problems when the question of justice and of formal rights is raised; but in addition this position represents a weak defense for endangered species, since painless death (or killing) of all individuals of an endangered species could, in quite a few cases, pass the utilitarian test of maximizing well-being and minimizing suffering.[29] The latter position, that of ascribing individual rights to somebody or to something, is equally weak as a defense of *naturally* endangered species, even when convincing arguments are given for ascribing some moral rights to the individual beings of this species. For if a species, granted that it has a right to survive, is about to become extinct by natural selection, and not by human intervention, what could then be the moral objection to this natural process? If a species is entitled to a right to survive, this right does entail a human obligation not to bring about the extinction, of this species (as long as this obligation is not overruled by other concerns), but this species' right to survive does not with equal strength entail a human obligation to act for its survival, not only because the principle of not causing unnecessary harm is in general regarded as being morally stronger than the principle of doing well, but basically because it is problematic to talk about obligations to intervene with natural processes (where no moral agents are involved).[30]

(c) Discourse Ethics

Those (from Hegel to Habermas) who regard a secured social identity as a major concern in ethics and politics will tend to consider the paradigmatic difference between humans and non-humans as decisive. Borderline cases of humans unable to acquire such a social identity will hardly be thought of as a significant counterargument, since no non-humans (to our knowledge) can be said to acquire this type of personal identity through socialization and mutual role taking. There are certainly primitive forms of social learning and of role taking among the higher mammals, e.g., in chimpanzees, but they do not undergo the kind of socio-cultural formation (*Bildung*) typical for man as a historical, verbal and reflective agent.

At this point I think we can summarize our arguments by saying that the utilitarian perspective is conceptually too narrow to grasp the borderline problems between humans and non-humans adequately. This does not mean that the descriptive analyses of the utilitarians are wrong. It means that their perspective is conceptually insufficient:[31] Utilitarians underplay the paradigmatic difference between humans and non-humans since they disregard the morally relevant aspects of the acquisition and maintenance of a social identity.

I also think that it is fair to say that the proponents of individual rights operate with a conceptual scheme which is too narrow to grasp the realm of socialization (and of reflective and discursive justification).

(d) Concluding Remarks

My general conclusion so far is therefore that the idea of a paradigmatic difference between humans and non-humans is most adequately conceived by the theorists of social identity and of discursive rationality. However, the gradualist arguments, as in utilitarianism, are thereby not denied, only sublated (*aufgehoben*), as it were.

In my view there are two major advantages to discourse ethics relative to utilitarianism and to classical theories of individual rights:

(a) These two latter positions presuppose socialized individuals, without themselves questioning and elaborating the implications of human socialization for the interrelationship between individuals and communities and for the human need for a mutual recognition of one's vulnerable social identity.[32]

(b) In the current discussion the emphasis is often given to detailed analyses of actual and potential properties in the various creatures. But then there is still the problem of a possible naturalist fallacy once such properties are used for normative conclusions. In my view the best way out is that of a reflection on the constitutive conditions for a normative discussion, in short that of a discourse ethics.[33] Discourse ethics focuses on the self-reflective insight of argumentation, using irrejectability of its constitutive preconditions as its foundation.[34] As an ethics based on the self-reflective insight of argumentation, discourse ethics includes universalization in terms of general role-taking and presupposes mutual recognition among the discussants, thus underlining socialization as a core element. Utilitarianism and classical deontology do not reflectively justify their own presuppositions in the same sense; they remain pre-critical by presupposing or positing a basic normative position.

Both social identity through socialization and normative justification through self-reflection and discourse are important elements in discourse ethics. Even if discourse ethics has its inherent problems, for instance the problem of the exclusion and inclusion of participants (be they humans or non humans), and even if this problem is extended to advocatory representation for humans and non-humans, discourse ethics still remains, in my view, the best proposal for a fundamental ethical theory. The concepts of justice and solidarity, critical universalization and embeddedness in a form of life, are all important aspects of discourse ethics.[35] Since an act of justification can transcend a given context, thus enabling free criticism (even though any application is context-bound), every given form of solidarity can in principle be questioned discursively. And by including the interrelationship of socialization and individuation, discourse theory avoids abstract individualism and naturalism (concerning rights and properties).

In addition to its post-metaphysical robustness, rooted in self-reflective criticism and in attempts at intersubjective procedural solutions through argumentation, discourse ethics entails the decisive point of not only talking in terms of utilities or of rights, both of which can be seen as gradually distributed between humans and non-humans, but of thinking in terms of socialized individuals with an identity based on mutual recognition through communication. This kind of identity is hardly found in nonhumans. To the extent that ethics is not merely a question of resources or of rights, but of communicative recognition (social identity), we have here a decisive argument in favor of the claim that humans have a paradigmatic moral status.

Thereby we do not claim that social identity is equally well presented in all members of the human species, nor that social identity in no way can be achieved by non-humans, be they mammals or Martians. But I claim that social identity, more than biological reactions and psychological characteristics, is paradigmatically human. And I claim that social identity is a more adequate notion than that of abstractly conceived individuals and their posited rights.

Ethical Non-Gradualism?

There is another demarcation problem which I would like to address, namely that of robots and Martians. As part of a thought-experiment we could imagine that there might exist intelligent biological beings somewhere else in the universe. Let us call them Martians. Let us assume that they were genetically different from us. Let us assume that they suddenly showed up on Earth, and that we were able to communicate with them. Should we then exclude them from the realm of morality, because they belong to another species?

That would seem counterintuitive—given that they were cute and friendly, reasonable and rational, caring and responsible, in short, if they possessed those competences and characteristics that we associate with mature human beings. So again, a restrictive speciesism would seem inadequate.

But since this is a thought-experiment, let's play with it: if these Martians were intelligent and communicative, but were unable to feel any pain, would we then be comfortable having them as equal partners in ethical discussions? Or would we think that there were quite a few moral questions which these Martians were incompetent to deal with? In this case I think we would, and should, make a distinction between them and us: they would not fulfill all requirements for a participation in a practical or moral discourse.

And what, now, if these Martians actually were mechanical beings of some kind, like robots. We still assume that they are intelligent and linguistically competent, that they move around like us and act like us. But they cannot feel any pain, nor any joy; no experience of hunger, nor of freezing; no experience of being cared for, nor of being beaten. In short, they have no biology, no feelings rooted in bodily life, just data, intelligence and movements, including verbal behavior.

We might wonder what kind of self-consciousness they could have. Could they have been socialized and individualized? In what sense could they possibly have a language? For the sake of the argument I assume that these problems can be disregarded and I allow myself to raise the following question: let us suppose that these Martians might do a good job within a theoretical discourse, relying on empirical data and on logic. But would we be comfortable having them as equal partners in a practical discourse? They could probably take part in a normative discussion on a formal level, where the points discussed were connected to the application of rules (like the rule 'equal treatment for equal effort'). But how could they have anything to say about needs and values (about justifiable 'need interpretations')? How could they possibly understand what is discussed in these cases?

We imagine that they are mechanical beings who have no birth, no parents or family, no childhood, no sexuality, no wounds or diseases, and finally no death—they just need some repairing now and then (like cars and computers). In short, they are technical beings equipped with advanced computer brains.[36] My guess is that we would not suppose that these beings could take part in a practical discourse, despite their intelligence and their mastering of an extensive base of true statements about the world.

This thought-experiment might illustrate two points:

(i) There are preconditions for participants in practical discourse which supplement preconditions for theoretical discourse. For the former, body and biology are essential. So-called artificial intelligence is not sufficient for ethical and meta-ethical discussions.

(ii) Even though I assume that there is no sharp borderline between man and higher mammals and that some ethical gradualism therefore is called for—but without denying the paradigmatic position of socialized human beings—I would claim that there is a sharp distinction of ethical (and meta-ethical) importance between intelligent biological beings and intelligent non-biological beings (if the latter could possibly exist). At this point, at least, it is reasonable to talk in non-gradualist terms.

Conceptual Postscript

I will end these reflections on the ethical borderline between man and higher mammals by discussing some conceptual distinctions concerning the notion of a moral subject.

In discussing the moral status of humans and non-humans it is helpful to make a distinction between *moral agents* and *moral subjects*. The former are capable of acting morally, the latter are capable of being harmed in a morally relevant sense. Moral obligations are connected both to the interrelationship between moral agents and to their relationship to

moral subjects. But moral subjects who are not moral agents are unable to have obligations (either to each other or to moral agents).

If we were to work out a concept of an agent capable of acting morally we would include notions about capabilities to understand a situation and to evaluate the moral importance of what one does or doesn't do, and to act in accordance with that understanding and evaluation. In trying to make such a concept of a moral agent more precise we move into the ongoing philosophical debates on the nature of action, of rationality and of accountability. I assume, however, that the crude distinction between moral agent and moral subject makes sense, enough so for the time being. At this stage I will approach these philosophically controversial issues by introducing the concept of a *moral discussant*, and discuss the interrelationship between moral discussants, moral agents and moral subjects.

It could be claimed that the concepts of *moral agent* and of *moral discussant* are co-extensive: those who are able to act morally are able to discuss moral actions and those who are able to discuss moral actions are also able to act morally. But even if this were empirically true, it does not imply that the two concepts converge into one. However, it is reasonable to assume that those who are able to act morally should normally be able to talk about their evaluations and actions, and even be able to explain why they think their actions were morally right in a given case. That would be the first step toward a moral discussion. In this sense it is reasonable to think of moral agents as potential moral discussants.

This is an important point, and I assume that the claim of an interrelationship between moral agency and moral discourse can be philosophically elaborated along the lines of a universal pragmatics (as in Apel and Habermas) and of a theory of socialization and of modernization (as in Kohlberg or Weber). But these are tricky problems, and we should at least be aware of the various levels involved: even if moral agents paradigmatically are moral discussants, that does not mean that all are. Even if moral agents potentially are moral discussants, that does not mean that they always actually are. It is possible to think of cases of moral agents who are relatively unable to discuss the moral aspects of their actions. The ability to discuss moral questions requires considerable intellectual skills. It presupposes a certain intelligence and a certain training. The required social and intellectual training comprehends an ability to step back and to reflect upon a case from different perspectives, an awareness of the possibility of applying different concepts, and an ability to discuss their strengths and weaknesses in a given case. This kind of conceptual and hypothetical reflection requires not only mature (and sane) individuals, but also a certain cultural development, that is, a certain degree of cultural modernization.

This means, all in all, that in claiming an interrelationship between the concept of a *moral agent* and the concept of a *moral discussant*, we are not talking in empirical terms, but in terms of presuppositions and idealizations, that is, in terms of a universal pragmatics concerning competences inherent in speech acts and in terms of a theory of modernization and socialization concerning conceptual development and the development of social identity. Only if we are willing to argue for some such presuppositions can we talk about moral agents as moral discussants, *tout court*. If not, we cannot claim that being a moral agent is sufficient for being a moral discussant.

Could we claim, the other way round, that being able to participate in a moral discourse is sufficient for being able to act morally? The answer depends on the presuppositions built into the concept of a moral discussant. We could try to spell it out by another thought-experiment. Let us imagine a robot and a god, both having adequate intelligence, knowledge of all relevant facts, and an ability to speak and to listen. In short, we assume that both are capable of participating in scientific (theoretical) discourses. I also assume that they are able to intervene in worldly affairs. But are the requirements for participating in a theoretical and in a practical (ethical) discourse the same? If the answer is

affirmative, then these theoretical discussants are moral discussants, and we could ask whether they are also to be regarded as moral agents.

But could discussants without a biological body (like our robot or a bodiless god) count as moral agents? A being without a biological body has no biological needs, no experience of biologically rooted pains or pleasures, no biological birth and growth, no biological aging or mortality, no biological vulnerability. Such a being could, according to our presuppositions, discuss all morally relevant facts concerning moral subjects, be they humans or nonhumans. Such a being could also apply legal and formal principles, like the principle of treating equal cases equally. But how could this being possibly be able to understand and evaluate biological life, with its vulnerability and death? This being could get information about these facts, but without having acquired through experience the notions necessary to understand these facts. In what sense could this being understand what these facts were about? He could get information about people's reactions toward these facts of life, but how could he understand these reactions? This robot or bodiless god has no experience rooted in life processes from the psychological and social world, including socialization and learning based on bodily existence and interaction. This being could only register people's actions mechanically, without understanding what the passions and interests were all about. Not to forget: this is the problem of how an observer might acquire act-constitutive notions when he is excluded from participating in the activities for which the notions are constitutive:[37] as a non-participant in the biological world, and in the social world that directly or indirectly is based on biological existence, this being would not be able to participate in all the role-taking which is supposed to take place in a practical discourse, and which again opens for universalization and for solidarity.[38]

I am not here discussing the old question of whether the devil could participate in practical discourse, i.e., whether good will is a prerequisite for being a moral discussant. (Nor am I discussing whether good will is a prerequisite for being a moral agent, since the concept of a moral agent is understood in terms of the ability to act morally, not in the willingness to do so or in the frequency of morally good actions.) My thought-experiment is focused on the importance of bio-bodily existence for the concept of a moral discussant. The robot, I assume, has no body, that is, no biological body, but merely a mechanical one. The god has no body, or he has a body that is invulnerable and eternal, never born and immortal.

My suggestion is that a biological bodily existence is necessary for a competent moral discussant. Those who cannot be morally harmed, since they lack vulnerability, cannot be moral subjects, and therefore they cannot be moral discussants, even if they have the intelligence, the information, and the semantic competence required: one has to be a moral subject in order to be a moral discussant.

If this argument is tenable it means (as indicated earlier) that discourse ethics has a biological foundation, as part of the competence requirements for being a participant in practical discussions (in contrast to the requirements for being a participant of theoretical discussions). It means that biologically rooted learning and vulnerability represent a shared foundation for moral discussants, moral agents and moral subjects.[39]

To sum up: (i) the notion of a moral discussant and that of a moral agent are not co-extensive, even though they are interconnected, and (ii) the notion of a moral subject is interrelated to that of a moral discussant: not all moral subjects are moral discussants, but all moral discussants are moral subjects.

It may be that there is a graduality of obligations along the scale from humans to non-humans of various kinds. But gradualism is not relativism. There are, clearly, things we ought to do, and things we should avoid doing. And there are huge areas where our moral intuitions are unclear or inconsistent. Therefore we need an ongoing ethical discussion. We have a clear

obligation, as moral discussants, to keep this discussion going.

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[1] We need concepts to think, but are concepts clear-cut or open-ended? (When do pebbles put together make a heap? When does an increasing loss of hair represent baldness?) In Plato, as in Frege, there are clear-cut concepts (or ideas). Aristotle, despite his sympathy with this position, talks about indefiniteness - *de dicto* as well as *de re* - both as to concepts of conduct, such as gentleness and friendship, and as to biological terms, such as borderline cases between plants and animals (as in *PostAnal*. 681a12). Cf Anagnostopoulos (1991) ch. viii, 'Variation, Indefiniteness, and Exactness'. In late-Wittgensteinian philosophy, conceptual openendedness is related to the openness of activities and to 'family resemblance'. This point is related to the discussion of the 'open texture' of concepts (as in F. Waismann, 'Verifiability' in Flew (ed.) 1965; and in Brennan 1977).

[2] An urgent concern is that of experiments on living animals. Cf Tranøy, 'On the Ethics of Animal and Human Experimentation', in Jones (ed.) 1988, p. 83-97.

[3] Cf the German debate about Peter Singer's views on euthanasia in Hegselmann and Merkel (eds.) 1991, and Peter Singer 'On Being Silenced in Germany' in *The New York Review*, 15. Aug. 1991, p. 34-40.

[4] On the notion of advocatory representation related to discourse ethics, cf Apel 1988, e.g. p. 123 and 143, and Dietrich Böhler: 'Menschenwürde und Menschentötung. Über Diskursethik und utilitaristische Ethik', in *Zeitschrift für Evangelische Ethik*, 35:1991, No. 35, p. 166-186.

[5] Cf the question of degrees and thresholds of *Mündigkeit*, autonomy.

[6] That is: a *practical* gradualism, e.g., concerning the use of scarce resources, which does not imply a gradualism concerning *human dignity*, generally speaking – as in the case of an accident, involving a person who is 65 years old and one who is 15 years old, both injured in the same manner, only having the resource available to treat just one of them. The reasonable choice would be to help the person who is 15 years old, not because this person has a higher degree of human dignity than a person who is 65 years old, but because of the difference between "life that is lived" and "life to be lived".

[7] The principle that we should not inflict unnecessary suffering (the *harm principle*) probably enjoys a general support which the principle that we should promote well-being (the *beneficence principle*) does not. There are some reasons for this difference: (i) Normally, the fulfillment of the principle of beneficence is often resource-consuming (resources are scarce and their use has to be evaluated relative to other goals), whereas, ideally speaking, the fulfillment of the harm principle does not require special efforts or resources. (ii) In talking about non-humans, it is often easier to know what is suffering than to know what is well-being—especially when talking about animals that are different from us humans. However, let me also recall that not all harm is *morally* bad. For instance, a person might experience much harm by losing his property while competing on the stock market, but this is not moral harm, according to the rules of capitalist economy.

[8] At this stage we do no question the nature of a property (*Eigenschaft*), be it "objective", "subjective", or "intersubjective".

[9] What about the potentialities of the genes that these cells are made up of? And the other way round: potentially we are all dead. But nobody would argue in favor of his or her *actual* moral status as being equivalent to his or her *future* status as a dead body.

[10] Such arguments from potentiality may entail an implicit normative notion of nature (reality), e.g., in terms of *the full realization of human capabilities* as Man's *essence* and *goal*.

[11] Cf the Shivo case in the US.

[12] Arguments in favor of ethical gradualism, cf Rachels 1990. Rachels develops a notion of rights related to *actual individual properties* in each animal, human and non-human. This 'moral individualism' is therefore 'species-neutral' (p. 208). Each animal, human and non-human, has to be considered according to its actual individual properties. In addition to sentience, Rachels emphasizes a distinction between being the subject of a *biological* life and of being the subject of a *biographical* life as well. The latter is for Rachels the value that rules out killing as morally wrong. But for him these are *gradual properties*. And the distinction does not follow the line between humans and nonhumans. Cf his rethinking of 'the moral status of non-human animals' (p. 208-223), focusing on the questions of killing, causing pain, and vivisection. However, Rachels does not consider the social and discursive perspectives of these problems.

[13] Such a speciesism, arguing from *species* (kind) and not from *actual* properties (*individual* properties), is articulated by Cohen 1986, p. 866: 'Persons who are unable, because of some disability, to perform the full moral functions natural to human beings are certainly not for that reason ejected from the moral community. The issue is one of kind. Humans are of such a kind that they may be the subject of experiments only with their

voluntary consent. The choices they make freely must be respected. Animals are of such a kind that it is impossible for them to give or withhold voluntary consent or to make a moral choice. What humans retain when disabled, animals never had.'

[14] We are talking here of actual and potential properties in terms of *functions*. But instead of focusing on functions, we could focus on properties in terms of *form*, such as appearance. Identification is probably easier in the case of animals that have a *shape* and *size* similar to ours. (Dogs and apes do better in this respect than dolphins and whales. On animal rights, related to whales, cf Anthony D'Amato and Sudhir K. Chopra: 'Whales: Their Emerging Right to Life', in *American Journal of International Law*, 85(1-Jan.), 1991, p. 21-62.)

[15] This cynical position was defended by David Hull at the international seminar on biology and philosophy, in Melbu, July 1990.

[16] There have been various attempts at an evolutionary ethics. In its vulgar version this attempt arrived at an impasse because of the dilemma of the naturalist fallacy. And even more refined versions of Darwinian ethics seem unfit to cope with problems related to socio-historical modernization and to discursive justification, cf Ruse 1986 (e.g., p. 101) in which he tries to get around notions like truth and progress (talking about 'an illegitimate sense of progress, something quite alien to Darwinism'). As to a socio-historical perspective, including discursive rationality, cf e.g. 'Modernization of the Lifeworld' and 'Rationality and Contextuality' in Skirbekk 1993.

[17] This is so, regardless of utilitarian arguments in favor of infanticidal euthanasia, as in Kuhse and Singer *Should the Baby Live?* 1985.

[18] To the extent that humans become increasingly able to change human genetics by means of biotechnology, it becomes increasingly problematic to appeal to an actual genetic state of affairs, and to a natural evolution, as a foundation for an ethics ('evolutionary ethics'): genetics becomes sociotechnologically 'mediated', as it were.

[19] As mentioned earlier, our problem is not one which runs into a naturalist fallacy: in talking about ethical gradualism and in referring to actual and potential properties, we are not suggesting any inference from 'is' to 'ought'. Our problem is another, namely the following: if there is a moral difference between humans and non-humans, then there must be some morally relevant difference between the two cases. That's why we look for biological and other differences. In other words, I presuppose the principle of equality: equal cases should be treated equally. Equal cases should in that sense have equal moral standing.

[20] In one sense Judeo-Christian theology evidently offers a firm foundation for the uniqueness of Man and for human dignity (i.e., for ethical anthropocentrism). But such a theological foundation requires its own justification, with its well-known problems. However, cf Habermas' recent interest in possibly "translating" religious insights into a universal and secular language, in Habermas 2005.

[21] This position could be theoretically strengthened by arguments defining morality as basically a *social* phenomenon (not as an individual phenomenon, neither psychologically nor biologically conceived).

[22] And even a family.

[23] Cf Habermas on a possible ethics for non-humans, in Thompson and Held (eds.) 1982, p. 245-250.

[24] Jeremy Bentham, Introduction to the Principles of Morals and Legislation, ch. XVII.

[25] 'All Animals are Equal', in Singer 1986, p. 226.

[26] "Faced with a situation in which they see a need for some basis for the moral gulf that is commonly thought to separate humans and animals, but can find no concrete difference that will do the job without undermining the equality of humans, philosophers tend to waffle. They resort to highsounding phrases like 'the intrinsic dignity of the human individual'." (Singer is here quoting William Frankena 'The Concept of Social Justice' p. 23.) Peter Singer 1986, p. 227. "Why should we not attribute 'intrinsic dignity' or 'intrinsic worth' to ourselves? Fellow humans are unlikely to reject the accolades we so generously bestow on them, and those to whom we deny the honor are unable to object. Indeed, when one thinks only of humans, it can be very liberal, very progressive, to talk of the dignity of all human beings. In so doing, we implicitly condemn slavery, racism, and other violations of human rights. We admit that we ourselves are in some fundamental sense on a par with the poorest, most ignorant members of our own species. It is only when we think of humans as no more than a small sub-group of all the beings that inhabit our planet that we may realize that in elevating our own species we are at the same time lowering the relative status of all other species. The truth is that the appeal to the intrinsic dignity of human beings appears to solve the egalitarian's problems only as long as it goes unchallenged. Once we ask why it should be that all humans - including infants, mental defective persons, psychopaths, Hitler, Stalin, and the rest - have some kind of dignity or worth that no elephant, pig, or chimpanzee can ever achieve, we see that this question is as difficult to answer as our original request for some relevant fact that justifies the inequality of humans and other animals. In fact, these two questions are really one: talk of intrinsic dignity or moral worth only takes the problem back one step, because any satisfactory defence of the claim that all and only humans have intrinsic dignity would need to refer to some relevant capacities or characteristics that all and only humans possess. Philosophers frequently introduce ideas of dignity, respect, and worth at the point at which other reasons appear to be lacking, but this is hardly good enough. Fine phrases are the last resource of those who have run out

of arguments." (Singer 1986, p. 228)

[27] There are some sobering remarks on the idea of a right to liberties, including 'the supposed individual right to the free use of property', in Dworkin 1978, chap. 12 (p. 277).

[28] Some additional references to the initial debate: Clark, S.: *The Moral Status of Animals* (1977). Feinberg, J. (ed.): *The Problem of Abortion* (1973). Frey, R.: *Interests and Rights: The Case against Animals* (1980). Frey, R.: *Rights, Killing and Suffering* (1983). Godlovitch, R., Godlovitch, S., Harris, J. (eds.): *Animals, Men and Morals* (1972). Kuhse, H. and Singer, P.: *Should the Baby Live?* (1985). Leahy, M. P. T.: *Against Liberation* (1991). Midgley, M.: *Animals and Why They Matter* (1983). Passmore, J.: *Man's Responsibility for Nature* (1974). Regan, T. and Singer, P. (eds.): *Animal Rights and Human Obligations* (1976). Regan, T.: *The Case of Animal Rights* (1984). Singer, P.: *Animal Liberation* (1975). Singer, P.: *Practical Ethics* (1979). Steinbock, B. (ed.): *Killing and Letting Die* (1980). Tooley, M.: *Abortion and Infanticide* (1984).

[29] Cf the criticism of Peter Singer's utilitarian arguments in this respect, raised by Alastair S. Gunn: 'Preserving Rare Species', in Regan (ed.) 1984, pp. 289 ff.

[30] We have an obligation to help humans in the case of a natural catastrophe. We could also say that for utilitarian reasons we have some obligation to try to reduce animal pain caused by natural catastrophes (such as the case of the whales that were trapped under the ice, or the case of wild animals being trapped in a burning forest, set on fire by lightning). Animals suffering from man-made pollution would probably be seen as clearer cases of a human obligation to help. However, if the global temperature gradually changed (independently of human activities) to the effect that some species were threatened by extinction in their natural habitats (say, kangaroos in Australia), in what sense would it then be our obligation to try to save these species? By natural evolution these species would be extinct. *Should* we correct this natural process?

[31] Here I disregard the general criticism of various types of utilitarianism, e.g., concerning its treatment of the question of justice.

[32] Cf Habermas 1991, p. 223.

[33] Cf Böhler 1991, p. 999-1019.

[34] Here I disregard the differences between Apel and Habermas concerning the status of discourse ethics.

[35] Cf Apel 1988, p. 103-153, and Habermas in Kelly (ed.) 1990, p. 32-52

[36] *Ex hypothesi*, they have mechanical bodies, not biological bodies ('biobodies').

[37] We could say that *without participation* we do not acquire the *notions needed* for understanding fellow beings, and a bio-bodily existence is required for such participation. Concerning act-constitutive notions, cf 'Praxeological Reflections' and 'Contextual and Universal Pragmatics' in Skirbekk 1993. Cf also Hans Skjervheim *Objectivism and the Study of Man* (1959), and Peter Winch *The Idea of a Social Science* (1958).

[38] This creature (or creator) could possibly function as a formalist administrator of normative and evaluative questions, but hardly as a moral discussant, since the latter requires the subtle ability to judge complex situations. (This does not mean that this creature could judge in questions of justice, but not questions of value - according to the Habermasian distinction between questions of justice and value questions: also the ability of making judgments concerning justice and injustice requires an understanding of what is at stake.)

[39] This is the point some female philosophers are alluding to in criticizing discourse ethics for having a rationalistic bias (and a gender blindness). 'The moral self is not a moral geometer, but an embodied, finite, suffering, and emotive being' (Seyla Benhabib 'In the Shadow of Aristotle and Hegel: Communicative Ethics and Current Controversies in Practical Philosophy', in Kelly (ed.) 1990, p. 20). I interpret this to mean that having a vulnerable biological body is a *precondition* for being a *moral subject*, and the qualification of being a moral subject is a *precondition* for being a *moral discussant* (but maybe not in the same sense for being a theoretical discussant). However, those who argue against 'gender blindness' (*ibid*. p. 21) should also reflect on the possibility that they themselves suffer from 'species blindness'.

On the possibility of a philosophical justification for universally binding principles

in an age of one-state supremacy and shrinking inter-state institutions[1]

The general theme of "global justice and inter-cultural dialogues" embraces not only questions of *distribution* and *recognition*, but also questions of *peace and survival*. In this paper, focusing on the latter, I shall discuss the question of the possibility of a *philosophical justification* for universally binding principles for international law and thus for inter-state and intercultural behavior.

Preliminary Remarks

Following the treaty of Westphalia there was a focus on the question of state sovereignty, implying non-intervention, to secure peace. Since the Second World War, with the Nuremberg trials and the UN declaration of human rights, and more recently with the International Criminal Court, there has been a focus on international trials of crimes against humanity committed within any state or national legal system. By the time of the war on Serbia, started without UN Security Council legitimization, there were arguments being put forward in favor of an "anticipatory" normative justification, with this intervention being seen as a step towards an emerging international legal system (as a *Weltbürgergesellschaft*).[2]

Positive law, embedded in institutions with legal sanctions, has a normative force in its own right;[3] but in times of crisis and legal rearrangements a normative justification for the basis of existing legal principles is asked for. However, in modern societies it is a commonplace that *purely scientific* arguments alone will not do when it comes to a basic normative justification, nor will *metaphysical or theological* arguments, and the same goes for *contextual* arguments relying on contingent traditions or settings.

This being so, some people want to turn to the "post-sceptical rationalism" of *discourse ethics* for an answer, as in Jürgen Habermas and Karl-Otto Apel;[4] and in this paper I shall argue in favor of this discourse-theoretical approach, while at the same time emphasizing the need for improvements of the versions of discourse ethics found in Apel and Habermas – briefly stated: less emphasis on their notion of "idealization" and more emphasis on a "pluralist" and "meliorist" approach, operating more analytically, for instance by cautious analyses of a variety of situated thought-experiments, preferably in terms of "arguments from absurdity" in a pragmatic sense. Such a "praxeological" version of discourse ethics thus implies a blend of continental (self-referential) and analytic (conceptual) methods.[5]

Along these lines I shall also point to the need for "inter-rational judgment"[6] in assessing the different scientific and scholarly disciplines needed to analyze the actual situations properly – an intricate epistemic need that has been greatly increased by the change in US/NATO towards a military strategy based on active intervention and preemptive strike.[7]

Also, along the same lines I shall point to the philosophical need to operate with a gradual notion of a "person", ranging from present persons to future generations and also to other sentient beings – thus widening the scope of

fair distribution across generations, and gradually across species, the latter point entailing ecologically relevant considerations beyond current anthropocentric arguments.[8]

Basically I shall defend a positive thesis concerning the possibility of a universal justification for basic normative principles, while at the same time emphasizing the need for inter-rational and inter-national learning-processes, both between scientists and scholars, and between all those concerned, across civilizations and generations.[9]

However, when we take part in such dialogues we should all be aware of our own historical and cultural embeddedness: history and culture are matters that matter, also for intellectuals who apparently talk in universal terms.[10]

(I) Background conditions for a universal justification for international law

A fundamental question in international law is related to the justification of the use of military force across national and legal borders, the standard justification being self-defense and/or UN support. With the development of new military technology, and with a new threat of terrorism and international instability, the question of an extended notion of self-defense, and also, in some quarters, an idea of a new power-based international order, have emerged. These trends were decisively strengthened by the terrorist strike against the World Trade Center in New York, an event that gave support to the US doctrine of preemptive strike, for the sake of national safety and global stability. At the same time a growing concern for crimes committed by tyrannical regimes against their own population has lead to a reconsideration of the traditional principle of non-intervention, opening for the possibility of military intervention for the sake of human rights, when supported by the world community through the United Nation Security Council.

What is often called "the modern project" was initially conceived of in optimistic terms as a process towards steadily improving control over life-threatening natural and social conditions, and hence towards increased security and human well-being. But in our times, confronted with the various risks and uncertainties built into this "project" itself, there are good reasons for less euphoric attitudes towards the modern predicaments: although many forms of risk and uncertainty can be influenced and reduced in various ways, there are some basic forms of risk and uncertainty that will prevail. (i) There are risks and uncertainties inherently connected to the *irreducible fallibility* of human knowledge, including scientific and scholarly knowledge.[11] (ii) The inherently *perspectival* nature of the different scientific and scholarly disciplines adds to this basic cognitive uncertainty. (iii) When these kinds of knowledge, which in principle are fallible and perspectival, are put into use by the various *institutions* in modern societies, unintended consequences tend to emerge, tied to the restrained functioning and fragmentation of these institutions.[12] (iv) To these factors we should add a reminder of the role of the *human factor*, which in principle transcend any total prediction or control.[13]

For such reasons, total control and security is not obtainable. There will always be vulnerability, and irreducible fear of intended or unintended harm.[14] More specifically, and briefly stated, any attempt at total control in terms of strategic and instrumental rationality will sooner or later reach its limits: in human societies there will always be a need for communicative action and understanding, basically related to the necessity of childhood socialization and for understanding within one's own peer group. Furthermore, open and enlightened discussions among free and equal citizens represent one of the forms of communication that transcends strategic and

instrumental rationality and the kind of asymmetric use of force that is related to strategic actions.[15]

These remarks are reminders of the existence of *inherent limits* to the idea of complete control in terms of instrumental and strategic actions based on modern science and technology, military technology included. In our times, political and military actions will have to operate within the framework of inevitable risk and uncertainty and of an irreducible basic need for communicative rationality; these cognitive and institutional constraints will always prevail in modern societies.

In all of this, and intertwined with these problems, we are faced with the question of a universal justification for basic normative principles, a question which cannot be solved instrumentally or strategically, e.g. not by science and technology alone. Nor can the question of a universally binding justification be solved by any particular religion or theology, since there are different religious and theological doctrines and since any religious or theological doctrine will be critically questioned in a culturally modern society. Slogans like *Allah is great* or *God bless America* are not compelling arguments for those who believe in another god or have a different belief in the same god or for those who do not find the idea of a god convincing at all, or even meaningful. Nor are contextual or ethnocentric arguments plausible, since such arguments are never convincing in other contexts or for other ethnicities – hence, *patriotism*, even for a superpower, is no convincing argument as a universally binding justification for basic principles of international law, nor is *religious fundamentalism*.

(II) A modern, post-metaphysical response: discourse ethics in terms of universal pragmatics

An established and well-entrenched legal system has its inherent legitimacy, as it were.[16] But in times of deep crises and legal and political upheaval, it can be argued that a context-transcending, universally valid justification is required, and therefore, that there is a need for a justification that in its nature is philosophical - but not metaphysical in a traditional sense, which is intellectually untenable in a modern society. For this reason we shall now turn to discourse ethics, primarily as it is found in the universal pragmatics of Karl-Otto Apel and Jürgen Habermas.[17]

Not all philosophers or intellectuals would agree on the view that such a philosophical justification for basic legal principles is required and possible. Richard Rorty, for one, would question both the need and the possibility of such an attempt at a philosophical justification for basic norms.[18] However, in this paper we shall not start by defending discourse ethics and the view that there is a need for a philosophical justification for basic principles of international law. Instead we enter the debate among the main proponents, namely Apel and Habermas, hoping that the arguments in favor of discourse ethics and the idea of a normative justification will become clearer as we proceed.

We begin with a few general observations: discourse ethics is a philosophical pragmatics, conceived in terms of the pragmatic-linguistic turn, emphasizing the importance of ”forceless force of the better argument” (Habermas) for possible discursive solutions of basic validity claims - not only of propositions (related to truth claims) but also of norms regulating human behavior (related to rightness claims). Value questions are at the outset seen as contextual, whereas norms for rightness are in principle considered to be apt for discursive and universal justification. Any denial of

the ”forceless force of the better argument” is conceived of as being self-referentially inconsistent, in terms of performative self-contradiction; in so doing, one denies that which is a precondition of this very denial – in that case there is a performative contradiction.

Discourse ethics works on two levels, as it were: reflectively recognized preconditions for discussion and discursively obtained answers within a discussion.[19]

The proponents of discourse ethics try to show, by arguments from performative self-contradiction, that there are preconditions for discussion that cannot be seriously denied, since they are necessarily presupposed in any serious denial. These unavoidable conditions for any serious discussion include requirements for symmetric relationships between participants and for the search for better arguments. These normative preconditions are *constitutive* for argumentation, in the sense that any serious argumentation would be impossible without these norms, at the same time they are *regulative* for argumentative behavior, in the sense that these norms regulate the behavior of the participants in argumentation: a violation of these norms is conceived of as being normatively wrong.

Within a practical discussion (that is, an argumentation on normative questions, such as questions of rightness) the better arguments are to be followed, hopefully leading to a justification of the question under debate, in terms of an ideally rational consensus among everybody concerned. In this sense the valid answer is conceived of in terms of a counterfactual ”idealization” which is seen as presupposed in any serious discussion: the *consensus* obtained among all parties concerned, in a free and enlightened discussion under ideal discursive conditions, indicates what is meant by normative rightness (moral validity).

It is well known that among the proponents and opponents of discourse ethics conceived in terms of universal pragmatics, there have been extended discussions about the epistemic status, and the possibility of the notion of an ideal *consensus*, and also about the notion of an *ideal speech-situation* (Habermas) or an *ideal community of interpreters and researchers* (Apel). In this paper, however, we shall delimit ourselves to some of the recent arguments on these issues between Apel and Habermas, and add our own remarks to these debates.

As a first step we shall briefly delineate (as a reminder) the following four points concerning discourse ethics in terms of universal pragmatics:[20]

(i) There are claims concerning necessary *normative preconditions* for (practical and theoretical) argumentation.[21]

(ii) There are claims concerning some *implications arising* from these preconditions, as to the possible content of practical argumentations, such as the impossibility of irrational and ethnocentric positions within a universalistic oriented discussion.

(iii) There are claims concerning the possibility, *within* a practical discussion, of reaching valid conclusions regarding some basic normative questions, in terms of a rational consent, that is, a consensus under ideal (or sufficiently improved) conditions among everybody concerned.

(iv) There are claims concerning the moral obligation to strive for the best possible *realization* (i.e., improvement) of discursive conditions in real life.

At the outset we have raised the question of the possibility of a philosophical justification for universally binding principles. To the extent that discourse ethics, conceived in terms of universal pragmatics, can be convincingly defended, we

apparently do have an interesting candidate for a positive answer to that question: a discourse-based reflective justification for normative principles, with implications also for international law and thereby for the relationship between states, peoples and civilizations.

Which normative principles? According to discourse ethics, normative legitimacy is brought about by:

(α) discursive rationality that ideally implies a search for the *better argument* and thus an openness to all relevant arguments, and

(ß) inclusiveness that ideally implies participation and mutual recognition of *everybody concerned*.

Briefly, in positive terms: all arguments should be heard and everybody concerned should be listened to. Briefly stated in negative terms: undue exclusiveness undermines normative legitimacy.

To be sure, in some scientific and scholarly discussions we are faced with competence requirements that are asymmetrically distributed in a population,[22] and there are intricate questions concerning the requirement of a real participation when we consider future generations, the "hard cases" (of biomedical ethics), and non-human sentient beings, all of them unable to participate.

However, generally speaking the discourse-ethical principle of legitimacy requires argumentative openness and participatory inclusiveness. When applied to international law, a lack of such openness and inclusiveness, for instance in terms of unilateralism and one-state hegemony or of one-religion rule, runs counter to this principle of legitimacy. In this sense, the principle of discursive inclusiveness is a post-metaphysical and post-conventional notion of rationality and legitimacy – a modern notion, alien both to tribalism and fundamentalist essentialism.

To examine this position we shall now turn to some points in the recent discussions between Apel and Habermas.

(III) The Habermasian approach

Having been under attack from Karl-Otto Apel,[23] blaming Habermas for a detrimental weakening of the reflective and philosophical core of universal pragmatics, in favor of functionalist and empirical arguments, Habermas has responded by pointing at "architectonic" differences between the two of them: while Apel wants to establish a post-metaphysical normative justification, in terms of a universal morality (as a renewed and revised version of "natural rights"), from which legal systems and practices can be legitimized (or criticized), Habermas emphasizes the relative autonomy of legal normativity versus moral normativity, and consequently he considers Apel's hierarchical model (to the extent that it subsumes legal normativity under moral normativity) to be inappropriate. Instead Habermas attempts to develop a dual system, of a "moral principle" and a "democracy principle", on the same level, as it were; both rooted in the *discourse principle* (D), a basic principle which is normative, but still "neutral" as to the differentiation between the "moral principle" and the "democracy principle". The discourse principle is cast in these terms:[24] "Valid are just those norms of action that all possibly concerned parties could have agreed upon, as participants in a rational discourse".[25]

For one thing, in Habermas (as in Apel) there is an emphasis on the positive role the legal system has in supporting the motivation for moral behavior (making it more reasonable to expect law-abiding behavior from fellow citizens). On the other hand there is in Habermas (in contrast to Apel) a certain doubt as to the strength and extent of reflective universal-pragmatic arguments. While holding on to the

importance of discursive processes, both as a learning-process (including mutual role-taking and discursive formation of opinion), and as a way of solving normative controversies concerning basic rightness and justice (contextual value questions excluded), Habermas expresses his doubt as to the strength and extent of self-reflective arguments, due to problems of the pragmatically idealized notion of an ideal speech-situation and of the criteriological notion of consensus, and due to problems of the extension of self-referential arguments outside the realm of argumentation.[26]

In support of normative universality, and in compensation for his doubts as to the importance and strength of purely philosophical arguments, Habermas has elaborated theories of socialization (as in Lawrence Kohlberg) and of modernization (as in Max Weber), within a normative-pragmatic horizon emphasizing the irreducibility of communication and of symmetric interpersonal relations.

For Habermas, the difference between Apel and himself is ultimately due to a difference in the *conception of philosophy*: "I assume that our discussions concerning the correct architectonic structure of the theory are in the last instance related to a dissent as to the role of philosophy itself."[27]

(IV) The Apelian approach

In response Apel argues that a lack of an adequate conception of *reflection* (in Habermas and his followers) is the decisive reason for the difference between Habermas and himself.[28] Self-referential arguments, conceived in terms of universal pragmatics, is at the core of Apel's thinking: we have to avoid performative self-contradictions! Such pragmatically self-referential contradictions represent an absurdity (a *Sinnlosigkeit*) which undermines what the speaker is saying! Utterances of this kind are self-detrimental.

These performative self-contradictions are often implicit in what is said or presupposed, in such a way that a careful and competent analysis is needed in order to spell them out. This is the task of a *critical*, or negative, use of self-referential arguments: other people are criticized for their self-referential inconsistency.[29]

The critical use of arguments from self-referential inconsistency is often seen as quite convincing, and such critical arguments against self-referential inconsistency are extensively used both by Apel and Habermas.[30] However, the decisive point for Apel is the *constructive*, or positive, use of these arguments: by reflecting on the absurdity created by a performative contradiction we become aware of pragmatically unavoidable preconditions.

In this connection Apel talks about *Sinnkritik*, "meaning criticism". These are reflective arguments, working through a *via negativa*: by the creation of an absurdity (a *Sinnlosigkeit*) we become aware of some principle that is needed in order to avoid this very absurdity.[31]

This positive use of self-referential arguments represents a kind of transcendental reasoning (though different from Kantian transcendentalism which is conceived in terms of the subject-object model of epistemology, prior to the pragmatic-linguistic turn), and this is certainly the core of Apelian transcendental-pragmatics: according to Apel this constructive (or positive) use of "meaning-critical" pragmatic arguments makes us aware of preconditions for argumentation, in terms of necessary regulative principles for an ideal community of interpreters and researchers, as well as in terms of the notion of a consensus among all rational persons, under these ideal conditions.

These idealizations are conceived of as preconditions embedded in our argumentative speech-acts, since the basic validity claims which are inherently

connected to these speech-acts (such as the truth claims and claims of rightness) are in principle argumentatively "redeemable" (answerable). However, due to the fallibilism connected to any real discussion and any real consensus, the notion of validity (of truth and of normative rightness) requires a counterfactual idealization.[32]

The idea of such idealizations, as well as the basic point of speech-act inherent validity-claims, are found not only in Apel, but also in Habermas and Wellmer and other philosophers associated with universal pragmatics. This idea of idealization represents the basis for their belief in a mediation between the notion of *justification* and the notion of *truth* (or more broadly, the notion of validity, including normative rightness), while at the same time avoiding the problems of a naive epistemic realism (connected to the subject-object distinction of classical epistemology). Apel, Habermas, Wellmer and other speech-act oriented universal-pragmatists want to maintain a conceptual *distinction* between justification and truth, while at the same time *relating* justification and truth. Justifications are connected to the best argument for the time being and can thus "be lost" (Putnam), whereas truth in terms of this universal-pragmatic precondition (or idealization) is "final" and not relative.

The difference among these philosophers, from Apel and Habermas to Wellmer, lies in their different ways of conceiving these idealizations: Apel defends a strong notion of universal-pragmatic idealizations, based on his strong notion of performative and self-referential reflection. Wellmer has all along argued that the Apelian conception of these preconditions – such as final consensus through ideal communication – is infelicitous, not only since these conditions are beyond actual realization (which is also emphasized by Apel), but because these conditions, according to Wellmer, are metaphysically loaded and in the end conceptually meaningless: human existence is finite and human communication will always be characterized by different perspectives and a lack of transparency. Therefore, the idea of a perfect communication, pointing at a final consensus (in terms of a perfect synthesis of all perspectives), is not only empirically impossible, it is conceptually meaningless. Nor can it be an ideal, since such an aim implies the abolition of human communication as it is known to us.

These critical arguments, expressed by Wellmer, are extensively accepted by Habermas (to some extent as a self-criticism of his former views), but not by Apel.[33]

Against this criticism Apel's response consists firstly of a counterattack in terms of a *critical* use of self-referential arguments (of performative self-contradiction): where does Wellmer find himself, philosophically, when he makes these claims? Does he not make claims of universal validity (about human finitude and the impossibility of ideal communication and final consensus), and if so, how do these universalistic claims match with his own sceptically oriented philosophy?[34]

Apel's response also consists of a *constructive* argument. Whereas Wellmer strongly emphasizes the speech-act's inherent relationship to the "good argument" in the first person indicative tense - thus distinguishing between this epistemically normative relationship to better arguments and the epistemically neutral relationship which exists while either referring to one's own former opinions or observing the opinions of others (as different from one's own present opinion) – Apel argues that a reflective awareness of one's own fallibilism is present already in this first person indicative tense, which is the reason why we are open for further arguments and thus are willing to continue the discussion.[35]

Along these lines Apel attempts to show that the criticism raised against his version of universal pragmatics is less serious for his position than his critics seem to believe.

(V) Attempt at an assessment of the pragmatic approaches

(1) Apel

To strengthen his transcendental-pragmatic argumentation, Apel emphasizes the self-referential inconsistency of any general fallibilist position, while at the same time suggesting (supporting Popperian views in this respect) that our knowledge is in fact fallibilistic; for the sake of self-referential consistency we therefore have to realize that there is some kind of non-fallibilistic reflective insight, and that is exactly what transcendental pragmatics explains.[36]

However, this argument, which formally is quite strong, does depend on a sharp distinction between a nearly all-embracing fallibility on the one hand and the absolute certainty of transcendental pragmatics on the other. What about the adequacy of this dichotomy? Are these ideal-type concepts appropriate for the understanding of the role of fallibilism in human life? And what about the application of such high-level concepts on concrete cases?

We may ask: *what* is a concept, and *where* do the concepts do their work? These are important but intricate questions. Are concepts to be conceived in terms of general and often clear-cut *positions*, or should they rather be analyzed and understood by focusing on the way they work in various *practices*?

As a starter one could say that positions and practices are both important for the status and role of concepts, as well as for our analysis of their role.

At this point it might be appropriate to recall that the pragmatic-linguistic turn has been conceived somewhat differently by different philosophers. There are those who conceive this turn as a change from the classical epistemology, with its subject-object model, towards a speech-act related philosophy. There are those who see this change as a rupture, like a *change of paradigm*, whereas others conceive this change in terms of a *dialectic learning-process* (transferring former insights into new and better conceptions). And there are those who see this change not only as a change of positions, in some way or another, but as a change in the *way of doing philosophy*: a self-critical awareness of the frailty and vagueness of our language leads to a cautious way of working, avoiding "big words" and relying on careful analyses of chosen cases or thought-experiments, in order to get a more realistic and nuanced conception of our concepts and the work they do in our various practices.

When such case-oriented analyses of *concepts in use* are undertaken it becomes dubious to assume that *all* insight is "fallible" (with the exception of insight tied to the unavoidability of strictly self-referential arguments).[37] Consider for instance the insight an agent has of his or her own behavior, starting with simple acts like holding a cup of tea, crossing a street, tightening a screw, and the like. We certainly often make mistakes, even in such simple cases. But still it can be argued that as a rule the agent knows what the agent has to know in order to do what the agent does. This is an act-inherent insight that is *not* appropriately described as *fallible*, at least not in the *same* sense as explicit hypotheses in the empirical sciences are called fallible. And the latter, i.e. hypotheses in the empirical sciences, seem to be the cases that fallibilists (such as the Popperians) have in mind when talking about our knowledge as fallible: empirical hypotheses are certainly fallible; that is why they are "hypotheses", to be tried out in some empirical research. But the act-inherent insights of the researchers, for instance while doing this kind of empirical research, is at least not fallible in the same sense.

On the contrary, one could argue that such insights are presupposed, as valid and trustworthy, by the researchers: in doing their empirical research they *necessarily presuppose* that the floor is stable, that the screws can be tightened, that the measuring instruments function in the same way today as they did yesterday, etc.[38]

The importance of such *act-inherent insights* is emphasized by the later Wittgenstein and by the early Heidegger.[39] Such insights are often implicit, not thematized, and hence they are often called tacit knowledge. But to a large extent they can be articulated and talked about, in various ways.[40] Certainly, any verbal articulation of such insights represents a danger of misconception; hence there is an aspect of fallibilism tied to such verbalizations. But even so, the permanent possibility of misfit in any concrete case of verbal expression does not imply that all cases of verbalization are uncertain.[41]

These points are just mentioned to indicate that the crude dichotomy (in Apel), between a very vast notion of fallibility and the absoluteness of strictly self-referential insight of transcendental pragmatics, appears to be *inadequate* when we start looking into the various epistemically relevant practices and how the concept of fallibility could most reasonably be analyzed in these cases.

To the extent that this case-oriented way of reasoning makes sense, it strikes in both directions, as it were. It questions the Apelian dichotomy, with its emphasis on the uniqueness of strictly transcendental-pragmatic reflection, but it also questions the general fallibilism of the sceptically inclined philosophers, be they members of the Popper tradition[42] or post-modernist intellectuals defending a conception of language as being far too vague and socially embedded to allow for any universal validity-claims.

In these debates I would argue in favor of a more case-oriented way of working in philosophy, more sensitive for the varieties and nuances of our different conceptual practices. This way of working has implications for the realm outside the core of transcendental pragmatics (as indicated in the paragraphs above, pointing at cases of certainty different from those of transcendental pragmatics in Apel). But this case-oriented and cautious way of philosophizing has implications also for the very core of transcendental-pragmatics: Apel assumes that his "meaning-critical" method of strictly self-referential argumentation reveals *one unique* kind of absurdity (*Sinnlosigkeit*) that reflectively shows a unique kind of necessity in terms of strict unavoidability.

However, how do we know that there is but one kind of absurdity, in the different cases? Is it, for instance, equally "absurd" to deny the validity of the utterance "I hereby claim that I exist" as it is for the utterance "I hereby claim that you exist", or for the utterance "I hereby claim that consensus is the ideal aim of any serious argumentation"? These and other cases are found in Apel, but without a satisfactory discussion as to the possible epistemic differences between these cases, for which a denial is supposed to give an absurdity.[43] Referring to the quoted utterances, there is quite another degree of theoretical clarification needed in order to understand (and possibly accept) the latter utterance (about consensus) than it is in the first one (about the speaker's own existence). Nor is it evident that the first utterance and second utterance are epistemically identical.[44]

Therefore my claim: already within the core of transcendental pragmatics, and even more so in its philosophical "surroundings", there seems to be a plurality of different cases and different notions of absurdity.

This claim does not represent a detrimental criticism of transcendental pragmatics; it represents a pluralistic transformation of transcendental-pragmatics. In

so doing it takes more notice of some crucial counterarguments, not only from literary oriented post-modernists but also from more case-oriented analytically trained philosophers.

If so, my pluralist approach represents a strengthening, not a weakening, of the main points of transcendental pragmatics as in Apel's version, that is, its claim of being a counterargument against scepticism and to be an argument in favor of the possibility of universal validity, not only in terms of truth but also in terms of some basic norms of rightness and justice.

Along these lines I would argue in favor of a transcendental pragmatics that is sensitive to linguistic differences and nuances and that cautiously analyzes a variety of cases. To sum up: our act-inherent validity-claims, and more specifically, our speech-act inherent validity-claims and their possible transformations into discursive interaction in order to try to solve some of these claims by following the forceless force of the better arguments, and the reflective insight into some unavoidable constitutive and normative preconditions for a serious argumentation – are all maintained, but with an emphasis on the binding force of what is seen as the better argument, and the inherent obligation to seek the still better argument, or rather, the obligation to avoid what is epistemically less good.

This "pluralism" and "meliorism", directed against what is worse rather than towards what is perfect (according to the thesis of "the primacy of the negative"), does not embrace a strong and substantial notion of a converging consensus and of ideal communication. But it does defend universally valid norms that are pragmatically rooted, and it does defend the possibility of discursive processes, both as mutual learning-processes and as processes for argumentative clarification and possible solutions. Its notion of a self-referential transcendental-pragmatic reasoning is case-oriented and open for varieties, and this kind of "meaning-critical" reasoning is also extended, beyond the realm of pragmatic self-referential arguments, to include a variety of cases based on arguments from absurdity, each of them revealing some constitutive precondition, either for special activities or for actions in general.[45]

(2) Habermas

Asking for a justification of international law, we should at the outset give a positive assessment of Habermas for his extensive elaboration of the theory of law, combining philosophical reflections on normative validity-claims and institutional considerations of the functioning of a legal system in modern societies. In so doing he relates himself to major positions in ongoing discussions of the theory of law.[46]

Whereas Habermas at an earlier stage (in *Theorie des kommunikativen Handelns*) described the dangers of a legal intervention into the lifeworld, he now underlines the positive support for moral motivation caused by a constitutional state and its legal system. But his earlier writings on the theory of modernization and of socialization retain their importance as a background also for his later work on the possibility of normative obligations in modern societies, that is, for universal (meta)norms of *justice* and *rightness* (but not for *value questions*, that are seen as contextual).[47] Roughly speaking, Habermas and Apel hold similar views on the latter, whereas there are differences between the two as to the role of normative justification, for morality as well as for legality, international legality included.

However, in Habermas's theory of law there is a philosophical uneasiness concerning (i) the architecture of his main argument, that is, concerning the interrelationship of the discourse principle (D) and the universalization principle (U), concerning (ii) the interrelationship of these principles to the "morality principle" and

"democracy principle", and (iii) concerning the further "specification" of the various legal and social rights.[48] In addition there is, in relation to the discourse principle and the universalization principle, an uneasiness as to the strength of the philosophical justification for normative validity. This philosophical uneasiness is addressed and criticized by Apel, who instead offers an answer in terms of his transcendental pragmatics. But that answer is unconvincing for Habermas, due to its strong transcendental-pragmatic idealizations and its strong claims of self-referentially obtained conclusions concerning universally valid (meta)norms.

However, Habermas does not seem to consider the possibility of a more case-oriented and language-sensitive use of "meaning-critical" arguments from absurdity, including performative self-contradictions. Instead he relies on a combination of support from theories of modernization, of socialization and of modern law and from conceptual dichotomies such as the ones between rightness and goodness, between norm and value, between justification and application – in each case, the former supposedly universal, the latter contextual. These dichotomies are supposed to represent a safeguard against the slippery-slope towards relativism, especially towards relativism concerning the basic norms of rightness and justice.

These dichotomies are cast in terms of fairly general concepts, explicated by a discussion of high-level positions, rather than by cautious analyses of cases and of the way our concepts are used in various theoretical practices. It is therefore my contention that a transformed transcendental-pragmatics, in more pluralist and meliorist terms, could have contributed better to the solution of the question of a safeguard of normative universality than what is obtained by these dichotomies – and, at the same time, avoiding the critical arguments raised against the strong claims of the Apelian position.

This is my main point in this assessment of Apel and Habermas: another way of working philosophically, more sensitive to the variety of conceptual practices, in discussions as well as in the lifeworld, would have been an advantage both for the Apelian and the Habermasian approach. This does not mean that reflections on general positions should be abolished. They should not. But it does mean that a more analytic way of philosophizing should be promoted also in this field of reflection on pragmatic preconditions. My proposal could thus (as indicated earlier) be described as a combination of analytic and continental philosophy: self-critical and practice-oriented analyses of pragmatic preconditions.

(3) Moral subject and moral discussant

I shall conclude by adding a few remarks to the discourse principle (D): **"**Valid are just those norms of action that all possibly concerned parties could have agreed upon, as participants in a rational discourse".[49]

Evidently, there are "concerned parties" who cannot be participants in any rational discourse. Firstly there are various empirical reasons why this and that person cannot take part in this or that special discussion with consequences for his or her interests. To take care of this difficulty, the discourse principle is cast in hypothetical terms: "zustimmen könnten" ("could have agreed upon...."). But the term "könnten" is vague and ambiguous, since there are "parties concerned" that not only for contingent empirical reasons cannot participate, but that in principle could never participate in any rational discussion. The hard cases from bio-medical ethics are well known: among these cases we do not only have minors who have not yet reached the level of personal maturity required for a discursive participation, but also individuals who have permanently lost their former capabilities as a person and who will therefore

never again be able to participate in any rational discussion, and we have members of *homo sapiens* who by birth are handicapped to such a degree that they will never be able to participate in such discussions. In these cases there are "parties concerned" that for various reasons *could never* take part in any rational discourse. In such cases it is therefore required to have somebody else, an appointed and responsible representative, to defend their interests.

Conceptually this means that we need to distinguish between (i) "those concerned" – that is, bio-bodily subjects that can be harmed; we could call them *moral subjects*, or subjects with a moral standing – and (ii) possible "participants" in practical discussions; we could call them *moral discussants*. Not all moral subjects are moral discussants - though all moral discussants have to be moral subjects, in order to be able to understand what a practical discussion is all about.[50] This point has important implications, both epistemically and as to the question of an extension of the notion of moral subject ("party concerned").

Epistemically the point is important since discourse theory is conceived of in terms of possible participation. Even when the tricky terms of "consensus" and "ideal speak situation" are disregarded, the problem remains as to the possibility of participation of all parties concerned. Discourse theory is modeled on a conception of discursive participation, of discussion as a mutual exchange of arguments and as a mutual learning-process with real role-taking for the sake of an improved identity and preference formation - that is, it is modeled on *participation*, participation here-and-now among other moral discussants (who are also moral subjects). But for future generations, and for the hard cases of bio-medical ethics, such discursive participation is in principle impossible.

Therefore, the intentions of discourse ethics have to be taken care of by advocatory representatives (*advokatorische Vertretung*). This means that qualified persons have to take responsible decisions concerning the well-being of all these actual and possible moral subjects, decisions as to what could be said to be good and right for them.

To the extent that we have knowledge about some basic needs, it tends to be easier to get a discursive consent concerning harm than happiness (i.e., the asymmetry between the negative and the positive, and the primacy of the former). Furthermore, to the extent that values are tied to conceptual systems and that there can be an enlightened discussion and decision about the relative adequacy and inadequacy of different conceptual systems in a given case, we could to the same extent defend some value decisions taken by advocatory representatives. In this sense some degree of "paternalism" is both unavoidable and desirable. In such cases we should talk about legitimate paternalism; and in such cases the principle of participation is transformed into an enlightened discussion of need interpretations and of avoidance of harm for moral subjects who cannot take part in these discussions.

As to the extension of the notion of "parties concerned" to the various moral subjects who cannot take part in discussions, we could briefly refer to the following points: taking future generations into consideration is normatively required, since future persons are "concerned" as a consequence of our activities and decisions. Future generations have then to be defended by responsible representatives (*advokatorische Vertretung*). This point has practical implications, for national law as well as for international law, for instance as to conflicting interests concerning scarce ecological resources (when related to future generations as well as to non-human moral subjects). In this perspective, one theme of importance for international law is the scarcity and vulnerability of ecological resources, another is the possibility of future

biotechnological interventions in the human biology, with implications also for questions of identity.[51]

In addition to these implications for international law and global justice, extended to future generations, we also have the tricky question as to how to draw a normatively justifiable line between humans and non-humans, when they all are moral subjects, that is, sentient beings that can be harmed by our activities and decisions. Briefly stated, in carrying out case-oriented analyses we are forced to acknowledge that whatever capability or characteristic we find persuasive for a normative ascription of a moral standing (implying representative defense in practical discussions), there will always either be some humans who fail to meet these criteria, or some non-humans who comply better with these criteria than some humans.[52] In any case, there seems to be no good reason for a clear-cut distinction between humans and non-humans when it comes to the question of moral standing and hence to the demand for discursive representation.[53]

The latter point has its normative and even legal implications: if there is no clear-cut demarcation between humans and non-humans, then a reasonable conclusion would be an inclusive rather than an exclusive attitude, thus including non-humans in the realm of moral subjects. This means that parts of what used to be conceived of as "nature" (such as sentient animals) should be defended discursively by representatives. Ethical anthropocentrism is thus overcome in favor of an eco-ethics of a gradual kind, reaching from humans into the realm of other sentient beings. This ethical gradualism has certainly far-reaching implications for the normative foundation and extension of international law.

All in all this means that discourse theory has to rely on reasonable but fallible arguments on behalf of other persons and sentient beings, and this means that the participatory aspect of discourse theory has to be supplemented by a gradualist meliorism, sensitive to the various cases.

This proposal represents, in my view, a necessary transformation of the Habermasian and Apelian approaches to normative validity, including justice in legal terms. And this inclusion of moral subjects, that are not and cannot be moral discussants, has vital implications for international law: the principle of self-rule through discursive and political participation has to be transformed such that it includes a discursive and legal defense for all existing parties, all moral subjects, and also a defense, by representatives, of moral subjects who cannot take part in practical discussions and democratic processes. To the extent that these subjects are actively or structurally excluded, we have a violation of the legitimacy of international law.

(VI) Concluding remarks

On the background of this brief presentation of the Habermasian and the Apelian approach to the question of the possibility of a philosophical justification for universally binding principles, including international law for basic justice between nations and generations, I would particularly emphasize the desirability of a more analytically oriented way of working, which in my view would strengthen this attempt at a justification for basic universal principles at the moral and legal level.

These principles demand the primacy of justice, not power, as a basic obligation for a civilized international community. This means that the use of force has to be legitimated in accordance with these principles, cautiously applied to concrete situations. This conception asks for discursive collaboration and a search for some kind of reasonable consent, favoring international agreements and institutions, trying to avoid unilateralism, especially when based on unreasonable asymmetries and

excessive interpretive one-sidedness. Furthermore, living in a modern society we realize that modern technology while making global markets possible, also make global terrorism possible. In a risk society unintended detrimental consequences have to be taken into consideration, and the same holds true for intended harm in terms of sabotage or terrorist attack, carried out by ideologically perverted or mindless persons.

Against the background of these basic legal principles and with a realistic conception of the risks in modern societies based on modern technology, we should do our best to establish more adequate international institutions for the reduction of detrimental acts, including military conflicts, and for improved conditions for global and intergenerational justice. In so doing, we need to take various scientific and scholarly views into account. But then it is important to avoid an undue bias in the composition of the various bodies of experts, since an undue dominance of some special kind of expertise will be detrimental both to the rationality of the picture presented and to the possibility for unprivileged groups to have an equal chance of an adequate representation and an appropriate say.

As we know, economic interests or military perspectives quite often define the situation and thus determine the agenda and the means of solving the problem as it is seen in terms of these interests and in these perspectives.[54] In an effort to avoid such unreasonable and undesirable biases as to the composition of scientific and scholarly perspectives or disciplines it might therefore be useful to improve the public's competence in terms of "science literacy" and thus to improve their ability to reflect on a given composition of disciplinary perspectives. In this sense a basic ability of inter-disciplinary reflection (of "inter-*rational* rationality") is required.

To promote not only *global justice* but also *dialogues between cultures*, there is a similar need for an inter-*national* rationality. For this purpose, too, there is a lesson to be learnt from discourse theory, emphasizing the need for communication and mutual recognition in discussion: this mutual recognition does *not* imply that criticism between cultures is excluded; but it excludes an ethnocentric normative asymmetry between persons and peoples, and it includes the basic recognition of all persons as persons. At the same time, it opens for, and even asks for, a fair and decent criticism of acts and ideas that are biased or infelicitous or downright wrong - legally, morally or cognitively. Without the possibility of a mutual, discursively based criticism of this kind there can be no real recognition, nor any real learning-process based on discursive exchange and role-taking between persons and peoples.

In this connection the interplay between discourse theory as a communicative practice and the normative theory of modernization and socialization is important. However, in many cases there might be an inherent tension between modern technology and related social practices on the one hand and pre-modern social structures and attitudes on the other. This seems to be a basic problem in many Islamic countries. But similar tensions are also found in Western countries, such as the United States, where for instance a religious rhetoric is politically accepted, due to a lack of cultural modernization in terms of a self-reflective scepticism in such matters.

When it comes to the need for inter-national and inter-cultural dialogues, we also have to take into consideration purely cultural and value-based varieties. On the communicative level there is a need for *dialogues* promoting mutual understanding as well as for *discussions* for the sake of better arguments on various levels. In short, there is a need for improved understanding, not only for improved justification.

Furthermore, we should realize that there are "big dialogues" as well as "small dialogues": there is a need to spell out the overall perspective of a tradition and discuss

its achievements and values; but there is also a need a listen to concrete contextual interpretations and comments, based on lifeworld situations and personal experiences. It is important to talk *with* people, and not only to talk *about* them and *at* them. It is important to learn to listen, especially to that which is unfamiliar and strange. Therefore, so-called small talk might be a great thing:[55] "big wheels" and "small wheels" are both required to promote mutual understanding in an international community with different codes of meaning, identities and values.

I conclude: philosophically there is a possibility of a justification of basic normative principles, also for international law and for global and intergenerational justice. Such justification should be supplemented with theories of modernization, including reflections on scientific and scholarly expertise, and it should be supplemented with inter-cultural dialogues.

At the very end we could, in this perspective, indicate a few especially urgent challenges: (i) We need to get a realistic view of the *common* technological roots of economic globalization and of modern risk societies, including the possibility of terrorism. (ii) We need to renew and reinforce the kind of *critique of religion* that started with Spinoza and the Enlightenment, and which could neutralize religious fundamentalism.[56] (iii) We need to support a just and realistic *redistribution* of scarce resources, globally between generations and also with due consideration of the needs of the various sentient beings beyond *homo sapiens*.

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[1] This is a revised version of a paper given at an international conference, at East China Normal University in Shanghai in January 2004, on "Global Justice and Inter-Cultural Dialogues". Published in Chinese in *Forum of Intellectuals*, 3 2004. In English in *SATS – Nordic Journal of Philosophy*, Vol. 5, No. 1, 2004, p. 27-53; German version in *Diskurs und Reflexion*, eds. W. Kellerwessel et al., Würzberg: Königshausen & Neumann 2005, p.187-214; Arabic version in *Nizwa, A Cultural Quarterly in Arabic* (2005). Spanish version in *Círculo Hermenéutico* (2005).

[2] Cf Jürgen Habermas on the war in Kosovo, in Habermas 2001b, p. 27-39, "Von der Machtpolitik zur Weltbürgergesellschaft". Apel's view: "Das Spannungsverhältnis zwischen Ethik, Völkerrecht und politisch-militärischer Strategie in der Gegenwart. (Philosophische Retrospektive auf den Kosovo-Konflikt)", in Marcel Niquet *et al*. (eds.), 2001, p. 205-218. Comments on Apel's view: Tilman Lücke, "Zwischen Völkerrecht und Verantwortungsethik: Militärintervention in der Perspektive der Moralphilosophie Karl-Otto Apels", in Böhler *et al.* (eds.), 2003, p. 350-363.

[3] Cf for instance functionalist and institutional arguments in favor of legal normativity, in Habermas 1992.

[4] E.g. Apel 1988 and 1998, and Habermas 1983 and 1991.

[5] Cf Skirbekk 2002.

[6] Or "inter-rational rationality" (borrowed from Martin Seel).

[7] As to the current debate on the idea of a world order based on international law, in a double attack from North-American *Rechtsradikalismus* and islamic fundamentalism, see e.g. Frachon and Vernet 2003, Habermas 2003 and 2005, Atlas 2003, Heer 2003, and Tibi 2002.

[8] Skirbekk 2002, ch. 7.

[9] Cf the main conclusion in Skirbekk 2002.

[10] Cf Skirbekk 2001.

[11] Cf the various arguments brought forward by the studies of the sciences and the humanities.

[12] Cf Ulrich Beck on "risk society".

[13] Cf e.g. Karl Popper's argument against predictions in history, in *The Open Society and its Enemies*.

[14] The development of new technology constitutes the basis both for a globalized economy and for a "risk society", including the possibility of terrorism.

[15] This is a main point in Habermas's theory of communicative action in modern societies.
[16] This point is emphasized by Habermas (e.g. in Habermas 1992), and also by numerous other theoreticians of law, not least by a *Systemtheoretiker* like Niklas Luhmann.
[17] Cf recent references to this *Auseinandersetzung* in Dietrich Böhler, Matthias Kettner and Gunnar Skirbekk (eds.) 2003.
[18] Cf the debate between Rorty and Habermas (and Wellmer), e.g. in: Robert Brandom (ed.) 2000, and also Wellmer's criticism in Wellmer 2004.
[19] Skirbekk 2002, ch. 8.
[20] Cf Apel 1988, 1998.
[21] Skirbekk 2002, p. 222-226.
[22] *In casu*, in clearly professional discussions, as in the scientific and scholarly discourses.
[23] Cf three papers against Habermas, printed in Apel 1998.
[24] Translation (word by word) G.S.: "Gültig sind genau die Handlungsnormen, denen alle möglicherweise Betroffenen als Teilnehmer rationaler Diskurse zustimmen könnten" (in: Böhler *et al.* [eds.] 2003, p. 47).
[25] There are ongoing discussions concerning the interrelationship between this *discourse principle* (D) and the so-called *universalization principle* (U), and concerning their relationship to the normative principles of argumentation. And there are ongoing discussions as to how the democracy principle can be "specified" in terms of legal principles and rights, such as constitutional state, international law, and human rights. These discussions are already integrated in the Habermasian elaboration of a theory of law, with the intention of maintaining a normative foundation, doing the work of similar aspirations as in the tradition of "natural rights", while at the same time paying attention to the specific way a modern legal system functions: avoiding both a neutralization of the basic normative principles and the danger of a philosophical overloadedness (which is found in the transcendental-pragmatic approach of Apel, according to Habermas).
[26] For Apel, the latter point is approached through his "part B" of discourse ethics, focusing on the problem of application to the various situations. Along these lines Apel also argues in favor of an ethics of responsibility (cf Max Weber): in strategic situations it might be morally wrong to act morally (i.e. *gesinnungsethisch*).
[27] Translation (word by word) G.S.: "Ich vermute, dass unsere Auseinandersetzungen über den richtigen architektonischen Aufbau der Theorie letztlich auf einen Dissens über die Rolle der Philosophie selber zurückgeht" (*op.cit*., p. 64).
[28] "Die Antwort auf meine Frage, die Habermas im Kapitel 5 von *Wahrheit und Rechtfertigung* skizziert hat, ist m.E. durchweg von der – auch bei Wellmer – anzutreffenden unzulänglichen *Reflexionstheorie* bestimmt." (*op.cit*., p. 129). And also: "Dieser kaum noch bemerkte Selbstwiderspruch der Gegenwartsphilosophie [Apel is referring to Wittgenstein, Heidegger, Gadamer and Derrida] beruht aber – und dies ist für die hier zu führende Diskussion noch wichtiger – auf dem nahezu vollständigen Fehlen einer angemessenen *Reflexionstheorie*, ..." (*op.cit*., p. 191-2). See also Apel, in Burckhart and Gronke (eds.) 2002 (p. 71-88): "Transzendentale Intersubjektivität und das Defizit einer Reflexionstheorie in der Philosophie der Gegenwart".
[29] The target under attack by this criticism is not only radical scepticism, explicitly denying the possibility of knowledge, but a wide variety of statements and theories expressing or presupposing a general fallibility (uncertainty) for all forms of knowledge. Such cases are abundant in post-modernist writings - claiming, suggesting or assuming that language is too vague to allow for argumentation of the kind favored by discourse theory, or claiming, suggesting or assuming that the "forceless force of the better argument" is nothing but power in disguise, or claiming, suggesting or assuming that all knowledge is in principle fallible. This critical (or negative) use of arguments from self-referential inconsistency is almost a commonplace in philosophy. The controversial point in this critical use of self-referential arguments is not so much the necessity of avoiding such inconsistencies; what is mostly discussed is rather the question of whether, in each concrete case, an *assumed* self-referential inconsistency is *really* to be seen as such an inconsistency, or whether it should rather be seen as a paradoxical way of expressing some kind of insight. But when such paradoxical insight is as stake, it is appropriate to emphasize that the meaning of such paradoxical communication should at least be explainable for other people – hence, there are limits to the (postmodernist) arguments from paradoxical insight.
[30] Cf Habermas and his criticism of French post-modernists in Habermas 1985.
[31] These are not *deductive arguments* (that is the misconceived counterargument among proponents of "critical theory", from Hans Albert to Herbert Keuth), nor are they *theoretical arguments* on the *semantic* level. They are *pragmatically self-reflective arguments,* to be conceived of in the first person

indicative tense. Nor should they, according to Apel, be misconceived in terms of *psychological* statements about personal experiences. - Furthermore, each person can reflectively be aware of one's own fallibility in the reflective act when this person is rationally persuaded that an actual argument is the best argument. This is exactly the reason why we as discussants have to presuppose that there might be still better arguments ahead and that the notion of truth is embedded in our discursive speech-acts in terms of a presupposition of an ideal consensus (under ideal conditions). Fallibilism is thus connected to arguments within a rational discussion; but referring to the reflectively recognized preconditions for rational discussion, the notion of fallibilism does not really make sense – except as an awareness of possible improvements in the way one articulates these reflective insights.

[32] This is not the kind of idealization connected to "ideal models" (such as *homo economicus*), posited for intellectual purposes. The kind of idealization (found in universal pragmatics) refers to (assumedly) pragmatically unavoidable preconditions for speech-acts, or more specifically for argumentative speech-acts. These idealizations are thus assumed as being inherently *given* in these acts. They are *not posited* by us, for specific intellectual purposes.

[33] Cf Wellmer in Böhler *et al.* (eds.), 2003, but also in Sandbothe 2000.

[34] Cf Horst Gronke, in Dietrich Böhler *et al*. (eds.), 2003, pp. 260-282: "Die Relevanz von regulativen Ideen zur Orientierung der Mit-Verantwortung. Eine Verteidigung von Apels transzendentaler Transformation des Pragmatismus".

[35] The latter point can also be cast in terms of a philosophy of the internal relationships between the various epistemic attitudes connected to the different *personal pronouns* (cf Øfsti 1994): the "I", the "you" and the "he" and "she" – as well as the "we" and "they" – are not only (necessarily) learnt simultaneously, but we also learn to move reflectively between the different personal-interpersonal relationships. I learn that "I" is a "you" for the other, and the other way round, and that both "I" and "you" can also be "he" or "she" – possibly even an "it", in extreme cases (as when a person's body is conceived of in descriptive natural-scientific terms). The other person, and his or her counterarguments, are therefore inherently present in "my" own present position, holding a specific argument to be the (epistemically) good argument.

[36] Cf Apel's article "Fallibilismus, Konsenstheorie der Wahrheit und Letztbegründung", in Apel 1998, p. 81-193.

[37] Cf Skirbekk 2002.

[38] Cf Wellmer in Lutz Wingert 2001, p. 13-52, "Gibt es eine Wahrheit jenseits der Aussagenwahrheit". Also Wellmer 2004 and Skirbekk (ed.) 2002, p. 236-270, "On the Variety of Truth Questions, from practice-inherent certainties to propositional fallibility".

[39] As in Wittgenstein's *Über Gewissheit* and (differently) in Heidegger's *Sein und Zeit*.

[40] Cf Kjell S. Johannessen on "intransitive understanding" in Wittgenstein, in Fjelland 1997, p. 225 ff. Also Øfsti 1994.

[41] Similar points can be made referring to some kinds of *explicit statements* that could be part of a scientific discourse, such as the statements that *all humans are mortal*, that *the universe has existed long before our birth*, that *the Earth is round*, etc. In these cases it would not make sense to ask for economic support to find out whether these statements are true. It is even unclear what possible counterarguments could look like in these cases. In some other cases, such as the *descriptive macro-anatomy of the human body*, we could argue that a final answer has been *reached,* beyond reasonable doubt – that is: on the general level, such as in the case of the number of joints of *clavicula* or the number of bones in the hand or foot; but this would certainly not apply on the specific level of comparative studies, such as the changes in weight and obesity over time, or comparative studies relative to certain characteristics in different populations. In the latter cases empirical research can go on and on, in great scale. But on a general level, concerning descriptive macro-anatomy of the human body, it can be argued that we know what there is to be known. In this field and on this level there is no room for fallibilism. We have obtained complete and secure knowledge. Research has come to an end. This discipline is now a subject for student education, not for renewing research. (Cf Skirbekk ed. 2002.)

[42] Such as Hans Albert and Herbert Keuth.

[43] Cf Matthias Kettner, in Dorschel *et al*. (eds.) 1993, p. 187-211.

[44] The question as to the possibility of a variety of notions of "meaninglessness" (or "absurdity") may be clarified by case-oriented analyses of the kind found in the discussions in analytic philosophy concerning category mistakes and contextual inconsistencies. (Cf Skirbekk 2002 and 1993, see also the first essay in this collection.) As a brief reminder of this kind of analyses we would here just make the following remark: the absurdity of the category mistake of "my dog is the first of May" is apparently different from that of the utterance "my dog has a PhD in philosophy". The latter is empirically absurd in the world known to us, but still we can make movies with that kind of dog – in Disney's cartoons it is

done all the time. The same is not possible in the former case. And then we could consider, first, cases of increasingly severe empirical falsehood, and then, cases of increasing absurdity, as it were - for instance: "my dog counts to 30", "my dog counts to 2000", "my dog reads newspapers", "my dog has a PhD in philosophy", "my dog is the first of May". Hence, between plain empirical mistakes (such as the utterance “my dog is a bulldog”, when it is a poodle) and logical contradictions (such as the utterance “my dog is not my dog”, taken literally), there seems to be a variety of epistemic mistakes (a variety of "falsehoods" and or “absurdities”) of varying severity, as it were. Our point is now that the notion of absurdity (or meaninglessness) is far from clear and homogenous.

[45] This is the main conclusion in Skirbekk 2002.

[46] Main reference, Habermas 1992.

[47] For the idea of a legal order for a pluralistic global society, cf Habermas 2005, p. 324-365.

[48] Such as social rights, in addition to participatory rights and civil rights.

[49] Habermas 1992, p. 138.

[50] Cf Skirbekk 2002, p. 173 ff. In addition there is a distinction between those who can act morally (*moral agents*) and those who also can discuss rationally (*moral discussants*). All moral discussants are moral agents but not all moral agents are moral discussants. This is a tricky point, since it is tied up to the delicate question of capabilities required for the participation in discussions; thereby, indirectly, the question is raised as to a possible exclusion from participation. This is a morally delicate question, but it is also an epistemically delicate one, especially for discourse theory relying, epistemologically, on a notion of an agreement in a possible (real) discussion among all parties concerned.

[51] Cf Habermas 2001a, defending a restrictive law of biotechnology, based on an argument emphasizing the danger of asymmetric interpersonal relationships, due to changes (decided by the parents) of the genetic constitution of other people (i.e. their children).

[52] Skirbekk 2002, ch. 7.

[53] We here disregard political and theological decisions in favor of a clear distinction between those who should and those who should no count as human persons. Cf Skirbekk 2002, p. 173 ff. Cf also fourth paper in this collection.

[54] There is in modern societies based on scientific and scholarly knowledge, a constant danger of conceptual bias and therefore of a specific kind of “perspectival blindness” - for instance: the world could primarily be conceived in terms of military and strategic concepts, or in terms of moralistic values, simplistically conceived in terms of good and bad. In such cases there is a need to promote mutual discussions and role-taking and to avoid unilateral asymmetries, including asymmetry in legal terms.

[55] Cf Anne Granberg 2004.

[56] In addition, the international community should implement a fair solution for Palestinians and Israelis, against illegal occupation and colonization.

Procedural Universality, 'Bottom up'

postscript

The main points

Martin Heidegger once said that a philosopher has only one question – if he (or she) has any at all. Well, who knows? Anyhow, it is meaningful to ask about the underlying concern in a philosopher's work, irrespectively of whether it should be described as only one or as a plural concern. And the response, the philosophical "answer", could certainly take different paths, even when the question is singular, since the world in which we live is characterized by plurality and differentiation, in a way that easily asks for an equally plural and differentiated response.

And what about oneself? For others to give an answer. But one is allowed to try, to do it oneself. It could then be seen as a step in one's critical or reconstructive self-reflection. Therefore I allow myself to present a few reflections on what has moved me, philosophically, and on the main points in my way of responding, my way of thinking – as I see it.

At first, an *existential wonderment* – I assume. The wonderment of being, being oneself in this world of ours. Add to that an awareness of *crisis*, culturally and politically – what used to be called *nihilism*, as the internal crisis of the modern world. This implies skepticism – not as a position, but as an attitude and way of thinking: being fundamentally and philosophically *skeptical*, self-referentially skeptical.

But then (as in Dante's *Divina Commedia*) the road to hell turns out to be a road towards heaven. In prosaic terms: philosophical skepticism is nourished by philosophical rationalism – or better: taking skepticism seriously leads to an awareness of the delimitations of any possible doubt, and hence to a recognition of unavoidable preconditions for argumentation and also for communication.

And that is where I have ended up: with a *universalist notion of reflective and procedural rationality*, all through a skepsis grounded in an existential awareness and in critical arguments of various kinds. This is no "position", to be mediated and recognized like an empirical proposition, but a philosophical insight at the end of a series of philosophical *learning-processes*. In this context I shall just mention a few of them.

When I woke up, philosophically, I gradually entered two main learning-processes. One of them was rooted in the tension between *logical positivism*, with its strict requirements for argumentative clearness and intellectual sincerity, but also with its philosophical narrowness and rejection of normative and metaphysical questions, and *analytic philosophy*, with its sensitivity to the variety of contexts and the nuances in our use of concepts. It makes a huge difference whether these schools of thought are merely seen as "positions", to be "classified" (and possibly "rejected"), or whether they are taken seriously by time-consuming learning-processes working through the various claims and preconditions. In the latter case there is definitely something to learn, something to acquire – for the sake for shortness, let us say: *argumentative virtues*.

The other main learning-process was rooted in *phenomenology*, with its awareness of the qualitative aspects of life and the world, and its criticism of objectivist interpretations of Man as an agent, and in *existentialism* in various versions, largely with the same agenda as phenomenology, but (broadly speaking) with stronger emphasis on Man as an existential

being and (consequently) with an openness to a literary use of language, but often with an ambivalent or negative view of moral validity-claims and of sober argumentative reason. Again, this should not be treated as "positions", but taken seriously through learning-processes. As a first indication, what is to be learnt could briefly be called a *self-refective virtue.*

In philosophy such learning-processes generally consist in a productive interplay between talking, listening, reading and writing. However, now and then it is also useful to change one's philosophical environment in order to experience (live) how colleagues, with other specific philosophical and socio-cultural preconditions, do their work in their own environment. Traveling, in this sense, is thus philosophically meaningful in a modern world.

At a young age I went to France – at that time a stronghold of phenomenology and existentialism: Merleau-Ponty at *Collège de France* and Gabriel Marcel with his private gatherings on Friday evening. Ricoeur, Jankélévitch, Jean Wahl and others. Ever since I have kept in touch with French philosophers of my own age, and despite philosophical differences I have kept a peculiar sympathy for their work.

Next I went to Germany, working on Heidegger's philosophy of truth, in a critical and reconstructive perspective. I met him twice, in a private setting. This encounter did not change my conception of his thinking: A great philosopher, with distinct short-comings – not merely politically (and personally), but also philosophically, due to a disregard for discursive and self-critical reason. However, after this early stay in Germany I have always felt at home among German colleagues, irrespectively of differences in philosophical "upbringing".

Finally, during the Vietnam War, I went to the United States, as a research assistant for Avrum Stroll and Herbert Marcuse – learning to do things (in philosophy) the American way. At that time there were tens of doctoral students around Marcuse, later many of them got positions at various American universities.

As a teacher at my university in Bergen I used to lecture on the history of Western philosophy. This led to a manuscript on the history of Western thought, with an emphasis on political philosophy, and later also with an emphasis on the philosophy of the sciences, including the humanities and the social sciences. This textbook has been translated into various languages, including Chinese, and in the fall of 2001, after 9/11, it was translated and published in Uzbekistan, initiated by the local Open Society Institute (financed by Soros, inspired by Popper), in support of intellectual modernization.

In my professional work, in numerous discussions with colleagues at home and abroad, I have gradually elaborated a universalist notion of a procedural and reflective rationality, which is sensitive to plurality and situatedness. This is where the various learning-processes finally led me.

As an indication of what this means, the following remark might be helpful: For me, it soon turned out that I shared many of the philosophical interests of the later Frankfurt School, with major figures like Karl-Otto Apel and Jürgen Habermas. (I mention the two of them, since reading Habermas without recognizing his older friend and colleague Apel is likely to lead to an inadequate understanding.) In recent years, related to the discussion of the interrelationship between truth and justification with Apel defending the notion of truth as an unavoidable performative precondition and Rorty arguing (or "suggesting") that we should better do without such a notion, Habermas has criticized both of them, at the same time as he himself has been persistently criticized by Apel. In this debate I argue in favor of a way of thinking that in my view takes care of major insights in Apel philosophy, but without his more controversial claims (for instance concerning the regulative idea of an ultimate consensus).

I do think that my approach allows for a universalist notion of procedural and reflective rationality that represents an adequate response to skeptical challenges, at the same time as it remains sensitive to plurality and contextuality. I also think that this approach allows for fruitful learning-processes and "applications" in other areas, inside and outside of philosophy proper. I shall briefly mention what I have in mind:

This way of thinking, with its procedural and reflective notion of rationality, does not only allow for argumentation and justification within given conceptual frames, but also for the proposals for new and better concepts – for "redescriptions" and new "vocabularies" (to use Rorty's terms, referring back to the Heideggerian notion of "world disclosure"). This is the creative and visionary aspect of philosophical work. Though in this respect philosophers are not alone; other persons, be they artists or scientists, may also be creative and original in this sense.

However, once a new conceptual frame has been presented, it is important to discuss its adequacy or inadequacy, its merits and demerits, and in this critical assessment of new "world disclosures" philosophy, as a discursive and rational activity, has an important role to play.

In my philosophical writings I have made a proposal for a flexible and gradualist conception of a person in an ethical sense, relative to other sentient beings – broadly speaking, for the improved concepts of "Man and Nature" – a proposal with eco-political importance. Furthermore, in working with ethical problems related to future scenarios of positive eugenics I have pondered on the role of religious language in the attempt to articulate a notion of "cosmic shame" (Dworkin). Last but not least, my version of a procedural and reflective notion of rationality can itself be seen as such a proposal for a basic redescription, just as my elaboration of "arguments from absurdity" can be seen as a proposal for a redescription of transcendental arguments.

However, when this creative aspect is emphazised we are immediately faced with the question of different literary genres and differences in the way of using language. An essayistic form, possibly with literary style, may thus in some cases be more appropriate than a traditional scholarly prose – more appropriate for trying out vague intuitions and unarticulated ideas. But in such cases we are primarily tied to our own mother-tongue with all its richness of immanent meaning, and for this reason my philosophical essays are mainly written in Norwegian.

In talking about "world disclosure" we readily think in terms of projects directed toward the future, as it were. But there is also a need for looking back, into the past that may have a deeper influence on our thoughts and actions than we realize. Hence there might be a need to reinterpret past events, which is a creative task. But in addition there might also be a need to conceptualize past experiences (or "bring them on concept", to talk in Hegelian terms). This is not merely the task for philosophers – historians and social scientists are required – but it is also a task for philosophers, focusing on conceptual rather than empirical questions: Conceptual reconstruction of important learning-processes, in a normative perspective, is definitely a philosophical task (in collaboration with relevant scholars).

In my case, this is what I have done in some of my essays, trying to reconstruct, with more appropriate concepts, some of the critical events in our history, such as the cultural modernization promoted by the playwright and scholar Ludvig Holberg (1684-1754). This is also what I am doing in my current project of reconstructing alternative processes of modernization. My "cognitive interest" has two aspects: (i) an improved understanding of the peculiarities of our national history and (ii) a politically relevant knowledge of possible varieties of well-adapted modern societies, as a basis for a criticism of a unilinear conception of modernization processes.

During the preceding remarks on redescription and reconstruction I have indicated how my universalist notion of procedure and reflective rationality is open for learning-processes with researchers in other fields and with reasonable persons in society at large (so-called laymen). I say "learning-processes" and not "implications and applications", since my philosophy, as any living philosophy, is basically personal and pragmatic in the sense of being an activity, a way of thinking and working, not merely a "position" on the semantical level – which does not mean, for sure, that verbal articulation in terms of propositions and statements could be regarded as redundant. Far from it. The point is merely that of emphazising the pragmatic aspect, not of denying the semantical and propositional aspect.

These are, I assume, remarks that might convey some insight into main points in my way of thinking, as a kind of summary. In what follows I shall pinpoint some special points that might deserve an extended comment.

Some extended comments

Analytic and continental philosophy
A special attempt to overcome some of the differences between analytic and continental philosophy was undertaken in Bergen around 1960, when young philosophers from the two camps came together in seminars on the early Heidegger and the later Wittgenstein. Keeping a common front against the attempt at naturalizing the epistemic subject, and also against the view that everything is contingent, they worked carefully with thought-experiments of chosen examples of human acts, trying to show that there are various constitutive preconditions for these acts. Their conclusion was clear: there are various unavoidable preconditions for human activities (and not merely empirical facts, nor merely interpretive contingency).

It should be added that in post-war Norway Heidegger was politically scandalized as a Nazi collaborator, a view shared by young Norwegian philosophers. Hence, their attempt to read Heidegger in a more sober and analytic manner was an effort of taking care of important philosophical insights, while at the same time separating them from his political backwardness. It was an attempt of combining political responsibility and philosophical reconciliation – an urgent task in post-war Europe.

Example-oriented analyses and self-reflection
As a result of ongoing discussions and mutual learning processes these philosophers found a common ground in a cautious and example-oriented version of a Kantian way of reasoning, but without the Kantian epistemology. Their point of departure was human agency, including speech-acts and discursive activities but also act-inherent insights and "tacit knowledge". Philosophical self-reflection and conceptual analyses, cautiously carried out by thought-experiments on constitutive elements in various human activities, was their way of trying to combine major virtues in analytic and continental philosophy.

Linguistic-pragmatic turn and transcendental pragmatics
This approach represented a version of the so-called *linguistic-pragmatic turn*, but a version that did not merely represent a change of paradigm – say, from a subject-object position to an intersubjective position, without a change in the way of doing philosophy – nor merely a change from epistemology to contextual hermeneutics, without a notion of context-transcending validity-claims. It was a move toward a special version of *transcendental pragmatics*, a version that rightly could be called a *transcendental praxeology*.

It was a move away from a primarily position-oriented way of thinking, toward a way of doing philosophy which is sensitive to the nuances in our use of concepts in different activities, at the same time as it includes a concern for validity-claims in our activities and speech-acts, particularly in serious discussions and in strict self-reflection. Arguments were conceived as self-related validity-claims, that is, in a first-person perspective. Hence, sides were taken in support of philosophers like Apel and Habermas (against philosophers like Rorty), as to the self-reflective questions of truth-claims and discursive rationality.

As in transcendental pragmatics, the main concern was an overcoming of philosophical skepticism. At the same time, sides were taken in support of philosophers like late Wittgenstein as to the concern for cautious thought-experiments and example-oriented conceptual analyses.

Arguments from absurdity, and conceptual adequacy

On this background I shall proceed by focusing on two points as to the question of how to philosophize, namely the usage of *arguments from absurdity* and the discussion of *conceptual adequacy* – the former representing example-oriented and reflective thought-experiments by which one breaks or violates some rule or principle, thereby creating some "absurdity", whereby the *constitutive role* of the broken or violated rule or principle can be illuminated. In short, arguments "from impossibility to necessity".

These are example-oriented and discursive analyses of the *relative (in-)adequacy* of certain concepts (or "vocabularies"), compared with alternative concepts (in a given setting).

I shall now add a few remarks on possible "applications and implications" of this way of philosophizing, in terms of a modified version of transcendental pragmatics:

Concepts: in doctrine or in usage?

To the twin-question "what is a concept? where are the concepts located?" we may answer that concepts are situated in general and comprehensive *doctrines*, on a high level of abstraction, or we may answer that they are situated in various *usages,* in concrete situations. In the former case, concepts should be discussed and clarified on the basis of theoretical positions and texts, in the latter they should be discussed and clarified on the basis of specific examples and thought-experiments. In philosophy, both are needed.

Hence it is beneficial to pay attention to different ways of working philosophically with concepts. In so doing it is philosophically important to be sensitive to possible ambiguities and other shortcomings in one's own language. This need for a reflective and self-critical sensitivity of one's own conceptual preconditions includes a reflective awareness at various levels of abstraction, as well as case-oriented analyses of implicit nuances or unrecognized confusions.

Example-oriented thought-experiments and the plurality of break-downs

What is here called "arguments from absurdity" are structurally the same as the "meaning critical" (*sinnkritische*) way of reasoning in Apel's transcendental pragmatics. But in Apel the argument is restricted to strict self-reflection, and "absurdity" (*Sinnlosigkeit*) is paradigmatically a performative self-referential contradiction. In analytic philosophy, on the other hand, "arguments from absurdity" (also called "informal *reductio ad absurdum*-arguments", as in Gilbert Ryle) are applied on a much wider scale, such as "category mistakes" and "contextual inconsistencies".

It should be recalled that in the first paper three points are made about this point: (i) Discussions of category mistakes (like "seven is green") and contextual inconsistencies (like "the king of France is bald") have shown that there is a *third epistemic category* that is different from empirical truth or falsity as well as from formal (positive or negative)

analyticity. (ii) This third category is based on the use of thought-experiments whereby some rule or principle is denied or violated, producing some break-down of meaning, and thereby the status of the broken rule or principle, as a *meaning-constitutive precondition*, is indicated. (iii) By analyzing different cases in this way we realize that there is a *plurality of break-downs*, more or less severe, as it were – from "strong" empirical falsity to what is totally meaningless.

In this paper the same case-sensitive way of reasoning is also applied to various examples of what is said to represent strict transcendental-pragmatic preconditions in Apel's writings. Also in these cases, in the core of transcendental pragmatics, our analyses unveil a need for more nuances.

An extended use of arguments from absurdity

All in all, this analytic and case-oriented way of using "arguments from absurdity" has a two-fold implication: (i) a more nuanced conception of strict self-reflective arguments, at the core of transcendental pragmatics, and (ii) a wider use of such arguments, opening for conceptual analyses (of the "geography of our ideas") on a broad scale, beyond the realm of strict self-reflective arguments.

So far we have commented upon this more nuanced and flexible use of "arguments from absurdity". I shall now comment upon the use of similar arguments concerning "conceptual adequacy", especially in its negative and cautious version, namely concerning the relative *in*-adequacy of a given set of concepts, that is, relative to some other set of concepts that are more adequate in the given situation.

Arguments from relative conceptual in-adequacy

A meaningful usage of concepts is a precondition for meaningful propositions and meaningful imperatives, that is, both for possible truth and possible moral validity. Arguments from absurdity, in terms of category mistakes, make such preconditions explicit. However, a meaningful use of concepts, in meaningful propositions and normative utterances, may still be *more or less adequate* (that is, for the case under consideration).

Two examples may serve to make the point: (i) Habermas' *Theory of Communicative Action* can be read as an extensive argumentation in favor of the view that a conceptual frame merely containing instrumental and strategic notions is *relatively less adequate* than a conceptual frame that also includes communicative and discursive notions (when we want to understand modern societies). (ii) When university students describe themselves as "customers", shopping courses and grades, what they say is certainly understandable. But we may argue that students are also citizens and members of a political community; they are *Bildungsbürger,* to be formed and educated as members of a cultural community; and they are unique and mortal human beings (in a Kierkegaardian sense). A self-understanding merely in terms of economic concepts is in this sense *relatively less adequate* than a self-understanding that also involves some of these other concepts.

Cognitive improvement

These are tricky questions, whether they are seen from the perspective of a possible common ground or from the perspective of a hermeneutic "fusion of horizons" (Gadamer). But we *may* argue by describing examples and analyzing thought-experiments and by reflecting on the philosophical experience obtained through these activities. Hence we *may* talk in terms of "understanding *better*", not only of "understanding differently" (*Andersverstehen*). Hence we may talk in *melioristic* terms, of improvement and of positive learning-processes – even though our approach, as in the case of arguments from absurdity, is indirect in the sense that it proceeds by focusing on what is seen as "less adequate". This "negative" approach is chosen

since it often makes sense to argue for the *in*sufficiency of a given set of concepts, here and now – for instance by pointing at the *lack* of some kind of expertise in an industrial or military project – without pretending to know what should count as the final and perfect selection of disciplinary perspectives (which would include the paradox of predicting future innovations).

Implications and applications: self-critical criticism of science and of ideology

An implication of self-reflective "arguments from absurdity" is a rejection of skepticism and irrationalism. This is a vital point in a globalized world, torn between various kinds of regressive fundamentalism and cultural relativism. The implication of "arguments from conceptual inadequacy", and of a wider use of "arguments from absurdity", is a self-critical criticism of the sciences and humanities (*Wissenschaftskritik*) and of ideologies (*Ideologiekritik*). These are vital tasks in modern societies.

It goes without saying: a precondition for applying these arguments – criticism of the sciences and the humanities and criticism of ideologies and politics – is a solid substantial knowledge of what is going on in these fields.

Three cases

In order to elucidate our point we shall briefly refer to three cases of such criticism, directed against scientists and scholars who go beyond the strict definition of their own discipline – for the sake of simplicity I call them "economism", "biologism", and "contextualism":

In the case of "economism" notions from economical models of human motivation and behavior are used as if they were the ontologically correct ones. And with this strong and erroneous claim they are used in a wide range of contexts, besides those related to transactions on the market. In this case arguments from *relative conceptual inadequacy* may serve as a basic criticism.[i]

In the case of "biologism" we envisage a similar conceptual inadequacy. But in addition there is a claim that even human reason, with its performative validity-claims, may be explained biologically. Hence, a further criticism is that of *self-referential inconsistency*, in other words, the strict version of an argument from absurdity.[ii]

In the case of "contextualism" – when the various cultural studies, with cultural relativism as their methodological principle and without the intellectual resources of normative philosophical thinking, are assumed to give an extended and adequate understanding of socio-cultural phenomena and of basic normative questions in our societies – in this case we have critical arguments of *relative conceptual inadequacy* as well as critical arguments of *self-referential inconsistency*.[iii]

There is a lesson to be learnt from these reflections: Whenever scientists or scholars take part in public debates, they ought to tell their audience how their own professional perspectives may influence what they are saying about the issue under discussion and how other professional perspectives might have given another picture of that which is discussed.

Power and perspectivism

The political influence of the various disciplines is certainly dependent on the power structure in a society, related to economical and institutional factors. But this constellation can also be analyzed epistemically, since the power to influence the way we think is a decisive factor for what we do and do not do, and also because the way we think (or do not think) is decisive for our power (or powerlessness).

Some aspects of the *criticism of the sciences and the humanities* were discussed in the second and third paper. We shall now take a brief look at *criticism of ideology*, a theme mentioned in the fifth paper.

False consciousness

When "criticism of ideology" is conceived as an unveiling of "false consciousness", be it in terms of implicit class interests, unconscious motives, or existential alienation, the crux is that of justifying the underlying notion of a "true consciousness", which means that this kind of criticism has to be self-reflectively critical in order to avoid naive and dogmatic illusions. This challenge taken into account, it does make a difference whether such "criticism of ideology" has gone through self-critical learning-processes. In short, such learning-processes represent a precondition for a mature modern culture.

Perspectivism and restricted conceptual vision

However, due to the perspectivistic nature of the sciences and the humanities, and thereby to the danger of an undue influence of some particular perspective, overshadowing other perspectives that are equally relevant, the sciences and the humanities may often function "ideologically". Hence there is a need for a criticism of ideology in terms of a "criticism of the sciences and the humanities".

A striking case is that of the dominant position of the concepts and forms of thought stemming from economic neo-liberalism.[iv] But all in all there is a general need for *Fachkritik*, for a criticism of the sciences and the humanities.

At this point we may also remind ourselves of the tendency of an epistemic overburdening in differentiated and technology-based societies, due to the danger of unforeseen and detrimental consequences of many of our projects. One catchword is ecological problem, another is the military strategy based on preemptive strike for the sake of a liberal democracy. The wars in the Balkans and in Iraq illustrate the latter point: In order to know when, where, and how to intervene, and what to do once one is there, and when and how to leave, one needs knowledge and insight from a large scale of scientific and scholarly disciplines (and one needs to be able to evaluate and combine these various kinds of knowledge and insights properly, and in addition there is a need for morally and legally responsible discretion and decision making). In short, technological possibilities may easily give rise to an *epistemic overburdening*. Therefore, here again a reflective and competent "criticism of the sciences and the humanities" is required, as part and parcel of a "criticism of ideology".

Normative justification and the dilemma of unilateralism

Finally, there is a need for *normative* justification and responsibility, not only for epistemic justification and responsibility. But apparently there are different views when it comes to basic normative questions: There are religious believers and non-believers, liberals and communitarians, and different moral theories. What counts as responsibility will then depend on these diverging views, and hence the decisive question is whether we can justify some basic norms as universally valid, despite this apparent diversity.

Such a normative justification is different from an *empirical* report about normative principles and values that actually are shared by the majority in some main cultures and belief systems. And such a justification cannot be given by *any particular* cultural tradition or belief system or metaphysical theory, since they all, in various ways, are questioned in modern pluralistic societies – not only questioned as a matter of fact, but by rational arguments.

These skeptical arguments taken into account, one may argue that a possible justification of universally valid norms has to be conceived as a justification of *meta-norms* for the regulation of a sustainable cohabitation on Earth, not primarily as a justification for substantial ethical values. And this justification should ideally speaking take the form of an enlightened and free discussion among everybody concerned.

This is a "heavy" claim, which was especially addressed in the fifth paper. At this point we restrict ourselves to underline the negative version of this claim: A justification of universally valid norms should not explicitly and unnecessarily *exclude* any group of people from participating, which means that universally valid norms cannot be justified unilaterally.

Transcendental pragmatics, once more

At the end the question of "criticism of ideology" leads us into basic moral questions. Here we have to face skeptical arguments, for instance in terms of cultural relativism. And this is exactly the challenge that the defenders of self-reflective and discursive pragmatics intend to overcome. To do so they talk in terms of *ideal presuppositions*, that is, in terms of preconditions that *cannot be denied* without self-reflective contradiction, or preconditions for which there are *no alternative* – in other words, in terms of various versions of the argument from absurdity.

For moral philosophy there are two decisive points: (i) As serious participants in a genuine discussion we have to recognize the force of better arguments and we have to recognize other participants as reasonable and fallible, like ourselves. Consequently, basic irrationalism and ethnocentrism are ruled out. (ii) The basic norms that all those who are concerned *could have* agreed upon in a rational discussion count as normatively valid.

The hard problems of the "hard cases"

Here we restrict ourselves to a few comments: The point mentioned above (point [ii]) is well taken for the situation where all those who are concerned can participate as free and equal persons, and thus listen to each other and learn through real role-taking. But then we have the "hard cases" and future generations and all those who are "concerned" without ever being able to participate. Hence the notion of a rational agreement has to be reconsidered.

There is another problem: Should this point be understood merely in terms of agreement, as something *purely intersubjective*, without any reference to *that* which they agree *upon*? (What could it mean to "agree" if one does not agree upon something?) Here the answer runs as follows: They agree on basic (meta-)norms for regulating conflicts and on interpretations of their needs and interests. But then the question of the relative in-adequacy of certain conceptual systems becomes relevant (and thereby the same is true for a criticism of the relevant sciences and humanities): These are questions that in principle can be decided rationally, at least negatively as to conceptual *in*-adequacies and disciplinary *one-sidedness*. (For example, an interpretation of needs and interests that *neglects* concepts of communication and merely operates with instrumental and strategic concepts, is *less* adequate than one that *includes* concepts of communicative action and rationality.) In such cases we may expect agreement, because some claims are more reasonable than others. (It is not the other way round, that some claims are reasonable *because* they are agreed upon.)

Agreement on relative conceptual (in)adequacy, as an agreement on values?

Add to this that norms and values are "conceptually constituted" and that conceptual systems – such as the concepts of sociology or those of economy – do open up for certain types of values and norms (in contrast to other types of values of norms). Hence, if there is a rational agreement for some conceptual system, there is also a rational agreement for the kind of norms and values for which that conceptual system opens up. In so far there is a "normative content" that points beyond a purely intersubjective conception of normative agreements. We shall return to this point.

From argumentation to "redescription"?

We have been arguing in favor of an analytically inspired version of self-reflective and discursive pragmatics, focusing on an extended and case-oriented usage of arguments from absurdity and of arguments in terms of conceptual adequacy. This very approach is a self-critical criticism of radical skepticism, but just for that reason it is a target of the kind of "suggestions" and indirect argumentation found in philosophers like Rorty, who try to show that "redescription", in terms of new "vocabularies", is the decisive task, and that any attempt at a precise and convincing argumentation is always already captive within some given conceptual system. The message is that of "world disclosure" (*Welterschließung*) through creative projections (*Entwürfe*), without any context-independent rational justification.

Now, the decisive role of "vocabularies" is not to be denied, as we have seen above. But the question is whether such conceptual systems are *beyond* discursive justification and thus *immune* to criticism. This is a view I would reject, on three levels:

Firstly, it is not intelligible to us what a "vocabulary" could look like that did not entail the pragmatic competences of strict self-reflection and of discursive justification. This is an argument from absurdity from within the reflective and discursive activity, a self-referential argument "from above", as it were.

Secondly, it is not intelligible to us, given the bio-body that we have, how there could be a "vocabulary" that did not entail the kind of act-inherent and "tacit" insight that is pointed out by case-oriented thought-experiments. This is an argument from absurdity related to basic human acts, an argument "from below", as it were.

Thirdly, it is not intelligible to us that we could never know that some concepts are relatively less adequate than some other concepts, in certain situations. Not that we do not often make mistakes, nor that we are often in doubt, but in the sense that we sometimes do make progress in terms of better insight of this kind. If this were not the case, we could never have learning-processes in terms of getting a richer and better conceptual outlook in some field.

For sure, there are also cases of creative "redescriptions" (of new "vocabularies") that are *not* subject to the kind of trial and justification that we have alluded to above. Questions of *cultural and existential identity* may to some extent be of this kind – but not always, and that is our point.

From argumentation to "reconstruction"?

We may talk in terms of free and creative projects, pointing into an open future, as it were. But we may also talk in terms of redescribing historical experiences and deconstructing former "vocabularies", and thus focus on *the past*. Hence, Hegel focuses on former learning-processes and tries to "bring" them "on concept", in order to gain better insight into the historical formation of mankind.

This is an approach that opens up for a reconstruction of the intellectual and institutional processes of modernization (as in Habermas). These are not "theories" of modernization in an empirical sense, but self-reflective (and hence normatively loaded) conceptualizations of formative learning-processes and institutional differentiations. But in doing so one has to relate oneself to historical and socio-scientific research of various kinds, and not merely rely on philosophical arguments and insights.

Theory of modernization as reconstruction of learning-processes?

Such reconstructive conceptualizations of modernization processes may focus on different levels of universality or particularity – on the one hand, on learning-processes and institutionalizations that are essential for *any* modern society, on the other hand, *special* learning-processes and institutionalizations that are formative for certain societies in contrast to others. In the latter case we envisage the question of alternative processes of modernization

and hence of alternative ways of coping with modern challenges and of being a modern person.

A focus on particular formative experiences is interesting also because it makes us pay attention to underlying differences that which might otherwise be overlooked, not least among intellectuals who tend to focus on general problems, but who still are "situated" – a point that is discussed in the first paper.

It should be added that in *Marco Polo*, a research project for comparative studies of cultural modernization in Europe and East Asia, there is a focus both on what is universal and shared and on what is particular and specific.

"Hard cases" and indirect representation in practical discussions

Nobody should be excluded from practical discussions on questions of importance for their needs and interests. This is a basic norm in pragmatic "discourse theory". In positive terms: everybody "concerned" should be included in such discussions.

In those cases when this is impossible, the interests and needs of these individuals should be taken care of by some kind of *ombudsman*, who participate in practical discussions on their behalf.

However, when we analyze the various "hard cases", known from bio-medical ethics, and also the situation of future generations, and compare them with cases of advanced and vulnerable non-humans, we run into the question: *Who* should count as "concerned" in practical discussions of importance for their interests and needs, and by *which* standards should their needs and interests be defended by those who represents their needs and interests in such discussions? In the forth paper such questions are discussed. We shall briefly refer to some of these challenges:

Questionable notions of inclusion and of universal consensus?

When the interests of the "hard cases" and of future generations are taken into consideration by somebody else, there is no mutual *learning-process* and real *role-taking* among these individuals who are "concerned" but who do not participate themselves.

Furthermore, in these cases the regulative idea of a *consensus* becomes highly hypothetical, (i) since those who belong to the "hard cases" *can never* take part in any discussion or any consensus concerning their own needs and interests, and also (ii) because it is hard to justify a sharp distinction between the "hard cases" of humans and the advance cases of vulnerable non-humans – hence the very notion of a consensus becomes unclear since its *extension* is unclear.

When the notions of role-taking and consensus through participation are rendered obsolete in these cases, we have to rely on indirect representation, which again has to rely on a discursive evaluation of the various kinds of knowledge of what would probably be in the best interest of these subjects. These are cases where the argument in favor of a "normative *content*", based on relative conceptual adequacy, is vital (since this normative standard is not dependent on personal participation and agreement among those concerned).

The following reflections point in the same direction: Due to the development in bio-technology we are confronted with an increasing ability to intervene in the genetics of future individuals. If this is done, we are faced with the situation that our decisions and deeds co-determine the nature of persons who ideally should participate in discursive processes aiming at a consensus among autonomous individuals, as a regulative idea of normative validity. With such interventions we interfere with the independency of these individuals and thereby with a *precondition* for an ideal consensus. If so, there is a need for a more "content-oriented" normative standard.

New challenges in modern societies

All in all, modern technology and quite a few other aspects of modern societies represent a mixed blessing: We are undoubtedly faced with grave challenges of various kinds, some of them possibly detrimental for the continuation of a humane human life on Earth, others certainly detrimental to our environment and to other species.

Some of these challenges, such as the threat facing various endangered species, seem to transcend the normative and conceptual perspectives as they are found in main moral theories, such as utilitarianism, Kantian deontology, and Aristotelian ethics. The scope of "discourse ethics" could and should be broadened, to include sentient non-humans. But even so, none of these moral theories match well with some of these challenges, such as the painless extinction of various species of animals, or even the idea of a voluntary and painless extinction of humankind.

Still, most of us do have strong moral intuitions concerning the challenges just mentioned. In these cases it may thus be tempting to talk in terms of "cosmic shame" (Ronald Dworkin) or something of that sort. It may be tempting to look for a language articulating some basic respect for life, as vulnerable, but sacred, as it were. In this sense, we may look for a religious language, but without any specific theology.

Summing up

We shall end these introductory remarks on some specific problem in the other paper in this anthology. To recall the main points: I do defend a version of transcendental pragmatics that is *analytic and case-oriented*, but still *self-reflective*. In this sense I defend a flexible use of *arguments from absurdity*, on a broad scale, and also arguments about *relative conceptual inadequacy*. Furthermore, I also defend *self-critical redescriptions* of alternative "vocabularies" as well as *reconstructions* of formative learning-processes. Hence I am in favor of normative reconstructions of cultural *modernization* and of alternative processes of modernization. More generally, I am in favor of including *political philosophy* and the *philosophy of the sciences and the humanities*, not to forget *eco-philosophy* and philosophical *anthropology* of moral discussant as bio-bodily beings, as a basic point related to "discourse theory".

Finally, my timely thoughts do contain a double criticism of *cultural relativism*, with its underlying skepticism and nihilism, and of *fundamentalism*, be it religious or scientific. The search for a reasonable and viable way between these two positions, is certainly an urgent task in our time.

Could it not be found in a universalist notion of procedural and reflective rationality that is at the same time sensitive to plurality and contextuality? I think it does.

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[i] Cf e.g. Tom Christensen and Per Lægreid, "New Public Management: Puzzles of Democracy and the Influence of Citizens". *The Journal of Political Philosophy* 10 (2002), 267-95.

[ii] As to the first point (inadequacy), cf e.g. Edward Wilson, *Sociobiology: the New Synthesis* (Cambridge Mass.: Belknap Press, 1975). As to the second point (inconsistency), cf e.g. Francis Crick, *The Astonishing Hypothesis* (N.Y.: Scribner, 1994).

[iii] Cf e.g. Richard Rorty, *Contingency, Irony, and Solidarity* (Cambridge: Cambridge University Press, 1989), and the "post-modernist" trend in various "cultural studies".
[iv] Cf note 1 above.

References

Gunnar Skirbekk's work is both original and insightful, combining elements from Anglo-American analytic tradition, Continental European tradition, and especially the work of Wittgenstein, Heidegger, and the praxeology school as it developed in Germany and Scandinavia. He is perhaps the leading figure among Scandinavian praxeologists. The essays in this volume are both timely and important, addressing themes that are of both theoretical and practical importance. This is certainly true of his essays on ethical gradualism, modernity and a conception of a universal/plural rationality, and technological expertise and global ethics. The views Skirbekk articulates in these essays are not only rigorously argued for, but they also offer new insights into urgent problems facing today's global village. They deserve to be read by all who seek a theoretical understanding of our world and a way of dealing with the many practical issues that have led to the kind of fragmentation confronting the world today.

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Philosopher and social theorist, Gunnar Skirbekk is one of Scandinavia's foremost intellectuals. Fluent in English, French, and German, his work combines analytic and continental approaches in new and interesting ways. This short book, written in the context of a 15-year collaboration with Chinese intellectuals, presents a sampling of Skirbekk's reflections on the globalizing culture and ethics of modernity.

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This is to express my high regard for the work of Professor Gunnar Skirbekk, with whom and with whose work I have been acquainted for decades now. Skirbekk has shown a singular ability to draw very broadly upon recondite areas of scholarship in general and philosophy in particular to address the deepest issues of the age in insightful and accessible prose. I urge you to consider publishing an English version of his recent collection of essays.

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