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The Ethical Foundation for the Pragmatic Conception of Justice

Anton Donoso*

In this article Dr. Donoso brings together from Dewey's writings a number of comments on the nature of justice. He concludes that for Dewey justice is but one of many interrelated human virtues. It thus shares the characteristic which Dewey ascribes to virtue generally, and cannot be equated either with current standards of morality or with other fixed and absolute rules.

Since the death of John Dewey ten years ago, his thought has been the subject of a number of works, some of the most significant of which deal with his philosophy of law and of justice. The question of his conception of justice arises out of his general effort to show that the resolution of moral conflicts between various claimants is possible by the use of the scientific method, by which is meant intelligent examination justified by reliable public test through reference to consequences. This entails the formulation of a norm of justice that is both valid (true) and morally binding (obligatory).

Excluding the "positivistic" methodological materialists, who question the very possibility of *ethical* knowledge based on experimental grounds, there is disagreement among the pragmatic ethical naturalists themselves as to what a norm of justice would entail. The observation has been made that this disagreement is due mainly to the ambiguity of Dewey's argument. It is said that his position lends itself to two divergent interpretations, both of which have led to types of reductionism, one of whose consequences is *the impossibility of applying instrumentalistic ethics to a particular issue*. To say the least, this is most unfortunate in an area known as *practical* philosophy.¹

One aspect in the overall solution to the acknowledged ambiguity in Dewey's own treatment of "justice" is an examination of the context

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1. Cf. Jaffe, *The Pragmatic Conception of Justice*, in 34 UNIVERSITY OF CALIFORNIA PUBLICATIONS IN PHILOSOPHY 10 (1960). Professor Jaffe, author of the most extensive contribution to the study of justice according to Dewey, has attempted to reconcile the conflicting elements in the two previous attempts to establish a norm of justice and presents what he calls the "interactionist" interpretation—a norm of justice both *true* (i.e., scientific) and *obligatory* (i.e., morally binding). In his excellent essay he presents the first results of his proposed two-part effort to formulate, in a more general manner, the pragmatic conception of justice in order to determine eventually the political program to which such a norm would commit those who accept it.

out of which emerged his initial concern with this "virtue." It will be the attempt of this paper to present this context by correlating Dewey's thought on the ethical foundation for the pragmatic conception of justice.² The context is one of concern with the Right and the Good. And, the resolution of the problem (the problem of the impossibility of applying instrumentalistic ethics to a particular issue) will be seen to have its ethical basis in Dewey's insistence that we can not go from the idea of duty in general to some particular act as dutiful unless we make a "connection" between *Right* (the best way of doing something) and *Good* (the object that is to be attained).

* * *

First of all, what is meant by "ethical" foundation? To Dewey, "ethics is the science that deals with conduct, in so far as this is considered as right or wrong, good or bad."³ As such, ethics is not merely the sum of other studies or sciences, for to it falls the task of relating the two aspects or sides of conduct or moral life, the *inner process* as determined and changed by outer conditions and the *outward behavior* as determined by the inner purpose, or as affecting the inner life.⁴ Ethics does not deal with all behavior, however. Its concern is primarily with "conduct in which the individual thinks and

2. Dewey's first extensive treatment of morality was in his *OUTLINES OF A CRITICAL THEORY OF ETHICS* (1891). In 1957 the book was reproduced by Hillary House of New York. In 1903 he published his significant essay on the *Logical Conditions of a Scientific Treatment of Morality*, in 3 *DECENNIAL PUBLICATIONS OF THE UNIVERSITY OF CHICAGO* 113-39 (1st series). In 1908 he published an essay on "Ethics," later reprinted as *Intelligence and Morals*, in *THE INFLUENCE OF DARWIN ON PHILOSOPHY AND OTHER ESSAYS* 46-76 (1910). That same year in cooperation with James H. Tufts he put out the work entitled *Ethics*. Part I and chapters XXII-XXVI of Part III were by Tufts, while Part II and chapters XX and XXI of Part III were by Dewey. The entire book was revised for the second edition of 1932. According to the "Preface to the 1932 Edition" (p. iii), "about two thirds of the present edition has been newly written, and frequent changes in detail will be found in the remainder." The part of the *Ethics* from which we have drawn the basis for Dewey's notion of justice as a virtue is Part II. According to the same preface, "Part II has been recast; the method of presentation has been changed and the material practically all rewritten." (p. iv). Because Part II stands as a separate unit in relation to what precedes and to what follows, in 1960 Holt, Rinehart, and Winston, Inc., of New York brought it out in paperback with the title of *Theory of the Moral Life* (with an introduction by Arnold Isenberg). It is to this edition that our footnotes correspond. The 1932 revision of Part II of the *Ethics* remains Dewey's last extensive and broad treatment of the theory of moral life. One significant essay (*Theory of Valuation*) was to be written by him later (1939) as part of the University of Chicago Press's *International Encyclopedia of Unified Science*, Vol. II, No. 4, 67 pp. It is mainly an effort to show that scientific method can be applied to value judgments; and its enormous fame has greatly obscured the more general and theoretical treatment of morality presented in the *Ethics*. However, it was in this earlier treatment that Dewey's discussion of justice as an ethical notion first emerged and which links him to the more traditionally oriented moral theories.

3. Isenberg, *Introduction to DEWEY, THEORY OF THE MORAL LIFE* viii (1960).

4. *Id.* at ix.

judges for himself, considers whether a purpose is good or right, decides and chooses, and does not accept the standards of his group without reflection;" and secondarily with customary behavior which entails relatively little critical reflection and with actions motivated by non-moral needs which nonetheless have important results for morals.⁵

Since no fundamental difference exists between systematic moral theory and the reflection an individual engages in when he attempts to find general principles which shall direct and justify his conduct, we may say that moral theory in regard to justice begins when any one asks: "Why should I act thus and not otherwise? Why is this just rather than unjust; what right has anyone to frown upon this way of acting and impose that other way?" Such reflective consideration begins with the data of existing situations and only *if* the individual is confronted with conflicting goods and his old modes of activity no longer suffice. It is the extension of such reflection that leads to moral theory.

Some have tended to minimize the importance of reflection in moral issues.

They hold that men already know more morally than they practice and that there is general agreement among men on all moral fundamentals. . . . But in fact the agreement exists to a large extent only with reference to concepts that are taken vaguely and apart from practical application. Justice: to be sure; give to each that which is his due. But is individualistic competitive capitalism a just system? or socialism? or communism? Is inheritance of large fortunes, without rendering of personal service to society, just? What system of taxation is just? What are the moral claims of free-trade and protection? What would constitute a just system of the distribution of national income?⁶

No doubt few would question the desirability of justice, but there is a multitude of interpretations as to its meaning. Universal agreement upon an abstract principle, even where it does exist, can be only the preliminary step to cooperative investigation and thoughtful planning, for systematic and consistent reflection.

Every moral theory which tries to determine the *end* of conduct has a twofold task. It is "to frame a theory of Good as the end or objective of desire;"⁷ and also to frame a theory of the true, as distinct from the seeming, good. In effect this latter, called moral wisdom, implies "the discovery of ends which will meet the demands of impartial and farsighted thought as well as satisfy the urgencies of desire."⁸

5. *Id.* at x.

6. DEWEX, *THEORY OF THE MORAL LIFE* 21 (1960).

7. *Id.* at 37.

8. *Ibid.*

In connection with the reflective theory of the Good there enter into morality certain factors which seem to be independent of any form of satisfaction and hence independent of the Good. These factors are responsibility and obligation, and traditionally are centered around the conception of the Right. A distinction arises between what we *want* to do, even upon reflection, and what we *ought* to do. When what is "right" signifies the road or path which leads to the greater good, the social good as embodied by law, there is introduced the element of exaction or demand. This involves the idea of an authoritative claim which imposes a demand to follow the best and direct road to the good. A person must see the more comprehensive good, or social good, as that more reasonable to choose. In this case, "the Good is that which attracts; the Right is that which asserts that we ought to be drawn by some object whether we are naturally attracted to it or not."⁹

The social demands to which we are subject give rise to duty. Such an "exercise of claims is as natural as anything else in a world in which persons are not isolated from one another but live in constant association and interaction."¹⁰ Particular rights and duties *may* be arbitrary, but they *need* not be; for "there is nothing arbitrary or forced in the existence of right and obligation."¹¹ Right, law and duty arise "because of the inherent relationships persons sustain to one another," and the consequent expectations of others, whose authoritative force springs "from the very nature of the relations that bind people together," imposing themselves as duty even when they run counter to the good called for by a present desire.

Duties at first arise from specific situations, but with maturity we formulate a general idea of duty distinct from any particular situation. It is more than a mere generalized extract, for it constitutes a new attitude toward future special situations. As such it is a principle of action, an instrument, an ideal.

An ideal of duty, if it is to be reflective, leads to the formulation of a standard or criterion of conduct. Thereby praise and blame are assigned to social conduct. Dewey sees this standard of admiration and esteem as the contribution to the universal happiness or welfare of society—as long as such a standard would recognize the great part played by factors internal to the self in creating a worthy happiness. By means of such a standard we find that "institutions are good not only because of their direct contribution to well-being but even more because they favor the development of the worthy dispositions from which issue noble enjoyments."¹² That is, social arrangements are of

9. *Id.* at 67.

10. *Id.* at 68.

11. *Id.* at 81.

12. *Id.* at 100-01.

moral value if they tend to lead members of the community to find their happiness in the objects and purposes which bring happiness to others.

This is not an equation of personal and general happiness except in so far as an individual achieves a kind of happiness which is harmonious with the happiness of others by personal choice of those ends of desire which are in agreement with the needs of social relations. The distinction between personal and general happiness is seen also in the difference between end and standard. The end is the particular good which is the object of desire, and whose attainment leads to satisfaction of desire or happiness. The standard is the criterion by which we examine past actions, or purposed future actions *as if* they were past, in order to determine their goodness from another point of view: would the action which achieves it further the well-being of all concerned or affected by the act?

Right, with its notions of duty and standard, if separated completely from the Good, or satisfaction of desire, will lead to a sense of duty and justice that is merely abstract, without concrete application. To Dewey it is impossible to go from the idea of duty in general to that of some particular act or mode of conduct as dutiful unless we connect Right and Good. The "connection" of which he writes is that between means and end, between the best way of doing something (Right) and the object that is to be attained (Good). And this is accomplished by giving consideration to possible consequences and how they affect others.

It is in such a context of standard as shared good that Dewey presents his first extensive treatment of justice. He begins with an observation: it seems, to some, that when contribution to a shared good is taken to be the standard of approbation, benevolence is exalted to such a point that justice almost falls out of the moral picture. In other words, charity seems to be so complete that there is no need to appeal to justice. Such a standard of general well-being has been attacked, according to Dewey, by those who say that justice is the supreme virtue and must not be subordinated to something beyond itself, even to consequences that attend to the well-being of society. Those who so exalt justice above all virtues and regard consideration of consequences as a degradation of this virtue take their stand, Dewey tells us, on an abstract principle of justice. To them justice must be done, come what may. And to them even such consequences as the common and shared good "reduces justice to a matter of expediency and abates its authority and majesty."¹³

Dewey's reply to this objection is twofold. First of all, to eliminate a consideration of the consequences of action from *any* moral stand-

13. *Id.* at 105.

ard is to be left with only a formal principle. Morality is thus considered as mere conformity to an abstraction instead of the vital effort in behalf of a significant end that it is.

[Moreover], experience shows that the subordination of human good to an external and formal rule tends in the direction of harshness and cruelty. The common saying that justice should be tempered with mercy is a popular way of stating recognition of the hard and ultimately *unjust* character of setting up a principle of action which is divorced from all consideration of human consequences.¹⁴

Any conception of justice as an end-in-itself is a case of making an idol out of a means at the expense of the end which the means serves.

This leads to the second aspect of Dewey's objection. To him, "justice is not an external means to human welfare but a means which is organically integrated with the end it serves."¹⁵ Justice is a means which is a constituent part of the consequences or the just acts it brings into being. To illustrate this intimate connection between means and end Dewey uses the example of tones that are integral constituents of music as well as means to its production, and of food that is an indispensable ingredient within the organism it serves.

Aside from this twofold objection, Dewey finds what he calls "an inherent difficulty" in any conception that separates justice from the effects of actions upon human well-being. This difficulty is that "the separation leaves the practical meaning of standard arbitrary or open to different constructions."¹⁶ As he puts it, "there is no necessary connection between a conviction of right and good in general and what is right and good in particular."¹⁷ He cites two instances to illustrate the various interpretations of justice that have been offered. Some have maintained that justice signifies strict retribution, an eye for an eye, a tooth for a tooth. Others, of whom Herbert Spencer is an example, identify the principle of justice with the relation of cause and effect in its biological meaning of natural selection by the elimination of the unfit in the struggle for existence. "It is 'just' he (Spencer) asserts that the inferior should stand the consequences of their inferiority and that the superior should reap the rewards of their superiority. To interfere with the workings of natural selection is thus to violate the law of justice."¹⁸

Those who exalt justice in isolation from just acts seem to indicate that the notion of justice carries its own meaning. "The truth lies on the other side. The meaning of justice in concrete cases is something

14. *Ibid.*

15. *Ibid.*

16. *Id.* at 106.

17. *Id.* at 127.

18. *Ibid.*

to be determined by seeing what consequences will bring about human welfare in a fair and even way."¹⁹ Even the broad and legalistic conception of justice as "rendering to another that which is his" raises more questions than solves problems. We are prompted to ask: what *does* belong to a man *as man*?²⁰ How is what is morally due to a man to be measured? In terms of the classic emphasis on external matters such as property, reputation, honor, etc.? In terms of what is fixed by convention and custom? "Or is what is owed to a person," Dewey asks, "anything less than an opportunity to become all that he is capable of becoming"? It is not difficult to see that for Dewey justice will be the concern for the objective conditions of personal growth and achievement which, in his words, "cannot be distinguished from beneficence in its fundamental and objective sense."²¹

Thus Dewey declines to draw an arbitrary distinction between justice and beneficence or charity. In his opinion, those who set up the "opposition" between them rest their case upon a narrow conception of justice and upon a sentimental notion of beneficence. According to Dewey, "if beneficence is taken to signify acts which exceed the necessities of legal obligation, and justice to denote adherence to the strict letter of moral law, there is, of course, a wide gap between them."²² In reality the scope of justice is broad enough to cover all conditions which make for social relations, including those called "welfare." For, "a large part of what passes as charity and philanthropy is merely a makeshift to compensate for lack of just social conditions."²³

The erroneous notion that beneficence is a sentimental phenomenon

19. *Id.* at 107.

20. It is at this point that Dewey's notion of justice, as do *all* notions of this virtue, has its roots. Upon the conception of *what man is* is built every ethical theory. The deeper and irreconcilable differences between the various ethical systems—especially between those that are supernaturalistically orientated and those that are naturalistically geared—are to be found at this level. It will be noticed that Dewey often speaks of human "nature" in regard to man and to the relations (later to be formulated into laws) that emerge from man living in society. The "nature" of man must not be interpreted, so Dewey tells us, in the traditional, pre-evolutionistic sense of the term—as an authentic, immutable, given something that underlies the changing appearance of man.

Nor must the laws that grow out of *natural* relations be thought of as natural law, unless, as Dewey points out, we mean by "natural law" the need of the adoption of technical and official legal rules by the use of reason to secure desirable results in practice in regard to justice. *Nature and Reason in Law*, reprinted in *PHILOSOPHY AND CIVILIZATION* 172 (1931). What is unacceptable to Dewey is any use of "natural law" in which "natural" is identified with "rational" or that which is thought to be correct or unchanging, or is identified with the given state of affairs. In such cases an appeal to nature would signify "the reverse of an appeal to what is desirable in the way of consequences." *Id.* at 167. It then can be a weapon for prolonging unjust and uneven conditions by those who stand to gain most by such injustice.

21. DEWEY, *op. cit. supra* note 6, at 109.

22. *Id.* at 108.

23. *Ibid.*

does not exclude sympathetic concern from a reflective moral theory. The emotion of sympathy, it is the opinion of Dewey, can be morally invaluable when used with reflection. "To put ourselves in the place of another, to see things from the standpoint of his aims and values, to humble our estimate of our own pretensions to the level they assume in the eyes of an impartial observer, is the surest way to appreciate what justice demands in concrete cases."²⁴ Sympathetic concern for consequences, guided by intelligence, is saved from becoming sentimental meddling in the affairs of others. Rather, the person who intelligently utilizes his sympathetic concerns endeavors to reform social conditions so that

all individuals can exercise their own initiative in a social medium which will develop their personal capacities and reward their efforts. That is, it [he] is concerned with providing the objective political, economic, and social conditions which will enable the greatest possible number because of their *own* endeavors to have a full and generous share in the values of living.²⁵

This is social justice—chiefly concerned with *indirect* help by inaugurating objective social conditions of equity, while also concerned with *direct* help of those who cannot participate in normal activities because of illness, physical incapacity, pecuniary distress, etc.

The basic identity of justice and beneficence in Dewey's position cannot be understood without examining his notion of virtue and character. Moreover, it is in the context of virtue that his notion of justice takes on its fullest meaning. The concept of virtue is closely connected with standard of approval, as Dewey sees it. Whereas in primitive morals those traits of character which are approved are virtuous, in reflective morality the attitude is reversed. A theory of morals subject to reflective examination attempts to discover "What traits of character should be approved; it identifies virtue not with that which is *de facto* approved but that which is *approvable*, which *should* be approved."²⁶

Because customary or unreflective morality rests upon an uncritical acceptance of existing institutions and modes of activity, it is possible to draw up a list or catalogue of those virtues which lead to conformity and their corresponding vices. At the onset of his discussion Dewey makes it clear that in reflective morality, precisely because it is reflective, any such list has no more than a tentative status. Because of this, no particular virtue, justice for example, can be given a "fixed meaning" since it expresses an interest in objects and institu-

24. *Id.* at 107.

25. *Id.* at 108.

26. *Id.* at 109.

tions which are changing or ought to be changed.

This, however, does not mean that there is nothing permanent about virtue.

In form, *as* interests, they [virtues] may be permanent since no community could endure in which there were not, say, fair dealing, public spirit, regard for help, faithfulness to others. But no two communities conceive the objects to which these qualities attach themselves in quite identical ways.²⁷

Therefore, the only basis upon which virtue can be defined is in reference to the "qualities characteristic of interest" and not on the basis of permanent and uniform objects in which interest is taken.

Accordingly, Dewey discusses virtue by an enumeration of the traits which must belong to an attitude called "virtuous" and not by listing actual virtues "as if they were separate entities." To him there are three main characteristics of virtue: (1) wholeheartedness, (2) persistence, and (3) impartiality. First of all, "an interest must be wholehearted."²⁸ By this is meant that he who is virtuous has integrity, sincerity, devotion which is unmixed and undiluted. He who is virtuous is "single-minded" in so far as he has brought into order and unity his various interests and their objects by reflecting on them. This is not to be identified with merely a succession of intense emotional feelings of enthusiasm, for it involves devotion to a line of action that may not be to his immediate personal interest but that does serve the public interest.

Such devotion naturally leads to the second trait of virtue. "Hence the interest which constitutes a disposition virtuous must be continuous and *persistent*."²⁹ Such persistence excludes the lack of stability characteristic of "fair-weather virtue" and involves "sticking it out" even when conditions are adverse—once the interest has been reflectively approved.

The last main trait of virtue is "impartiality," for a complete and wholehearted interest must be impartial as well as enduring. Individuals tend to be interested in the well-being of family and friends and to be indifferent to others. This easily leads to one scale for determining interests of one's own community, nationality, color, religion, etc., and a different scale for those of other groups. The result is partiality or lack of complete universality of interest. As Dewey puts it:

Complete universality of interest is impossible in the sense of equality of strength or force of quantity; that is, it would be mere pretense to suppose that one can be as *much* interested in those at a distance with whom one has little [or no] contact as in those with whom one is in constant communi-

27. *Id.* at 113.

28. *Ibid.*

29. *Id.* at 114.

cation. But equity, or impartiality of interest is a matter of quality not of quantity as in-iquity is a matter not of more or less, but of using uneven measures of judgment.³⁰

The impartiality of virtue insists that in estimating consequences in the way of weal and woe "for *all* sentient creatures who are affected by an act . . . each one shall count as one, irrespective of distinctions of birth, sex, race, social status, economic and political position."³¹ Such an impartial attitude demands, on the part of one who acts in relation to others, that he *should* have "an equal and even measure of value" as far as the interests of others who are affected by his action. According to Dewey, it must be remembered that "in an immediate or emotional sense" it is not possible to love our enemies as we love our friends.³² But the maxim to love our enemies as we love ourselves signifies that in our conduct we should take into account their interests *at the same rate of estimate* as we employ for our own interests and those of our friends. Thus, any act is virtuous when it has impartiality as the principle for regulating the consequences of that act in so far as it bears upon the happiness of others.

It is this characteristic of impartiality that seems to save Dewey's enumeration of the traits of virtue from applying equally as well to vice. The acts of most notorious individuals can be said to be characterized by "wholeheartedness" and "persistence." Indeed, viewed merely from these traits, most prison inmates are far more "virtuous" than most law-abiding citizens! Dewey, however, recognizes this, for to him single mindedness of purpose and persistence of disposition is narrow if it is not united to breadth and impartiality of interest.³³

Such a view of virtue saves us, in Dewey's opinion, from two unfortunate results. First, there is no danger of the identification of virtue "with whatever is conventionally and currently prized in a particular community or social set."³⁴ Moreover, it protects against the "unreal separation of virtuous qualities from one another" and the consequent temptation to catalogue virtues so as to pigeon-hole them in water-tight compartments.

The fact is that "virtuous traits interpenetrate one another."³⁵ It is this unity that is implied in the very idea of "integrity of character." Virtues are named according to the *emphasis* demanded of activity under the actual circumstances. For example:

At one time persistence and endurance in the face of obstacles is the prominent feature; then the attitude is the excellence called courage. At

30. *Ibid.*

31. *Id.* at 94.

32. *Id.* at 115.

33. *Ibid.*

34. *Ibid.*

35. *Ibid.*

another time, the trait of impartiality and equity is uppermost, and we call it justice. At other times, the necessity for subordinating immediate satisfaction of a strong appetite or desire to a comprehensive good is the conspicuous feature. Then the disposition is denominated temperance, self control. When the prominent phase is the need for thoughtfulness, for consecutive and persistent attention, in order that these other qualities may function, the interest receives the name of moral wisdom, insight, conscientiousness.³⁶

To repeat: "in each case the difference is one of emphasis only."

Such an integration is far from having mere theoretical import. There are immense practical repercussions. One such is the freeing of morality from the accusation that it is merely negative and restrictive. "When, for example, an independent thing is made of temperance or self control it becomes mere inhibition, a sour constraint. But as one phase of an interpenetrated whole, it is the positive harmony characteristic of integrated interest."³⁷ Justice separated from other virtues tends to take on "a mechanical and quantitative form, like the exact meeting out of praise and blame, reward and punishment. Or it is thought of as vindication of abstract and impersonal law—an attitude which always tends to make men vindictive and leads them to justify their harshness as a virtue."³⁸

Another bad effect of treating virtues as if they were isolated from one another is the attempt to cultivate each by itself "instead of developing a rounded and positive character."³⁹ In traditional morality there are many reminders of this, as when love is said to be "the fulfilling of the law" and includes the cultivation of all the virtues. The traditional notion of wisdom is one of *thoughtfulness* or sympathetic consideration of the consequences of action. Thoughtfulness is thinking and "to think is to look at a thing *in its relations* with other things, and such judgment often modifies radically the original attitude of esteem and liking."⁴⁰ In a word, it is reflective or critical. Such action includes as part of itself the *impartial concern* for all conditions which affect the common welfare, be they specific acts, laws, economic arrangements, political institutions, or whatever. "And such a complete interest is the only way in which justice can be assured."⁴¹

Dewey is in agreement with the tradition that says "only the just man is a just judge of what is truly just." This is because justice is not something which a man *has*, as he may have money in his wallet.

36. *Ibid.*

37. *Id.* at 116.

38. *Ibid.*

39. *Id.* at 117.

40. *Id.* at 123.

41. *Id.* at 117.

It is something he *is*; and since his being is active, the quality of justice, as are all other qualities, is a mode of activity which produces, but does not force, activity. This notion of morality involves a recognition "of the essential unity of the self and its acts" whereby actions reveal the existing self and form the future self.⁴²

Justice as the source of just activity is the principle or instrument which aids the individual in the *examination* of particular situations. As such, justice must not be mistaken for rules that are just. Rules are fixed prescriptions of action for identical situations. When separated from their experiential origin as outgrowths of just situations, they have an unfortunate tendency to be considered superior to actual cases. Even worse has been the consideration of justice as a fixed and absolute rule, for this has made it vague and left its application to chance or authoritative dictation. Moreover, a conception of justice as a fixed rule tends "to render men satisfied with the existing state of affairs and to take the ideas and judgments they already possess as adequate and final."⁴³ To the degree to which this happens, the *attitude* of seeking for new rules of justice applicable in changed situations is diminished or destroyed. And, justice *is* this attitude! "Taken as a principle, not as a rule, justice signifies the will to *examine* specific institutions and measures so as to find out how they operate with the view of introducing greater impartiality and equity into consequences they produce."⁴⁴

Because each new generation is confronted with situations which are to varying degrees different, special rules of justice cannot be considered absolutely fixed. At most, such rules are fixed only for identical situations and tentative for new circumstances. Each new generation is under the obligation to examine reflectively its inherited stock of moral principles and to reconsider them in relation to contemporary conditions and needs. But, in the words of Dewey,

it is stupid to suppose that this signifies that all moral principles are so relative to a particular state of society that they have no binding force in any (other) social condition. The obligation is to discover *what* principles *are* relevant to our own social estate. . . . There are common human affections and impulses which express themselves within every social environment;—there is no people the members of which do not have a belief in the value of human life, of care of offspring, of loyalty to tribal and community customs, etc., however restricted and one-sided they may be in the application of these beliefs.⁴⁵

That extreme revolt which says that all morals are conventional and of no validity goes too far, Dewey asserts, even though it is the

42. *Id.* at 151.

43. *Id.* at 144.

44. *Id.* at 141.

45. *Id.* at 143, 145.

expected result of the insistence on a uniform and unchanging code of morals, the same for all times and places. The only way to avoid either extreme is to recognize the "close and vital relationship" that exists between morals and social forces; and to search for principles, especially the principle of justice, which are truly relevant in our own day.

According as social conditions and the level of culture vary, moral phenomena will change. This is not to say that all moral facts are relative. Desire, purpose, social demand and law, sympathetic approval and hostile disapproval cannot be imagined as disappearing, in the words of Dewey, "as long as human nature remains human, and lives in association with others."⁴⁶ Moreover,

the fundamental conceptions of morals are neither arbitrary nor artificial. They are not imposed upon human nature from without but develop out of its own operations and needs. Particular aspects of morals are transient; they are often, in their actual manifestation, defective and perverted. But the framework of moral conceptions is as permanent as human life itself.⁴⁷

A reflective theory of morality calls for the cultivation of a virtuous character not only in regard to justice, but in respect to all virtues. However, no character is formed in isolation of social environments. Because of this, such a morality is in danger of becoming purely nominal and remaining theoretical *unless it can reconstruct the social environment*. Dewey recognizes that

through religion and from other sources, love of neighbor, exact equity, kindness of action and judgment, are taught and in theory accepted. The structure of society, however, puts emphasis upon other qualities. "Business" absorbs a large part of the life of most persons and business is conducted upon the basis of ruthless competition for private gain. National life is organized on the basis of exclusiveness and tends to generate suspicion, fear, often hatred, of other peoples. The world is divided into classes and races, and, in spite of acceptance of an opposed theory [based on "love thy neighbor"], the standards of valuation are based on the class, race, color, with which one identifies oneself. The convictions that obtain in personal morality are negated on a large scale in collective conduct, and for this reason are weakened even in their strictly personal application. They cannot be made good in practice except as they are extended to include the remaking of the social environment, economic, political, international.⁴⁸

46. *Id.* at 176.

47. *Ibid.*

48. *Id.* at 117-18.

