

1909

# The Nature Of Moral Law

W. G. Colgrove

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THE NATURE  
OF  
MORAL LAW



W. G. COLGROVE.

[1909]

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## PREFACE.

In presenting this essay we regret the fact that it is impossible to cover all the ground and make an argument at once perfectly logical and faithfully consistent in the limited time and place at our disposal. Mr. Bosanquet says, "The scholar's golden rule is never to quote from a book which he has not read from cover to cover." This is also impossible for the same reason, but we have read some of all, most of some and all of some, and have made it a point to thoroughly acquaint ourselves with those portions that were closely related to our topic. "The attempt to be exhaustive on such a subject would be apt to lead to results more voluminous than luminous."

If, however, some hard-hearted critic wishes to show his acumen we trust he will do so while the author is still in the land of the living, so that the fallacies may be cleared away and leave no evil stumbling block athwart the path of philosophic thought. We trust also that any embryo "Artium Baccalaureus" who may in future peruse these pages will do so with calm carefulness, that he may not

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fact in an academic essay

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## 2. Preface.

seem to be mystified by the sudden magical growth of mole-hills into mountains, or the frightfully narrow escapes accomplished by the deft manipulation of a split hair.

It is well known that few great works appear without a halo of romance about them, so with this, just at the most critical moment in its development the manuscript was designedly appropriated by some unmoral individual and the author was forced for a time to other considerations.

With some diffidence we venture to hope that this attempt to give some idea of the nature of moral law will not, in the words of Lotze, be thought of as "only a hasty scaffolding full of instability, made faulty everywhere, by the intractness of half true analogies" but as a harmonious endeavour to fight our way through the thickets of thought to the open sky and the bracing air.

W. G. C.

# The Nature of Moral Law.

*precisely  
what?* Moral Philosophy is preëminently and primarily concerned with the principles of Duty or Right action, together with the codes and rules which have from time to time arranged themselves about these principles. In so far as these are believed to be the result of divine legislation they stand superior to all other laws of life, but in so far as they are the result of evolution from tribal custom, tradition and habit to the formal codes we have to-day, they form the standard of our ordinary conduct. This transition was accelerated by the Stoics, who, through the influence of Roman jurisprudence and philosophy, reduced the ancient to the mediæval forms of speculation, out of which Christianity was able to force it to the flower of modern thought.

The Moral faculty or Conscience, according to most writers, began with the race and has been subjected to all the refining and developing processes which have influenced and moulded mankind. In a study of the growth of the moral faculty it is not necessary to undertake a comprehensive treatment of

all animal activity, although Mr Spencer<sup>1</sup> and others urge such a scientific method; for when we read the history of human progress, which is all we need for our purpose, we are impressed with the fact that there has always been some kind of a moral nature in man, which in some way or other has sought and struggled to set forth its claims and demand a rational consideration. Indeed it is not necessary to begin with the dawn of history, so without troubling ourselves about the writings of Ptah Hotep<sup>2</sup> of Egypt, the oldest book of precepts in the world; and without discussing Hammurabi's code which Professor Delitzsch claims to be the oldest [code] in the world<sup>3</sup>; we shall deem it sufficient to begin about one thousand years B.C. when Zoroaster in Persia<sup>4</sup>, Manu and the Vedic poets in India<sup>5</sup>, the Sun priest in Egypt<sup>6</sup>, and Moses in Palestine<sup>7</sup> were making national history.

In his "Avesta" Zoroaster spiritualized the great physical forces and surrounded the heavenly bodies with a supernatural atmosphere, until the highly wrought imaginations of the orientals were enswathed in a mystic halo and they thought of natural objects as their gods.

1. Data of Ethics. <sup>where?</sup>
2. B.C. 3500. Hawthorne in "Literature of all Nations." <sup>where?</sup>
3. Babel and Bible. 4. 5. 6. 7. Wake's Evol. of Morality, and Encyclopaedia.

Brahmanism or the priest-taught code of Manu supplemented by the precepts of the Veda made a lasting impression upon the Hindu mind. The strict observance of Manu's ten mandates, "contentment, returning good for evil, resistance to sensual appetites, abstinence from illicit gain, purification, coercion of the organs, knowledge of the Scriptures, knowledge of the Supreme spirit, veracity, and freedom from wrath;" together with the performance of one's duty as prescribed in the Veda, exerted a powerful influence on the conduct of their devotees. Among heathen nations Confucianism alone presents a more exalted system of moral requirements.

The Egyptians also possessed a high moral standard to which neither the Greeks nor the Romans ever attained. Homicide was punished with death; parricide with burning, and all like crimes were equally severely dealt with. In their Book of the Dead may be seen the so called "Negative Confession" with its forty-two forms of sin <sup>of</sup> which the good Egyptian must be able to claim his innocence. We are told that they also faced a final judgment day when "The all-scrutinising eye of the great deity Osiris

attained it  
apart from  
sin?

why

penetrated the innermost recesses of the heart." The object of their moral law was to preserve life and redeem the offender, but much of its observance was due to the desire to escape from transmigration to some low order of animal.

The Chinese differ from most other Asiatic peoples in having a strong altruistic nature which has always formed the basis of their peculiar morality. The wide-spread and abundant traditions of China were collected and systematized by Confucius about 500 B.C. and although he reduced them to a materialistic basis they have since formed the religio-moral tenets of the higher classes, while Taoism, Buddhism and Christianity have tried to find a place in the esteem of the common people.

The growth of the moral faculty among the Hebrews was very different. Their test of morality lay in the willingness of each individual to act in harmony with the will of Jehova<sup>h</sup>, and such willingness has been supposed to constitute real morality and to mark off the Hebrew nation as the most highly ethical of all time, but in reality this trait shows the religious rather than the

ethical side of their nature. On the contrary their immorality was, if we consult the prophets, so pronounced, that divine punishment proved to be the only corrective agency. They could not have been chosen, then, on account of their morality but rather on account of their reverence, and loyalty to divine institutions. The fact is, they were the best people in the ancient world, and unless God designed a new national creation he would have to choose them in preference to all others, even though they were by no means perfect. The laws and institutions of the Hebrew Theocracy, although copied in part from other orientals, show a distinct moral bearing characteristic of the Jews and heightened by their natural religious tendencies. Under the able leadership of Moses we see the race fast forming a consolidated commonwealth and growing up beneath the influence of a most exalted code, believed to be divinely handed down. In later years, however, their morality, as expressed in the Talmud, was widely different from the early idea of conformity to Jehovah's will. They became seekers and observers of the letter rather than the spirit of the law.

The Greeks<sup>?</sup> of Homer's time were little better than nomad tribes of barbarous warriors and robbers, like those of the Scottish border, with the most incipient form of morality, noticeable only in their family ties. In "Juventus Mundi" Mr Gladstone discusses their moral conditions and shows that within the family the relations were sacred, but that outside of it an unbridled laxity prevailed. Even to the time of Pericles their social morals were very loose. Athenian laws were, for the most part, drastic and blood-thirsty until subjected to the powerful scansion of such moral philosophers as Pythagoras and Heraclitus, with their more ethical followers Socrates, Plato and Aristotle who corrected the sanctions and modified their general nature until the average Greek was proud to say that they did not even allow a slave to be outraged. The least ethical at the beginning, they became the most thoroughly ethical in the end, at least, in so far as the theories of their philosophers are concerned.

The Sabellian highlanders<sup>2</sup> who prefaced the Roman race maintained a peculiar strictness in their morals but seem to have had plenty of room for inconstancy and hypocrisy. Their successors,

1. 2. Wake, and. General ancient history.

while yet at the beginning of their development, were rigid enough in moral regard to hurl a false witness from the Tarpeian Rock, hang the harvest thief and burn the incendiary; and believing, as they did, that their laws were an expression of the will of the gods, they placed the supreme control in the hands of the agents of their political organization so that the welfare of the State became the foremost interest of every citizen. Roman virtue was superior to that of the Greeks because it was essentially social; but in spite of this their moral nature was rotten at the centre, for in direct opposition to the protests of Cato and his colleagues<sup>Rome</sup>, became so ruined by internal decay that her irretrievable wreck is a byword in history. Their morality reached its highest expression in the "De Officiis" of Cicero and in the works of the Roman Stoics.

The ecclesiastic and monastic morality of the middle ages, along with the Scholastic method and Casuistry evinced a more thoroughly ethical tendency. although it made the fatal mistake of trusting in the letter of the law. The Books of Casuistry, especially, robbed real morality of its spirit by trying to lay down "rules for breaking rules"; but not being

1. Encyclopedia. 2 MacKenzie.

able to cope with the vastly accumulated questions, it sought to answer them by the famous system of Probabilism which at last gave way beneath the brilliant and powerful attack of Pascal.

Having now seen in a very limited space the rise and growth of the moral faculty we shall briefly consider the foundations of moral law from the physical, the psychical, and the social standpoints. From our preceding cursory remarks we may readily infer that it was but natural that out of such a universal feeling the code for conduct known as moral law should arise. Its physical basis may, to some extent, be found in the great physical phenomena which during all ages have intermittently startled the rude inhabitants of our globe, each in its turn inspiring awe and eliciting reverence. The psychical basis may be seen in the mental effect produced on the above occasions; in the belief reposed in myths, traditions, and customs; in the rise of the reflective faculty; and most of all in the peculiar mental constitution of the race. The social basis is to be recognized in the law of natural affinity or the mating instinct by which individuals are drawn together in pairs or

larger groups, such as clans and tribes and nations, which were cemented together by ceremonial institutions. A wide-felt need pervading all these organizations was the most important social element and was evolved from the universal desire for security, property, contract, and family relations, upon which man began to reflect and formulate moral codes. These, as time passed, became stronger, more complex and more widely accepted until they took the shape of laws, whose rigid letter came into conflict with some naturally well defined form of conduct and ~~there was~~ produced a new idea which we call the Spirit of the law, and which is no doubt the most fundamental foundation of <sup>the</sup> social side of moral law.

On this three-fold foundation man has gradually constructed a most elaborate system of regulations, precepts and rules, the three most notable examples of which are found in the code of Confucius, the Talmud of the Jews and the Books of Casuistry. Morality, however rude, is both the substructure and the superstructure of moral law, for as it was the parent of the law so is it the child of the law, and it <sup>will</sup> no doubt continue this cycle for all time.

We must now determine the province of our topic and state the problem we have to solve. In the first place we are not called upon to discuss merely "The Moral Law" in a restricted sense, but moral law in its broad general sense - the positive as well as the negative codes. In the second place we are not to discuss its entire history or its complete bibliography, but only its nature as found in its common characteristics, essential elements, prominent principles, and recognized relationships in so far as they have a direct bearing on the life and conduct of the average citizen. Our subject is "The Nature of Moral Law"; our object is the realization of it. To make it still clearer we shall begin with some definitions of moral law in both the specific and the general senses, and add a few remarks to show what it is not.

The moral codes of society differentiate between man and man as socially responsible, while "The Moral Law" includes the relation which is believed to exist between man and God. Whewell says, "The Moral Law is the Law of God and the will of God." Its existence and operation are made known by means of certain ideas of rightness such as, Wisdom, Courage, Temperance,

1. Elements of Morality. p. 7.

Justice, Purity, Truth, Order, Benevolence and Reflection, together with Faith, Hope and Love, which with others constitute the content of the internal standard of action known as Conscience or Moral Sense or as Alexander has it, "The vicegerent of the Moral Law."

Webster says, "The Moral Law is the will of God as the rule for the disposition and conduct of all responsible beings, toward him and toward each other; a rule of living conformable to righteousness; the rule of action as obligatory on the conscience or moral nature; the Jewish or Mosaic code, and that part of Scripture where it is written, in distinction from the Gospel."

In the general sense, which necessarily includes the above we have moral law defined by Baldwin<sup>2</sup> as embracing (1) the analysis of moral conceptions - such as the  $\tau\omicron\ \delta\epsilon\omicron\nu$ , what is necessary or required - by Plato and Aristotle; (2) the influence of the Stoic writers, by whom  $\tau\omicron\ \kappa\alpha\theta\eta\kappa\omicron\nu$ , the fitting, was held to be determined by reason apart from the emotional nature of man; (3) the Jewish or Christian conception as of the moral law as declared and enforced by God.

According to Lyall,<sup>3</sup> man is a help-meet in creation, because he thinks and feels and wills, not

1. Dictionary. 2. Dictionary of Philosophy. 3. "Intellect, Emotions and Moral Nature."

only that, but he wills according to a law of right or wrong; and this law though not arbitrary is eternal; though not imposed is yet a part of his nature. He says, "It belongs to every moral being and enters into the essence of every moral constitution. It is the law of duty, the law of right and wrong, a law of eternal and absolute propriety." It is true that it is our moral nature which possesses the law, which admits of it, which gives it concrete existence, and which discerns and appreciates it; but the law would be the same in abstract right and propriety, though there had never been a moral nature to apprehend it, and though every moral being should at any time cease to exist."

Fleming says, "Moral laws are the rules derived from the nature and will of God, and the character and condition of men, and may be understood and adopted by man, as a being endowed with intelligence and will, to be the rules by which to regulate his actions."

In a still broader sense it is the only essentially altruistic law; the only law of spontaneous sympathy and reasonable self sacrifice; the only law by whose observance we may transcend all other social laws.

1. Dictionary of Philosophy.

Moral law has two forms, each having its different phases or ways of being expressed: the one, indicative; the other, imperative, with their concrete, abstract, negative, positive, personal, social, and specific and general phases. The latter form is naturally the result of the former. This law or <sup>rather</sup> these laws are not changable in regard to their truth; they are not complete in regard to quantity for they are continually receiving additions; they are not all altogether categorical, for special cases sometimes conflict; they are not hypothetical because they are either indicative or imperative; they are not altogether human nor yet entirely divine, but a harmony of both; they are not merely personal nor are they purely social, but a combination of the two.

It is also widely different from some of the other laws, for example, physical law; and yet it possesses a number of the characteristics which are common to them. Physical law is enforced from without, but it is not, in every case, invariable nor <sup>always</sup> above interference as Comte would have no believe. The truth is that man can and does interfere with physical laws, and modifies the conditions that produce phenomena,

1. Ref?

although he cannot and does not violate the law. But if we look at the conduct of man in reference to moral law, we see that all activity, with few exceptions, is governed by variable laws with which volitions, both natural and supernatural, may both interfere and violate. So it is with the laws of any normative science. Physical law calls neither for assent, consent nor dissent on the part of its agents, but moral law is much concerned with all three; for as Mr. Arthur very nicely puts it, "These were laws which were written, not on the unconscious adamant of atoms but on the conscious ground of mind." Further on he sums up the difference by saying that on the one hand physical law is imposed universally and arbitrarily by resistless force without regard to the nature of its agents or the possibilities of its fulfillment, while on the other hand moral law is given by an intelligent being to an intelligent being to specify and determine his proper relationships, first to other intelligent beings, secondly, to non-intelligent creatures, thirdly to unconscious things, and, finally, to specify and determine his relation to the Law-Giver in case of obedience or disobedience. Its object is to aid to

1. Difference between Physical and Moral Law. Exact page etc.

goodness and dissuade from badness. It is equally binding on both principal and agent.

The specific nature of moral law, although very difficult of presentation in so many words, will gradually become apparent as we proceed. Its scope is universal since it deals with and is binding upon man, men, and the Law-giver, and since it is the bar of judgment for the acts of all responsible beings. In it we find rules where virtues are described, ~~and~~ duties prescribed and sanctions subscribed. The virtues that form part of the content of the law are very various, and although they have been classified by nearly every writer since Aristotle it seems almost impossible to reach any generally acceptable conclusion. Mackenzie points out that Courage and Loyalty were probably the first to be recognized - Courage meaning Valor, Fortitude and Hopefulness; Loyalty meaning Fidelity, Perseverance, and Enthusiasm. Later on when the individual was more thoroughly recognized as such, the virtues of Temperance and Prudence made their appearance, and with the establishment of personal relations the idea of Fairness and Friendliness arose; these were followed by Reverence and Reflection and

1. Manual of Ethics. - Note on classification of Virtues. Exact ref?

the great underlying virtue of Wisdom. But such attempts are of little consequence because they are bound to contain and display some local coloring such as we see in Aristotle's classification. Whewell says, "The virtues belong to the deeper part of our nature than do the duties, because they are the sources out of which our acts of Duty spring." "Virtues are what we are; duties are what we do."

The paramount duties of man as an individual are (1) Self conservation, (2) Self-culture, (3) Self-control. Man should try and live as long and nobly as possible; he should be clean, decent, industrious, frugal, ~~studious~~, ~~aesthetic~~, patient, just, courageous, strong and beautiful in form and feature; he should be studious, aesthetic, continent, pure; benevolent, wise and good; he should be manly, noble, tactful, prudent, masterful, ready, steady, poised and pleasant. In short he should be master of his appetites, passions, powers and desires as well as his thoughts, volitions and actions. He should be willing to become, as Wordsworth said, "Duty's bondman glad and free!"

From the social standpoint his duties include the above, as well as a sound sense of social relation, a clear conception of the interplay of individual and

1. Ode to Duty.

social interests; an unprejudiced understanding of the requirements of moral law, an unselfish attitude towards the opinions of others and a ready reference to another's point of view. In short he should, as Mackenzie indicates, respect life, freedom, character, property, order, truth and progress; and although some duties may seem less obligatory than others he should remember that they all require obedience if he is to maintain his position and influence as a true representative of society. Such an altruistic method of conduct will continuously help to fulfill the Satisfaction of the Social Self which is the aim of man.

Before passing to a consideration of the elements and principles of the law let us note some of its common characteristics. Among other things we recognize its normative nature - its attitude toward rules and regulations; its many-sidedness which mole-eyed writers seldom see; It is "ready made" not "made to order" by solution as is its product - morality; it is reasonable and amendable; it is partly known by intuition and reflection; it can grow in new relations only, and from time to time becomes, in part, inapplicable; it may be recognized immediately by practice, and inferentially by study; it is the law which

1. *Manual of Ethics* - Book III ch. 3.

if conscientiously observed and obeyed will ultimately lead to the highest good.

The elements of moral law are the attributes which distinguish it from other normative laws, for example: its manifest authority, its direct reference to right and wrong as well as to approbation and disapprobation, its inherent strength and progressive purpose, its eternity, universality and obligatoriness. Now its authority of which Butler speaks so strongly is no other than the outward expression of the inward categorical nature which Kant, according to Mackenzie, so formally and stringently upholds. There are, generally speaking, three kinds of authority<sup>2</sup>; (1) "is" authority, (2) "must" authority, and (3) "ought" authority. The "is" possesses the weight derived from facts; the "must", supported by irresistible force, is categorical in its very nature; the "ought" is backed by the power of universal rightness. It is with the "ought" that we are now concerned, and we can readily understand that this will be external, internal or teleological, or all three, in proportion as the moral standard is found in either or all of these positions. We shall speak later of this threefold nature of the standard together with the various theories concerning it.

1. Sermon II. 2. Mackenzie's Manual. Expect ref?

pronoun  
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Bound up with the idea of authority is the question of sanctions which, according to Bentham<sup>or</sup>, per Mackenzie, are physical, political, moral and religious. Sanctions are the prescribed conditions by disregard of which annoyance is perpetrated, and by virtue of which order is restored, i.e. they are the punishments of whatsoever nature which are always attached to a law. There are the sanctions of physical law, e.g. suffering; there are social sanctions, e.g. ostracism; there are moral sanctions, e.g. troubled conscience; and there are religious sanctions, e.g. separation from God. The rewards of obedience are, of course, the opposites, such as good health, popularity, virtue, and growth in grace [and favor]. In morality the term "sanctions" includes both punishment and reward so that pleasure and pain are usually understood to be the sanctions which attach to the motives of men for the purpose of inducing them<sup>to</sup> advance or retreat in their search for pleasure or their avoidance of pain. The truly moral man, however, is not in search of pleasure as such but is persistently endeavoring to reach the climax of a well conducted life.

The matter of sanctions leads to that of obligation which we have already touched upon and

1. Manual Book II. ch. 6.

which will become more clear when we remember that in each of us there is a feeling that we should always do what is right, that we owe right action to ourselves, to others and toward God, that there is an imperative nature in the law itself and that we possess an intelligent conscience which persists in reproof and direction; of which Butler said, "Had it strength, as it has right, had it power, as it has manifest authority, it would absolutely govern the world." But, although conscience is not absolute in authority it nevertheless creates a profound impression with regard to duty, and makes us recognize the internal aspect of the law which is thus a law of our own nature and therefore practically categorical. But neither can the power of sanctions, nor the authority of conscience, nor the inherent law, nor the feeling of right, nor the theory of knowledge, nor the practical reason, satisfy the nature of this obligatoriness. They are merely accessory to a supreme law which is absolutely imperative and ultimate and eternal; which may be found only ~~in the~~ in the fulfillment of the requirement, to make sufficient the social self, and which i.e. to push forward, individually, the whole social organization to its culmination.

With reference to the principles of morality we find some writers capriciously and dogmatically setting forth their claims as almost final: one says "conscience" is the chief principle; another claims that "will" holds the <sup>sup</sup> highest place; yet another assigns that honor to "wisdom"; and a fourth thinks "free service" is supreme, while Hume "goes so far as to include most of the mere elements as principles. He is, perhaps, right to a great extent for some of the elements are also principles but in a stricter sense principles are those fundamental bases by which a law is buttressed and by virtue of which it operates. Discarding the claims of the authors just noticed we shall take up these principles in the order we have mentioned and add some others which seem equally important, such as truth and justice.

The conscience, then, as one of the basic principles, is, as we have seen, a very remarkable faculty of feeling which according to some writers of the Intuitionist school, is inexplicable and unquestionable, while others add that it may be educated and sufficiently understood for all practical purposes; whereas, the Rationalistic School claims that it is capable of scientific and

1. Inquiry into morals. Et act  
reference?

logical explanation, while weaker writers of the same school assert only that it should be possible of definite definition. Some later sociological students are in harmony in attributing it almost entirely to its social connexions and environment, and would, no doubt, call it the voice of the social self. Lyall makes a strong claim for "conscience" as the chief principle.

The position of Will among the principles is unique since it has attracted so much attention from all psychologists. The assumption put forward by Aristotle and others that actions are moral only when they are voluntary and rational has served to place this principle in a strong light, where it has had to undergo the sharp scrutiny of modern psycho-ethical criticism. It is its four-sided character which makes it difficult and interesting: attention, assent, choice, execution. Kant maintains that the rational will is preëminent.<sup>1</sup>

Wisdom, the underlying and pervading property of the virtues, has always held high rank among moral principles. It is the right use of knowledge, and since one's action depends largely on one's insight so also do the virtues depend; and since the virtues are the product of habit and volition so also is wisdom the

1. Metaphysics of Ethics.

basis of the virtues; but it is not on that account the only supreme principle. Whewell has decided that the first place is occupied by wisdom.

<sup>24</sup>Freedom of Service, as a principle, is very close to the New Testament idea, in fact it is the ethical side of the teaching of Christ and Paul and shows how closely correlated are religious and moral principles. We must be careful, however, to distinguish clearly so that the true, exalted Christian life may not be reduced to the level of mere morality. Alexander is the most enthusiastic exponent of this principle and calls it "the supreme principle of morality."

<sup>25</sup>Truth and Justice have stood as principles in moral legislation, vaguely or clearly discerned, since the advent of man. One might say that they are the essential <sup>87</sup>boundaries within which the other elements and principles develop and without which they would become distorted, abnormal and unbalanced.

Bacon says<sup>26</sup>, "Truth which only doth judge it selfe, teacheth that, the Inquire of Truth, which is the Love-making or the Wooing of it; The Knowledge of Truth, which is the presence of it; and the Beliefe of Truth, which is the enjoying of it; is the Sovereign good of human Nature".....

1. Moral Order and Progress. 2. Essays. See references.

"Certainly it is Heaven upon Earth, to have a Man's Minde Move in charitie, Rest in Providence, and turne upon the poles of Truth." Justice is the expression and maintenance of equality between individuals, corporations and nations. It is based upon equality of subjection to law whether moral, social or natural; yet law is not the mother of justice, but justice of law as a product of man's moral evolution.

Obviously, then, it is somewhat pedantic and supercilious for anyone to advance an argument for the superiority of one principle over another or over all others for these are manifestly incomparable; each in its own sphere is paramount while no one would be complete without the modifying influence of some or of all the rest.

In a previous paragraph we called attention to the distinction between physical and moral law. Let us now look briefly at the relation which exists between moral law and other forms of law. With natural laws it stands related through all physical and psychical channels; for it can have its effect upon rational beings only through the body and the mind. Here, again, as in the matter of the supreme principle in moral

we find each scientist making his own definitions of natural laws; but brushing these split-hairs to one side we shall take the ~~more~~ more general and comprehensive view outlined by Mackenzie where he says: "It may be sufficient for the present to distinguish between the different kinds of law as (1) changeable, or unchangeable, (2) violable or inviolable, .... There are then four classes as follows:-

- (a) those that can be changed but cannot be violated -- Natural,
- (b) those that can be both changed and violated -- National;
- (c) those that can be violated but cannot be changed -- Normative.
- (d) those that can neither be changed nor violated -- Notation.

A natural law, e.g., corporal; states that which does take place under certain necessary conditions.

A national law, e.g., criminal, states that which must take place if the progress and safety of society is to follow.

A normative law, e.g., moral, states that which ought to take place in the conduct of a responsible agent.

A law of notation, e.g., mathematical, states that which always takes place arbitrarily, unalterably and universally.

Behind the law of the tribe there is the "must" of the majority.

Within the law of nature there is the inevitable and persistent "is" with its semi-categorical significance and the <sup>fit</sup> fitness of things. Back of the law of God, if it were the

1. Manual Book II ch. 3.

are  
natural  
laws?  
  
is not  
naturally  
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is not  
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law?

command only of a superior being, we <sup>should</sup> find the "must". But it is not the law of a superior power only, it is also the law of a superior intelligence, a supreme sense of justice, a merciful and forgiving attitude, and a universal kindness.

<sup>discussion which</sup> But the fact that so many ethical writers have never experienced these things leads them to abandon the law of God as supreme. Why discuss so many other things and leave this, the most closely related and intensely interesting theological side, untouched?

The Law of Conscience in its common-sense and philosophical points of view is related to moral law in that it is the combined voice of God and Nature and man and society through whatsoever duties it may be expressed or manifested.

The laws of mathematics may seem vaguely related to moral law, but they have a relation <sup>holding</sup> to the extent that they are utilized to compute the quantity and the ratio of quality to the several kinds of moral action.

We shall not take time to observe its relation to other specific forms of law such as:— Criminal, Canonical, Martial, Municipal and so forth, except to say that there is quite a close relationship in so far as

1. See Encyclopaedias.

they are parts of the social code. By thus contemplating the relation of moral law to other laws we also see its relation, as an element in moral philosophy, to the other sciences whose laws we have considered. Nearly all the "logics" and "isms" are in some way connected with ethics and the content of moral law, the nature of which thus becomes more clearly understood.

That morality is and has been different in different communities and at different times is well known. Its evolution is marked by the various forms of the standard which have pushed to the front from time to time. If we glance at the history of ethical theory" beginning with the pre-Socratic philosophers Heraclitus and Democritus we shall see that out of the teaching of the former came the Cynics under Antisthenes, followed by Zeno and the Stoics whose system unravelled out on one side to Asceticism, on the other to the peculiar monastic institutions of the Middle ages, and was at length taken up by Descartes, Budworth, Reid and Kant, from whom arose the aesthetic idea under Herbart. The standards of this great, long-lived school may be summed up in its three most prominent aspects as Duty, Right, and Reason; with a small subdivision as Beauty. This is the rigid school.

1. See Smith's Hist. Ethics and Mackenzie's Manual.

Out of the teaching of Democritus came the Cyrenaics under Aristippus, with the theory of <sup>the</sup> pleasure for the moment, or, present satisfaction of present desires; They were followed by Epicurus and the Epicureans with the motto, - pleasure for the whole of life, or, act each day that life's total may be pleasure, which theory formed the basis of the far-reaching, all-pervading idea of Hedonism with its egoistic and altruistic sides. These ideas were carried into Mediaeval times and developed in a peculiar form of Stoicism to which Christianity added its lustre, and from which it borrowed some of its substance. We see again modern ethical writers such as Gassendi, Hobbes, Hume and Bentham taking up the old shibboleth and after a curious method of philosophic trimming flaunting it to the world as a worthy and profitable idea. This side also had its minor outgrowth in the Sympathetic school under Adam Smith. The standards of this widely influential and perennial school may be summed up in its three principle <sup>or</sup> doctrines as, Happiness, good, and Passion; with the subdivision of Sympathy.

We must also notice that between these extremes there has always been a middle school composed of Socrates and the Sophists, Plato and his school with

their beautiful "idea theory", Aristotle with his wonderful ethical systems, and the famous Sceptics who were loth to accept much of the "speculative" scientific hypotheses put forward by their contemporaries. In the Mediæval ages nearly all these different forms of thought were bent and twisted into a system of Casuistry - infinitely applied ethics. While from a modern point of view these ideas have been unravelled and rearranged or supplanted in the works of Hegel and Spinoza; Shaftsbury and Hutcheson; Locke, Clarke and Wollaston; Mill, Spencer and Sidgwick; Green, Mackenzie, Alexander, Stephen, Caldwell and (the McGill moralists). It might be said that the central idea of this middle, though vary variable, eclectic [and oscillating] school, has been the concrete personality of man and that the highest expression of the standard which they present is found in "Perfection."

Although the standards change and morality follows suit, the law of the moral life remains immutable in so far as its truth is concerned, for in spite of the variability of parts of its content, the evident gradual supersession of one part <sup>by</sup> ~~over~~ another, and the accumulations of additions, as well as the disuse of some portions, the truth and authority of the laws are not impaired nor its

grip on human conduct related. That which is absolutely true, though for the time being relegated to the background, is always true and must have its ultimate use and victory, but that which is only true in a relative sense, while being very tenacious, may <sup>yet</sup> suffer permanent disuse and thus be practically extraneous to the need and operation of the law.

We shall now discuss the matter of "Freedom and Necessity" as essential to morals and thus see another <sup>side</sup> of the nature of the law. The Freedom of the human will has been a vexed question for ages. To go into it thoroughly would involve us in a theological, a metaphysical and a legal study. From the first view we should be drawn into the question of divine predestination; from the second we should have to determine what constitutes the fundamental nature of "freedom" and of "will"; and from the third it would be necessary to enter some phase of the old question as to how far the laws of church ~~and~~ state or both have in their keeping the freedom and the will of each individual. Such a course would be wide of our mark so we shall just notice some of the foremost arguments against the idea of such freedom, and add a few words on Necessity.

1. Lecture notes and Bain's Mental and Moral Philosophy.

Whose for whom?

There are at least five arguments against the freedom of the human will, (1) The universality of the law of causation; but it would seem possible to use this objection in one way or another against any of the phenomena of human nature and therefore it has no specific bearing on freedom. (2) The strongest motive is always followed; but the motive is part of the self, and when a person acts according to the dictates of self that person is essentially free. (3) The influence of circumstances, e.g., habit, heredity, character etc., but man makes and unmakes his own habits even though they be of an hereditary nature, and every rational man is held responsible for his character, therefore he is master of them and not necessarily enslaved. (4) The science of statistics which shows that men act in a regular or uniform way the world over; but this, again, offers no difficulty because it is so vaguely general that it has no more weight than to say that there is no beauty in men's visages because they have mouths in their faces; the fallacy lies in thinking only of the uniformity of men's acts instead of the universal diversity of act which lies behind them; such critics, gazing at the mouth of Apollo would see it only as a hole in his face and disregard or at least overlook the consummate beauty of the lips. (5) -

Kant claimed that freedom could not be proved; but that is a mere claim and needs stronger evidence than he presented. Let us ask if he did not prove his own freedom in the peculiar kind of life he lived and the originality of thought he exhibited. Much of his teaching would have no meaning if man were not free to will that his conduct might be universal. There is, however, a distinction between immediate and future fulfilment of such actions and volitions. A moral man is conscious that he should act in one way rather than another, in the right rather than in the wrong, in the good rather than in the evil, in the altruistic rather than the egoistic way. In fact if a man were not free in an ethical sense his conduct would not come under a law and we could not impute rightness nor wrongness to his actions. Nevertheless man's freedom is limited to some extent (1) by impossibilities, (2) the habitual universe of his character, (3) the necessary uniformity of activity which must be observed to gain the desired effects. These necessities are controlled by the agent in so far that he can regard or disregard them at will. He does not have to attempt the impossible, he may suddenly change the universe of his character and he may not use the law of causation.

It is time now to ask what is judged and then what is judge. Here once more we are on debatable ground and must proceed in a controversial way. In general we are safe in saying that the thing judged is voluntary action, but this is a very superficial judgment, and by no means sufficient for our purpose; we must be more specific. To begin with we shall accept Mackenzie's statement, that will and act are but the inner and outer expression of the same phenomenon. Some writers assert that judgment is passed on the character of the agent, others say that it is the nature of the motive that is judged, while still others argue that the deed is the object of such decision. Now it cannot be on character but on the root of character i.e., the intention, <sup>since</sup> a person is not judged for what he is or for what he does, but for what he wills. It may be said that it is only the voluntariness of the act that can be judged. In the second place if we accept the definition of motive as the idea of an object which in virtue of its congruity moves the will, ~~plus etc.~~, we see that the will must be passive, waiting for the impact of a sensation which shall induce it to develop an immediate intention or a future purpose. It cannot, then, be the motive which is judged, for that is a mere idea induced by a

What is meant by this <sup>34</sup>expression?

sensation either subjective or objective, and surely the agent is not wholly responsible for an idea but <sup>only</sup> for the use he makes of it, i.e., his intention of which he is the father. Mill assents to this view when he says that the morality of an act depends on what the agent wills to do, and Mackenzie makes a futile attempt to criticise him in holding that Mill errs by saying that the judgment is on the "thing done". Now Mill does not say that, as I have pointed out, and so Mackenzie misses the mark.

In the third place those who argue that the deed is the object of judgment fail to understand the nature of moral judgment and are thus far from the point, which must necessarily include all the psychic activities as well as the overt act which is merely a result of volition.

Intention, therefore, since it is the point where responsibility begins, is the supreme object on which moral judgment should be passed. We do not, however, say it is the only thing that <sup>comes</sup> goes under the eye of the judge for it is possible that all four are to some extent judged. The prominent place which intention holds may be seen thus:

| Consciousness.   | Motive.   | Intention.  | Action.  |
|--|---|---|--|
| I am aware of a visual sensation<br>e.g., I see an apple.<br>(I am not responsible) then | I am impressed with the idea that it would be good for me. The idea moves my will.<br>(I am not yet responsible) then | I will to obtain the apple, thus inwardly becoming responsible for either the present or the future. then | I take the apple, and thus become outwardly responsible. |

1. Varieties P.P. 133-135.

Does  
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At the  
point of moral  
judgment?  
The deed  
is the  
object of  
judgment?

How  
not?

Intention has a number of different aspects; among them there is the "immediate", which might be better called the primary; the "remote", better the secondary; the "outer" or objective; the "inner" or subjective; the "direct" better immediate; the "indirect" better the remote; the "conscious" or moral; the "unconscious" or irresponsible; the "formal" or rational; the "material" or actual. These phrases show the wide importance of intention. So instead of getting up fine phrases to define motive we ought to look about for a better definition of intention. But as motives are the precursors of intentions we need to speak now of some of them.

*Intention*  
*marks*  
*necessary* The two that have caused most discussion are "pleasure" and "reason". In a consideration of the former we would have to embark on the billows of a controversial sea and become surrounded on every side by the fogs and shoals of Hedonism with its paradox, its fallacies, its ambiguities and its sophistry. In an examination of the latter we would have to face some of the masterly arguments of the Rationalistic school against whose claims Hume declared, "Reason is and ought only to be the slave of the passions, and never can pretend to any other office than to serve and obey them". To discuss either of these would take the whole space of our essay so we must be content with a remark or two from a critical standpoint. As to Hedonism, it is altogether likely that

1. Manual. 2. Enquiry. Where?  
Where? Where?

it is more often a sequence - than a motive; that we desire some pleasures as ends regardless of the attendant pleasure or pain they may involve; that pleasure is a feeling whereas pleasures are objects which when gained bring pleasure with them; that while some say that pleasures cannot be summed we may in a vivid sense conceive of ultimate pleasure as a sum of all the different pleasures we have experienced in life - just as a large cube may be composed of twenty seven smaller ones, each self-contained and perhaps of a different nature yet individual cubes and altogether making up the larger one.

As to Reason as a motive we may say that it may be one whenever the dominant universe of desire is a completely rational, one but this universe may not always be wholly rational; therefore reason cannot always be a motive, indeed it is by no means necessary that it should be either wholly or always or ever a motive, for as objects, so do motives differ. In fact it seems possible that there may be irrational and unrational motives even as there are such objects and people.

Having seen the object of judgment it is time to talk of the judge or as some say, the point of view from which the judgment is made. Apart from a subject, there are no activities and from these activities.

Would not an adequate testimony of the theme involve a harmony of these seeming  
by irreconcilable positions?  
the prevalent idea that God is judge in moral as  
well as in spiritual matters, we must look upon the  
moral agent himself as judge though not infallible.  
Professor Henry Drummond<sup>1</sup> says man will be both  
judge and criminal, accuser and accused - when in  
the last day his deeds are laid bare before him.

But it is the present continual judge of which we are speaking  
and this is supposed by Adam Smith<sup>2</sup> to take the form of  
an "impartial spectator" or a second self who stands to one  
side and passes judgment on the other self. But in this  
view there seems to be the fallacy of confounding the self  
with the volitions or of making the volitions take on the  
nature and aspect of a self, and then calling them two  
selves which is evidently far fetched; rather would  
we say that there are the volitions of the self and the self  
of the volitions and these are manifestly identical. I.E.,  
there is ~~of~~ but one self who stands back, as it were, and  
passes judgment on its own volitions. We thus reduce  
this theory to the level of the moral agent of the first case.  
Another view is that held by Mackenzie<sup>3</sup> who thinks of  
an "Ideal self" as judge which is not essentially  
different from the first but only another way of stating  
the idea. These theories show that there is a certain

1, New Evangelism. 2, 3, Mackenzie's manual.

Where?

Where?

point of view, somewhat different from and broader than the moral agent, from which judgment is pronounced; and this is, no doubt the Social self whose universal nature makes it the most capable, attractive, rational and reliable judge of all, in whose hands every individual will be willing to lay his cause and leave his conscience.

*is it not the same as the Social self?*  
*is God the Social self?*  
*identical?*

We have now arrived at a place where we may take another view of the nature of moral law by glancing through the different standards and their respective theories. The first thing we have to notice is that the various conceptions of the standard naturally arrange themselves under three heads:—

- (1) that which is "external", including laws, codes, customs, traditions, conditions and social requirements.
- (2) That which is "internal", including conscience, duty, moral sense from the social side and personal obligation.
- (3) that which is "teleological" including the idea of an end, the possession of ideals, the culture of virtues, the progress towards good and the attainment of personal and social ideals. In the first place it is negative or prohibitive, in the second it is positive or imperative, in the third it is both positive and progressive, i.e. it moves from "Thou shalt not," through "Thou shalt" to "Be ye perfect."

It is hardly necessary to say that almost all political philosophers naturally hold that the standard is external for they think, like Clifford, of the law of the tribe, like Hobbes, of the law of the State, like Martineau, of the law of god, and like the Stoics, of the laws of nature! Those who believe in the internal nature of the standard are Shaftesbury and Hutcheson with the moral sense school; Reid and Butler with the common sense and the higher philosophical view of conscience; Clarke and Wollaston of the Intuitionist school with its perceptual, conscience, common sense and philosophic intuitions; also Kant with his famous categorical imperative and the universalizing spirit of conduct. In the third place those who view the standard as teleological are the Hedonists, ancient and modern; the Perfectionists of the Christian type; the Evolutionists with their ideas of "adjustment", "survival", "approximation" and "progression"; the Idealists with the dual self, the ideal self, the rational self, and the social self.

The question is, "Can these different views be unified"? We say yes; just as soon as an individual becomes perfectly social, i.e., realizes that he is a member

1. Mackenzie's Manual, and Palmer's Field. Ethics. Harvard  
 Secret references?

of an organization which is thoroughly correlated, the standard will assume all three positions, it will be external in the pressure of social requirements; it will be internal in each person who now becomes his own master; it will be teleological from the fact that the satisfaction of the social self will be the goal of all endeavour.

The Conscience theory fails in so far as it is fallible and dependant on the vicissitudes of fortune, and since it is merely a feeling or a "consciousness of oneself in a moral regard", which needs to be explained rather than being, as some Intuitionists seem to think, an explanation of a psychic state; and although they claim it to be underrived, universal, intuitive and sovereign, they cannot make it the standard because there are other faculties which doubtless possess all of these characteristics.

The Intuitionist theory is defective on the one hand in that its greatest exponent has not been able to formulate a true system of intuitions but instead has tried to evade the necessity by saying that "the notions of duty are too simple to admit of logical definition." In this he is diplomatic for it is next to

1. Reid - Essays on Active Powers. (Ed. 1785)

impossible to make any such system or category, because of the very different conditions, environments, laws, educations and characteristics of men. On the other hand one is not willing to accept a standard without an analysis of its content, but here we are denied our rights. Therefore it cannot be considered worthy or sufficient to fill the place of a moral standard.

The Hedonistic theory is faulty because of its vagueness, ambiguity and consequent misunderstanding on the part of its devotees: some believe in mere physical pleasure, some in mental pleasure, some in selfishness pure and simple, some in the greatest amount of pleasure for the greatest number, some in the pleasure of progressive good action to an ultimate pleasurable end, and some in the greatest amount of pleasure to the greatest number consistent with right reason and correct judgment.

These modifications and differences of opinion are due to the intellectual and social standings of founders of the different schools and thus render the system as a whole unsuitable as a standard for universal conduct.

The Evolutionist theory comes short on the one side and overshoots the mark on the other, i.e., its best practical offer is that of progress which is by no

means suitable as a standard; and its best ideal offer is that of perfection or "the perfectly adjusted man in a perfectly adjusted state amid perfectly adjusted circumstances," but this takes us out of the world and enters the realm of absolute ethical perfection which is, of course, valueless to man as we see him today. This view also is therefore useless as a standard for human conduct.

The Idealistic theory - the standard as self-realization from a rationalistic point of view - is evidently too intellectual and savors of an individualistic spirit which at once rules it out of the contest for a place as standard; for the standard must be essentially social. This school, however, has been prolific of other views worthy of notice: Among them we have the standard expressed as the Law of the personal self which seems to recognize the requirements of a standard better and clearer than the others, since being a person means being a member of an organization. Another view which may be held by some socialists is the Law of the social organization, which would seem to come still closer to the fundamental idea contained in and necessary to the real standard.

1. Spencer states Ethics. (What?)

A third idea is that of the writers who, ~~while not desiring to split the hair again~~, presents a new phase of the social side and designates the standard as the Satisfaction of the Social Self.

Now any theory which makes a law the standard is, *prima facie*, too rigid and formal and smacks too much of that which demands obedience. Rather would we construct a theory which elicits obedience by calling into play the strong natural and acquired appetites and desires and ambitions of men, and ~~which~~, correlating them to all the needs of their social connexion, exalts them to the high destiny of all's welfare.

In such a many sided theory every rational being may find just what will suit his or her case best, as they advance in the social order and develop their portion of the universal organization - the "*forum consummationum*".

This theory is upheld on the philosophic side by the fact that it makes use of what is best in social philosophy and presents no barrier to any philosophic system or school of thought; it is supported on the philological side by the mutual significance and relation of the terms "*ego*" and "*socius*" which according to Baldwin are equal and interdependent, and

1. Dictionary. (14)

when we notice the exact meaning of the word "satisfaction" - (satis + facere - to make enough <sup>of</sup>) we see that it is not the mere fulfillment of desire, <sup>but</sup> the conquest of self from an individualistic standpoint and the making sufficient a broader, completer self; it is maintained on the psychological side by the fact that an individual cannot think of himself as apart from others or outside the pale of the social organization; it is supplemented on the ethical side by what is best in the principle theories of all ages; it is corroborated on the social side by the consensus of sociological opinion.

Under such a standard, covering as it does, the individual's right, society's requirements and the full rounded progress of humanity every one will be able to reach his relative best.

As a conclusion we might offer a cursory sketch (1) of the results of the operation of moral law in the history of the individual; (2) of its value as a guide to human conduct; (3) of its relation to the great movements and reformations that have shook the moral world; and (4) we might make an urgent appeal for its immediate universalization. But as time and space are both <sup>but a</sup> <sup>whisper</sup> already exhausted we shall defer these delightful con-

siderations to some future time; in fact they are not necessary to our discussion on the nature of moral law except in so far as they would serve to show the concrete side of conduct and the application of law thereto.

Finally we must again call attention to the fact that the nature of moral law is such that it is difficult to state it in so many words, but that from a general critical survey of moral development and institutions we begin to get, at least, a partial understanding of what that nature is. We have seen from our study of its history, its foundations and its growth that its nature is universal, natural, and progressive, and that this progression does not mean attestation but augmentation; secondly, from the standpoint of definitions, distinctions and content its nature is both specific and general in scope, both negative and positive in application, both dependent on and independent of other laws, while at the same time possessing mutual relationship with some of them, both passive or recipient and active or potential as regards objective and subjective influence, and in its characteristics, elements and principles concerned both with the propagation of virtues and the abnegance of vices,

46. This sentence rather loose.

as also with the recognition of rules and the obedience to duty, besides the maintenance of justice and the establishment <sup>of truth</sup>. We saw, ~~in the third place~~ from our study of the questions of Freedom and Necessity that they were essential to the law and to morals. Thirdly in our discussion on the external, internal and teleological aspects of the standard we saw that the law has a social

these a personal and an eternal nature corresponding to these <sup>two</sup> phases of the standard. Although this somewhat limited view is all we can obtain under present circumstances, we must remember that with the cycles of time we shall doubtless see its majestic nature forever unfolding before us; that when the operation of this

the law <sup>the law</sup> shall have effected the mighty changes it promises and shall have exalted human nature to the highest possible degree, where mundane considerations and moral requirements shall be assigned their proper places, man shall be in possession of more complete data and shall be able to study the nature of the

law in the broad sunlight of its universal sway. Then, when the clouds are off the soul, when thou dost look in Nature's eye, how she viewed thy self control, struggling, tasked morality!"

THE END.

Conclusion unnecessary for this.

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should be given exactly as you  
found them. Also state what  
edition of these works you  
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