Discourse Ethics and Michael Sandel

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Today, the issues of peaceful coexistence, quality of life, and sophisticated medical technologies are urging us to find solutions, not simply as a question of “virtue” and “human perfection” i.e., values shared among the members of a particular community, but as those about what actions are “right,” “just,” and “fair”. Jürgen Habermas, who has discussed these issues primarily as those of legitimation (Legitimation) and justification (Rechtfertigung) through his discussions on the public sphere and theories of communicative action and discourse, once showed his position in the controversy over the acceptability of so-called human cloning and enhancement (Die Zukunft der menschlichen Natur (The Future of Human Nature), 2001; translated in Japanese as Ningen no shorai to baioesikkusu, 2004). Michael Sandel argued against this from a communitarian standpoint (The Case Against Perfection, 2007; translated in Japanese as Kanzen na Ningen o mezasanakutemo yoi Riyuu, 2010).

However, Sandel’s critique of Habermas seems to be based partly on some fundamental misinterpretations. This paper examines Sandel’s critique against Habermas to ponder upon its validity and significance.

1.

Sandel approves of Habermas’s argument against embryo screening and genetic manipulation for nonmedical enhancement purposes that liberal eugenics accepts, which reflects his acute awareness of Germany’s dark eugenic past, while entirely accepting the presuppositions of liberal theology but neither invoking any spiritual or theological notions, nor resting on any particular “conception of the good life.”

While the old eugenics refers to a movement to systematically, socially, and artificially improve the genetic makeup of the human species, which encourages discrimination based on race or disability by preventing those who with what is considered defective genes from reproducing or by sterilizing them, liberal eugenics—according to Sandel—(he refers to such works as Buchanan’s From Chance to Choice) refers to a position which argues “provided that the benefits and burdens of genetic improvement are fairly distributed, these bioethicists argue, eugenic measures are unobjectionable and may even be morally required” (CAP, p.81; p.80). To this, John Rawls and Ronald Dworkin also agree. Even though liberal eugenics emphasizes individual choice, it also implies the risk of state compulsion.

All that matters, from the liberal-eugenics standpoint, is that neither the education nor the genetic alteration violates the child’s autonomy, or “right to an open future”. Based on such a standpoint, “given the duty of parents to promote the well-being of their children (while respecting their right to an open future), such enhancement becomes not only permissible but obligatory. Just as the state can require parents to send their children to school, so it can require parents to use genetic technologies (provided they are safe) to boost their child’s IQ” (CAP, pp.78-79; p.83). Thus, it is revealed that liberal eugenics which should intend to emphasize individual choice could invite states to force eugenic measures on the foundation of parental duty to protect or promote the child’s right to his or her future or autonomy rather than individual choice.

And Sandel favors Habermas’s sensitivity to such possibilities. Then what is the unique significance of Habermas that Sandel appreciates? It is his focus on the “connection between the contingency of a life’s beginning that is not at our disposal and the freedom to give one’s life an ethical shape” (CAP, p.82; p.87). Referring to The Future of Human Nature, Sandel
summarizes the position of Habermas as follows: “Genetic intervention to select or improve children is objectionable because it violates the liberal principles of autonomy and equality. It violates autonomy because genetically programmed persons cannot regard themselves as ‘the sole authors of their own life history.’ And it undermines equality by destroying ‘the essentially symmetrical relations between free and equal human beings’ across generations” (CAP, p.80; p.85).

Here, Sandel’s position is rather complex: while admitting Habermas is right to oppose liberal eugenics, Sandel also thinks he is wrong to think that the case against it can rest on liberal terms alone. That is because “The defenders of liberal eugenics have a point when they argue that designer children are no less autonomous with respect to their genetic traits than children born the natural way” (CAP, pp.80-81; p.85). Citing the examples of the parent who forces her child to practice the piano or tennis from early childhood, Sandel criticizes Habermas from a liberal eugenic standpoint saying that the question is “whether the parental intervention, be it eugenic or environmental, undermines the child’s freedom to choose her own life plan” (CAP, pp.81; p.86). According to Sandel, the notion that our freedom of life is bound up with the contingency of a life’s beginning human controls cannot alter also carries a broader implication. That is because it turns our eyes to “Whatever its effect on the autonomy of the child, the drive to banish contingency and to master the mystery of birth diminishes the designing parent and corrupts parenting as a social practice governed by norms of unconditional love” (CAP, pp.82-3; p.87).

As will be shown later, just as Sandel notes the giftedness of life, Habermas also notes the original contingency of life beyond human disposal: “we experience our own freedom with reference to something which, by its very nature, is not at our disposal.’ To think of ourselves free, we must be able to ascribe our origins ‘to a beginning which eludes human disposal,’ a beginning that arises from something--like God or nature--that is not at the disposal of some other person (CAP, p.85; p.86).”

Yet for Sandel, the problem lies probably in that those origins are in the end bound to a moral position founded on the equality principle oriented to the “question concerning fair communal life”. In The Future of Human Nature, being moral refers to a “question concerning fair communal life” and a situation in which conflicts “may be reasonably expected to be in principle amenable to rational solutions that are in the equal interest of all” (ZdMN, S. 71; p.67; The Future of Human Nature, p.38). Despite his fundamental diagnosis of a post-metaphysical or post-religious era, for Sandel, these terms, be it freedom or equality, mean nothing more than liberalist clichés. But this critique of Habermas by Sandel may appear rather simplistic because in the same work cited by Sandel, Habermas offers a viewpoint of mutual prerequisite relations between morals and ethics: he discusses the ethics that we should have morals--the ethics of the whole human species--provides a context in which morals exist. So, in any case, let us see Sandel’s position in the first place.

The basic idea of Sandel rests on the giftedness of life. The giftedness of life means “our talents and powers are not wholly our own doing, nor even fully ours, despite the efforts we expend to develop and to exercise them” (CAP, p.27; p.30). In other words, giftedness teaches us humility and solidarity. For example, natural pregnancy develops an openness to accept even a child not exactly as the parents desired and a humility in raising the child in those around the child including parents. In scenes of sports and art, natural talents and gifts are celebrated by the surrounding people literally as a gift, and people including the child will naturally develop such good as a will to share the fruit gained from the luck through various systems of social solidarity.

The problem is not that the parents usurp the autonomy of the child, but it lies in the hubris of the designing parents, in their drive to master the mystery of birth (CAP, p.46; p.50). Further, genetically designing children can deprive the society of an “openness to the unbidden”, or may inspire it to reject anything outside design. Sandel points to a problem through citing two cases that actually took place. The first case is that of a deaf lesbian couple who sought out a sperm donor with five generations of deafness in his family and successfully had a child born deaf. This case brought condemnation on the charge that they had deliberately inflicted a disability; but they considered deafness is a cultural identity, not a disability on their child, and said that they did not view what they had done as very different from what straight couples do when they have children, he writes (CAP, pp.1-2; pp.3-4). The second case is that of an infertile couple who ran an ad in the Harvard Crimson and other Ivy League student newspapers which said they would pay 50,000 dollars to an egg donor being “five feet, ten inches tall, athletic, without major family medical problems, and to have a combined SAT score of 1400 or above”. And this offer met no
public condemnation (CAP, pp.2-3: pp.5-6).

Citing the above two cases, Sandel raises the question as follows: “Is there still something wrong with the idea of parents picking and choosing the kind of child they will have? Or do parents do that all the time, in their choice of mate and, these days, in their use of new reproductive technologies? (CAP, p.2; p.4)” Or, “And yet something about the ad leaves a lingering moral qualm. Even if no harm is involved, isn’t there something troubling about parents ordering up a child with certain genetic traits?”(CAP, p.3; p.5). What Sandel questions here is whether the drive for mastery over the giftedness of life can be legitimized or not.

What we see here is a “Promethean aspiration” (CAP, p.27; p.30) to remake nature, including human nature, to satisfy our desires. The problem is this “drive to mastery” (ibid) as opposed to the giftedness of life. And what the drive to mastery misses, and may even destroy, is an appreciation of the gifted character of human powers and achievements, says Sandel. He expresses his concerns that once we give ourselves up to this impulse, it will transform three key features of our moral landscape “humility, responsibility and solidarity” (CAP, p.86; p.90).

Sandel notes that for arguing against cloning or selecting genetic traits, argument based on autonomy alone--saying that designer children are not fully free (their right to autonomy is impaired)--is not persuasive: “This moral quandary has nothing to do with impairing autonomy” (CAP, p.8; p.11). There are two points to Sandel’s critique of the focus on autonomy: (1) it wrongly implies that, absent a designing parent, children are free to choose their physical characteristics for themselves. But none of us chooses our own genetic inheritance. The alternative to a cloned or genetically enhanced child is not one whose future is unbiased and unbound by particular talents; (2) It cannot explain our moral hesitation about people who seek genetic enhancement for themselves, despite not all genetic interventions are passed down the generations. For Sandel, giving ourselves up to a Promethean impulse to mastery and seeking enhancement or genetic manipulation implies a significant threat: “It threatens to banish our appreciation of life as a gift, and to leave us with nothing to affirm or behold outside our own will” (CAP, p.100; p.105). It is the notion of giftedness that provides warrants to the elements of human morals--“humility, responsibility and solidarity.”

Since Sandel takes a position critical to liberalist arguments, he is tough on an all-or-nothing respect for an autonomous person or equality. It is because if something is once deemed to be a nonperson, an all-or-nothing ethic of respect for persons can consign it to utilitarian calculus as a mere thing. Rather, we “would do better to cultivate a more expansive appreciation of life as a gift that commands our reverence and restricts our life”(CAP, p.127; p.134).

Yet Sandel does not rush to argue for a ban on embryonic stem cell research: as long as it aims to cure degenerative diseases such as Alzheimer’s disease and uses only blastocysts which are never put back into womb, it is permissible, he argues, because it “is a noble exercise of our human ingenuity to promote healing and to play our part in repairing the given world”(ibid).

Be it a focus on the “giftedness of life” or “origin of life,” both Sandel and Habermas are cautious on the issues raised by advanced medicine, while focusing on the same situation: “liberal thinkers from Locke to Kant to Habermas accept the idea that freedom depends on an origin or standpoint that exceeds our control….And for Habermas, … our freedom as equal moral beings depends on having an origin beyond human manipulation or control….we can make sense of the notion of giftedness, and feel its moral weight, whether or not we trace the source of the gift to God”(CAP, pp.95-96; pp.100-101).

As we will see later, Habermas offers a perspective to review even the origin of life from a viewpoint of communicative action. He parts company with Sandel in that respect. Putting it aside, anyway, Sandel’s critique of Habermas seems to be based partly on some misinterpretations as I mentioned earlier. Thus, let us review the discourse ethics and The Future of Human Nature to examine the validity and limits of Sandel’s critique of Habermas.

2.

Accepting in his preface to the 1990 edition of The Structural Transformation of the Public Sphere(1962), feminist
criticism of the book which sees a patriarchic character in the Bourgeois public sphere, Habermas wrote as follows: “the Bourgeois public sphere (die bürgerliche Öffentlichkeit) takes a clear shape in discourses in which not only labor movements but also ‘others’ excluded even from them, thus including feminist movements, can join in order to convert from inside the Bourgeois public sphere--and the structure of the public sphere per se. Universalistic discourses of the Bourgeois public sphere are under self-related presupposition from the beginning. In short, discourses are not always exempted from internal criticism” (SdO, S.20, p.xi).

Discourse ethics is an attempt to rethink what are the critical criteria for practice or how that criteria are rationally warranted in “the situation where legacies of the Western modernity do not work.” An explanation from a modern individualist viewpoint to this was “an attempt to explain the formation of norms which accompany super-subjectively required normative validity claims, from interests and personal interest calculations of instrumentally decisive (entscheidend) actors incidentally meeting with each other” (NmD, S.82; p.101). However, Habermas notes, “it cannot be said that the question of how an order appears from the double contingency (doppelte Kontingenz) of independently decision making (unabhängig entscheidend) actors are answered in a more convincing manner today than in the age of Hobbes” (NmD, S.82; p.102).

From the standpoint of discourse ethics, a moral judgment asks “how conflicts of action can be settled on the basis of rationally motivated agreement” (EzD,S.11; p.7; Moral Consciousness and Communicative Action, p.196), because verbal communication entails an “inherent telos of mutual understanding” (EzD,S.75; p.93) as a normative concept. And understanding means, from the participants’ perspective, a rationally motivated process of coming to a mutual consensus.

The ethics of discourse, as its basic strategy, “picks up this basic Hegelian aspiration to redeem it with Kantian means (Mitteln).” The basic intention of Hegel is to see within the “unity of basic moral phenomenon” the two principles of morality—“justice (Gerechtigkeit)” versus “solidarity (Solidarität)” and “welfare (Wohl)”—which had been tied with always conflicting traditions in moral philosophy, through the concept of ethics, rather than falling in the pitfall of isolating one in conflict with the other. Justice refers to “subjective freedom of inalienable individuality” while solidarity refers to “the well-being of associated members of a community who intersubjectively share the same lifeworld” (EzD, S.16; p.12; Moral Consciousness and Communicative Action, p.200). Then from what viewpoint does a discourse ethics start, following such Hegel’s basic orientation and using the Kantian instrumentation?

Discourse ethics discerns the reason why these two principles, “justice” and “welfare”, are derived from the single origin, morality. That refers to vulnerability necessitating compensation (kompensationsbedürftige Verletzbarkeit) of the “Creatures that are individualized only through socialization are vulnerable and morally in need of considerateness” (EzD,S14f; p.10; Moral Consciousness and Communicative Action, p.199). Because of this vulnerability, ethics “cannot protect the rights of the individual without also protecting the well-being of the community to which he belongs” (EzD,S16; p.12; Moral Consciousness and Communicative Action, p.200), or in other words, it requires “defending the integrity of the individual and of preserving the vital fabric of ties of mutual recognition” (EzD, S.15; p.11; Moral Consciousness and Communicative Action, p.200).

Hence, ethics have two sides: they “must emphasize the inviolability of the individual by postulating equal respect for the dignity of each individual” but must “also protect the web of intersubjective relations of mutual recognition by which these individuals survive as members of a community” (the former corresponds with the principle of “justice (Gerechtigkeit),” and the latter with the principle of “solidarity (Solidarität) and welfare (Wohl)” (EzD,S16; p12; Moral Consciousness and Communicative Action, p.200).

Thus, while the rational action of an agency is premised on desires including interest concerns in principle, it is confirmed that individualization and socialization are identical, or that the moral agent is essentially a social existence.

The position described above is theoretically warranted by the “communicative action theory.” It is oriented to the “practice of everyday (verbal) communication” and focused on the mutually coordinating function of acts based on “action oriented towards reaching understanding (verständigugsorientiertes Handeln).” Interactions are called communicative when “the participants coordinate their plans of action consensually”: it is a social action of which achievement or non-achievement
of the understanding aimed at each time is “evaluated in terms of the intersubjective recognition of validity claims (Geltungsanspruch)” (MukH, S. 68; p. 97; p.58). Here, “the consensus achieving power inherent to linguistic understanding is effective for the coordination of actions” and it typifies an action in which a natural language is “required also as a source of social integration”. In contrast, a strategic action is a social action in which “natural language is needed only as a medium of communication of information”, and “the effect of the action coordination depends on the influence the actor yields upon the situation of the action or the counterpart through non-linguistic activities,” typologically distinct from a communicative action (NmD, S.69; pp.84-85). Actions oriented towards reaching understanding can be explained by “pragmatics (theories on speech act)” which analyze sentences spoken in everyday practice in actual lifeworld situations. However, the speech act alone cannot explain the action-coordinating mechanism for reaching mutual understanding. That is a process for the parties concerned to get convinced from rational motivations. In other words, when the three requirements --the validity of the action or the foundation of the action, claim to validity that the conditions for its validity are met, and the warrant of certification to provide a foundation for the validity claim--are satisfied, a speaker can rationally motivate a hearer to accept a speech act offer. In a speech act, whether implicitly, the following universal validity claims are lodged behind each speech:

1. Intelligibility claim: the speech of the speaker is comprehensible to the hearer.
2. Claim to truth: the speech correctly represents facts.
3. Normative rightness claim: the speech is legitimate in the light of its relations with the hearer and the norm.
4. Sincerity claim: it represents something concerning the subjective world only the speaker has the privilege to approach (which can be judged only by implementing that action)

Of course, any validity claims may be questioned by the parties concerned (rejected or criticized). In that case, the participants will interrupt mutual actions and attempt to persuade each other by presenting foundations for the validity claim in question in a hypothetical manner. That is a discourse (Diskurs).

Having a discourse means a transition from actions guided by the de facto norms to a subjective examination of the norms themselves. In a discourse, the speaker is not only aware of the validity claims presented by him/herself, but is urged to reflect upon the background knowledge behind the speech. Therefore, the speaker needs not only to justify individual validity claims but also verify or deny by him/herself the background knowledge he/she relies on and him/herself. The fact that everyday practice is supported by such background knowledge and individual validity claims are not explicitly presented means that consensus usually rests on intersubjective anonymity. Hence, participating in a discourse means subjectively getting out of this anonymity status. Thus, in place of heteronomy dependent on the norm of de facto social acceptance (soziale Geltung), autonomy relying solely on the validity of a norm worth approving (Gültigkeit) is assured. Discourse, in that sense, can be considered a reflective form of communication.

Not individual discourses, but discourse itself involves “rules of argumentation with normative elements” as an inevitable presupposition. That is the principle of universalization (U) and the principle of discourse (D) as a rule of argumentation (MukH, S.103, p.148; EzD, S.12, pp.7-8).

U: All affected can accept without being forced the consequences and their side effects when the general observance of the norm in question can be anticipated to have for the satisfaction of everyone’s interests.

This principle of universalization is based on a Kantian categorical imperative, an interpretation in pragmatics terms to state that only norms representing a universal will is guaranteed to be accepted as valid.

D: Only those norms can claim to be valid that meet (or could meet) with the approval of all affected in their capacity as participants in a practical discourse (or “rational discourse” in Between Facts and Norms) (FuG, S.138; p.136).

The principle of discourse is elucidated using “performative contradiction” as a clue. Those involved in argumentation presupposes the validity of the logical rules of argumentation which are unavoidable even for those doubt or criticize the cases submitted in the argumentation. And according to Habermas, it is this principle of (D) that moral theorists have tried to establish grounds for.

The procedure of forming a will through discourse indicate the internal relation between the two phases--i.e., the
individual autonomy that others cannot replace for and solidarity and welfare in that individuals are incorporated in an intersubjectively shared form of life. Equal right of individuals and equal respect of personal dignity are supported by the network of interpersonal relationship and mutual approval, while the quality of communal life is measured not only by the level of solidarity and welfare but also by the equality of consideration to individual interests among general interests.

Further, in the process of communicative character building, “the system of personal pronouns is internalized and the pressure for individualization is incorporated in the use of language oriented toward reaching understanding of mutual actions”, and “the intersubjectivity promoting socialization starts to work” at the same time. In communicative action, “the simultaneous growth of the autonomous individual subject and his dependence on interpersonal relationships and social ties” are combined (EzD, S.14ff, pp.10-11; Moral Consciousness and Communicative Action, p.199). In that sense, those who engage in communicative action change their posture from the “perspective on objectification” in which one attempts to influence something in the world oriented toward achievements, to “the actor’s performance perspective” which is comprised of the first person and the second person oriented toward understanding something in the world: otherwise, no exercise of mutually obligating power on actions will be possible.

3.

Is Sandel right in criticizing Habermas for not casting off the liberalist language of equality? Habermas put forth a viewpoint of what may be called a mutual presupposition of morals and ethics in The Future of Human Nature. When we see his statements such as “priority of the just over the good” must not blind us to the fact that the abstract morality of reason proper to subjects of human right is itself sustained by a prior ethical self-understanding of the species, which is shared by all moral persons” (ZdMN, S. 74; pp.69-70; The Future of Human Nature, p.40), or “An assessment of morality as a whole is itself not a moral judgment, but an ethical one, a judgment which is part of the ethics of the species” (ZdMN, S.124;p.122; ibid, p.73), we are compelled to think that Sandel’s criticism is based on some misinterpretations. Now let us see it in more details.

Even ethical notions may differ from culture to culture or community to community in a pluralistic world, there should exist “ethics of the species” for making moral judgments from the standpoint of the human race. From such a perspective, Habermas ponders upon the moral meaning of “designing” the physical or genetic traits in humans to be born in future. The viewpoint presented by Habermas in The Future of Human Nature is deeply concerned with the self-understanding of a child born as a designer baby. I will touch upon this since little of such a viewpoint is found in Sandel.

According to Habermas, the statement “there is, in principle, a reversibility to international relationships”(ZdMN, S.110; p.107; ibid. p.63) should hold true. However, the eugenic of gene manipulation makes it impossible. “The irreversible choice a person makes for the desired makeup of the genome of another person initiates a type of relationship between these two which jeopardizes a precondition for the moral self-understanding of autonomous actors” (ibid). In other words, a child will only feel that he is “deprived of an unobstructed future of his own” (ZdMN, S.108; p.106; The Future of Human Nature, p.63). Eugenic interventions deprive them of ethical freedom since “they tie down the person concerned to rejected, but irreversible intentions of third parties, barring him from the spontaneous self-perception of being the undivided author of his own life”(ibid). This is the central viewpoint of Habermas when he opposes eugenic interventions. Then what about the ethical self understanding of humans which Sandel was not concerned with?

In The Future of Human Nature, Habermas noted that philosophy can only be concerned with a meta-normative position, or the issues of justice and equity and “investigate only the formal characteristics of the process of self understanding” rather than answering the question about “good life”, or how we should live, citing the example of Kierkegaard’s existential philosophy. This is because he thinks Kierkegaard was the first to quit answering the question of “good life” but answered with a postmetaphysical concept of “being-able-to-be-onesel” (ZdMN, S.17; p.14; The Future of Human Nature, p.5). In Kierkegaard, what makes it possible to be able to be oneself is obedience to the Absolute, i.e. God. However, in the post-
metaphysical, post-religious age, what can take the place of this absolute being is the logos of language, which is absolute and transcendental in a sense that it is beyond the reach of anybody. By taking a communicative action, a postmetaphysical existential answer is prepared. With a linguistic turn, he devalues the Kierkegaard’s absolute power to “transsubjective power” (ZdMN, S.26; p.24; ibid., p.10).

Transsubjective power means that “As historical and social beings we find ourselves always already in a linguistically structured lifeworld. In the forms of communication through which we reach an understanding with one another about something in the world and about ourselves, we encounter a transcending power” (ZdMN, S.26; p.24; ibid., p.10). Habermas also confirms the difference between morals and ethics in The Future of Human Nature. Being <moral> refers to “a question concerning fair communal life”. In the event of a dispute, his position focuses on equality affirming it “may be reasonably expected to be in principle amenable to rational solutions that are in the equal interest of all” (ZdMN, S.71; p.67; ibid., p.38). Being <ethical> refers to being “shaped by the preferred way of life and the existential self-understanding of an individual or a group of citizens, that is, by their identity forming beliefs” (ibid). He presupposes that in our self-understanding based on a species ethics, we see ourselves to be “ethically free and morally equal beings guided by norms and reasons” (ZdMN, S.74; p.70; The Future of Human Nature, p.41).

And the core of the unique viewpoint of Habermas rests in that it presented the relations between morals and the ethics of the species, at least with respect to the self-understanding of the human species, following the lead of Kierkegaard’s concept, “being-able-to-be-oneself”. “An assessment of morality as a whole is itself not a moral judgment, but an ethical one, a judgment which is part of the ethics of the species” (ZdMN, S.124; p.122; ibid., p.73). The ethics of the species questions whether humans as a species are able to be themselves: unlike morals, it is a question of choice by humans themselves, which means ethics of never hindering the free and original living of others and having morals. From this viewpoint, genetic manipulations mean the loss of “equality that is possible in principle.” Technological manipulation of embryos before birth will cause the human race to converge on an ethical self understanding, because the relations with a prepersonal form of human life means for the human species “self-understanding as an existence as species.” Rawls mentions “priority of equity over the good,” but what the issue of relations with prepersonal life does not prevent that “the abstract morality of reason proper to subjects of human rights is itself sustained by a prior ethical self-understanding of the species, which is shared by all moral persons” (ZdMN, S.74; pp.69-70; ibid., p.40). Thus, he derives a viewpoint that an essential presupposition in the ethics of the species concerning moral self understanding is “able to come to a self-understanding as persons who are the undivided authors of their own lives, and approach others, without exception, as persons of equal birth” (ZdMN, S.123f; p.122; ibid. p.72).

4.

As we have seen so far, in The Future of Human Nature, Habermas notes that genetic manipulations destroy both moral self understanding and the our self understanding as the human species, or the ethics of the species as he calls it. When a person (the child to be born) is subjected to the genetic design by another person (such as a parent), the genetically designed person who should originally be “able to come to a self-understanding as persons who are the undivided authors of their own lives, and approach others, without exception, as persons of equal birth” (ZdMN, S.123f; p.122; ibid. p.72) will no longer be able to do so. That means, autonomy and the “basically equal relations between free and equal persons” will be destroyed.

The uniqueness of Habermas lies in his presenting the viewpoint that, be it old eugenics or liberal eugenics, the essential question is that morals are enabled by the ethics of the species as a context of morals: “whether or not we may go on to see ourselves as beings committed to moral judgment and action” (ZdMN, S.121; p.119; ibid. p.71): now “what is at stake, … is … the ethical self-understanding of the species” (ibid). Thus, Sandel’s critique of Habermas may be considered--at least concerning the understanding of The Future of the Human Nature--to be based on misinterpretation rather than being simplistic.

Certainly, we can sympathize with Sandel when he focuses on the giftedness of life and warns that if genetic
manipulations as an individual choice become a normal practice as liberal eugenics advocates, or even a parental requirement, human good such as humility, responsibility, and solidarity will be hindered. "Paradoxically, the explosion of responsibility for our own fate, and that of our children, may diminish our sense of solidarity with those less fortunate than ourselves. The more alive we are to the chanced nature of our lot, the more reason we have to share our fate with others" (CAP, p.89; p.94). While discussing the role the giftedness of life plays to the spirit of mutual aid in the insurance market, Sandel discusses the significance of the solid notion that our natural talents originate from contingency. He also notes that it "saves a meritocratic society from sliding into the smug assumption that success is the crown of virtue, that the rich are rich because they are more deserving than the poor" (CAP, p.91; p.96).

Sandel also shares Habermas’s awareness of issues: “Genetic manipulation could change the ethical self-understanding of the species in so fundamental a way that the attack on modern conception of law and morality might at the same time affect the inalienable normative foundations of societal integration” (ZdMN, p.50f; p.48; The Future of Human Nature, p.26). However, when Habermas discusses “the ‘moralizing’ attempt to adapt biotechnological progress to the by now transparent communicative structures of the lifeworld appears in a different light” (ZdMN, p.51; p.48), he parts company with Sandel. When Sandel speaks about the giftedness of life, Habermas places the origin of life in the communicative structure of our living world. In that sense, it can be regarded as his pursuit of the linguistic turn.

A view shared between Rawls and Habermas is that “since people in modern pluralist societies disagree about morality and religion, a just society should not take sides in such disputes but should instead accord each person the freedom to choose and pursue his or her own conception of the good life” (CAP, p.80; p.85)⁴, summarizes Sandel. As we have seen above, Habermas parts company with Rawls when he says “the priority of equity over the good” premises on the ethical self understanding as a species which precede reason and morals themselves⁵.

Maybe for Sandel, Habermas's view of communication in the living world as a source of ethics of the species and morals may seem still bound to the liberalist language, which is grounded solely on “equality” in the mutuality of verbal communication, even if based on a post-traditional diagnosis no longer recognizing a conflict resolving function in the cushion called tradition. Yet we can note here that when Sandel focuses on “the giftedness of life,” he may have not casted off the idea of substantiating individuals despite his criticism of a liberalist view of humans indicated typically by Rawls as (essentially) “the unencumbered self” (LLJ, p.90; p.103; also, Preface to the Japanese version, iii), contraposingly “radically situated subject” (LLJ, p.21; p.24), and that he lacks the perspective for the self understanding of the designed subject presented by Habermas. The viewpoint of Habermas on morals and the ethics of the species was presented in The Future of Human Nature for the first time. Recognizing that it was intended as a contribution to the shaping of opinion in public debate, it seems to require further examination into future.

References


Habermas regards "compromise (Kompromise)" as a certain type of consensus. Before, he regarded socio-national compromise as a certain type of consensus. (LiS, S.154; p.178). According to Habermas, there are two conditions for a compromise to be made. One is a balance of power among the parties involved. Compromise is an adjustment between particular interest which take place under conditions of a balance of power between the parties involved (LiS, S.154; p.178). According to Habermas, there are two conditions for a compromise to be made. One is a balance of power among the parties involved and the other is that the compromised interests must be non-generalizable. If one or both of these conditions is not met, it is a pseudo-compromise. (LiS, S.155; p.180). Whether the compromise made is fair or not depends on the moral legitimacy of the procedural conditions of the preceding negotiation process (EzD,S.20; p.23).

Notes

1 Here, Sandel refers to the following passage: "(the capacities being engaged) are general purpose means, useful in carrying out virtually any plan of life...The closer such capacities are to truly all-purpose means, the less objection there should be to the stage encouraging or even requiring genetic enhancements of those capabilities" (Allen Buchanan et al., "From Chance to Choice", Cambridge University Press, 2000,p.174)(CAP, p.82; p.87). The notions of "natality" and "beginning" as well as "mortality" seem to be at the base of Arendt’s thoughts. Her focus on natality, may suggest a keen sense of crisis about the mortality of humans and the world and a strong expectation on the power to begin something new that a new person brings with one’s birth. The birth of a person into this world means that a new beginning is brought constituting a beginning we cannot control. Philosophy has but rarely addressed this matter. An exception, he observes, is found in the work of Hannah Arendt, who sees ‘natality,’ the fact that human beings are born not made, as a condition of their capacity to initiate action" (CAP, p.82; p.87). The notions of ‘natality’ and ‘beginning’ as well as ‘mortality’ seem to be at the base of Arendt’s thoughts. Her focus on natality, may suggest a keen sense of crisis about the mortality of humans and the world and a strong expectation on the power to begin something new that a new person brings with one’s birth. The birth of a person into this world means that a new beginning is brought into this world; at the same time, the world will deteriorate with age if new beginnings are not introduced. In that sense, education is an endeavor to protect “children” as new beginnings and through that, protect the “world” from aging. I will discuss the relation between Arendt and Habermas elsewhere.

2 Sandel cites Arendt as a philosopher who noted such situation: “that birth, ‘being a natural fact, meets the conceptual requirement of constituting a beginning we cannot control. Philosophy has but rarely addressed this matter.’ An exception, he observes, is found in the work of Hannah Arendt, who sees ‘natality,’ the fact that human beings are born not made, as a condition of their capacity to initiate action” (CAP, p.82; p.87). The notions of ‘natality’ and ‘beginning’ as well as ‘mortality’ seem to be at the base of Arendt’s thoughts. Her focus on natality, may suggest a keen sense of crisis about the mortality of humans and the world and a strong expectation on the power to begin something new that a new person brings with one’s birth. The birth of a person into this world means that a new beginning is brought into this world; at the same time, the world will deteriorate with age if new beginnings are not introduced. In that sense, education is an endeavor to protect “children” as new beginnings and through that, protect the “world” from aging. I will discuss the relation between Arendt and Habermas elsewhere.

3 Habermas regards "compromise (Kompromise)” as a certain type of consensus. Before, he regarded socio-national compromise as problematic. Compromise is an adjustment between particular interest which takes place under conditions of a balance of power between the parties involved (LiS,S.154; p.178). According to Habermas, there are two conditions for a compromise to be made. One is a balance of power among the parties involved and the other is that the compromised interests must be non-generalizable. If one or both of these conditions is not met, it is a pseudo-compromise. (LiS,S.155; p.180). Whether the compromise made is fair or not depends on the moral legitimacy of the procedural conditions of the preceding negotiation process (EzD,S.20; p.23). The validity of Habermas’s ideas on the concept of compromise will be discussed elsewhere. For discussions on compromise as an issue of integrity, refer to: M. Benjamin, Splitting the Difference—Compromise and Integrity in Ethics and Politics, University of Kansas, 1990.

4 This summary of the agreement of Habermas and Rawls is quoted from the English version of The Future of Human Nature. See CAP, Chapter 4, note 31.

5 I have once discussed the argument between Habermas and Rawls. See “A Dialog between Habermas and Rawls about the use of public reason,” Journal of the Faculty of Humanities and Social Sciences 12, Okinawa University, pp.35-48, 2010.

References


