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LAW AND MORALITY : THE LESSONS OF PLATO AND ARISTOTLE

The question of the relationship between law and morality has become a very important issue in contemporary philosophy. The task of exploring and defining this relationship is crucial in a world in which laws have become so numerous and complex and morality has become so relative and confused. Indeed, the very magnitude of laws and the intricacies of legal terminology have created a tremendous cloud of obscurity over the interdependence of legislation, justice and moral virtue. The practice and study of law have become so specialized that it is uncertain whether people even recognize a relationship between law and morality.

For Plato and Aristotle, the law is intimately connected with morality. In both their ethical and political writings, they see the establishment of laws as a necessary step in the pursuit of justice and the encouragement of virtue. Although the two great philosophers differ in their approach and in some of their conclusions, they are in agreement in their recognition of the basic relationship between ethics and politics, and morality and the law.

There seems to be a far less intense concern for the moral dimension of the law in today's world of politics and legislation. Perhaps the repeated failures of previous regimes have led many to the conviction that the legislation of morality is not only undesirable but also impossible. There exists also the lingering fear of a tyrannical suppression of individual freedom if any one group would seek to establish its moral system as the norm.

There are many very important issues at stake in this problem, but it is my conviction that the contemporary world can still learn from the wisdom of Plato and Aristotle. It might be impossible to return to the forms of government in the ancient Greek City-States,

but we can at least recapture some of the spirit of the ancient Greek philosophers. This was a spirit that took very seriously the state's role in the encouragement of justice and virtue. This article attempts to outline some of the most important insights of Plato and Aristotle that are relevant to our contemporary moral and political situation. The conclusion will consider the possibility of restoring the link the ancient philosophers saw between the law and morality.

1. Plato and the Essence of the Law

In Plato, there exists the constant effort to order the world of political and moral reality according to the world of Eternal Ideas or Forms. In regard to the law, we can say that Plato desires to model human law (*nomos*) after the divine law (*logos*). Indeed, there exists in Plato the suggestion that any community run by human law is destined to be imperfect. The rule of *nomos* is always inferior to the ideal society governed by divine wisdom.[1]

This gap between the real and the ideal in Plato's thought has caused many to lose confidence in his ability to guide nations in the practical application of his ideas. However, Plato's thought is very significant for understanding the true nature and function of human law. For him, human convention is not the source of the law. Human law does not receive its import from its human authors but rather from its ability to imitate and incarnate the eternal forms of justice and beauty. What this means is that people should not obey the laws because they are human conventions; rather they obey them because their leaders (in their wodom) have established laws that seek to create the harmonious interaction of the body politic that imitates the eternal idea of justice.

Socrates is Plato's great spokesman of the nature of justice. In *The Republic*, Socrates does not give a dogmatic definition of justice, but rather points the way to the understanding of justice in his discussion of what the perfect republic would be like. The suggestion is that justice exists in the harmony of all the members of the city working together, each fulfilling those tasks that they are best suited for. Thus, Socrates tells his pupils:

> Justice is that very thing, I think, or some form of it, which we laid down at first when we were founding the city, as necessary conduct in everything from beginning to end. And what we

1. Plato, *Laws* IV : 714 a and IV : 714 e.

> did lay down and often repeated, if you remember, was that each one must practise that one thing, of all in the city, for which his nature was best fitted.[2]

Justice, then, can be summed up in one word—harmony. The just city would be one in which all the members did their proper tasks well. In this way, not only would there be harmony in the city as a whole, but also there would be harmony in each individual since each individual would be doing that for which his nature is best suited.

This notion of harmony carries over into the Platonic notion of virtue. The virtuous man would be one who is in harmony with all his proper faculties and desires. He would be a man who has placed in correct order his lower needs and his higher yearnings. The opposite of the virtuous man would be the tyrant who is totally devoid of harmony. In Socrates' description of the tyrannical man, it is also clear that such a man is actually a slave to his own passions :

> The real tyrant is a real slave to all coaxings and slaveries of the basest; he must flatter the most worthless of all mankind, and never can satisfy his own desires in the least; no, he stands in direct need of most things and turns out to be truly a pauper if one knows how to estimate the soul as a whole.[3]

It is clear that for Plato, the notions of justice and virtue are not qualities that are arbitrary and relative. Although Plato does not give precise definitions, he does lead the way to our discovery of the forms of justice and virtue. Indeed, the road to the understanding of justice and virtue is the same as the road to philosophical wisdom. This is why Plato insists that only a philosopher can justly rule a city. Only a philosopher would have a sense of what justice and virtue are in their eternal forms. Finally, only a philosopher could establish those laws that would be truly just and truly lead to virtue.

Law and morality are, therefore, ultimately connected with the education of men and with virtue. The truly just state would have laws that encourage justice and discourage injustice. It would not have laws that protect the power of any political party or any special group of people. Rather, laws would always be instituted with justice and the common good in mind.

2. Plato, *The Republic* in the *Great Dialogues of Plato* (trans. W. H. D. Rouse), New American Library (New York, 1956), p. 232.
3. *Ibid.*, p. 378.

The most important point, however, is that in the ideal state the rulers do not create morality in the sense of deciding by themselves what is right and wrong. Rather, they institute laws that correspond to the eternal form of justice. Laws, therefore, do not legislate morality rather, they attempt to lead men to morality. The standards of morality are transcendent. Laws exist to make these transcendent standards immanent.

The practical application of Plato's thought is difficult. This is so especially in finding the appropriate men of wisdom to institute just laws. There is also the question of the presence of evil in human affairs. Plato would seem to think that the removal of ignorance would suffice to lead men out of evil. However, there still exists the lingering shadow of malice and corruption that at times seems so firmly entrenched in human affairs that even the greatest program of moral education is doomed to failure.

In any case, there are some important insights of Plato from which we could all learn. His overall spirit should inspire us to a more serious awareness of the moral dimension of the law. In this regard, two important lessons can be drawn : (1) Justice is not some thing arbitrary and relative; *nomos* depends upon *logos*; there are certain innate or eternal norms to be followed. The goal of the state's laws should be the common good or the harmonious interaction of all the members of the state. Individual rights should not take precedence over the common good.

The first lesson is one that many contemporary minds find difficult to accept. Plato has a transcendent foundation to his understanding of justice. The rejection of both theistic and metaphysical norms of morality has resulted in a moral relativism in many contemporary societies. However, what seems to be a guarantee of individual freedom (*i.e.*, the separation of law from morality) might actually lead to its disappearance. For if there is no transcendent norm of justice to be appealed to, what argument can be used to prevent a tyrant or a group of tyrants from imposing their self-inspired norms of behaviour on the people. The notion of Thrasymachus that might is right might become a dreadful reality.

The second lesson is also one that many legal systems have tended to ignore. Though one speaks of the common good, very often the laws have served to protect one interest group against another. This

is so especially in contemporary America where the function of a lawyer is all too often to take up the grievance of one individual against another. This in itself is not bad, but when high fees are charged, legal protection can become a monetary affair. Lawyers are then tempted to becoming legal mercenaries instead of protectors of justice.

To be sure, this is not to deny that individual rights deserve protection. Indeed, the grievance of one individual is very often the grievance of many others. However, the general systems of law often lack the spirit of working towards the common good. Even in communist and socialist regimes there are certain privileged groups that receive special attention under the law. Plato was not for a uniformity of roles (for he does recognize that certain people are more suited for one task instead of another). But he was in favour of all members of the state working towards the common good. For an individual to refuse to recognize this goal is dangerous. For a legal system to ignore the need for overall harmony is fatal.

2. Aristotle and Human Nature

In Plato, the great need is for men to acquire a sense of the transcendent form of justice in order that they may be able to regulate human laws according to its guiding light. Aristotle does not deny a norm of justice, but his mode of discovery is more empirical than transcendent. He is more concerned with the concrete, particular circumstances of human activity than he is with the general and ideal qualities of a human society. In this regard, we might say that Aristotle conducts a study of human nature through a combination of observation, experience and reason. His is a biological and teleological standpoint. For Aristotle, it is not only important to observe human activity but it is also important to be clear about the goals of each particular activity.

In regard to law and morality, therefore, Aristotle's greatest contribution is his awareness of human nature. In his observations of human activity, he notes that man is a political animal. As he writes in *The Politics* : " Clearly, then, the state is natural, and man is by nature an animal designed for living in states. "[4]

It is part of the nature of man to live in communities and to have laws to regulate those communities. However, Aristotle also indi-

4. Aristotle, *The Politics* in *the Philosophy of Aristotle* (trans. A. E. Wardman and J. L. Creed), New American Library (New York, 1963), p. 384.

cates that human nature is governed by reason and that there is in human nature, as with all natural things, an inner dynamism to be as "fine and good as possible."[5] This observation reveals the inherent dynamism of the nature of man : to perform his activities well "in accordance with reason; or at least not without reason."[6] What is needed, first, is to perform those activities that are most suited for a rational animal that lives in political relationships with other men. Secondly, it is necessary for happiness that every human being strive to achieve excellence in his or her special skill or function. In this way, one's nature is fulfilled in the activity of being human.

All this might seem very simple, but for Aristotle it certainly is not. He is the philosopher *par excellence* of experience, and he makes it very clear that one does not achieve excellence without training and the inculcation of proper habits. This, perhaps, makes his greatest difference from Plato. Unlike his mentor, Aristotle does not see virtue as the result of proper knowledge but of proper habits. His statements in this regard could not be clearer : "Moral virtue is produced by habit, which is why it is called 'moral,' a word only slightly different from our word for habit."[7] Or again : "The virtues, then, are neither innate nor contrary to nature. They come to be because we are fitted by nature to receive them; but we perfect them by training or habit."[8]

The Aristotelian understanding of morality requires a definite programme of moral education. He is one with Plato in this regard. However, Aristotle's programme would not be so much philosophical as it would be practical. Indeed, Aristotle makes it clear that the art of ruling is just that, an art or a craft in the practical sense. Those most fit to rule would be those who are not only wise in the general sense but those who have learned the art of politics through experience. Aristotle makes it clear that the characteristics of wisdom and practical sense are different : "Clearly, then, wisdom and political science are not identical. If one means by wisdom the skill that deals with our own welfare, then there will be a number of "wisdoms." There is no single craft that deals with the good of all animate things; there is a different one for each."[9]

5. Aristotle in op. cit. *The Ethics*, p. 296.
6. *Ibid.*, p. 293.
7. *Ibid.*, p. 303.
8. *Ibid.*
9. p. 348.

The important point here is that no man is born a ruler, but he must acquire the necessary experience and practical sense to rule well. The same is true of virtue and happiness. People do not become virtuous or even happy by chance. They learn through experience how to conduct their lives in such a manner that they acquire moral virtue and thus fulfil their nature. For Aristotle, this almost always means having a sense of moderation or aiming at the mean. As he points out : "In feeling fear, confidence, desire, pity, and in general pleasure and pain, one can feel too much or too little; and both extremes are wrong. The mean and the good is feeling at the right time, about the right things, in relation to the right people, and for the right reason; and the mean and the good are the task of virtue."[10]

Aristotle recognizes that this sense of moderation will allow people to lead happy, healthy lives according to their human nature. But he also realizes how easy it is, especially for the young, to give oneself over to excess. This, for Aristotle, means that laws are needed to ensure the proper moral training from youth onwards. In this regard, he is most realistic :

> It is hard to get the approach to virtue from youth onwards, unless you are brought up under that kind of law. Living temperately, with restraint, is not pleasant for most people, especially for the young. Therefore, their training and their pursuits should be matters arranged by the laws; they will not be painful when they have become matters of habit. But perhaps it is not enough to get the right training and care when young. Since we have to practise these things habitually when grown up, we shall need laws about adult life too, and in general for the whole of human life; for the majority obey necessity rather than reason, and punishment rather than honour."[11]

Aristotle shows a deep understanding of human nature in this appraisal of the need for laws and moral training. He also shows a sensitivity to the need for a penal code for those who have difficulty in learning to curb their excesses and live according to the mean. Aristotle clearly recognizes that the best thing to do is for the state to provide moral training through laws and penalties. However, he is also aware that most states (with Sparta and a few others as exceptions) neglect their responsibilities in regard to moral training. When this

10. *Ibid.*, p. 309.
11. *Ibid.*, p. 375.

occurs, Aristotle feels that the only solution is the private effort of each individual :

> Now, the best course is for training to be the subject of state control of the right kind; but when states neglect these matters, it seems fitting for each individual himself to contribute toward the virtue of his own children and friends···Just as laws and national character are powerful influences in states, so customs and a father's example and precept are powerful influences in the home, still more so in fact because of family ties and the benefits he confers.[12]

The most important point here is that Aristotle recognizes the interaction of law and morality. He clearly indicates that the state should take the lead in moral training through proper laws and proper education, but he realizes that when states neglect this function it is up to private citizens to make every effort, especially in family life, to ensure the moral education of the state.

Aristotle's understanding of human nature is very important for this discussion. He sees man, basically, as a rational animal that is most suited to a life in the *polis* or at least a life of relationships that are political in nature. The virtues that Aristotle would praise are therefore those that enable a man to get along well in the world of human interaction and politics. Indeed, his description of the " great-souled " man can be seen as the description of the man who knows how to conduct himself in the world of political and social affairs. He is a man of self-confidence and ease, a man of independence, generosity and courage.

However, Aristotle also recognizes that human nature is rational as well as political. He, therefore, indicates that the supreme fulfilment of human nature lies in a life of reason or contemplation. He sees the life of contemplation as a life that is " more than human "[13] but a life that is nevertheless the most happy. He points out that all other human activities, even those in accordance with virtue, aim at some end : " But the activity of the mind—contemplation—seems to be outstanding in its seriousness, and it has no goal apart from itself. It has its own pleasure (which increases with activity), and it has its own sufficiency. "[14]

12. *Ibid.*, pp. 375–376.
13. *Ibid.*, p. 371.
14. *Ibid.*, p. 370.

Aristotle does suggest that this life of contemplation is not attained by the majority of men. But he states very clearly that this call to contemplation is proper to the highest calling of human nature. As he explains : " What is by nature proper to a thing is best and most pleasant for that thing. The life of reason will be best for man, then, if reason is what is truly man. That sort of man will be the happiest. "[15] It might seem strange that someone like Aristotle, who is so practical in many ways, should extol the virtue of contemplation. However, if we keep in mind his view that human nature is political and rational, Aristotle's conclusion that all " the attributes of the blessed man seem to be present in this activity (contemplation) "[16] follows logically.

The truth of the matter is that Aristotle would not see the life of contemplation as something opposed to the life of political virtue. He does not give any indication of a desire to set up a sort of monastic community of those dedicated to the life of contemplation. Nor does he indicate that those who are the most contemplative would make the best rulers because, for him, the art of ruling is some thing that demands experience. His recognition of the value of contemplation is simply the completion of his view of human nature. The man of contemplation should not ignore his political and social responsibilities for that would mean ignoring part of his humanity. Instead, the man of contemplation should be someone who has fulfilled his nature in its social and political dimensions and now desires to complete his nature in its rational dimension. However, only a few people actually pursue the life of contemplation and even they do this only occasionally when the demands of life are not pressing.

3. Conclusion : The Effort to Restore Morality to the Law's Dimension

From what has been said above, it should be clear that both Plato and Aristotle saw the moral dimension of human law. Many others, after them, have also recognised the need for the state to take the lead in moral training and education. Classical Chinese culture saw the study of the moral writings of the sages as the fundamental part of education. In Christian Medieval Europe, training in the moral virtues of the Christian faith was thought to be the responsibility of the entire culture. For the Jews, the study of the Torah is thought to be essential not only for the religious heritage it communicates but

15. *Ibid.*, p. 371.
16. *Ibid.*, p. 370.

also for the moral education (which is essential to the heritage) provided. Even in the concept of a liberal education, one finds a moral dimension. The notion of a liberally educated gentleman suggests the image of someone who not only possesses academic learning but also a sense of how to conduct himself well. In recent times, the programmes of training in Red China and the Soviet Union have included training young people for their service to the state and their fellow-men. Whether this service to the state corresponds to the ideal of virtue is a moot point, but at least there is the awareness of the need for preparing someone for a life in the political and social dimensions.

In the history of the United States, there have been several attempts to provide state leadership in moral education. The pluarily of religions and the pluarilty of ethnic backgrounds often made this a very sensitive issue. Until recent years, however, one could detect at least an underlying ethos of education in the civic virtues of patriotism and "fair play." Sometimes, the Puritanical spirit became too influential as in the the case of Prohibition and some of the "blue laws." However, the awareness of the state's responsibility in moral matter has been part of American history.

The contemporary scene is something quite different. There seems to be an overwhelming pessimism in the state's ability to "legislate morality." Individualism and personal freedom have become dominant factors in the separation of morality from human law. Yet there exists an awareness of the moral dimension of politics in general. Indeed, the vast progress that has been made in the rights of women and minority groups could not have been initiated if the connection between public policy and morality did not exist. Also, the recent clamour of Watergate has made the need for the moral behaviour of public officials quite acute.

In relation to Plato and Aristotle, though, there seems to be a general disregard for the state's responsibility for the moral dimension of life. One line of reasoning for justifying this state of affairs is that both the reality of our pluralistic society and the American constitutional guarantee of freedom of speech militate against any public policy of moral education. The law has a moral function in the basic sense of keeping people from killing, stealing and slandering one another; but in terms of cultivating moral virtues, the law can and should not have any role.

This solution seems to be satisfacory to many in contemporary America and in many other countries today. The idea that private morality should remain private and that the state should only regulate public affairs has a great deal of support among legislators and citizens alike. This solution would be satisfactory if private citizens follow the advice of Aristotle and take up the responsibility for moral education neglected by the state. However, the increase in crime, vandalism, drug addiction and the deterioration of family life indicate that this is not the case.

What then can be done ? My suggestions here can only be tentative, but I believe they deserve some consideration : (1) There is the need for philosophers to reconsider Plato's notion of an ideal of justice and virtue. There seems to be an epistemological gap in regard to goals of moral philosophy and the tools it employs. How is it possible to talk about the good and the just if there are no transcendent norms for such concepts ? Moreover, on the political level, how is it possible to talk about human rights if the standards for justice are entirely relative ? (2) There is a great need to reconsider the natural law implied by Aristotle's notion of human nature. What does it mean to be human ? How are we to fulfil our nature ? What qualities and activities will lead to human happiness ? If philosophers would consider these fundamental questions, perhaps agreement could be reached on a sort of basic human morality that is acceptable to all people regardless of their religious or political pursuasion; and finally (3) There is the need to think of creative ways of instituting that type of state leadership in moral education that both Plato and Aristotle recommend. In many ways, this effort depends upon our ability to follow the first two suggestions. It is only if norms of virtue and morality are accepted, that a policy of moral education can be begun, and it is only if a certain understanding of human nature is present, that one could begin training people to be virtuous and happy humans.

The lessons of Plato and Aristotle are somewhat difficult to accept because they demand that we sacrifice our own private interests for the benefit of the common good. But if we are to complain about the breakdown in morality in the contemporary world, we must also be ready to pay the price for moral education and the state's role in moral education. This would mean our own personal commitment to a moral life and our desire to lead others to justice and virtue. Laws are needed for those who must learn the proper habits and the proper

moderation of their appetites. But this training can only be provided by those who have the experience and knowledge of what human goodness and virtue are. If there is to be moral leadership from either the state or the efforts of private citizen, the only place to start is with ourselves and a dedication to human goodness and virtue.