

On the symmetry of moral codes

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Introduction

This paper examines Luhmann's moral theory from a theoretical perspective (Luhmann 1990, 1996, 2008, 2012). The main points of Luhmann's moral theory, in the light of his systems theory, are three points. (1) how it can be distinguished from the communication of other systems; (2) how moral code that is defined not a system, differs from the codes of other systems; and (3) what effect does moral code have on society? This paper examines the "symmetry" condition of moral communication, which has been identified as a core feature of moral codes, and which is related to (1) and (2). This, in turn, leads to a path of thinking about (3). Luhmann considers this "symmetry" to be important but does not make it explicit enough in his paper. I will attempt to elaborate this point by giving examples of it.

As Nassehi organizes it, Luhmann's moral theory has one clear feature in comparison with the conventional moral theory of sociology. In contrast to sociology's moral theory, which tends to analyze what is moral and what is immoral, Luhmann attempts to analyze morality sociologically by distinguishing between what is morally significant communication and what is morally indifferent communication. In other words, Luhmann offer a definition that can distinguish between moral and amoral communication (Nassehi, 2001). From this standpoint,

it is expected that we will be able to elaborate on the moral communication in today's society, where two separate attitudes appear simultaneously. For example, a certain degree of culture-relative attitudes and the caustic exchange of accusations found in the mass media and social networking sites.

From the above, by clarifying the meaning and significance of symmetry condition, I will detail how Luhmann's moral theory relates to his analysis of the whole society and contribute to our understanding of Luhmann's systems theory.

The case used as a case study is a famous Japanese civil litigation case from the 1980s. In 1980s Japan, relations with neighbors were generally so close that it was reprehensible to file a lawsuit against a person with whom one had a close relationship. There was a belief that the couple who filed the lawsuit, received widespread public condemnation directly and through the media. As a result, the situation evolved into a civil lawsuit itself being dropped. While this case is not world famous, there are reasons why it deserves to be taken up. It is a borderline case where a moral communication has caused a case to fall out of the legal system, which makes it easy to consider with respect to (1) and (2) I have written above. In addition, evaluations and judgments of moral cases are susceptible to the moral conditions of the observer himself. By using cases that are neither contemporaneous nor immediately globally

sympathetic, we have the advantage of avoiding the danger of bringing our moral evaluations into the interpretation of cases themselves.

Definition of moral communication

Luhmann defined moral as follows. First, moral communication is defined as "a special kind of communication that expresses respect/ disrespect (i.e., praise/blame) on the basis of the good/evil distinction". This good/evil distinction, or respect/ disrespect and praise/condemnation as indicated through communication by that judgment, is the moral code. That admiration/condemnation is made to the entire personality as a participant in the communication.

So, in the case of this moral communication, the basis for respect/ disrespect does not depend on that individual's abilities or professional achievements. For example, judgments and expressions such as "that person is a cook but not very good" or "some people are particularly good at football" are not the same thing as the moral code being applied (Kneer & Nassehi, 1994).

Respect/ disrespect in such cases is not pre-conditioned, such as respecting because of X, or despising because of X, but is only expressed or implied when confronted with the situation.

In other words, the realm of morality is defined empirically, not as a domain to which certain norms, rules and values are applied, as it were. However, if some conditionalization (be it legal conditionalization, political conditioning, racial discrimination, or personal preference conditionalization) can be moralized, we can question what happens from that communication.

In Luhmann's example, it is the following situation. When a person discovers that there is a statue of bust of Bismarck on the piano in neighbors house, and he thought that no longer he could respect his neighbor and can no longer invite him. In that case, if he communicated that judgement to his neighbor, it would be clear that the placement of the Bismarck bust on the piano was a condition for the person to respect/ disrespect others.

This type of moral code can be applied to all things and anyone, just like other codes - e.g., the code of law that distinguishes between legal/illegal and the code of science that distinguishes true/false. So even if a person's actions are legal, it is possible to express contempt for that person, and vice versa. Such is the independence of moral codes over other codes (Luhmann, 1990: 85-86, 2008: 259). In Luhmann's theory of the moral, what is a moral matter is shown in each communication.

In summary, the moral is defined as communication that expresses respect/ disrespect on the basis of the good/evil distinction, is applied to the whole personality, is not limited in

its applicability to the situation of application (i.e., can be used hyper-contextually), and is independent of the codes of other systems.

Discussions on the Symmetry Condition

By the way, why consider the symmetry condition of the moral code, among other things?

Briefly, the fact that Luhmann himself frequently writes about this symmetry condition to distinguish it from other communication with praise, such as references to achievement, and that it is listed first and foremost as the primary implication and consequence of moral communication, and that it has been mentioned by many commentators who refer to Luhmann's moral theory. Symmetry, for example, has been severely criticized by Nassehi (Nassehi 2001), but I believe that this criticism may be somewhat short sighted. Groddeck also mentions this symmetry in his analysis of corporate value communication (Groddeck 2011), and the symmetry requirement for moral codes is a central issue worth considering.

Symmetry requirements

Luhmann lists the symmetry of the ego and the other self-participating in communication as an implication and consequence of moral communication. He writes, 'Firstly, all moral

communication is symmetrical communication. What is assumed as morality is valid on both sides. (1989: 366)' This assumption of symmetry is made because there is communication about achievement, which can easily be confused with moral communication in the sense of praise/blame. Luhmann writes about the difference between referring to achievement in communication and moral communication as below.

I understand morality as one of those special kinds of communication that carries with it the suggestion of esteem and disesteem. In doing so, it is not a question of good or bad achievements in a special perspective, e.g., the results of one's work as an astronaut, musician, researcher, or football player, but of one's whole personality, insofar as one is valued as a participant in the communication (Luhmann, 1990: 84, translation redacted).

The main point here is that "references to work performance are not part of moral communication". However, while this distinction is easy to understand, there is still a lot of ambiguity in this wording. For example, it is conceivable that respect for a person's character could be shown based on work performance, but would that not be moral communication? And what exactly does "symmetrical communication" mean? In the passage that follows,

Luhmann describes this symmetry in the following way

Whenever one makes a moral judgment against another person, it is communicated while the same conditions are appropriate for the person who made the judgment. Regardless of whether one is "imperative" or "categorical," **self-binding is implied in moral communication.** If one wants to escape the binding nature of morality oneself, one cannot force others to be morally bound. In that case, one would have to choose another mode of communication or begin to communicate in such a way as to keep it ambiguous, pointing out any misunderstandings that arise and correcting them if necessary (1989: 366-367, emphasis added).

From this quote, we can see that symmetry as an implication of moral communication is that one's self and others are subjected to their own communicative purposes in the same way. In other words, the symmetry of the moral code seems imply that "self and other are subjected to the same conditions". If this is the case, then we can see that respect based on work performance, as mentioned before, is not respect, at least not in moral communication. This is because one can have respect for the accomplishments of others, but in doing so it is not

implied that one should achieve the same accomplishments oneself (although one may, of course, "wish to do so").

But if this symmetry is an implication of the moral code, is it always valid in actual situations? And, again, what does this "symmetry" mean and what are the consequences of this "symmetry" as a result of moral communication?

A Critique of the Symmetry Condition

Nassehi disagrees with Luhmann on this symmetry condition as follows

Strangely enough, Luhmann connects this [i.e. moral communication] with the conditions of symmetry in which the conditions of respect and contempt must be the same for the ego and the other self. But this seems to me to be only one of the special cases. For the moment, I would call any expression of respect or contempt **a moral communication**. The consequence, however, is distinguished by the moral symmetry of the ego and the other. In other words, only then does morality produce what sociology assumes for morality: social constraints. This is because those who force others to respect or despise them are, after all, subject to equal conditions of proof of respect and despise, and through them produce social reciprocity

(Nassehi, 2001: 27-28, emphasis original).

Nassehi, unlike Luhmann, argues that moral communication is distinguished by its consequences whether it is symmetrical or not. In other words, he says that moral communication can be asymmetrical, but only if it is symmetrical will social constraints be produced.

For an examination of the symmetry condition

There are several points to consider regarding the symmetry of moral communication, including Nassehi's critique above.

The meaning of the symmetry condition

The first point is the meaning of the symmetry of moral communication. Moral statements, whether they demand good or repel evil, make it difficult to leave unanswered because they are questioned towards the personality. Nevertheless, it is still possible to respond in the form of a rejection. In such a case, even if one of them is making moral utterances, and even if they are understood by the recipient of the communication, can we not call it moral

communication? This begs the question of what depends on what Luhmann calls "symmetry".

How do we think about symmetry with non-parties?

The second point is whether the condition of symmetry is satisfied when the recipient of the praise or condemnation is not present at the scene. For example, through mass media and SNS, it is natural that people who are not participants in the real process, but who lavish praise and condemnation on others. How should we interpret their moral statements? It is, of course, unrealistic to view such references as not being moral communication because he/she is not a person concerned. People can make moral judgments even if they are not involved in the event. Rather, what we see and hear in our daily lives, in the news and elsewhere, is moral commentary in the form of accusations from people who were not involved in the event.

Is there an implication of self-binding nature in the references to people who are not parties to the issue, or more limitedly, in the anonymous comments of condemnation? In this case, the condemnation might take to be more like praise for an achievement, which does not regard to whether the same condition does not apply to themselves. If so, should we assume that non-self-binding accusations from people who are not involved in the process are possible? In that case, as Nassehi argues, can moral communication be asymmetrical or

symmetrical, but is it more consistent to see the presence or absence of symmetry as being distinguished by the production of restraint? Or is there more than one thing that "symmetry" means, and we are confusing it?

The Meaning of Binding

The third point is what is meant by binding. Nassehi suggests that one pattern of consequence of moral communication is the production of "social binding" or, to borrow his expression, the production of "socially reciprocal binding". The meaning of this social constraint is indecipherable, and it refers to a different state than Luhmann's self-binding. Luhmann's self-binding is a reciprocal application of the condition itself, while Nassehi's is a constraint that is produced as a consequence, implying that it has some consequences or actions. What are the disadvantages of Nassehi's definition of moral communication and the adoption of social restraint as the presence or absence of consequence, or what cognitive gain is there in adopting Luhmann's argument?

To examine the points above, let us examine "neighbor litigation" as a case study. Neighborhood litigation is an example of an anonymous, unspecified accusation that forced the accused party to change its response. The accusations, which could be taken as not

implying self-binding, produced consequences that could be called socially binding. The issue, which seems to represent the asymmetry of moral communication but produced social binding, will give us a better perspective on the issue.

An Overview of One Case, "Neighbor Litigation"

In May 1977, a three-year-old child, A, drowned in a reservoir in an apartment complex in Suzuka City, Mie Prefecture. On the afternoon of that day, A's mother tried to take her child, who was playing with a neighbor's child, B, to go shopping, but A was reluctant to go. A's father, who was watching the child, said, "It's okay," and A's mother did not force him to go with her. At that time, she told B's mother that she was going to a shopping and asked her to watch after A as well as B. However, A would be found drowned a half hour later in a pond that held water for agricultural irrigation. In December of that year, after some miscommunication between A's parents and B's parents, A's parents filed a lawsuit against B's parents and the city of Suzuka, claiming compensation for the death of A. In 1979, they also filed additional lawsuits against the state, Mie Prefecture, and the construction company that had collected the earth from the reservoir.

When the Tsu District Court ruled in favor of the plaintiffs in February 1983, there was a

lot of criticism arose against the plaintiffs immediately after a TV news on the same day. The headlines in the evening edition of the same day's newspaper were conspicuous for their negative tone of voice: "Cold Water for Neighborhood Relations," "Infant Drowned in Custody; Neighborhood's Good Intentions Harshly Judged" and "Neighbor's Good Intentions Harshly Judged". The repercussions of a case where the misfortune of taking care of a neighbor's child, a very common occurrence, turned into a trial in court were significant. Calls of accusations and threats rang at the plaintiff and his wife's home all day long, and letters poured in. The effect was even more disruptive to the work and lives of the plaintiffs and their relatives.

As a result, the plaintiffs filed for the withdrawal of the case, even though the first trial had already been decided. However, the defendant did not respond to the request right away. Since the withdrawal of the trial would require the consent of both the plaintiff and the defendant, the trial would not be withdrawn. As soon as the news of this event hit the press, the plaintiffs were inundated with encouragement, praise and accusations against the defendants. As a result, the defendants also agreed to withdrawal of the case, and it was withdrawn. In April 1984, the Ministry of Justice responded to this situation by issuing a statement on the grounds that the people's right to a trial had been infringed upon, stating that the situation was

"extremely regrettable from the standpoint of protecting human rights. As a result of this situation, the Ministry of Justice issued an unusual statement, "This is nothing short of deplorable from the perspective of human rights protection" (Kojima, 1989: 3-10, Kato 1983).

The court in the first trial did not accept the contract with B's parents to take care of the child, but ordered them to pay the parents a total of about 5 million yen (50 thousand dollars) for negligence of a general duty of care, and rejected other claims. This is not a high amount of damages for a fatality case, but that shows that the earlier accusation was not a sensitivity about the amount of money (i.e., the severity of the penalty), but rather a sensitivity to the "bringing to the lawsuit" itself. This is an overview of the cases and lawsuits known as "neighbor litigation".

The fact that a particular fatality case is brought into litigation is not in itself anything remarkable. Under usual circumstances, the process after A's parents sued B's parents, would have been a process within the legal system. Instead, the case deserves to be taken up as an observation of moral communication because, the implementation within the legal system was halted and withdrawn due to moral communication from audiences of mass-media or SNS.

First, the accusations and threats directed at the plaintiffs could be considered moral communication. According to the plaintiff's lawyer, although the methods of communication differed, and were generally comments such as "you are inhuman," "what are you going to do with the money?", "damn you," "unpatriotic," "devil," or "die" (Kojima, 1989: 14). What these accusations showed was the anticipation of norm formation such as "the misfortune of leaving a child in the care of a neighbor as an extension of one's daily life could be the subject of litigation" or "claims for reparations in such incidents are inexcusable" (Kojima, 1989: 14), and the fear or rejection to it. These messages were the same whether it was a headline dancing in a newspaper or other mass media, or a phone calls or letters of protest.

From those accusations, situation settled into a withdrawal of the trial at last. And that was to mean two things at the same time. On the one hand, it meant that those who entrust their children to the care of their neighbors had to be prepared to go to court if the worst should happen, which meant that they had to be very careful when accepting the entrustment. On the other hand, it also means that the person entrusting the child should refrain from taking the case to court, even if the parents has lost his or her child's life due to the carelessness of a neighbor. The Ministry of Justice's unusual announcement was based on the fear that the

public should not refrain from taking the case to court.

How should we take into consideration from this case? Can moral symmetry be preserved as self-binding, even if the accusations are anonymous? And how can the symmetry condition be considered consistent with the consequences of this exchange of accusations of trial withdrawal?

Revisiting the Symmetry Condition

where issues lie

Let us get the issues out of the way. The first point was what exactly is meant by symmetry, which is the implication of moral communication. In the case of the neighbor's lawsuit, the plaintiff or the defendant could not communicate with people who made the accusation. If you take the meaning of "self-binding" and symmetry of moral communication as empirically observable phenomenon, these accusations are asymmetry. However, I think it is better to interpret these two concepts not as empirical concept, because there are still possibility to ask to those anonymous audiences that if they would follow the same condition that they indicate with their messages. In this sense, as Luhmann says, the symmetry of the conditions indicated by the moral code may still be present on both sides. Therefore, it is

better to assume that symmetry does not depend on whether or not restraint is actually produced. It can be said that the symmetry of "subjecting the ego and the other to the same conditions" is **symmetry as a condition of being shown**, not whether it is empirically produced.

This is where Nassehi's question arise, that there may be "asymmetrical moral communication". We can rephrase it as follows. Can we really say that the implications of self-bindingness are not undermined in any case? If so, in what cases is it undermined? And what kind of communication should it be viewed as? One example is those "anonymous accusations". Unlike accusations made face-to-face or those that can identify individuals, anonymous accusations are somewhat asymmetrical because it makes difficult to reply. As the example of the neighbor's lawsuit makes clear, anonymous accusations are often use very mean terms. That is possible because one's own position is not threatened.

Nassehi was probably aware of this point and questioned the constancy of this self-binding implication. Since this implication itself is unobservable, he may have redefined the presence or absence of observable restraint as a symmetry condition of moral communication. However, this definition has already been refuted in that, as we confirmed earlier, "it is not whether or not it is actually subject to the conditions of stated morality". And, if the implication of self-bindingness itself cannot be identified by observation, then it is also not identifiable that it is

undermined. Hence, the asymmetry does not originate there. Nor is it reasonable to dismiss the implications of self-bindingness just because it is unobservable. It is sufficiently valid as an empirical description of actual moral communication in practice, insofar as many moral accusations are just referred to empirically in the form of “you should …” and not mentioning to self-binding, but it is always open to the other persons to question it.

Double Symmetry

Hypothetical Symmetry and Conditional Symmetry

In conclusion, this asymmetry between ego and other-self can be considered as an asymmetry of the **individual's position** to participate in moral communication. The part that corresponds to the implications of self-binding for a person who is not a party to it naively remains undecided unless it is criticized as "what about you?". And as is easy to understand if we follow the case of the neighbor lawsuit, not everyone encounters an incident in which the child in their care dies. However, we can make moral statements such as "You shouldn't sue," **as if we could be a party to such a case, without knowing whether we would be in such a position.**

Let us think about this hypotheticality a little more. As I mentioned earlier, this

hypothetical reality is to establish the symmetry that is required for moral communication by hypothetically assuming that people with different positions in reality can be in the same position. This symmetry is symmetrical in two ways. One is the **hypothetical symmetry** of "if I were you" and the other is the **symmetry of the presented moral conditions** of the same moral conditions that are presented.

The two sides of the hypothetical symmetry and their effects

This hypothetical symmetry allows symmetry of communication, even if the circumstances and positions of the individuals are different. It is also an implication which makes the moral code to be supra-contextual code. In other words, for this implication that moral code can be used in any time, anyone, any cases. This hypothetical symmetry is necessary to enable people in any position or situation to show respect/disrespect for others in accordance with their own moral conditions.

If this hypothetical symmetry is absent, moral communication is not possible, since anyone is in different situation, life course, or position. In a functionally differentiated society, where individuals can often be in different situations and positions, if the moral code cannot be used for people who are in different positions, then the moral code would be useless. If there is no

hypothetical "if I were you," then all expressions of moral respect/ disrespect would end with one phrase: "You're not me, so please do not say anything". Of course, this statement itself can stand as a refutation of the actual expression of moral respect/ disrespect, but that does not mean that the entire moral code is untenable. Rather, the fact that such statements are made empirically is proof that we are communicating based on the hypothetical symmetry. In a neighbor's lawsuit, even if one did not have children, one could blame the plaintiff under the assumption that, "if s/he had children and they died in the care of an acquaintance".

But at the same time, this assumption, because of its hypothetical nature, does not guarantee in the strictest sense the symmetry of the moral condition presented. This seemingly self-evident fact is important. The uncertainty caused by the assumption, "if we were you," also leaves open the possibility of undermining the implications of the speaker's self-binding nature. It also allows for excessive praise and condemnation of others while expressing an "if only I were in your position" attitude, because in reality they are not (or are not expected to be). It is this hypothetical uncertainty that allows these anonymous accusations to be interpreted as if they were asymmetrical moral communications, which posed by Nassehi.

The accusations leveled against the plaintiffs in the neighbor lawsuit are thus written in a

fierce messages that, when transcribed through the ages, makes us feel to condemn the anonymous accusers - which, I should add, is the moral judgment of the writer. To accuse anonymously of "die" or "you are inhumane" in response to parents who have lost a child to a lawsuit for damages, contrary to the moral claims of the accusers ("It's returning the evil for good!", "I don't see how you can file a lawsuit!"), it appears to be a grossly immoral act.

If this were a face-to-face communication, the plaintiff's parents would have said, "Have you ever lost your own child in these circumstances? Do you have any idea how we feel? ", or they might have lobbed a rebuttal such as, "You don't know how we feel". Or, they may question the implications of hypothetical symmetry and self-bindingness. For example, "Do you really think you are in the same position as we do?" or "If you were really in the same position, could you assure us that you would not prosecute? "

Anonymous accusations make it impossible to ask such questions, which would be possible in face-to-face communication. It serves to emphasize that symmetry through the hypothetical is only hypothetical, that is, its fictional nature. At the same time, it would also strengthen the suspicion that there is no implication of self-binding nature. It could even be perceived as if the anonymous accusers were pretending to pay the minimum price for moral communication, when in fact they are not. Therefore, anonymous accusations may be perceived as

asymmetrical or immoral by those who observe them. In other words, judging anonymous accusations to be immoral is an indictment of the inappropriate use of that moral code.

It is important to note that this is **not because of anonymity**. The same is valid for moral communication in general. It is simply that anonymity emphasizes the question of the asymmetry of that communication. In fact, it is impossible to identify whether the hypothetical is not unjustified and whether the implications of self-bindingness are not undermined when an individual communicates with a moral code. It cannot be identified by observation or by the consequences of communication. It can only be questioned or confirmed in communication ("Are you really putting yourself in my shoes and saying that?", "If you were in the same situation, would you certainly do the same?" etc.). This obscurity, this inability to identify, however, will not be eliminated. For it is this obscurity that derives from the hypothetical symmetry that makes the moral code hyper-contextually usable.

In other words, this is the two sides of the coin of hypotheticality - the two sides of the coin itself.

Revisiting the system theory as a whole

Hypothetical Bridging

The hypothetical symmetry discovered in the previous section was necessary for the moral code because of the differences in individual positions - that is, the asymmetry of real life. I will now briefly consider the implications of this discovery for Luhmann's systems theory.

If we consider the shift from a hierarchical society to a functionally differentiated society as formulated by Luhmann, we can say that behind this hypothetical symmetry and real asymmetry, there is a potential possibility of symmetry. In a hierarchical society, being honorable and virtuous was attached to a higher hierarchy. In contrast, in a functionally differentiated society, that attachment would be stripped away, which meant that, in terms of moral respect/ disrespect, everyone could potentially be "respected" (or conversely, "despised"). Perhaps without this third symmetry that "symmetry as a potential", credibility for hypothetical symmetry would not be established. It is also because of the potential symmetry that moral communication can be binding, even on the peril of the implications of self-binding.

(a). hypothetical symmetry: symmetries that can be assumed "if I were in your position"

even though their positions and situations are different from each other.

(b). real asymmetry: the fact that each individual's actual position or situation is different.

(c). symmetry as potential: the belief that each individual is potentially an equal and interchangeable individual. The potential interchangeability of each individual's position since we are no longer a hierarchical society. Unlike a hierarchical society, where honor corresponded to high hierarchies, everyone has the potential to be potentially worthy of respect because morality no longer corresponds to status.

In terms of social evolution, we can say that moral communication is established by the overlap of these three layers, (a), (b), and (c). So, what Luhmann calls "symmetry as an implication of moral communication" was actually quite polysemous. Indeed, if we follow the above discussion carefully, we can say that symmetry must be implied as a condition for moral communication, but as a description of the operative form of moral communication, Luhmann's own description of it may have been a rough description.

On the contrary, this three-layered structure makes it easier to understand the implications of Luhmann's other descriptions. For example, the following passage about moral communication bridging the ego and the other self.

This distinction [citation note: the respect/ disrespect distinction] ... conditions (or at least requires) representation in such a way that it is commonly valid to the self and others. In this respect, moral communication is well suited to bridging the existential difference between the ego and the other-self (1989: 362).

This "bridging of the existential difference between ego and other-self" means that we can use the moral code to by (a) hypothetically assuming that we are in the other person's position, (c) on the basis of the symmetry of possibility. But in practice, however, (b) the asymmetry in reality does not disappear, so Luhmann is delicately describing it as "suitable for bridging" rather than "bridging".

Because of the functional differentiation of the individuals in modern society, it is practically impossible for them to be on the same footing as each other. This is what Luhmann means by "bridging the existential difference between the ego and the other self". By "suitable for bridging" means that the communication is itself made possible. Therefore, it does not depend on whether or not social constraints are actually empirically produced through moral communication. In other words, it is unobservable whether the two are really subject to the

same conditions, and it works even if the implications of self-bindingness remain unobservable.

This is because the production of constraint does not make the existential difference disappear.

Or, in another place, it is also expressed as follows.

In morality, the relationship between the two distinctions, that is, between the distinction between the ego and the other self and the distinction between respect and contempt, always plays an important role. The latter distinction is used to neutralize (neutralisieren) the former distinction. Or we might say that it is used to distract from the former distinction (1989:361-2).

It can be put this way. To communicate with the moral code was to refer to the ego-altruism as if we could, temporarily, stand on the same footing, (a) by hypothetical symmetry, (b) real asymmetry, (c) potential symmetry. So that communication could be made possible, for the time being, which would make (c) potential symmetry more believable, and at the same time talk about the differences in (b) real asymmetry.

Features of the moral code of hypercontextuality

In reviewing the definition of a moral code at the beginning of this paper, several characteristics were mentioned. Among other things, one of the characteristics that differentiate moral codes from other codes is the hyper-contextual nature of moral codes, which means that they can be used at any time and to anything, without constructing program or system. Its ability to be used without going through a system is a unique feature of only moral codes when compared to other functional systems. Luhmann argues that moral codes neither form nor program a system (Luhmann, 1989). But why is it possible to use codes in this way without going through a system? Now, after the analysis that has been done, we can say the following.

The reason why a moral code can be used without going through a system is that in modern society, (c) it is based on the symmetry that potentially everyone can be "respected/despised" and (b) it is based on the hypothetical that various individuals who are in different positions in reality would still (a) if they were in the position of others.

In other words, the reason why the moral code does not form a system and does not become programmed is because it goes through this three-layered structure of a-b-c, and it is strictly this multi-layered nature of the moral code that is the hypercontextuality of the moral code.

Luhmann's statement that the implication and conclusion of moral communication is symmetry can be redescribed in this way.

Discussion and Conclusion

This paper examines the symmetry condition as a core issue in Luhmann's moral code. As a conclusion, the "symmetry" condition mentioned by Luhmann has a double meaning. Namely, the first is symmetry, which, as mentioned above, presents the same conditions as valid for self and others when making moral judgments. This "implies self-binding," says Luhmann, implying that the symmetry is valid even if the self is not necessarily aware of it. In turn, this self-binding nature allows one to make binding and original moral judgments about others apart from the codes of the law and the rules of the organization. This is what makes the moral code different from other codes. However, one is not always in the same position or situation as others when making such judgments about them. Although they are not in the involved in the case themselves, they can bind others because of symmetry and self-binding.

This is where the need to articulate the second meaning of the symmetry condition arises. Why are the constraints and judgments possible? It is because even if the self and the other are in different social positions and situations, yet hypothetically, based on the counterfactual

hypothesis of "if I were in your (position)" . This is because people can and do make moral judgments based on the assumption of each other's positions. The second kind of symmetry, where self and others can be on an equal footing with each other no matter how different their situations are, is what we call "hypothetical symmetry" in this paper.

In modern society, the equality of people is assumed to be a prerequisite, as is evident in the human rights philosophy. However, it is the assumption of individual and context-dependent symmetry, not such a generally valid equality, that makes moral communication possible. It is not programmed like the code of other systems, and while it is unstable, it often has the power to bring the system's code to a halt as well.

We know that moral communication in today's society can sometimes run amok and even kill people, whether the accusations are in person or on social networking sites. However, critiquing the public's outbursts and exchange of blame by isolating only one aspect of such phenomena will remain superficial. What the redescription of the moral code in this paper reveals is the finding that the very conditions that allow for the use of the moral code as a form of communication in the first place allow for communication that can respect/disrespect others without any special support or qualification. Such an analysis has important implications as a theoretical underpinning.

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