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Virtue or Norms:

Problems and Solutions in Choosing Values for Moral Education

Should we teach virtue or norms? How do we clarify the value status of virtue and norms? In particular, how do we keep the balance between virtue and norms during the transition from a traditional community to modern society? These are the difficulties that arise from the choice of values in contemporary moral education.

How to balance virtue and norms?

Any mature theory of morality should include the explanation of virtue and norms. Even behaviour-centred normative ethics also pays attention to virtue, for virtue accords with rightness or supports respect for rightness. So the conflict between virtue and norms does not mean the decision to accept one and to reject the other, but instead the concern is which one should take priority over the other in the theory of morality. For virtue ethics, virtue has the priority. But for normative ethics, virtue should be subordinate to norms.

Valuing virtue is an important characteristic of traditional culture in China. “*Dao*” mainly means the fundamental principles and basic norms, which are external rather than internal. On the other hand, “*De*” means the inner character developed after a person has learned about and practices “*Dao*”. “*Dao*” and “*De*” in Chinese culture correspond to “Norm” and “Virtue” in western ethics respectively. In the Chinese morality of everyday life, there is a possibility of separating “*Dao*” from “*De*”. We may behave in accordance with “*Dao*”, but there is no “*De*” in our mind.

In the tradition of Chinese ethics which emphasises virtue, the primary criterion for

evaluating morality is not the norm. People may act in accordance with the norm, but if they have no virtue, then they can be regarded as immoral. So it is easier to do good deeds than to be a good person. Mencius took “Ming Renlun” (understanding the ethical relationship among humankind) as the goal of moral education. This Mencian doctrine includes two basic aspects. One is humanity, which differentiates humans from animals. The other is the ethical norm that regards “*Ren*” as the core. Hence, in Chinese morality, the statement “you are still a human” is not a highly positive remark. But “you really are not a human” must be a serious criticism. A human should possess not only the physical form, but also the inner virtue.

Virtue is the end or aim of morality, and norms are the means of attaining virtue. The final goal of morality is freedom. This is the fundamental element that differentiates morality from law and religion. In the stage of freedom, people can practise their wisdom and act rightly at the proper time, in the proper place and with the proper manner. This is done naturally with minimal influence of outside force, viz., the manifestation of greater freedom. Of course, the development of human virtue cannot rely on any propagation initiated by political parties. Also, it is not correct to expect that people would gain virtue in a short period of time and that the outcome of virtue can be observed through the analysis of objective behaviour. So it is necessary to recognise the durability, complexity and progression of virtue development in virtue-oriented moral education. We should avoid any shortcuts, as they may only result in superficial outcomes which do not genuinely facilitate the cultivation of virtue.

On the other hand, virtue can be the result of practising norms. Any kind of virtue corresponds to specific norms. For instance, the virtue of honesty corresponds to the norm of honesty, and the same applies to the virtue of generosity. By practising the norms of honesty and generosity, a person may become an honest and generous person. It is necessary for anyone to be guided by norms. But the ultimate goal is virtue. This means that even saints in the real world are still in need of norms, but these norms originate from their intention to accomplish virtue. Research on ancient Chinese ethical governance shows that despite the simplicity of the social structure of traditional Chinese society, human development of virtue could not be detached from the multi-party indoctrination which comprised family moral education, school moral education and societal moral education. As revealed in the contemporary analysis of ancient rural Chinese rules, the social regulations which had been officially laid down were mostly restrictive by nature. With their behaviour being restrained, people gradually developed the habit of performing charitable acts, leading to the emergence of virtue.

From the perspective of logic, the rational relation between virtue and norms is that virtue begins from norms and norms aim for virtue. But from the perspective of

utility values, norms are the means of achieving virtue and virtue is the end of norms. This is the balance between virtue and norms.

How may virtue be embedded into norms?

Since virtue cannot be separated from norms and norms are the means of virtue, it is important for us to explore how virtue and norms are integrated together. However, such an attempt presents two theoretical and practical challenges. First, whose norms should be adopted? Second, in which manner should the integration be carried out? It is common sense that because of the complexity involved in virtue cultivation, any single norm would not be solely responsible for fostering virtue. So it is inevitable to embed virtue in those norms related to morality, religion and law. But is there any priority norm? The answer may be obvious as law seems to be the priority norm in contemporary society. Law is the commonly shared knowledge in any society which is supported by the rule of law. Thus, compared to morality and religion, law has the inherent advantage of assisting people with the goal of virtue. Then in which manner should the aim of virtue be embedded into the norm of law? We might look to western virtue jurisprudence as having provided us with some insights into this issue.

The most absorbing opinion of virtue jurisprudence is the Aristotelian explanation of the aim of law. Virtue jurisprudence states that the final end of law is not to allow for the maximum satisfaction of individual choice or prevent harmful behaviour or to protect some particular rights and privileges. Instead the final aim of law is to promote human flourishing: to enable humans to lead an excellent life. Virtue jurisprudence points out that welfare, efficiency, autonomy and equality are not the basic concepts in the philosophy of law. By contrast, it advocates the idea that virtue, excellence and human flourishing are the core concepts in the philosophy of law. This view challenges the normative law theory which is heavily based on the notion of rights. Virtue jurisprudence suggests that the slogan “law is politics” distorts the aim of law, making judges mediocre. So proponents of virtue jurisprudence believe that it is important for jurisprudence to make an aretaic turn, from an emphasis on ideology, rights and utility to a focus on virtue.

According to virtue jurisprudence, the best way to improve the capacity of legal institutions to resolve disputes is to achieve excellence within the judiciary. This requires the selection of judges who possess judicial virtue, which includes civic courage, judicial temperament, judicial intelligence, wisdom and, above all, justice. So this line of thought results in a theory about judges that focuses on the virtue of judges. The primary concern of this theory is that judges should be virtuous and make virtuous rulings. They should be appointed according to the virtue they display during trial proceedings. A fair ruling is the same as a virtuous ruling. By and large,

there are many commonalities between judicial virtue and human excellence. Theoretically, an outstanding ruling requires intellectual virtue, practical wisdom and courage, self-control and good moral character. All these are also needed for the flourishing of human life.

The texts of law are often written in universal language and are intended to be applicable to general rather than specific cases. Under some special contexts, if a judge adheres strictly to the protocol of law, then the ruling may be unfair or absurd. Therefore, it is important for judges to possess practical wisdom and be a “phronimos”. With practical wisdom, judges can go beyond a literal interpretation of the law and seek the best decisions, thereby safeguarding the spirit of the law. Sometimes practical wisdom means equity. Equity can be a form of deviation from rules. It rectifies the over-generalisation of law in particular cases. For judges, “law” does not mean the law alone, but instead it means more universal social norms.

Virtue jurisprudence has provided us with some inspiration to grasp how virtue is embedded in norms. First, when we try to attain virtue through the norm of law, it does not mean that we should force virtue on people via legislation or include virtue within legal provisions. In fact, the purpose of law cannot be limited to fulfilling special political tasks or instilling ideology. This can be one dimension with respect to our understanding of law. Apart from this, law should indirectly support the flourishing of virtue. Law is not a kind of direct force, but it provides a premise for the cultivation of virtue. Second, legal trials are not only about skill in law, but also involve the art of applying the law and looking for justice. To achieve justice, judges should find out the relevant facts and decide what aspect of the law to apply. But there is an important task to be carried out here. That is, judges should strike a balance between legal efficiency and societal efficiency, especially in terms of virtue. This does not mean that judges should be encouraged to distort the law under the guise of virtue. Conversely, judges should be reminded not to ruin virtue through application of the law. Rather, they ought to support and promote the pursuit of virtue through appropriate judicial measures.

Where is the path to moral freedom?

Since the 1980s, Chinese society has become more and more open. The socialist market economy now distributes wealth according to labour and encourages part of the population to become rich first with the ultimate aim of common prosperity. This has revolutionised the previous socialist planned economy. In such historical circumstances, what the socialist market economy would oppose are thoughts and deeds such as hurting others or the general public for the sake of oneself, worshipping money, abuse of power, fraud, extortion and racketeering. As a result, personal

interest has received legitimate protection within a population-wide moral framework. However, once people's desire to seek personal benefit was set free from excessive suppression, but without the previous corresponding norm to regulate such desire, then moral indifference began to take shape. This was blatantly manifested in the 1980s all over China through the popular slogan "how much is conscience worth?" A reformed society needs open morality, and open morality needs support from moral education which is moral.

The theory of moral education has fallen into two sets of radically opposed thoughts. One denies thoroughly the value of virtue, as reflected by the saying "economists do not need a conscience". The other extreme perspective is to excessively glorify the value of virtue, especially with deep "cultural nostalgia" for the virtuous ideals in traditional societies. According to the former line of thought, moral education is normative education, or more precisely governance through law. As for the latter, moral education means a return to the traditional path. The first kind of thought is always geared to the phenomenon of globalisation while the second one orientates itself more towards localised knowledge. Our moral education keeps hovering between these two extremes. In fact, traditional moral education is not completely compatible with our modern and open society whereas the argument in favour of globalisation would certainly encounter criticisms from supporters of particularism. Nevertheless, whether we are in a traditional society or a modern society, the question which has to be addressed is how to keep the balance between virtue and norms in moral education. In this regard, virtue jurisprudence has offered valuable insights. It does not abandon the pursuit of traditional virtue, but at the same time, it insists on the materialisation of the rule of law. Hence, virtue and norms can really be in harmony with each other vis-à-vis our understanding of morality.

Unfortunately, the distortion of contemporary moral practice is gradually eroding moral ideals and norms. "Being a good person" has become a big challenge, as moral education has been experiencing an embarrassing dilemma. In an article entitled "The Good Samaritan's new trouble: A study of the changing moral landscape in contemporary China", YunXiang Yan, Professor of Anthropology at UCLA, analysed a peculiar kind of extreme immorality in present-day China, where Good Samaritans were extorted by the very people who had received help. His analysis was based on 26 cases of unusual extortion, 20 from media reports and 6 from interviews with the persons involved. In addition, 38 people were interviewed and asked to express their views about these cases. The researcher also reviewed online comments and personal blogs which contained reflections on such social phenomena. In 12 out of the 26 cases, either the police were called to the spot or the court had to be involved after the extortionist had filed a lawsuit against the helper. With no exception, the law enforcement officer or the judge never challenged the extortionist's argument of "Why did you help if you did not first hurt me?". Instead, the policeman

or the judge demanded that the helper present evidence indicating his or her innocence, normally asking the helper to find a witness, while, at the same time, the extortionist was not asked to provide any witnesses or other evidence.

In these cases, the judiciary has conveyed the wrong message. It seems that in order to avoid being extorted, we should not express our sympathy or offer help to people in need. Furthermore, we should restrain our enthusiasm for helping others. If we cannot help doing something good for others, then it is necessary for us to gather evidence of our intentions in advance. Since being a Good Samaritan is risky, we need to calculate the possibility of being extorted. But if we do so, then are we Good Samaritans? Further, a legal trial which lacks virtue would lead to the loss of conscience and undermine the baseline of justice. This re-affirms the well-known statement of the English philosopher Francis Bacon: “One unjust ruling is much more harmful than multiple unjust acts. While the unjust acts merely contaminate the river course, the unjust ruling spoils its source.”

From the perspective of the norm of law, two important points about moral education deserve special attention. First, legislation must in advance leave proper space for the practice of virtue. Second, the judiciary cannot promote immorality and should be supportive of people of virtue.

Conclusion

Virtue is the final goal of moral education. This means that the most important function of moral education is to guide anyone to be virtuous or to be a good person. But this final goal cannot be realised only by moral education. It needs the support of law. Law is a kind of norm. Virtue cannot be isolated from norms. Nevertheless this does not imply that any kind of norms or law will support the flourishing of virtue. Imagine the scenario of teachers ordering or telling students to be virtuous, but later the students fall into legal trouble for being good people. If this really happens, then all moral education will be in vain. So to be supportive of virtue, law itself should be virtuous. In this respect, we do not mean that virtue should be enshrined in the law or that law should directly force people to be virtuous. Conversely, it does mean that law should give a just award or punishment to people. It then forbids evil deeds and encourages good deeds. And as a consequence, virtue, as the final goal of moral education, will be achieved.