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NORMATIVE GROUND OF THE JUDGMENT OF MORAL OBLIGATION

Can a judgment of moral obligation, e.g., 'I ought to do X,' where X stands for a specific moral action, be true or false? Is such a judgment empirical, and if so, in what sense? What method or mental operation is involved in the verification of such a judgment? This line of questioning arises because: (1) Unlike a scientific statement, which merely describes what is the case, a judgment of obligation is normative. It does not report a state of affairs; it prescribes an action in the future, and this quality of prescription is what makes it normative, *de jure* judgment. The normative content, it is held, is not empirical or sensuous in character. It is a unique kind of reality. Thus the question arises: whence does the judgment of obligation derive its power of prescription? Can we justify it empirically? Can we analyse 'ought' in terms of non-moral or factual predicates? For, if 'ought' designates a non-empirical source or principle, and if it is the ground of the judgment of obligation, then it would be extremely difficult, if not impossible, to say that the judgment is amenable to empirical verification or that it is corrigible. (2) In making a judgment of obligation a person feels compelled, obliged, to perform a certain act. He feels that he ought to perform the act regardless of whether or not its consequences are pleasant or agreeable. This feeling, which seems to correspond to 'ought' qua unique reality, somehow becomes actual in the process of moral evaluation. So we ask: What is the source of this feeling? Is it distinctive and separate from the psycho-physical nature of the moral agent? Is it, for example, a faculty or sense naturally or divinely implanted in man?

In this paper I intend to argue that (1) though the judgment of obligation is not scientific—the way, for example a statement in physics is—and though it is normative, evaluative, in the sense that it prescribes a course of action, it is nevertheless empirical and thus can be subject,

at least in principle, to empirical verification; (2) the ground of moral obligation is not a principle, a quality, of some kind of metaphysical reality external to the moral situation but the claim created by the inner demand of the moral situation. The phenomenon of 'ought' emerges as a unique moral consciousness in the process of moral reflection.

I

The judgment of obligation is, to begin with, a statement about the world; it is occasioned by a problem and a demand for decision, for action. When a person says, 'I ought to do X,' he is under obligation to perform a specific act in the near or remote future. The act is expected to be right, or good, and well-reasoned. And in order for these two conditions to be satisfied the moral agent should be armed with moral insight, that is, with adequate knowledge of what is moral or right, and with a reasonable degree of intelligence by which he is able to grasp the facts of the moral situation and then, on the basis of this grasp, choose the right course of action. Next, the judgment of obligation is made in, what I shall call, a 'moral situation.' By this concept I mean the factors which contribute, directly or indirectly, to the formation of the judgment: the agent's character—his emotions, ideas, values, interests, hopes, material well-being, habits, etc.; the social norms and accepted modes of behaviour; the factual aspects of the moral problem at hand for example, if it is a question of euthanasia, what are the financial, family, medical, legal, etc., facts which are causally related to the choice of the prospective act? Facts like these constitute the structure of the moral situation; they play a crucial role in the formation of the moral judgment. The point which merits emphasis here is that the moral situation is always changing, unique; no two situations are identical. This is due to the fact that the conditions of individual and social life are constantly changing. Accordingly, the judgment of obligation is always a creative act.

Now let us take a concrete situation of moral obligation. Consider the case of a young girl who is eighteen years old and who, despite her will or desire, is raped by a ruthless and base man. And suppose that the victim discovered that she is pregnant only three or four weeks after the crime has taken place. This certainly is a moral problem; it also creates a demand for action. The problem, however, can be articulated in the following question: what ought I to do? Ought I

to perform an operation of abortion? In a case like this it would be foolish simply to appeal to one's conscience, as if this conscience prescribes on its own what we ought to do apart from a consideration of the facts of the case; or to a moral principle, for example, *Thou Shalt not Kill!*, *Promote in whatever you do the maximum of happiness in your life and the life of others!* etc. It would be foolish to appeal to such sources unreflectively primarily because they are both general and vague and do not contain any specific instruction on how to act in this case, which has occurred for the first time in the history of the world. It would be awkward, moreover, to say, 'I ought not to perform an operation of abortion,' because the moral law says, '*Do not Kill!*', and since this is an act of killing, it would therefore be immoral to perform an operation of abortion, because it is a question whether the destruction of the foetus at this point and under the present circumstances is an act of killing, *i.e.*, murder. Also, is the foetus 'human', and does its destruction constitute an act of murder? But this is not the only question which we should consider. We should also examine the hopes, desires, psychological strength, and inclinations of the girl; we should consider further her material well-being, for example, by asking such questions as, is she poor? Can she support herself financially? Is she still a student? Is she the only child of her family? We should, moreover, evaluate her capacity to have a child—does she need one? Is she qualified to take care of it? Is she emotionally ready for it? Can she perform the task by herself? Under what conditions would any choice we make conform to the idea of Right or Good? And so on.

We cannot, it seems to me, decide on what ought to be done unless we first assess all these and some other relevant facts; and the necessity of considering them is what makes the judgment of obligation essentially empirical in character. But what role do these facts play in the determination of the judgment? What is the basis of the obligation? Is it (1) a unique quality¹ or (2) a principle from which the judgment

1. A number of contemporary philosophers hold that the ground of the judgment of obligation is a unique property which the moral agent intuits in the moment of moral decision; see, *e.g.*, G. E. Moore, *Principia Ethica* (Cambridge: The University Press, 1962); W. D. Ross, *The Right and the Good* (Oxford: at the Clarendon Press, 1967); A. C. Ewing, *Ethics* (The Macmillan Co., 1953). For a traditional formulation of this position, see R. Price, *A Review of the Principal Questions of Morals* (Oxford University Press, 1938).

is 'deduced' ? We cannot, firstly, say that the judgment is directly deduced from a principle for at least three reasons : (1) By its very nature the principle is general, abstract; it does not have specific reference to the situations of experience. The latter are always variable, unique. So it is difficult, almost impossible, to deduce from a general principle a judgment about a fact which has not yet taken place. (2) Principles are not absolute commands and their authority is not final. At best they are, or can be, good, effective guides in looking at experience, for they express the essence of past moral conduct. But moral consciousness is a dynamic reality; it is constantly changing and growing. Consequently, principles are constantly subject to further improvement or modification.³ (3) In performing a moral action we do not argue, infer, or deduce our judgment. We simply try to discover what is good or right, and this on the basis of the facts already established or the conception of moral value. We behave in actual life more practically than theoretically. Broadly speaking, man first engages in right or good action and then reflects on the principles of good and right conduct.⁴ The attempt to deduce the judgment of obligation from a higher principle reduces the moral experience, and consequently the judgment itself, to an act of theoretical knowledge. But we do know from experience that this is not the case. The judgment of obligation is (a) evaluative, for it appraises the rightness or goodness of a concrete act; (b) it points to the future, to an event that *will* take place. This aspect makes it very difficult to claim precise knowledge of its nature or deduce it from a general principle.

We cannot, secondly, accept the claim that the ground of the judgment of obligation is a simple non-empirical property. Advocates

2. For emphasis on the primacy of principle in the formation of the judgment of obligation, see Arthur Pap, *An Introduction to the Philosophy of Science* (The Free Press of Glencoe, 1962), pp. 410 ff.; W. D. Hudson, ed., *The Is-Ought Question* (New York: The Macmillan Co., 1969); I. Kant, *Fundamental Principles of the Metaphysics of Morals*, tr. by Abbott (The Library of Liberal Arts, 1949). An evaluation of this position has been cogently formulated by thinkers like J. Dewey, *Theory of the Moral Life* (New York: Holt Rinehart and Winston, 1960); P. H. Nowell-Smith, *Ethics* (Penguin Books, 1959); S. Toulmin, *Reason in Ethics* (Cambridge University Press, 1960).
3. Among the process thinkers, A. N. Whitehead provides a strong metaphysical basis for this claim. See his *Adventures of Ideas* (Mentor Books, 1960), *Modes of Thought* (New York: The Free Press, 1968), pp. 13 ff.
4. Cf. W. D. Ross, *Foundations of Ethics* (Oxford: The Clarendon Press, 1939); Aristotle, *Nicomachean Ethics*, 1155A; J. Butler, *Fifteen Sermons on Human Nature* (London, 1729).

of this position maintain that in a given moral situation a person does not perceive or introspect this quality, but by a special act of awareness he 'intuits' it. This intuition becomes the basis of obligation. Men like G. E. Moore stress, however, that though this property is simple and indefinable it is not intuited in isolation, barely, but as belonging to the moral situation. This position suffers from three basic defects: (1) A person who does not have a conception of some knowledge of 'right' or 'good' would not be able to intuit these properties in a given situation. In a way, intuition of what ought to be done now depends on the knowledge of Right which one acquired in past experiences. But is this knowledge sufficient? As indicated before, the moral situation is always novel; thus the aspects, demands, consequences, etc., which it entails vary. Therefore, past intuitive experiences, which can easily be forgotten, are not enough to intuit the moral property of the present situation.⁵ (2) If 'right' is indefinable, then we cannot give reasons why a certain act is right; for the reasons which we advance would in a strict sense define the rightness of the act. For example, if 'X is right' is translated as 'X is right, because X is an act promoting goodness, love, etc.' then the rightness of X would be defined in terms of promoting goodness, love, etc. But if the quality of rightness is indefinable, but available only to direct intuition, we would not be able to settle moral disagreements or correct a judgment if it happens to be mistaken. If I claim, for example, that I have intuited X as a duty, and if I feel certain that my intuition is sound, how would anyone contest my claim? (3) What is the ontological status of this quality of rightness, or goodness? That is, what sort of reality is it? We are told that it is a non-empirical quality; but is it an essence or a concept of some kind? I may be begging the question, though I do not think that I am, for we are told at the outset that it is indefinable. But my concern is this: If this quality is something we cannot define, and consequently we cannot communicate, discourse about, or verify in experience, then it cannot be a strong, rational basis for the judgment of moral obligation.

II

I have considered these two approaches to the ground of obligation primarily because I am anxious to focus attention on the fact that our conception of the judgment of obligation—that is, whether

5. Cf. Prof. P. F. Strawson's treatment of this point in "Ethical Intuitionism" *Philosophy*. XXIV, No. 88, 1949.

or not it is scientific, corrigible, etc.—is to a measurable extent determined by our analysis of its ground. Accordingly, if this ground is an external power or principle, for example, a god on a mountain-top, absolute law, conscience, the state, the church, etc., the very meaning of moral action would be undermined because then (1) moral rules and injunctions would be indifferent to the individual as a concrete being. (2) Moral behaviour would not any more be creative, autonomous; on the contrary, the individual would act simply out of compulsion or fear of external authority. But such behaviour is not moral; for being free, at least potentially, is a necessary condition for moral conduct. (3) The individual would be subservient to the moral authority or law, but, as Hegel reminded us some time ago, the law is made for man and not man for the law. 'Right,' 'good,' 'justice,' and the rest of the moral values, derive their meaning from a consideration of the end of conduct. "The first step in ethics," Dewey writes, "is to fix firmly in mind the idea that the term moral does not mean any special or peculiar kind of conduct, but simply means practice and action, conduct viewed not partially but in connection with the end which it realizes."⁶ Thus 'ought' in a judgment like, 'I ought to do X,' is not a ready-made reality or concept; its meaning is creatively determined in the process of moral evaluation. One feels obliged to behave in a certain way, not because of an external authority, but because of the claim, demand, created by the present moral situation: "We ought to do so and so simply because of the existing practical situation; because of the relationships in which we find ourselves."⁷ Thus 'ought' emerges in moral experience; it emerges because of the unique interrelationships of the facts which constitute the situation. It follows from this that before our victim, whom I cited earlier, makes a judgment on what she ought to do she is to understand and assess the facts which are related to her problem. The facts become, in a sense, the basis of her judgment; they are also the basis of the feeling of obligation. So, given any concrete moral situation, there would be for it only one right course of action. This is the main reason why we should insist that the judgment of obligation is corrigible, verifiable, and that it is empirical in nature.⁸

6. J. Dewey, *Outlines of a Critical Theory of Ethics in the Early Works of John Dewey* (Southern Illinois University Press, 1969), Vol. 3, p. 342.

7. J. Dewey, "Moral Theory and Practice," in *The Early Works of John Dewey*, Vol. 3, p. 105.

8. Cf. K. Baier, *The Moral Point of View*, abridged version (New York: The Random House, 1965), pp. 138 ff.

We should now ask : by what process or mental operation do we form the judgment of obligation ? In what sense is it empirical or factual ? Let me first point out that in deciding what he ought to do a person should seek to realize what is right in his act; and in a sense the realization of the idea of Right is what confers the status of obligation on the judgment. Right is, therefore, the principle of duty. I should hasten to add, however, that the idea of Right is not divorced from the concept of good; on the contrary, it is an expression of the Common Good which the individual and society try to achieve. And since society in all its aspects and institutions is changing and progressive the content of the Good, or its meaning, is never final but always an expression of the ideal and values striven for by the community. Thus, what ought to be done in a concrete situation is a task to be achieved in the process of moral reflection. The ability of the moral agent to discover the *right* course of action is what gives rise to 'ought' as a phenomenon of moral obligation; for consciousness of what is right, and commitment to it, is what creates and arouses the feeling of moral obligation. This feeling becomes the basis of the judgment of obligation. Hence though 'ought' is not a metaphysical or supra-sensible reality it is not identical with 'is' or the facts of the moral situation. It simply emerges as a unique phenomenon of moral consciousness, that is, as a consciousness that an act is right. This account resolves, I think, the debate on the is-ought question which has become so frequent in contemporary ethical discussions, primarily because there is in fact no 'ought,' as a pre-formed reality or concept, to be related or reduced to 'is'.⁹

Thus the distinction between 'is' and 'ought' is not logical or semantical but ontological; it is a distinction between two types of activity, description and evaluation. In description, which is the basic feature of enquiry in the natural sciences, we state, report, what is the case; we do not attempt to change or remove conduct. In evaluation we (1) know and (2) appraise the facts, and then on the basis of this activity we judge what ought to be done. Now what is the distinctive nature of this activity ?

The mental operation involved in forming the judgment of obligation is 'reflective intuition'. I say 'intuition' because in a given moral situation a person directly, immediately, perceives what he ought to do. What he perceives, however, is not a quality, concept,

9. Cf. M. H. Mitias, "Dewey on Moral Obligation," *The Southwestern Journal of Philosophy*, Vol. VII, No. 1, 1976.

or some kind of feeling but *that* a prospective act is *right* and as such it ought to be done. I stress immediacy because intuition is neither discursive nor deductive in character but the result of (1) rational insight into the moral demand created by the factual elements which constitute the structure of the moral situation, and (2) the moral insight which a person enjoys at the moment of moral decision. Thus though immediate, intuition is a critical, reflective, deliberative activity; for, again, the moral agent cannot pronounce his judgment unless he (1) *knows* the facts which are causally related to the process of moral evaluation, and (2) evaluates these facts, and this in terms of the established concept of goodness and his sense of moral perfection. The aim of this activity is to discover the better or worse act. We are not here interested in discovering knowledge or truth as such but a certain kind of value, a value that will determine what the character *will be* and not what it will have. The main task of the moral agent in this process is to translate the general nature of goodness or rightness into concrete content; and only when this happens does the prospective act conform to the idea of right and goodness and, consequently, acquires its moral aspect. This act of translation is the very heart of moral intuition.

It should be clear from what has been said so far that the judgment of obligation is empirical, not only because, as we have seen, it is based on the factual content of the moral situation, but also because in its very essence it is *practical*, that is, it is intended to produce a definite act. But in what sense is it empirical? Does the fact that it is also normative undermine its empirical nature? No; for when we say that the judgment is normative we mean that it *prescribes* a course of action; that is, it makes a claim upon the moral agent. But the claim, usually signified by 'ought', emerges, as we saw, in the midst of moral evaluation. I am aware that the determination of what ought to be done is never absolutely true, primarily because our knowledge and assessment of the facts are never final or complete. Yet despite this sort of defect, which is generally characteristic of what we do in ordinary life, the judgment of obligation is corrigible; and it is corrigible, at least *in principle*, because the conditions under which it is made are factual and always subject to rational investigation whether in respect of our beliefs or consideration of the facts which are crucial for the judgment. Thus when one makes a judgment it should be possible for his judgment to be contested, theoretically if not practically. And the criteria by which we test the general validity of the judgment are: (1) soundness of rational consideration of the facts and the possible consequences of the prospective act; (2) conformity

of the chosen act to the idea of goodness or rightness as recognized by reason and social wisdom. The worst thing that could happen to a man is to think that his moral convictions are right and that they cannot be questioned. This sort of evil becomes most dangerous especially when those in political power tend to think that justice, and truth, are, without question, on their side!