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Right, Duty and Obligation/ Responsibility

A Search for Ethical Fundamentals

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Introduction

Immanuel Kant gave philosophy four fundamental questions with which it is to be concerned and they are:

- (1) *What can I know?*
- (2) *What is man?*
- (3) *What can I hope for, and,*
- (4) *Finally, what ought I to do.*

The latter—‘what ought I to do?’ is the central subject of ethics, or what is variously called moral philosophy or philosophy of morality. With the concepts of ‘right,’ ‘duty,’ ‘obligation,’ and responsibility, we move into the science of ‘oughts’ that define the moral foundation of human society and the stability of its social fabric. The Kantian challenge here is that before we can build a morally strong and ethically virile social order the citizens should know the fundamentals of ‘righteousness’ or the values that build a right and moral

citizenship who knows his rights, carries out his duties and compels the state, within the bounds of a good moral-legal order, to fulfill its obligations to the citizens. Before we can delve into the meaning of the terms—right, duty, obligation, and its allied responsibility, let us carry out a brief survey of what is meant by ethics or science of morality.

Ethics – A Brief View

Several ethical scholars fail to appreciate the fact that, under ancient philosophy, around 530 BC in Greece, ethics did not constitute an independent study as such, but was part of a bigger course of study that was not called ethics. For it was simply known in classical antiquity as the science of ‘worth’ or ‘value’ so that what was popular was the study of ‘*axios*’ and not ‘*ethos*.’ ‘*Axios*’ translates to a meaningful expression ‘to be worthy,’ the root word for axiology—a more popular science than *ethos*, the root word for ethics. Ethics meant ‘character or the custom’ so that one can talk about individual character being good or bad and a society’s custom could be worthy or not.

Axiology is the science that propels society and guides her as to what is valuable, worthy or honorable came from the Greek; it determines and properly classifies the subjects and disciplines that are worthy of being pursued, engaged in or discussed by citizens. From such discussions emerge values, which are worthy of emulation by citizens and the state and are classified and codified accordingly. Over time such classifications and codifications became a study and was called ‘ethics’ – or ‘worthy of character or valued behaviour.’

Professor Egbeka Aja also threw light upon the origins of the ethical science when he did a supportive exposé in his book *Philosophy: An Introduction*:

‘Axiology is from the Greek: *Axios* meaning worthy, of philosophy and *logos*, meaning discourse. This is the branch that deals with values—both intrinsic and extrinsic values. Values are described as intrinsic when they are pursued for their own sake; while extrinsic values are pursued as a means to other ends. For instance, education can be said

have intrinsic value when it is aimed at the improvement of man. It can be said to have extrinsic value when it seen as a means to attaining political power or to acquire material wealth. Axiology can be conveniently divided into the following sub-branches—ethics, aesthetics, social and political philosophy, philosophy of law and education...'¹

One seminal distinction that has emerged from this classical history is that ethics was only part of a bigger discipline that included law, politics, education, and aesthetics. Except in Indian universities, Britain and some Middle Eastern schools, the study of axiology as the science of values (i.e. human values) have almost disappeared. In its place, ethics – its sub-branch-- is taking the centre stage as the 'worthy' discipline of value for the society. The word ethics comes from the Greek root word – *ethos*—'*meaning custom or character,*' defined by professor Aja as:

'that branch of axiology which is sometimes called moral philosophy. It deals with the values concomitant with human conduct and human character. Ethics should be distinguished from morals or morality. The morals or morality of a person or society are the sum total of all the moral judgements (or moral beliefs or moral beliefs implicit in certain acts or behaviour) of that person or society.'²

“Right”

In an ethical sense, a right is any action by man in society seen and interpreted to be in tune with the moral law of a people in such a society. At this juncture, we readily see that right makes us remember the idea of duty. The concepts of justice, right, and fairness, stand to each other as correlatives. But in a legal sense, a right translates into a claim, which a person can make against others with the backing of the law. The person pressing for a claim to secure his right does so with

explicit or implicit knowledge that the law recognizes that right and will justly rationalize his claim to award a compensation where necessary.³

An ethical right must conform to not only the moral law but also to the principles of natural rights embedded in natural law. On the other hand, legal rights must conform to the principles of positive rights whose validity derives from the positive law or the man-made law of the state. Currently there is an increasing movement for the establishment of an African legal system or jurisprudence, which will be based upon not only what the law is (positive law) but also what the law ought to be (African public moral values). A June 2008 international conference with the theme *The Law and Africa*, organized by the Department of Philosophy, University of Nigeria, centered upon exploring such possibility of harmonizing state law and African public morality in a new African jurisprudence.

Conceptually considered, a right is a moral power that a person possesses to do something, to keep something and to exact something from another so long as the action is not in violation of the law or any attendant obligation.⁴ My right, as Dr. Ani Casimir, as a citizen of the Universe and Nigeria in particular could be used to illustrate the morphology of Somerville's conception of what is a right: Dr. Ani has a right to do something, to keep something, and exact something provided in so doing Dr. Ani does not disregard the rights of others or their interests. So in essence, Dr. Ani's rights and his enjoyment of them must end where the rights of other members of the society start.⁵

A right is judged by its impact upon the interests of mankind. When a right has a good effect upon others' interests it is called 'just rights.' Otherwise, it is called an 'unjust right,' when it does not promote the well being of man in the direction of life, liberty, health, and reputation. Just rights are interests recognized and protected in law for which people are accordingly punished when they are violated. Violating any of them both in ethics and the law constitutes what is defined as 'wrong.' In other words, when we violate a right we are 'wrong' and the law states punishment for those who have become wrong doers that threaten the stability of the social order. It becomes immediately clear from the discussion above that we

can categorize a right into that of the moral and the legal order. What determines whether a right is classified as moral or legal depends a lot upon its nature, the nature of its source and the importance with which the society inside of which it operates attaches to it.

A moral right invokes a correspondent duty whose violation by the moral agent is against the principles of natural justice. But a legal right is prescribed, recognized, known and protected by the law (positive law). Moral and legal rights are performable and enforceable only within human society and between persons since human beings are rational beings with intelligence to know them and guide their actions accordingly.

In what I have insistently decided to call the 'moral sphere'—*the stability of subsisting atmosphere of moral values in every society*—every right has a corresponding object to which it must perform relate. This object makes it possible for the owner of the right to identify and claim his interest, protected and given recognition by the law of the state and the social conscience of the public. The object could either be material, immaterial or even services. In the context of human rights, this is what I define as a social, economic, political or even an environmental benefit, advantage, or a constitutional entitlement.

Rights can also be classified as either *perfect* or *imperfect*. A right is perfect if it corresponds to a duty that is in turn recognized and enforced by the law. A perfect right has both moral and legal correlatives in its source, recognition and execution. In other words, we are talking about a moral power that makes a law of society to be enforceable. For according to Nyasani:

The enforceability here means that an action, and or criminal, will be taken against a person in breach of it, and if need be, judgement will be executed against him using physical force of the state. Where a right is recognizable by the law, the state using its machinery, will have an interest in making sure that the duty of respecting that right is enforced resorting to physical compulsion if necessary.⁶

A right can also be classified as either *positive* or *negative*. According to the positive right perspective, it enables an individual to receive something more than he already has, whereas under the negative right perspective, the individual goes on to retain what one already has, such as the right to money in his pockets.⁷

Another classification of rights is 'real rights' as against 'personal rights.' Real rights (*jus in rem*) entitle one "to require that a duty is imposed upon all other persons to respect that person's interest."⁸ On the other hand, personal rights (*rights in personam*) "imposes a duty on a particular or determinate person or persons to respect the others legally protected interests"⁹ Professor Nyasani illustrates this new classification with a telling example:

My right to the occupation of my house or vehicle is *in rem* in the sense that all other people... have to respect that right and the interest I have in the house or vehicle if on the other hand, I have my house to a tenant for occupation, the arrangement of its lease and use in between me and him exclusively and that arrangement does not directly interrupt other people... this kind of *jus in personam* which exclusively avails against no other persons but the tenant alone imposes a duty on the tenant to comply with the interest in the property leased to him. It is a person to person arrangement which creates an obligation on the party accepting the offer of lease hence personal and not real right with its attendant obligation; on the world at large...¹⁰

Rights can also be referred to as *proprietary* and *personal* if they relate to the person's estate, assets and property, or to his status or personal condition.¹¹ Property rights are convertible to monetary values while personal rights relate to status and cannot be converted into money or made an object of commercial exchange; the latter cannot be taken away by any body. This is why such personal rights relating to reputation and the integrity of the human person are described as inalienable

and not transferable. On the other hand, proprietary rights are transferable.

What is a “Wrong”?

As we can see from the foregoing discussion, a right—moral or legal—has several classifications and it is the heart and soul of justice as a virtue. At the opposite end of that pendulum where the first position is occupied by right is what is known as *wrong* or *injury*. Just as we did with right, a wrong could be moral or legal in its texture. A moral wrong is an act that is repugnant and contrary to the accepted morals of a community; it is a natural wrong which need not always be a legal wrong.¹¹

On the other hand, a legal wrong is any act forbidden by law and therefore not contrary to rules governing the proper administration of justice by the state.¹¹ A legal wrong may not necessarily be a moral wrong. In Britain, for example, the law prohibits the killing of wild game as meat by citizens. But naturalized Nigerians who are living there in Britain are home to a common African delicacy we call ‘bush meat’ as a delicacy. By consuming bush meat, Nigerian—Britons who live have committed no moral wrong but they have violated a law prohibiting its consumption in Britain. ***A legal wrong: don’t kill nor eat wild game; if you do so, it is legally wrong and punishable.***

Duty/Obligation

The complexity found in ethical discourses and subjects is fully consummated in the twin concepts of duty and obligation. But we shall attempt to disassemble the complexity through the simple process of marrying the concepts of duty with obligation and drawing out its meaning in bits followed with illustrations.

The word “duty” also comes variously as *devoir*, *il dovere*, *pflicht* or *obligation*. Duty has to do with the rightness of human actions regardless of whether it has happiness as its goal. Man is seen as having a duty, to live a life of virtue whether it conduces to his happiness or not. In other words, happiness is not that goal of duty but it is what we must do because we have to do it – either in accordance with personal conscience, public morality

or the demands of the law. Many ethical scientists see *duty* as a necessity in human moral conduct that helps to establish a moral society. For Immanuel Kant, duty is relegated to the higher order of the 'categorical' as against conditional or hypothetical imperative—that which we must do when and whenever we are called upon to do it:

The categorical imperative makes it the supreme, absolute moral law of all rational, self-determining beings and in such a way that we (as human beings are able to act on maxims which can at the same time have for their object themselves as universal laws of nature... it posits the necessity of action at an end in itself and not as a possible action posing as a means to something else that might be willed...¹²

Kant insists that if there is something whose existence has in itself an absolute worth, that is, something which is an end in itself, that same thing, pursued for its own sake, must become a source of definite laws and that inversely will be the source of a possible categorical imperative.¹³ Kant gave the concept of duty to a humanity that makes public morality a desirable ethical inevitable good for the state, and for its citizens a good worthy of being pursued. According to professor Nyasani:

The objective principle is that the categorical imperative is between the supreme practical law and the source of all laws of the will. In this sense then the practical imperative will require everyone of us to act in such a way as to handle the rest of humanity in the most charitable manner possible so as to see them as an end in themselves and never as a means to an end. It is every one's duty as a rational being to treat others in the same way as he would like them to treat him. This is the community that Kant so elaborately preached and practised.¹⁴

We can glean the core idea of duty from the trend of our discussion – duty is a kind of obligation we owe to ourselves, to

others and to the society of which we are members. But duty is a special kind of obligation:

Duty as an obligation entails some kind of necessity... not physical necessity by sheer implied command rolled up in the categorical must. It is a moral necessity imposed upon the human – will that ultimately derives its validity and force from the law of human nature which in term upon the eternal law of the author of creation.¹⁵

Duty as Obligation

Duty comes across as a kind of obligation, which is fundamental and basic to any other responsibility we owe to any one because of its divine and natural correlates. As an obligation it comes either as a natural (moral) or legal category. We have a moral duty to obey our parents and not to steal from our neighbor. A moral duty and a legal duty could coincide in the burden imposed upon the individual citizen. If I steal from my neighbor, for example, I could get legal positive measures as punishment. Also, my neglect of my parents could attract social sanctions. So it is the rules that govern particular duties given recognition by their generators (makers) that will make a particular duty either moral or legal.

Lacey gives an etymological conception to duty when he relates duty to “ought obligation, duty-connected to others; ‘we ought’ suggests a gap which ought to be filled. Obligations are primarily moral or legal. They are also always traced to some moral agent.¹⁶ As against obligation; duty is primarily connected with roles, whether or not there are voluntarily undertaken. Duties tend to be of longer standing and not as ad-hoc as obligation: one meets one’s obligations as one incurs them, but does one’s duty or discharges as one incurs them in the normal course of things.¹⁷

According to Lacey they have similarities:

“duties and obligations are therefore special kinds of things we always ought to perform them since they may be overridden, whether by other duties,

etc. or even by something non-moral.”¹⁸

Kant, however, has distinguished perfect duties, which were absolute and could never be over ridden by other duties or even by inclinations. As against object of material duties, we have also subjective or putative duties,¹⁹ which are “what we think we ought to do,”²⁰ while material duties are “what we really ought to do.”²¹

Finally, we can say with regard to duty that it is an ontological impulse, which compels us (by the power of conscience) to act in a particular way, refraining from doing something which could harm or dismay another citizen from enjoying his or her own rights. The object and subject of duty is justice, doing right to oneself and to all. Professor Nyasani’s own conception tallies with my dialectical linkage of duty and conscience:

It is a positive moral intuition that links in our subconscious conscience that drives an individual to make a crucial decision vis-à-vis the enhancement, protection and preservation of the self and by extension that of the community, which happens to be the object of any legal legislation and moral norms.²² Duties arise from the relationship of parties—say between father and son, husband and wife; duties also arise from commands given to citizens under a statute—say tax return. Duties equally arise from contracts for which non-performance may lead to serious damage to public interest.

Responsibility

How does one’s duty translate to one’s responsibility? If I say that I have an obligation to perform a particular task or carry out an action, can we say it is the same thing as saying that I have a responsibility to perform the same task or carryout the action? These questions throw more light on the law segment of our discourse, seeking to know the relationship between a person’s moral actions, duty and responsibility. What is the single element that holds the three moral concepts together?

The word is *accountability*.²³ According to Wallace ‘responsibility designates a person’s moral accountability for his actions. The same general idea is expressed by the related term

imputability—as a quality of actions, facts or consequences by which they are attributable to an agent, and responsibility is the quality of the agent to which they are attributed.²⁴

Responsibility can be applied ethico-legally in the following three ways:

- 1) Descriptive Employment
- 2) Prescriptive usage
- 3) Ascriptive application

1) Descriptive Employment

This is the expression of a cause-effect relationship between an agent and an action or a consequence, without implying anything with regard to the ethical character of the act.

2) Prescriptive Usage

This is an expression of a moral obligation bidding one to do or to avoid doing something. For example, when Peter tells his friend Emeka, “Emeka it is your responsibility to take care of your parents in the village,” it becomes an objective responsibility, which Emeka carries for his parents in the village.

3) Ascriptive Application

The term ascribes blame or credit to an agent who acts with or without due conformity to moral norms of conduct. This portrays a more personal and subjective sense of responsibility different from the prescriptive model above.

In all moral situations in which the sense of responsibility is questioned, ascertained, prescribed, ascribed or described, before and after the actions, there is a problem introduced when it is no longer a question of one moral agent but two or more agents committing a particular moral action. The name given to that problem is ‘cooperation’ – how to ascertain the degree of responsibility of the agents in carrying out the action. For example, a dead one can aid another living agent to commit evil, but is no longer living. A situation when an agent shares in the intention and modus of an action is defined as formal cooperation. While in a situation such an agent does not share in

the intention and refuses to participate on the modus of the action is known as material cooperation because he may unintentionally do something that will lead to the committing of the evil.

Conclusion

In dealing with the concept of right, duty, obligation and responsibility as ethical considerations, we have basically dealt, as briefly as we could, with the levers of morality, which is defined as the quality attributable to human action by reason of its conformity to rules according to which it should be regulated.²⁵ This means that there is, in every society, a subsisting standard to which every human action can be measured. It also means that man is responsible for his moral actions and the consequences. Hence every citizen has a right that the state and every other citizen owe a duty to protect, cherish and promote as an ethical and legal obligation. The moral principles exposed under this chapter become the ethical foundations for the global experience that we define as human rights – which will be treated under another heading in another project.

Notes

¹ Aja Egbeke, *Philosophy: An Introduction*, Eungu, Auto century ... *Ibid* p. 13)

² Publishing co Ltd, 1991, p. 12

³ Nyasani; J.M. Nairobi, consolata institute of philosophy press, 1995, 255

⁴ *Ibid*

⁵ Nyasani, *Ibid* see also Somerville, Francis, *Christ is king: A manual of catholic social Doctrine* (catholic social Guild, oxford, 1962) p.12.

⁶ *Ibid* pp 29-31

⁷ Salomon, John *jurisprudence ed. Brullians*, London, sweet and maxawell Ltd, 1957, pp 265-266.

⁸ *Ibid*

⁹ Ibid

¹⁰ Ibid

¹¹ Ibid p. 33

¹² Ibid p. 35.

¹³ Ibid

¹⁴ See also Immanuel Kant, “*fundamental principles of the metaphysics of morals*”
oxford, the Clarendon Press, 1954 pp 85-110

¹⁵ Nyasani, cit p 22).

¹⁶ Ibid p 23

¹⁷ Ibid

¹⁸ Lacey, A.R. A dictionary of philosophy) London, rout ledge and Paul, 1976, pp.
148 – 151

¹⁹ Ibid p 150.

²⁰ Ibid

²¹ Ibid

²² H.N. Castanenda Imperative, duties and moral ought, Australian Journal of
philosophy, 1966 pp 50-120.

²³ Nyasani, Ibid p 24

²⁴ Wallace, W. the elements of philosophy, New York, Alba, House, 2008, p.53.

²⁵ Wallace, 162.

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