

## DISCOURSE ETHICS AND RESTRUCTURING

**Kenneth A. Strike**  
*Cornell University*

Why believe that discourse ethics might have something to say about school restructuring? A central concern of discourse ethics is legitimation. Habermas, for example, holds that social norms are legitimated if they are or could have been the product of a reasoned discussion achieved under certain idealized conditions that he calls an ideal speech situation.<sup>1</sup> Bruce Ackerman, who has produced a liberal version of discourse ethics, claims that power must be legitimized by dialogue.<sup>2</sup>

While views of school restructuring are commonly argued by asserting hypotheses connecting organizational characteristics of schools to test score data, they presuppose legitimation principles. Common versions of teacher professionalism assume that “Those who know should rule.”<sup>3</sup> Similarly, proponents of voucher systems often assert religious liberty or consumer sovereignty as a legitimization principle.<sup>4</sup>

Discourse ethics and restructuring also both concern the broad shape of social institutions. Proponents of restructuring tend to agree that the enemy of good schooling is bureaucracy and thus propose to decentralize schools. Similarly, discourse ethics resists social arrangements wherein decisions are achieved administratively and a representative democracy that vectors interests more than it produces public debate. Discourse ethics requires social institutions in which norms and practices are legitimated by dialogue. This feature of discourse ethics suggests that it has the potential to provide an approach to restructuring which, like most approaches, emphasizes debureaucritization, but which also provides a democratic alternative to the elitism of professionalism and the erosion of public space involved in voucher proposals.

To explore this potential, I want to construct what might be called some “dialogue maps.” These maps are pictures of the kinds of conversations that are suggested by different views of discourse ethics. In describing these maps, I shall emphasize the understanding of what I shall call the commons — civic space or public space — and the connection between the commons and whatever it is that is outside the commons. My main objective in these explorations is to claim that the “Kantian frame,” in which several variants of discourse ethics are developed, generates an unacceptable picture of the commons and the outside, and to suggest the broad outline of a more adequate picture.

I shall begin by sketching some spatial metaphors about the commons. These pictures may have some heuristic and expository value so long as one does not take them too seriously.

Note that current patterns of school governance locate the commons outside of the school insofar as civic discussions about education occur largely in legislatures and boards of education. Schools are controlled by the results of these conversations, but they do not occur in schools. In contrast, a “Habermasian” school might have a large commons. It might be pictured as a room where something like a town meeting might take place. Furniture would be arranged so as to permit equal participation. There is a coffee pot the size of which is determined by one’s sense of the ease of achieving dialogical consensus. (I imagine a very large pot.) All rational moral discourse occurs within the commons.

The school I imagine for liberals such as Ackerman is also dominated by a large central space, but I hesitate to call it a civic space. It consists of booths staffed by adults hawking various goods. Students wander among these booths choosing such goods as strike their fancy. Thus, while Habermas's space seems designed to hold a town meeting, Ackerman's accommodates a bazaar.

Somewhere in Ackerman's bazaar is a table with a public official who reviews each student's selections to ensure that resources claimed to pursue chosen projects are not justified by claims either that the student is inherently more deserving than others or that the student's conception of a good life is intrinsically superior. Once students' resource claims pass this neutrality test, they wander down one of a large number of halls to pursue their projects.

A final picture involves a room dominated by a negotiating table and surrounded by a number of caucus rooms. In the caucus rooms people have conversations with those like minded to themselves. At the table (the commons), they negotiate on behalf of their groups. This is a picture suggested by a different sort of liberalism such as that of Rawls and by such Rawlsian phrases as "a union of social unions."<sup>5</sup>

The nature of the commons and its relations to the outside is a vintage problem. Consider that a persistent concern of the founders of the republic was the cultivation of civic virtue. A persistent theme was the connection between civic virtue and religion. Two ideas seemed widely shared, if not universal. One was that sectarianism is a threat to liberty and civic peace. A second was that civic virtue is nurtured by religion. For some this second point was a reason for cultivating a "non-sectarian" civil religion. For others it was a reason why the government should, in some non-sectarian way, support various religions.<sup>6</sup>

This kind of discussion is still much with us. Its religious version is still debated. For those who think it passé, I would suggest reading some of Anthony Scalia's dissenting opinions where there is evident support for the school's sponsorship of a civic religion to cultivate civic loyalty.<sup>7</sup> Its modern versions also include topics such as moral education, multicultural education, and the politics of difference. Here, too, questions as to how we are to understand the commons, what is outside, and how these "spheres" relate, are central.

Consider now a few remarks of Charles Taylor. Taylor claims that both communities and selves are dialogically constituted. He writes:

This crucial feature of human life is its fundamentally dialogical character. We become full human agents, capable of understanding ourselves, and hence of defining our identity, through our acquisition of rich human languages of expression...we learn these modes of expression through exchanges with others.<sup>8</sup>

Suppose that the conversations that form communities and selves significantly occur outside of the commons. Suppose that they are largely the conversations of non-public associations, of home and work, of church and neighborhood, of art and literature. Taylor's comments suggest that these conversations are, nonetheless, crucial educational resources. If so, then views or practices that diminish them might erode both the fabric of community and the process of the formation of self. Moreover, to the extent that civic virtue depends on concepts or characteristics acquired outside of the commons, the erosion of the educational power of non-public space also threatens the viability of civic life.

Discourse ethics done in a Kantian frame may produce these results. Consider Habermas. Habermas's conception of a discourse ethic is one that suggests a picture of a democratic school as one where some collective WE discusses what WE will do as a kind of committee of the whole regulated by shared rules of conversation. One influence on this picture is the Kantian shape that Habermas gives to his version of discourse ethics, especially in some of his more recent work. Here discourse ethics is presented as a deontological theory wherein there are objective and universal forms of rationality for the right, but where the good is outside the circle of reason. The following

comments, taken from a recently published interview and reacting to neo-Aristotelian views, will serve to give the flavor of Habermas's views.

Under modern conditions of life none of the various rival traditions can claim *prima facie* general validity any longer. Even in answering questions of direct practical relevance, convincing reasons can no longer appeal to the authority of unquestioned traditions.... We can't expect to find a generally binding answer when we ask what is good for me or for us or for them; instead, we must ask what is equally good for all. This "moral point of view" throws a sharp, but narrow spotlight that picks out from the mass of evaluative questions practical conflicts that can be resolved by appeal to a generalizable interest; in other words questions of justice.... Hence moral theories, if they adopt a cognitivist approach, are essentially theories of justice.<sup>9</sup>

These comments suggest a view of a commons defined by a set of opposed concepts: right versus good, deontological versus teleological, cognitive versus non-cognitive, reason versus tradition, universal versus particular. These concept pairs are linked so that each bounds essentially the same space that Habermas views as public space. They define the commons. Thus for Habermas, the commons is occupied by an inclusive WE that speaks with the authority of objective and universal reason about matters of justice. WE are plural only outside of the circle of reason and in the life world. Reason, justice, morality and the commons have the same boundary. To use an Hegelian characterization, as Habermas often does, Kantian versions of discourse ethics locate the moral life in *moralitat*, not *sittlichkeit*. The outside is not unimportant to life. But it is not where moral reflection occurs.

I think that this way of formulating a discourse ethic is wrong. A more adequate discourse ethic must view legitimation more in terms of dialogues between various substantive moral discourses, not as an activity that occurs entirely within a universalizable theory of justice. Questions of the sort that MacIntyre sometimes poses about how different moral traditions can communicate seem to me to suggest a better picture of the epistemological questions that need to be resolved by a discourse ethic than those posed by Habermas.<sup>10</sup>

Habermas provides us with the following principle of discourse ethics which he labels D: "(D) Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse."<sup>11</sup>

Habermas views this principle as justified by an argument for a principle of argumentation, U, which he views as a pragmatic presupposition of the activity of rational discourse. While I cannot here characterize the detail of this argument, its flavor is expressed in the following:

Participants in argumentation cannot avoid the presupposition that, owing to certain characteristics that require formal description, the structure of their communication rules out all external or internal coercion other than the force of the argument and thereby also neutralizes all motives other than that of the cooperative search for truth.<sup>12</sup>

D is a deontological principle, and it is such principles, but not views of the good life, *moralitat*, but not *sittlichkeit*, that can meet the requirements of a cognitive theory.

It is possible to argue for a different basis for discourse ethics. Benhabib, for example, argues for what she calls an historically self-conscious universalism that is arrived at by a process that seeks a reflective equilibrium.<sup>13</sup> Here concepts of universal moral respect and egalitarian reciprocity turn out to be the moral presuppositions of a fair debate. However, they are not justified by claims that their denial results in a performative contradiction.

Consider some arguments against Habermas's view of the matter. I want to assume that it would be a serious failing of discourse ethics if it secured the position of people as equals in their role of interlocutors in moral debate, but failed to secure their equal interests with respect to the outcome of the debate or their equality as political subjects. D seems to accomplish the move from equality as

an interlocutor to equality of interests by requiring a consensus of participants. It is assumed that rational people would not consent to their own subordination. However, the transition from equality as an interlocutor to equality of interests fails unless there is something in D that makes it irrational for people to accept social norms that severely harm their interests or to advance norms that unfairly harm the interests of others. Moreover, the principle required must be a principle of justice, not merely an assertion of self-interest. We need some reason why we should agree that people are entitled to equal respect concerning their interests. If we find no such principle, then it is not irrational for people to agree to outcomes that damage their interests even if they are treated equally as interlocutors.

Once we note the distinction between equality as an interlocutor and equality of interests, it becomes apparent that D fails since even if there is a performative contradiction in committing ourselves to a rational deliberation and simultaneously excluding the evidence of a competent speaker, it is not obvious why it follows that a commitment to include the testimony of all competent speakers requires us to accord equal respect for the interests of these speakers. Imagine an emperor with a philosopher slave. Perhaps the emperor is involved in a performative contradiction if he silences his slave when he does not like his arguments. Perhaps a commitment to reasoned discourse requires the emperor to pursue the argument to the end and not to allow the outcome to depend on power. The philosopher and the emperor thus have equal standing as interlocutors in a discourse. What here requires the emperor or the philosopher to conclude that the philosopher slave has an equal interest in the outcome of the discourse? We might answer this question with familiar Kantian arguments linking moral capacity to equality. But this is to introduce the kind of metaphysical claims that Habermas wishes to avoid. It is not to find equality in speech. Equality as an interlocutor in a rational discourse simply does not entail equality as a political subject.

It is similarly doubtful that politically useful principles of liberty can be gotten from the pragmatics of language. Indeed, it is far from evident that all rational discourse requires the kind of openness to argument that is built into the notion of an ideal speech community. Consider that the implication of some of Kuhn's arguments in his *Structure of Scientific Revolutions*<sup>14</sup> is that scientific discourse requires that scientific communities be open to debate on the questions that the paradigm regards as open issues, but also that debate within the community be closed on the paradigm and that those who reject the paradigm (except in times of crisis) be excluded from the community. Astronomers need not listen to arguments from astrologers. Biology faculties need not hire and promote creationists. The machinery of academic decision making excludes such dissenting opinion from the conversation. Moreover, Kuhn seems to regard this as a requirement of normal science. It is what permits science from being swamped by the Babel of dissenting voices. Exclusion is part of the institutionalization of scientific reason.

This argument concerns scientific, not moral, argument. However, I see no considerations that prevent it from being applied to moral argument as well. It may well be that moral communities can make progress only if they are able to drown out the Babel of dissent.<sup>15</sup>

Of course, exclusion from participation in the commons is unfair. Equal respect and egalitarian reciprocity are conditions of fair debate in the commons, at least if one assumes that, as citizens, people have equal rights. My point is not to deny this. It is to reject the claim that these moral conditions have the kind of warrant in the pragmatics of language that Habermas claims for them.

Why care? The reason is that if we see the conditions of fair argument as rooted in historical conditions and as warranted by a reflective equilibrium, we are more likely to view the morality of the commons as one moral tradition among others and to be more suspicious of the project of trying to ground principles of political reasoning in epistemological arguments that put them beyond culture or tradition. We are only going to find them in our political, legal, and moral traditions by a process of argumentation that seeks to balance and integrate a complex array of considerations. The

pursuit of the moral content of the commons is the pursuit of a dialogically achieved, reflective equilibrium.

This suggests that we cannot uncritically identify the morality of the commons with *moralitat*, assume its objectivity and universality, and sharply distinguish it from that of *sittlichkeit*, which is banished to some outer darkness of tradition and subjectivity. If the morality of the commons is privileged in public decision making, it is not because it is epistemically privileged. It will be privileged because it expresses a consensus, a social contract, achieved in dialogue between people rooted in different and perhaps conflicting moral traditions. It will contain distillations from these traditions as well as accommodations required to induce others to participate in the conversation. Such distillations and accommodations are part of the process of achieving an overlapping consensus. However, a consensus so achieved does not constitute the morality of the commons as uniquely rational and transform the outside into something non-cognitive.

Consider another issue. Deontological theories often claim that views of the right generate universal obligations, but that autonomous moral agents have a right to form their own conception of their own good. Bruce Ackerman applies these views both to the relations between adults and their children and to schooling. He produces a view of schooling in which educational resources must be distributed as the consequences of neutral arguments and where instruction and the curriculum must respect the autonomous choice of the child.

Ackerman writes:

Indeed, many school buildings are nothing more than an extension of the child's primary culture, with "educators" interested only in weeding and pruning youngsters so that they will better accord to the parental design. In contrast, a liberal school has a different mission: to provide the child with access to the wide range of cultural materials that he may find useful in developing his own moral ideals and patterns of life.<sup>16</sup>

Choice is constrained by the requirement that children require a certain degree of "cultural coherence"<sup>17</sup> if they are to develop into competent citizens. This gives parents some right to direct the education of young children.

Here our picture of the commons has moved from that of the town meeting to that of the bazaar. Schools have become "liberal emporia" offering students a free choice between the widest feasible range of educational goods constrained by the vague, but clearly minimal, criterion of cultural coherence.

I want to test this view by looking at some ideas of Alasdair MacIntyre. Assume that among the object of educational choice are the kinds of things that MacIntyre calls practices. He describes a practice as

any coherent and complex form of socially established cooperative human activity through which goods internal to that form of activity are realized in the course of trying to achieve those standards of excellence which are appropriate to, and partially definitive of, that form of activity, with the result that human powers to achieve excellence, and human conceptions of the ends and goods involved, are systematically extended.<sup>18</sup>

Consider three claims about practices.

1. The goods internal to most complex human activities are not transparent to the uninitiated. This is so for such reasons as that learning a practice involves acquiring a new vocabulary for describing it, learning and internalizing the standards of appraisal appropriate to it, and experiencing what it is like to be a competent practitioner. None of these are fully available to the uninitiated.
2. The criteria of choice available to the uninitiated will be transformed by the process of initiation. Practices are not merely means to ends. People will be transformed by their

initiation into a practice such that their ends are changed and transformed.

3. Criteria of choice between practices are embedded in (a) the communities and identities formed by complex human practices; and (b) the sundry moral traditions that live in different human communities.

These claims bring Ackerman's views about choice in the liberal bazaar of educational goods into considerable doubt. They suggest that students who enter the liberal bazaar armed only with cultural coherence are, in fact, likely to be choosing largely on the basis of untutored desire.

An adequate view of educational choice cannot view relatively unformed children as autonomous agents picking among a selection of educational goods whose character is transparent to them. Children become choosers by undergoing a dialogical process of initiation and by being embedded in some particular ethical/social environment. Children are not motivated in this process solely by reasoned convictions that their educational activities are means to goals they currently have and interests they currently understand. Trust and bonding to the adult members of communities must play a part.

These ways of relating to educative communities may be eroded by views of schooling that march to the drumbeat of deontological theories of right. What is required for competent educational choice is some socially embedded vision of the good. Deontological theories are problematic here for three reasons. First, they do not provide much content relevant to making substantive educational judgments. There is nothing in a deontological theory that suggests why we should study physics or learn the violin. Second, some deontological theories tend to treat the substantive basis of such decisions as subjective, as outside of the circle of reason. Finally, deontological theories often insist on governmental neutrality between competing visions of the good life as a matter of right. The public school thus must present relatively unformed children with choices between a range of activities whose genuine value cannot be fully transparent to them, and it can have nothing to say about the basis of such choice.

The discussion to this point suggests that the boundary between the commons and what is outside is not isomorphic to the boundary between the rational and the non-rational and that the ethic of the commons, understood as some deontological liberals construe it, is likely both to be too thin to sustain a conception of a good education and to erect barriers to reliance on resources outside the commons for this purpose. I now want to argue that the justification of the commons and its vitality are, to a degree, dependent on its relations to the outside.

I want to approach these claims by arguing that the bifurcation of the moral world into the right and the good significantly misrepresents the character of much of the moral content that is swept into the category of the good, and I want to link this to the claim that the right/good distinction plays a mischievous role in theories of tolerance that employ it.

I can best make these points by beginning with some of Rawls's more recent work. In his work since the mid 80s, Rawls has largely abandoned the Kantian form of his argument for justice as fairness. Among his reasons for this are that he has come to believe that the very structure of a justificatory project that seeks to defend a liberal view of tolerance by showing it to be the political application of a more comprehensive and broadly adequate philosophical theory is inconsistent with the very principles of tolerance espoused. Treating liberalism as though it was the political application of Kantianism or utilitarianism has more or less the same consequences as treating it as the application of religion. It tends to exclude those who dissent from the currently dominant justification of the political order from full participation in it, it makes them second-class citizens, and it turns doctrines of tolerance into reasons why some WE whose enlightened views constitute the official language of the commons should tolerate some benighted THEM.<sup>19</sup>

Rawls concludes that liberal justice must be free floating — not an application of any deeper philosophical theory. He now regards it as a moral tradition and as an overlapping consensus. The

virtue of these views is that no one is required to choose between their fundamental convictions and their citizenship. The language of liberal justice is to be construed and constructed so as to be as neutral as possible to those deep disagreements that divide us.

I do not think that Rawls has pursued the logic of this project far enough. He continues to use a standard Kantian vocabulary to describe the content of justice and to distinguish justice from the rest of ethics. Thus, the point that a civic ethic must be given priority in public space to the ethical conceptions that characterize non-public associations is assimilated to the priority of the right to the good. This is a point both about justification — the right is not to be justified teleologically, as a means to some conception of the good — and about the status of rights in politics — rights are not to be waved for the sake of perfectionist values.

However, the ethical conceptions that characterize many non-public associations cannot be easily assimilated to the idea of conceptions of the good life. Religion is an obvious case. While the traditional religions of the West certainly have something to say about a good life, it does violence to them to regard them as (nothing but) conceptions of the good. Most religions have a great deal to say about justice. Their central moral commitments are linked to their views about the relationships between human beings and God, and about the connection of people to one another. To take such religious injunctions as that we should “do justice, love mercy and walk humbly with our God” and attempt to assimilate them to the category of “conceptions of the good,” uncritically transforms religious views into something that fits the Kantian Procrustean bed. It intimates that they are matters of culture or taste. It refuses to recognize that they make truth claims. It requires that they be seen in ways inimical to their character and likely to be resisted by their more sophisticated adherents.

Thus, Rawls’s use of these Kantian formulations is inconsistent with his claim that liberalism as a political morality must be free floating. His use of Kantian vocabulary, even absent Kantian arguments, is sufficient to undo what Rawls hopes to accomplish; that is, it undercuts the attempt to construe justice as fairness as an “overlapping consensus” that can be ascribed to by people of diverse moral outlooks without creating unresolvable issues of conscience.

Now, I am sympathetic to the attempt to construct an overlapping consensus that is free floating. However, Rawls continues to view the original position as a way to explicate the content of a free-floating conception of justice. I think, however, that his current view requires a different sort of justificatory strategy. This justificatory strategy needs to be described both from a “public” stance, and from the stance of the various moralities that are associated with our various non-public associations.

From the public side, the attempt must be to construct an overlapping consensus such that it can be agreed to by people with diverse and perhaps incommensurable moral outlooks without posing unresolvable issues of conscience for them. That such a view be free floating seems a clear requirement. No view that is seen to be exclusively an extension of Kantianism, or utilitarianism, or Christianity can be ascribed to by those who dissent from these various perspectives. This inquiry does not seek for a lowest-common-denominator political morality. The question is not, “On what do we all currently agree that can serve as a basis of political discussion?” Nor is it an answer to the question, “What can we agree on once we have bracketed such differences as religion, gender, race and ethnicity?” It is more like, “What can we agree on, given ample time for debate, that allows us to meet in the commons and that does not require us to abandon or bracket those background convictions on which we differ?” This means that the construction of a fabric of public reason, of a commons, requires real arguments between real interlocutors with real substantive moral convictions. And it means that we cannot decide its content once and for all by speculative argument. Consent and consensus under conditions of fair argument are central criteria for a reasonable overlapping consensus.

This process precludes the moralities that are associated with various non-public associations from being held immune from criticism. They may well be changed in the process of the argument. Often the task of constructing a fabric of public reason requires that the various moral traditions that are involved in the discussion find ways to rework the content of their views so as to enable them to join in an overlapping consensus in a way that preserves the integrity of their outlook, but also permits public consensus.

If we look at this project of justification from the perspective of these various moral traditions, we may find that they are engaged in a justificatory project *vis a vis* the commons of a different sort. From the outside the question ceases to be, "On what can we agree despite our differences?" It becomes instead, "Given our current moral convictions, can we accept this candidate for a commons with integrity?" If adherents of various moral traditions are to come to accept some candidate for an overlapping consensus as the basis of cooperation with others with whom they may deeply disagree, they will have to agree both that they cannot expect that their distinctive moral convictions will serve as the grounding of public reason for everyone, but also that the basic principles of public reason can be seen as consonant with their deepest convictions. Thus, for example, Christians may come to hold both that they cannot expect Christianity to be the official basis of the state, but also that the principles of freedom and equality that are central to public reason are the expression of a Christian outlook, even if these same principles may be held by others for different reasons.

If Christians are to accomplish this, they will need to engage both in a dialogue with others about the nature of a public ethic and in a dialogue with themselves as to what public principles they can accept and how they are to understand their own traditions so as to render their commitment to the principles of a public ethic acceptable within their own tradition.

Thus, the justification of an overlapping consensus looks different from a public perspective and from various non-public ones. From the public perspective, an overlapping consensus is justified in that it provides a meaning to the ideals of a free and equal citizenry that is free floating and that is broadly acceptable to those whose moral convictions may otherwise differ widely. Its logic is the logic of a social contract. But from the perspective of a non-public moral tradition, a public ethic is justified in that it is congruent with the central values of the tradition. Justification may be religious, metaphysical, or politically partisan. Such justification occurs within local moral traditions. Creating an overlapping consensus is, thus, an ongoing constructive task requiring a real debate between a shifting set of interlocutors. Both the shape of the commons and the shape of non-public traditions will be formed by the dialogue.

For very many people the justification of and loyalty to the ethic of the commons will depend on its congruence with their local moral traditions and not on the logic of the social contract. That an overlapping consensus is free floating does not require that we reject such justifications for the commons. It requires only that we not treat them as public justifications. That is the key to allowing the commons to be nurtured by our diversity. If I am right, such nurturance is important to the vitality of the ethic of the commons.

I began this inquiry with the suggestion that discourse ethics might give us a picture of restructuring that shares with other views of restructuring an opposition to bureaucracy, but which also provides a democratic alternative to the elitism of professionalism and the erosion of public space involved in choice. However, I also expressed some doubts about the Kantian frame in which some versions of discourse ethics are articulated. These doubts are focused on the tendency of deontological theories to understand public reason as a theory of right that is universal and objective and to hold that what is outside of public reason is beyond the grasp of reason, subjective, mere culture. I have argued that: (1) the epistemic superiority of *moralitat* over *sittlichkeit* is doubtful; (2) the Kantian framing of discourse ethics undercuts a reasonable view of the role of the outside in educational choice; and (3) part of the legitimation of the commons depends on the ability of diverse people to see its moral content as congruent with their basic moral convictions.



Perhaps, then, we might ask how we would think about the conversations of a school in which we affirm the view that dialogue is central to the task of legitimation, but reject the Kantian framing of this idea. What does our dialogical map look like now? Broadly, the answer is that we need to give more space and more importance to conversations that express those particularistic and non-public moral traditions that live in our several religions, cultures, and ethnic communities, and such other non-public associations as seem important to free and equal citizens in the tasks of conceiving their lives.

We have now moved in the direction of my third picture of the commons: the one with caucus rooms and a bargaining table. Please do not take this too seriously. The picture suggests that the non-public aspects of life are lived in sharply distinguishable groups with hard boundaries between them and the commons. That is vastly misleading about the vagaries of community boundaries and the coherence of moral traditions. The picture of the commons as a negotiating table overstates the extent to which an overlapping consensus is a *modus vivendi* and understates its status as a political and moral tradition. The commons is not just a place where we struggle for the welfare of our group. As a moral tradition, it may also be a place where we share a valued form of common life in which dialogue occurs with valued others and where goods such as civic friendship are realized.

Perhaps a better feel of the characteristics of the dialogical map that might result from my arguments can be given by suggesting three principles that I think need to be respected. Having said something about this, I shall also suggest several different types of conversations that I believe need to occur in schools.

Three principles:

1. The “time alone” principle: If the moralities of our non-public associations and moral traditions are important in the ways I have argued, then it is educationally important to provide space in which the young can be initiated into their content and where members of these groups can more fully explore their content, and discuss and resolve those issues and problems that arise within their perspectives. Examples might range from the kinds of religious and political activities that are legitimated by the Equal Access Amendment and *Westside v Mergans*,<sup>20</sup> to black gospel choirs, to an Afrocentric curriculum.
2. A limited doctrine of conversational restraint: I would accept a doctrine of conversational restraint that requires that claims made on public resources or public power must be legitimated by public reasons. I want to characterize this as a limited doctrine of conversational restraint for two reasons. First, it constrains the bases on which we can claim power or resources, but it does not seek to restrict what we can debate in public space. Second, it does not preclude people from asserting non-public reasons for public policies in public space. Instead, it insists that policies that have no public justification are unacceptable. For example, public policies are not rejected because some defend them in the name of God. However, they are rejected if there is no additional public reason.<sup>21</sup>
3. The dialectical construction of public reason: The commons is a construction, not a discovery. It will be expressed in political and legal traditions (not abstract moral doctrines) that are in constant need of revision. Given what I have argued about the relationship of public reason and non-public reason, the dialectical construction of public space requires not only that we reflect directly on its character, but also that we reflect on its connection to the various traditions of non-public reason that characterize our society. This, in turn, makes criticism across group boundaries important, and it means that we cannot construe the time alone principle either as an expression of ethical relativism or as isolating subcultures from criticism.

Our dialogical map now has the following kinds of conversations.

1. In group conversations: Discussions among the like-minded within the confines of shared, but non-public, assumptions.

2. Discussions within and about public reason: These are discussions in the commons that seek both to apply public reason to public issues and to reappraise our current understanding of public reason.
3. Critical/hermeneutical conversations: These are discussions that are intended both to understand the other and to explore the respective merits of our diverse outlooks.

The point of this last conversational type may be less evident since I have not fully prepared the background for it here. I envision these conversations as substantive, critical arguments between different outlooks concerning their respective merits. A debate between theists and atheists about the existence of God would be one example; debates about the respective merits of various cultures another. These arguments concern questions that need not be raised in public space. However, such conversations may serve public purposes. Rightly conducted and in places committed to teaching the skills and virtues required, they may help nurture mutual understanding and tolerance. This involves something like Gadamer's fusion of horizons, the development of a vocabulary of comparisons.<sup>22</sup> Such conversations may help people to question their embeddedness in some tradition or community in a way that reduces the dominance of their outlook by accidents of birth or social circumstance. Also, they may have important developmental consequences in creating people possessed with the capacities required to participate in the commons as participants in a dialogue.

I would propose these conversational types as an alternative to the rather monotonic view of dialogue found in those views of discourse ethics that have succumbed to Kant and as part of the dialogical map useful in a view of school restructuring that is both democratic and pluralistic.

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1. Jurgen Habermas, *Moral Consciousness and Communicative Action*, trans. Christian Lenhardt and Shierry Weber Nicholsen (Cambridge, Mass.: The MIT Press, 1990).
  2. Bruce Ackerman, *Social Justice in the Liberal State* (New Haven, Connecticut: Yale University Press, 1980); and "Why Dialogue," *Journal of Philosophy* 86, no. 1 (1989): 5-22.
  3. See Linda Darling-Hammond, "Valuing Teachers: The Making of a Profession," *Teachers College Record* 87, no. 3 (1985): 205-18. For discussion, see Kenneth A. Strike, "The Ethics of Educational Evaluation," in *The New Handbook on Teacher Evaluation*, ed. Jason Millman and Linda Darling-Hammond (Beverly Hills, Calif.: Sage, 1990), 356-73; and B. A. Kimball, "The Problem of Teachers' Authority in Light of the Structural Analysis of Professions," *Educational Theory* 62, no. 2 (1988): 1-9.
  4. See M. Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962); J. E. Chubb and T. M. Moe, *Politics, Markets, and America's Schools* (Washington, DC: The Brookings Institution, 1990); and *The School-Choice Controversy*, ed. J. W. Skillen (Grand Rapids, Mich.: Baker Books, 1993).
  5. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), 520-29.
  6. Lorraine Smith Prangle and Thomas Prangle, *The Learning of Liberty* (Lawrence, Kans.: The University Press of Kansas, 1993).
  7. *Lee v. Weisman* 112 S.Ct. 2649 (1992), 2686.
  8. Charles Taylor, *Multiculturalism and "The Politics of Recognition"* (Princeton, N. J.: Princeton University Press, 1992), 32.
  9. Jurgen Habermas, *Justification and Application: Remarks on Discourse Ethics* (Cambridge, Mass.: The MIT Press, 1993), 150.
  10. Alasdair MacIntyre, "Relativism, Power, and Philosophy," in *After Philosophy, End or Transformation?*, ed. Kenneth Baynes, James Bohman, and Thomas McCarthy (Cambridge, Mass.: The MIT Press, 1989), 385-411.
  11. Jurgen Habermas, *Moral Consciousness and Communicative Action*, 66.
  12. Jurgen Habermas, *Moral Consciousness and Communicative Action*, 89.

13. Seyla Benhabib, *Situating the Self* (New York: Routledge, Chapman & Hall, 1992), 23-67.
14. Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1970).
15. Even if this is not true, this case succeeds as a counter example to Habermas, so long as it is plausible even if for empirical reasons it is wrong. Habermas requires that exclusion of proffered evidence result in a pragmatic contradiction. A likely (non-contradictory) story about how exclusion might promote moral progress is sufficient to rebut this claim.
16. Ackerman, *Social Justice in the Liberal State*, 155-56.
17. *Ibid.*, 141.
18. Alasdair MacIntyre, *After Virtue* (Notre Dame, Ind.: University of Notre Dame Press, 1981), 175.
19. These arguments are made in John Rawls, "Justice as Fairness: Political not Metaphysical," *Philosophy and Public Affairs* 14, no. 3 (1985): 223-51; "Overlapping Consensus," *Oxford Journal of Legal Studies* 7 (February 1987): 1-23; "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77 (September 1980): 515-72; and *Political Liberalism* (New York: Columbia University Press, 1992).
20. *Board of Education of Westside Community Schools v. Mergans* 493 U.S. 182, 110 S.Ct. 2356 (1990).
21. This formulation is roughly equivalent to the first prong of the Lemon test for applying the Establishment clause. See *Lemon v. Kurtzman*, 403 U.S. 602, 91 S.Ct. 2105 (1971).
22. Charles Taylor, *Multiculturalism and "The Politics of Recognition,"* 67.

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