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Limiting the Communication Community: A Transcendental-Pragmatic View on the Harm of Discriminatory Utterances (1)

Introduction

Discourse ethics grounds the ethics of communication by appealing to the rules of argumentative discourse. The foundations for this project were established by Karl-Otto Apel and Jürgen Habermas. Though their ideas differ in some respects because of Apel's transcendental approach and Habermas' consideration for broader social-scientific contexts, they agree on the overall vision of discourse ethics and raise the basic problem that guides that vision. According to Habermas, this problem is that “[t]he ‘existence’ or social currency of norms says nothing about whether the norms are valid. We must distinguish between the social fact that a norm is intersubjectively recognized and its worthiness to be recognized”(Habermas 1990, p. 61). Hence, arguments on discourse ethics, especially those prominent in Apel's transcendental-pragmatic version, have the general characteristic that they position the “ideal communication community” (Apel 1980, p. 280) as the regulative idea,¹ and sees real communication, which involves ethical problems, as privation thereof.

Thus, there are two main problems in Apel's discourse ethics. The first questions whether Apel's description of universal ideas, such as transcendental rules of discourse and the ideal communication community, captures the correct answers, and the second questions whether these universal tools can be applied to deal with real, concrete ethical problems.² The former relates to the traditional problem of grounding morality. Here, the famous argument of “ultimate grounding” and the controversies for and against it play a central role. Moreover, it is no exaggeration to say that the bulk of the discourse over transcendental pragmatics has concentrated on this issue. However, this paper focuses on the latter which is known as the “application problem” and questions the process of applying universal principles to individual cases.³

¹ Habermas' case is a bit complicated: in the universal pragmatics that he developed in the 1970s, he talks about “ideal speech situations” based on the similar idea as Apel's. In the 1980s, however, this idea disappeared in the theory of communicative action, and the “universalization principle” (Habermas [1990] 2007, p. 65) of norms became the main idea instead. And in the early 1990s, the two were unified (cf. Habermas [1993] 2005, pp. 54-60).

² Apel distinguishes between the divisions dealing with these problem spheres, calling them Part A and Part B, respectively.

³ Apel admits that the transcendental pragmatic universalization principle cannot singularly solve

At a specific level, the application problem asks “How can I (or we) ground obligations to x?” or “How can we ground moral responsibilities to x?” Simultaneously, this question is also linked to the question “Who (or what) are included in the x?” (cf. Werner 1997). Thus these questions will lead us to the question of social inclusion: who is or can be a party to the problem?

This aspect of the inclusion problem is particularly highlighted when discriminatory (racist, sexist, or any other kind of such) speech is brought into argumentative discourse. This speech undermines the inclusiveness of our society and threatens the dignity of members of the minority (cf. Waldron 2012, pp. 4-5). Thus, as a theory of communication and of communication community, Apelian transcendental pragmatics and discourse ethics should be able to respond to this problem. This paper is the first part of a series of essays that view and deal with discriminatory utterances from the perspective of transcendental-pragmatic discourse ethics. In the following sections, this study clarifies the kinds of discriminatory speech that concern transcendental pragmatic discourse ethics by generalizing the contents of the speech and the circumstances in which it is uttered (1). Furthermore, it outlines the relationship between ideal communication community, which is the central idea of transcendental pragmatics, and real communication communities, and extract points that should be considered in discriminatory speech (2). Finally, the study identifies issues that need to be resolved in subsequent discussions as preliminary findings.

1

What can we say about discriminatory speech from the standpoint of transcendental pragmatics and discourse ethics? The immediate answer would be that discriminatory speech is morally inappropriate, and therefore the validity of such speech cannot be redeemed.⁴ However, this is clearly a *petitio principii*. Whether an utterance is moral should be a matter that can be decided only through discourse. Nevertheless, some utterances are clearly not moral even before the hearer objects to their validity. It is true that there are some exceptional utterances and anomalies in discourse: for example, those that deny the system of discourse itself, or those that deny the fundamental moral principles of discourse, such as mutual recognition (cf. Apel 1980, p. 259). However, the fact that such utterances are not approved

specific problems. Hence, mediation by a teleological complementary principle oriented to our own interests is needed, which he argues is also ultimately based not on teleological rationality but on discursive rationality (cf. Apel 1986, pp. 26-29). My discussion in this paper, however, does not specifically take this additional argument by Apel into account.

⁴ For the idea of discursive redemption of validity claims, see Habermas (2001), pp. 85-103.

for validity in discourse would be a mere side effect. In other words, they will not be discursively redeemed because they will not be treated as a debatable topic in the first place.

Rather, transcendental pragmatics usually dismisses such anomalous utterances as performative contradictions. Transcendental pragmatics has always sought to confront skepticism, relativism, and fallibilism about the rules of discourse, and decisively cites the inconsistency in the semantic content of such skeptical utterances with the illocutionary dimension in a discourse. In other words, the act of uttering against the discourse partners with the content of questioning the rules of the discourse while already accepting and following the rules is nothing but a performative contradiction. The idea that discriminatory speech can be dismissed as a performative contradiction before it becomes an agenda in a discourse, rather than during it, seems to be an appropriate response from transcendental pragmatics. In fact, Apel, in his citation of Hintikka, includes the following illustration in one of the typical examples of performative contradiction:

(1) You do not exist. (Apel 1975, p. 265)

If we can assume the following utterance as a model of a typical discriminatory utterance, we may be able to treat it as a performative contradiction similar to, if not identical to, the utterance (1), and it would indeed be a contradiction as well.

(2) You do not exist in our communication community.

However, this answer was insufficient. This is because discriminatory utterances are not always made face-to-face to the target of discrimination, as in (2). Rather, the discriminatory speeches that undermine our society are often made to third parties, and not face-to-face. In other words, the kind of discriminatory speech we should expect is as follows:

(3) They do not exist in our communication community.

This utterance does not seem to be a performative contradiction, at least not in the same sense as in (1) and (2). The reason that (1) is a performative contradiction is that it is actually speaking to someone who should not exist. Similarly, (2) is a performative contradiction because it is actually speaking to someone who should not exist in the communication community in which the utterance is made. In contrast, in the case of (3), it is assumed that the person being addressed is not the individual or group being discussed but a third party who forms a communication community with the speaker. Therefore, there seems to be no

direct contradiction between the content of the utterance and the performance of the action.

However, this situation is somewhat more complicated. In our own daily lives, we usually belong to multiple communication communities and we communicate with others in multiple modes accordingly. Let us consider the case in which the speaker *s* speaks to hearer *h* about social group *g*, as in (3). Theoretically, there could be seven real communicative communities, S, H, G, SH, HG, SG, and SHG. However, for *s*'s utterance to *h* to be significant, *s* and *h* must at least belong to the same communication community. The communication community in which (3) is uttered is SH or SHG. However, it is possible that only one or both of them exist, and it is also possible that the utterance may be made in both communities at the same time.⁵ The following is a list of possible situations.

- (4) When the real communication community SH exists and SHG does not exist, *s* utters to *h* in SH, “*g* does not exist in our communication community.”
- (5) When the real communication community SHG exists and SH does not exist, *s* utters to *h* in SHG, “*g* does not exist in our communication community.”
- (6) When the real communication community SH and SHG exist, *s* utters to *h* in SH, “*g* does not exist in our communication community.”
- (7) When the real communication community SH and SHG exist, *s* utters to *h* in SHG, “*g* does not exist in our communication community.”
- (8) When the real communication community SH and SHG exist, *s* utters to *h* in both SH and SHG, “*g* does not exist in our communication community.”

If we can say that these are all performative contradictions, then we have identified a possible way to apply transcendental pragmatics in a discriminatory speech. However, if one of these situations cannot be said to be a performative contradiction, it would indicate that the speaker can use it as an excuse, facing transcendental-pragmatic criticism.

From the aforementioned cases, it appears that the cases where (3) is uttered in SHG, that is, (5), (7), and (8), are immediately performative contradictions. This is because (5), (7), and (8) are as if when persons *x*, *y*, and *z* are in a place together and are having a conversation together, as part of their conversation, *x* turns to *y* and says, “*z* doesn't exist.” However, (4) and (6) do not appear to be contradictions. Nevertheless, (4) does not seem to adequately capture the real situation. In general, discriminatory speech is subject to moral condemnation because it discriminates when an alternative of indiscrimination is possible. Indiscrimination means not only recognizing their existence, but also acknowledging them as members of

⁵ The case of “dogwhistles” (Saul [2018], p. 361) could be considered as this sort of utterance, though I cannot enter the details here.

a community with the same rights. For example, in a society where slavery once existed, citizens would have recognized the existence of slaves and would have talked with them on a daily basis. However, this does not mean that discrimination did not exist. Even after the recognition of citizenship and voting rights, discrimination still existed. In the present context, discrimination means not treating people as members of the same communication community and as having equal rights. In (4), the possibility of *s* entering into such a relationship with *g*, that is, forming SHG anew, is not considered from the beginning. In other words, (4) is inappropriate as an example of discriminatory speech that exists in a real society. Strictly speaking, (4) can be further subdivided according to whether or not SG exists. However, in any case, it is doubtful that such a situation is possible in reality, and even if it were, there is no room for moral condemnation since the possibility of *s* recognizing *g* as a member of the community formed by *s* and *h*, thereby forming SHG, is excluded.

Therefore, it is to be considered whether transcendental pragmatics can dismiss discriminatory utterances in the form of (3) and (6) as performative contradictions. The situation in (6) is merely a descriptive fact if we focus only on the semantic content of the utterance. If transcendental pragmatics is a theory applicable to the problem of discriminatory speech, it must be able to reject (6), and our current prospect is to argue that it should be dismissed as a performative contradiction.

2

In general, a performative contradiction is a contradiction between the semantic content of an utterance and its illocutionary dimension. However, unlike (1), (2), (5), (7), and (8), in (3) and (6), the semantic content of the utterance is not overtly contradictory to the illocutionary act. Therefore, in a very simple sense, (6) does not seem to be a performative contradiction.

Nevertheless, the scope of performative contradictions is much broader. If a claim made in a discourse denies the transcendental rules that make the discourse possible, then it is without exception a performative contradiction. This is because, in that case, the acceptance of the discourse's validity would mean that the discourse would become impossible. This emphasizes Apel's well-known discussion of ultimate grounding. In other words, to argue in a discourse that any of the rules of the discourse may be false, one must have already approved the supposedly false rules in terms of performance of speech acts. If it does not, then the utterance is not a serious contribution to the discourse, that is, an assertion, but a mere fiction, a joke, or (if it is still something serious) an act of self-denial or self-destruction (cf. Apel 1975, p. 269). In this sense, the transcendental rules of discourse are "uncircumventable

[unhintergehbar]” (Apel 1980, p. 251, my translation).

However, what are the transcendental rules of discourse? Are they something that we can precisely identify and pursue in a situation that has already been thrown into real communication? What rights or abilities do we have to do so? How meaningful is it to pursue the rules after the fact, so to speak, in a real situation where communication has already taken place? Many critics of transcendental pragmatics seem to share these questions.

Apel refers to the idea of an unlimited ideal communication community (p. 267) as a model for real communication communities when he talks about transcendental rules of discourse. The rules of this ideal community are transcendental rules for the real communication community. He does not claim to have a complete picture of the rules included in the ideal community or even that he can exhaustively list these rules. It is the task of transcendental pragmatics to clarify and ground their specific contents. Nevertheless, the aforementioned mutual recognition is identified as the core of such rules. Apel’s definition of mutual recognition is “that all the members mutually recognize each other as participants with equal rights in the discussion” (p. 259). Critics have also raised objections to this rule, but the following section proceeds on the assumption that Wolfgang Kuhlmann’s argument (Kuhlmann 1985; Kuhlmann 2009) has already cleared up this issue. Here, it is also assumed that the only rule for an ideal communication community is mutual recognition.

The performative contradiction that discriminatory speech of (1), (2), (5), (7), and (8) falls into can also be reconsidered as a performative contradiction to mutual recognition. This is because not recognizing the existence of the other party implies not recognizing the other party as a partner in the discourse with the same rights. However, what about (6)? Unlike the other cases, this utterance itself is not a part of the actual discussion with the person, who is the object of discrimination. Therefore, this does not seem to be a performative contradiction. However, it is a consequence that we are led only if we simply equate the real communication community with the ideal communication community, or the rules of both. Conventional discussions of performative contradictions do not seem to have focused on this difference. However, to answer the question of what can be said from the standpoint of transcendental pragmatics about discriminatory utterances such as (3), it will be necessary to consider this point. This is the aim of this study.

Apel describes the relationship between real and ideal communication communities as follows.

[T]o some extent, the ideal community is presupposed and even counterfactually anticipated *in* the real one, namely, as a real possibility of the real society, although the person who engages in argument is aware that (in most cases) the real community,

including himself, is far removed from being similar to the ideal community. [...] This is obviously a “contradiction” not in the metaphorical sense of formal logic but rather in the literal sense of the hitherto undecided dialectics of history. (Apel 1980, pp. 280-281)

According to Apel, we are bound by both the ideal and real rules of discourse, and the contradiction can only be sublated by the historical process of bringing the real community into agreement with the ideal community. This process can be expressed using Kant’s terms as follows: “the regulative principles in the long run turn out to be constitutive” (p. 88).

If there is such a dialectical contradiction between the rules of a real communication community and the rules of an ideal communication community, Apel’s mutual recognition also requires the synthesis of the two seemingly contradictory aspects. Ideally, it requires that all members of an already completed community recognize each other as partners with equal rights; however, from a practical point of view, it requires that every individual be aware of their community’s incompleteness and reorganize it to include those who are not members.

If we pay attention to the differences between real and ideal communities, we can also distinguish between the performative contradictions that we might commit in our discourses as follows.

- (9) The content of the utterance is consistent with the rules of the real communication community, but denies the rules of the ideal communication community.
- (10) The content of the utterance denies the rules of the real communication community but is consistent with the rules of the ideal communication community.
- (11) The content of the utterance denies the rules of a real communication community and ideal communication community.

From these, possibilities (10) and (11) can be excluded from the present discussion.⁶ This is because the question we are facing is what can be said from the standpoint of transcendental pragmatics to eliminate utterances like (6); to answer this question, we need

⁶ In the case of (10), Judith Butler’s important point about performative contradiction (Butler 1996, pp. 47-48) seems to apply, although I will not deal with it in detail since it is somewhat outside the scope of this paper. According to Butler, for example, when a minority who is discriminated against with respect to suffrage makes a political statement demanding suffrage, it is a performative contradiction. But obviously, it is not something to be dismissed as an irrational utterance; rather, it is an utterance that exposes the lack of universality in the customary rules of the community and has the potential for social change. For more on the importance of this point, see Funaba (2011).

to answer the question whether (6) is a performative contradiction. If an utterance such as (6) corresponds to (10) or (11), such a doubt would not have arisen in the first place.⁷ Therefore, only (9) needs to be considered for a real communication community in which the utterance is made. The question is, if (6) falls under (9), in what sense can it be a performative contradiction?

Preliminary Findings

Based on the discussion so far, the situation we envision is as follows.

(12) When the real communication community SH and SHG exist, in SH *s* utters to *h* “*g* does not exist in our communication community.” This utterance is consistent with the rules of SH; however, it denies mutual recognition.

There are at least two elements in this formulation that are not explicit: (a) what does mutual recognition imply about the attitude that individuals should take in response to the completeness and incompleteness of the community, and (b) what is the relationship between SH and SHG and their rules in this situation? The above two points should be taken into account when discussing how denying mutual recognition is a performative contradiction. These are the preliminary findings of this study.

The resolution of these issues will be addressed in a separate paper.

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⁷ Of course, the actual situation is most likely a bit more complicated. Here, however, I will simplify the situation to the minimum to dismiss the racist rhetoric.

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