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## Chapter 3

### ***“Right” Discourse in Citizen Participation: An Evaluative Yardstick\****

*Thomas Webler*

Right thinking depends as much on right willing  
as right willing on right thinking.

Max Horkheimer (1972:162).

We should not expect a generally valid answer  
when we ask what is good for me, or good for  
us, or good for them; we must rather ask: what  
is equally good for all?

Jürgen Habermas (1992: 248).

#### **1. Prelude**

The official from the State Department of Environmental Protection locked the door to the County Agricultural Extension Service building and the five of us walked together out into the parking lot. After almost three and one-half hours of heated discussions with citizens in the meeting room, the fresh, cool air of the night was reinvigorating. I was thinking to myself, I'm glad that's over with! when the DEP official aggressively said, "Well that finishes any chance of our getting a landfill sited in this part of the state for the near future. The participation project was a complete failure. NIMBY strikes again." Between the lines I thought I heard him say, "Thanks for nothing."

As one of the research team organizing the public participation program, I naturally felt his resentment. After all, despite the fact that he had argued for giving citizens more say in the decisions, and despite the fact that he initiated this research into a novel approach to participation, he had also made it very clear to us how he wanted the process to end. In the same vein we were, naturally, optimistic for an outcome that would satisfy everyone. Perhaps in the push to sell our model we led him to believe – or even expect – that the optimistic picture was all too easy to achieve. He has a certain right to be upset, I thought, because tomorrow he has to go back to the office and live with this result on a day-to-day basis. We, on the other hand, are driving home to another part of the country, probably never to return. Our biggest worry is what to write in our final report and whether or not we will ever get funding for another similar project.

In the van on the drive home we analyzed the event and looked for mistakes. We looked for people to blame. On the outset, there was plenty of blame to go around. If only the moderator had controlled the discussion a bit differently. If only that member of the research team did not argue with the expert. If only the state official had not given such a

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one-sided and lengthy presentation. If only we had pushed harder to have citizens from outside communities present. If only we had known about that other landfill siting debacle from last year. If only the citizens had been a little more patient, a little more open, and a little less hostile!

At one point during the long late-night ride I began to wonder, how are we justifying laying blame on people? Nothing that happened during the meeting was so unusual. What criteria are we using when we decide that somebody's actions were wrong? That notwithstanding, even before there can be blame, we have to identify a mistake. Blame is laid on the person responsible for the error. But what was the mistake here? Why were we implicitly agreeing with the official that the process was a complete failure because it did not produce a sited landfill? What other bases could we use to evaluate public participation?

Should participation processes be evaluated only according to outcome? If so, what outcome – *whose* preferred outcome – should we use to base an evaluation? I thought back on the town, where the citizens were celebrating tonight. Surely everyone involved had their own expectations for the process. The research team wanted to reinvigorate democracy with a new instrument for collective decision making. It also wanted to provide its employer with a satisfactory outcome and better its chances for a research career in this area of work. The State wanted to site a landfill in a low-conflict and low-cost manner and also gain the trust and confidence of the citizenry. Residents of the targeted community, on the other hand, wanted to minimize their share of negative impacts (stigma, risk, annoyances, costs) and assert themselves against the traditional decision making authority of the State and experts. As a consequence, “preferred outcome” depends on the interests of each group involved in the event. To the citizens, the process was a success – they used it to keep the proposed landfill out (of course, they may end up paying more for waste disposal as a consequence, but this may not be as great a concern for them).

On the other hand one could argue that all participants, in addition to having their own interests, have shared interests and these are often more important (to each and everyone) than individual interests. For example, everyone has a concern for the negative health and environmental impacts of waste disposal. Public participation could be evaluated according to how well it serves these collective interests. In fact, this is often the argument of public officials who claim (undoubtedly in true honesty and with good reason) to be working for the good of all (i.e. the collective interest). Beyond interests, the Rouseauian idea of generalized will is relevant here. The difficulty associated with this approach is, of course, knowing with certainty the generalized will.<sup>1</sup>

Clearly there exists, among any group of people forming a community a *predisposition* for collective will, but it is not obvious that, beyond generalities like clean water, shelter and food, a detailed prescription for the good and just life exists *a priori* to self reflection, discourse, and understanding. It may help to distinguish between aspects of the collective will that can be determined objectively and are knowable through scientific inquiry (e.g. the need for clean drinking water), and other aspects that are

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<sup>1</sup> The concept of generalized will should not be interpreted as the equivalent to Durkheim's collective conscious. It is not something that exists a priori, but is created through public discourse. Neither does the generalized will express the full range of consensus or dissent among the participants, but merely a limited consensus centered around the important aspects of the pressing decision.

socially constructed and knowable through intersubjective understanding (e.g. the interest in preserving a rural character of a region). However, it seems unpromising to attempt to evaluate participation against how well it serves the collective will given the fact that the collective will is changing and the participation itself shapes and modifies it. We would be hard pressed to characterize the collective will of this community based on what happened tonight.

Thinking back on the victorious citizens, perhaps subjective satisfaction should be used as a criterion for evaluating participation? After all, when people are happy with the process, the process has a good chance of being used for future problems. It stands to reason that a procedure people elect to use over and over again must have something going for it. Perhaps we could measure the happiness of everyone who participated, average the result, and use this as an overall evaluation of the process?

Even if we could get over the problems with quantifying such a feeling, however, and even if we could justify a weighting scheme,<sup>2</sup> what use would such a quantitative evaluation be? Does it make sense to compare two different participation models based on the relative satisfaction of the participants of each model's application? This scheme seems susceptible to its own relativism. What basis is there for comparing satisfaction of models unless they are used in precisely the same context? For example, one problem context may include only choosing between bad and worse, another context may offer the choice between good or better. Overall satisfaction in the first case may be quantitatively high, but relatively low compared to the second.

Together with my colleagues in the van, I was reaching the conclusion that it is not enough to evaluate a single public participation exercise objectively, according to outcome (because of problems of knowing the generalized will), nor subjectively, according to the participants' assessments (because of the problem of aggregating individual preferences). To be able to make a judgment about how well a certain technique for participation works, we need some ideal against which to compare its performance – we need a procedural normative model of public participation.

## **2. Looking for Agreement on Values**

### **2.1. Fairness and competence as metacriteria**

A normative model of public participation is one that expresses and defends a vision about what public participation should accomplish and in what manner. This boils down to an argument that certain values should predominate. Not surprisingly, one finds in the literature little concise agreement, but rather scattered thoughts about what public participation should be (Rosener 1978). One way of making sense out of this confusion is to distinguish between ethical-normative and functional-analytic arguments (summarized in Chapter 2).

Ethical-normative and functional-analytic arguments for public participation contribute different aspects to a normative case for public participation. Taken together, they suggest that public participation should manifest the general goals of *fairness* and *competence*. Participatory democratic theorists emphasize that participation is consistent with political equality and popular sovereignty, because it provides every individual an

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<sup>2</sup> Should everyone count equally? What about those with more at stake or more power? They may be more impacted by the process results, or they may have the power to stop the process next time.

equal and fair chance to defend his or her personal interests and values and to contribute to the definition of the collective will. Fairness is key to producing a forum where equality and popular sovereignty can emerge and personal competence can develop. When participation is fair, everyone takes part on an equal footing. As I will explain below, this means, not only are people provided equal opportunities to determine the agenda, the rules for discourse, and to speak and raise questions, but also equal access to knowledge and interpretations.

Functional-analytic arguments emphasize that participation is normatively right insofar as it contributes to sustaining social systems. This implies a need for competence. A systems-level definition of competence, however, is too abstract to enable a case-level evaluation of participation. For instance, in the landfill siting case mentioned above, it is more functional to have this landfill sited or not? Under a conservative interpretation of functionalism, one would argue for the siting, but considering other work on the functions of social conflict, one can imagine a situation wherein the landfill not being sited could result in a larger payoff to society.

Bringing this functionalist concern for competent social operation down to the level of social interaction can be aided by appealing to participatory democratic theory. Political equality and popular sovereignty also make an argument for competence. Namely, one should be capable of protecting his or her own interests while also being capable of contributing to the definition of the collective will. This refers to a competence in the achievement of personal development and in social interaction among individuals engaging in political life. Competence, in this sense, relates to psychological heuristics, listening and communication skills, self reflection, and consensus building.

What both arguments share is a recognition that competent shared social constructions of reality are essential. Functionality of the system order and protection and exercise of individual liberties both require competent understandings of the physical, social, and personal states of affairs. When the purpose of public participation is to produce a collective decision, competent understandings about terms, concepts, definitions, and language use; the objectified world of outer nature (nature and society); the social-cultural world of norms and values; and the subjective worlds of individuals are all essential. This is accomplished through the use of established procedures. How well the people in the discourse manage to apply these procedures is the measure of competence.

## **2.2. Public participation is social interaction**

Participatory and elitist democratic theories provide justification for very general normative principles of participation. Taken alone, these can and have been used to evaluate participation institutions or models (Fiorino 1990; Laird, 1993). But because these theories explain political order at the macro level, they miss crucial elements at the micro level of participation.<sup>3</sup> Evaluating a participation exercise requires a much deeper

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<sup>3</sup> I believe Laird's claim to the contrary is off mark (1993:350). Consider, for example, just one of his criteria: improved understanding. Theories of democracy do not give any clue about which kinds of public participation produce better understandings. This requires a much more psychological approach, building on theories of small group interaction, among others. To be honest, this also points to a weakness of relying on Habermas, for psychological theories of small group interaction play little role in this work. Whether or not Habermas describes speech accurately, is

understanding of how fairness and competence are realized in practice. The following observation is key to realizing this.

By and large, participation is *interaction among individuals through the medium of language*. Thus, it makes sense to ground a normative model of public participation in a theory of how language is used – also known as pragmatics. Toward this end the recent work of Jürgen Habermas appears promising (Habermas 1984, 1987). Habermas not only assembles the analytical tools and concepts necessary to the study of language use, but also sets the normative foundations for its evaluation. While there is much to be discussed about how effective he is at establishing and defending his normative contentions, his basic arguments about universal pragmatics (communicative competence) and the ideal speech situation are fundamentally consistent with the ethical-normative and functional-analytic arguments that public participation should be fair and competent.

### **3. Approaching the Work of Jürgen Habermas<sup>4</sup>**

#### **3.1. Roots of cooperation**

Jürgen Habermas is a German philosopher and sociologist who comes out of the tradition of critical theory. In keeping with his roots in German philosophy, Habermas has sought to explain the changes in modernizing western societies as a process of rationalization – or the improvement and invention of techniques and skills we use to make sense out of the world. Habermas thinks of rationalization as occurring differently in each of three independent domains: science/technology, law/morality, and art/art criticism. Building on early critical theorists' apprehensions about the predominance of scientific rationality over all other forms of rationality, Habermas has diagnosed the current problem of modern societies as one-sided and uneven rationalization. For this problem he has prescribed a cure: we need to develop our non-scientific forms of thinking while also inventing ways to capitalize on all three kinds of knowing in cooperative decision making procedures. Using all three rationalities in a cooperative way is also a form of rationality, in fact it is the most important kind, a kind he calls *communicative rationality* (Habermas 1984:95).

Habermas believes that the roots of cooperation are found in the very structure of language. Built into language is the assumption that the speaker can defend his or her statements if needed. This amounts to an implicit commitment between any two persons talking with each other to cooperate. To prove his point Habermas points out that, without this assumption, all forms of language would fail: not only would it be difficult to reach agreement, but jokes would not be funny, lies would not work. Obviously, disagreements and misunderstandings do arise. In everyday speech we have certain conventions for coping with these problems. In situations where these conventions fail, as in many settings of environmental decision making, an institution for communication must be established.

In what follows I approach Habermas's theory of communicative action along a path that begins with the basic terms and concepts he uses to understand language. Then I

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a topic of much debate. Still, coming down from the level of political theory to Habermas's theory of social interaction is a movement in the correct direction.

<sup>4</sup> Other reviews of this dimension of Habermas's recent work are given by (beginning with the briefest): Brulle 1992; Forester 1985; Kemp 1985; Pusey 1987; Bernstein 1985; McCarthy 1984; Braaten 1991; and White 1989.

trace how he answers his concern for renewing democracy with a prescription for discourse that aspires to an *unachievable* perfection called “ideal speech situation.” The path then detours to a short discussion about using the ideal speech situation as a normative basis for evaluating public participation, before returning to introduce the core idea of communicative action. After this review, I return to the problem of finding criteria for competent and fair participation. The core of my argument is that the concept of the ideal speech situation, once it is refined to ensure competence, is suitable to use as a basis for a normative model of public participation.<sup>5</sup>

This work builds on that of others who have looked to Habermas’s theories as a basis for including norms in policy making and planning. Thomas Dietz has worked to develop practical methods for small group interaction and social impact assessment that counteract the instrumental rationality of cost benefit analysis with a form of value impact analysis that is discourse-based (Dietz 1984, Dietz and Pfund 1988). These tools have been applied successfully in Latin America and the Caribbean. Paul Stern and Thomas Dietz have suggested that Habermas’s discourse ethics could form the basis for a method of contingent valuation in impact assessments (see Stern and Dietz forthcoming, Dietz 1987, 1988) and in understanding how values enter into collective decision making, especially with regard to global climatic change (Stern, Young, and Druckman 1992:192-196, Dietz 1992). Ray Kemp (1985) has taken an approach very similar to that taken here, using the rules of the ideal speech situation as normative criteria and applying them to evaluate a public hearing process. Finally, John Forester has recently published a theory of public planning based on Habermas’s theory of communicative action (Forester 1993).

### **3.2. Process vs. outcome**

I take a procedural approach to evaluating the fairness and competence of citizen participation. Some people argue that it does not make sense to speak of a process as being fair or competent, only outcomes are fair or competent. I disagree with this position. While it is true that fair rules cannot guarantee fair play, or competent methods for knowledge selection cannot guarantee competent decisions, a person given a choice between two previously unknown procedures (no previous outcomes to evaluate) will not choose randomly, but make a judgment about expected performance. For new models of public participation or novel applications of old ones, procedural rules are the only basis for judgment. This question is not hypothetical. We are often faced with novel problems or the need to invent new tools. Evaluating outcomes of participation projects is certainly

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<sup>5</sup> Recently, Habermas has moved away from defining such conditions, because they tend to convey the idea that *all* discourse should attain this ideal, which is not possible or necessarily desirable (Habermas 1992:260). However, he has not retreated from the original argument that the ideal speech situation is a description of the idealizing presuppositions that all participants must hold before they can participate in communicative action. On this note, John Forester has asserted that the ideal speech situation “plays almost no significant role” in Habermas’s work (Forester 1993:x). While this statement opens up intriguing possibilities, it is plainly incorrect (see: Habermas 1982:255-256). Forester must be referring to the conditions of the ideal speech situation that Habermas specified and later regretted, because the *concept* of the ideal speech situation, as opposed to the particular conditions, is essential to understanding the normative force of action. My evaluative framework is based on re-worked conditions of the ideal speech situation. Such an effort would seem to fly in the face of Habermas’s retractions and Forester’s assertion. But I believe this exercise is legitimate because I have narrowed the focus to only discourses about public participation in environmental decision making. I do not attempt to characterize all discourse in social life. This narrowed focus allows me to concentrate on one specific kind of discourse activity and a limited range of institutional settings.

necessary, but it is also important that the decision making procedure be designed to engender fair and competent participation.

#### **4. Re-politicization and the Ideal Speech Situation**

##### **4.1. Problems with democracy**

Jürgen Habermas has claimed that participatory democracy emerged in the *public sphere*<sup>6</sup> during the seventeenth and eighteenth centuries, as citizens became involved with the state in discussing practical issues and the role of the state (Habermas 1989; see also Kemp 1985). At this time, rules were developed to regulate hearing processes to resolve disagreements in (relatively) open, impartial, and rational ways. Habermas traced the history of the public sphere to its “disintegration” as a consequence of expanded state intervention in the late nineteenth century.

Habermas is concerned that the “scientization” of politics (increasing reliance on technological/scientific forms of rationality) has led to mere token public involvement, consequently jeopardizing society. When asked how to rectify these concerns, his answer is: “re-politicization of the public sphere,” and he has laid out the requirements of discourse that can fulfill this prescription in a theoretical conception called *the ideal speech situation*. People who participate in such discourse must also meet certain requirements, these he outlines in a theory of *communicative competence*. Understanding how the concepts of the ideal speech situation and communicative competence can contribute to a normative model of public participation requires first acquiring a familiarity with how Habermas understands communication.

##### **4.2. Speech act theory and universal pragmatics**

Habermas’s theory of how language in everyday life is used to produce collective understandings and mutual agreements is called *universal pragmatics*. He uses speech act theory (Austin 1969) to explain what people *do* in discourse. (Hence the term: communicative *action*.) He focuses on four types of speech acts (assertions), each of which draws attention to a specific “world.” A speech act makes a *validity claim*, that is, *the appeal implicit in a statement that makes the message meaningful*. This is the essential Truth-oriented component of the statement. Thus, communicative speech acts make validity claims to their *comprehensibility*, this is a contention that the utterance is linguistically proper. The location of this validity claim is in language. (Example: “A landfill is a site where trash is buried in a sanitary manner.”) Constative speech acts make claims to the *true or correct* depiction of existing states of affairs. (Ex. “The landfill over in Greenfield Township occupies a space of 46 acres.”) Regulative speech acts claim *normative rightness* through appeals to legitimate interpersonal relationships. (Ex. “Operation of the landfill should be overseen by a committee of elected citizens.”) Representative speech acts claim *sincerity* in reference to one’s own subjectivity. (Ex. “I am concerned that the noise from the landfill will be unbearable.”)

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<sup>6</sup> *Public sphere* is a term Habermas uses to denote the area of public life where intersubjective agreement on values can be reached in order to solve sociopolitical or practical questions.

As part of the underlying normative agreement that makes speech possible, a speaker who makes an assertion implicitly presupposes that the validity claim(s)<sup>7</sup> can be verified to the satisfaction of all participants, in other words, *redeemed*. Speakers have no choice but to warrant their validity claims with the unspoken promise of being able to offer convincing argument to anyone who challenges the assertion (Habermas 1984:302; 1979:1-5).

### **4.3. Types of discourse**

Different validity claims require fundamentally different means for *redemption*, that is, means by which the discourse participants collectively decide whether or not the speaker's claim is valid (and therefore acceptable or redeemable). Thus, he distinguishes between four *types of discourse* in which corresponding validity claims are discussed. These are called explicative, theoretical, practical, and therapeutic discourse. In explicative discourse references are made to language, terms, definitions, grammar. In theoretical discourse references are made to the objectified world of nature or society. In practical discourse references are made to social needs and the appropriate forms of social interaction. In therapeutic discourse references are made to the subjectivity of the speaker. Table 1 summarizes the connections between these terms.

### **4.4. Communicative competence**

*Communicative competence* is the ability to use language (more precisely: speech acts) to create understanding and agreement (Habermas 1970), that is, to communicate rationally. When communicative actions produce successful mutual understandings, they are judged communicatively competent. This requires people enter into a discourse with an attitude oriented toward reaching understanding. People must be committed to

*Table 1.* Structure of Habermas's theory of pragmatics. The four types of speech acts, their corresponding validity claims, and type of discourse.

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<sup>7</sup> Habermas argues that speakers engaged in communicative action simultaneously raise all four validity claims in every statement, but that one may be primary to the others.

Speech Act	Validity Claims	Discourse
Communicative	Comprehensibility	Explicative
Constantive		
- epistemic	True / Correct	Theoretical
- strategic	True / Effective	→ x
Regulative	Normatively Right	Practical
Representative	Authentic	Therapeutic
	Truthful / Sincere	

reflecting on their personal beliefs, values, preferences, and interests, they must be open to alternative definitions of reality, and they must listen to other peoples' arguments with an open mind.

There are four elements to communicative competence: *cognitive competence* – the ability of an individual to master the rules of formal logic; *speech competence* – mastery of linguistic rules; *pragmatic competence* – mastery of pragmatic rules; and *role competence* – mastery of rules for interaction (White 1989:29). The basic abilities that constitute competence at these levels are: the ability to focus on and comprehend the objective world; the ability to take up roles in the social world; and the ability to attain ego development (Braaten 1991:80). It is important to note that the attainment of each of these abilities is a communicative process. This means that the competent actor must not only know how to think logically, how to form grammatically correct sentences and phrase validity claims, but also how to participate in the redemption of those claims. Although Habermas sees all four of these aspects as integral to the idea of communicative competence, his contribution is to understand what it means to master the pragmatic rules of language and to interact through assuming roles competently.

Discerning among the four types of validity claims is central to communicative competence. The competent use of speech acts in each of these cases refers to the ability of the speaker to place him- or herself in a position relative to these worlds and to convey to others relevant aspects through the proper use of language. Habermas argues that, as people learn to speak, they *intuitively* develop the ability to do this, as well as to apply the appropriate redemption standards to the different validity claims.<sup>8</sup>

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<sup>8</sup> The extent to which this can occur, however, is related to the extent to which the culture is differentiated. This does not, of course, imply any judgment about the moral development of the culture.

#### 4.5. The ideal speech situation

The *ideal speech situation* is Habermas's attempt to describe the presuppositions that discourse participants must hold before communication without coercion can prosper.<sup>9</sup> He defines it in four conditions (Habermas 1973).<sup>10</sup> The first two conditions he calls "trivial:"

1. All potential participants of a discourse must have the same chance to employ communicative speech acts.
2. All discourse participants must have the same chance to interpret, claim or assert, recommend, explain, and put forth justifications; and problematize, justify, or refute any validity claim.

The second pair are non-trivial:

3. The only speakers permitted in the discourse are those who have the same chance to employ representative speech acts.
4. The only speakers permitted in the discourse are those who have the same chance to employ regulative speech acts.

The conditions for the ideal speech situation can be thought of as "rules for discourse" (White 1989:55), meaning that participants abiding by these rules will produce a rationally motivated agreement (or at least understanding), as opposed to one created through manipulation and coercion. Here, the word "rule" is not used in the sense of something externally imposed that determines the form of discourse – as rules of a game determine the play (Habermas 1991:91). Rather, "rule" here refers to the *unavoidable* presuppositions of speech that participants adopt, implicitly and intuitively. These are fundamental necessities for communicative action. They can be thought of as evaluative standards – standards that are unachievable because they represent a perfection that cannot be realized – and as ideal rules to which discourse participants should aspire.

#### 4.6. Fairness in the ideal speech situation

The ideal speech situation is a normative model that captures the ideal of fairness embedded in the ethical-normative arguments for popular sovereignty and political equality (see Chapter 2).<sup>11</sup> Clearly, the thrust of the ideal speech situation is a concern for fairness – people must presume each other to have equal chances to effect the formulation of the agreement. What is not so clear is how Habermas pictures the role communicative competence should play in the ideal model.

One way to begin is to notice that, while these *conditions* for the ideal speech situation embody fairness, the *concept* of the ideal speech situation must be grounded in the ideals of fairness *and* competence. Fairness and competence cannot be thought of as completely separable. When John Stuart Mill remarked that individuals are the best guardians of their own interests, he recognized that individuals have a legitimate right, based in their competence, to make judgments and take protective actions – namely to

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<sup>9</sup> There are differences of opinion about precisely what are the conditions for the ideal speech situation (see: Robert Alexy quoted in: White 1989:56; Stephan White 1989:56-7; Seyla Benhabib 1986:285-6; Ray Kemp 1985; and Pieter Jan M. Stallen 1985) and what status these "conditions" should have (Habermas 1984:25, 1991:92, 1992:160).

<sup>10</sup> Translation by O. Renn and T. Webler. For each condition, he elaborates on what he means by the different types of speech acts.

<sup>11</sup> Ray Kemp argued that the ideal speech situation reflects the characteristics of the pre-disintegrated public sphere of British 19th century democracy: openness, impartiality, and justice (Kemp 1985:180, 189).

make political arguments about how their interests and values are affected by a proposed consensus. Habermas asserts that the basis of this right lies in the fact that knowledge is socially constructed. (How this social construction is accomplished is discussed below in the section on competence.)

A central premise of the theory of communicative action is that all validity is rooted in the *background consensus of the lifeworld*, that is, what we experience as individuals, what we construct as society, and what knowledge we have stored in culture (Habermas 1984:70). In the process of redeeming validity claims, people reflect upon, discuss, and renew this consensus. Habermas contends that claims to validity can be redeemed by those who have had a hand in building and preserving that body of meaning – the populace.<sup>12</sup> The consequence of putting this premise into practice is the realization of popular sovereignty.<sup>13</sup> Consequently, the ideal of popular sovereignty is quite close to Habermas's belief that validity is integral to the lifeworld and each individual has an *ipso facto* legitimate access to the underlying source of validity. In other words, an equal right to make determinations about validity claim redemption – and thereby, the social construction of reality.

#### 4.7. Communicative rationality

Habermas's normative theory of communication is part of a larger project to explain the evolution of modern society as a process of rationalization. Although he remains in the critical theory tradition,<sup>14</sup> Habermas has broken from his former colleagues in the Frankfurt School by reviving the project of the Enlightenment – the emancipation of people and society through the application of reason – via the adoption of a conception of rationalization based on an ideal form that he calls *communicative rationality*.<sup>15</sup> Habermas believes that this form of rationality, put into practice via discourses that aspire to (but can never be expected to achieve) the ideal speech situation, may be able to renew popular political life in a way that saves democracy and modern society from its own demise, which has been brought on by the wholesale unreflective use of instrumental (and strategic) reasoning.<sup>16</sup>

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<sup>12</sup>People may be more or less qualified to make validity judgments in different areas. The point is that even though everyone does not have the specific knowledge needed to make final judgments on all claims, everyone has the ability to recognize *what it would take* to prove a statement comprehensible, true, right, or sincere.

<sup>13</sup>Fairness is both an ethical norm and a logical deduction based on this observation and an analytic study of how language is used. Logically, discourse should be fair because everyone has access (and contributes to shaping) this background consensus simply by virtue of being a member of society. Ethically, we cannot legitimately exclude anyone from this activity (except on legally established grounds). This legitimacy is cemented in the very nature of speech and is reaffirmed every time two people engage in speaking to each other.

<sup>14</sup>Critical theories are those that: (a) attempt to induce self-clarification by encouraging individuals to reflect upon how their actions are inconsistent with their interests; (b) seek to identify crisis potentials in society; and (c) are concerned with the emancipation of individual from arbitrary relations of power (Braaten 1991).

<sup>15</sup>*Rationality* is the mode of making sense of the world. *Action* is evaluated according to how consistent it is with a rationality. Thus, communicative rationality is the basis by which communicative action is judged. *Competent action* is consistent with one's rationality.

<sup>16</sup>For a critique of Habermas's view of instrumental and strategic action see Johnson 1991. Keep in mind that Habermas is not concerned with explaining action oriented toward the manipulation of others (*strategic action or instrumental action*). He acknowledges that this kind of rationality is important to understanding how individuals act, especially in the economy and in political decision making (and many other aspects of our lives), but he observes that it is constrained by two primary forms: (a) social constraints imposed by others people in everyday life—communicative rationality, and (b) functional constraints associated with the institutions and structure of the system—formal rationality. This is not the same as saying that societal reproduction is endangered by strategic action per se. Of course, language is quite often used toward other strategic goals such as intentional confusion, misrepresentation, and manipulation, but

The approach taken by Habermas to develop the concept of communicative rationality is to start from action theory and then to switch over to a setting of communication. Just as in action theory, where peoples' actions are judged rational or not according to criteria linked to motives, Habermas proposes to evaluate communicative actions against the motive of reaching an non-coerced mutual understanding (Habermas 1979:1; 1984:8).

“An assertion can be called rational only if the speaker satisfies the conditions necessary to achieve the [...] goal of reaching understanding about something in the world with at least one other participant in communication” (Habermas 1984:11).

The “conditions” are as follows: participants agree that things said can be called into question and resolved through mutual exploration and evaluation and that the basis for evaluating spoken statements is the stored knowledge, personal experiences, and shared reality accessible to the discourse participants. Ideally then, communicative rationality is used by participants of a discourse to select appropriate validity claims and help to construct a mutual understanding devoid of coercion.

Communicative rationality is a normative concept that Habermas believes is a universal normative principle.<sup>17</sup> He states that the whole purpose of communication is to build mutual understanding in order to construct a consensual social reality. Building on Mead, he argues that this is an aspect of our species' evolution, rooted in a biological predisposition and now solidified in the very structure of speech (Habermas 1984:256, 1987: 3ff). Our natural capacity for language contains the normative force of communicative rationality, which is: to communicate with the intention of reaching mutual understanding and agreement exclusively via the force of better argument. As a consequence, communicative rationality demands emancipated individuals coming together by their own free will.

#### **4.8. Criteria for evaluating communicative action**

In elaborating on how communicative action can be realized, Habermas has tended to focus on practical discourse (about norms). He calls his theory of practical discourse *discourse ethics*. Discourse ethics does not replace the ideal speech situation, it simply delves more deeply into one kind of speech. A main result is Habermas's claim to a universal principle that applies to the redemption of all normative validity claims in communicative action. This is a criterion that can be used to evaluate discourses. The principle is: no norm can be considered valid unless all those affected can accept the consequences associated, to the extent those consequences can be known (Habermas 1991:65).

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these are all secondary forms of communicative intent that rely on the presupposition of language used for acquiring mutual understanding.

<sup>17</sup>Habermas defends this claim with the observation that no speech is possible that does not presuppose communicative rationality. As such, the ends of speech must be prior to personal ends. Despite what a person wishes to accomplish through speech (even if it is a strategic or manipulative end), he or she must acknowledge and renew *an underlying normative reciprocal agreement* to the ideal of reaching an non-coerced understanding—which is done merely in any act of uttering. See also Braaten 1991:66.

Constructing a normative model of public participation based on the ideal of communicative action requires more concrete criteria such as this.<sup>18</sup> Criteria will have to be derived from the normative principles outlined in the ideal speech situation. As it stands, however, the ideal speech situation specified by Habermas does not adequately capture the two metacriteria: fairness and competence. It is clear that fairness and competence are consistent with Habermas's core ideas (namely emancipation and communicative competence), but realizing these in a normative model for communication requires making a few alterations to the ideal speech situation.

## **5. Alterations on Habermas: The Fair and Competent Ideal Speech Situation**

### **5.1. New conditions for the fair ideal speech situation**

#### *5.1.1. A critical review of Habermas rules*

As an evaluative yardstick for public participation discourses the ideal speech situation as stated by Habermas is unsatisfactory. To reconcile the problems, I first distinguish rules that encourage fairness and then rules that encourage competent actions. I then unite these to make up a revised set of rules for the fair and competent ideal speech situation.

Habermas's rules for the ideal speech situation do not relate in a clear way to what people actually do in discourse. One of his strongest contributions is the analytical distinction he draws between initiating assertions and challenging and debating others' assertions. Taking advantage of these valuable analytical deconstructions of speech is immensely helpful in describing what people do in public participation settings and in outlining evaluative norms for judging participation.

A second problem is that Habermas's fourth rule, which includes the making of normative claims, really has procedural and substantive aspects that should be distinguished. Procedural normative claims are proposals for resolving disputes. Since it is likely that consensus on all issues will not be reached in a discourse and since action may be necessary or desirable, there must be a way to resolve or bracket normative disputes so that coordinated actions can be taken.<sup>19</sup> To be fair, decisions about which procedures should be used to resolve disputes (voting, sending to committee, postponing, etc.) must be made according to non-coerced consensus *before disputes arise*. Remedying the rules for the fair ideal speech situation to accommodate these objections is rather simple:

1. Anyone who considers him- or herself to be potentially affected by the results of the discourse must have an equal opportunity to attend the discourse and participate.
2. Every discourse participant must have an equal opportunity *to make validity claims to comprehensibility, truth, normative rightness, and sincerity*. (That is, to participate in explicative, theoretical, practical, or therapeutic discourse, including the translation of expressive claims – see below.)
3. Every discourse participant must have an equal opportunity *to challenge the comprehensibility, truth, rightness, or sincerity validity claims made by others*.

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<sup>18</sup>One such set of criteria have been proposed by Alexy (1978) and discussed by Habermas (1991: 87ff).

<sup>19</sup>For instance, they could decide that differences about content of the agenda are to be resolved by a committee operating with two-thirds majority vote.

4. Every discourse participant must have an equal opportunity *to influence the choice of how the final determination of validity will be made and to determine discourse closure* (i.e., to decide how to decide when there is no consensus).

The first three rules now refer to the activities of participating, initiating, and discussing assertions (validity claims through speech acts). The fourth rule refers to the activity of redeeming the asserted validity claims through an agreed-upon procedure.

#### *5.1.2. Objections and justifications:*

One point where this formulation differs noticeably from Habermas is the inclusion of expressive and communicative statements in the discussion stage (No. 3). Habermas argues that these claims cannot be subject to critique and redemption in the same way as can cognitive or normative claims. He points out that, by definition, communicative validity claims cannot be discussed, since what is at issue is the comprehensibility of speech itself. In the extreme case (you speak Arabic and I speak Japanese) this is certainly true. But in citizen participation, the kinds of communicative validity claims that arise are mostly points of definition (technical jargon) and clarification (“Could you say that again in another way?”). These kinds of communicative validity claims can be (and are) discussed.

Expressive claims originate in the subjective, a world to which others have no direct access, Habermas therefore, posits that these cannot be redeemed as other claims. Monitoring the consistency between what a speaker says and does is the only suggestion he offers for how to redeem sincerity validity claims. However, I suggest that, without challenging the integrity of the individual, competent translation of *some* expressive claims into their factual or normative constituents is realistic.<sup>20</sup> Translation makes expressive claims partly testable. If an expressive claim is found to be based upon factually untrue contentions or normatively unacceptable depictions, then the speaker may retract the expressive statement. To assure that the autonomy of the individual is not sacrificed, it is crucial that the translation procedure be *agreed to* and the translation *approved by* the person making the subjective statement. In other words, the translation process is a means for *the speaker* to reflect upon and reconfirm the authenticity and sincerity of his or her own feelings, based on a guided empathetic review of their logical consistency and possible belief origins.

#### *5.1.3. Attendance: Defining the affected population:*

The need to attend is primary to achieving fairness and every participation process must deal with the problem of identifying who has a legitimate right to participate. This is often the same as the problem of defining the potentially affected population – individuals or groups whose interests or values may be affected by the problem or the proposed decision action. Impacts can occur at the physical, psychological, social, economic, or value levels. In many instances, the affected population is the same as the citizens of a particular community (they live in close proximity and are legally responsible for the consequences). Other times the impacts extend beyond political boundaries (such as waste transport through neighboring communities). In still other cases, such as value-laden disputes (for example, national energy policy, national park

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<sup>20</sup>For example, the speaker might be asked, “Can you tell us what it is about the proposed landfill that you feel it so threatening?” If the speaker can reflect and discover the key fears (e.g. “noise, hazardous waste leaking, ...) then expressive claims can be restated in cognitive or normative terms.

management, endangered species protection), distance from the site may not be relevant in determining the “affected population.”

Organizers need to make certain that everyone who could be affected is notified, even if the delineation does not coincide with political boundaries. When excluding people is a practical necessity, it should be done in a way that is fair to all – such as random selection.<sup>21</sup> Both objective and subjective processes should be used to identify these people and groups. Objective procedures (risk analysis, exposure assessment, social impact analysis, value tree analysis) reveal the causal links that expose physical, social, economic, or value impacts. Subjective processes are those which allow people to decide for themselves if they will participate. Particularly in the United States, people expect that they can be involved in issues of their governance if they feel so inclined. While opening the doors to anyone who wants to participate may pose logistical problems for the discourse, it is essential to the legitimacy of the process.

## **5.2. Bringing competence into the normative model**

### *5.2.1. Promoting competence by discourse rules*

This leads to my major point of disagreement with Habermas. He has developed the concept of communicative competence, but has not laid out a set of ideal conditions by which we are to assess how competently people perform in a discourse. As a consequence, in applications of the theory of communicative action (see Forester 1985), the idea of competence seems to have become lost in the overwhelming concern for neutralizing power relations in discourse and achieving fairness.

Conditions for a competent speech situation should list the inescapable presuppositions regarding competence that a person inherently and intuitively adopts when he or she enters into communicative action with another.<sup>22</sup> In my opinion, these should mainly describe *characteristics of the discourse* that influence how competent shared constructions of reality can be made, as opposed to presuppositions about the abilities of the other discourse participants.<sup>23</sup> Typically, competence is seen as a quality of actors, rather than rules. But clearly, there are better and worse ways to resolve validity claims. If we want to know the geology underlying a landfill, we do not vote, but conduct certain engineering studies. We have developed rules for resolving validity claims in some (but not all) circumstances. Rather than talking about “competent rules” however, these could be seen as “rules for discourse that promote competent actions by the discourse participants.”

Habermas’s conception of competence revolves around the individual. If he were to spell out the conditions for a competent speech situation he might say: everyone must assume the others have cognitive competence to employ logic, linguistic competence to form sentences, pragmatic competence to make validity claims, and interactive

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<sup>21</sup> Of course, to be done correctly, random selection would chose a number of people dependent on the distribution of interest and value positions among the population, so that no position is underrepresented. This is much easier said than done.

<sup>22</sup> Participants must assume that these rules will be realized approximately enough to allow argumentation (Habermas 1991:91-92).

<sup>23</sup> Here there is a need to distinguish conventions from rules. Rules are unavoidable presuppositions that participants must make. These can be proven by showing how a person who challenges these rules gets caught up in a performative contradiction. Conventions are ways that make these rules operational under empirical conditions (Habermas 1991:88-92).

competence to engage in discussion.<sup>24</sup> While it is clear that people participating in a discourse must make presuppositions about the competence of the other participants if communicative action is to occur, this is not useful as an evaluative yardstick. The problem with this approach, besides the obvious practical and ethical difficulties of evaluating individuals' competencies and selecting out the misfits, is that people may possess the skills, yet not apply them. Furthermore, since communicative competence can only be learned through communication, barring people from discourse on the basis of incompetence means society will not reproduce communicatively competent citizens.

A conception of competence that does not center on the individual, but on the rules that coordinate interaction is needed. I defend this claim with:

- (1) an observation about the qualities and origins of the four aspects of communicative competence,
- (2) a recognition that any given public participation discourse has to achieve a level of competence that exceeds that of the immediate participants (through gaining access to the stored knowledge of previous learning experiences),
- (3) an observation about how rules (methods, procedures) for selection of knowledge in discourse are established, and
- (4) some pragmatic points about encouraging competent discourse.

#### *5.2.2. Origins and qualities of the four kinds of communicative competence*

Cognitive and lingual competence refer to rudimentary skills that people must have in order to employ pragmatic or role competence, but they are not linked to the social context. In other words, a speaker can be linguistically competent, but still not say anything meaningful or relevant. Pragmatic and role competence, on the other hand, are inherently social skills, rooted in the social context of the discourse and oriented toward meeting collective as well as personal needs.

The difference between pragmatic and role competence is that the former refers to the ability to insert validity claims in a social reality and the latter refers to the ability to redeem those claims. A validity claim establishes a *relationship* between the speaker and the four sources of validity: language, objectified world, society, and self. To take a stand on the validity of an assertion, one must take on a *role*. For example, a man who challenges an expert's calculations of a watershed must assume a role in which he holds his actions accountable to criteria for proper scientific rationality.

Distinguishing between competently tailoring one's actions to the social setting and competently employing rudimentary skills that are the same regardless of context is important. In a practical setting for public participation in a western democratic country, cognitive and lingual competence have to be taken more or less for granted. Except for the most obvious cases of mental illness and the inability to use language (and even here it is sometimes difficult to draw a clear line), excluding participation opportunities based on assessments of individuals' cognitive competence is unethical.<sup>25</sup> Even lingual

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<sup>24</sup>Alexy proposes this rule. See Habermas 1991:89.

<sup>25</sup>Robyn Eckersley has challenged Habermas's claim that only humans capable of speech should be permitted to participate in a discourse. She notes that this is an arbitrary determination and anthropocentrically prejudiced. Although there are obvious practical problems with including non-humans in discourse, it remains an important question to ask what impact this "unfairness" has on the quality of our understandings, especially in cases of environmental decision making. One should also take note that many earlier cultures did have various strategies for including non-human

incompetence in the dominant language is not an excuse to legitimately exclude a citizen – translators should be hired.<sup>26</sup> This is a common solution when the lingual incompetence refers to technical jargon and a consultant (translator) is hired.

Pragmatic and role competence cannot be taken for granted, simply because there are too many kinds of social and problem contexts, too many conflicting interests at play, and too much to know.<sup>27</sup> No one is ever fully competent. Instead, procedures and rules that promote competent constructions of understanding – rules that partly define pragmatic and role competence – are needed.

### *5.2.3. Access to scored cultural knowledge*

It is of course unreasonable to expect members in every public discourse to be fully competent in all aspects of the subject at hand. Indeed, public participation should offer people a chance to learn new knowledge and skills. One of the practical problems then, is to answer how discourse with imperfect participants can achieve a level of competence that is required to make good decisions.

My answer is to take advantage of preexisting knowledge and rules for selecting among competing claims. These are part of the stored knowledge and experience of the culture (in other words the products of past learning endeavors). Participation models should do everything within reason to encourage access to the stored knowledge and experiences with which the current participants are not familiar. One example is to use outside panels to peer-review information packets.

Adopting rules to enable competent actions in discourse can facilitate social learning and individual development and sidestep the problem of having to restrict participation to educated elites. By adopting rules for interaction and selection that are tried and tested – for example, invoking the rule that normative claims cannot be validated if they contradict higher values – the competence of the discourse can exceed the combined competence of the participants.

### *5.2.4. How rules for knowledge selection are made*

Even if rules for the competent construction of understanding are not imported, they will develop and emerge during the discourse itself. Just as the validity claimed in assertions originates in the background consensus of the lifeworld (the shared experience of the participants and the stored knowledge of the culture), so do the rules and guidelines used to redeem conflicting validity claims. The motivation and authority of communicative competence does not lie completely with the individual, but in the collective experience of the culture and, to some degree, in the physical nature of the human mind. In other words, we only know that we are speaking competently when other people, references to stored cultural knowledge, and our personal experiences affirm it.

Rules for knowledge construction and selection are not adopted randomly but are products of generations of experience. They are accessible in differing degrees to people. Some are so basic and common in everyday use that people may not even notice that they are using them or conceive that they could be changed. An example is the simple logic of

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nature in the decision making, although the competence of doing so is difficult to establish, especially from a rationalist point of view. [See R. Eckersley, "Habermas and Green Political Thought," *Theory and Society* 19:739–776 (1990).]

<sup>26</sup>This is precisely what has been done in many cases. Two well-known examples involved Native Americans in Northern Canada: the Berger Inquiry and the Hydro-Quebec project.

<sup>27</sup>Consider the different kinds of knowledge and skills (scientific, social, political) needed to participate in decisions about local road planning, regional education, national nuclear waste storage, and global climate change.

cause and effect: we better understand something when we can explain how it is related to other things and events. Some rules are formal, in the sense that they are spelled out explicitly. Examples include rules for parliamentary debate (calling for motions, voting) and scientific protocols (how to take a surface water sample for testing). Others are traditional (soliciting the opinion of all value leaders in the community) or conventions for coordinating interaction with which people have become comfortable (such as raising your hand when you want to speak and waiting to be called upon). Rules may seem intuitively right to some, they may be habits or established patterns of behavior that people cannot easily replace, or they may be invented and established only after complicated argument.

This observation about the origins and qualities of rules illustrates that it is possible to discuss, and to an extent predict, which rules the participants of a given discourse may find relevant. We all have access to knowledge about the various rules – which are better to use in each instance, how much reliability we can place in them, and so on. Thus, it is possible to compose a list of rules that could serve as a starting point for a discourse. Of course it would be improper to assign any permanent authority to any particular set of rules. They will change over time and they may be more or less relevant depending on the social context and the needs and the desires of the participants.

#### *5.2.5. Encouraging competent discourse by adopting constraints*

While specifying protocols for resolving validity claims competently or relying on outside expert advice will constrain the discourse and implicitly bias it, the alternative – merely to ignore the issue of competent process and to rely wholly on the competence of the individuals to self-design adequate communicative procedures – is impractical, may result in more bias, and less likely to be competent. (It is taken for granted here that any pre-proposed constraints are merely suggestions and they can be removed by the consensual will of the group. Thus, even the most perfect rules cannot guarantee competence, because the participants may choose to reject them.)

Imposing established rules on discourse participants will inevitably disadvantage certain interest positions. This imposition is justified because it is not intentional, in most cases it is not even known. When a systematic disadvantage is located, there is a moral obligation to correct it. Of course, constraints should not be used to coerce understanding, merely to suggest a starting form discourse may take, but they do have the power of an existing social consensus and this power should be employed to prevent the strategic manipulation of rules.

There are several practical reasons to support the choice of constrained discourse over unconstrained. First, discourses about environmental decision making do not simply appear. They are initiated by individuals who have to deal with practical problems of getting people to work together. To some extent adopting constraints is unavoidable, but it is also desirable. People try to be efficient, they do not want to “re-invent the wheel” every time they have a problem to solve. Citizens may not trust experts or members of interest groups, but this does not mean they want to disregard all advice and make all validity determinations themselves. They have no desire to rediscover known facts and laws. People recognize that expertise is valuable, but they are suspicious that experts may purport a political agenda.

Second, there is less room for strategic action when the discourse rules are the result of a social consensus. When only a few people are involved in the determination of rules,

as in unconstrained discourse when only those present can participate, the outcome is more dependent on the skills and intentions of each person. A person skilled at manipulation may be able to convince the others to adopt a less competent rule that favors his or her interests.

Third, when a discourse is standardized by use of proven rules, the outcome is no longer totally reliant upon the competence of the participants. Two separate discourses can be expected to produce similar results. This is an indication that the understandings reached have a firm basis. Participants will be more satisfied knowing that they reached lasting understandings, rather than merely creating a random outcome.

Fourth, constraints manage the problem of unlimited public demand for self disclosure.<sup>28</sup> Without rules that enable closure to be reached, listeners could conceivably demand the speaker give deeper and deeper justifying arguments for a validity claim. The group must have some mechanism for forcing a determination.

Finally there is the problem of time. Habermas suggests that communicative action will always produce agreement, given enough time. In practice, time is often in short supply. Participants are not necessarily willing to spend their time working for perfect agreement. The fact of the matter is that discourse has to reach closure if it is to satisfy its purpose to coordinate action and often that means terminating discussion before all disagreement or misunderstandings have been remedied.

### **5.3. A Procedural view of competence**

#### *5.3.1. Definition of competence*

These four points – that pragmatic and role competence are secured in rules for interacting and selecting knowledge in discourse, that each discourse has to achieve a level of competence greater than the sum of its participants, that rules are grounded in the background consensus of the lifeworld, and that constrained discourse is more consistent with practical concerns of the participants – lead me to define competence in discourse as: *construction of the most valid understandings and agreements possible given what is reasonably knowable at the time.*<sup>29</sup>

Competence is related to the performance of the participants in the discourse, compared to what can be reasonably expected of them, given the current information and knowledge available. We cannot expect them to be perfect. We can expect them to follow procedures for the collection and verification of knowledge that have been tried and proven over time to be reliable and accurate.

Employing the best available techniques for the construction of knowledge cannot guarantee that the participation model will produce decisions with completely foreseen outcomes. When decision making extends into realms where uncertainties are high, the best available procedures may not be good enough. In any case, it is also necessary to look at outcomes over the long-term to ensure that the procedural criteria make sense. The point is that we learn to make better decisions by making mistakes. If other

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<sup>28</sup> Moon criticizes Habermas on this precise matter. See Moon, 1991:224.

<sup>29</sup> This is not so far from Habermas. He noted that the purpose for ensuring discussants are communicatively competent is so that they will establish rules for discourse that produce the best possible understandings (Habermas 1970). More recently, Habermas restated the conditions of the ideal speech situation in a way that includes a concern for competence (Habermas 1992:260). See also his discussion about the two goals of communicative action (to reach understanding and the effectively deal with the problem) in Habermas 1987:120.

procedures can be shown to produce better understandings, then they should supersede less adequate ones.

*5.3.2. Conditions for an ideal speech situation that ensure competence*

Based on these observations and this definition, I propose the following rules for the competent ideal speech situation:

1. Every potential discourse participant must meet minimal societal standards for cognitive and lingual competence.
2. Every discourse participant must have access to the knowledge needed to make validity claims and criticize others.’
3. Speakers must verify the results of any attempt to translate expressive claims.
4. Judgments about conflicting validity claims must be made using the most reliable methodological techniques available.

These rules are parallel to the rules oriented around fairness. Table 2 illustrates the links.

*5.3.3. Further observations on competence*

Before moving ahead to operationalize these new rules, a few further observations are relevant. First, participants in a discourse achieve their goal of coordinated action by constructing a new shared understanding. Competent agreement for action can only evolve out of a competent understanding. Through competent interaction (assertion, explanation, and understanding), shared beliefs, interests, and values are constructed.<sup>30</sup> Agreement does not necessarily follow from understanding, but understanding is a prerequisite of rationally-motivated agreement. Agreement may also be achieved without understanding, but this does not count as rationally-motivated agreement in Habermas’s sense. Whereas understanding requires people to detect what it is about statements that gives them their validity, agreement requires people to choose which statements are the best and most desirable. Therefore, discourses should not be evaluated primarily on whether or not they produce agreement. Progress could be significant if the discourse achieves mutual understanding.

Second, the social context of the discourse will constrain the ability of the participants to employ or access the best available procedures for knowledge selection. When evaluating a discourse, such constraints should not be accepted uncritically, because they may be strategically imposed by actors in the discourse. An evaluation must consider how the potential competence of the discourse is limited by the social context. This is a matter of how the discourse is embedded in the social reality and it may have impacts on fairness and/or competence. Therefore, the participants of the

Table 2. Conditions for the fair and competent ideal speech situation.



<sup>30</sup> As a consequence of this position will not work as a consequential understanding in underdeveloped collect

a single interest compared to the to particular or

discourse should have the opportunity to reconsider the constraints to which they subject themselves.

Third, even competent understandings are impermanent, because our understanding of the world is always changing. When the knowledge is not available or when it is inaccurate, competent communication may produce inaccurate understandings and decisions with unpredictable consequences. Therefore, it may be necessary to postpone the discourse until a later date, if the knowledge available is not deemed adequate by the participants to produce a competent decision.

Fourth, competence is achieved when the composite of rationalities present and actively exercised in the communicative process is complete and without gaps. That is, neither technical, political, social, or cultural information is excluded from the discourse on each issue raised. Therefore, discourse should not merely focus on including a great number of people, but also on getting all points of view represented.

## **6. Operationalizing the Conditions of the Ideal Speech Situation: The Discursive Standard Criteria**

### **6.1. Institutional constraints**

Conditions of the ideal speech situation only state the general presuppositions that actors who wish to cooperate must hold. To acquire the level of detail that is needed to evaluate public participation discourses about environmental decision making, institutional constraints need to be considered. Institutional constraints are imposed rules and guidelines intended to facilitate communication in a given social context, complete with the practical limitations of time, space, money, and so on. Constraints do not share the moral imperative power of the conditions of the ideal speech situation, because they are grounded in solving practical problems. In this section I offer a definition of the constraints associated with public participation in environmental decision making, in the form of a set of criteria and indicators for fairness and competence (the actual listing appears in the Appendix). These comprise a normative model for public participation in this topic field in western industrialized democracies.

### **6.2. Discursive standard criteria for evaluating fairness**

#### *6.2.1. Scope of fairness*

Fairness refers to the distribution among participants of opportunities to act meaningfully. When people come together to reach understanding and make a decision about an environmental issue, there are four fundamental actions that every actor must be free to assume: *attend* (be a participant in the discourse), *initiate discourse* (make speech acts), *discuss* (challenge and defend claims), and *decide* (influence the collective consensus). These are the four *needs* of a fair process and they are each grounded in a condition for the ideal speech situation. The four needs of fair discourse are relevant in each of the three activities which comprise a public participation discourse: *agenda and rule making*, *moderation and rule enforcement*, and *discussion*. (See Figure 1).

### 6.2.2. Agenda and rule making

Agenda and rules establish the framework for the discussion. Setting the agenda is much the same as defining the problem. By participating in making the agenda, people have the chance to make sure that their concerns will be addressed as well as to shape the group definition of the problem. This does not mean that every person necessarily has to play an active role in making the agenda. For example, a preliminary agenda could be composed by a subcommittee and the final version approved at the start of the discourse. Besides the agenda content, time must be allotted to each item and the schedule ordered. The agenda can unfairly influence the ensuing discourse by not allotting enough time, by framing a topic in a particular way, or by scheduling a topic at an unfortunate time. Moreover, an agenda that omits a topic that a participant considers relevant is obviously unfair.

*Figure 1.* Evaluation framework showing the relation between sub-criteria in the Appendix and the metacriteria: fairness and competence.

EVALUATION FRAMEWORK				
FAIRNESS	NEEDS			
ACTIVITIES	Attend	Initiate	Debate	Decide
AGENDA AND RULE MAKING	A1, A2, A3	A1	A2	A3
MODERATION AND RULE ENFORCEMENT	B1	B1	B2	B3
DISCUSSION	C1	C2	C2	C3
COMPETENCE	NEEDS			
ACTIVITIES	Access to Knowledge		Best Procedures	
EXPLICATIVE DISCOURSE	D1		D2, D3, H1, H2	
THEORETICAL DISCOURSE	E1, E2, E3		E5, E6, E7, H1, H2	
PRACTICAL DISCOURSE	F1, F2, F3, F4		F5, F6, F7, F8, H1, H2	
THERAPEUTIC DISCOURSE	G1, G2		G3, G4, G5, H1, H2	

Rules are made to manage interruptions, resolve stalemates, define appropriate behavior, and so on. Many rules come from norms for conduct in everyday life and are not formalized, others are highly formalized, depending on the discourse. Interruptions, threats, raised voices, and derogatory gestures and statements are all signs that a speaker's access to the discourse activities are threatened. Rules provide a means to quell these manipulations, be they strategic, accidental, or merely spontaneous. Just as people must have fair access to all the needs of agenda making, they must have fair access to the process of formally establishing rules.

### *6.2.3. Rule enforcement*

Discourse participants also must agree on a means to enforce rules. One of the most common solutions is to appoint a facilitator or moderator. Both serve as neutral parties responsible for enforcing the rules fairly. They differ, however, in that a facilitator merely tries to catalyze the discussion without guiding, while the moderator exhibits more leadership. A facilitator may encourage quieter people to contribute to avoid domination of the discussion by a few, but largely, he or she merely keeps the group on its agenda and enforces rules for interaction. A moderator may make proposals and participate in the debate by presenting information and arguments which are missing from the discussion. In any case, the behavior of the facilitator or moderator should be subject to the scrutiny and approval of the participants.

### *6.2.4. Discussion*

During the discussion on any agenda item everyone potentially affected by the problem must have an opportunity to participate. For example, everyone should have the chance to participate in defining terms. There is power in being able to determine the definitions of terms, especially when it amounts to making a normative choice. Likewise, participants need to be able to make statements of fact, even if they are not grounded in formal scientific observations. Anecdotal knowledge about local conditions and personal experiences are also valuable. In other words, one does not have to be a scientist to participate in discourse about states of affairs in the world.

This realization has to be tempered by the reality of social organization – the division of labor. (Here fairness and competence begin to collide.) Consider the problem of discussing scientific results. Although claims made to the validity of factual statements are still ultimately grounded in the shared lifeworld, the access to verifying those claims – through scientific methodologies – demands considerable resources and expertise. Experts who have committed themselves to developing a competence in these methodologies are obviously more familiar with the requirements of redeeming factual validity claims about systematic evidence. The same is likely to be true of citizens who “specialize” in collecting anecdotal evidence.

These observations put Habermas's ideals about the background consensus of the lifeworld and democratic theorists' ideals for equality against the fact that different people have different specialties. On the one hand, individuals must be free to argue for what they believe and to participate in making final judgments. On the other hand, it is in the group's interest to detect strategic behavior and errors in judgment. Some balance must be struck between giving everyone equal rights to participate and assigning higher

credibility to certain speakers on the basis of experience or specialization. This is not an unusual problem, in everyday life people make judgments about others' credibility and competence. It is only necessary to recognize that there is not a universal prescription for how to make these choices.

### **6.3. Discursive standard criteria for evaluating competence**

#### *6.3.1. Scope of competence*

Competence refers to the construction of the best possible understandings and agreements given what is reasonably knowable to the participants. In accordance with the conditions of the competent ideal speech situation, there are two basic needs: *access to information and its interpretations* (the second and third conditions in Table 2), and *use of the best available procedures* for knowledge selection (conditions one and four). Information and its interpretation (knowledge) are the raw material that a discourse processes into collective understandings and agreements. Access is always a matter of time, effort, and cost. Although it is impossible to make final determinations about how accessible information and knowledge must be, unreasonable inaccessibility are grounds for criticizing the discourse.

#### *6.3.2. Access to knowledge*

It is clear that simply having access to information is not enough. Experts and others who are capable of explaining the relevance of the facts need to be retained. For example, a report from a water testing laboratory may contain a lot of information about the composition of the water, but until the relevance is explained in terms of what matters – impacts of human health, corrosive effects on copper, impacts on a species of amphibians, or whatever is at issue – the information is not knowledge.

#### *6.3.3. Procedures for knowledge selection*

The other ingredient necessary to produce competent understandings is the evaluation and selection of knowledge by the participants. Understandings of reality depend on the rules and procedures used to select and construct knowledge. Determining competence requires defining those procedures and characterizing their scope limitations. Time tested methods for gathering information and constructing knowledge have been developed and it is reasonable to expect that people should use these methods when selecting and employing information and knowledge.

Criteria and rules for redeeming the different types of validity claims can be explicitly discussed in the discourse. Some of these rules are *objective* in the sense that systematic observation has verified their reliability and we can rely on them to select between different factual (cognitive) validity claims. This includes some of the knowledge gathered in the sciences. Experts have a professional obligation to warrant knowledge produced in this way and to make it available to citizens and others. Participants of the discourse have an obligation to recognize the validity of knowledge that meets these objective standards, provided that the experts can defend their results in a peer review process. For example, if two independent licensed laboratories produce the same analysis of a water sample, then the participants are obliged to accept the results as true (provided that collusion has been ruled out). The point is that participants are not supposed to

rewrite the laws of physics. These so-called objective rules are subject to change, but only in a manner consistent with scientific convention.

Other rules are *socially constructed* and need to be consensually imported into the participation discourse. These are partly reflected in norms and mores of society, some of which are expressed in law, but, more importantly, they represent the collective interests of the community or society to which the discourse belongs. Since there may not be consensus among all in society about these rules, and since norms are always changing, the discourse participants need to establish which rules will be adopted. In consideration of the first goal of fairness, this decision must be made consensually – no one should be forced to compromise on their own values. For example, if the two water laboratories are in different states and one has stricter requirements for drinking water safety, then the determination of safe has to be made by the participants. This may or may not agree with their own state's legal definition.

## **6.4. Competence in each type of discourse**

### *6.4.1. Types of discourse*

In each of the four types of discourse different rules and procedures are effective for constructing consensual understandings of reality. Each of the two needs of competence are relevant to the four types of discourse. (Please refer to Figure 1 and Appendix.)

### *6.4.2. Explicative discourse*

In an explicative discourse, the comprehensibility of assertions is discussed. Comprehensibility includes: pronunciation, style, grammatical correctness, spelling, and using the proper definitions of words. The first four items are rarely problematic for a native speaker, and when they are, the matter is usually quickly dispatched. Native speakers have an immediate access to the validity source of comprehensive speech via their socialization. In the case of non-native speakers, these can present substantial problems. Access to the source of validity for these people can only be guaranteed by making interpreters available to them. As I stated above, these are considered to be trivialities that are taken for granted in the societies being discussed here.

Definitions are more problematic. In one sense, confusion over definitions is a kind of comprehensibility problem (because people are not understanding one another), but definitional disputes can also be normative disputes in disguise. In a discussion about drinking water quality, for example, the specific definition of safe is neither a linguistic problem nor a technical problem, it is a normative one. In explicative discourse, only issues of comprehension are discussed. There are commonly accepted definitions and everyone should have access to sources that define terms. The authority of references should be clarified and disputes resolved by appealing to the validity of these sources. Examples of sources include textbooks, value leaders, and experts.

### *6.4.3. Theoretical discourse*

Theoretical discourse addresses truths of the objectified world (nature and society). These facts are gathered through scientific methodologies (qualitative and quantitative) as well as through daily life experience. The content of such facts include, for example, soil properties, technologies, traffic flow patterns, insurance fees, laws, and existing public preferences and concerns. Natural and social sciences seek to reveal causal relationships

by systematic observation and analysis. Rules and procedures for selecting from among validity claims (for example: the rule of experiment repeatability) have been established by the scientific community. These rules are subject to revision according to conventions developed in that domain.

Experts have a strong role to play in making systematic evidence and interpretations available to everyone in theoretical discourse. Every discourse participant must be able to access the information that he or she feels may be relevant. Effective access usually means hiring consultants who can explain laws, figures, and procedures; but it may also be as simple as copying reports for the participants. It includes not only the available data and knowledge, but also the collection and analysis of new data.

Without challenging the right of citizens in discourses to make final judgments of cognitive validity claims, it is possible to recognize that citizens have a right, and often an interest in exercising that right, to delegate some determinations of validity to groups or people whom they consider to be more expert than themselves. Delegation can only be legitimately done when the consent is unanimous. Without the protection of unanimity, individuals in the discourse may have their interests subjugated by the will of the majority, which could select an expert review panel that supports a particular interest position.

Information and knowledge about nature and society not gathered through formal scientific inquiries are also important to producing accurate understandings. These can take the form of anecdotal observations (“He knows three people who got brain cancer after using cellular telephones.”), idiosyncratic observations – especially about local conditions (“That pond is completely dry in August.”), or it may be traditional knowledge passed down over generations (“The full moon brings the first frost.”). Local knowledge is particularly relevant in some cases, because expert knowledge is based on generalizable principles that may be incomplete or inaccurate in the given context.

Just as scientific experts are hired to enhance access and use of scientific knowledge, “local knowledge experts” can be sought out as consultants. Additionally, participants may be encouraged to develop and improve upon their own local knowledge by gaining more personal experience. For example, if the problem concerns a specific site, a visit to the location and a walk around may help to give people a feeling for the site, thereby providing valuable knowledge that is not available through blueprints or maps.

No matter how the information is gathered, depictions of existing states of affairs are evaluated according to their consistency with what is already known. People must choose among conflicting truth validity claims by deciding which provides the better description of reality. If a claim challenges fundamental understandings, then it will likely be rejected. If it challenges weak or incomplete understandings, then it may be cautiously adopted pending more information (example: “Electromagnetic fields may cause leukemia in children.”). If the evidence is compelling, however, beliefs may be revised immediately (example: “Silicon breast implants regularly leak and induce breast cancer.”). Decisions to reject or adopt claims should be based on the consensual opinion of the expert community (Is the data valid?) and the common-sense opinion of the lay participants (Does it seem likely?). Local knowledge can also be “peer-reviewed” by other people in the area. When this is not possible, the reputation of the source individual can be investigated as a clue to reliability.

There is always the possibility of different types of validity claims being convoluted with each other. One well known problem is the re-framing effect – for example, when normative disputes are disguised as disputes about objective fact. To discourage this strategic or accidental activity, the speaker’s intent should be clarified through questioning and re-phrasing.

#### *6.4.4. Practical discourse*

Practical discourse involves disputes over claims about the appropriateness of social relations (norms). More than with any other kind of discourse, practical discourse requires broad-based participation of all affected people. Deciding who is affected is always a tricky part of public participation. The safest approach to take is to employ both objective methods (which uncover possible causal pathways and inform unsuspecting people of their potential affectedness) and subjective techniques (which allow people to decide for themselves whether or not they are affected).

When every single person cannot be accommodated, then a surrogate way to restrict access that does not disadvantage any particular interest must be developed. Some interests – some people – will be disadvantaged by a selection routine, that is unavoidable in any practical setting. All that can be done is to ensure that no one person or interest group is strategically or systematically disallowed to participate. The simplest example is that the meeting should not held in a location that is extremely difficult for one person or a group to reach.

Accessing relevant knowledge and data about normative claims must include the ability to hear and question individuals and groups in the population, as well as receive information about the factual implications of normative choices. Regarding the former, discourse participants may decide to organize some mechanism for public comment (hearings, surveys, open houses, etc.). Regarding the latter, they may ask expert panels to prepare scenario analyses of what might happen were a certain decision made. Normative choices must not only be preferable, but also possible and this requires information about the objectified worlds.

Procedural rules for selecting among competing normative arguments are one of the most sensitive parts of any participation program. Indeed, one of the reasons for this is that there is no explicit consensus on how to make normative choices. But there are common sense rules that encourage an open discussion about shared preferences.

A basic requirement of normative choice is that it be consistent within itself and within the belief system in which it is embedded. Normative choices should conform to established norm orderings. Established norms may be common sense (example: “We should not spend any more time than absolutely necessary on this.”) or they may be formalized in law. Laws appear as objective conditions within which norms must operate. Unlike cognitive aspects of law, which are straightforward (“Is this chemical included on the list of 189 toxic chemicals in the Clean Air Act?”), normative aspects of law often call for interpretation (“Is this equipment considered BACT [best available control technology]?”). One way to test is to have legal experts review the proposed normative choice.

#### *6.4.5. Therapeutic discourse*

Therapeutic discourse does *not* refer to empty pacification of legitimate citizen concerns. Expressive claims have two aspects to their validity: authenticity (is this truly

what the speaker feels, thinks, has experienced, etc.?) and sincerity. For example, suppose in a discussion about permitting logging in a new region, a man asserts that he is afraid the state will soon loosen restrictions on logging near streams, thereby increasing the potential for harm to fish. He is not making a cognitive or normative statement, but expressing a fear or apprehension. The listeners are now charged the responsibility of redeeming or not redeeming his claim. They must ask themselves if he is speaking authentically and sincerely.

Of course another person might choose to challenge the cognitive claims implicit in this concern, that logging near streams can increase silt runoff into streams, or that increased siltation will hurt fish. This shift in the discussion to theoretical discourse is an example of how translation of expressive claims might occur, but that is not the point of therapeutic discourse itself.

Therapeutic discourse is likened to a conversation between a psychotherapist and a patient in which the patient is encouraged to explore the authenticity of his or her own subjectivity. The conversation consists of the doctor *passively* assisting the patient – by asking for clarifications and suggesting specific investigations – in order to seek out authentic feelings, experiences, desires, beliefs, etc. Authentic understandings of one's own subjectivity can only be made knowable to the self through introspection. Only the patient can know when the validity has been established, the doctor may guess but cannot make accurate judgments.

There is no way for participants to directly verify the speaker's subjective experience or to guess at his or her motivations, but there are ways to promote authentic expression and to expose aspects of truthfulness. One way that people come to understand their own opinions is through discussions with others. Promoting small group discussions and allowing time for personal reflection (perhaps by stretching the discourse out over several days or weeks) gives people to opportunity and incentive to inquire into their true subjectivities. Second, a person's reputation and association may help listeners to critically judge what a speaker reveals about him- or herself. This requires information about past promises and behavior. Honesty and integrity of the speaker provide a basis for making a judgment about the likelihood that the speaker is truthful. In addition, motivations for lying such as conflict of interests must be examined.

People gain insights into the sincerity of others' subjective experiences through empathizing, by helping that person to explain the cognitive or normative basis behind the expression, or by examining his or her reputation. To empathize, people need an open mind and a sensitivity to others. There is little that a discourse structure can do to promote empathy, except for adopting at the onset a list of commitments that state the shared interest in empathizing with another.

## **7. Evaluating Models of Participation with the Discursive Standard Criteria**

### **7.1. Qualitative assessment**

Figure 1 illustrates how the criteria listed in the Appendix relate to the metacriteria of fairness and competence. Completing an evaluation is not a quantitative exercise, but requires interpretations and judgments. Attempting to quantify scores for each indicator and add these to arrive at a score for each criterion would be to unjustifiably assume that the different items share some ordinal dimension.

The best way to employ these criteria is to qualitatively assess how well the model performed (or would be likely to perform) on each criterion, making one assessment based on the indicators comprising the criterion. This assessment is best represented in terms of plus, neutral, or minus. Combining the assessments for different criteria, for example, to arrive at an overall rating of fairness, is done in a similar way.

This is a list of standard criteria that can accommodate a wide variety of public participation applications. There will certainly be applications where some criteria matter more than others. Inevitably, one can locate examples where this or that criterion does not matter. Unlike mathematical theorems, which can be disproved with one exception, these evaluative criteria must be treated with a degree of interpretation and flexibility. Every criterion and indicator in the listing may not be essential to the success of every public participation exercise. However, each and every criterion and indicator are consistent with the goals of achieving competence and fairness in public participation.

## **7.2. Adopting a moral attitude**

Acting on “higher” motives than one’s own interests is moral action. This is the key ingredient to cooperation – the willingness of the participants to set their personal interests aside as they search for the best decision for all.

Neither the standard discursive criteria nor Habermas’s discourse ethics or ideal speech situation can force people to act morally. Nonetheless, a moral attitude is necessary for the success of communicative action. This chapter began with the assumption that citizens who participate invoke a moral attitude. Obviously, this is not always the case. People participate for a variety of reasons, some more self-centered than others.

Work needs to be done to understand how structural conditions of the discourse can promote participants to adopt a moral attitude. This will add to previous work to identify aspects of the problem setting that facilitate moral action, such as gridlock – when no one can gain from the status quo. People are also induced to act morally when they require each other’s cooperation to acquire a common good or when the level of social cohesion and the sense of social responsibility is high.

## **7.3. Importance of participation as education**

Public participation is much more than conflict resolution. On an immediate level, its goal is the construction of an image of self at both the personal and community levels. This happens as people explore the questions: “What are our needs, desires, and interests?” and: “How can the wide assortment of different and often conflicting particular wills be integrated into a generalized will?” Rarely is all conflict erased. But in answering these questions citizens place themselves within a larger definition of self that expresses itself in the generalized will. Participation is a kind of “on the job training” for citizens. It is an educational experience that should leave the participants with a better idea of what it means to work out differences cooperatively and with the skills and knowledge to do so. Altogether, participation is a way to socially construct an holistic picture of reality depicting personal and shared relations to inner nature, outer nature, and society.

#### 7.4. The relevance of Habermas's work for citizen participation

Current understandings of public participation emerge out of macro-level analyses that focus either on the function of participation in maintaining social and political order or on the opportunities it provides for social change. These approaches have been useful toward revealing the strengths and limitations of the different models of participation as an institution of democratic society, as well as illustrating the ramifications of social and political changes in modern life. However, because they are macro-level approaches, they do not engender an understanding of how public participation relates to individuals at both a personal and social level. The significant feature of the approach taken here is that public participation is viewed from an interactionist perspective, one that focuses on the communication between individuals, which lies at the core of public participation.

Habermas's theory of communicative action has been used because it provides a normative theory of human interaction. It contends that a better society can only come about when people are free from all forms of arbitrary domination and when non strategic and cooperative reasoning is as highly developed and widely employed as instrumental reason. The concept of the ideal speech situation embodies these normative ideals and connects the theory of interaction to the practice of evaluation.

This does not mean that other forms of democratic decision making cannot be fair and competent. It is true that Habermas often conveys the idea that strategic forms of interaction are inferior and ought to be eliminated. Few people find that view acceptable. Indeed, strategic action does have a place in "right" citizen participation. Accurate impact assessments require that the reactions of individuals be taken into account, for instance in computing how many people might leave town, how property values may be affected, etc.

Habermas's theory of communicative action is a consensus theory of truth. The standard discursive criteria describe how one aspect of consensual democracy can be realized, but this should not be interpreted as a condemnation of adversarial decision making. Both consensual and adversarial forms of democracy have their advantages and disadvantages. My only claim is that, if we want to engage citizens early on in environmental policy making, it is best to adopt a consensual, rather than an adversarial approach. When citizens are involved in other aspects of governing, adversarial approaches may be more appropriate. Another set of criteria would be needed to evaluate those procedures.

Habermas's practical insight is that societal decisions should be made through a discursive process in which *collective* preferences, interests, and needs *are defined by the participants* in accordance with their own free will. As long as people are not forced to surrender their values in the selection process, the final decision should reflect the best possible agreement. Equally important is that non-coercive communication also serves as a vehicle for self reflection and that through reflection needs evolve in response to changing environmental and social pressures.

The part that seems to be missing from Habermas's theory is that discourse needs some structure to enable the competent rationally-motivated redemption of validity claims. Structural conditions of the discourse (rules, facilitation, agenda) provide the boundaries that keep discourse moving in the direction of competence. But Habermas does not describe these conditions. He does outline conditions for the ideal speech situation – to ensure fairness, and he does discuss what communicative competence in the

individual means, but he never integrates these two concepts into a workable definition of fair and competent discourse.

### **7.5. Implications for practice**

In conclusion, merely putting people into a room and telling them to work out a non-coercive consensual agreement is not always good enough. Anyone who has served on a jury knows how frustrating and inefficient such settings can be. While participating in such a setting can be very educational and a valuable experience, as a routine tool for making decisions outside of the courtroom this approach is simply impractical. Some have even questioned its practicality in the courtroom (Bownes 1990).

People need the benefit of procedures that society has developed over time for reliably selecting knowledge and guaranteeing individual autonomy. These cannot be left up to democratic, charismatic, or autocratic mechanisms. Rules that are the result of generations of trial and error and the exploitation of expertise should bracket the liberties of the participants. However, only the participants themselves have the legitimacy to place themselves under these constraints. The justification I have offered for the specific set of criteria presented here is that these describe a mode of discourse that almost all people would find competent and fair. It does not intentionally prefer one group's interests to another group's interests, and it is oriented toward producing the most reliable understandings and agreements that are reasonably achievable.

Two normative premises form the basis for the approach taken here. First, no one should be allowed to force his or her own interpretation upon the collective construction of knowledge. Second, the group should formulate a means to reach discourse closure. Saying that public participation must be fair and competent is another way of expressing these premises and the literature on public participation supports the choice of these two goals as reasonable.

### **7.6. "Right" citizen participation**

I have chosen the word "right" to signify a universalistic grounding for the normative legitimacy of these criteria. The origin of this legitimacy lies in fundamental facts about how people use language. Adopting an attitude of cooperation, recognizing everyone has access to common standards of validity, and respecting individual autonomy are all inherent features of language use that are reconfirmed every time people speak to each other. These are realized in "right" citizen participation through constraints and liberties promoted in the structure of the discourse models.

The discursive standard criteria and indicators describe ideal discourse in environmental decision making. "Right" participation encourages multi-way communication. Unlike one way communication (education or persuasion), or two-way communication (between individuals), multi-way communication refers to a group setting where people are actively participating as speakers and listeners. The discussion is diffuse and simultaneously involving all the participants.

"Right" participation is also consensual and non-hierarchical. That means it is based on the principle that no one should be forced to surrender his or her right to contribute to determining discourse closure. There are many reasons why a group member may choose to surrender his or her veto right, this is why one may find voting or sending to committee happening in "right" participation.

“Right” participation requires respect for the autonomy of the individual and trust that the person will abide by reasonable rules for social interaction. It does not require trust in the sense that the speaker’s validity claims are blindly accepted. That would put the speaker in a position of being able to proclaim a specific definition of reality. Over time, certain people may acquire a reputation of producing particularly reliable validity claims, and others may, consequently, choose to adopt that person’s word on given occasions, but this is a convenience not a necessity. The illusion that trust is required for discourse seems based in a desire to instill an authoritarian definition of reality in one particular person. That is neither competent or fair.

“Right” participation relies on the reasonableness of the citizenry to produce workable decisions. Only by giving the people the power to make determinations about their own government can it be assured that their interests are protected and that the collective choice is competent. This is the only way to “repair the lifeworld.” The end product will be that culture is reproduced, society is integrated, and healthy personalities are nourished.

Finally, “right” participation promotes critical self reflection among the participants. In making decisions, people are actually determining what kind of society they want to have. Individual interests, beliefs, and values become linked with those of others into an idea of self that has expanded to include other interests, values, and beliefs. In making collective decisions everyone needs to ask: “Whose interests are being served here?” This is the way to expose injustice and incompetence. Good and just decisions can only come about when people critically reflect upon the connections between themselves, their neighbors, the economic structure and system, the environment, and government, and realize their future course together in mutual interdependency.

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## *Appendix to Chapter 3*

### *The Discursive Standard Criteria*

#### **1. Speech Acts and Validity Claims**

Habermas uses speech act theory to explain what people do in discourse. He focuses on four types of speech acts, each of which draws attention to a specific “world.” Each speech act also makes an implicit *validity claim*, *i.e. the appeal implicit in a statement that makes the message meaningful. It is the essential Truth-oriented component of the statement.*

*Communicative* speech acts are “trivial,” because they merely claim to be understandable utterances. Their validity claim is to *comprehensibility*, and is grounded in the “world” of *language*.

Ex: *During a discourse, people speak to one another.* – Grammatically correct sentence.

*Constantive* speech acts claim to represent something in the *objectifiable world of nature or society*. The claim they make to validity is *truth or correctness*.

Ex: *Average annual rainfall here is 42 inches.* – Verifiable fact.

*Regulative* speech acts propose an appropriate set of interpersonal relations or norms. Their validity claim is to *rightness* and they appeal to the world of *culture or society*.

Ex: *We should not trade the loss of an endangered species for jobs.* – Normative contention.

*Representative* speech acts reveal a selective element of the speaker’s own *subjectivity*. In so doing, they make validity claims to *truthfulness and sincerity*.

Ex: *I am pleased to hear that you agree.* – Expression of personal subjectivity.

All rationally-motivated communication, then, centers around these four types of speech acts. Speech act theory contains other types of speech acts, but these are the ones associated with non-strategic action.

Habermas believes that the different validity claims require fundamentally different means for *redemption*, that is, the process by which the discourse participants collectively decide whether or not the speaker’s validity claim is valid (and therefore, acceptable or redeemable). Thus, he distinguishes between four *types of discourse* in which the four validity claims are discussed. These are called: explicative, theoretical, practical, and therapeutic discourse.

#### **2. The Discursive Standard Criteria for Fairness**

Fairness is an assessment from the point of view of an individual of the sufficiency of opportunities that each and every person will have to protect and express their legitimate individual interests and to contribute to the development of the collective will. Individuals in a group must be able to initiate actions that enable them to accomplish their legitimate goal. In a fair discourse, each participant should feel safe and comfortable about advancing any type of statement and participating in judging the validity of others’ claims. Whether or not the individual has the ability to make maximum use of these opportunities is something that will be taken up in the discussion about competency.

There are four major elements to the fairness criterion:

- 1) Attendance at the event.

- 2) Initiation of different types of speech acts.
- 3) Participation in debate for and against validity claim redemption.
- 4) Participation in the group resolution of disputes over claims.

From an interest in fairness, three activities in public participation are important to distinguish: agenda and rulemaking, moderation and rule enforcement, and the discussion. Below is listed the criteria and accompanying indicators that evaluate fairness in that activity.

#### **A. MAKING OF THE AGENDA AND THE PROCESS RULES**

**A1. The model should provide everyone with an equal chance to put their concerns on the agenda and to approve or propose rules for discourse.**

- A1-1 Does the model provide an opportunity for everyone to suggest items for the agenda?
- A1-2 Does the model provide an opportunity for everyone to suggest items for the rules?

**A2. The model should provide everyone with an equal chance to debate and critique proposals for the agenda and the rules.**

- A2-1 Does the model provide everyone an equal opportunity to debate proposals for the agenda?
- A2-2 Does the model provide everyone an equal opportunity to debate proposals for the rules?
- A2-3 Does the model provide enough time to accommodate all agenda items that the group wants to discuss?
- A2-4 Does the model provide an opportunity for everyone to suggest changes to the agenda or the rules?

**A3. The model should make certain that everyone has an equal chance to influence the final decision about the agenda and the discourse rules.**

- A3-1 Does the model provide a consensually-approved means to resolve conflicts about the agenda?
- A3-2 Does the model provide a consensually-approved means to resolve conflicts the rules for discourse?

#### **B. MODERATOR AND RULE ENFORCEMENT**

**B1. The model should provide everyone with an equal chance to suggest a moderator and a method for facilitation.**

- B1-1 Does the model provide an opportunity for everyone to suggest a moderator?
- B1-2 Does the model provide an opportunity for everyone to comment on the facilitation style?

**B2. The model should provide everyone with an equal chance to challenge and support suggestions by others for a moderator and a method for facilitation.**

- B2-1 Is there a setting for discourse among all who wish to debate proposals for moderator?

B2-2 Is there a setting for discourse among all who wish to debate proposals for how moderation should be carried out?

**B3. The model should provide everyone with an equal chance to influence the final selection of moderator and moderation method.**

B3-1 Does the model provide a consensually-approved means to resolve conflicts about the choice of moderator, either through selection or verification?

B3-2 Does the model provide a consensually-approved means to resolve conflicts about the style of facilitation?

### **C. DISCUSSION**

**C1. The model should provide everyone who is potentially affected by the decision proposal (positively or negatively) an equal chance to be present or represented at the discourse.**

C1-1 Does the model attempt to identify the individuals or groups that are potentially affected by the problem?

C1-2 Does the model provide all people in the greater affected population an equal chance to participate?

C1-3 Does the model provide all people who feel they are affected an equal chance to participate?

**C2. The model should make certain that everyone has an equal chance to put forth and criticize validity claims about language, facts, norms, and expressions.**

C2-1 Does the model provide all an equal chance to make communicative validity claims?

C2-2 Does the model provide all an equal chance to make cognitive validity claims?

C2-3 Does the model provide all an equal chance to make normative validity claims?

C2-4 Does the model provide all an equal chance to make expressive validity claims?

**C3. The model should make certain that the method chosen to resolve validity claim redemption dispute be consensually chosen before the discourse began.**

C3-1 Does the model make certain that disputes over communicative validity claims will be resolved using a procedure that was consensually approved before the discourse began?

C3-2 Does the model make certain that disputes over cognitive validity claims will be resolved using a procedure that was consensually approved before the discourse began?

C3-3 Does the model make certain that disputes over normative validity claims will be resolved using a procedure that was consensually approved before the discourse began?

C3-4 Does the model make certain that disputes over expressive validity claims will be resolved using a procedure that was consensually approved before the discourse began?

### 3. The Discursive Standard Criteria for Competence

Competence refers to the ability of the participation decision making process to provide the participants with the procedural tools and knowledge needed to make the best possible decisions. This evaluation is not necessarily tied to the character of the decisions produced and is not determined by a preset valuation of decision outcome (i.e., a decision not to site a facility may be competent).

There are two major elements associated with this criterion:

- 1) Assess to knowledge and interpretations.
- 2) Implementation of the best procedures for resolving disputes about knowledge and interpretations.

There should be competence in all four types of discourse that occur:

Explicative discourse – references are made to language, terms, definitions, grammar.

Theoretical discourse – reference are made to the objectified world (nature or society).

Practical discourse – references are made to social needs and the appropriate forms of social interaction.

Therapeutic discourse – references are made to the subjectivity of the speaker.

#### **D. RULES FOR REDEEMING COMPREHENSIBILITY VALIDITY CLAIMS**

**D1. The model should provide everyone equal access to the sources for commonly-agreed-upon standards and definitions.**

D1-1 Does the model provide every participant equal access to the commonly-agreed-upon sources for definitions of terms that are relevant to the discourse?

D1-2 Does the model provide the flexibility in time that is needed to resolve comprehensibility problems?

**D2. The model should confirm that everyone has an understanding of each others' terms, definitions, and concepts.**

D2-1 Does the model make certain that all terms, definitions, and concepts are made explicit?

D2-2 Does the model make certain that all participants acknowledge that they understand the agreed-upon definitions?

**D3. The model should make certain that disputes about definitions, terms, and concepts take advantage of preestablished references standards.**

D3-1 Does the model encourage the resolution of disputes through appealing to commonly-agreed-upon standards (such as a dictionary, or a textbook)?

#### **E. RULES FOR REDEEMING TRUTH VALIDITY CLAIMS**

**E1. The model should provide everyone equal access to the available and relevant systematic knowledge about the objective world.**

E1-1 If expert advice is to be brought into the group, does the model assure that the agreement to do so is consensual?

E1-2 If consensus on how to bring expertise into the group cannot be achieved, does the model provide the financial means for every participant to hire their own expert help?

E1-3 Is the model flexible enough to allocate time to consult with experts and to have experts collect data?

E1-4 If there is an educational component, is the material reviewed by independent experts and/or stakeholder groups?

**E2. The model should provide everyone equal access to the available and relevant anecdotal and intuitive knowledge about the objective world.**

E2-1 Does the model promote the consideration of anecdotal and intuitive knowledge?

E2-2 Does the model promote ways for the people to improve their own anecdotal and intuitive knowledge by being exposed to relevant experiences (field trips, lectures from other similarly impacted people, site visits, etc.)?

**E3. The model should make certain that the uncertainty of factual information is considered along with content.**

E3-1 Does the model provide a means for the uncertainty of factual information to be considered?

**E4. The model should include a mechanism to check if factual claims are consistent with the prevailing opinion in the expert community or consistent with the anecdotal knowledge of other people not involved in the discourse.**

E4-1 Does the model promote peer review and independent verification of scientific data and knowledge?

E4-2 Does the model promote “peer-review” and independent verification of anecdotal knowledge?

E4-3 Does the model provide enough time for participants to collect the scientific data and anecdotal experience they feel is relevant and to discuss it thoroughly?

**E5. The model should provide a means to separate cognitive claims from normative claims.**

E5-1 Does the model provide a means to translate claims into their cognitive and normative constituent parts?

E5-2 Does the translation require verification by the speaker?

**E6. The model should provide the participants with the option to delegate determinations of factual truth to an outside expert panel.**

E6-1 Does the model permit the participants to select an expert panel consensually and ask for its recommendations?

E6-2 Does the model ensure that the decision to rely on expert advice is consensual?

E6-3 Does the model provide information about the range of expert opinions and positions in that particular subject?

**E7. The model should make sure that cognitive legal claims are examined by legal experts.**

E7-1 Does the model ensure that legal experts will verify how well the decision outcome conforms to the technical definitions in the law?

**F. RULES FOR REDEEMING NORMATIVE VALIDITY CLAIMS**

**F1. The model should not contain any implicit barriers that will bias the distribution of interests that participate.**

- F1-1 Does the model provide adequate notice of all activities?
- F1-2 Does the model have a purpose that is made clear to all beforehand?
- F1-3 Are the physical, social, economic, and symbolic barriers to participating in the model removed?
- F1-4 Does the model make a connection between purpose, process, and outcome?
- F1-5 Does the model include an effort to achieve representation of formal interest group organizations in the discourse?
- F1-6 Does the model include an effort to achieve representation of ad hoc interest group organizations in the discourse?
- F1-7 Does the model include an effort to randomly select participants for the discourse?

**F2. The model should determine the affected population using objective criteria but also allow the people in the general region to make subjective determinations.**

- F2-1 Does the model employ an objective method to determine who makes up the potentially affected population?
- F2-2 Does the model permit citizens to make their own personal determination of whether or not they are a member of the affected population (and so, should have an equal opportunity to participate)?
- F2-3 Does the model attempt to inform the greater population about the potential impacts so that they can make informed judgments of whether or not they feel affected?

**F3. The model should promote both the discovery and the development of mutual understandings of values among all the participants.**

- F3-1 Does the model promote the elicitation of values from the community, its government, and the stakeholder groups?
- F3-2 Does the model inform everyone of each others' values and interests?
- F3-3 Does the model promote introspective reflection among individuals or groups into the currently existing values and interests of the community through techniques such as small group discussions?
- F3-4 Does the model provide a mechanism by which the impacts of the proposed decision options on the generalized will can be characterized relative to the definition of the generalized will?

**F4. The model should make certain that the factual implications of normative choices are considered in practical discourse.**

- F4-1 Does the model provide a mechanism to evaluate the cognitive implications of proposed normative choices?
- F4-2 Does the model make sure that all participants know the anticipated physical and social consequences of their normative preferences before making a decision?

**F5. The model should promote, through rational and formal discourse procedures that build compromises, the discovery and development of a mutual understanding of values in order to formulate a generalized will.**

- F5-1 Does the model provide flexibility in terms of the time available?
- F5-2 Does the model provide information or training to the participants on how to build compromise and resolve disagreements?
- F5-3 Does the model promote the use of small group discussions?
- F5-4 Does the model discourage people from prejudging the moral beliefs of others?

**F6. The model should make certain that normative choices are not inconsistent with themselves or with the general will.**

- F6-1 Does the model provide a systematic structuring of values?
- F6-2 Does the model encourage the participants to pay attention to the consistency and contradictions among norms and to use these standards in judging others' claims?

**F7. The model should make certain that normative choices are not incompatible with laws.**

- F7-1 Does the model provide a means to check that the decision choice is consistent with the intent of legal provisions?

**F8. The model should make certain that normative choices are compatible with present expectations.**

- F8-1 Does the model provide the means to check that the decision choice does not violate a higher norm in pursuit of a lower one?
- F8-2 Does the model promote reciprocal validation of values and their interpretations between those who promote them and those who have to live with the consequences?

**G. RULES FOR REDEEMING TRUTHFULNESS VALIDITY CLAIMS**

**G1. The model should promote discussion about the authenticity of the speaker's expressive claims.**

- G1-1 Does the model promote personal reflection?
- G1-2 Does the model provide participants with the opportunity to informally discuss their feelings with their friends and colleagues?
- G1-3 Does the model encourage the participants to try and empathize with the speaker?

**G2. The model should promote an examination into the speakers' sincerity.**

- G2-1 Does the model promote a discussion about the commitment of the participants to cooperation?
- G2-2 Does the model promote a discussion about the promises, past behavior, and future performance of the participants?

**G3. The model should promote an examination into the qualities of the situation.**

- G3-1 Does the model promote a discussion about the organizational limitations that may impact on the project?
- G3-2 Does the model promote a discussion about the capability of the actors?
- G3-3 Does the model promote a discussion about or provide information about the availability and uncertainty of factual information when discussing expressive claims?

**G4. The model should provide individuals time enough to accurately state and defend their expressive claims.**

G4-1 Does the model provide speakers with the time they need to discuss expressive claims?

**G5. The model should use a translation scheme that is acceptable to everyone.**

G5-1 Does the model promote the use and development of a method to translate expressive claims into cognitive or normative bases?

G5-2 Is translation verified by the person expressing the claim?

## **H. ALL CATEGORIES**

**H1. The model should reduce the misunderstanding before reaching for agreement.**

H1-1 Does the model encourage the participants to reach compromise on redeeming validity claims only after they have been clarified?

H1-2 Does the model attempt to clearly state the existing consensus of the group?

H1-3 Does the model feedback the final statement for verification?

**H2. The decision as to which validity claims are redeemed by the group should be made using a technique that was consensually pre-approved.**

H2-1 Does the model use a technique to resolve disagreement about validity claims that was pre-approved consensually?