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Discourse Ethics and Nature[1]

ANGELIKA KREBS

Faculty of Philosophy
University of Frankfurt
Dantestrasse 4-6
60054 Frankfurt am Main, Germany

ABSTRACT: The question this paper examines is whether or not discourse ethics is an environmentally attractive moral theory. The answer reached is: no. For firstly, nature has nothing to gain from the discourse ethical shift from monological moral reflection to discourse, as nature cannot partake in discourse. And secondly, nature (even sentient animal nature) has no socio-personal integrity, which, according to discourse ethics, it is the function of morality to protect. Discourse ethics is a thoroughly anthropocentric moral theory.

KEYWORDS: environmental ethics, animal ethics, discourse ethics, Kantian ethics, consensus.

1. THE NATURE-ETHICAL QUESTION: UTILITARIAN AND KANTIAN ANSWERS

The nature-ethical question, as I shall understand it in this paper, concerns the theoretical moral foundation of the nonanthropocentric, i.e. physiocentric, intuitions many environmentalists share. According to these intuitions, nature has a moral status, a dignity, a claim on us which is not derivatory from nature's impact on human well-being. The three most popular versions of *physiocentrism* are *pathocentrism* (or sentientism: sentient animals count morally), *biocentrism* (all life counts morally), and *ecocentrism* (holism or ecocentrism or deep ecology: all of nature counts morally).

The question this paper is going to address is: Does discourse ethics have anything to offer for physiocentrism? Or is it just one of the anthropocentric moral theories which abound in moral philosophy?

Discourse ethics is a modern version of *Kantian ethics*. While the nature-ethical discussion of the last two decades has made it clear that *utilitarian ethics* can serve as a moral foundation for pathocentrism, but not for any more radical physiocentric position, there is as yet no clarity as to whether Kantian ethics justifies anthropocentrism or physiocentrism, and if physiocentrism, which variant thereof.

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What is well established by now is merely that *Kant* himself held an anthropocentric position or, to be more precise, a position according to which only moral agents, that is, subjects capable of understanding and following moral rules, have a moral status, count as moral patients. Not all human beings are moral agents. Fetuses, new-borns and some severely mentally handicapped are not. And there could be moral agents – Martians or Kant's inhabitants of the moon – who do not belong to the human species. Sometimes this position is called '*ratiocentrism*', but this label is still too wide to indicate that it is moral competence, in Kantian terms : practical or moral rationality, which is the criterion for membership in the moral universe and not rationality as such.

The reason Kant famously gave for why moral agents should not be cruel to animals or vandalise nature is that cruelty to animals and nature vandalism corrupt their character.[2] Among modern followers of Kant some follow even this extreme view. Ernst Tugendhat is one of them. In his new treatise on ethics, *Vorlesungen über Ethik*, Tugendhat argues that it is only because moral development involves developing feelings of compassion that many are misled to believe that there is something we morally owe to animals. The feeling of compassion, so to speak, splashes over the limits of what can be demanded morally.[3] Tom Regan's *Case for Animals*[4] or Günther Patzig's 'Ökologische Ethik – innerhalb der Grenzen reiner Vernunft'[5] in contrast, put forward a Kantian pathocentric position. Paul Taylor's *Respect for Nature*[6] pleads for Kantian biocentrism. And Robert Spaemann,[7] Hans Jonas,[8] Hans Lenk,[9], Beat Sitter-Liver[10] try to extend the Kantian Categorical Imperative so that it refers to all of nature. The question, which nature-ethical position any modified but still recognisably Kantian theory really supports, will be addressed towards the end of this paper.

The main emphasis of this paper is on the more limited question, which nature-ethical position the discourse-ethical variant of Kantian ethics supports. Discourse ethics (or 'communicative ethics') is one of the most prominent contemporary moral theories in German-speaking philosophical communities. And there is a growing interest in discourse ethics and the hope that it might prove environmentally useful in the United States, Australia and Great Britain. The chief purpose of this paper is to sketch the outlines of this moral approach, to clarify its relevance for the ethics of nature and also to list some basic readings on discourse ethics and nature.

2. DISCOURSE ETHICS: OUTLINES

The discourse-ethical approach was developed by the New Frankfurt School, especially by Jürgen Habermas[11] and Karl-Otto Apel,[12] and, under the title 'dialogue ethics', by the Erlangen School, especially by Friedrich Kambartel.[13]

Discourse ethics is, as was already mentioned, a variant of Kantian ethics. The main difference with Kant is that a dialogue with others replaces Kant's solitarily reflecting subject. Instead of reflecting all by oneself upon what everybody concerned could accept as solution to a conflict, one must – according to discourse ethics – enter into a *symmetrical and argumentative dialogue with all others*.[14] The reason advanced for this shift from monological reflection to discourse is that only by actually entering into a discussion with others can one really find out what the others' and even one's own true interests are. Sitting at home at one's desk, one is too easily given to a *distorted view of the interests* at stake.[15] For discourse ethics, it is thus not the outcome of a monological reflection but the *consensus* of all in a symmetrical and argumentative discourse which constitutes the morally right.[16]

Philosophy must not – this is a point especially stressed by Habermas – try to prejudge in a *paternalistic* manner the material outcome of such discourses. Rather, what are the true interests at stake and what is the moral solution must be left to the actual discourses of the citizens concerned.[17] There is, however, said to be one material insight philosophy can contribute: As we are all beings whose identity and vulnerability is constituted socially – at this point Habermas likes to quote a sentence from George Herbert Mead: 'Wir sind, was wir sind, durch unser Verhältnis zu anderen' (We are, what we are, through our relationship to others)[18] – morality has something to do with protecting this *socio-personal integrity*.

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In recent years not a few environmentally interested philosophers have turned towards discourse ethics with the hope that it would help to ground a physiocentric moral position. One major reason for this hope is presumably that the '*liberation of nature*' (more human inner than nonhuman outer nature, however) was one of the great topics of the *Old Frankfurt School*. While ecophilosophers can discover something in the writings of Adorno, Horkheimer and especially Marcuse,[19] the New Frankfurt School has, as I hope to show, broken with this tradition once and for all.[20] I shall concentrate on two main points. The first concerns the role of *consensus* in morality. I shall argue that, as nature cannot assent to anything, nature has nothing to gain by the discourse-ethical shift from monological reflection to consensus. The second point is about the discourse-ethical understanding of morality as an institution to protect *socio-personal integrity*. I shall argue that as nature (even sentient animal nature) does not have such a socio-personal integrity, there is no moral concern for nature in discourse ethics. In the concluding passage I shall ask whether discourse ethics is hopelessly anthropocentric or can be 'saved' by altering one or two central aspects in its make-up.[21]

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3.1. Consensus as Constitutive of Morality

Nature is incapable of entering into any consensus. No ecosystem, no stone, no plant, no animal[22] can enter into a symmetrical and argumentative discourse with all affected by a problem and search for the solution which could meet the approval of all.

Perhaps it will be objected that animals, though they cannot speak, can indicate their preferences by their behaviour. Do not factory-farmed chickens, for example, express dissent with their situation when they reveal fear, isolation, stress, pain or nausea? And do they not express consensus in feeling satisfied when allowed to move about in the farmyard and be with their young?

One can use the words 'consensus' and 'dissent' here, but they then refer only to the positive or negative elements in sensations and feelings. To have the sensation of pain, for example, means to experience something which is bad for oneself and which one would rather not have. Dissent in the case of simple bodily pain means: 'I do not want x'. It does not mean: 'after having discussed the problem with all beings affected, having taken everybody's arguments and interests equally seriously, I have come to reject x.' For discourse ethics, it is only 'dissent' and 'consensus' in the latter sense, which constitute the moral.

It is sometimes suggested that, though nature itself is incapable of consensus, nature could be represented in discourse by a *nature representative*.[23] One could think that the introduction of a nature representative would put an end to an anthropocentrically distorted view of nature's interests.

Yet what exactly is it that this so-called nature representative could do for nature in discourse? She could dissent from factory farming, for example, because factory farming harms animals. In so dissenting she would however not 'represent' the (discursive) dissent of factory-farmed animals, but only ascertain (according to her human criteria for the attribution of sensations to others) that factory-farmed animals experience negative sensations and decide (according to her human understanding of morality) that equal concern for the interests of all beings affected, animal or human, forbids factory farming. Both her ascertainment and her moral decision are monological in character; there is no dialogue with the animals in question. The idea of a nature representative disguises this fact. Nature does not gain anything by the shift from monological moral reflection to discourse. From the physiocentric point of view discourse ethics thus has nothing to recommend itself over monological moral theories like utilitarianism, the ethics of compassion or traditional Kantianism.

3.2. Morality as Protecting Socio-Personal Integrity

Habermas distinguishes between a socially constructed *personal integrity*, on the one hand, and a merely *bodily integrity* ('leibliche Integrität') on the other hand. The latter concerns bodily sensations, like pleasure and pain, and mental sensations, i.e. feelings, like fear and boredom, which human beings share with

many (other) animals. The former, socio-personal integrity, concerns vulnerabilities which originate from our being socialised into a complex net of reciprocal expectations and demands. Examples of socio-personal violations are the humiliation a rape victim feels, the annoyance about a broken promise or the grudge about having been placed at a disadvantage. Insofar as we expect from one another concern for our bodily integrity as well, our bodily integrity is immersed in our socio-personal integrity. Here is a quote from Habermas:

> This kind of communicative socialisation through which persons are simultaneously individuated generates a deep-seated vulnerability, because the identity of socialised individuals develops only through integration into ever more extensive relations of social dependency. The person develops an inner life and achieves a stable identity only to the extent that he also externalises himself in communicatively generated interpersonal relations and implicates himself in an ever denser and more differentiated network of reciprocal vulnerabilities, thereby rendering himself in need of protection. From this anthropological viewpoint, morality can be conceived as the protective institution that compensates for a constitutional precariousness implicit in the sociocultural form of life itself. Moral institutions tell us how we should behave toward one another to counteract the extreme vulnerability of the individual through protection and considerateness. Nobody can preserve his integrity by himself alone. The integrity of individual persons requires the stabilisation of a network of symmetrical relations of recognition in which nonreplaceable individuals can secure their fragile identities in a reciprocal fashion only as members of a community. Morality is aimed at the chronic susceptibility of personal integrity implicit in the structure of linguistically mediated interactions, which is more deep-seated than the tangible vulnerability of bodily integrity, though connected with it.[24]

Now, if morality is the institution which protects socio-personal integrity,[25] it is obvious that nature does not fall into the category of beings which this institution protects. For no star, no ecosystem, no species, no stone, no plant, no animal can feel annoyance, grudge, humiliation on account of violated reciprocal expectations and demands. A species which becomes extinct, a plant which dies, a mouse which suffers in a mousetrap do not resent that we did this to them. The mouse simply suffers, its bodily integrity is affected, there is no socio-personal integrity to be affected.

The conclusion we reach is thus: discourse ethics is as thoroughly anthropocentric as Kant's own position was: only beings who are moral agents count as moral patients.

Habermas has, however, made a half-hearted attempt to overcome the moral-agent-centrism of his discourse-ethical approach and tried to accommodate at least pathocentric intuitions which he admits to share in his discourse-ethical framework. In 'Erläuterungen zur Diskursethik. 13'[26] Habermas argues that as moral rights and duties are grounded in communication and as we communicate, albeit asymmetrically, at least with many domestic animals, we have moral

duties towards (and not only with regard to) them. Domestic animals have, says Habermas, a vulnerability which is analogous to human socio-personal vulnerability and moral respect must therefore be extended to them.

This is a strange argument. For firstly, it cannot do what it promises to do, namely, do justice to pathocentric intuitions. Instead of extending moral concern to all suffering, regardless of whether or not this suffering is just suffering or part of a socio-personal violation, it makes moral status depend on communicative competence. Yet why should communicative competence make the difference? What about the suffering of those animals who lack communicative competence?[27]

Another objection to Habermas' manoeuvre is that even granted the discourse-ethical foundation of morality in communication, there is still the question of whether or not we really 'communicate' (albeit asymmetrically) with domestic animals in the full-blooded sense. One could argue that (most or all) our communication with domestic animals is merely strategic in character and from strategic 'communication' nothing follows in terms of moral duties and rights. If, on the other hand, we can (or will be able to) really communicate with some animals, that is, feel obliged to justify our moral or other validity claims to the animal because the animal expects this of us and resents being treated strategically, as a mere object, then the animal has a socio-personal integrity (and not only something 'analogous' to socio-personal integrity) which of course must be protected morally.

For these two reasons, Habermas' manoeuvre fails to be convincing. Habermas would have been more convincing, it seems to me, if he had argued that there is already in the animal kingdom a gradual transition from mere bodily integrity to socio-personal integrity and that moral respect must be extended to those animals to whom can be attributed precursors of socio-personal integrity. Habermas does not take this line, he repeatedly denies all animals personal integrity.[28] Yet even with this modified discourse-ethical response, the problem of respect for animals who suffer, but lack even rudimentary socio-personal integrity, can obviously not be met.

The *conclusion* to be drawn from the discussion in 3.1 and 3.2 is that discourse ethics cannot justify even the most moderate form of physiocentrism, i.e. pathocentrism, but is a thoroughly anthropocentric moral theory. Thus it does not deserve any special attention from the environmental perspective.

3.3. Can Discourse Ethics be 'Saved'?

The final question I wish to address is whether or not discourse ethics can be 'saved', assuming that at least pathocentrism is a correct moral position. What if one changed one or two central elements of the official discourse-ethical framework so that discourse ethics could really do justice to pathocentric intuitions?

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One obvious way to change the official version of discourse ethics would be to extend Habermas' understanding of the function of morality to lie not only in the protection of socio-personal integrity – and bodily integrity only if immersed in socio-personal integrity – but also in the protection of bodily integrity as such – that is, even where no socio-personal integrity is involved at all. Is this extension possible within the discourse-ethical framework? Does this new, wider understanding of morality go together with the principle of consensus which is, no doubt, the 'heart' of discourse ethics? What is the logical relationship between the principle of consensus and the understanding of morality as protecting socio-personal integrity?

This is a difficult issue and here I can only hint at why I think that the consensus principle does *not* allow for the envisaged extension of morality.

The consensus principle is, as was pointed out, a dialogical version of Kant's Categorical Imperative, and Kant's idea of what everybody could accept as a universal law already precludes such an extended understanding of morality. For if what everybody could accept *constitutes* what is morally right, a moral violation of an other must be understood as doing something to her which she could not accept, which goes against her autonomy. Moral agents sometimes freely accept measures which are bad for them, e.g. on the level of bodily integrity, either because they understand that this is for the good of all or because they do not much mind bodily suffering. Free acceptance is taken to be the criterion for the morally right and not what is (directly) good or bad for the beings involved. Both in discourse ethics and in Kant there is a horror of moral paternalism, that is, of presuming to know what is (directly) good or bad for others and grounding a moral judgement thereupon. For discourse ethics, the horror of paternalism is so great that even Kant's monological reflection about what everybody could freely accept is rejected as still too paternalistic, and replaced by the actual discursive consensus of all. Moral thoughts about what is (directly) good or bad for others have no constitutive role to play in the deontological Kantian framework of discourse ethics; they are branded as teleological, evaluative or '*güterethisch*'. Now, it is evident that to understand morality as protecting bodily integrity as such, that is, what is bodily good or bad for beings independently of their free acceptance, means to introduce a teleological principle into morality. The principle of consensus forbids this (as does Kant's principle of free acceptance). The only material (teleological?!)[29] understanding of morality which is compatible with discourse ethics is that morality protects the autonomy, in other words, the personal integrity and with a slightly different emphasis the socio-personal integrity, of all. This means that discourse ethics cannot be saved.

Does this verdict hold for all types of Kantian ethics? It holds for all Kantian approaches which stress free acceptance. Yet there is a minority reading of Kant which stresses the idea of treating others as ends in themselves (the second side formula of the Categorical Imperative) and neglects Kant's fixation on accept-

[24] From Habermas 1991b (p. 129 in translation).

[25] This stress on socio-personal integrity is characteristic of Habermas, not so much of Apel. As was noted above, Apel entertains the idea of human advocacy of animal interests.

[26] In Habermas 1991b, pp. 219-226 (pp. 105-111 in translation).

[27] A Habermasian could answer that there is no suffering without communication. For how could we know that an animal suffers if it does not communicate this to us? This answer is based on a too wide notion of communication. One should distinguish the case of wanting to let others know that one suffers, of crying out for help, for example, and the case of suffering as such without any communicative intention. Suffering as such can be identified with the help of the standard human behavioural criteria for suffering like trembling, groaning, trying to escape the source of pain.

[28] Habermas 1991b, pp. 223-4.

[29] The point that procedural moral theories, like discourse ethics, themselves rest on a teleological foundation, namely the value of autonomy, has been forcefully put forward by Charles Taylor. See Taylor 1989, especially chapter 4.

[30] This minority reading of Kant was the subject of a recent debate between Jürgen Habermas and Friedrich Kambartel in Frankfurt. Kambartel argued that the notion of 'acceptance' or 'consensus' is ambiguous: it can either mean 'performative consensus' ('performative' in the sense introduced by John Searle, as e.g. the 'yes' in the church sealing the marriage) or it can mean 'insight'. Although moral insights into what is good for all must, because of human fallibility, says Kambartel, always be tested against the critical judgements of others (in a thought experiment à la Kant or, better still, in a symmetrical and argumentative discussion à la discourse ethics) the agreement of others to a moral claim is *not constitutive* for this claim to be correct, to be a moral insight. Kambartel's position is that Kantian moral philosophy should be understood in terms of moral insights rather than in terms of performative consensus. Cf. Friedrich Kambartel 'Unterscheidungen zur Praktischen Philosophie. Indirekte begriffliche Anfragen zur Diskursethik' (manuscript) and Krebs 1997b, especially ch. 1.5. As mentioned in section 1, there are several authors in the ethics of nature who (must) read Kant along these lines: Tom Regan, Günther Patzig, Paul Taylor, Robert Spaemann, Hans Jonas, Hans Lenk, Beat Sitter-Liver. They differ, of course, with respect to the extension of the class of natural beings they regard as ends in themselves, some advocate pathocentrism, others biocentrism, and still others ecocentrism.

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