

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

economic and social as well as to political institutions. The reader will find questions about the equality of rights, questions about which is the most fundamental of all rights, and questions about the relation of natural rights to natural law. For the discussion of related matters, the reader should turn in this chapter to Section 12.1 on LAW AND LAW-

YERS and Section 12.2 on JUSTICE AND INJUSTICE; in other chapters, the reader should examine Section 11.1 on PROPERTY, Section 10.4 ON GOVERNMENT OF AND BY THE PEOPLE: REPUBLIC AND DEMOCRACY, Section 10.6 ON DESPOTISM AND TYRANNY, Section 10.7 ON SLAVERY, Section 13.3 ON EQUALITY, and Section 14.1 ON WARFARE AND THE STATE OF WAR.

1 *Athenians*. Right, as the world goes, is only in question between equals in power, while the strong do what they can and the weak suffer what they must.

Thucydides, *Peloponnesian War*, V, 89

2 A mere law to give all men equal rights is but useless, if the poor must sacrifice those rights to their debts, and, in the very seats and sanctuaries of equality, the courts of justice, the offices of state, and the public discussions, be more than anywhere at the beck and bidding of the rich.

Plutarch, *Poplicola and Solon Compared*

3 The people . . . is an assemblage associated by a common acknowledgment of right and by a community of interests. . . . Where, . . . there is no true justice there can be no right. For that which is done by right is justly done, and what is unjustly done cannot be done by right. For the unjust inventions of men are neither to be considered nor spoken of as rights; for even they themselves say that right is that which flows from the fountain of justice, and deny the definition which is commonly given by those who misconceive the matter, that right is that which is useful to the stronger party. Thus, where there is not true justice there can be no assemblage of men associated by a common acknowledgment of right, and therefore there can be no people.

Augustine, *City of God*, XIX, 21

4 The *right* or the *just* is a work that is adjusted to another person according to some kind of equality. Now a thing can be adjusted to a man in two ways: first by its very nature, as when a man gives so much that he may receive equal value in return, and this is called *natural right*. In another way a thing is adjusted or commensurated to another person, by agreement, or by common consent, when, to wit, a man deems himself satisfied, if he receive so much. This can be done in two ways: first by private agreement, as that which is confirmed by an agreement between private individuals; secondly, by public agreement, as when the whole community agrees that something should

be deemed as though it were adjusted and commensurated to another person, or when this is decreed by the prince who is placed over the people, and acts in its stead, and this is called *positive right*.

Aquinas, *Summa Theologica*, II-II, 57, 2

5 If . . . a thing is, of itself, contrary to natural right, the human will cannot make it just, for instance by decreeing that it is lawful to steal or to commit adultery.

Aquinas, *Summa Theologica*, II-II, 57, 2

6 The natural right or just is that which by its very nature is adjusted to or commensurate with another person. Now this may happen in two ways; first, according as it is considered absolutely: thus a male by its very nature is commensurate with the female to beget offspring by her, and a parent is commensurate with the offspring to nourish it. Secondly a thing is naturally commensurate with another person, not according as it is considered absolutely, but according to something resultant from it, for instance the possession of property. For if a particular piece of land be considered absolutely, it contains no reason why it should belong to one man more than to another, but if it be considered in respect of its adaptability to cultivation, and the unmolested use of the land, it has a certain commensuration to be the property of one and not of another man.

Aquinas, *Summa Theologica*, II-II, 57, 3

7 *Right* is a moral quality annexed to the person, justly entitling him to possess some particular privilege, or to perform some particular act. This right is annexed to the person, although it sometimes follows the things, as the services of lands, which are called *Real Rights*, in opposition to those merely *Personal*. Not because these rights are not annexed to persons, but the distinction is made, because they belong to the persons only who possess some particular things.

Grotius, *Rights of War and Peace*,
Bk. I, I, 4

8 Natural right is the dictate of right reason, shew-

ing the moral turpitude, or moral necessity, of any act from its agreement or disagreement with a rational nature, and consequently that such an act is either forbidden or commanded by God, the author of nature.

Grotius, *Rights of War and Peace*,
Bk. I, I, 10

- 9 God has given life to man, not to destroy, but to preserve it; assigning to him for this purpose a right to the free enjoyment of personal liberty, reputation, and the control over his own actions.

Grotius, *Rights of War and Peace*, Bk. II,
XVII, 2

- 10 The *right of nature*, which writers commonly call *jus naturale*, is the liberty each man hath to use his own power as he will himself for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgement and reason, he shall conceive to be the aptest means thereunto. . . .

A *law of nature*, *lex naturalis*, is a precept, or general rule, found out by reason, by which a man is forbidden to do that which is destructive of his life, or taketh away the means of preserving the same, and to omit that by which he thinketh it may be best preserved. For though they that speak of this subject use to confound *jus* and *lex*, *right* and *law*, yet they ought to be distinguished, because *right* consisteth in liberty to do, or to forbear; whereas *law* determineth and bindeth to one of them: so that law and right differ as much as obligation and liberty, which in one and the same matter are inconsistent.

And because the condition of man (as hath been declared in the precedent chapter) is a condition of war of every one against every one, in which case every one is governed by his own reason, and there is nothing he can make use of that may not be a help unto him in preserving his life against his enemies; it followeth that in such a condition every man has a right to every thing, even to one another's body. And therefore, as long as this natural right of every man to every thing endureth, there can be no security to any man, how strong or wise soever he be, of living out the time which nature ordinarily alloweth men to live. And consequently it is a precept, or general rule of reason: *that every man ought to endeavour peace, as far as he has hope of obtaining it; and when he cannot obtain it, that he may seek and use all helps and advantages of war.* The first branch of which rule containeth the first and fundamental law of nature, which is: *to seek peace and follow it.* The second, the sum of the right of nature, which is: *by all means we can to defend ourselves.*

From this fundamental law of nature, by which men are commanded to endeavour peace, is derived this second law: *that a man be willing, when others are so too, as far forth as for peace and defence of*

himself he shall think it necessary, to lay down this right to all things; and be contented with so much liberty against other men as he would allow other men against himself. For as long as every man holdeth this right, of doing anything he liketh; so long are all men in the condition of war. But if other men will not lay down their right, as well as he, then there is no reason for anyone to divest himself of his: for that were to expose himself to prey, which no man is bound to, rather than to dispose himself to peace. This is that law of gospel: *Whatsoever you require that others should do to you, that do ye to them.* And that law of all men, *quod tibi fieri non vis, alteri ne feceris.*

To lay down a man's right to anything is to divest himself of the liberty of hindering another of the benefit of his own right to the same. For he that renounceth or passeth away his right giveth not to any other man a right which he had not before, because there is nothing to which every man had not right by nature, but only standeth out of his way that he may enjoy his own original right without hindrance from him, not without hindrance from another. So that the effect which redoundeth to one man by another man's defect of right is but so much diminution of impediments to the use of his own right original.

Right is laid aside, either by simply renouncing it, or by transferring it to another. By simply *renouncing*, when he cares not to whom the benefit thereof redoundeth. By *transferring*, when he intendeth the benefit thereof to some certain person or persons. And when a man hath in either manner abandoned or granted away his right, then is he said to be *obliged*, or *bound*, not to hinder those to whom such right is granted, or abandoned, from the benefit of it: and that he *ought*, and it is his *duty*, not to make void that voluntary act of his own: and that such hindrance is *injustice*, and *injury*, as being *sine jure*; the right being before renounced or transferred. So that *injury*, or *injustice*, in the controversies of the world, is somewhat like to that which in the disputations of scholars is called *absurdity*. For as it is there called an absurdity to contradict what one maintained in the beginning; so in the world it is called *injustice*, and *injury* voluntarily to undo that which from the beginning he had voluntarily done. The way by which a man either simply renounceth or transferreth his right is a declaration, or signification, by some voluntary and sufficient sign, or signs, that he doth so renounce or transfer, or hath so renounced or transferred the same, to him that accepteth it. And these signs are either words only, or actions only; or as it happeneth most often, both words and actions. And the same are the *bonds*, by which men are bound and obliged: bonds that have their strength, not from their own nature (for nothing is more easily broken than a man's word), but from fear of some evil consequence upon the rupture.

Whensoever a man transferreth his right, or re-

nounceth it, it is either in consideration of some right reciprocally transferred to himself, or for some other good he hopeth for thereby. For it is a voluntary act: and of the voluntary acts of every man, the object is some good to himself. And therefore there be some rights which no man can be understood by any words, or other signs, to have abandoned or transferred. As first a man cannot lay down the right of resisting them that assault him by force to take away his life, because he cannot be understood to aim thereby at any good to himself. The same may be said of wounds, and chains, and imprisonment, both because there is no benefit consequent to such patience, as there is to the patience of suffering another to be wounded or imprisoned, as also because a man cannot tell when he seeth men proceed against him by violence whether they intend his death or not. And lastly the motive and end for which this renouncing and transferring of right is introduced is nothing else but the security of a man's person, in his life, and in the means of so preserving life as not to be weary of it. And therefore if a man by words, or other signs, seem to despoil himself of the end for which those signs were intended, he is not to be understood as if he meant it, or that it was his will, but that he was ignorant of how such words and actions were to be interpreted.

The mutual transferring of right is that which men call *contract*.

Hobbes, *Leviathan*, I, 14

- 11 Anything that exists in nature which we judge to be evil or able to hinder us from existing and enjoying a rational life, we are allowed to remove from us in that way which seems the safest; and whatever, on the other hand, we judge to be good or to be profitable for the preservation of our being or the enjoyment of a rational life, we are permitted to take for our use and use in any way we may think proper; and absolutely, every one is allowed by the highest right of nature to do that which he believes contributes to his own profit.

Spinoza, *Ethics*, IV, Appendix VIII

- 12 By natural right I understand the very laws or rules of nature, in accordance with which everything takes place, in other words, the power of nature itself. And so the natural right of universal nature, and consequently of every individual thing, extends as far as its power: and accordingly, whatever any man does after the laws of his nature, he does by the highest natural right, and he has as much right over nature as he has power.

Spinoza, *Political Treatise*, II, 4

- 13 It will, perhaps, be objected to this, that if gathering the acorns or other fruits of the earth, etc., makes a right to them, then any one may engross as much as he will. To which I answer, Not so. The same law of Nature that does by this means

give us property, does also bound that property too. "God has given us all things richly." Is the voice of reason confirmed by inspiration? But how far has He given it us—"to enjoy"? As much as any one can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in. Whatever is beyond this is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy.

Locke, *II Civil Government*, V, 30

- 14 A man, as has been proved, cannot subject himself to the arbitrary power of another; and having, in the state of Nature, no arbitrary power over the life, liberty, or possession of another, but only so much as the law of Nature gave him for the preservation of himself and the rest of mankind, this is all he doth, or can give up to the commonwealth, and by it to the legislative power, so that the legislative can have no more than this. Their power in the utmost bounds of it is limited to the public good of the society. It is a power that hath no other end but preservation, and therefore can never have a right to destroy, enslave, or designedly to impoverish the subjects.

Locke, *II Civil Government*, XI, 135

- 15 The supreme power cannot take from any man any part of his property without his own consent. For the preservation of property being the end of government, and that for which men enter into society, it necessarily supposes and requires that the people should have property, without which they must be supposed to lose that by entering into society which was the end for which they entered into it; too gross an absurdity for any man to own. Men, therefore, in society having property, they have such a right to the goods, which by the law of the community are theirs, that nobody hath a right to take them, or any part of them, from them without their own consent; without this they have no property at all. For I have truly no property in that which another can by right take from me when he pleases against my consent. Hence it is a mistake to think that the supreme or legislative power of any commonwealth can do what it will, and dispose of the estates of the subject arbitrarily, or take any part of them at pleasure. This is not much to be feared in governments where the legislative consists wholly or in part in assemblies which are variable, whose members upon the dissolution of the assembly are subjects under the common laws of their country, equally with the rest. But in governments where the legislative is in one lasting assembly, always in being, or in one man as in absolute monarchies, there is danger still, that they will think themselves to have a distinct interest from the rest of the community, and so will be apt to increase their own riches and power by taking what they think fit from the people. For a man's property is

not at all secure, though there be good and equitable laws to set the bounds of it between him and his fellow-subjects, if he who commands those subjects have power to take from any private man what part he pleases of his property, and use and dispose of it as he thinks good.

Locke, *II Civil Government*, XI, 138

- 16 He that is master of himself and his own life has a right, too, to the means of preserving it.

Locke, *II Civil Government*, XV, 172

- 17 Every man is born with a double right. First, a right of freedom to his person, which no other man has a power over, but the free disposal of it lies in himself. Secondly, a right before any other man, to inherit, with his brethren, his father's goods.

By the first of these, a man is naturally free from subjection to any government, though he be born in a place under its jurisdiction. But if he disclaim the lawful government of the country he was born in, he must also quit the right that belonged to him, by the laws of it, and the possessions there descending to him from his ancestors if it were a government made by their consent.

Locke, *II Civil Government*, XVI, 190–191

- 18 Puffendorf says that we may divest ourselves of our liberty in favour of other men, just as we transfer our property from one to another by contracts and agreements. But this seems a very weak argument. For in the first place, the property I alienate becomes quite foreign to me, nor can I suffer from the abuse of it; but it very nearly concerns me that my liberty should not be abused, and I cannot without incurring the guilt of the crimes I may be compelled to commit, expose myself to become an instrument of crime. Besides, the right of property being only a convention of human institution, men may dispose of what they possess as they please: but this is not the case with the essential gifts of nature, such as life and liberty, which every man is permitted to enjoy, and of which it is at least doubtful whether any have a right to divest themselves. By giving up the one, we degrade our being; by giving up the other, we do our best to annul it; and, as no temporal good can indemnify us for the loss of either, it would be an offence against both reason and nature to renounce them at any price whatsoever.

Rousseau, *Origin of Inequality*, II

- 19 The State, in relation to its members, is master of all their goods by the social contract, which, within the State, is the basis of all rights; but, in relation to other powers, it is so only by the right of the first occupier, which it holds from its members.

The right of the first occupier, though more real than the right of the strongest, becomes a real

right only when the right of property has already been established. Every man has naturally a right to everything he needs; but the positive act which makes him proprietor of one thing excludes him from everything else. Having his share, he ought to keep to it, and can have no further right against the community. This is why the right of the first occupier, which in the state of nature is so weak, claims the respect of every man in civil society. In this right we are respecting not so much what belongs to another as what does not belong to ourselves.

Rousseau, *Social Contract*, I, 9

- 20 We hold these truths to be self-evident, that all men are created equal: that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that, whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness.

Jefferson, *Declaration of Independence*

- 21 In the state of nature every man has a right to defend, by force of arms, his person and his possessions; to repel, or even to prevent, the violence of his enemies, and to extend his hostilities to a reasonable measure of satisfaction and retaliation.

Gibbon, *Decline and Fall of the Roman Empire*, L

- 22 The system of rights, viewed as a scientific system of doctrines, is divided into natural right and positive right. Natural right rests upon pure rational principles *a priori*; positive or statutory right is what proceeds from the will of a legislator.

The system of rights may again be regarded in reference to the implied powers of dealing morally with others as bound by obligations, that is, as furnishing a legal title of action in relation to them. Thus viewed, the system is divided into innate right and acquired right. Innate right is that right which belongs to every one by nature, independent of all juridical acts of experience. Acquired right is that right which is founded upon such juridical acts.

Innate right may also be called the "internal mine and thine"; for external right must always be acquired.

Kant, *Division of the Science of Right*, B

- 23 Freedom is independence of the compulsory will of another; and in so far as it can coexist with the freedom of all according to a universal law, it is

the one sole original, inborn right belonging to every man in virtue of his humanity.

Kant, *Division of the Science of Right*, B

- 24 The commonwealth is the people viewed as united altogether into a state. And thus it is not to be said that the individual in the state has sacrificed *a part* of his inborn external freedom for a particular purpose; but he has abandoned his wild lawless freedom wholly, in order to find all his proper freedom again entire and undiminished, but in the form of a regulated order of dependence, that is, in a civil state regulated by laws of right. This relation of dependence thus arises out of his own regulative law giving will.

Kant, *Science of Right*, 47

- 25 Those goods, or rather substantive characteristics, which constitute my own private personality and the universal essence of my self-consciousness are inalienable and my right to them is imprescriptible. Such characteristics are my personality as such, my universal freedom of will, my ethical life, my religion. . . .

The right to what is in essence inalienable is imprescriptible, since the act whereby I take possession of my personality, of my substantive essence, and make myself a responsible being, capable of possessing rights and with a moral and religious life, takes away from these characteristics of mine just that externality which alone made them capable of passing into the possession of someone else. When I have thus annulled their externality, I cannot lose them through lapse of time or from any other reason drawn from my prior consent or willingness to alienate them. This return of mine into myself, whereby I make myself existent as Idea, as a person with rights and moral principles, annuls the previous position and the wrong done to my concept and my reason by others and myself when the infinite embodiment of self-consciousness has been treated as something external, and that with my consent. This return into myself makes clear the contradiction in supposing that I have given into another's possession my capacity for rights, my ethical life and religious feeling; for either I have given up what I myself did not possess, or I am giving up what, so soon as I possess it, exists in essence as mine alone and not as something external.

Hegel, *Philosophy of Right*, 66

- 26 After the general idea of virtue, I know no higher principle than that of right; or rather these two ideas are united in one. The idea of right is simply that of virtue introduced into the political world. It was the idea of right that enabled men to define anarchy and tyranny, and that taught them how to be independent without arrogance and to obey without servility. The man who submits to violence is debased by his compliance; but when he

submits to that right of authority which he acknowledges in a fellow creature, he rises in some measure above the person who gives the command. There are no great men without virtue; and there are no great nations—it may almost be added, there would be no society—without respect for right; for what is a union of rational and intelligent beings who are held together only by the bond of force?

Tocqueville, *Democracy in America*, I, 14

- 27 One man is superior to another physically or mentally and so supplies more labour in the same time, or can labour for a longer time; and labour, to serve as a measure, must be defined by its duration or intensity, otherwise it ceases to be a standard of measurement. This *equal* right is an unequal right for unequal labour. It recognises no class differences, because everyone is only a worker like everyone else; but it tacitly recognises unequal individual endowment and thus productive capacity as natural privileges. *It is therefore a right of inequality in its content, like every right.* Right by its very nature can only consist in the application of an equal standard; but unequal individuals (and they would not be different individuals if they were not unequal) are only measurable by an equal standard in so far as they are brought under an equal point of view, are taken from one *definite* side only, e.g., in the present case are regarded *only as workers*, and nothing more seen in them, everything else being ignored. Further, one worker is married, another not; one has more children than another and so on and so forth. Thus with an equal output, and hence an equal share in the social consumption fund, one will in fact receive more than another, one will be richer than another, and so on. To avoid all these defects, right, instead of being equal, would have to be unequal.

But these defects are inevitable in the first phase of communist society as it is when it has just emerged after prolonged birth pangs from capitalist society. Right can never be higher than the economic structure of society and the cultural development thereby determined.

In a higher phase of communist society, after the enslaving subordination of individuals under division of labour, and therewith also the antithesis between mental and physical labour, has vanished; after labour, from a mere means of life, has itself become the prime necessity of life; after the productive forces have also increased with the all-round development of the individual, and all the springs of co-operative wealth flow more abundantly—only then can the narrow horizon of bourgeois right be fully left behind and society inscribe on its banners: from each according to his ability, to each according to his needs!

Marx, *Critique of the Gotha Programme*

- 28 To have a right . . . is, I conceive, to have some-

thing which society ought to defend me in the possession of. If the objector goes on to ask, why it ought? I can give him no other reason than general utility. If that expression does not seem to convey a sufficient feeling of the strength of the obligation, nor to account for the peculiar energy of the feeling, it is because there goes to the composition of the sentiment, not a rational only, but also an animal element, the thirst for retaliation; and this thirst derives its intensity, as well as its moral justification, from the extraordinarily important and impressive kind of utility which is concerned. The interest involved is that of security, to every one's feelings the most vital of all interests. All other earthly benefits are needed by one person, not needed by another; and many of them can, if necessary, be cheerfully foregone, or replaced by something else; but security no human being can possibly do without; on it we depend for all our immunity from evil, and for the whole value of all and every good, beyond the passing moment; since nothing but the gratification of the instant could be of any worth to us, if we could be deprived of anything the next instant by whoever was momentarily stronger than ourselves.

Mill, *Utilitarianism*, V

- 29 The order of castes, *order of rank*, only formulates the supreme law of life itself; the separation of the three types is necessary for the preservation of society, for making possible higher and higher types—*inequality of rights* is the condition for the existence of rights at all.—A right is a privilege.

Nietzsche, *Antichrist*, LVII

- 30 If men have rights by birth, these rights must hold against their fellow-men and must mean that somebody else is to spend his energy to sustain the existence of the persons so born. What then becomes of the natural rights of the one whose energies are to be diverted from his own interests? If it be said that we should all help each other, that means simply that the race as a whole should advance and expand as much and as fast as it can in its career on earth; and the experience on which we are now acting has shown that we shall do this best under liberty and under the organization which we are now developing, by leaving each to exert his energies for his own success. The notion of natural rights is destitute of sense, but it is captivating, and it is the more available on account of its vagueness. It lends itself to the most vicious kind of social dogmatism, for if a man has natural rights, then the reasoning is clear up to the finished socialistic doctrine that a man has a natural right to whatever he needs, and that the measure of his claims is the wishes which he wants fulfilled. If, then, he has a need, who is bound to satisfy it for him? Who holds the obligation corresponding to his right? It must be the one who possesses what will satisfy that need, or else the state which can

take the possession from those who have earned and saved it, and give it to him who needs it and who, by the hypothesis, has not earned and saved it.

W. G. Sumner, *Challenge of Facts*

- 31 While admitting the abstract right of the community to interfere with its members in order to secure the biological necessities to all, I cannot admit its right to interfere in matters where what one man possesses is not obtained at the expense of another. I am thinking of such things as opinion and knowledge and art. The fact that the majority of a community dislikes an opinion gives it no right to interfere with those who hold it. And the fact that the majority of a community wishes not to know certain facts gives it no right to imprison those who wish to know them.

Russell, *Sceptical Essays*, XIII

- 32 The obstacles to freedom, as we saw, are of two sorts, social and physical. Given a social and a physical obstacle which cause the same direct loss of liberty, the social obstacle is more harmful, because it causes resentment. If a boy wants to climb a tree and you forbid him, he will be furious; if he finds that he cannot climb it, he will acquiesce in the physical impossibility.

Russell, *Sceptical Essays*, XIII

- 33 If we are not to fall into Utopianism, we cannot imagine that, having overthrown capitalism, people will at once learn to work for society *without any standards of right*; indeed, the abolition of capitalism *does not immediately lay* the economic foundations for *such* a change.

And there is no other standard yet than that of "bourgeois right." To this extent, therefore, a form of state is still necessary, which, while maintaining public ownership of the means of production, would preserve the equality of labour and equality in the distribution of products.

The state is withering away in so far as there are no longer any capitalists, any classes, and, consequently, no *class* can be suppressed.

But the state has not yet altogether withered away, since there still remains the protection of "bourgeois right" which sanctifies actual inequality. For the complete extinction of the state, complete Communism is necessary.

Lenin, *State and Revolution*, V, 3

- 34 The fundamental rights, like the right to existence and life; the right to personal freedom or to conduct one's own life as master of oneself and of one's acts, responsible for them before God and the law of the community; the right to the pursuit of the perfection of moral and rational human life; the right to the pursuit of eternal good (without this pursuit there is no true pursuit of happiness); the right to keep one's body whole; the

right to private ownership of material goods, which is a safeguard of the liberties of the individual; the right to marry according to one's choice and to raise a family which will be assured of the liberties due it; the right of association, the respect for human dignity in each individual, whether or not he represents an economic value for society—all these rights are rooted in the vocation of the person (a spiritual and free agent) to the order of absolute values and to a destiny superior to time.

Maritain, *Rights of Man and Natural Law*, II

- 35 *With respect to God and truth*, one has not the right to choose according to his own whim any path whatsoever, he must choose the true path, in so far as it is in his power to know it. But *with respect to the State, to the temporal community and to the temporal power*, he is free to choose his religious path at his own risk, his freedom of conscience is a natural, inviolable right.

Maritain, *Rights of Man and Natural Law*, II

- 36 If it is true that political authority has as its essential function the direction of free men towards the common good, it is normal for these free men to choose by themselves those who have the function of leading them: this is the most elementary form of active participation in political life. That is why universal suffrage, by means of which every adult human person has, as such, the right to make his opinion felt regarding the affairs of the community by casting his vote in the election of the people's representatives and the officers of the State—that is why universal suffrage has a wholly fundamental political and human value and is one of those rights which a community of free men can never give up.

Maritain, *Rights of Man and Natural Law*, II

- 37 Freedom of investigation is a fundamental natural right, for man's very nature is to seek the truth.

Maritain, *Rights of Man and Natural Law*, II

12.4 | Crime and Punishment

Two main subjects are treated in this section: on the one hand, the nature, causes, and varieties of crime; on the other, the purposes, justifications, and kinds of punishment. The first of these subjects is closely related to matters treated in Section 12.1 on LAW AND LAWYERS and also in Section 9.7 on RIGHT AND WRONG, as well as in Section 9.10 on VIRTUE AND VICE; in addition, the reader will find some overlapping between the discussion of crime here and of sin in Section 20.13 of Chapter 20 on RELIGION. Section 12.1 on LAW AND LAWYERS is also relevant to the second subject, but even more so is Section 12.2 on JUSTICE AND INJUSTICE. For example, the reader will find passages dealing with the *lex talionis*—an eye for an eye, a tooth for a tooth—both here, as relevant to punishment, and in the section on justice.

The central issue concerning punishment arises from the question whether it should be entirely utilitarian in purpose, aiming to deter potential criminal offenders as well as to reform those who have committed criminal acts, or it should be purely retributive in aim, righting the wrong and thus restoring the balance of justice. Those who take the latter view attempt to draw a sharp line between retribution and revenge. Those who take the former view tend to regard retribution as nothing but vengeance. Regarding punishment as remedial or therapeutic, the utilitarian view justifies a particular type of punishment in a particular case by the degree to which it serves the purposes of deterrence and reform. Regarding it as an act of justice, the retributive view justifies the severity of the punishment by its propor-