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THE NATURE OF MORALITY IN INTERNATIONAL RELATIONS

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Currently on the international scene there is much competition between the states of the world as to their moral reputation. Especially in the chancellories of the great powers there is much concern whether such or other event with international aspects, will lead to a "propogandistic" victory on the part of its adversaries. That is to say governments preoccupy themselves a b o u t the moral appearance of their acts outside of law or outside of material consequences, or even without reference to such things. The purpose of this little discussion is to examine this phenomenon of morality in the relations between states and to form an opinion as to whether it truly exists.

It is clear that it is not a new phenomenon, although it has received much emphasis at the present time. The anxiety of states for the moral quality of their actions shows itself most vividly in their attitudes concerning war. It appears that it has always been recognized that war was the gravest recourse that a state might employ, with its inevitable consequences of human death and suffering. Hence, during all the course of history, no state has committed itself to war without proclaiming that it had the broadest justification for its action. It is sufficient to point to the religious ceremonies of the Romans in the Temple of Janus, which were necessary before commencing a just war, in order to indicate that since the most ancient times have existed these preoccupations for the appearance of morality on the part of governments. It has not been sufficient that a state have a merely juridical right to wage war; moral provocation and reasons have also been necessary. But if this hypothesis is valid, it indicates that law and morality in these respects are distinct phenomena, and that the state has to take both into account.

Here, this analysis can be advanced by a consideration of the duties of a state. In most fundamental terms, it can be said that the primordial duty of the state is to protect and advance the national interests. And the most fundamental interest is the tranquility of the state, including its physical security and the con-

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servation of its integrity and existence. Although it be admitted that there are other legitimate national interests, almost all can be referred ultimately to national security. Possibly it will simplify discussion, without invalidating it, and without denying the existence of other national interests, if it is considered that the national interests and the security of the state are the same thing. The most essential duty of the state, then, becomes to concern itself with its own physical security and political independence, on behalf of its people.

But this interest in security does not have an absolute priority, and cannot be pursued without consideration of other objectives and of certain limitations. The state must gain its security at the cheapest price possible, and with the least interference with the liberties and private well-being of its citizens, and futhermore has to take into consideration the legitimate interests of other states. It is, then, necessary to balance the interest in security against other considerations, and every remote threat cannot require, if necessary to its elimination, that all these other interests be annihiliated, regardless of their validity or legitimacy. The state has to employ reasonable judgment to evaluate threats to its security, and take expedients proportioned to such threats, and not extravagant or unduly destructive of legitimate interests giving rise to a merely remote threat. Life does not provide absolute security, only relative. Law and the obligation of treaties may impede a state from unrestrained pursuit of its security. Nevertheless, the law never requires that a state submit itself to an imminent or unreasonable danger to its security.

An event in the history of the United States illuminates this duty of the state. In 1792 there was in force between France and the United States a treaty of alliance, directed against the common enemy, England. But at that time France was at war not only with England, but also with a powerful coalition of the other principal states of Europe. At this time the United States were not a large power; their armed forces could not compare with the military resources of Europe. It was evident that an attempt by the United States to assist France by entering the war against England would have the probable result of a disastrous defeat or even a complete conquest of the United States by the English, and at the same time their aid to France would not be appreciable. The American statesman, Alexander Hamilton, rejecting the idea that the treaty with France was binding in such circumstances, said that there

were no reasonable proportions between the dangers to which the United States would be exposed and the benefits which the treaty intended should insure to France by an entry of the United States into the war. He added that good faith demands that reasonable risks be incurred, but not such extraordinary and extreme risks.

Does one find here a conflict between morality and legal duty? We have said that the primordial duty of the state is to protect its integrity, but at the same time it is certain that morality demands rigorously that solemn promises embodied in a treaty be loyally fulfilled. But, would it have been admirable and moral conduct if the American State had submitted itself to an unreasonably mortal peril for the vainglorious fulfillment of its solem promise? To put such a question is to demonstrate that this duty to guard the security of the state is moral also, and consequently, the obligation of the treaty seems dryly legal and in derogation of morality. It appears also that there were moral and juridical aspects in these contradictory obligations which confronted the American State on this occasion.

What, then, was the duty of the American State? According to our hypothesis, it was to conserve its integrity, but with due consideration to other obligations and other interests—in this case, the treaty with France. No obligation or promise could constrain it to compromise its security unreasonably, but at the same time, it could not free itself from an obligation on the pretext of remote possibilities of threats to its security which the fulfillment of the obligation might occasion. Then the duty of the state was to formulate a reasonable judgment (or in good faith) whether or not the discharge of the obligation toward France would involve an undue peril to the state. The action of the state with reference to its conflicting obligations would follow automatically or mechanically from the determination resulting from this application of reason to the facts or circumstances. The essential or real duty is, then, to apply reason to the facts, and subsequently to act in conformity with such reasonable determinations. This duty requires only that the state employ all the prudence and knowledge that is available to it, and it does not matter that the state may perhaps be mistaken, so long as the resulting determination is the most honest and reasonable one of which the state is capable.

According to the foregoing analysis, the legal duty and moral duty are the same. If the state had concluded reasonably that its entry into the war, in accordance with the terms of the treaty,

would impose an intolerable menace to the existence of the state, its moral and legal duty was to stay out of the war. The possibility is not to be admitted that morality may demand that a state take action in derogation of its legal duties. If on occasion such may seem to be the case, it is only because analysis has not been followed to its logical conclusion, and the "moral" exigencies become only part of the ultimate facts to be considered in determining what is the legal duty. To discover the highest moral duty then, one should search for the true legal duty in the case.

It follows, then, that in relations between states, there is no difference between morality and law, and morality has no existence beyond that a state should fulfill its duties, and pursue its actions within the limits of the law. If the conduct of a state is called "immoral" it is only to say that it is not obeying the law. And if it is valid to describe morality as something outside of, beyond, or distinct from law, there would be no justification to call such conduct "moral." Or if it is preferred to consider morality as broader than law, and including it, then it leads to confusion to call "morality" that which originates in the part of morality which is the law. And in the second place, it would be unnecessarily inexact to call "moral" something which is legal or juridical, because it would not be known if the reference was to that part of morality which was included in law, or to that part of morality which was outside of law.

It would be proper also to consider the role played by the government and whether the concept of morality touches it relative to the points of this discussion. Of course, the state acts solely through its government, and generally its character is judged by the actions of its government. It is proposed here to imagine the government as a lawyer or trustee—that is to say, a fiduciary—and the state as the client or beneficiary. The fiduciary has the duty to protect and advance the interests of the client or beneficiary to the best of his capacities and talents. The fiduciary is not a judge of the interests of the beneficiary, but rather their advocate, and in case of honest and reasonable doubt regarding the interests of the beneficiary, he must contend for the position most favorable to the interests of the beneficiary. Before formulating an opinion about the rights of the beneficiary, the fiduciary should examine the circumstances with the greatest possible objectivity and clarity, but after forming his opinion of what are or could be the rights of the beneficiary, the time for impartiality has passed, and his duty

becomes to realize all the legitimate advantages which he believes to be obtainable for the beneficiary. And it is necessary to emphasize that the advantages that the fiduciary pursues must be legitimate, lest the acquisition, or even pursuit, of illegitimate advantages impose on the beneficiary penalties or obligations, and consequently which were things against his interests.

Many times it happens that prudence or policy requires that all the advantages juridically obtainable not be pursued, because of the expenses of the remedies, or the offense which would be given to parties whose favor is worth more than the immediate advantage. It is the occasion for "enlightened self-interest." But even this has for its motive the interest of the beneficiary alone, with a complete and legitimate indifference for the interests of other parties, and does not touch upon generosity or "morality." The fiduciary cannot exercise generosity with the interests or property of the beneficiary, and if he does so, the fiduciary is in dereliction of his duty. It is the same with a government and its state. The character and worth of the fiduciary is judged according to his effectiveness in conserving the interests of the beneficiary, always within the limitations of the law, and any "moral" judgment of the fiduciary would touch solely on his loyalty toward the beneficiary—that is to say, the fulfillment of his legal duty. It is the same with a government and its state in matters relative to international relations.

If the actions of the state cannot partake of qualities of morality, but only can be legitimate or illegitimate, it follows necessarily and logically that the anxiety of states for their reputations is to show to the world that their governmental actions are legitimate. The concept of a state activity outside of law or self-interest cannot exist. Matters relative to propaganda refer to opinions of other states and their people that are not yet committed, or that remain susceptible of being influenced for or against one's own state. It follows then that a propagandistic victory consists in proving to other states that one's own actions are within one's own rights, or that one's own interests concurr with those of these other states. And on the contrary, a propagandistic defeat consists in one's adversary being able to convince other states that one's own state is mistaken regarding its own rights and that it has acted in excess of them, or that its interests are logically opposed to those of the state toward which the propaganda is directed.

It appears that the motive for the immemorial practice of states

to imbue their policies with an aura of morality is to stimulate the enthusiasm of the people in support of such policies. It is supposed that a dry explanation of purely juridical rights would never provide the popular stimulus which is so necessary to rally the people in support of the policies of the state. Besides, if one's adversaries are going to make appeals to popular emotions and sentiments for morality, it becomes necessary in one s own defense to do the same, lest the people suspect that one's state doesn't have a moral character. If this amounts to hypocracy, it is something outside this discussion. But it is probable that human nature is such that it is not possible to eliminate completely the appeal to morality in relations between states. But when animosities become charged with elements of morality, they lead more to intolerance and intransigent positions, and thus diminish opportunities for negotiation and reasonable discussion and mutual honorable accomodations which could arrive at an acceptable composition of differences. One does not make pacts with outlaws. Therefore, it is better, to the extent that human nature permits, to eliminate the concept of morality in international relations, which exists only subjectively, and to leave the regulation of such questions to the arbitrament of law and its objectivity.