

Utilitarianism

John Stuart Mill

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[Brackets] enclose editorial explanations. Small ·dots· enclose material that has been added, but can be read as though it were part of the original text. Occasional •bullets, and also indenting of passages that are not quotations, are meant as aids to grasping the structure of a sentence or a thought. Every four-point ellipsis indicates the omission of a brief passage that seems to present more difficulty than it is worth.

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Contents

Chapter 1: General Remarks	1
Chapter 2: What utilitarianism is	4
·Higher and Lower Pleasures·	5
·Happiness as an Aim·	8
·Self-Sacrifice·	11
·Setting the Standard too High?·	12
·Is Utilitarianism Chilly?·	13
·Utilitarianism as ‘Godless’·	15
·Expediency·	15
·Time to Calculate?·	16
·Bad Faith·	17
Chapter 3: What will motivate us to obey the principle of utility?	18
Chapter 4: What sort of proof can be given for the principle of utility?	24

Chapter 5: The connection between justice and utility	28
·Punishment·	38
·Wages·	39
·Taxation·	39

Chapter 4: What sort of proof can be given for the principle of utility?

I have already remarked ·on page 3· that questions of ultimate ends don't admit of 'proof' in the ordinary meaning of that term. It's true of all first principles—the first premises of our knowledge, as well as those of our conduct—that they can't be proved by reasoning. But the first principles of our knowledge, being matters of fact, can be the subject of a direct appeal to the faculties that make judgments of fact—namely our ·outer· senses and our internal consciousness. Can an appeal be made to those same faculties on questions of practical ends [= 'questions about what we ought to aim at']? If not, what *other* faculty is used for us to know them?

Questions about ends are, in other words, questions what things are *desirable*. The utilitarian doctrine is that happiness is desirable as an •end, and is the only thing that is so; anything else that is desirable is only desirable as •means to that end. What should be required regarding this doctrine—what conditions must it fulfil—to justify its claim to be believed?

The only proof capable of being given that an object is visible is that people actually see it. The only proof that a sound is audible is that people hear it; and similarly with the other sources of our experience. In like manner, I apprehend, the sole evidence it is possible to produce that anything is desirable is that people do actually desire it. [This paragraph up to here is given in Mill's exact words.] If ·happiness·, the end that the utilitarian doctrine proposes to itself, were not acknowledged in theory and in practice to be an end, nothing could ever convince any person that it was an end. No reason can be given why

•the general happiness is desirable,
except the fact that

•each person desires his own happiness, so far as he thinks it is attainable.

But this is a fact; so we have not only all the proof there could be for such a proposition, and all the proof that could possibly be demanded, that

happiness is a good, that
each person's happiness is a good to that person, and
therefore that
general happiness is a good to the aggregate of all persons.

Happiness has made good its claim to be one of the ends of conduct, and consequently one of the criteria of morality.

But this alone doesn't prove it to be the *sole* criterion. To prove that in the same way, it seems, we would have to show not only that people desire happiness but that they never desire anything else. Now it's obvious that they do desire things that common language sharply distinguishes from happiness. For example, they desire virtue and the absence of vice, and this desire is just as *real* as their desire for pleasure and the absence of pain. The desire for virtue is not as universal as the desire for happiness, but it is just as authentic a *fact* as the other. So the opponents of the utilitarian standard think they have a right to infer that there are *other* ends of human action besides happiness, and that happiness is not the standard for approval and disapproval.

But *does* the utilitarian doctrine deny that people desire virtue, or maintain that virtue is not something to be desired? Quite the contrary! It maintains not only that virtue is to be •desired, but further that virtue is to be •desired disinterestedly, for itself. Utilitarian moralists believe that actions and dispositions are virtuous only because they

promote an end other than virtue; and that it is on this basis that we decide *what* is virtuous. But set all that aside; it is still open to the utilitarians to place virtue at the very head of the things that are good as means to the ultimate end. They also recognise as a psychological fact that an individual could regard virtue as a good in itself, without looking to any end beyond it; and they hold this:

The mind is not in a right state, not in a state consistent with utility, not in the state most conducive to the general happiness, unless it *does* love virtue in this manner—as something that is desirable in itself even when, in the particular case, it wouldn't produce those other desirable consequences that it tends in general to produce.

This opinion doesn't depart in the slightest from the happiness principle. The *ingredients* of happiness are very various, and each of them is desirable in itself and not merely when considered as adding to some total. The principle of utility doesn't mean that any given pleasure (music, for instance) and any given freedom from pain (good health, for instance) is to be looked on only as a *means* to a collective something called 'happiness', and to be desired only on that account. They are desired and desirable in and for themselves; besides being *means to* the end they are also *a part of it*. Well, according to the utilitarian doctrine, virtue is not naturally and originally part of the end (happiness) but it is capable of *becoming* so; and in those who unselfishly love it virtue *has* become so, and is desired and cherished not as a means to happiness but as a part of their happiness.

To illustrate this further, let us consider something else that is like virtue in the respect I have been discussing. That is, something of which this is true:

It was originally a means to something that is desired, and if it weren't a means to anything else it

would be of no interest to anyone; but by association with what it is a means to it comes to be desired for itself, and indeed desired with the utmost intensity.

What I have in mind is *money*. There is nothing intrinsically more desirable about money than about any heap of glittering pebbles. Its value is solely the value of the things that it will buy; the desire for it is the desire for other things that it can lead to. Yet the love of money is not only one of the strongest moving forces of human life, but many people desire money in and for itself; the desire to *have* it is often stronger than the desire to *use* it, and goes on getting stronger even when the person is losing all the desires that point to ends to which money might be a means. So it is true to say that money is desired not for the sake of an end but as part of the end. From being a means to happiness it has come to be itself a principal ingredient of the individual's conception of happiness. The same may be said of most of the great objects of human life—power, for example, or fame; except that each of these brings a certain amount of immediate pleasure, which at least *seems* to be naturally inherent in them, whereas nothing like that can be said about money. Still, the strongest natural attraction of power and of fame is the immense aid they give to the attainment of our other wishes; this generates a strong association between them and all our objects of desire; and that association gives to the direct desire for power or fame the intensity it often has, so that in some people it is stronger than all other desires. In these cases the means have become a *part* of the end, and a more important part of it than any of the things that they are means to. What was once desired as a help towards getting happiness has come to be desired for its own sake—as a part of happiness. The person is made, or thinks he would be made, happy by merely having power or fame, and is made unhappy by failure to get it. The desire for it isn't a different

thing from the desire for happiness, any more than is the love of music or the desire for health. They are included in happiness. They are some of the elements of which the desire for happiness is made up. Happiness is not an abstract idea, but a concrete whole; and these are some of its parts. And the utilitarian standard allows and approves of their being so. Life would be a poor thing, very poorly provided with sources of happiness, if nature didn't arrange for this way in which things that are intrinsically indifferent, but lead to or are otherwise associated with the satisfaction of our basic desires, become in themselves sources of pleasure more valuable than the basic pleasures—more permanent . . . and more intense.

Virtue, according to the utilitarian conception, is a good of this description. Originally the only reason for wanting it was its conduciveness to pleasure and especially to protection from pain. But this created an association of virtue with pleasure and absence of pain, and through this association virtue can be felt to be a good in itself, and can be desired as such with as much intensity as any other good. The desire for virtue differs from the love of money, of power, of fame, in this: those three can and often do make the person noxious to the other members of the society to which he belongs, whereas the disinterested love of virtue makes him a blessing to them—nothing more so! And so the utilitarian standard, while it tolerates and approves those other acquired desires

- up to the point beyond which they would do more harm than good to the general happiness,

demands the cultivation of the love of virtue

- up to the greatest strength possible

because it is more important than anything else to the general happiness.

The upshot of the preceding lines of thought is that really

nothing is desired except happiness. Anything that is desired otherwise than as a means to some end beyond itself (and ultimately a means to happiness) is desired as being itself a part of happiness, and it isn't desired for itself until it has become so. Those who desire virtue for its own sake desire it either because a person's awareness of his virtue is a pleasure, or because his awareness of his not being virtuous is a pain, or for both reasons united. For the fact is that this pleasure and pain seldom exist separately, but almost always together: one person feels pleasure at the degree of virtue he has achieved, and pain at not having achieved more. If one of these gave him no pleasure, and the other no pain, he wouldn't love or desire virtue, or would desire it only for the other benefits that it might produce for himself or for persons whom he cared for. So now we have an answer to the question: What sort of proof can be given for the principle of utility? If the opinion that I have now stated is psychologically true—if human nature is so constituted that we desire nothing that isn't either a part of happiness or a means to it—we can't have and don't need any other proof that these are the only desirable things. If so, happiness is the only end of human action, and the promotion of it is the test by which to judge *all human conduct*; from which it necessarily follows that it must be the criterion of *morality*, since a part is included in the whole.

Is this really so? Do human beings desire nothing for itself except that which is a pleasure to them or that whose absence is a pain? We are now confronted by a question of fact and experience, which like all such questions depends on *evidence*. It can only be answered by practised self-awareness and self-observation, assisted by observation of others. I believe that when these sources of evidence are consulted without any bias, they will declare that

- desiring a thing and •finding it pleasant,

are entirely inseparable phenomena, or rather they are two parts of the same phenomenon, and that the same is true of

•aversion to a thing and •thinking of it as painful.

Strictly speaking, they are two different ways of naming the same psychological fact; •to think of an object as desirable (unless as a means) and to think of it as pleasant are one and the same thing; and •it is a physical and metaphysical impossibility to desire anything except in proportion as the idea of it is pleasant.

This seems to me to be so obvious that I expect it will hardly be disputed. The objection that will be made is not that

desire could be ultimately directed to something other than pleasure and freedom from pain,

but that

the will is a different thing from *desire*; and a solidly virtuous person or any other person whose purposes are fixed carries out his purposes without any thought of the pleasure he has in contemplating them or expects to get from their fulfilment; and he persists in acting on his purposes even if these pleasures are greatly lessened by changes in his character or the weakening of his passive sensibilities (i.e. his desires), or are outweighed by the pains that the pursuit of his purposes may bring on him.

All this I fully admit, and have stated it elsewhere as positively and emphatically as anyone. *Will* is an •active phenomenon, and is a different thing from *desire*, which is the state of •passive sensibility. Though originally an offshoot from *desire*, *will* can in time take root and detach itself from the parent stock; so much so that in the case of an habitual purpose, instead of willing the thing because we desire it we often desire it only because we will it. But this is merely an instance of a familiar phenomenon, namely

the power of habit, and isn't at all confined to the case of virtuous actions. **(1)** Many indifferent things that men originally did from a motive of some sort they continue to do from habit. Sometimes this is done unconsciously, with the person becoming aware of it only after the action; at other times it is done with conscious volition, but volition that has become habitual and is put into operation by the force of habit. **(2)** This may be in opposition to the person's deliberate preference, as often happens with those who have acquired habits of vicious or hurtful self-indulgence. **(3)** Or it may be that the habitual act of will in the individual instance is not in •contradiction to the general intention prevailing at other times but in •fulfilment of it.

That's the case for a person of confirmed virtue, and for anyone who deliberately and consistently pursues any definite end. The distinction between will and desire, understood in this way, is an authentic and highly important psychological fact; but the fact consists solely in this—•that will, like all every other part of our make-up, is amenable to habit, and •that we can will from habit something we no longer desire for itself or desire only because we will it. It is still true that will at the beginning is entirely produced by desire—taking 'desire' to cover the repelling influence of pain as well as the attractive influence of pleasure. Now let us set aside the person who has a confirmed will to do right, and think about the one in whom that virtuous will is still feeble, conquerable by temptation, and not to be fully relied on; how can it be strengthened in him? Where the will to be virtuous doesn't exist in sufficient force, how can it be implanted or awakened? Only by making the person desire virtue—by making him think of it in a pleasurable light, or of its absence in a painful one. By

•associating right-doing with pleasure or wrong-doing with pain, or by

•bringing out and impressing and bringing home to the person's experience the pleasure naturally involved in doing right or the pain in doing wrong,

it is possible to call forth that *will to be virtuous* which, when it is firmly built into the person's make-up, acts without any thought of either pleasure or pain. Will is the child of desire, and moves out of the control of its parent only to come under the control of habit. Something's being a result of habit doesn't count towards its being intrinsically good; and the only reason for wishing that the purpose of virtue should become independent of pleasure and pain •by becoming habitual• is the fact that the influence of the pleasurable and painful associations that prompt virtuous behaviour can't be depended on for unerring constancy of action until it has acquired the support of habit. Habit is

the only thing that makes patterns of feeling and conduct *certain*; and it is because of the importance to others of being able to rely absolutely on one's feelings and conduct, and the importance of this *to oneself*, that the will to do right should be made to grow into this *habitual independence*—this *independence* from desire that is bought about by *habit*. In other words, this •virtuous• state of the will is a •means to good, not •intrinsically a good; and so it doesn't contradict the •doctrine that nothing is a good to human beings except to the extent that it is either itself pleasurable or is a means of getting pleasure or avoiding pain. But if this •doctrine is true, the principle of utility is proved. Whether the doctrine *is* true must now be left to the judgment of the thoughtful reader.

Chapter 5: The connection between justice and utility

[In this chapter Mill frequently uses the word 'sentiment'. In his usage, a 'sentiment' could be either belief or a feeling. That ambiguity has work to do: Mill thinks that 'That is unjust!' expresses the speaker's feelings, but many of his opponents think it expresses the speaker's belief that the action in question objectively has a certain intrinsic quality. Speaking of the 'sentiment' that is expressed is one way of staying neutral between the two views. The present version of the chapter uses 'sentiment' every time that Mill does (and only then), and uses 'feeling' every time that Mill does (and only then).]

Down through the ages, one of the strongest objections to the doctrine that utility or happiness is the criterion of right and wrong has been based on the idea of *justice*. The

•powerful sentiment and •apparently clear thought that this word brings to mind, with a rapidity and certainty resembling an instinct, have seemed to the majority of thinkers to •point to an inherent quality in things, •to show that *what is just* must have an existence in nature as something absolute, fundamentally distinct from every variety of *what is expedient*. The concept of justice (they have thought) conflicts with the concept of *expediency*, though they commonly admit that in the long run justice and expediency go together as a matter of fact.

In the case of this moral sentiment (as of all the others) there is no necessary connection between the question of its

•origin, and the question of its •binding force. That a feeling is bestowed on us by nature doesn't necessarily mean that we should always do what it prompts us to do. The feeling of justice might be a special instinct (•and thus bestowed by nature•) and yet need to be controlled and enlightened by a higher reason, just as all our other instincts do. If we have intellectual instincts that lead us to *think* in a particular way, as well as animal instincts that prompt us to *act* in a particular way, the intellectual ones aren't necessarily more infallible in their sphere than the animal ones are in *their* sphere; just as wrong actions can be prompted by the animal instincts, wrong judgments [= 'wrong beliefs'] may sometimes be prompted by the intellectual instincts. But although it is one thing to •believe that we have natural feelings of justice and another to •accept them as an ultimate criterion of conduct, these two opinions are very closely connected in point of *fact*. Mankind are always inclined to think that any •subjective feeling that they can't explain in any other way is a revelation of some •objective reality. What we need to do now is to discover whether the reality to which the feeling of justice corresponds is one that needs to be revealed in any such special manner. That is, to discover whether

the justice or injustice of an action is a •special quality all on its own, and distinct from all the action's other qualities,

or rather

the justice or injustice of an action is only a combination of certain of those qualities seen or thought about in a •special way.

[This is what Mill, on page 30, calls 'the main problem'.] For the purpose of this inquiry it is practically important to consider whether

the *feeling* of justice and injustice is *sui generis*—•not a special case of something more general—like our

sensations of colour and taste (•such as something's *tasting sweet*•),

or rather

the *feeling* of justice and injustice is a derivative feeling, formed by a combination of other feelings (•comparable with something's *tasting stale*•).

It is especially important to look into this; here is why.

(1) People are usually willing enough to agree that **objectively**—out there in the world—the dictates of *justice* coincide with a part of the field of *general expediency*, •i.e. that very often the *just* action is also the action that will be most *expedient* from the point of view of people in general. (2) But the **subjective** mental feeling of justice is different from the feeling that commonly goes with simple expediency, and except in the extreme cases of expediency the feeling of justice is far more imperative in its demands. (3) So people •find it hard to see justice as only a particular kind or branch of general utility, and they •think that its greater binding force requires it to have a totally different origin.

To throw light on this question we must try to find out what it is that marks off justice, or injustice, as special. (I'll put this in terms of *injustice* because justice, like many other moral attributes, is best defined by its opposite.) When actions are described as 'unjust', is there some one quality that is being attributed to all of them, a quality that marks them off from actions that are disapproved of but aren't said to be 'unjust'? If so, what quality is it? If some one common quality (or collection of qualities) is always present in everything that men customarily call 'just' or 'unjust', we can judge whether the general laws of our emotional make-up could enable this particular quality (or combination of qualities) to summon up a sentiment with the special

character and intensity of the sentiment of justice or injustice, or whether instead

the sentiment of justice or injustice can't be explained, and must be regarded as something that nature provided independently of its other provisions. If we find the former to be the case, we shall by answering *this* question have also solved the main problem. If the latter is the case, we'll have to look for some other way of tackling the main problem.

To find the qualities that a variety of objects have in common we must start by surveying the objects themselves in the concrete [= 'not partial descriptions of them but the objects themselves as they are in actuality, with all their qualities']. Let us therefore turn our attention to the various ways of acting and arrangements of human affairs that are universally or at least widely characterized as 'just' or as 'unjust', taking them one at a time. A great variety of things are well known to arouse the sentiments associated with those names. I shall survey five of them rapidly, not trying to put them in any special order.

(1) It is usually considered unjust to deprive anyone of his personal liberty, his property, or anything else that belongs to him by law. This gives us one instance of the application of the terms 'just' and 'unjust' in a perfectly definite sense, namely: *It is just to respect, and unjust to violate, the legal rights of anyone.* But there are several exceptions to this, arising from the other ways in which the notions of justice and injustice come up. For example, the person who suffers the deprivation may (as they say) have 'forfeited' the rights that he is deprived of. I'll return to this case soon.

(2) The second kind of case will come in the last sentence of this paragraph; a preliminary matter needs to be sorted out first. The legal rights of which someone is deprived may

be rights that he oughtn't to have had in the first place, i.e. the law that gives him these rights may be a bad law. When that is so or when (which is the same thing for our purpose) it is *supposed* to be so, opinions will differ as to the justice or injustice of breaking that law. Some maintain that no law, however bad, ought to be disobeyed by an individual citizen; that if the citizen is to show his opposition to it, he should do so only by trying to get the law altered by those who are authorized to do that. This opinion condemns many of the most famous benefactors of mankind, and would often protect pernicious institutions against the only weapons that in the circumstances have any chance of succeeding against them. Those who *have* this opinion defend it on grounds of expediency, relying principally on the importance to the common interests of mankind of preserving unbroken the sentiment of *submission to law*. Other people hold the directly contrary opinion, namely that any law that is judged to be bad may blamelessly be disobeyed, even if it isn't judged to be unjust, but only thought to be bad because inexpedient; while others would permit disobedience only to unjust laws; while yet others say that all laws that are inexpedient are unjust, because every law imposes some restriction on the natural liberty of mankind, and this restriction is an injustice unless it is made legitimate by tending to the people's good. Among these differences of opinion this much seems to be universally agreed:

There can be unjust laws; so law is not the ultimate criterion of justice.

A law may give one person a benefit, or impose harm on someone else, which justice condemns. But when a law is thought to be unjust, it seems always to be because it is thought to infringe somebody's right (just as when a breach of law is unjust). Because it's a *law* that is thought to infringe the person's right, this can't be a *legal* right, so it is labelled

differently and is called a 'moral right'. So we can say that a second case of injustice consists in taking or keeping from a person something to which he has a moral right.

(3) It is universally considered *just* that each person should get what he deserves (whether good or evil) and *unjust* that someone should obtain a good or be made to undergo an evil which he doesn't deserve. This is perhaps the clearest and most emphatic form in which the idea of justice is conceived by people in general. As it involves the notion of *desert* [= 'deservingness'], the question arises, *what constitutes desert?* Broadly speaking, a person is understood to *deserve* good if he does right, and to *deserve* evil if he does wrong; and in a more special sense, to deserve good *from* those to whom he does or has done good, and to deserve evil *from* those to whom he does or has done evil. The injunction 'Return good for evil' has never been regarded as a case of the fulfilment of justice, but as one in which the claims of justice are set aside in obedience to other considerations.

(4) It is agreed to be unjust to *break faith* with anyone—to fail to do something we have said or clearly implied that we would do, or disappoint expectations raised by our conduct, at least if we knew we were raising them and meant to do so. Like the other obligations of justice I have already spoken of, this one isn't regarded as absolute. Rather, it is thought of as capable of being overruled when •there is a stronger obligation of justice on the other side, or when •the other person has acted in a way that is deemed to clear us of our obligation to him and to constitute a forfeiture of the benefit that he has been led to expect.

(5) Everyone agrees that it is inconsistent with justice to be *partial*—to show favour or preference to one person over another in matters to which favour and preference don't properly apply. But impartiality seems to be regarded not as a duty in itself but rather as a needed part of some

other duty; for it is agreed that favour and preference are not always blameworthy, and indeed the cases where they are condemned are the exception rather than the rule. If a person could in some way favour his family or friends over strangers without violating any other duty, he would be blamed rather than applauded for *not* doing so. No-one thinks it unjust to choose one person in preference to another as a friend, a connection, or a companion. Where rights are concerned, impartiality is of course obligatory, but this comes from the more general obligation to give everyone what he has a right to. For example, an arbitration court must be impartial because it is bound to set aside every other consideration and award a disputed item to the one of two parties who has the right to it. In some other cases impartiality means *being solely influenced by desert*; as with the administering of reward and punishments by judges, teachers or parents. In yet other cases impartiality means *being solely influenced by concern for the public interest*, as in making a selection among candidates for a government job. In short, impartiality considered as an obligation of justice can be said to mean *being influenced only by the considerations that (it is supposed) ought to influence the matter in hand, and resisting the pull of any motives that prompt to conduct different from what those considerations would dictate*.

Closely allied to the idea of impartiality is that of *equality*, which often plays a part in one's thought of justice and in the performance of just actions. Many people think it is the essence of justice. But in this context, even more than in any of the others, the notion of justice varies in different persons, with the variations conforming to their different notions of *utility*, .i.e. of what is expedient. Each person maintains that equality is demanded by justice except where he thinks that expediency requires inequality. The justice of giving

equal protection everyone's rights is maintained by those who support the most outrageous inequality in what rights people have. Even in slave countries it is theoretically admitted that the rights of the slave, such as they are, ought to be as sacred as those of the master; and that a court that fails to enforce them with equal strictness is lacking in justice; while at the same time social arrangements that leave to the slave scarcely any rights to enforce are not thought unjust because they are not thought to be inexpedient. Those who think that utility requires distinctions of rank don't think it unjust that riches and social privileges should be distributed unequally; but those who think this inequality to be inexpedient think it unjust also. Whoever thinks that government is necessary sees no injustice in whatever inequality is involved in giving to the magistrate powers not granted to other people. Even among those who hold doctrines that advocate abolishing all social distinctions, there are as many questions of justice as there are differences of opinion about expediency. Some communists consider it unjust to share out the products of the community's work in any way except exactly equally; others think it just that those whose wants are greatest should receive most; while others hold that those who work harder or who produce more or whose services are more valuable to the community can justly claim a larger share in the division of the products. And every one of these opinions can plausibly be backed by the sense of natural justice.

Among so many different uses of the term 'justice' (not regarded as an ambiguous word!), it is a little difficult to get hold of the mental link which holds them together and on which the moral sentiment associated with the term essentially depends. Perhaps we may get some help with this puzzle from the history of the word, as indicated by its etymology.

In most languages, if not in all, the etymology of the

word that corresponds to 'just' points distinctly to an origin connected with *law*. [Mill illustrates this with references to Latin, Greek, German and French.] I am not committing the fallacy. . . . of assuming that a word must still continue to mean what it originally meant. Etymology is slight evidence of what idea is *now* signified by the word, but it is but the very best evidence of how it arose. I don't think there can be any doubt that the. . . original element in the formation of the notion of justice was the idea of conformity to law. It constituted the entire idea among the Hebrews, up to the birth of Christianity; as might be expected in the case of a people whose laws tried to cover all subjects on which guidance was required, and who believed those laws to have come directly from God. But other nations (especially the Greeks and Romans), knowing that their laws had originally been made and were still being made *by men*, weren't afraid to admit that those men might make bad laws; that men might lawfully do things. . . . that would be called *unjust* if done by individuals without permission from the law. And so the sentiment of injustice came to be attached not to all violations of law but only to

- violations of laws that do and ought to exist,
- violations of non-existent laws that ought to exist, and
- laws themselves when they are taken to be contrary to what *ought* to be law.

In this way the idea of *law* and of *laws* was still predominant in the notion of justice, even when the laws actually in force ceased to be accepted as the standard of it.

It's true that mankind consider the idea of justice and its obligations as applicable to many things that aren't—and that nobody thinks should be—regulated by law. Nobody wants laws to interfere with all the details of private life, yet everyone agrees that in all daily conduct a person may and does show himself to be either just or unjust. But even here

the idea of *the breach of what ought to be law* still lingers in a modified form. It would always give us pleasure, and would chime in with our feelings about what is *fit* or appropriate or suitable, if acts that we think unjust were punished, though we don't always think it expedient that this should be done by the courts. We forgo that gratification because of inconveniences that it would bring. We would be glad to see just conduct enforced and injustice repressed, even in the smallest details of our lives, if we weren't rightly afraid of trusting the officers of the law with such unlimited power over individuals. When we think that a person is *bound in justice* to do a thing, it is an ordinary use of language to say 'He ought to be made to do it'. We would be gratified to see the obligation enforced by anybody who had the power to enforce it. If we see that it would be inexpedient for it to be enforced by law, we

- regret that it can't be enforced by law,
- consider it bad that the person can get away with it, and
- try to make amends for this by subjecting the offender to a strong expression of our own and the public's disapproval.

Thus the idea of *legal constraint* is still the generating idea of the notion of *justice*, though it goes through several changes before emerging as the notion of justice that exists in an advanced state of society.

I think that the above is a true account, as far as it goes, of the origin and development of the idea of justice. But it doesn't yet contain anything to distinguish •that obligation from •moral obligation in general. For the truth is that the idea of *penal sanction*, which is the essence of law, enters not only into the conception of injustice but into the conception of any kind of wrong. Whenever we call something 'wrong' we mean to imply that a person ought

to be punished somehow for doing it; if not by law, by the opinion of his fellow-creatures; if not by opinion, by the reproaches of his own conscience. This relation to the idea of enforcement by law seems to be the real turning point of the distinction between *morality* and *simple expediency*. It is a part of the notion of *duty* in every one of its forms that a person *may rightfully be compelled to do his duty*, just as he may rightfully be compelled to pay a debt. . . . If we don't think it would be all right to make a person do a certain thing, we don't call it his 'duty'. There may be reasons of prudence, or of the interests of other people, that count against actually using compulsion, but we clearly understand that the person himself would not be entitled to complain if he were compelled. In contrast with this, there are other things that we •wish people would do, •like or admire them for doing, perhaps •dislike or despise them for not doing, but yet •admit that they are not *bound* to do. It is not a case of *moral* obligation; we don't *blame* them, i.e. we don't think that they are proper objects of punishment. It may become clear later on how we get these ideas of deserving and not deserving punishment; but I don't think there is any room for doubt •that this distinction lies at the bottom of the notions of right and wrong; •that whether we call a bit of conduct 'wrong' rather than using some other term of dislike or discredit depends on whether we think that the person ought to be punished for it; and whether we say it would be 'right' for a person to do such-and-such rather than merely that it would be desirable or praiseworthy for him to do so depends on whether we would like to see the person compelled to act in that manner rather than merely persuaded and urged to do so.

So the notion of *fitness to be punished* is the characteristic difference that marks off (not justice, but) •morality in general from the •remaining provinces of expediency and

worthiness; so we are still looking for the characteristic that distinguishes •justice from •other branches of morality. Now it is known that ethical writers divide moral duties into two classes, to which they give the ill-chosen labels ‘duties of perfect obligation’ and ‘duties of imperfect obligation’. The latter are duties in which, though *the act* is obligatory, *the particular occasions of performing it* are left to our choice. For example, we are bound to engage in acts of charity or beneficence, but we aren’t bound to perform them towards any definite person or at any prescribed time. In the more precise language of legal theorists, duties of perfect obligation are the •ones that create a correlative *right* in some person or persons; duties of imperfect obligation are the •moral obligations that don’t give rise to any right. I think it will be found that this distinction exactly coincides with the distinction between •justice and •the other obligations of morality. In my survey ·on pages 30–32· of the various common ideas about ‘justice’, the term seemed generally to involve the idea of a personal *right*—a claim on the part of one or more individuals, like what the law gives when it confers an ownership or other legal right. Whether the injustice consists in **(1)** and **(2)** depriving a person of something he owns, or in **(4)** breaking faith with him, or in **(3)** treating him worse than he deserves or **(5)** worse than other people who have no greater claims, in each case the supposition implies two things—a wrong done, and some definite person who is wronged. Injustice may also be done by treating a person *better* than others, but in that case some other definite people, his competitors, are wronged.

It seems to me that this feature in the case—**some person’s having a right correlated with the moral obligation**—constitutes the defining difference that separates •justice from •generosity or •beneficence. Justice implies something which it is not only right to do, and wrong not to

do, but which some individual person can claim from us as his moral right. No-one has a moral right to our generosity or beneficence, because we are not morally bound to practise those virtues towards any given individual. It will be found with *this* as with *every* correct definition that the particular cases that seem to conflict with it are those that most confirm it. Some moralists have tried to argue that although no *given individual* has a right to our beneficence, *mankind in general* does have a right to all the good we can do them. Someone who maintains *that* automatically includes generosity and beneficence within the category of justice. He is obliged to say that

we *owe* our utmost exertions to our fellow creatures, thus assimilating those exertions to a **debt**;

or that

nothing less than our utmost exertions can be an adequate return for what society does for *us*, thus classifying the case as one of **gratitude**,

both of which are acknowledged cases of justice. Wherever there is a right, the case is one of justice and not of the *virtue* of beneficence. If you don’t draw the general line between •justice and •morality where I have drawn it, you’ll turn out to be drawing *no* line between them and to be merging all morality in justice.

Now that we have tried to discover the distinctive elements that make up the idea of justice, we are ready to start looking for the right answer to these questions:

- Is the feeling that accompanies the idea of justice attached to it by a special provision of nature?
- Could that feeling have grown out of the idea itself, in accordance with some known laws ·about human nature·?

If the answer to the second question is Yes, then a more particular question arises:

•Could the feeling have originated in considerations of general expediency?

Although •the sentiment itself doesn't arise from anything that would or should be termed an idea of 'expediency', •whatever is moral in it *does*.

We have seen that 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.

Now it appears to me that the desire to punish a person who has done harm to some individual is a spontaneous outgrowth from two sentiments that are both utterly natural, and that either are instincts or resemble instincts. They are the impulse of self-defence, and the feeling of sympathy.

It is natural to resent, and to repel or retaliate for, any harm done or attempted against ourselves or against those with whom we sympathise. We needn't discuss the origin of this sentiment here. Whether it is an instinct or a result of intelligence, we know that it is common to all animal nature; for every animal tries to hurt those who have hurt it or its young, or who it thinks are about to do so. In this matter human beings differ from other animals in only two respects. **(1)** They are capable of sympathising not only with their offspring, or (like some of the more noble animals) with some superior animal who is kind to them, but with all human beings—even with all *sentient* beings. **(2)** They have a more developed intelligence, which gives a wider range to the whole of their sentiments, whether self-regarding or sympathetic. By virtue of his superior intelligence, even apart from his greater range of sympathy, a human being can understand the idea of a *community of interest* between himself and the human society of which he forms a part, so that any conduct that threatens the security of the society

generally is threatening to his own security in particular, and calls forth his instinct (if that's what it is) of self-defence. With that superiority of intelligence joined to the power of sympathising with human beings generally, the human being can take on board the collective idea of his tribe, his country, or mankind, in such a way that any act hurtful to them arouses his instinct of sympathy and urges him to resist.

One element in the sentiment of justice is the desire to punish. That, I think, is the natural feeling of retaliation or vengeance processed by intellect and sympathy so that it applies to the injuries. . . .that wound us by wounding society at large. This sentiment in itself has nothing moral in it; what is moral is its being pure purely at the service of the *social* sympathies, so that it is aroused only when *they* call it up. For the *natural* feeling would make us resent indiscriminately whatever anyone does that is disagreeable to us; but when it is *made moral* by the social feeling, it acts only in ways that conform to the general good. A just person resents a hurt to society even if it isn't directly a hurt to him, and he doesn't resent a hurt to himself, however painful, unless it is a kind of hurt that society, as well as he himself, would want to prevent.

You might want to object against this doctrine: 'When we feel our sentiment of justice outraged, we aren't thinking of society at large or of any collective interest, but only of the individual case.' Well, it is certainly common enough—though the reverse of commendable—for someone to feel resentment merely because *he* has suffered pain; but a person whose resentment is really a moral feeling, i.e. who considers whether an act is blamable before he allows himself to resent it, though he may not explicitly *say to himself* that he is standing up for the interests of society, certainly does *feel* that he is asserting a rule that is for the benefit of others as well as for his own benefit. If he is not feeling this—if he is

regarding the act solely as it affects him individually—he is not consciously just; he is not concerning himself about the justice of his actions. This is admitted even by anti-utilitarian moralists. When Kant (as I remarked on page 3) propounds as the fundamental principle of morals ‘Act in such a way that the rule on which you act could be adopted as a law by all rational beings’, he virtually acknowledges that the interest of mankind. . . . must be in the person’s mind when he is conscientiously deciding on the morality of the act. If that isn’t what Kant is getting at, he is using words without a meaning: for he couldn’t plausibly mean that a rule even of utter selfishness couldn’t possibly be adopted by all rational beings, that there is some insuperable obstacle in the nature of things to its adoption. To give any meaning to Kant’s principle we must take it to be saying that we ought to shape our conduct by a rule that all rational beings might adopt *with benefit to their collective interest*.

To recapitulate: the **idea of justice** involves two things: a rule of conduct, and a sentiment that sanctions the rule. The rule must be supposed to be common to all mankind, and intended for their good. The sentiment is a desire that punishment may be suffered by those who infringe the rule. A third thing is also involved, namely the thought of some definite person who suffers by the infringement—someone whose rights. . . . are violated by it. And the **sentiment of justice** appears to me to be:

(1) the animal desire to repel or retaliate for a hurt or damage to oneself or to those with whom one sympathises, widened so as to include all persons—with the widening brought about by (2) the human capacity for broadened sympathy and the human conception of intelligent self-interest.

The feeling gets its status as moral from (2), and its unique impressiveness and psychological force from (1).

I have treated the idea of a *right* that the injured person has, and that the injury violates, not as a separate element in the make-up of the idea and the sentiment but as one of the forms in which the other two elements clothe themselves. These elements are

a hurt to some assignable person or persons, and
a demand for punishment.

An examination of our own minds, I think, will show that these two include the whole of what we mean when we speak of ‘violation of a right’. When we call something a person’s ‘right’, we mean that he has a valid claim on society to protect him in his possession of it, either by the force of law or by the force of education and opinion. If we think he has a strong enough claim, on whatever basis, to have something guaranteed to him by society, we say that he has ‘a right’ to it. If we want to prove that something does *not* belong to him by right, we think we have done that as soon as it is admitted that society ought *not* to take measures for guaranteeing that he keeps it but should leave that to chance or to his own efforts. Thus, a person is said to have a *right* to what he can earn in fair professional competition, because society ought not to allow anyone else to hinder him from trying to earn as much as he can in that manner. But he doesn’t have a *right* to three hundred pounds a year, even if that is what he happens to be earning; because society is not called on to ensure that he will earn that sum. On the other hand, if he owns ten thousand pounds worth of government bonds at three per cent, he has a right to three hundred pounds a year because society has come under an obligation to provide him with an income of that amount.

As I see it, then, for me to have a right is for me to have something that society ought to defend me in the possession of. Why ought it to do so? The only reason I can give is *general utility*. If that phrase doesn’t seem to convey a

good enough sense of how *strong* the obligation is—i.e. good enough to account for the special *energy* of the feeling—that's because the make-up of the sentiment includes not only a •rational element but also an •animal element, the thirst for retaliation; and this thirst gets its intensity as well as its moral justification from the extraordinarily important and impressive kind of utility that is concerned. The •general interest that is involved is that of *security*, which everyone feels to be the most vital of all interests. All •other earthly benefits are needed by this person and not by that, and many of them can if necessary be cheerfully done without or replaced by something else; but no human being can possibly do without •security. We depend on it for all our immunity from evil. And we depend on it for the whole value of every single good that goes beyond the passing moment; because if we could be deprived of anything the next instant by whoever was at that moment stronger than ourselves, nothing could be of any worth to us except the gratification of the instant. Second only to food and drink, security is the most indispensable of all the requirements of life; and it can't be had unless the machinery for providing it is kept running continuously. That's why our notion of the claim we have on our fellow-creatures to join in making safe for us the very groundwork of our existence gathers feelings around it that are much more intense than those concerned in any of the more ordinary kinds of utility. They are so *much* more intense that this difference in •degree (as is often the case in psychology) becomes a real difference in •kind. The claim takes on the absoluteness, the apparent infinity that won't let it be weighed against other considerations, which distinguish the feeling of right and wrong from that of ordinary expediency and in expediency. The feelings concerned are so powerful, and we rely so absolutely on finding a responsive feeling in others (because the interests

of everyone are involved) that

ought and *should* grow into *must*, and
recognised indispensability becomes *moral necessity*,

analogous to *physical necessity* and often as strongly binding a force as physical necessity is.

If that analysis or something like it is not the correct account of the notion of justice, if justice is totally independent of utility and is an independently existing standard that the mind can recognise by simply looking into itself, it's hard to understand why that internal oracle is so ambiguous, and why so many things appear just or unjust depending on the light in which they are looked at.

We are continually being told that utility is an uncertain standard which every different person interprets differently, and that there is no safety but in the unchangeable, unerasable, unmistakable dictates of justice, which are self-evident and independent of the fluctuations of opinion. This would make one think •that there could be no controversy on questions of justice; •that if we take *that* for our rule—the supposedly unmistakable dictate of justice—the question of how to apply it to any given case could be answered with as much certainty as if it had been proved by a mathematical demonstration. This is *so far* from being the case that there is as much disagreement and discussion about what is •just as about what is •useful to society. It's not just that different nations and different individuals have different notions of justice; in the mind of •one and the same individual justice isn't some •one rule, principle or maxim, but •many, which don't always coincide in their dictates and which the individual chooses between on the basis of some extraneous standard or of his own personal inclinations.

•Punishment•

For instance, some say that **(1)** it is unjust to punish anyone for the sake of setting an example for others; that punishment is just only when it is intended for the good of the sufferer himself. Others maintain the exact opposite, contending that **(2)** to punish adults for their own benefit is despotism and injustice, since if the matter at issue is solely their own good no-one has a right to control their own judgment of it; but that someone may justly be punished to prevent evil to others, this being the exercise of the legitimate right of self-defence. Mr. Owen affirms that **(3)** is unjust to punish at all; for the criminal didn't make his own character; his upbringing and environment have made him a criminal, and he isn't responsible for these. All these opinions are extremely plausible; and so long as the question is argued simply as one of justice, without going down to the principles that underlie justice and are the source of its authority, I don't see how any of these reasoners can be refuted. For in truth each of the three builds on rules of justice that are admittedly true. **(1)** appeals to the acknowledged injustice of

- singling out an individual and sacrificing him, without his consent, for other people's benefit.

(2) relies on the acknowledged justice of self-defence, and the admitted injustice of

- forcing one person to conform to someone else's notions of what is good for him.

(3) The Owenite invokes the admitted principle that

- it is unjust to punish anyone for what he cannot help.

Each moralist is triumphant so long as he isn't forced to take into consideration any maxims of justice except the one he has selected; but as soon as their different maxims are brought face to face, each disputant seems to have exactly as much to say for himself as the others have to say for

themselves. No one of them can carry out his own notion of justice without trampling on some other notion of it that is equally binding.

These are difficulties; they have always been felt to be such; and many devices have been invented to get around them rather than to *overcome* them. As a refuge from **(3)** men imagined what they called 'freedom of the will', fancying that they couldn't justify punishing a man whose will is in a thoroughly odious state unless prior circumstances are thought to have played no part in his coming to be in that state. A favourite device for escaping from the other difficulties has been the fiction of a contract—a contract through which at some unknown period all the members of society promised to obey the laws and consented to be punished for any disobedience to them. This contract was supposed to give to the legislators a right which it is assumed they wouldn't otherwise have had, to punish lawbreakers either for their own good or for the good of society. This nice idea was thought to get rid of the whole difficulty and to legitimize the infliction of punishment on the strength of another accepted maxim of justice, . . . namely that something isn't unjust if it is done with the consent of the person who is supposed to be hurt by it. I need hardly remark that even if this 'consent' were not a mere fiction, this maxim doesn't have greater authority than the others that it is brought in to supersede. On the contrary, it's an instructive specimen of the loose and irregular manner in which supposed principles of justice spring up. . . .

And when it is agreed that it is legitimate to inflict *some* punishment, many conflicting conceptions of justice come to light when people discuss *what*—i.e. discuss the proper apportionment of punishments to offences. No rule on this subject recommends itself so strongly to the primitive and spontaneous sentiment of justice as the *lex talionis*—•an eye

for an eye and a tooth for a tooth. This principle of Jewish and Moslem law has been generally abandoned in Europe as a practical maxim, but I suspect that there is in most minds a secret hankering after it; and when retribution happens falls on an offender in that precise shape, the general feeling of satisfaction that arises shows how natural is the sentiment that endorses this •repayment in kind. For many people the test of justice in this area is that the punishment should be *proportional* to the offence, meaning that it should be exactly measured by the culprit's moral guilt (whatever their standard is for measuring *that*). According to these people, the question

What amount of punishment is necessary to deter potential offenders from offending?

has nothing to do with the question of justice, whereas for other people that question is the whole topic. According to them, men cannot justly inflict on a fellow creature, no matter what his offences have been, any amount of suffering beyond the least that will suffice to prevent him from repeating his misconduct and others from imitating it. (*Men cannot justly do this; ·they may have a different view about what God can justly do·.*)

•Wages•

To take another example from a subject I have already referred to. In a co-operative industrial association, is it just or not that someone's talent or skill should entitle him to higher pay? On the negative side of the question it is argued that whoever does *his best* deserves equally well, and can't justly be put in a worse position through no fault of his own; that higher abilities already bring more than enough advantages—the admiration they arouse, the personal influence they command, and the internal sources

of satisfaction that come with them —without adding to these a greater share of the world's goods; and that society is bound in justice to •compensate the less favoured for this undeserved inequality of advantages, rather than to •make it worse. On the opposite side it is maintained that society receives more from the more efficient worker; that because his services are more useful, society owes him a larger return for them; that a greater share of the joint result is actually his work, and not to allow his claim to it is a kind of robbery; that if he is only to receive as much as others, he can only be justly required to produce as much and to give a smaller amount of time and effort in proportion to his greater efficiency. Who is to decide between these appeals to conflicting principles of justice? In this case justice has two sides to it, which can't be brought into harmony, and the two disputants have chosen opposite sides—one looking to what it is just that •the individual should receive, the other to what it is just that •the community should give. Each from his own point of view is unanswerable; and any choice between them *on grounds of justice* must be perfectly arbitrary. Only *social utility* can decide the preference.

•Taxation•

Then consider how many and how irreconcilable are the standards of justice that people bring into discussions of . . . taxation. One opinion is that payment to the state should be numerically proportional to the person's wealth. Others think that justice dictates 'graduated taxation', as they call it, taking a higher percentage from those who have more to spare. In the light of natural justice a strong case might be made for disregarding wealth altogether and taking the same absolute sum from everyone who could pay it—just as the subscribers to an association or a club all pay the

•same sum for the •same privileges, whether or not they can all equally afford it. Since the protection (it might be said) of law and government is provided to everyone and equally demanded by everyone, there is no injustice in making them all buy it at the same price. It is regarded as justice, not *injustice*, for a shop-keeper to charge to all his customers the same price for the same article, not varying the price according to their means of payment. Nobody actually advocates this doctrine, as applied to taxation, because it conflicts so strongly with man's feelings of humanity and of social expediency; but the principle of justice it relies on is as true and as binding as any principles of justice that can be appealed to against it. Accordingly it silently influences lines of defence that are employed for other ways of assessing taxation. People feel obliged to argue that *the state does more for the rich than for the poor*, as a justification for its taking more from them (though really that isn't true, for if there were no law or government the rich would be far better able to protect themselves than the poor would be, and indeed would probably succeed in making the poor their slaves). And others defer to the same-price-for-same-goods conception of justice when they maintain that all should pay an equal tax for the protection of their persons (these being of equal value to all), and an unequal tax for the protection of their property (which is unequal in its value). Opponents of this proposal reply that my *everything* is as valuable to me as your *everything* is to you, even if you own much more than I do. The only way of extricating ourselves from these confusions is the utilitarian way.

Well, then, is the line between the *just* and the *expedient* a merely imaginary distinction? Have mankind been deluded in thinking that justice is a more sacred thing than policy, and that policy considerations ought not to be listened to

until the demands of justice have been satisfied? By no means. The account I have given of the nature and origin of the sentiment of justice recognises a real distinction. I attach importance to this justice/expediency distinction—at least as much as any of the moralists who grandly express their utter contempt for the *consequences* of actions as an element in their morality! While I dispute the claims of any theory that sets up an imaginary standard of justice that isn't based on utility, I regard the justice that is based on utility as being the chief part, and incomparably the most sacred and binding part, of all morality. 'Justice' is a name for certain kinds of moral rules that

concern the essentials of human well-being more closely,
and therefore
are more absolutely binding,

than any other rules for the guidance of life; and the notion that we have found to be of the essence of the idea of justice—that of a right residing in an individual—implies and testifies to this more binding obligation.

The moral rules that forbid mankind to •hurt one another (remembering always to include in this the •wrongful interference with each other's freedom) are more vital to human well-being than any maxims, however important, that merely point out the best way of managing some aspect of human affairs. They have also the special feature that they have more to do with mankind's social feelings than anything else does. Their being observed is the only thing that preserves peace among human beings: if it weren't for the fact that obedience to them is the rule and disobedience the exception, everyone would see everyone else as an enemy against whom he must be perpetually guarding himself. Almost equally important is the fact that these are the precepts that mankind have the strongest and the most

direct reasons to get one another to accept. By merely giving each other prudential instruction or exhortation, they may gain nothing (or think they gain nothing). Everyone has an unmistakable interest in urging on others the duty of positive beneficence, but nothing like as *strong* an interest as everyone has in urging on others the duty of justice: a person might not need the benefits that others might give him, but he always needs them not to harm him. Thus the moralities that protect every individual from being harmed by others, either directly or by being hindered in his freedom to pursue his own good, are both the ones that he himself has most at heart and also the ones that he has the strongest interest in announcing and enforcing by word and deed. It is by a person's observance of *these* that we test and decide whether he is fit to exist as one of the fellowship of human beings, for that determines whether he will be harmful to those with whom he is in contact. Now, these are the moralities that primarily make up the obligations of justice. The most conspicuous cases of injustice—the ones that give its *tone* to the feeling of repugnance that characterises the sentiment—are acts of wrongful aggression, or wrongful exercise of power over someone; the next are acts that consist in wrongfully withholding from a person something that is his due; in both cases a positive hurt is inflicted on him, in the form either of direct suffering or of the lack of some good that he had reasonable grounds, either of a physical or of a social kind, for counting on.

The same powerful motives that command us to observe these primary moralities tell us to punish the people who violate them. This calls up the impulses of self-defence, of defence of others and of vengeance against such people; and for that reason *retribution* or *evil for evil* comes to be closely connected with the sentiment of justice, and is included in everyone's idea of justice. *Good for good* is

also one of the dictates of justice. This is obviously socially useful, and carries with it a natural human feeling; but it doesn't have at first sight the obvious connection with *hurt* or *injury* that is the source of the characteristic intensity of the sentiment of justice, and is present in the most elementary cases of just and unjust. But although the connection with hurt or injury is less obvious, it is not less real. Someone who accepts benefits and refuses to give benefits in return at a time when they are needed inflicts a real hurt, by disappointing a very natural and reasonable expectation—an expectation that he must at least tacitly have encouraged, for otherwise (in most cases) the benefits would not have been conferred in the first place. The disappointment of expectation ranks high among human evils and wrongs, as is shown in the fact that it constitutes the principal criminality of two highly immoral acts—breach of friendship and breach of promise. Few hurts that human beings can receive are greater, and none wound more, than when someone that a person has habitually and confidently relied on fails him in his hour of need; and few wrongs are greater than this mere withholding of good; none arouse more resentment in the suffering person or in a sympathising spectator. So the principle of giving to each what he deserves—i.e. *good for good* as well as *evil for evil*—is not only included within the idea of justice as I have defined it but is a proper object of that *intensity* of sentiment which leads people to put the just higher than the merely expedient.

Most of the maxims of justice that are current in the world, and commonly appealed to in dealings where justice is involved, are simply ways of putting into effect the principles of justice that I have spoken of. That

- a person is responsible only for what he has voluntarily done or could voluntarily have avoided,
- it is unjust to condemn any person without giving him a hearing,
- the punishment ought to be proportional to the offence,

and the like, are maxims intended to prevent the just principle of *evil for evil* from being twisted to the infliction of evil without that justification. Most of these common maxims have come into use from the practice of courts of justice, which have laid down the rules that are necessary if they are to fulfil their double function of •inflicting punishment when it is due and of •awarding to each person his right. It was only natural that *they* should have been led to a more complete recognition and elaboration of such rules than was likely to occur to anyone else.

The first of the judicial virtues, *impartiality*, is an obligation of justice partly for the reason just given—namely that it is a necessary condition of the fulfilment of the other obligations of justice. But this isn't the only source of the high status among human obligations of the maxims of *equality and impartiality*—maxims that are included among the precepts of justice by the common run of people *and* by those who are most enlightened. From one point of view they can be seen as following from the principles I have already laid down. If it is a duty to do to each according to his deserts, returning good for good as well as repressing evil by evil, it necessarily follows that we should (when no higher duty forbids this) treat equally well all who have deserved equally well of us, and that society should treat equally well all who have deserved equally well *of it*—that is, who have deserved equally well *period*. This is the highest abstract standard of social and distributive justice. All institutions

and the efforts of all virtuous citizens should be made to converge on this standard as far as possible.

But this great moral duty rests on a still deeper foundation, being a direct upshot of the first principle of morals, and not a mere logical inference from secondary or derivative doctrines. It is involved in the *very meaning* of utility, or the greatest happiness principle. That principle is a mere form of words with no intelligible meaning unless *one person's happiness counts for exactly as much as another's* (assuming that they are equal in degree, and with the proper allowance made for differences in *kinds* of happiness —see pages 5–8 above·). Bentham's dictum, 'everybody to count for one, nobody for more than one' might be written under the principle of utility as an explanatory commentary. [At this point Mill has a long footnote, which is here raised into the main text.]

·START OF THE LONG FOOTNOTE·

This implication, in the first principle of the utilitarian scheme, of perfect impartiality between persons is regarded by Mr. Herbert Spencer (in his *Social Statics*) as disproving utility's claim to be a sufficient guide to right; because (he says) the principle of utility presupposes the underlying principle that *everybody has an equal right to happiness*. It may be more correctly described as supposing that *equal amounts of happiness are equally desirable*, whether felt by the same or by different persons. But this isn't •a presupposition of the principle of utility, or •a premise that is needed in defence of the principle; rather, it is •the principle itself; for what is the principle of utility if not the proposition that that 'happiness' and 'desirable' are synonymous terms? The only underlying principle that is implied is this: the truths of arithmetic are applicable to the valuation of happiness, as of all other measurable quantities.

Mr. Spencer, in a letter on the subject of the preceding note, objects to being considered an opponent of utilitari-

anism, and says that he regards happiness as the ultimate end of morality; but he thinks that that end is only partially achievable by empirical generalisations from the observed results of conduct, and is completely achievable only by deducing from the laws of life and the conditions of existence what kinds of action *necessarily* tend to produce happiness and what kinds to produce unhappiness. I entirely agree with this doctrine, except for the word 'necessarily'; and when that word is set aside, I don't know of any modern advocate of utilitarianism who would disagree. Mr Spencer in *Social Statics* especially picked on Bentham. But Bentham is utterly willing to deduce the effect of actions on happiness from the laws of human nature and the universal conditions of human life; no writer is more so! He is usually accused of relying too exclusively on such deductions, and refusing to be bound by the generalisations from specific experience that Mr. Spencer thinks that utilitarians generally confine themselves to. My own opinion (and, I gather, Mr. Spencer's) is that in ethics, as in all other branches of scientific study, what is needed to give to any general proposition the kind and degree of evidence that constitutes scientific proof is that the results of these two processes shall harmonize, each corroborating and verifying the other.

•END OF THE LONG FOOTNOTE•

Everyone's equal claim to •happiness (in the opinion of the moralist and the legislator) involves an equal claim to all •the means to happiness, except when the maxim is limited by the inevitable conditions of human life and the general interest (which includes the interests of every individual). When such limits *are* set, they ought to be strictly construed [Mill's own phrase]. Just as with every other maxim of justice, this one is far from being universally applied or thought to be applicable; on the contrary, as I have already remarked, it bends to every person's ideas of social expediency. But

whenever it is taken to be applicable at all, it is held to be something that justice dictates. All people are judged to have a right to equality of treatment, except when some recognised social expediency requires the reverse. And so it comes about that when any social inequality stops being considered expedient it comes to be considered not merely as inexpedient but as *unjust*. Then it appears to be so tyrannical that people are apt to wonder how it could ever have been tolerated; forgetting that they themselves may—under an equally mistaken notion of expediency—be tolerating other inequalities which, if they were corrected, would seem quite as monstrous as the one that the people have eventually learnt to condemn. The entire history of social improvement has been a series of transitions in which one custom or institution after another moves from being a supposed primary necessity of social existence into the category of a universally condemned injustice and tyranny. That is what has happened with distinctions of slaves and freemen, nobles and serfs, patricians and plebeians; and so it will be, and in part already is, with the aristocracies of colour, race, and sex.

From what I have said it appears that 'justice' is a name for certain moral requirements which, regarded collectively, stand higher in the scale of social utility—and are therefore more bindingly obligatory—than any others; though particular cases may occur in which some other social duty is important enough to overrule one of the general maxims of justice. Any of those maxims could be overruled in that way. Thus, to save a life it may be not merely •allowable but a •duty to steal or take by force the necessary food or medicine, or to kidnap the only qualified medical practitioner and compel him to serve. We don't call anything 'justice' that isn't a virtue; so in these cases of overruling we usually say not that •justice must give way to some other moral principle

but rather that what is just in ordinary cases is not just in this particular case because of that other principle, the one that does the overruling. By this useful adjustment of language we enable justice to keep its character as something that *can't* be overruled, and we're spared the necessity of maintaining that injustice can sometimes be praiseworthy.

The considerations that I have brought forward seem to me to resolve the only real difficulty confronting 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 special sentiment that attaches to the former and not to the latter. If

- this characteristic sentiment has been sufficiently accounted for; if
- there is no need to credit it with having some special origin all of its own; if
- it is simply the *natural* feeling of resentment, made

moral 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;

then the idea of justice no longer presents itself as a stumbling-block to utilitarian ethics. 'Justice' remains the appropriate name for certain social utilities. The utilities in question 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*); so they ought to be (and naturally *are*) guarded by a sentiment that differs from others not only in *degree* but also in *kind*. The sentiment of justice is distinguished from the milder feeling that attaches to the mere idea of promoting human pleasure or convenience by the more definite nature of its commands and by the sterner character of its sanctions.