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# Greek Political Theory

ERNEST BARKER



# Greek Political Theory

PLATO AND  
HIS PREDECESSORS

BY

Sir Ernest Barker

UNIVERSITY PAPERBACKS

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of his generation; and to their philosophy, 'Better be wicked than just', he answers by an appeal to divine retribution.<sup>1</sup>

A new era dawned in the first days of Solon (*circ.* 600 B.C.). An economic crisis, of which the first mutterings may perhaps be detected in the verse of Hesiod, had visited Greece in the seventh century. The land of the poor had been eaten by mortgages and annexed by their wealthy neighbours; a new temper and new laws had to be found for Greece if chaos was to be avoided. The new temper was preached by Delphi: the new laws were found by law-givers like Solon. The preaching of Delphi was the inspiration of what is sometimes called the Greek Reformation. About 600 B.C., Delphi tore itself away from the tribe of the Phocians, and became a church-state. The oracle of Delphi was famous; its priests had an old tradition of their god, Apollo, as the inventor of purification from the guilt of blood: and they widened that tradition until they made him the interpreter of Greek ethics and the exponent of Greek law.<sup>2</sup> The gist of the ethical teaching of the oracle was the need of moderation. The beauty of temperance – the need of remembering that a bound is set to all things, which they may not overpass; that (as Pindar, echoing Delphi, sang<sup>3</sup>) 'the way beyond the pillars of Hercules cannot be trod by the feet of wise men or fools' – these were its lessons. The lust of gain, which had wrought all the past trouble, must come under rule and regimen: 'nothing in excess' must be, for the future, the motto of life. Thus was established a tradition which was to last long and to sink deep in Greek life – a tradition reinforced by the Pythagorean doctrine of Limit, and expounded in its classical form in the Aristotelian doctrine of the Mean.

If Apollo was the interpreter of ethics, he was also the exponent of law; and the law-givers, whose activity is coincident with the Greek Reformation, sought to translate into practice the Delphic lessons of limit and moderation. Later tradition spoke of Seven Sages, of whom Solon is the only historical figure; and it ascribed to the Seven a career of political activity, and something of a political philosophy couched in the form of proverbs – *ρήματα βράχεια αξιομημόνευτα*, as Plato says – in which some facet of truth, taught by experience or discerned by inquisitive eyes, was permanently preserved. The 'sayings of the Seven Sages' are, indeed, largely ethical; but scattered among their ethical sayings

<sup>1</sup> *Works and Days*, 248-64.

<sup>2</sup> Wilamowitz, *op. cit.*, pp. 87-8.

<sup>3</sup> *Olymp.*, 3, 44-5.

we find political truths such as *ἀρχὴ ἀνδρα δείξει*: 'Office will show the stuff of which a man is made.'<sup>1</sup> Plato tells us that the fruits of their wisdom were dedicated by the Seven in congress to the temple of Apollo at Delphi,<sup>2</sup> thus attesting a tradition of their connection with the teaching of the god; and the Amphictyons are said to have inscribed their sayings on the temple-walls, so that they seemed to acquire something of the sanctity of a divine revelation. 'In these celebrated names we have social philosophy in its early and infantile state.'<sup>3</sup> Like the social philosophy of the Seven Sages, the political activity of the historical law-givers of the Solonian age followed the inspiration of Delphi. Their aim, so far as we can judge from the records of the work of Solon, was to apply the lessons of limit and moderation to the sphere of social and political life, and 'to restore the unity of the State by restricting the use of wealth'.<sup>4</sup> Solon sought to introduce into a State, torn by the dissensions of rich and poor, the ideal of social equality. He sought to put down the mighty from exerting the power of their wealth without limit, and he did what he could to exalt the poor. On the one hand, he cancelled, by his 'Seisachtheia', the debts accumulated on mortgage by the poor peasantry; he fixed a limit to the extent of landed properties; and he restricted by sumptuary laws the right of the wealthy to flaunt their wealth. On the other hand, he attempted to re-establish farmers as free-holders on their farms; and by giving facilities for foreigners to settle in Attica in order to exercise some skilled craft he encouraged the rise of industry, which was to prove, in the long run, the salvation of the poor, and to rescue them finally from the dependence and misery of a purely agrarian regime. In these, and in other ways, he sought to institute social equality. The humanity of Attic law, it has been said, reflects his mild and pious temper. To protect the weak and the needy he allowed any Athenian citizen to undertake without risk, on another's behalf, a prosecution for a criminal offence; and herein he took a long step towards the institution of sure and even-handed justice. His 'law of associations' is also noteworthy.

'He laid down the principle that an association with a common cult was entitled to give itself statutes, whose validity for

<sup>1</sup> Plutarch, in the *Convivium Septum Sapientium*, introduces the Seven Sages in the act of discussing the conditions necessary to the greatest happiness of the State; and he professes to give the opinions held by each of the Seven.

<sup>2</sup> *Protagoras*, 343 b.

<sup>3</sup> Grote, *History of Greece*, IV. 23.

<sup>4</sup> Zimmern, *op. cit.*, p. 127.



the members of the association, the State would recognise, so far as they did not conflict with its laws. The law included even privateering and shipping companies, and the mention of the former proves clearly its antiquity. Here is erected the principle of freedom of associations; and it is significant that the Digest goes back to Solon's law.<sup>1</sup>

But the work of Solon went further. It was his purpose, as we learn from his own elegiac poems, in which he prepared and vindicated his work, to institute a general rule of balanced equality (or 'isonomy'), under which no class could either parade a claim of social superiority or enjoy undue political privilege.

'I gave the people such power as sufficed, neither taking from their due honour, nor giving yet more than was due: I gave heed that men who had influence and were famous for their wealth should suffer nothing unseemly: I stood, with my shield held aloft, to guard both the rich and the poor, nor did I permit either to triumph wrongfully.'

To one thinking in modern terms, it is natural to say that Solon was at once a legal reformer and a constitution-maker. The distinction is really foreign to Solon's age and to Greek history in general. He did not make, and there never existed at Athens, a separate constitutional law. What he did was to enact the set of rules, which have just been described, as instructions for the officials of the State, intended to control their administrative action. Treating the officials as the servants of the law, he defined the law in writing, so that a written code superseded an unwritten tradition; and while he thus put into operation the Greek conception of the rule of law, he implicitly founded a constitutional scheme based on its sovereignty, in which the officials naturally fell into their place as its servants. To make sure that they should act according to law, he made them responsible to a public court, whose institution was his great innovation. This court was the *Heliaea*, a popular court of some thousands of judges, in which the poorest of the citizens could sit and judge, and which (besides hearing appeals in exceptional cases) had the right of reviewing the conduct of every official at the end of his term of office. Herein 'Solon made the people sovereign of the verdict'; and on Aristotle's principle that 'the sovereign of the verdict is sovereign of the constitution', he implicitly established popular sovereignty, or democracy.<sup>2</sup> But as his work stood, he only

<sup>1</sup> Wilamowitz, *op. cit.*, pp. 50-1.

<sup>2</sup> Arist., *'Αθην. πολ.*, ix. § 1.

instituted democracy in the judicial sphere. He gave the people not so much the control of public policy, as the certainty of being governed legally in accordance with known rules.<sup>3</sup> It was after all a less matter, though it was by no means unimportant, that he admitted the poorer Athenians to the Assembly, and thus gave them a voice in the election of their officials.

Almost all the details of Solon's work, except those which are contained in his own poems, are still matters of dispute today. Among the Athenians themselves, by the end of the fifth century, there was already much dispute about the meaning and extent of his work; and these disputes were by no means academic, but vitally connected with actual affairs. On the one hand, the democratic party claimed him as the father of the Periclean democracy; on the other hand the 'moderates', who were oligarchically inclined, and who attempted a political revolution in 411, regarded him as the father of an 'ancestral constitution' (*πάτριος πολιτεία*) of a moderate and mixed type, neither democratical nor yet oligarchical, to which, they urged, Athens ought to return. Aristotle seems to have followed the latter line of interpretation, both in the *'Αθηναίων πολιτεία* and in the *Politics*, and to have held that Solon established the ancestral constitution by a proper mixture of the different elements of the State.<sup>2</sup> There is indeed much that is reminiscent of Solon in the political philosophy of Aristotle. Like Solon, he believes in the sovereignty of law. Like Solon, to whom he specifically refers,<sup>3</sup> he believes that the people at large must receive, as a minimum of political power, 'the right of electing to offices and calling the magistrates to account'. Above all, like Solon, he cherishes the conception of the neutral and moderate and mediatory State, which is a proper mixture of the different elements, and permits no element 'to triumph wrongfully'.

This is perhaps the chief conception which the legislation and the elegies of Solon bequeathed to the Greeks. The neutral State, which the Greeks were to seek so long, and in so many different ways, in order to escape the strife that raged between the different sections of their society, found in him its first exponent. It was a conception natural to the troubled age in which he lived. At Megara the poetry of Theognis presents a sharp antithesis of the 'good' and the 'bad', and the poet laments the overthrow of

<sup>1</sup> Zimmern, *op. cit.*, pp. 130-1. <sup>2</sup> Cf. *Pol.*, 1273, b 35 sqq. (ii. 12, § 2-6).

<sup>3</sup> 1286, b 33-4 (iii. 11, 8).



a nobility of birth by a mob 'wearing the skins of goats, and knowing nought of decrees or of laws'.<sup>1</sup> If Solon had guided the State into its desired haven at Athens, Alcaeus at Mitylene 'cannot comprehend the strife (*στράσις*) of winds' that buffets the ship of state which Pittacus, ruling (590-580 B.C.) as dictator after a revolution in which Alcaeus and his brother nobles had been banished, is seeking to steer into safety. Even at Sparta, stablest of Greek States, there was sore trouble, springing from questions of the land; and the Spartans had to face a rebellion of their oppressed serfs in Messenia. The verse of Tyrtæus, contemporary with this trouble and rebellion, is not only a trumpet-call to battle, but a political sermon in praise of law-abidingness (*εὐνομία*).

#### PYTHAGOREANS AND IONIANS

The next epoch in the history of Greece, and of the political thought of Greece, is connected with the Ionic Renaissance. The Reformation which came from Delphi had been largely Doric in origin and tone. The great Doric State of Sparta always stood in close relations with Delphi; and the influence of the teaching of the oracle was towards a Doric way of life. The vases and the architecture of the sixth century both show a trend towards the Doric mode.<sup>2</sup> But in the colonial land of Ionia conditions had always been different from what they were on the Greek mainland. Here life had definitely run into the groove of cities from the first, and the old sanctities of tribal life had never found a home. In their place something of a rational and secularist temper flourished, in combination with an advanced and almost effeminate type of material civilization. In the hot-house air of the Ionic cities, thought and discussion played freely on all things in heaven and earth; and, perhaps aided to some extent by the influence of contact with the East, men began to turn to natural science, and from the days of Thales (*circa*. 585 B.C.) to investigate the problems of the material world. Puzzled by the riddle of the physical universe, seemingly composed of many elements, yet liable to changes which transmuted each one of these into another, they cast about to find the one Identical, the single substratum of matter which underlay all the elements, and from which they all proceeded. This single substratum of matter, this one stuff of which all things were made, however it might be con-

<sup>1</sup> Theognis, vv. 350-1

<sup>2</sup> Burnet, *Greek Philosophy*, p. 34.

ceived, they called Nature.<sup>1</sup> It is perhaps too readily assumed that before Socrates men studied Nature alone, and that thinkers were first induced by his example to study Man (*ἡθῆ*).<sup>2</sup> But the conclusions at which the pre-Socratics arrived about Matter were not mere theories of physical scientists dealing with a problem of chemistry: they were, to those who propounded them, solutions of the riddle of the universe. As such, they applied to the life of man as much as they did to the life of the earth. Conclusions with regard to the elements of physical nature and their mutual relations involved similar conclusions about the elements of man's moral nature and the connexion of those elements - about the elements of the State, and the scheme by which they were united.

This step from a supposed physical truth to its moral counterpart was perhaps made most readily by the Pythagoreans of the fifth century, when they turned into a system of philosophy the Rule of Pythagoras, an Ionian from the Island of Samos (*circa*. 530 B.C.), who had settled and founded a school in southern Italy. The unity to which they reduced physical elements was not a material substance, such as had been postulated by most of the Ionic philosophers, but the more immaterial<sup>3</sup> principle of number. Such a principle was easily extended to the moral world of man's conduct. The underlying principle of that world, it might be argued, was also one of number, or the observance of number.<sup>4</sup> In this way the later Pythagoreans attained their idea of

<sup>1</sup> Nature really meant to the Ionians what we mean by Matter. They 'had drawn the outlines of the theory of matter in the physicist's sense of the word' (Burnet, *op. cit.*, p. 27).

<sup>2</sup> Aristotle, however (on whose dicta this assumption is based, cf. *Met.*, 987, 1-4; 1078, b 17-19), while he speaks of Socrates as *περὶ τὰ ἠθικὰ πραγματευόμενος*, does not say that he was the first to turn to Ethics, but that he was the first to introduce definitions, and that he introduced them in the sphere of Ethics.

<sup>3</sup> It is true that the Pythagoreans regarded number as extended in space.

<sup>4</sup> For such an extension one may compare Plato, *Gorgias*, 507 E-508 A. Plato argues that moral selfishness (*πλεονεξία*) contradicts the physical fellowship and friendship which holds together earth and heaven, and contravenes the principle of geometrical equality. He seems to be contending that as, e.g. the planets are kept together in fellowship by the fact that each keeps its appointed place, and does not violate equality by trespassing on that of its neighbour, so men should abide in a fellowship secured by the fact that each keeps his appointed place, and does not violate equality by trespassing to 'get more' (*πλεονεκεῖν*). This is also the teaching of the *Republic*. Plato, who inherited much from Pythagoreanism, inherited, perhaps more than anything else, its mathematical interests, and approached philosophy from mathematics; while Aristotle, more like Empedocles, made his approach from biology (Burnet, *Greek Philosophy*, pp. 11, 71). There is probably a Pythagorean element in Plato's comparison of the order of the human with that of the natural world, cf. *infra*, p. 157.



justice. Justice was a number *ἰσότης ἴσος*: it was a number multiplied into itself, a square number. A square number is a perfect harmony, because it is composed of equal parts, and the number of the parts is equal to the numerical value of each part. If justice is defined as a square number, it follows that justice is based on the conception of a State composed of equal parts. A number is square so long as the equality of its parts remains: a State is just, so long as it is distinguished by the equality of its parts, and justice is the preservation of such equality. But how is such equality to be preserved? By taking away from the aggressor, who has made himself too great and his victim too small, all the profit of his aggression, and by restoring it in its integrity to the loser. Hence the further definition of justice by the Pythagoreans as requital (*τὸ ἀντιπεποιθός*): with what measure you mete, it shall be measured out to you again. It is obvious that in this conception of justice there are elements which were to influence the trend of later political thought.<sup>1</sup> Here is the idea of the State as a sum of equal members: here is the idea of its aim as consisting in a harmony or equipoise called justice, which preserves the nice adjustment of the members. In the *Republic* Plato adopts this conception of justice, and gives it a more spiritual content and a deeper truth. Justice is an adjustment, but an adjustment which gives to each of the spiritual factors which go to form the State – reason, spirit, and appetite – its right and proper place. In Aristotle's theory of 'particular' justice the formal and numerical aspect of the Pythagorean conception may perhaps be traced. The theory of distributive and rectificatory justice in the Fifth Book of the *Ethics*, and the application of a theory of justice to commerce in the First Book of the *Politics*, may both owe something to Pythagorean teaching.<sup>2</sup>

<sup>1</sup> Burnet, however (*Early Greek Philosophy*, p. 317; cf. also his *Greek Philosophy*, p. 90), regards the definition of justice as a square, as 'a mere sport of the analogical fancy'. But the same might be said of Herbert Spencer's conception of the State as an organism – which is, none the less, a vital part of his system. And it is especially easy to apply mathematical analogies to justice: cf. Maine, *Ancient Law* (p. 58): 'The equal division of numbers or physical magnitudes is doubtless closely entwined with our perceptions of justice; there are few associations which keep their ground in the mind so stubbornly or are dismissed from it with such difficulty by the deepest thinkers.'

<sup>2</sup> Aristotle distinguishes 'universal' justice, which is generally directed to the maintenance of social and moral order ('the public side in law, and especially . . . its criminal element'), from 'particular' justice, which deals with the distribution of rights by the State to individuals and the correction or redress of private wrongs (cf. Sir Paul Vinogradoff, *Columbia Law Review*, Nov. 1908). He objects to the Pythagorean definition of justice as mere requital (*Ethics*, v. 1132,

Thus, perhaps, had the Pythagoreans of the fifth century helped the growth of political science by their application of the principles of natural philosophy to the State. Some of them went beyond the application of number to the conception of justice, and taught a definite theory of politics. The essence of that theory was the divine right of wisdom to rule the State; and its outcome was a belief in monarchy of a theocratic type, ruling *jure divino* over its subjects as God rules over the world. It is possible that such teaching is later than the fifth century, and only an echo of the philosopher king of the *Republic*; it is also possible that it preceded and helped to influence Plato.<sup>1</sup> A later generation assigned to Pythagoras himself, in the sixth century, the tenets of his later disciples, and believed that he had attempted to realize them in practice. Tradition told of a club of Three Hundred founded by Pythagoras at Croton, which consisted of young men trained, like the Platonic guardians, in philosophy, and, like them, governing the State in the light of their philosophy. The Pythagorean principle *κοινὰ τὰ τῶν φίλων* ('the goods of friends are common property') was equally interpreted into an anticipation of the communism advocated by Plato. We may, however, regard these traditions and interpretations as a later reading of Platonic ideas into the mind of 'the master': *ipse non dixit*. The work which Pythagoras himself achieved, and the doctrines which he himself taught, were of a simpler pattern; and though he anticipated Plato, he did not anticipate him either by training young men for a life of politics or by advocating communism. When we clear away from his name, on the one hand, the later developments of his teaching due to the Pythagoreans of a later age of which we have already spoken, and on the other, the Platonic elements which crept into the later tradition about him, we shall find that what he did was to found a society, and to inculcate 'a way of life' on its members. He was the first, but by no means the last (*supra*, p. 11), for whom philosophy issued in a Rule to be communicated to a circle or 'order' of disciples; and herein he may already be said to have anticipated Plato. He founded his order in Croton, a city of southern Italy. The order became involved in political disturbances; but there is no

b 22); but he holds that proportionate requital is the very bond of the State. It is not only the basis of the action of the State in its work of distribution and correction: it regulates the voluntary dealings of the citizens with one another, and is the basis of commercial exchange.

<sup>1</sup> Cf. Campbell's introduction to his edition of the *Politicus*, pp. xx-xxvii. It is possible that Plato refers to these tenets in the *Politicus*; cf. *infra*, pp. 317-18.



discover what Athenians were thinking in the later fifth century, we seem to see men reflecting primarily about politics and the world of man's conduct and institutions: if they turn to physics, it is 'by way of illustration', and to get examples (which, they fancy, will serve as proofs) for their political ideas.<sup>1</sup> Physical science had come to Athens with Anaxagoras, during the ascendancy of Pericles, who may have introduced the philosophy of Ionia to Athens as part of a policy of imparting to the Athenians 'something of the flexibility and openness of mind which characterized their kinsmen across the sea'.<sup>2</sup> Archelaus of Athens, a disciple of Anaxagoras, and according to tradition the master of Socrates, was, we are told by Diogenes Laertius, the last of the physicists, and the first of the moralists, delivering lectures on law and justice. It was he who first drew the famous distinction between φύσις and νόμος in the world of human affairs, and taught that 'the noble and the base exist by convention (νόμῳ) and not by nature (φύσει)'.<sup>3</sup>

It was natural that the Greeks, and more particularly the Athenians, should soon turn from considering the riddle of the universe (for their thinkers began with the greatest first) to consider the riddle of a smaller κόσμος, and to inquire into the 'nature' of the State and its relation to the individual. After the attempts of the Ionian physicists to solve the mystery of physical matter, and to find a single basis of all its changes, there

<sup>1</sup> This is the opposite of what we have just seen in Anaximander and Heraclitus. They had argued from politics to physics – or at any rate from man to matter: this is to argue from physics to politics. One may detect a trace of this line of argument in the *Phaenissae* of Euripides (538–551), where it is argued that as night and day interchange equally on their yearly course, each yielding place to the other, so there should be equality and interchange of office in the State. Similarly Plato, in the *Republic*, uses the physical analogy of the dog to justify the assignation of the same political duties to man and woman; and Aristotle justifies slavery in the first book of the *Politics* by examples of similar subordination in nature. (A German writer, whom I followed too implicitly in the first edition (Dummler, *Prolegomena zu Platons Staat*), has suggested that behind the passage in the *Phaenissae*, and some other passages in other plays of Euripides, there lies a political treatise which Euripides had used, and whose writer had attempted, by a parallel between the order of the world and the order of the State, to justify the theory of a democratic State acting under the sovereignty of law. This is probably a carrying of the search for *Quellen* to too great a length. German writers are somewhat prone to discovering political treatises supposed to have been written in Athens during the Peloponnesian War; cf. *infra*, pp. 90–1.)

<sup>2</sup> Burnett, *Early Greek Philosophy*, p. 277.

<sup>3</sup> Ritter and Preller (8th ed.), § 218 b.



## Two Fragments from the Treatise of the Sophist Antiphon 'On Truth'

### I

Justice [in the ordinary view] consists in not transgressing [or rather, is not being known to transgress] any of the legal rules (*νόμιμα*) of the State in which one lives as a citizen. A man, therefore, would practise justice in the way most advantageous to himself if, in the presence of witnesses, he held the laws in high esteem, but, in the absence of witnesses, and when he was by himself, he held in high esteem the rules of nature (*τὰ τῆς φύσεως*). The reason is that the rules of the laws (*τὰ τῶν νόμων*) are adventitious,<sup>1</sup> while the rules of nature are inevitable [and innate]; and again that the rules of the laws are created by covenant (*ῥομολογηθέντα*) and not produced by nature (*φύντα*), while the rules of nature are exactly the reverse. A man, therefore, who transgresses legal rules, is free from shame and punishment whenever he is unobserved<sup>2</sup> by those who made the covenant, and is subject to shame and punishment only when he is observed. It is otherwise with transgression of the rules which are innate in nature. If a man strains any of these rules beyond what it can bear, the evil consequences are none the less, if he is entirely unobserved, and none the greater, if he is seen of all men; and this is because the injury which he incurs is not due to men's opinion (*διὰ δόξαν*), but to the facts of the case (*δι' ἀλήθειαν*).<sup>3</sup>

The question with which we are here concerned arises from every point of view (*πάντων ἕνεκα*). Most of the things which are

<sup>1</sup> *ἐπιθέτα* – a word which implies imposition *ab extra*, and suggests something factitious. It is even used, in later Greek writers, in the sense of 'fictitious', and in opposition to *ἀληθινός*.

<sup>2</sup> Plato, in the beginning of the *Republic*, and especially at the beginning of the second book, is occupied with the same point – whether it is worth a man's while to practise justice when he is unobserved. If one had Gyges' ring, which had the power of making its owner invisible, would justice pay? (*Rep.*, 359–61).

<sup>3</sup> To transgress the rules of health, for instance (we may suppose the writer to mean), brings an inevitable reaction which proceeds inexorably from the facts of the case. To transgress a rule against perjury produces no inevitable reaction: only if one is observed is there any reaction, and then it is only a reaction of opinion.

legally just are [none the less] in the position of being inimical to nature. By law it has been laid down for the eyes what they should see and what they should not see; for the ears what they should hear, and what they should not hear; for the tongue what it should speak, and what it should not speak; for the hands what they should do, and what they should not do; for the feet whither they should go, and whither they should not go; and for the mind what it should desire, and what it should not desire. Now the things from which the laws seek to turn men away are no more [? less] agreeable or akin to nature than the things which the laws seek to turn men towards. [This may be proved as follows.] To nature belong both life and death. Men draw life from the things that are advantageous to them: they incur death from the things that are disadvantageous to them. But the things which are established as advantageous in the view of the law are restraints on nature [i.e. they prevent men from drawing life, which belongs to nature, from the things that are really advantageous to them], whereas the things established by nature as advantageous are free [i.e. they leave men free to draw life from the things that are really advantageous to them; for they are identical with those things].<sup>1</sup> Therefore things which cause pain [and so are akin to death] do not, on a right view, benefit nature <sup>2</sup> more [on the contrary, they benefit nature less] than things which cause pleasure [and so are akin to life]; and therefore, again, things which cause suffering would not be more advantageous [on the contrary, they would be less advantageous] than things which cause happiness – for things which are really (τῶ ἀληθεῖ) advantageous ought not to cause detriment, but gain. . . .<sup>3</sup> [Take the case of those] who retaliate only after

<sup>1</sup> The argument at this point is not clearly stated. Roughly it seems to mean that life and death are natural processes, and that the one process results from what is naturally advantageous to the human body, and the other from what is naturally disadvantageous. The law, by giving another and an artificial definition of 'advantageous' and 'disadvantageous', and by seeking to enforce that definition, interferes with the free working of these processes.

<sup>2</sup> They do not benefit nature, since they do not promote or benefit life, which belongs to nature.

<sup>3</sup> The argument appears to be in favour of simple hedonism, but it is obscurely expressed. It may perhaps be stated as follows: 'By nature men desire life, and by nature therefore they desire the things which are advantageous to life. Pleasant things are advantageous to life, and so by nature men desire pleasant things. But the natural is also the real. Therefore pleasure, being naturally advantageous – since it is advantageous to life, which is naturally desirable – is really advantageous. The law, however, does not proceed in this way. It declares things not to be advantageous which by nature, and really,

suffering injury, and are never themselves the aggressors; or those who behave well to their parents, though their parents behave badly to them; or those, again, who allow others to prefer charges [against them] on oath, and bring no such charges themselves. Of the actions here mentioned one would find many to be inimical to nature. They involve more suffering when less is possible, less pleasure when more is possible, and injury when freedom from injury is possible.

[The writer now attacks legal justice from another point of view. Hitherto he has attacked law and its presumptions; now he attacks law-courts and their operation. Hitherto he has argued that law makes wrong what is right; now he argues that the machinery of the law cannot carry its own false presumptions into effect.] Now if those who adopted such courses received any help from the laws, or those who did not adopt such courses, but took the opposite line, suffered any loss from the laws, there would be some use in paying obedience to the laws. But, as a matter of fact, it is obvious that legal justice is inadequate to help those who adopt such courses. In the beginning [i.e. before any legal cognisance can be taken of the facts] it permits the injured party to be injured and the offending party to commit his offence. But it is not only that legal justice is in no position, at this point, to prevent the injured party from being injured, or the offending

are advantageous: it declares, for instance, a theft by a starving man not to be advantageous, whereas really such a theft is advantageous, since it helps the man to live. Again, conversely, the law declares things to be advantageous which by nature, and really, are not advantageous: it declares, for instance, a starving man's abstinence from theft to be advantageous, though such abstinence, causing as it does the man's detriment, is really disadvantageous.' The argument is a fallacy, because it isolates the individual. If an individual existed absolutely by himself, it might be advantageous for him to steal; but there would be nobody from whom he could steal. But if he exists, as he does, in society, and as a member of society, nothing can in the long run be really disadvantageous to him, which is socially advantageous. If it is socially advantageous that there should be property and respect for property, then no member of society really loses, or suffers detriment, by respecting the property of others. If a man respects the property of others, others will respect *his* property: and if at the moment he has no property, that does not prevent the possibility of his having property in the future. Rights and duties are correlative, and the one implies the other. The assumption of 'invisibility' – that is to say, of going unobserved in a failure to respect rights – does not vitiate this argument; for it is an assumption that cannot be made. Social man, whose life is lived in the presence of his fellows, is not 'invisible': and the more society perfects its mechanism – not only of police, but also of communication – the more do all its members live in glass houses.



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