

12.2 | *Justice and Injustice*

Justice is traditionally classified as one of the four cardinal virtues, along with temperance, fortitude, and prudence; and it is usually distinguished from the others as being the virtue whereby a man is disposed to act rightly or righteously in relation to other men or to the community in which he lives. A man of goodwill toward others, a man who habitually avoids injuring others and renders to others what is their due, is said to be a just man. Justice in this sense—as a moral quality or an aspect of moral character—is discussed in Chapter 9 on ETHICS, Section 9.7 on RIGHT AND WRONG, as well as here. The reader is advised to read that section in conjunction with this one for a comprehensive view of justice as an attribute of the morally good man and as a property of conduct that is rightful or righteous. The reader should also examine relevant passages in Section 9.10 on VIRTUE AND VICE. The treatment of injustice and wrongdoing is, of course, to be found in the same contexts.

There is another application of the terms “justice” and “injustice”—to human institutions and arrangements, to states, constitutions, laws, social practices, and economic systems or transactions. It is this application that gives rise to the discussion of political or

legal justice, social justice, and economic justice. Justice in these various senses is mainly treated here and not in Chapter 9 on ETHICS; however, closely related and even overlapping matters will be found in Section 12.1 on LAW AND LAWYERS, in Section 13.3 on EQUALITY, in Section 11.1 on PROPERTY, and in many of the sections of Chapter 10 on POLITICS, especially Sections 10.4, 10.6, 10.7, and 10.9.

The passages collected here offer diverse definitions of justice, distinguish between distributive and commutative or remedial justice, deal with the issues of right vs. might and of justice vs. expediency, discuss the relation of justice to equity, argue for and against the proposition that human society cannot long endure without justice, and attempt to answer the question whether it is preferable to do or to suffer injustice.

Considerations of justice are to be found in other sections of this chapter: not only in Section 12.1 on LAW AND LAWYERS, but also in Section 12.3 on RIGHTS—NATURAL AND CIVIL, and in Section 12.4 on CRIME AND PUNISHMENT. The discussion of human rights and the discussion of justice are so integrally related that the reader would do well to make his own synthesis of the quotations dealing with these two subjects.

1 If a man destroy the eye of another man, they shall destroy his eye.

Hammurabi, *Code of Hammurabi*, 196

2 And if any mischief follow, than thou shalt give life for life,

Eye for eye, tooth for tooth, hand for hand, foot for foot,

Burning for burning, wound for wound, stripe for stripe.

Exodus 21:23–25

3 *Chorus*. It has been made long since and grown old among men,

this saying: human wealth
grown to fulness of stature

breeds again nor dies without issue.

From high good fortune in the blood

blossoms the quenchless agony.

Far from others I hold my own

mind; only the act of evil

breeds others to follow,

young sins in its own likeness.

Houses clear in their right are given
children in all loveliness.

But Crime aging is made
in men's dark actions
ripe with the young pride
late or soon when the dawn of destiny
comes and birth is given
to the spirit none may fight nor beat down,
sinful Daring; and in those halls
the black visaged Disasters stamped
in the likeness of their fathers.

And Righteousness is a shining in
the smoke of mean houses.
Her blessing is on the just man.
From high halls starred with gold by reeking
hands
she turns back
with eyes that glance away to the simple in heart,
spurning the strength of gold
stamped false with flattery.
And all things she steers to fulfilment.

Aeschylus, *Agamemnon*, 750

- 4 *Protagoras*. Hermes asked Zeus how he should impart justice and reverence among men:—Should he distribute them as the arts are distributed; that is to say, to a favoured few only, one skilled individual having enough of medicine or of any other art for many unskilled ones? “Shall this be the manner in which I am to distribute justice and reverence among men, or shall I give them to all?” “To all,” said Zeus; “I should like them all to have a share; for cities cannot exist, if a few only share in the virtues, as in the arts. And further, make a law by my order, that he who has no part in reverence and justice shall be put to death, for he is a plague of the state.”

Plato, *Protagoras*, 322B

- 5 *Socrates*. Not only custom but nature also affirms that to do is more disgraceful than to suffer injustice, and that justice is equality.

Plato, *Gorgias*, 489A

- 6 *Socrates*. Tell me then, O thou heir of the argument, what did Simonides say, and according to you truly say, about justice?

Polemarchus. He said that the repayment of a debt is just, and in saying so he appears to me to be right.

I should be sorry to doubt the word of such a wise and inspired man, but his meaning, though probably clear to you, is the reverse of clear to me. For he certainly does not mean, as we were just now saying, that I ought to return a deposit of arms or of anything else to one who asks for it when he is not in his right senses; and yet a deposit cannot be denied to be a debt.

True.

Then when the person who asks me is not in his

right mind I am by no means to make the return?
Certainly not.

When Simonides said that the repayment of a debt was justice, he did not mean to include that case?

Certainly not; for he thinks that a friend ought always to do good to a friend and never evil.

You mean that the return of a deposit of gold which is to the injury of the receiver, if the two parties are friends, is not the repayment of a debt—that is what you would imagine him to say?

Yes.

And are enemies also to receive what we owe to them?

To be sure, he said, they are to receive what we owe them, and an enemy, as I take it, owes to an enemy that which is due and proper to him—that is to say, evil.

Simonides, then, after the manner of poets, would seem to have spoken darkly of the nature of justice; for he really meant to say that justice is the giving to each man what is proper to him, and this he termed a debt.

Plato, *Republic*, I, 331B

- 7 *Socrates*. Thrasymachus, as any one might see, was in reality eager to speak; for he thought that he had an excellent answer, and would distinguish himself. But at first he affected to insist on my answering; at length he consented to begin. Behold, he said, the wisdom of Socrates; he refuses to teach himself, and goes about learning of others, to whom he never even says Thank you.

That I learn of others, I replied, is quite true; but that I am ungrateful I wholly deny. Money I have none, and therefore I pay in praise, which is all I have; and how ready I am to praise any one who appears to me to speak well you will very soon find out when you answer; for I expect that you will answer well.

Listen, then, he said; I proclaim that justice is nothing else than the interest of the stronger. And now why do you not praise me? But of course you won't.

Let me first understand you, I replied. Justice, as you say, is the interest of the stronger. What, Thrasymachus, is the meaning of this? You cannot mean to say that because Polydamas, the pancratiast, is stronger than we are, and finds the eating of beef conducive to his bodily strength, that to eat beef is therefore equally for our good who are weaker than he is, and right and just for us?

That's abominable of you, Socrates; you take the words in the sense which is most damaging to the argument.

Not at all, my good sir, I said; I am trying to understand them; and I wish that you would be a little clearer.

Well, he said, have you never heard that forms of government differ; there are tyrannies, and there are democracies, and there are aristocracies?

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Yes, I know.

And the government is the ruling power in each state?

Certainly.

And the different forms of government make laws democratical, aristocratical, tyrannical, with a view to their several interests; and these laws, which are made by them for their own interests, are the justice which they deliver to their subjects, and him who transgresses them they punish as a breaker of the law, and unjust. And that is what I mean when I say that in all states there is the same principle of justice, which is the interest of the government; and as the government must be supposed to have power, the only reasonable conclusion is, that everywhere there is one principle of justice, which is the interest of the stronger.

Plato, *Republic*, I, 338A

- 8 *Thrasymachus*. The just is always a loser in comparison with the unjust. First of all, in private contracts: wherever the unjust is the partner of the just you will find that, when the partnership is dissolved, the unjust man has always more and the just less. Secondly, in their dealings with the State: when there is an income-tax, the just man will pay more and the unjust less on the same amount of income; and when there is anything to be received the one gains nothing and the other much. Observe also what happens when they take an office; there is the just man neglecting his affairs and perhaps suffering other losses, and getting nothing out of the public, because he is just; moreover he is hated by his friends and acquaintance for refusing to serve them in unlawful ways. But all this is reversed in the case of the unjust man.

Plato, *Republic*, I, 343B

- 9 *Socrates*. We have already shown that the just are clearly wiser and better and abler than the unjust, and that the unjust are incapable of common action; nay more, that to speak as we did of men who are evil acting at any time vigorously together, is not strictly true, for if they had been perfectly evil, they would have laid hands upon one another; but it is evident that there must have been some remnant of justice in them, which enabled them to combine; if there had not been they would have injured one another as well as their victims; they were but half-villains in their enterprises; for had they been whole villains, and utterly unjust, they would have been utterly incapable of action.

Plato, *Republic*, I, 352A

- 10 *Socrates*. Why, my good sir, at the beginning of our enquiry, ages ago, there was justice tumbling out at our feet, and we never saw her; nothing could be more ridiculous. Like people who go about looking for what they have in their hands—that

was the way with us—we looked not at what we were seeking, but at what was far off in the distance; and therefore, I suppose, we missed her.

Glaucon. What do you mean?

I mean to say that in reality for a long time past we have been talking of justice, and have failed to recognise her.

I grow impatient at the length of your exordium.

Well then, tell me, I said, whether I am right or not: You remember the original principle which we were always laying down at the foundation of the State, that one man should practise one thing only, the thing to which his nature was best adapted—now justice is this principle or a part of it.

Yes, we often said that one man should do one thing only.

Further, we affirmed that justice was doing one's own business, and not being a busybody; we said so again and again, and many others have said the same to us.

Yes, we said so.

Then to do one's own business in a certain way may be assumed to be justice. Can you tell me whence I derive this inference?

I cannot, but I should like to be told.

Because I think that this is the only virtue which remains in the State when the other virtues of temperance and courage and wisdom are abstracted; and, that this is the ultimate cause and condition of the existence of all of them, and while remaining in them is also their preservative; and we were saying that if the three were discovered by us, justice would be the fourth or remaining one.

That follows of necessity.

If we are asked to determine which of these four qualities by its presence contributes most to the excellence of the State, whether the agreement of rulers and subjects, or the preservation in the soldiers of the opinion which the law ordains about the true nature of dangers, or wisdom and watchfulness in the rulers, or whether this other which I am mentioning, and which is found in children and women, slave and freeman, artisan, ruler, subject—the quality, I mean, of every one doing his own work, and not being a busybody, would claim the palm—the question is not so easily answered.

Certainly, he replied, there would be a difficulty in saying which.

Then the power of each individual in the State to do his own work appears to compete with the other political virtues, wisdom, temperance, courage.

Yes, he said.

And the virtue which enters into this competition is justice?

Exactly.

Let us look at the question from another point

of view: Are not the rulers in a State those to whom you would entrust the office of determining suits at law?

Certainly.

And are suits decided on any other ground but that a man may neither take what is another's, nor be deprived of what is his own?

Yes; that is their principle.

Which is a just principle?

Yes.

Then on this view also justice will be admitted to be the having and doing what is a man's own, and belongs to him?

Very true.

Think, now, and say whether you agree with me or not. Suppose a carpenter to be doing the business of a cobbler, or a cobbler of a carpenter; and suppose them to exchange their implements or their duties, or the same person to be doing the work of both, or whatever be the change; do you think that any great harm would result to the State?

Not much.

But when the cobbler or any other man whom nature designed to be a trader, having his heart lifted up by wealth or strength or the number of his followers, or any like advantage, attempts to force his way into the class of warriors, or a warrior into that of legislators and guardians, for which he is unfitted, and either to take the implements or the duties of the other; or when one man is trader, legislator, and warrior all in one, then I think you will agree with me in saying that this interchange and this meddling of one with another is the ruin of the State.

Most true.

Seeing then, I said, that there are three distinct classes, any meddling of one with another, or the change of one into another, is the greatest harm to the State, and may be most justly termed evil-doing?

Precisely.

And the greatest degree of evil-doing to one's own city would be termed by you injustice?

Certainly.

This then is injustice; and on the other hand when the trader, the auxiliary, and the guardian each do their own business, that is justice, and will make the city just.

I agree with you.

Plato, *Republic*, IV, 432B

- 11 This . . . is what the just is—the proportional; the unjust is what violates the proportion. Hence one term becomes too great, the other too small, as indeed happens in practice; for the man who acts unjustly has too much, and the man who is unjustly treated too little, of what is good. In the case of evil the reverse is true; for the lesser evil is reckoned a good in comparison with the greater evil, since the lesser evil is rather to be chosen

than the greater, and what is worthy of choice is good, and what is worthier of choice a greater good.

This, then, is one species of the just.

Aristotle, *Ethics*, 1131^b17

- 12 The justice of a master and that of a father are not the same as the justice of citizens, though they are like it; for there can be no injustice in the unqualified sense towards things that are one's own, but a man's chattel, and his child until it reaches a certain age and sets up for itself, are as it were part of himself, and no one chooses to hurt himself (for which reason there can be no injustice towards oneself). Therefore the justice or injustice of citizens is not manifested in these relations.

Aristotle, *Ethics*, 1134^b8

- 13 When men are friends they have no need of justice, while when they are just they need friendship as well, and the truest form of justice is thought to be a friendly quality.

Aristotle, *Ethics*, 1155^a26

- 14 Justice is the bond of men in states, for the administration of justice, which is the determination of what is just, is the principle of order in political society.

Aristotle, *Politics*, 1253^a36

- 15 In all sciences and arts the end is a good, and the greatest good and in the highest degree a good in the most authoritative of all—this is the political science of which the good is justice, in other words, the common interest.

Aristotle, *Politics*, 1282^b15

- 16 Justice is a contract of expediency, entered upon to prevent men harming or being harmed.

Epicurus, *Aphorisms*

- 17 There is no more ridiculous opinion than to believe that all customs and laws of nations are inherently just. Would one think such a thing of the decrees of dictators? Had the notorious Thirty Tyrants decided to enact a code of laws for Athens, or if all the citizens of Athens were happy with the tyrants' laws, would such a circumstance indicate that those laws were just? It would hardly be considered a just law if some Roman regent had decreed that any dictator could be put to death with impunity by any citizen, without even going to trial. Justice is integral. It binds society together and is based on the one law of right reason applied to commands and prohibitions. Whoever is not acquainted with this law, whether it has been put in writing or not, does not know justice.

If, as some people insist, justice is nothing more than a conformity to written laws and national traditions, and if everything is based on a standard of expediency, then anyone who sees some-

thing in it for himself will go ahead and break the law. If this were our point of view, we could only conclude that there is no justice. For if it does not exist in nature, and if simple expediency can overthrow it, there is no justice. If nature is not based on justice, then are the principles on which society is founded destroyed. What would be the use of generosity, patriotism, loyalty, of service to each other and gratitude for favors done? Such virtues have their origin in our natural propensity to love our fellow human beings. This is the foundation of justice. If this is not true, then the consideration we show to each other, as well as our religious rites and piety towards the gods, are swept away. But such rites ought to be kept, and not out of fear, but out of the close relationship between man and God.

Were the basis of justice in the decrees of the people, the rulings of kings, or in decisions of judges, then justice would permit theft, adultery, even forgery of wills, if a majority of the populace voted for them. But if such a power resides in the decisions and decrees of fools who are sure natural law can be altered by votes, then why do they not decide that what is bad and harmful shall be considered good and worthwhile?

In fact, we can tell the difference between good and bad laws only on the basis of nature. Nature not only distinguishes between the just and the unjust, but also between what is honorable and dishonorable. Since our common sense helps us to understand and conceptualize things, we do ascribe honorable actions to virtue and dishonorable ones to vice. Only a lunatic would assert that these judgments of ours are merely opinions and not based on natural law. Even what we mistakenly call the "virtue" of a tree or of a horse is not just a matter of opinion, but is based on nature. If that is true, then good and bad actions can also be distinguished according to nature. If the concept of virtue is to be tested by opinion, then specific virtues must also be tested. Who would judge a man of prudence and common sense by some external state and not by his character? Virtue is fully matured reason. Since this is natural, then everything honorable is also natural.

Cicero, *Laws*, I, 15–16

- 18 We are confronted with three choices: to do injustice but not to suffer it; both to do it and to suffer it; or neither to do it nor to suffer it. The most fortuitous choice is to do it with impunity. The second best alternative would be neither to do it nor to suffer it. The worst choice is to have to live one's life in a perpetual struggle between doing and suffering injustice.

Cicero, *Republic*, III, 13

- 19 Ye have heard that it hath been said, An eye for an eye, and a tooth for a tooth:

But I say unto you, That ye resist not evil: but

whosoever shall smite thee on thy right cheek, turn to him the other also.

And if any man will sue thee at the law, and take away thy coat, let him have thy cloke also.

And whosoever shall compel thee to go a mile, go with him twain.

Give to him that asketh thee, and from him that would borrow of thee turn not thou away.

Ye have heard that it hath been said, Thou shalt love thy neighbour, and hate thine enemy.

But I say unto you, Love your enemies, bless them that curse you, do good to them that hate you, and pray for them which despitefully use you, and persecute you;

That ye may be the children of your Father which is in heaven: for he maketh his sun to rise on the evil and on the good, and sendeth rain on the just and on the unjust.

Matthew 5:38–45

- 20 Be ye therefore merciful, as your Father also is merciful.

Judge not, and ye shall not be judged: condemn not, and ye shall not be condemned: forgive, and ye shall be forgiven:

Give, and it shall be given unto you; good measure, pressed down, and shaken together, and running over, shall men give into your bosom. For with the same measure that ye mete withal it shall be measured to you again.

Luke 6:36–38

- 21 Justice is unstable and changeable? No, but the times over which justice presides are not alike, for they are times.

Augustine, *Confessions*, III, 7

- 22 Justice being taken away, then what are kingdoms but great robberies? For what are robberies themselves, but little kingdoms? The band itself is made up of men; it is ruled by the authority of a prince, it is knit together by the pact of the confederacy; the booty is divided by the law agreed on. If, by the admittance of abandoned men, this evil increases to such a degree that it holds places, fixes abodes, takes possession of cities, and subdues peoples, it assumes the more plainly the name of a kingdom, because the reality is now manifestly conferred on it, not by the removal of covetousness, but by the addition of impunity. Indeed, that was an apt and true reply which was given to Alexander the Great by a pirate who had been seized. For when that king had asked the man what he meant by keeping hostile possession of the sea, he answered with bold pride, "What thou meanest by seizing the whole earth; but because I do it with a petty ship, I am called a robber, whilst thou who dost it with a great fleet art styled emperor."

Augustine, *City of God*, IV, 4

23 There are two kinds of justice. The one consists in mutual giving and receiving, as in buying and selling, and other kinds of intercourse and exchange. This the Philosopher [Aristotle] calls commutative justice, that directs exchange and the intercourse of business. This does not belong to God, since, as the Apostle says: *Who hath first given to Him, and recompense shall be made him?* The other consists in distribution, and is called distributive justice, whereby a ruler or a steward gives to each what his rank deserves. As then the proper order displayed in ruling a family or any kind of multitude evinces justice of this kind in the ruler, so the order of the universe, which is seen both in things of nature and in things of will, shows forth the justice of God. Hence Dionysius says: "We must see that God is truly just, in seeing how He gives to all existing things what is proper to the condition of each, and preserves the nature of each one in the order and with the powers that properly belong to it."

Aquinas, *Summa Theologica*, I, 21, 1

24 The matter of justice is an external operation, in so far as either it or the thing we use by it is made proportionate to some other person to whom we are related by justice. Now each man's own is that which is due to him according to equality of proportion. Therefore the proper act of justice is nothing else than to render to each one his own.

Aquinas, *Summa Theologica*, II-II, 58, 11

25 Retaliation (*contrapassum*) denotes equal passion repaid for previous action; and the expression applies most properly to injurious passions and actions, whereby a man harms the person of his neighbor; for instance if a man strike, that he be struck back. This kind of just is laid down in the Law: *He shall render life for life, eye for eye*, etc. And since also to take away what belongs to another is to do an unjust thing, it follows that secondly retaliation consists in this also, that whosoever causes loss to another, should suffer loss in his belongings. This just loss is also found in the Law: *If any man steal an ox or a sheep, and kill or sell it, he shall restore five oxen for one ox and four sheep for one sheep*. Thirdly retaliation is transferred to voluntary commutations, where action and passion are on both sides, although voluntariness detracts from the nature of passion.

In all these cases, however, repayment must be made on a basis of equality according to the requirements of commutative justice, namely that the meed of passion be equal to the action. Now there would not always be equality if passion were in the same species as the action. Because, in the first place, when a person injures the person of one who is greater, the action surpasses any passion of the same species that he might undergo, wherefore he that strikes a prince, is not only struck back, but is much more severely punished.

In like manner when a man despoils another of his property against the latter's will, the action surpasses the passion if he be merely deprived of that thing, because the man who caused another's loss, himself would lose nothing, and so he is punished by making restitution several times over, because not only did he injure a private individual, but also the common weal, the security of whose protection he has infringed. Nor again would there be equality of passion in voluntary commutations, were one always to exchange one's chattel for another man's, because it might happen that the other man's chattel is much greater than our own: so that it becomes necessary to equalize passion and action in commutations according to a certain proportionate commensuration, for which purpose money was invented. Hence retaliation is in accordance with commutative justice: but there is no place for it in distributive justice, because in distributive justice we do not consider the equality between thing and thing or between passion and action (whence the expression *contrapassum*), but according to proportion between things and persons.

Aquinas, *Summa Theologica*, II-II, 61, 4

26 It is acting a most perverse part, to set up the measure of human justice as the standard by which to measure the justice of God.

Calvin, *Institutes of the Christian Religion*, III, 24

27 Since the ethical laws, which concern the individual duty of each man in himself, are so hard to frame, as we see they are, it is no wonder if those that govern so many individuals are more so. Consider the form of this justice that governs us: it is a true testimony of human imbecility, so full it is of contradiction and error. What we find to be leniency and severity in justice—and we find so much of them that I do not know whether the mean between them is met with as often—are sickly parts and unjust members of the very body and essence of justice.

Montaigne, *Essays*, III, 13, Of Experience

28 *Polonius*. My lord, I will use them according to their desert.

Hamlet. God's bodykins, man, much better. Use every man after his desert, and who should 'scape whipping? Use them after your own honour and dignity; the less they deserve, the more merit is in your bounty.

Shakespeare, *Hamlet*, II, ii, 552

29 *Lear*. What, art mad? A man may see how this world goes with no eyes. Look with thine ears: see how yond justice rails upon yond simple thief. Hark, in thine ear: change places; and, handy-dandy, which is the justice, which is the thief?

Shakespeare, *Lear*, IV, vi, 153

- 30 *Edgar*. Let's exchange charity.
I am no less in blood than thou art, Edmund;
If more, the more thou hast wrong'd me.
My name is Edgar, and thy father's son.
The gods are just, and of our pleasant vices
Make instruments to plague us.
The dark and vicious place where thee he got
Cost him his eyes.
Edmund. Thou hast spoken right, 'tis true;
The wheel is come full circle; I am here.
Shakespeare, *Lear*, V, iii, 166

- 31 While they sat refreshing themselves, a young
Lad, travelling that way, observ'd them, and,
looking earnestly on the whole Company, ran
suddenly and fell down before Don *Quixote*, ad-
dressing him in a very doleful Manner. Alas, good
Sir, said he, don't you know me? don't you re-
member poor *Andrew* whom you caus'd to be
unty'd from the Tree? With that the Knight knew
him; and raising him up, turn'd to the Company,
That you may all know, said he, of how great
Importance, to the redressing of Injuries, punish-
ing Vice, and the universal Benefit of Mankind,
the Business of Knight-Errantry may be, you
must understand, that riding through a Desert
some Days ago, I heard certain lamentable
Screeks and Out-cries: Prompted by the Misery
of the Afflicted, and borne away by the Zeal of my
Profession I follow'd the Voice, and found this
Boy, whom you all see, bound to a great Oak; I'm
glad he's present, because he can attest the Truth
of my Relation. I found him as I told you, bound
to an Oak, naked from the Waste upwards, and a
bloody-minded Peasant scourging his Back un-
mercifully with the Reins of a Bridle. I presently
demanded the Cause of his severe Chastisement?
The rude Fellow answer'd, that he had Liberty to
punish his own Servant, whom he thus us'd for
some Faults that argu'd him more Knave than
Fool. Good Sir, said the Boy, he can lay nothing
to my Charge, but demanding my Wages. His
Master made some Reply, which I would not al-
low as a just Excuse, and order'd him immedi-
ately to unbind the Youth, and took his Oath that
he would take him home and pay him all his
Wages upon the Nail, in good and lawful Coin. Is
not this literally true, *Andrew*? Did you not mark
besides, with what Face of Authority I command-
ed, and with how much Humility he promis'd to
obey all I impos'd, commanded and desir'd? An-
swer me, Boy, and tell boldly all that pass'd of this
worthy Company, that it may appear how neces-
sary the Vocation of Knights-Errant is up and
down the high Roads.

All you have said is true enough, answer'd *An-
drew*, but the Business did not end after that Man-
ner you and I hop'd it would. How? said the
Knight, has not the Peasant paid you? Ay, he
has paid me with a Vengeance, said the Boy, for
no sooner was your Back turn'd, but he ty'd

me again to the same Tree, and lash'd me so
cursedly, that I look'd like St *Bartholomew* flea'd
alive; and at every Blow he had some Joke or
another to laugh at you; and had he not laid me
on as he did, I fancy I could not have help'd
laughing myself. At last he left me in so pitiful
Case, that I was forc'd to crawl to an Hospital,
where I have lain ever since to get cur'd, so woful-
ly the Tyrant had lash'd me. And now I may
thank You for this, for had you rid on your Jour-
ney, and neither meddl'd nor made, seeing no
Body sent for you, and 'twas none of your Busi-
ness, my Master, perhaps, had been satisfy'd with
giving me ten or twenty Lashes, and after that
would have paid me what he ow'd me; but you
was so huffy, and call'd him so many Names, that
it made him mad, and so he vented all his Spite
against You upon My poor Back, as soon as yours
was turn'd, insomuch that I fear I shall never be
my own Man again. The Miscarriage, answer'd
the Knight, is only chargeable on my Departure
before I saw my Orders executed; for I might, by
Experience, have remembered, that the Word of a
Peasant is regulated, not by Honour, but Profit.

Cervantes, *Don Quixote*, I, 31

- 32 Revenge is a kind of wild justice; which the more
man's nature runs to, the more ought law to weed
it out.

Bacon, *Of Revenge*

- 33 From that law of nature by which we are obliged
to transfer to another such rights as, being re-
tained, hinder the peace of mankind, there follow-
eth a third; which is this: *that men perform their cove-
nants made*; without which covenants are in vain,
and but empty words; and the right of all men to
all things remaining, we are still in the condition
of war.

And in this law of nature consisteth the foun-
tain and original of *justice*. For where no covenant
hath preceded, there hath no right been trans-
ferred, and every man has right to everything;
and consequently, no action can be unjust. But
when a covenant is made, then to break it is *unjust*:
and the definition of *injustice* is no other than *the
not performance of covenant*. And whatsoever is not
unjust is just.

Hobbes, *Leviathan*, I, 15

- 34 Before the names of *just* and *unjust* can have place,
there must be some coercive power to compel men
equally to the performance of their covenants, by
the terror of some punishment greater than the
benefit they expect by the breach of their cove-
nant, and to make good that propriety which by
mutual contract men acquire in recompense of
the universal right they abandon: and such power
there is none before the erection of a Common-
wealth. And this is also to be gathered out of the

ordinary definition of justice in the Schools, for they say that *justice is the constant will of giving to every man his own*. And therefore when there is no *own*, that is, no propriety, there is no injustice; and where there is no coercive power erected, that is, where there is no Commonwealth, there is no propriety, all men having right to all things: therefore where there is no Commonwealth, there nothing is unjust. So that the nature of justice consisteth in keeping of valid covenants, but the validity of covenants begins not but with the constitution of a civil power sufficient to compel men to keep them.

Hobbes, *Leviathan*, I, 15

- 35 On what shall man found the order of the world which he would govern? Shall it be on the caprice of each individual? What confusion! Shall it be on justice? Man is ignorant of it.

Certainly, had he known it, he would not have established this maxim, the most general of all that obtain among men, that each should follow the custom of his own country. The glory of true equity would have brought all nations under subjection, and legislators would not have taken as their model the fancies and caprice of Persians and Germans instead of this unchanging justice. We would have seen it set up in all the States on earth and in all times; whereas we see neither justice nor injustice which does not change its nature with change in climate. Three degrees of latitude reverse all jurisprudence; a meridian decides the truth. Fundamental laws change after a few years of possession; right has its epochs; the entry of Saturn into the Lion marks to us the origin of such and such a crime. A strange justice that is bounded by a river! Truth on this side of the Pyrenees, error on the other side.

Pascal, *Pensées*, V, 294

- 36 It is right that what is just should be obeyed; it is necessary that what is strongest should be obeyed. Justice without might is helpless; might without justice is tyrannical. Justice without might is gainsaid, because there are always offenders; might without justice is condemned. We must then combine justice and might and, for this end, make what is just strong, or what is strong just.

Justice is subject to dispute; might is easily recognised and is not disputed. So we cannot give might to justice, because might has gainsaid justice and has declared that it is she herself who is just. And thus, being unable to make what is just strong, we have made what is strong just.

Pascal, *Pensées*, V, 298

- 37 No doubt equality of goods is just; but, being unable to cause might to obey justice, men have made it just to obey might. Unable to strengthen justice, they have justified might; so that the just

and the strong should unite, and there should be peace, which is the sovereign good.

Pascal, *Pensées*, V, 299

- 38 It is dangerous to tell the people that the laws are unjust; for they obey them only because they think them just. Therefore it is necessary to tell them at the same time that they must obey them because they are laws, just as they must obey superiors, not because they are just, but because they are superiors. In this way all sedition is prevented, if this can be made intelligible and it be understood what is the proper definition of justice.

Pascal, *Pensées*, V, 326

- 39 I have passed a great part of my life believing that there was justice, and in this I was not mistaken; for there is justice according as God has willed to reveal it to us. But I did not take it so, and this is where I made a mistake; for I believed that our justice was essentially just, and that I had that whereby to know and judge of it. But I have so often found my right judgement at fault, that at last I have come to distrust myself and then others. I have seen changes in all nations and men, and thus, after many changes of judgement regarding true justice, I have recognised that our nature was but in continual change, and I have not changed since; and if I changed, I would confirm my opinion.

Pascal, *Pensées*, VI, 375

- 40 I had another reason which made me less forward to enlarge his Majesty's dominions by my discoveries: to say the truth, I had conceived a few scruples with relation to the distributive justice of princes upon those occasions. For instance, a crew of pyrates are driven by a storm they know not whither; at length a boy discovers land from the top-mast; they go on shoar to rob and plunder; they see an harmless people, are entertained with kindness, they give the country a new name, they take formal possession of it for the king, they set up a rotten plank or a stone for a memorial, they murder two or three dozen of the natives, bring away a couple more by force for a sample, return home, and get their pardon. Here commenceth a new dominion acquired with a title by *divine right*. Ships are sent with the first opportunity; the natives driven out or destroyed, their princes tortured to discover their gold; a free licence given to all acts of inhumanity and lust, the earth reeking with the blood of its inhabitants: and this execrable crew of butchers employed in so pious an expedition, is a *modern colony* sent to convert and civilize an idolatrous and barbarous people.

Swift, *Gulliver's Travels*, IV, 12

- 41 The rules of equity or justice depend entirely on the particular state and condition in which men are placed, and owe their origin and existence to

that UTILITY, which results to the public from their strict and regular observance.

Hume, *Concerning Principles of Morals*, III

42 Commerce and manufactures can seldom flourish long in any state which does not enjoy a regular administration of justice, in which the people do not feel themselves secure in the possession of their property, in which the faith of contracts is not supported by law, and in which the authority of the state is not supposed to be regularly employed in enforcing the payment of debts from all those who are able to pay. Commerce and manufactures, in short, can seldom flourish in any state in which there is not a certain degree of confidence in the justice of government.

Adam Smith, *Wealth of Nations*, V, 3

43 Justice itself is the great standing policy of civil society; and any eminent departure from it, under any circumstances, lies under the suspicion of being no policy at all.

Burke, *Reflections on the Revolution in France*

44 If justice and righteousness perish, human life would no longer have any value in the world.

Kant, *Science of Right*, 49

45 Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.

Hamilton or Madison, *Federalist 51*

46 An integral part of justice is the confidence which citizens have in it, and it is this which requires that proceedings shall be public. The right of publicity depends on the fact that (i) the aim of the court is justice, which as universal falls under the cognizance of everyone, and (ii) it is through publicity that the citizens become convinced that the judgement was actually just.

Hegel, *Philosophy of Right*, Additions, Par. 224

47 Foolish men imagine that because judgement for an evil thing is delayed, there is no justice, but an accidental one, here below. Judgement for an evil

thing is many times delayed some day or two, some century or two, but it is sure as life, it is sure as death!

Carlyle, *Past and Present*, I, 2

48 After all, the practical reason why, when the power is once in the hands of the people, a majority are permitted, and for a long period continue, to rule is not because they are most likely to be in the right, nor because this seems fairest to the minority, but because they are physically the strongest. But a government in which the majority rule in all cases cannot be based on justice, even as far as men understand it.

Thoreau, *Civil Disobedience*

49 Under a government which imprisons any unjustly, the true place for a just man is also a prison.

Thoreau, *Civil Disobedience*

50 Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it.

Lincoln, *Address at Cooper Institute*

51 Why should there not be a patient confidence in the ultimate justice of the people? Is there any better, or equal, hope in the world?

Lincoln, *First Inaugural Address*

52 The two essential ingredients in the sentiment of justice are, the desire to punish a person who has done harm, and the knowledge or belief that there is some definite individual or individuals to whom harm has been done.

Mill, *Utilitarianism*, V

53 Justice is a name for certain moral requirements, which, regarded collectively, stand higher in the scale of social utility, and are therefore of more paramount obligation, than any others; though particular cases may occur in which some other social duty is so important, as to overrule any one of the general maxims of justice. Thus, to save a life, it may not only be allowable, but a duty, to steal, or take by force, the necessary food or medicine, or to kidnap, and compel to officiate, the only qualified medical practitioner. In such cases, as we do not call anything justice which is not a virtue, we usually say, not that justice must give way to some other moral principle, but that what is just in ordinary cases is, by reason of that other principle, not just in the particular case. By this useful accommodation of language, the character of indefeasibility attributed to justice is kept up, and we are saved from the necessity of maintaining that there can be laudable injustice.

The considerations which have now been adduced resolve, I conceive, the only real difficulty in the utilitarian theory of morals. It has always been evident that all cases of justice are also cases

of expediency: the difference is in the peculiar sentiment which attaches to the former, as contradistinguished from the latter. If this characteristic sentiment has been sufficiently accounted for; if there is no necessity to assume for it any peculiarity of origin; if it is simply the natural feeling of resentment, moralised by being made coextensive with the demands of social good; and if this feeling not only does but ought to exist in all the classes of cases to which the idea of justice corresponds; that idea no longer presents itself as a stumbling-block to the utilitarian ethics.

Justice remains the appropriate name for cer-

tain social utilities which are vastly more important, and therefore more absolute and imperative, than any others are as a class (though not more so than others may be in particular cases); and which, therefore, ought to be, as well as naturally are, guarded by a sentiment not only different in degree, but also in kind; distinguished from the milder feeling which attaches to the mere idea of promoting human pleasure or convenience, at once by the more definite nature of its commands, and by the sterner character of its sanctions.

Mill, *Utilitarianism*, V

12.3 | *Rights—Natural and Civil*

When the word “right” is used in the singular, or when it is paired with its antonym “wrong,” it signifies the moral quality of conduct that is lawful, just, or worthy of approbation. Right and wrong in that sense are discussed in Section 9.7 of Chapter 9 on ETHICS; and related matters are discussed in this chapter, in Section 12.2 on JUSTICE AND INJUSTICE. But when, as here, the word “rights” is used in the plural, it signifies the claims that a man can rightfully make concerning the things that belong to him, that are proper to him, that are his due. Some of the writers quoted here—Locke, for example—use the word “property” to stand for what other authors call “rights.” Where the Declaration of Independence speaks of man’s natural and unalienable rights, foremost among which are the rights to life, liberty, and the pursuit of happiness, Locke says that the ultimate objective of a just government is to protect and preserve the property of its subjects, their property consisting chiefly in their lives, their liberties, and their estates.

As in the case of law, the fundamental

distinction here is between natural and civil rights: on the one hand, the rights inherent in the very nature of man, and therefore equally possessed by or proper to every human being; on the other hand, the rights granted to its subjects by civil government. The latter are at the disposal of government to rescind as well as to confer; but the former, being antecedent to the institutions of government and to society itself, are deemed unalienable. Not being conferred by government, they cannot rightfully be rescinded by government, and according to the theory of natural rights, the justice of a government and of its laws, of other institutions, and of the conduct of one man toward another, consists in respecting the natural rights of every human being. Injustice occurs with the violation of these rights, taking away from a man that which is by nature his.

The reader will find all these points made, argued, and disputed in the quotations included here—both affirmations and denials of unalienable, natural rights; different enumerations of these rights; and applications of the doctrine of natural rights to