

Formal Theories, Pragmatic Purposes: Inferentialism, Rational Choice, and Communicative Action

Critical Notice

JOSEPH HEATH, *Communicative Action and Rational Choice*. Cambridge, MA: The MIT Press 2001. Pp xii + 362.

In his long attempt to solve the vexing and diverse problems of formulating a critical social science of modern societies, Habermas has along the way borrowed from many and quite diverse theoretical and philosophical resources, including Anglo-American analytic philosophy of language, ethics and political philosophy. Initially, Habermas borrowed extensively from American Pragmatism, first Peirce's philosophy of inquiry and then later from George Herbert Mead, whose thought his own enterprise most closely resembled.¹ With his increasing concern with the rationality of communication and action, Habermas turned to analytic theories of meaning, or more specifically, to speech act theory and its account of illocutionary force. As one part of a large research program in which various empirical disciplines could be appropriated for normative philosophical purposes, speech act theory and theories of meaning became crucial to reconstructing the competence and rationality that knowledgeable social agents manifest in their everyday activities and interactions. Taken together, these theories provided him with the

1 See, for example, Jürgen Habermas, *Knowledge and Human Interests* (Boston: Beacon Press 1972); also *The Theory of Communicative Action Volume II* (Boston: Beacon Press 1988), especially chapter 5.

means to formulate the master distinction on which his account of rationality and the theoretical edifice built upon it stands or falls: the deeply substantive and thus not merely analytic distinction between instrumental and communicative action on which a novel and distinctive theory of rationality could be based.

In *Communicative Action and Rational Choice*, Joseph Heath provides a rich, systematic and well-informed assessment and reconstruction of Habermas's theories as related to the development of a theory of communicative action and linguistic norms. Furthermore, he extends Habermas' analysis to consider problems and weaknesses of rational choice theory, a task Habermas himself has never undertaken and in so doing vindicates core features of Habermas's core project. But in the case of theories of meaning, truth and moral obligations, Heath's assessment is decidedly more negative in that he argues that Habermas's appropriations do not go far enough, are in need of thorough revision, and ultimately must be significantly scaled back in their more systematic claims. Heath's purpose, however, is not merely critical, since the problem lies not with Habermas's basic insights and goals but with 'the details of his philosophical analysis.' Heath seeks to defend 'his underlying intuitions': that language cannot be explained by instrumental rationality and that 'a dialogical account of moral justification' undermines moral noncognitivism and provides the basis for a theory of the formal constraints on acceptable moral norms (10). The account that emerges demands a significant departure from the letter of Habermas's theory and from many of the claims that he would regard as central to his entire enterprise.

The great merit of Heath's work is precisely its attention to the many details and formal character of the arguments that Habermas considers, especially in the philosophy of language. It is precisely the sort of book that is needed now that all the pieces of the programmatic puzzle are in place, especially since most of the recent literature on Habermas simply takes his account of the philosophy of language for granted and raises internal difficulties.² Since the devil or the divinity is to be found in the details, it is hard to do justice to the striking acumen and scholarship that informs every page of this book. Nonetheless, I would like to assess the gains and losses that Heath incurs in his project of large scale reconstruction by presenting enough of his arguments to see the force of their conclusions. Three revisionist conclusions stand out for their systematic significance. First, in place of the idea that there is something special

2 See Mauve Cooke, *Language and Reason* (Cambridge: The MIT Press 1998).

about linguistic normativity, Heath wants to defend the classical sociological account of social norms, where linguistic norms are but one type. Second, he wants to see Habermas as a deflationist about truth rather than as defending some consensus theory or epistemic theory of ideal warranted assertibility. Third, Heath wants to significantly scale back Habermas's principle of universalization as the main basis for the justification of moral norms. As even the casual reader of Habermas would see, in each case a key feature of the program is either significantly weakened or wholly revised.

Given that in each case the substance of Habermas's theory is rejected, it is certainly open to question whether Heath really does have the same goals in mind. Often Habermas is made to answer to philosophical burdens of proof he never demands of his own theory, as when Heath demands that Habermas's theory of meaning be able to account for compositionality. Here I think that the difficulty does not lie so much in the vagueness of the details of Habermas's argument, but rather in the differences between Heath and Habermas on the relevant standards of evidence and justification. Habermas is a thoroughgoing pragmatist about philosophical methods, and this basic orientation helps us understand not only his arguments but also why it is that he would object to the revisions that Heath suggests. Not only does it weaken his commitment to the sort of 'context transcending norms' that he finds in language, but it also would undermine his philosophical and methodological commitments to pluralism and multidimensionality, that is to reconstructing the empirical variety and range of forms of normativity and validity that it is the job of philosophy to capture. As Heath himself shows so well in the case of rational choice theory, formal theories often sacrifice the empirical richness and diversity in the phenomena for a fully theorized core model, at the cost of strong limitations on empirical applicability. By contrast, pluralist and pragmatic theories take fidelity to such variety and to diverse normative intuitions as central evidence for their cogency. While Habermas consistently preserves his pragmatist methodology of reconstruction, Heath provides us with arguments for taking formal theoretical commitments as far as one can reasonably go. With different methodological commitments and evidential constraints, an alternative reconstruction of Habermas is possible, or so I will argue.

I Language, Norms and Instrumental Action

Before Heath's conclusions can be assessed, it is first necessary to consider his dense and interconnected arguments. After announcing his aim of saving Habermas from himself by reconstructing the intuitions of the theory of communicative action by other means, Heath begins his book

in good pragmatist fashion by challenging perhaps the dominant formal theory in the social sciences from within. Heath's purpose here is to show how arguments for the limits of rational choice theory establish a minimal distinction between instrumental and linguistic action. The target here might be called rational choice as a 'strong program,' the attempt to use the formal apparatus of decision and game theory both to explain the whole domain of social action and to make prescriptive recommendations for institutional design. Heath analyses the sources of many of the well-known internal problems, such as the indeterminacy of multiple equilibria and the failure of the theory to provide any good account of rational commitment to show the limits of rational choice explanations, even when it is extended to include cooperative game theory (73). Heath objects that the program is reductionist: 'For this reduction to be carried out, it must be the case that nothing fundamentally new arises in the context of social interaction that might call for the introduction of more sophisticated decision criteria' (79). But this theoretical limit cannot be maintained: any examination of the empirical evidence shows that 'it is obvious that something new does occur in social interaction.'

The decisive objection for Heath's purposes comes in his consideration of all the extant possibilities of providing a game theoretical analysis of language use, each one running aground on the problem of semantic content. Sophisticated conceptions of signaling games that might explain the generation of meanings as the means to solve coordination problems fall short, since on the rather thin and minimal assumptions of language as signaling, there is no way theoretically to exclude the possibility of 'babbling equilibria' when words are treated like noises (71). The objection here is an in principle one, leaving it open to an empirically minded game theorist to weaken and relax its strong assumptions.³ Habermas might see rational choice theory as one more instance of the 'normative analytic approach' to social inquiry he criticized in *The Logic of the Social Sciences*, arguing that such approaches surrender their empirical adequacy for normative redescriptions. Nonetheless, so long as rational choice theory does not try to explain language itself, it is methodologically possible to use the theory to explain strategic behavior within forms of linguistic action.⁴ Heath objects that the theoretical inability of coop-

3 For examples of this sort of analysis applied to a variety of institutions, see Jack Knight and Itiad Sened, *Explaining Institutions* (Ann Arbor: University of Michigan Press 1999).

4 This is the way that James Johnson approaches the issue. See, among other essays, 'Is Talk Really Cheap? Prompting a Conversation Between Critical Theory and Rational Choice,' *American Political Science Review* 87 (1993) 74-86.

erative game theory to solve the problem of 'neologism proof equilibria' blocks this attempt to black box language. However, empirically oriented rational choice theory does not typically use cooperative game theory, so strategic deviations from linguistic norms in messages are precisely the explanandum.

Heath and Habermas want something more than this methodological criticism. They argue that such strategic behavior is parasitic upon other, more fundamental norms, in the same way that lying is parasitic on truth telling. For Habermas, speech act theory provides the key distinction between illocutionary and perlocutionary force that may then be generalized into an analytic distinction between instrumental and communicative types of action and forms of rationality. But rather than follow Habermas here, Heath rejects speech act theory for its incoherence as a philosophy of language. In its place, a more adequate philosophy of language can be found in inferential semantics, which makes social norms and their structure of commitments and obligations as the basis for understanding the social and cognitive dimensions of meaning. Once we adopt this conception of linguistic normativity, Heath shows that there is no longer any strong objection to the classical sociological theory of norms based on internalization and sanctions found in Durkheim and Parsons. The shift here is momentous. Linguistic norms are simply one kind of social norm, and the differences between Parsons and Habermas simply collapse.

Heath's ingenuous argument for commitments as normative primitives provides the basis for his revisions of Habermas's moral philosophy. The first step is to solve the Hobbesian problem of normative self-binding: 'he that can bind, can release and therefore he that is bound to himself only is not bound' (cited by Heath, 86). Against the formal theory of instrumental rationality, Heath here once again makes the pragmatic objection of the sort that Habermas often does against formal theories: 'What do we make of the fact that agents *do* routinely make commitments, and that these commitments provide the foundations for the development of all large scale cooperative activities?' (89). It follows then that whatever motivates such commitments, it can only be 'non-instrumental reasons for action.' Heath argues that Habermas has the resources to develop an account of such reasons if his account of validity claims is recast. Habermas's 'most important claim' is not that linguistic norms are *sui generis* but that 'the meaning of speech acts is determined by the commitments that speakers make through their performance' (97). Heath thus sees validity claims as 'commitments,' although the passage he refers to in the text to illustrate this idea says something rather different: that the achievement of mutual understanding rather than commitment is in Habermas's terms 'the central phenomenon of linguistic communication.' For Habermas, raising a validity claim in an utter-

ance is only sometimes the act of the speaker making a commitment. It is possible to stipulate that it is always so, but this is true in the same uninformative sense that all actions can be taken to be self-interested. More importantly, understanding a speech act is not to attribute a commitment, but to take up an evaluative stance towards the reasons that support the utterance. Hearers may also understand the acceptability conditions of an utterance without accepting it; or, they may reject it and even abstain from evaluation. These 'yes' or 'no' attitudes illustrate what Heath calls 'Habermas's contractualist intuition' about linguistic norms, that is, that the purpose of linguistic norms are to create the structure of reaching agreement about norms that are subject to assent or dissent. Heath's view of linguistic norms as implicit commitments undermines such a voluntarism, since commitments are implicit in the content of linguistic actions such as promising, not the process of reaching intersubjective agreements with others.

This fundamental shift in the meaning of linguistic norms is motivated by the next step in Heath's argument, in which an inferentialist account of linguistic meaning and propositional content is shown to be superior to the analysis of speech acts in terms of the ambiguous concept of illocutionary force. Habermas attempts to recast the meaning of an utterance in terms of the acceptance of the reasons that support it, so that hearers must know what it would mean for some speech act to be acceptable as true, right or authentic if they are to understand it. The problem with this account is a fundamental ambiguity in the way in which meaning and validity are supposed to be 'internally connected' (116). Habermas cannot escape the horns of a dilemma: it is connected *either* to the speech act as a whole, *or* to its propositional content. If it is the former, then Habermas has the problem of 'compositionality,' that semantically identical propositional content must acquire different meanings in different utterances. Or, if the claim lies in the propositional content, then Habermas must provide an account of meaning that abandons his insistence on a plurality of validity claims, since a single claim, the claim to truth, is sufficient for these purposes. Heath puts his favored interpretation this way: 'rather than claiming that the utterance itself is right, the speaker claims that the action referred to by the utterance is right' (117). If meaning resides in propositional content and such content can be analyzed in terms of truth, then much of the formal apparatus of Habermas theory of communicative action can be abandoned in this sort of analysis of the truth of assertions. We do not need any more than a truth predicate, since 'both theoretical and practical discourses consist in speech acts that raise "truth claims"' (124). The implications of this minimalism for the rest of Habermas's theory of communicative action are enormous. There is then nothing special about practical discourse, and no special inference rules or principles such as universalization are

needed to understand the meaning of a claim to normative correctness. There is then 'only one form of discourse and the validity claim governing speech acts is truth,' and 'the only relevant speech act type that connects the propositional content of an utterance with its inferential role is assertion' (124).

The third step of the argument is now apparent. By dispensing with linguistic norms in general and rightness as a validity claim in particular, there is nothing that the claim that an action is correct adds to the correctness of the action. Since rational choice theory offers us no clue about the nature of norms, Heath returns to noninstrumentalist conceptions of norms as already developed in the sociological theories of social norms offered by Durkheim and Parsons. According to this view, norms have a special status in identifying those motivations that supersede others and create expectations for others that actors will comply. The mechanism here is not the sanctioning of particular violations, but rather the sanctioning of agents who abandon the 'normative orientation' for strategic and instrumental motives. The big advantage, as Heath sees it, is that the moral theory is then freed from Habermas's stringent conditions and can be relaxed to include bargaining and compromise as ways of coming to agreement and resolving conflicting claims and interests.

This extended argument is impressive in the range of considerations that tell against Habermas's theory and in the consistency of the resulting conceptions of truth and accountability. Suppose we accept its account of norms and its inferentialist account of semantic or conceptual content. When compared to Habermas's theory, it appears to be a different sort of reductive program. While it may permit noninstrumental reasons for acting (and these reasons are fundamentally normative), it offers a single unified theory of meaning and action, similar in many respects to Davidson's program. In the place of Habermas's pluralism it offers a theoretical monism that is at odds with the methodology and goals of rational reconstruction. Most of all, the unified theory does away with Habermas claims that the best reconstructive response to the plurality of normative phenomena is to analyze them at different levels: in particular, he introduces the pragmatic level in ongoing practices and interaction. If he wants to save some of the stronger claims of his theory against Heath's powerful monist argument, Habermas will have to show what a difference the difference of levels makes. This in turn would require a greater commitment to a more thoroughgoing pluralism and philosophical pragmatism as the basis of his program rather than a kind of naturalized Kantianism. There is good evidence in his recent attempts to distinguish the truth claim from epistemic justification that this is the way he wants to go. In the next few sections, I shall develop this sort of pragmatist response to Heath's objections and show why this alternative corrects some of the weaknesses that he points out while more consistently

retaining the theoretical strengths and normative goals of Habermas's program. While Heath proposes arguments at the pragmatic level to establish the convergence of beliefs (rather than desires), he does not consider such a pragmatist pluralist strain of Habermas's thought. While this convergence can serve a transcendental role of solving the problem of shared belief necessary to get communication off the ground, such an assurance does not solve the practical problem that value conflict raises for justification. Perhaps Heath would say, with Brandom, that this is a 'messy retail, rather than wholesale business.' Habermas wants to have it both ways: a transcendental analysis that also serves to guide practices of justification.

II Truth, Assertion and Norms: Brandom and Habermas

The goal of Chapters 4 and 5, the central chapters of *Communicative Action and Rational Choice*, is to provide rigorous arguments to weaken the role of validity claims in Habermas's theory, first, by reducing them all to the truth claim and, second, by denying the analogy between truth and rightness that Habermas thinks is crucial to cognitivism about morality. If these arguments succeed, then Habermas loses any specifically linguistic basis for the norms of practical discourse and also for his social theoretical account of language as a mechanism for the social coordination of action. For the first task, Heath turns to the formal analysis of the truth predicate in Tarski T schemas (184), the disquotational theory of truth. In the context of discussing the work of Richard Rorty, Habermas rather incautiously accepted deflationism as consistent with his antirealist intuitions. Heath's acceptance of deflationism seems inconsistent with his own arguments against rational choice theory. From what perspective were these criticisms of rational choice theory made, Habermas might ask? They presuppose actor's knowledge, and thus are made from the point of view of the participant, who does not recognize his intuitions in the formal apparatus of the theory applied to language. It is the knowledge of such competent speakers and actors, their competence and reflexive knowledge and not their performance provides the evidential base for the theory of communicative action.⁵

5 See, for example, the following description of rationality defined in terms of know how: 'Rationality has less to do with the possession of knowledge than with now speaking and acting subjects acquire and use knowledge. In linguistic utterance it is expressed explicitly; in goal directed action an ability, an implicit knowledge is

While some have found certain formal similarities to Habermas's theory of communicative action (such as the reliance on counterfactual idealizations in the theory of rationality), rational choice theory is not a reconstructive, but a formal theory. Neither is a deflationary theory of truth, nor ultimately even semantic inferentialism. As theories, they have more in common with decision theory than with the aims of the theory of communicative action.

On closer examination of the issue of truth claims, Habermas puts his endorsement of deflationism in qualified pragmatic terms: 'the redundancy theory can be said to be based on a correct observation: that "p is true adds nothing to the assertion that p."' But this is for pragmatic reasons: 'precisely by asserting "P" I make a truth claim for "p": therein lies the pragmatic meaning of an assertion.'⁶ Speakers use the terms 'true' and 'truth' as properties in just such second-order and self-referential ways. In his recent writings in *Wahrheit und Rechtfertigung* Habermas argues that truth is indeed a property of assertions, indeed one that is justification-transcendent. A deflationary theory of truth denies just this, that 'truth' is that which transcends justification, and thus is merely a piece of expressive vocabulary that we need to quantify over sentences and to see truth as defeasible when this quantification fails. Habermas sees truth at the pragmatic and not at the semantic level as a particular kind of property with a variety of uses for evaluating utterances. At issue for Habermas in this pragmatic account is what Richard Rorty calls 'the cautionary use of truth,' in which 'that truth is a property of propositions that cannot be lost.'⁷ Truth in this sense does not merely have an explicative role and thus cannot be explained away. By contrast to truth claims, Habermas argues that the rightness claim is thoroughly exhausted by the conditions of justification: it is simply warranted asserti-

expressed; this know how can in principle also be transformed into a knowing that.' See *Theory of Communicative Action, Volume I* (Boston: Beacon Press 1984). The competence/performance distinction guides his understanding of universal or formal pragmatics.

- 6 Cited by Heath, 186; the quotation is from an early essay on the topic that Habermas does not wish to have translated because it presents a consensus theory of truth that he now rejects. See 'Wahrheitstheorien,' in *Vorstudien und Ergänzungen zur Theorie des Kommunikativen Handelns* (Frankfurt: Suhrkamp Verlag 1984), 130.
- 7 Habermas's views on the relation of truth and rightness have been unstable. The position that Heath criticizes is the view Habermas defended in the 1990s. My criticisms reflect the more pragmatic interpretation offered in *Wahrheit und Rechtfertigung* (Frankfurt: Suhrkamp Verlag 1999), in the essay 'Wahrheit und Richtigkeit,' 271-318. For the specific passage, see *Truth and Justification* (Cambridge: The MIT Press forthcoming), 241.

bility under ideal conditions, and thus the validity of the assertion cannot be captured disquotationally. In both cases, Habermas is not offering a definition of truth so much as describing its uses in the same way that Peirce provides us with a pragmatic theory of truth as the opinion at the end of inquiry. It is neither a definition of the truth predicate nor part of the semantics of assertions, but rather offers a description of the normative role that truth plays in the practice of inquiry. Similarly, in the case of rightness Habermas argues that it has a similar pragmatic role that can be cashed out in terms of idealizations that apply to the features of the process of discursive justification. In these cases, the pragmatic theory of justification is, as Habermas puts it, 'in the performative attitude,' in that it reconstructs the evaluative perspective of a participant in practices of inquiry, in public deliberation or scientific inquiry in which first-order claims must be defended in second-order discourses about justification. This higher level is missing in a deflationary account.

Any reconstructive or pragmatic theory would then be required to reconstruct the whole variety of uses to which normative terms may be put. For Habermas this means capturing the full range of validity claims as they function normatively in various practices of inquiry and discursive assessment. The difference that such a pragmatic approach makes can be seen in Habermas's criticisms of inferentialism (published at the same time as Heath's book). Despite the cross purposes of their exchange, Habermas offers several forceful criticisms of Brandom's inferentialism at the pragmatic level. The first is broadly methodological and objects to the many references to 'the theoretician' in *Making It Explicit*. While not leveling the charge of reductionism, Habermas does see 'a certain theoreticism in that Brandom conceives of understanding an expression as an operation of attribution,' where the hearer simply attributes commitments much as a theoretician imputes theoretical significance upon empirical data.⁸ In response, Brandom replies that he does not see reaching mutual understanding as the aim of linguistic communication and instead gives assertion the central role in explicating the normativity of language from the point of view of an indirect listener. Habermas argues that such a theory cannot have the same aims as his reconstructive account from the perspective of the active participant in dialogue.

For Habermas, the most important consequence of inferentialism is an overly narrow view of linguistic norms in particular and of social practices involving justification and evaluation in general. Habermas takes

8 See Habermas, 'From Kant to Hegel: On Robert Brandom's Pragmatic Philosophy of Language,' *The European Journal of Philosophy* 8 (2000) 322-335.

it as a datum for his theory that speakers and actors are able to employ a variety of speech acts, refer and act according to a variety of norms, take a variety of perspectives and thus appeal to a variety of types of reasons in different forms of justification. For Heath following Brandom and Parsons, norms are a mechanism for making commitments, and such commitments can be analyzed in the same way according to the deontic normative vocabulary of commitments, obligations and entitlements. What Habermas sees as problematic for any such 'normative-analytic approach' to norms (in the sense of a theory that provides an analysis of some concept such as a norm and then applies to all instances of the concept) is its 'monism.' As theoretical monists, Parsons and Brandom seek one special sort of norm that is the model for all the rest, just as for rational choice theory instrumental reason is the model of all rational phenomena. Such theories are clearly simplifying, and in the social sciences such simplifications may be useful for the construction of models. The problem with such a philosophical theory is its extension of the core case to the wide variety of norms and reasons: to norms that are regulative, aspirational, epistemic, moral, social, prudential; then, even given a particular norm among this variety, it may be supported with a variety of reasons, as when we have both prudential and moral reasons for following a legal norm.

This methodological difference leads to very different sorts of theories of justification or normative entitlement. Brandom argues that all reasons stated as assertions are in 'the fact-stating line of work,' so that corresponding to the distinction between normative and non-normative vocabulary is 'a distinction between normative and non-normative facts.'⁹ For Habermas explication in terms of facts is a consequence of the role of assertion in inferentialist explication and leads to the recasting of justification from a single point of view: 'Although norms of action can be described as facts from an observer's perspective, they can be justified only from a participant's perspective ... from this perspective assertions play no *essential* role in the justification of norms.'¹⁰ A theory that sees moral justification in terms of normative facts denies that there is any constructive role of moral justification in building a normatively regulated social world in common. The theory then fails in one of its Kantian main tasks in describing how it is that we institute the norms that we give ourselves.

9 See Robert Brandom, *Making It Explicit* (Cambridge: Harvard University Press 1994), 625.

10 Habermas, 'From Kant to Hegel,' 350

A further objection that emerges in the debate also tells against Heath's form of deflationism. Consider Brandom's formal and structural account of objectivity. If we want the ideal of objectivity to perform certain practical roles (such as adjudicating between various conflicting claims about truth), then Habermas is correct that a conception of objectivity must involve the ability to take various perspectives at once. But such a theory is 'transperspectival' and thus not structural in Brandom's sense. Brandom concedes that the formal perspectival account may 'fail to underwrite anything recognizable as, or cannot be that whole story about objectivity' (360). The objectivity required to ascribe propositional content serves to make differences in perspective explicit; it in no way adjudicates between them or leads to convergence. As Brandom puts it, 'identifying what is being talked about permits me to extract information across the doxastic gap.'¹¹ Brandom agrees that the ascriber of a commitment must employ two different perspectives in ascribing the content of a commitment.¹² In cases of conflict, the hearer simply assumes the correctness of his or her own perspective. Objectivity as it is reconstructed in inferentialism cannot serve any adjudicative or regulative function for conflicts of perspective, but merely allows us to take the first step and coordinate their commitments with ours. If this is so, then the reply to Brandom's own doubts is that the structural conception of objectivity is indeed too distant from our own implicit norm to count as a reconstruction of how it is used.

If we agree with Habermas that our practical abilities are not so constrained as Brandom's phenomenalism requires, then we ought to see the reconstruction of practices as having a more robust role. Brandom is satisfied with a structural account of objectivity as it emerges out of his conception of conceptual norms; Habermas insists that objectivity is tied to our practical abilities to take different perspectives and to engage in argumentative, discursive perspectives in which the reasons of others are considered and weighed. Without some sort of account that leads to a robust theory of justification across perspectives, it is unlikely that the formal account of 'truth' or 'objectivity' will be sufficiently close to

11 See the discussion of attribution in Brandom, *Articulating Reasons* (Cambridge: Harvard University Press 2000), 181.

12 'Where the specification of the content depends only on auxiliary premises that (according to the ascriber) the target of the ascription acknowledges being committed to, though the ascriber may not, it is put in the de dicto position.... Where the specification of the content depends on auxiliary premises that the ascriber endorses, but the target of the ascription may not, it is put in the de re position' (182).

ordinary intuitions to play all the constructive roles in justification and second-order reflexivity that a reconstructive theory demands. Next, I argue that the many sociological criticisms of Parsons' theory of norms show that it suffers from a similar difficulty and that a more pragmatic alternative once again suggests the proper remedy.

III Social Norms and the Return to Parsons

Habermas's criticism of Brandom's (and thus also of Heath's) position on the role of truth and assertion in explicating normative commitments turned on the contrast between a monism and a pluralism in the theory of norms. Formal theories tend to be monist in order to get theoretical traction at the risk of not telling the whole story (and in the worst case telling one that is not even recognizable to speakers and actors); reconstructive theories are pluralist in that they see the task of normative theory to account for norms in all their diversity and thus risk being overly ambitious. Heath sees Habermas's uses of the theory of communicative action in the case of claims to truth and rightness as excessively ambitious and in need of pruning. Once this operation is successfully completed, all that is left is a single, comprehensive theory of social norms, much in the manner of the sociological theories Habermas sought to improve upon by turning to linguistic norms. It is then a small step to scaling back the ambitious claims that Habermas seeks to underwrite with his account of moral justification in discourse, the theme of the second half of Heath's book. While closely tied to his arguments about truth and assertion, Heath's the discussion of the primacy of social norms stands on its own.

According to Heath (following Elster and Parsons), social norms provide a mechanism for commitment that overcomes the indeterminacy of rational action and thus cannot be explained in terms of instrumental or strategic rationality. The task for Heath is then to provide an alternative explanation for accountability in place of Habermas's 'contractualist idea' that accountability is based on agents being committed to providing justifications for their action and speech. The alternative structure of 'normative accountability' is less robust and demands only that properly socialized agents give 'deliberative priority to normative reasons' (with sanctions when someone chooses instrumental or strategic orientations and violates the legitimate expectations of others). The 'normative orientation solves a 'higher-order choice problem,' in which agents must not only decide among the competing interests but also decide how to decide, to give some set of reasons greater normative weight (146). By choosing to give normative reasons priority, the prob-

lem of social order is solved. 'For an agent who is endowed with a fundamental disposition that provides either a weighting or lexical ordering of various choice standards, and who is acting in the context of a system of social norms that provides the basis for a set of shared expectations, each social interaction problem can be given a determinate solution' (150-1).

Why do conflicts among reasons and higher-order choice problems stop there? When the choice problem is iterated in this way, Habermas's original suggestion that linguistic norms built into argumentation such as the equal consideration of the interests of all or that all must freely accept the outcome begins to have some force. In the absence of a social consensus about the lexical ordering of normative reasons, the only problem that is solved is the specific ranking of self-interests relative to normative expectations. The more complex and interrelated reasons become at the higher level, the less guidance normative orientations provide. Similarly, if 'the accountability structure of social norms is to be explained not by such antecedent commitments, but by the mechanism that must already be in place to ensure that agents acquire the correct fundamental choice disposition through socialization' (151), the fact of pluralism suggests socialization may produce very different orderings that see one group's norms as mere interests to another.

Do these microfoundations solve the problems long associated with the Parsonian framework? Such a fundamental choice disposition could function in this way if there were a clear distinction between 'normative' and 'strategic' orientations, and provides a different version of the same set of problems associated with Habermas's distinction between communicative and strategic orientation. Habermas's way of putting the distinction in terms of discourse does not suffer from the problem of seeing actors as, in Garfinkel's memorable phrase, 'judgmental dopes.' As ethnomethodologists have argued, normative social expectations are indeterminate, so that even ordinary actions are fulfilled with alternatives as actors discover, create, sustain and change social expectancies.¹³ To use one of Garfinkel's examples, if there is a norm for agents to return greetings among acquaintances there are a whole set of contingencies in which agents may deviate from this norm given various motives and circumstances of agents. All of these indeterminacies are due to the ways in which normative accountability is subject to actors' reflexive aware-

13 On these issues, see John Heritage, *Garfinkel and Ethnomethodology* (Oxford: Polity Press 1984), especially chapters 1 and 2. Thomas McCarthy uses ethnomethodology to find pragmatic equivalents for Habermas's transcendental idealizations. See David Hoy and Thomas McCarthy, *Critical Theory* (London: Blackwell 1994).

ness of the mutual accountability of their own actions. But this means that the fundamental disposition opens up a space of normative alternatives, in which even deviant actions are placed. Thus, knowledgeable and reflexive social actors can use this very structure of normative accountability interpretively, making the most normal interactions an open-ended interpretive accomplishment shot full of reflexivity. Once again it seems a more pluralist and multi-level analysis is required.

Having subordinated linguistic norms to a type of social norm and equipped agents with the appropriate normative orientations, Heath then turns to Habermas's ethical theory. Like many other critics, his task here is to weaken some of the stronger claims for moral justification, particularly whether the outcome of a moral discourse must be in 'the common interest' or met with 'the rational agreement of all.' This high standard serves the purpose in Habermas of defending moral cognitivism, that is, to show that the moral disputes are subject to standards of rationality and impartiality. Given that such a demanding criterion makes intractable disagreement more likely, then Habermas's standard move of reclassifying some disputes then as ethical (and thus about values) rather than moral (and thus about principles) simply serves to shrink the domain of morality.

In place of ideal rational agreement, reasonable compromise is a sensible alternative, and bargaining theory 'offers Habermas an attractive fallback position' once he abandons his unwarranted suspicion of the strategic element in bargaining (244). 'What bargaining theory shows is that agents can reach agreements that are acceptable to all given only very weak assumptions about their willingness to compromise and the conditions under which they are prepared to do so' (244). The problem is that even the conditions for compromise are highly demanding. If parties are going to accept the outcomes of bargaining as mutually fair or legitimate (and not just the result of credible threats), then before they begin to bargain they will have to engage in something more like deliberation on the norms of a basic framework. Thus, if the demanding initial conditions of fair and cooperative bargaining are to be met, agents will have to be able to engage in more than pure bargaining. Indeed, the form of compromise must be that of a moral or communicative compromise whose outcome must be different from the outcomes that pure bargaining theory would predict. Notice that the formal theory of bargaining tells us very little, if anything, about the conditions under which compromises will be reasonable or acceptable to agents with normative orientations. Even if normative accountability gets us closer to a solution than linguistic norms that aim at a common interest, the evaluation of any compromise as reasonable or not is at a higher reflexive level than bargaining. The norm of reasonableness is here a second-order norm of justification.

Habermas's theory does no better in developing an alternative to pure bargaining, since it is largely silent over the possibility of conflicts over norms of justification. However, in spite of Habermas's official view (which Heath rightly criticizes), the theory of communicative action has other, untapped pragmatic resources. Discourse emerges in precisely the relevant sort in 'problematic situations,' in which agents switch from communicative action based on common, unproblematic background convictions to discourse in which such convictions, roles and assumptions are tested.¹⁴ The shift to discourse brings with it then the demand for justification of various sorts depending on the domain in question. In problematic situations discourse serves reflexively to 'repair' ongoing social interaction and its normative character. On this more pragmatic, reading, it is the diversity and plurality of claims and differing forms of justification that Habermas ought to emphasize precisely because it is in this process that second-order standards can be tested. If the goal is the reconstruction of what knowledgeable speakers and actors do, then such knowledge can be captured only in a diversity of types of normativity and with sufficient reflexivity for the emergence of new norms of justification. When norms have a constructive role, such a possibility may even be institutionalized; when constitutions no longer seem adequate to continue the process of free and equal citizens governing themselves, new norms are introduced with new standards of justification, and justified by second-order normative commitments such as due process and procedural equality. In order for reconstruction to capture this constructive role of norms, it will have to do more than make their contents explicit.

IV Conclusion: On Reconstructing Habermas

The great merit of Joseph Heath's *Communicative Action and Rational Choice* is its careful consideration of the formal dimensions of Habermas's argument in moral and social theory. If he is correct, then the best strategy to follow when Habermas's account fails is to weaken the theory by considerably narrowing its ambitions: to restrict validity claims to truth and then to a deflationary theory of truth and to an inferentialist conception of commitment, to eliminate the distinction between linguistic and social norms by subsuming the former to the

¹⁴ *Theory of Communicative Action*, Volume II, 125.

latter. In the case of Habermas's moral theory, the weakening of the theory serves to introduce a wider set of possible resolutions and the social means to achieve them into the theory. In the latter case, the theory become less formal and can appeal to a variety of theories (including bargaining theory) to develop an alternative normative conception of 'reasonable compromise.' Heath's criticism of the moral theory generally serves to make it less formal, more contextual, and more pragmatic. It leads reconstruction away from moral theory narrowly conceived to a wider normative theory of problem solving and conflict resolution, just as a pragmatic theory of truth claims might lead to a greater emphasis on practices of inquiry, including not only science but also law and democracy.

Some of the disagreements that Heath has with Habermas are methodological, having to do with what counts as good evidence for a theory or the object domain that it seeks to reconstruct. Habermas's account of reconstruction leads him to consider a wide range of phenomena and to preserve the integrity of the actor's point of view in any adequate theory. In particular, when one considers the many discussions of the distinction between truth and rightness claims that Habermas has published in the years since Heath's book, this theoretical commitment is unwavering. His account now seems less clearly related to issues in contemporary philosophy of language and more devoted to establishing the larger normative contexts of discursive justification. It is not clear that he has answered all of Heath's difficulties, and any assessment of his recent work on these issues ought to start by answering Heath's criticism. Perhaps one way to put the differences between his recent and earlier views of language, truth and justification is that he has revised his view in a manner more attuned to Heath's criticisms of his moral theory, making them more and more pragmatic. In this way, the normative theory is less concerned with providing an abstract normative basis in a specific set of principles of justification, than to see how a discursive strategy of reconstruction can be pursued in many different contexts from science and law to politics and democracy. Given that the strong assumptions of discursive ethics provided very little guidance in this enterprise, such theoretical modesty may yield richer practical implications. Heath's book reveals the tensions in Habermas's discourse ethics and its basis in linguistic norms. He offers us powerful reasons for narrowing the bold claims of the theory to make it more defensible. Limiting Habermas's overly expansive theoretical architecture may also sometimes be useful for the more pragmatic and pluralistic inquiry that I have defended here. In the case of the implications of discourse ethics for political theory, Heath's arguments converge with ones offered by Habermas's more pluralist critics.

Heath agrees with many critics that Habermas's philosophical claims for the theory of communicative action are much too strong.¹⁵ At times, Habermas recognizes this problem and attempts to weaken the status of his own claims, calling them 'reconstructive' or 'quasi-transcendental.' On the one hand, most critics (including myself) generally assume that the best way to go is to take up the reconstructive aspect of Habermas's theory and go pragmatic. This project reconstructs agents' practical knowledge and requires a great deal of social scientific evidence from a variety of theoretical and methodological perspectives. On the other hand, Heath thinks that it is best to retain the transcendental aspects of Habermas's project and attempt to show how a transcendental pragmatic program can be achieved by means other than the ones Habermas offers. This clearly theoretical project requires a deep engagement with the philosophy of language and theories of meaning and truth. While such a reformulation loses certain dimensions of Habermas's original philosophical project, it does make it more defensible and rigorous. For those who wish to take up this challenge, there is no better place to start than Heath's challenging attempt to reformulate Habermas's theory. It is certainly the road less traveled.

JAMES BOHMAN
Saint Louis University
Saint Louis, MO 63156
USA

15 I owe the formulations in this paragraph to a discussion with Joseph Heath concerning the differences between our attempts to weaken Habermas's strong claims while reconstructing his viable theory.