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DIKĒ IN THE *WORKS AND DAYS*[1]

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Most modern treatments of Greek morality or justice assume the central importance of the concept of δίκη, or "justice." While it is recognized that δίκη has several other meanings, such as "custom, law, trial," etc., "justice" is the most common translation, though the precise nature of this justice is seldom examined.[2] In particular, it is largely on the strength of his long praise of δίκη in the *Works and Days* that Hesiod is often considered the first Greek "moralist," though it is sometimes argued that Homer too believed in and portrayed a moral or just universe. The search for a morality in Homer and Hesiod does not depend entirely upon the meaning of δίκη, but it is the single most important word in this area, and I believe that a satisfactory understanding of its meaning and function in these two poets is a necessary prerequisite for any discussion of early Greek morality.

The conclusion reached in this paper is that in the *WD* δίκη may mean "law," in the sense of a process for the peaceful settlement of disputes, and that in this sense it is generalized and personified and praised as something of definite value to society, but that δίκη does not apply to actions outside this narrow area of law and does not have any general moral sense.[3] Zeus oversees δίκη and may send punishment upon men for violating this legal process, but other sorts of "unjust" acts, such as homicide or violation of guest-rights, are not considered to be violations of δίκη. The *WD* is not a treatise about morality or justice, but rather about prosperity and the necessity of an effective legal process to help achieve it.

In making this study of δίκη in the *WD*, I shall first consider all the uses of δίκη and

1. In this article references to Hesiod by line number alone are to F. Solmsen's OCT of the *Works and Days* (*WD*). References to fragments are to the Merkelbach-West edition (Oxford, 1967). The following works will be referred to by the author's name alone: R. J. Bonner and G. Smith, *The Administration of Justice from Homer to Aristotle*, I (Chicago, 1930); V. Ehrenberg, *Die Rechtsidee im frühen Griechentum* (Leipzig, 1921); R. Hirzel, *Themis, Dike, und Verwandtes* (Leipzig, 1907); H. Lloyd-Jones, *The Justice of Zeus* (Berkeley, 1971); D. Loenen, *Dike* (Amsterdam, 1948); P. Mazon, ed., *Hésiode* (Paris, 1928); L. R. Palmer, "The Indo-European Origins of Greek Justice," *TPhS* (Oxford, 1950), pp. 149–68; L. Pearson, *Popular Ethics in Ancient Greece* (Stanford, 1962); T. A. Sinclair, ed., *Hesiod: Works and Days* (London, 1932); F. Solmsen, *Hesiod and Aeschylus* (Ithaca, 1949); R. F. Willetts, *The Law Code of Gortyn* (Berlin, 1967); E. Wolf, *Griechisches Rechtsdenken*, I (Frankfurt, 1950). The most recent bibliography of works on Greek legal history is in *Zur griechischen Rechtsgeschichte*, ed. E. Berneker (*Wege der Forschung* XLV, Darmstadt, 1968), pp. 697–770. I should like to thank A. T. Cole for some helpful criticisms of an earlier draft of this paper.

2. E.g., the only indication I can find in Lloyd-Jones of the nature of Zeus's justice is an occasional reference to "the justice which assigns to each what he deserves" (p. 2).

3. One of the reasons for avoiding the common translation "justice" for δίκη is that, although "justice" may be used as an equivalent of "legal process," we naturally think of a compulsory legal process sanctioned by some higher moral authority, or at least by a social contract. Thus "justice" for us is often merely equivalent to "righteousness" and usually has strong moral overtones which δίκη probably never possessed, certainly not in Homer and Hesiod. Plato, of course, used the newer word δικαιοσύνη for the highest moral virtue. See E. A. Havelock in *Phoenix*, XXIII (1969), 49–70.

related words, such as δίκαιος, in Homer. This does not mean that I think the Homeric poems were necessarily composed earlier than the *WD*,[4] but only that Hesiod seems to develop the meanings of δίκη beyond what we find in Homer, and it is thus convenient to treat Homer first. I have also included for the sake of completeness the few mentions of δίκη and δίκαιος in the *Theogony*.[5]

The traditional etymology of δίκη is that it is derived from the root **deik-* of the verb δείκνυμι, "to show or point out," whence δίκη comes to mean "indication, direction, way, custom." Other meanings follow from these, such as "indication of custom, judgment about traditional rights, right, proper allotment, claim to proper share," etc.[6] R. Hirzel long ago rejected this derivation on the grounds that the meaning "judgment, decision" is predominant in the *Iliad*, whereas the meaning "custom, way" only appears in the *Odyssey* and therefore must be a later development (pp. 60–63). He thus connects δίκη with the verb δικεῖν, "throw or strike," and says it originally meant the "throw" of the judge's staff in rendering a decision, and thence came to mean "decision" (pp. 94–95).[7] Though this conclusion is almost certainly wrong, Hirzel was right to emphasize the meaning "legal decision, judgment" and to call for a re-examination of the traditional etymology.

A new approach has been suggested by L. R. Palmer, who argues, on the analogy of words of similar meaning in other languages,[8] that two basic meanings for δίκη developed separately from this root **deik-*: (a) "sign, mark, characteristic," and (b) "boundary, dividing line" (pp. 157–59). From (a) developed the meanings "characteristic, traditional, proper behavior"; from (b) the meanings associated with making a "settlement or decision" between two contestants, that is, placing a "boundary line" (straight or crooked) between them. Although these are more or less the same meanings as those traditionally given, Palmer's approach makes it no longer necessary to derive one group of meanings from the other, which allows for a more accurate treatment of the word.[9] Thus I follow his conclusions for the most part. Let me begin by looking at the first area of meaning in Homer.

The Homeric use of δίκη as "mark, characteristic" is confined to the *Odyssey*. Accompanied by either a genitive or a limiting clause, δίκη means the "mark or characteristic" of a certain group or kind of person (never of an individual), as in 4. 691, "it is the *mark* of kings (to do or say something immoderate [ἐξαίσιον] to a man)." The other examples of this are 11. 218, "this is a *characteristic* of mortals when they die (that they are insubstantial shadows)"; 14. 59, "it is the *characteristic*

4. G. P. Edwards, *The Language of Hesiod* (Oxford, 1971), summarizes earlier views on this question (pp. 8–9). He himself argues for the priority of Homer (pp. 199–206).

5. I also refer in the notes to all occurrences of δίκη and related words in the *Shield of Heracles* and the fragments attributed to Hesiod, despite the probability that none of these is the work of the author of the *WD*.

6. The most complete study of the development of these meanings from the root **deik-* is J. Gonda, *ΔΕΙΚΝΥΜΙ: Semantische Studie over den Indo-Germanische Wortel DEIK* (Amsterdam, 1929). See esp. pp. 224–32. His conclusions are summarized by Loenen, pp. 3–4. E. Benveniste, *Le vocabulaire des institutions indo-européennes*, II (Paris, 1969), 107–110, connects δίκη also with Lat. *dico*, and concludes that δείκνυμι must originally have meant "montrer verbalement" and δίκη thus originally meant "le fait de montrer avec autorité de parole ce qui doit être." There is nothing in Homer or Hesiod, however, to indicate these original meanings, though strictly speaking we cannot rule out the possibility that δίκη originally had some connection with *dico*.

7. Hirzel was followed by Ehrenberg, and more recently by E. Wolf, who considers the derivation from δικεῖν more likely than the one from δείκνυμι. Otherwise Hirzel's view has received little support, though his book is still a very useful discussion of δίκη and the whole process of judicial decision-making. For objections to Hirzel's view, see Loenen, pp. 2–3.

8. E.g., Latin *modus*, German *Mal*, etc.

9. The main error in previous treatments of δίκη has been to insist that one meaning must have developed from the other. Hirzel, for instance, who recognized that the meaning "ruling" did not develop from the meaning "manner, way," concluded that the latter meaning must consequently have developed from the former, a conclusion which greatly weakened his whole discussion. See esp. pp. 104–8.

behavior of servants who fear a new master (to give a small gift)"; 18. 275, Penelope laments that "this (behavior of yours) is not what used to be the *characteristic* (*and proper*) *behavior* of suitors"; 19. 43, "it is the *mark* of the gods (that the room is aglow with their presence)"; 19. 168, "I (Odysseus) have grief, for that is the *way it is* when one has been away from home for a long time . . . and suffered much"; and 24. 255, "you (Laertes) look like such a one as sleeps on a soft bed, for that is the *traditional behavior* of old men." Some scholars have tried to see further meanings, such as "lot, right," etc., in these passages,[10] but although it might be possible to introduce the sense of "right" or even "duty" in some of these passages, in no case does the context necessitate such an additional meaning, and we thus have no right to read such meanings into any Homeric passage. δίκη then means (in this sense) "characteristic or characteristic behavior" with a suggestion of "proper behavior," but nothing more.

Leaving aside for the moment the adjective δίκαιος, which we shall discuss later, let us look at the second area of meaning of δίκη together with δικάζειν and δικασπόλος. In this sense δίκη originally meant "boundary, dividing line," in particular the dividing boundary between two pieces of land or between any two property claims, the line being either "straight" or "crooked."[11] From this meaning developed the use of δίκη as a "ruling" or "settlement" which might be made (or merely proposed) between two parties in any dispute. Now the way in which these settlements were arrived at was somewhat different from what we know as judicial litigation today, and thus we must look briefly at the early Greek method of litigation.

The process was as follows: when two parties had a dispute over land or other property (cattle, a wife, a murdered kinsman, etc.), they could settle the matter by force (βίη). If, however, they desired a peaceful settlement (δίκη), but could not agree to a settlement by themselves, they might agree to look for a third, disinterested person to propose a settlement (δικάζειν). They might agree to abide by the opinion of a particular judge (δικασπόλος), or they might solicit proposals for settlements (δίκαι) from several people and agree to abide by the one most acceptable to both sides (the "straightest"). In the process, each litigant might propose his own settlement (δικάζεσθαι—presumably in his own interest), and this proposal (or plea) would be his δίκη. The whole process could also be called a δίκη, but it differed from our trial in that neither an individual nor the state, in Homeric society at least, could compel anyone to submit to δίκη.[12] Furthermore, it appears that oaths played an important part in this process and were probably sworn by both the judge and the litigants, though our evidence on this point is avowedly very meager.[13]

This process can be clearly seen in two passages in the *Iliad*. First consider the dispute between Menelaus and Antilochus after the chariot race in Book 23. The order of finish in the race is first, Diomedes; second, Antilochus (through foul play); third, Menelaus; fourth, Meriones; and last, Eumelus (because of an accident,

10. E.g., Palmer (p. 161) sees the meaning "lot, fate" in 19. 168.

11. Palmer, pp. 159–60.

12. Bonner and Smith (pp. 46–48) argue that by Hesiod's time there was already a "compulsory process of law," though this "compulsion" was only the force of custom backed by public opinion. Although this conclusion is based on a dubious inference from Hesiod's reference to his quarrel with Perses (*WD* 27–39) and we have no other evidence for such "compulsion," there may nonetheless be some truth to their view.

13. See Bonner and Smith, pp. 27–28. The complex references to oaths in the later law code of Gortyn are discussed by Willetts, pp. 33–34.

though his horses were the swiftest). Achilles awards first prize to Diomedes and then proposes giving second prize to Eumelus, but Antilochus rises and answers Achilles δίκῃ ("with a proposed settlement of his own, with a statement of his own case," 542), urging Achilles not to give Eumelus the prize which he (Antilochus) deserves. Achilles accepts this ruling and finds another prize for Eumelus. But as Antilochus is about to lead off the second prize, a mare, Menelaus now rises, takes the staff from the herald, and accuses Antilochus of having used foul play. He continues (573–74): ἀλλ' ἄγετ', Ἀργείων ἡγήτορες ἠδὲ μέδοντες, / ἐς μέσον ἀμφοτέροισι δικάσσατε, μηδ' ἐπ' ἀρωγῇ ("Come now, chiefs and counselors of the Argives, make a ruling between the two of us, not favoring either one"). Then almost immediately he has another thought (579–80): εἰ δ' ἄγ' ἐγὼν αὐτὸς δικάσω, καί μ' οὔ τινά φημι / ἄλλον ἐπιπλήξειν Δαναῶν· ἰθεῖα γὰρ ἔσται ("Or rather, I myself will propose the settlement,[14] and I think no other Danaan will find fault with me, for it [*sc.* δίκη, 'my settlement'] shall be straight"). The proposed settlement is that Antilochus may have the mare if he is willing to swear an oath that he used no treachery in the race, and Antilochus acknowledges the straightness of the settlement by agreeing to give up the prize, since he cannot swear the oath. The case is perhaps unusual in that a straight settlement is proposed by one of the litigants, but the process of settling disputes is evident.

Another variation of the process described above is portrayed in the famous scene on the shield of Achilles. The description is of a city at peace, and I quote the much-discussed passage in full:

λαοὶ δ' εἰν ἀγορῇ ἔσαν ἀθρόοι· ἔνθα δὲ νεῖκος
ὠρώρει, δύο δ' ἄνδρες ἐνείκεον εἵνεκα ποινῆς
ἀνδρὸς ἀποφθιμένου· ὁ μὲν εὔχετο πάντ' ἀποδοῦναι
δήμῳ πιφαύσκων, ὁ δ' ἀναίνετο μηδὲν ἑλέσθαι·
ἄμφω δ' ἰέσθην ἐπὶ ἴστορι πεῖραρ ἑλέσθαι.
λαοὶ δ' ἀμφοτέροισιν ἐπήπυον, ἀμφὶς ἀρωγοί·
κήρυκες δ' ἄρα λαὸν ἐρήτυον· οἱ δὲ γέροντες
ἥατ' ἐπὶ ξεστοῖσι λίθοις ἱερῷ ἐνὶ κύκλῳ,
σκῆπτρα δὲ κηρύκων ἐν χέρσ' ἔχον ἠεροφώνων·
τοῖσιν ἔπειτ' ἤϊσσον, ἀμοιβηδὶς δὲ δίκαζον.
κεῖτο δ' ἄρ' ἐν μέσσοισι δύω χρυσοῖο τάλαντα,
τῷ δόμεν ὃς μετὰ τοῖσι δίκην ἰθύντατα εἴποι
[*Il.* 18. 497–508.]

"And the people were gathered in an assembly, and there a quarrel had arisen; two men were quarreling about blood-money for a slain man: one claimed he had paid it all, declaring it to the people, but the other denied he had received anything.[15] And they both desired to get a settlement [πεῖραρ, 'boundary'] through an arbitrator [ἴστωρ, 'one who knows']. And the people approved and encouraged both sides, and the heralds restrained the people. And the elders sat on smooth stones in a sacred circle and held in their hands the staffs of the loud-voiced heralds; and then with these (staffs) they stood up and in turn proposed a settlement.[16] And in the middle lay two talents of gold to be given to the one (elder)[17] who proposed the straightest settlement."

14. The active voice here implies that Menelaus is no longer pleading his own case as he was in 570–78, but is now in the role of an impartial judge proposing a settlement. This is an easy transition for him, since he is in fact included among the Ἀργείων ἡγήτορες ἠδὲ μέδοντες in 573. For later uses of the active and middle voices of δικάζειν, see J. H. Kells, *CQ*, N.S. X (1960), 129–34.

15. The alternate translation, "one vowed he would pay all the blood-money, the other refused to accept anything," is also possible. See Bonner and Smith, pp. 32–34.

16. Clearly the active voice δίκαζον cannot refer to the two litigants pleading their cases.

17. It is impossible that such a small sum could be the settlement of the litigation to be awarded to the litigant who pleaded his case the best, but two talents is quite a reasonable sum to pay as a court fee. See Bonner and Smith (pp. 37–41), who, however, needlessly complicate matters by introducing the theory of a wager between the litigants.

The important point to bear in mind is that one elder will speak the straightest δίκη, not by agreeing with one litigant or the other, but by finding the most acceptable settlement (δίκη) somewhere between the two opposing claims (δίκαι). This may be difficult for us to understand since our judges usually decide either for the plaintiff or for the defendant, but Homeric judges normally declared compromise settlements (as they had to in noncompulsory litigation). The purpose of the trial here is to find the best compromise, and thus the one who speaks the straightest δίκη receives two gold talents as a fee. The payment is in the form of a prize, each litigant contributing one talent, though presumably fees were also paid when litigation was taken before a single judge for settlement. It seems likely, though it is by no means certain, that the awarding of the prize was decided by the crowd of onlookers.[18] Thus there are also certain unusual features about this case, though the basic process is nonetheless clear.

Let us now look more briefly at the remaining Homeric uses of δίκη, δικάζειν, and δικασπόλος. The verb occurs three more times in the active voice: Hera complains that Zeus *gives a ruling or settlement* in secret (and in favor of Thetis); another time she says, "Let Zeus *decide matters* (on the battlefield) between the Greeks and Trojans"; and Athena and the children of Troy *decided* the contest over the arms of Achilles (*Il.* 1. 542, 8. 431; *Od.* 11. 547, possibly spurious). The middle voice, δικάζεσθαι, clearly means "plead one's case, contend" in *Od.* 11. 545 and 12. 440. And δικασπόλος, "judge," is used once of the sons of the Achaeans and once of Telemachus (*Il.* 1. 238; *Od.* 11. 186).

δίκη itself retains its basic meaning of "ruling, settlement," though this meaning is extended in various ways. First of all, in *Iliad* 19. 180 after Agamemnon and Achilles are reconciled, Odysseus bids the former give the latter a feast as well as the many gifts, "so that you (Achilles) may lack nothing of your settlement" (ἵνα μή τι δίκης ἐπιδευὲς ἔχῃσθα). Here δίκη as "settlement" takes on the meaning "what is owed someone as the result of a settlement."[19] Second, there is a tendency to generalize the meaning of δίκη so that it comes to mean "procedure for settling disputes peacefully, legal process," a development best illustrated by uses of the plural: in the underworld Minos is giving judgment (θεμιστεύοντα)[20] while the dead ask him about *rulings*[21] (οἱ δέ μιν ἀμφὶ δίκας εἴροντο ἄνακτα, *Od.* 11. 570); elsewhere another ruler, Sarpedon, protects Lycia with *peaceful settlements* and with strength (ὃς Λυκίην εἴρυτο δίκῃσί τε καὶ σθένεϊ ᾧ, *Il.* 16. 542).[22] Still more generalized are two other cases of the plural: Nestor is said to know[23] δίκας and φρόνιν above all others, for he has ruled over three generations, and the Cyclops knows neither

18. H. J. Wolff, "The Origin of Judicial Legislation among the Greeks," *Traditio*, IV (1946), 31–87, cites parallels from Germanic law (pp. 40–41).

19. Palmer (pp. 160–61) is wrong to see this as an example of δίκη meaning "rightful portion, lot, fate," for δίκη as "mark, characteristic" (a) never means "due portion," etc., and (b) is never used of a specific person, only of a group or class. Only in the sense of "settlement" does it mean "what is owed one," i.e., "the result of a settlement."

20. The relation between θέμις and δίκη is the subject of much dispute (see, e.g., Hirzel, p. 125; Pearson, pp. 47 and 222, n. 15; and H. Frisch, *Might and Right in Antiquity* [Copenhagen, 1949], pp. 37–49). In brief, in Homer, θέμις appears to mean "decision (of a king)" and also "established practice" (sometimes with a suggestion of divine sanction), and in the first sense is close in meaning to δίκη, "settlement." But θέμις can be more abstract than δίκη, and the phrase ἣ θέμις ἐστί can be used without qualification (e.g., *Il.* 2. 73). In Homer θέμις is clearly a more important word than δίκη and occurs twice as often. In Hesiod, however, θέμις is much less frequent than δίκη, though one should remember that in *Theog.* 901–2 Θέμις is the mother of Δίκη.

21. Presumably these are rulings which they want Minos to give in their disputes with one another.

22. Note that Homeric society, being primarily composed of warriors, cannot rely upon δίκη without force as Hesiod urges.

23. Remember that the two disputants in the scene on the shield are looking for an ἴστωρ (literally, "one who knows") to settle their dispute.

δίκας nor θέμιστας (*Od.* 3. 244, 9. 215). Here the plural in the sense of "many settlements" tends toward the meaning "litigation procedure in general"; Nestor is skilled in matters of arbitration, whereas Polyphemus knows nothing of peaceful resolution of disputes.[24] Finally there are two instances of the singular δίκη meaning "legal process, peaceful arbitration." At *Iliad* 16. 387–88 (οἳ βίῃ εἰν ἀγορῇ σκολιὰς κρίνωσι θέμιστας, / ἐκ δὲ δίκην ἐλάσωσι, θεῶν ὄπιν οὐκ ἀλέγοντες), Zeus is angry with people "who use force in the agora and judge crooked decisions and drive out δίκη and heed not the regard of the gods."[25] And at *Odyssey* 14. 83–84 (οὐ μὲν σχέτλια ἔργα θεοὶ μάκαρες φιλέουσιν, / ἀλλὰ δίκην τίουσι καὶ αἴσιμα ἔργ' ἀνθρώπων), "the blessed gods love not rash deeds, but honor δίκη and the moderate deeds of men."[26] In both of these cases δίκη is clearly a valuable possession in itself, and its possession is a benefit to men; but there is no evidence to indicate that we should extend the meaning of δίκη to something approaching "abstract justice"[27] or even "lawful behavior."[28] The meaning "legal process" is all that the context requires.[29]

We have seen that δίκη in Homer has two clearly distinct areas of meaning, "characteristic behavior" and "settlement, legal process." The adjective δίκαιος falls most often in the first area, "behaving properly," but it also occasionally seems to be associated with the second area and to mean "behaving peacefully, not quarreling." The development of the first meaning can most easily be seen in the case of the suitors. In *Odyssey* 18. 275 Penelope says, "This is not what used to be the *characteristic and proper behavior* of suitors" (δίκη). In 14. 90 Eumaeus complains to Odysseus that the suitors are unwilling to bring their suit *properly* (δικαίως). And in 2. 282 Athena tells Telemachus not to pay any attention to the suitors, "since they are neither intelligent nor *properly behaved*" (δίκαιοι). The same phrase,[30] οὐ . . . νοήμονες οὐδὲ δίκαιοι, is also used of the Argives (because they did not sacrifice properly, *Od.* 3. 133) and of the Phaeacians (because they did not bring Odysseus to Ithaca, or so he thinks, *Od.* 13. 209). Further instances of this meaning, all from the *Odyssey*, are: Peisistratus is δίκαιος because he correctly gives the cup first to the oldest person (3. 52); two speeches of Telemachus are called δίκαιος, in both of which he has admonished the suitors (18. 414 = 20. 322); Odysseus four times wonders if the people to whose land he has come are δίκαιοι, which seems to mean that he wonders whether they exhibit the customary Greek behavior toward strangers (6. 120 = 8. 575 = 9. 175 = 13. 201); and the same tradition of hospitality is apparently at issue when it is twice said (once ironically) that it is οὐ . . . καλόν . . . οὐδὲ δίκαιον to harm a guest (20. 294 = 21. 312). In all these cases δίκαιος seems

24. In these last two cases it might be possible to translate δίκαι "customs, ways of men" (associating this use with the first area of meaning), but (a) I can find no other example of this meaning in Homer or anywhere else; (b) it is not easy to derive this meaning from the singular (always used of a specific group or class of people); and (c) the context suggests "settlements," for Nestor is best at settling disputes and the Cyclops lives by force rather than through peaceful intercourse with others.

25. Some (e.g., Ehrenberg, p. 70) have wanted to reject these lines as a late "Hesiodic" interpolation.

26. These lines are part of a denunciation of the suitors and it appears at first as if δίκη might mean "proper behavior." But the suitors refuse to settle their suits through peaceful arbitration, and this is the more likely reference of δίκη in the passage.

27. See W. B. Stanford, ed., *The Odyssey of Homer*[2] (London, 1958), *ad Od.* 14. 84.

28. See Pearson (p. 47), who does, however, reject the translation "justice."

29. Cf. the one occurrence of εὐδικίη in Homer (*Od.* 19. 111), where Odysseus says that a king is honored who rules many men and maintains a good arbitration system (εὐδικίας ἀνέχῃσι). Note also that in the *Iliad* Λαοδίκη is fittingly a daughter of kings: of Priam (3. 124, 6. 252) and of Agamemnon (9. 145, 287).

30. It seems odd that δίκαιος became fixed in several formulae whereas δίκη did not, though this may merely be the result of its extra syllable.

to mean "behaving properly," with a more or less specific indication of the area of behavior involved.

In one case in the *Iliad*, however, δίκαιος seems to be clearly associated with δίκη, "settlement." When Odysseus urges Agamemnon to give Achilles a feast so that he may not lack anything of his *settlement*, he adds that Agamemnon should in the future be δικαιότερος καὶ ἐπ' ἄλλῳ (19. 181), that is, "less quarrelsome, readier to reach agreement."[31] Two other passages in the *Iliad* use the superlative to mean apparently "most law-abiding, most peaceful": Chiron is δικαιότατος Κενταύρων (11. 832) and the Abioi (otherwise unknown) are δικαιότατοι ἀνθρώπων (13. 6).[32]

Now if we accept all these interpretations, we have a neat division between δίκαιος, "behaving properly" in the *Odyssey* connected with the first meaning of δίκη (only found in the *Odyssey*), and δίκαιος (in the comparative and superlative), "peaceful, law-abiding" in the *Iliad*. The evidence in some of these cases, however, is very slight, and δίκαιος could, for example, easily mean "law-abiding" in *Odyssey* 6. 120, etc. Moreover, it is possible that the two meanings were not kept entirely separate in the adjective as they were in the noun, and that in some cases both meanings co-existed.

We can conclude then that in Homer δίκη has two separate areas of meaning, "characteristic" and "settlement." In the first area are the uses of δίκη in the *Odyssey* with the genitive (or a limiting clause) and perhaps all uses of δίκαιος in the *Odyssey*. In the second area are the other uses of δίκη, all instances of δικάζειν and δικασπόλος, and perhaps the few uses of δίκαιος in the *Iliad*. The two areas of meaning are kept separate and there does not seem to be any interaction between them, though it is impossible to be certain about δίκαιος, whose meaning may develop somewhat independently of δίκη. But clearly it is basically wrong to combine the two areas of meaning and to try to understand δίκη as, for example, "decision about proper behavior." δίκη at this time is a legal decision, not a moral one.

Note finally that δίκη is an insignificant word in Homer. No important character is called δίκαιος; no one ever appeals to δίκη when he has been wronged; no warnings or threats mention δίκη; and none of the major actions of the epics, such as the avenging of Paris' theft, or the punishment of the suitors, or of Aegisthus, is ever spoken of in terms of δίκη. It has none of the overriding force of, say, μοῖρα; and if indeed the "justice of Zeus" is operating in the poems, it is not referred to as δίκη. The influence of δίκη extends only to the particular area of peaceful litigation, and since peaceful litigation of disputes is of little significance in Homeric society, it is not surprising that δίκη is of little significance in the epics. Nor should it surprise us that in the *WD*, which concerns a more peaceful and commercial society, δίκη plays a much larger role and is in fact one of Hesiod's major concerns.

Turning then to Hesiod, what can we say about the meaning of δίκη in the *WD*? The first and perhaps the most important observation is that every use of δίκη in Hesiod belongs to the second area of meaning, "settlement, legal process." The adjective δίκαιος is still associated with both areas of meaning as it was in Homer, but there is no case of δίκη used to mean "characteristic, proper behavior," etc.[33]

31. It might also be possible to take this advice to mean "behave more properly, in a more kingly manner," though "less quarrelsome" yields better sense, I believe.

32. In neither of these cases is the context such as to allow much certainty. However Ehrenberg (p. 57) points out that the name Ἄβιοι means "nonviolent," which may be evidence that δικαιότατος means "most law-abiding."

33. There is one such use in the *Shield*, at line 85.

Within the second area, however, the meaning of δίκη is extended both toward a more abstract notion of "legal process, law" and toward the idea of punishment for the violation of this process. But the meaning is not extended to include any sense of justice or morality or punishment for improper behavior in general. δίκη still operates only in the domain of the legal process.

Before examining specific examples, let us look briefly at the over-all content of the *WD*.[34] Whether or not one accepts the *Days* as originally part of the whole poem, the main theme running through the *WD* is prosperity and how to obtain it. Now the common man could prosper in eighth-century Boeotia only on two conditions: first of all, he must have the willingness to work hard and the practical knowledge to make his work most effective, and second, there must be peace in the society as a whole and freedom from plundering by others—that is, disputes must be settled through δίκη rather than through force (βίη, ὕβρις). In most general terms, the poem begins with an invocation to the Muses and Zeus and a brief introduction to the problem of strife and prosperity, with particular reference to Hesiod's brother, Perses (1–41).[35] Hesiod next relates the myths of Prometheus–Pandora and the five ages of man, which account for the present wretched state of the world and explain the present necessity for δίκη and hard work (42–212). He then describes the proper procedure (1) for settling disputes (213–85, the advice in this section is addressed alternately to Perses and the kings), and (2) for conducting one's own affairs as a common man and a farmer (286–764, addressed only to Perses). Finally there is attached a collection of traditional maxims (765–828). In view of this general structure, most of the following discussion of the uses of δίκη will concentrate on one small section of the poem, Hesiod's advice on the peaceful settlement of disputes (213–85).[36]

This section can conveniently be further divided into (a) an appeal to Perses (213–47), (b) an appeal to the kings (248–73), and (c) the final summary to Perses (274–85). Let me summarize the section briefly: (a) Perses, listen to δίκη and avoid ὕβρις, for δίκη will win out in the end (213–18). And punishment follows when δίκη is mistreated and driven out (219–24). For those who give straight δίκαι, their city and land flourish and they receive manifold benefits (225–37), but to those who care for ὕβρις Zeus sends every sort of disaster (238–47). (b) Kings, pay attention to δίκη, for agents of Zeus and Δίκη herself watch for and punish crooked δίκαι (248–62). So keep your δίκαι straight, kings, for Zeus is watching (263–69), and he will not let the ἀδικώτερος get more δίκη (270–73). (c) So listen to δίκη, Perses, and avoid βίη, for Zeus gave men δίκη and the one who speaks δίκαια prospers, but the one who impedes δίκη is brought low (274–85).

The section as a whole is a strong plea for δίκη, and although Hesiod relies more heavily on the repetition of vague threats and appeals than on clear description and argument, I think we can nonetheless obtain a fairly clear understanding of what this δίκη is. First we must notice several passages in which δίκη has the traditional meaning of either "settlement" (if spoken by a judge) or "plea" (if spoken by a contestant). In the singular this sense is rare, though the phrase δίκην δικάζειν,

34. I am of course assuming that there *is* an over-all structure to the *WD* and that it is not just a loose collection of traditional material, which was the common nineteenth-century view and which seems to be the implication of Rzach's text.

35. The prominent discussions of the bad ἔρις and of Hesiod's quarrel with Perses in this introductory section prepare for the appeal to δίκη which comes later.

36. Of the 24 examples of δίκη in the *WD*, 20 occur in 213–85.

"to propose a settlement, give a judgment" (39),[37] is easily understood from the Homeric passages where the noun and the verb occur together (*Il.* 18. 506–8; 23. 579–80, *sc.* δίκη).[38] In the plural the δίκαι are usually called "straight" (36, 225, *Theog.* 86)[39] or "crooked" (219, 221, 250, 262, 264), though there is also one use of the unmodified plural meaning "settlements, judgments" (254, the guardians of Zeus watch over δίκας καὶ σχέτλια ἔργα).[40]

A slight extension of this traditional meaning is the phrase μείζω δίκην ἔξει (272), where δίκη refers to the size or value of the settlement (but not the "justice" of the settlement—see below for further discussion of this passage). There is also one example of the meaning "settlement" in the sense of "compensation" (δίκην δ' ἐθέλῃσι παρασχεῖν, 712), a usage similar to *Iliad* 19. 180. And a slightly different, though very easy, extension leads to δίκη as "litigation, trial" in *Theogony* 434 (Hecate sits by kings ἐν δίκῃ).[41]

But the major extension of the meaning of δίκη in Hesiod is toward the meanings "litigation process, legal system, law, rule of law."[42] We have seen the beginning of this tendency in Homer; in the *WD* this is the predominant meaning, found in 9, 192, 213, 217, 220, 249, 256, 269, 275, 278, 279, 283.[43] In several of these cases Hesiod clearly personifies and deifies Δίκη either partially (9, 213, 217, 275) or fully (220, 256; cf. *Theog.* 902). This personification is a way of expanding the meaning of the word to a more general and abstract sense and increasing its importance, though we should remember that however abstract it may become, Δίκη as "Law" remains always a legal rather than a moral force.

Finally, in this general sense of "law," δίκη also begins to develop the meaning "penalty for violation of the legal process," perhaps most clearly in 238–39: οἷς δ' ὕβρις τε μέμηλε κακὴ καὶ σχέτλια ἔργα, / τοῖς δὲ δίκην Κρονίδης τεκμαίρεται εὐρύοπα Ζεύς (Zeus marks out a "punishment" for those who turn to violence). δίκη here does not mean just any penalty, but only a punishment brought upon one who violates δίκη, and the penalties here listed result from the corruption of the whole legal process, just as the benefits listed immediately before these result from proper observance of δίκη. This meaning, "penalty for the violation of the legal process," also seems to be present in several other cases (see below on 219–24).

All these meanings of δίκη in Hesiod fall, as I have said, within the second general area of meaning. The adjectives δίκαιος and ἄδικος, however, appear, as in Homer, to fall into either area of meaning, perhaps even into both at the same time. In 334 the the context clearly indicates that ἄδικος means "behaving improperly," and in 270,

37. In 39 the phrase τήνδε δίκην . . . δικάσσαι is ambiguous. It could mean either "give a settlement in this case, judge this case" or (taking τήνδε equivalent to τοιαύτην) "give this sort of (crooked) settlement." The former is certainly easier. The phrase cannot mean "dispense this sort of (crooked) justice" in general. See B. A. van Groningen, *Hésiode et Persès* (Amsterdam, 1957), p. 7.

38. For this sense of δίκη in the singular, cf. Frags. 43*a*. 40 (suppl. West), 286, 338; for δικάζειν, cf. Frags. 43*a*. 38, 338.

39. There is also one occurrence of the adjective ἰθυδίκης in 230.

40. The pairing of δίκας and σχέτλια ἔργα in this case is surprising (cf. *Od.* 14. 84), and perhaps from the context we must understand δίκας to mean "crooked settlements" (but cf. also *Od.* 17. 487). If this is so, it is the only instance in Hesiod of the use of unmodified δίκη in a bad sense. The same expression is found in 124–25 (= 254–55), which are deleted by Rzach, Solmsen, *et al.*

41. The difficulty of E. Wolf's thesis, that δίκη basically means "allotment" (*Zuteilung*) or "claim" (*Anspruch*), is apparent in his interpretation of this passage. Hecate, he claims, sits not "at a trial" but rather "guides the judicial struggle in favor of the claim of that contestant whom she favors" (p. 130).

42. Since "justice" can sometimes mean simply "accordance with the legal system," it would not be strictly speaking wrong to translate δίκη as "justice" in these cases. I avoid this because of the normal association of "justice" with morality as explained above, n. 3. A judicial decision, for instance, can be and often is called "unjust."

43. In 224 we should understand δίκην in this same sense with οὐκ ἰθεῖαν ἐνείμαν.

271, and 272 the adjectives may also belong to the first area (see below on these two passages). In 260, on the other hand (reading ἀδίκων), and perhaps also in *Theogony* 236, they appear to belong to the second area, i.e., ἄδικος means "perverting the legal process." It is also arguable, I think, that in two other cases (158, 190) δίκαιος means "observing the legal process," but we cannot be certain, and in such cases it is also possible that both meanings are present.[44] However the neuter adjective used as a noun, either in the singular (226) or in the plural (217, 280), always occurs in a context which suggests that the second area of meaning is more prominent, so that we might translate it as "proper legal process" (217, 226) or "proper settlements" (280).[45] Even in these cases, however, it is difficult to be certain. But this ambivalence of the adjective did not affect the noun, and we can be quite certain that δίκη itself always pertains to the legal process.

Let us now consider some of the characteristics of this Hesiodic δίκη. In the first place, δίκη is clearly opposed to force (βίη) and violence (ὕβρις).[46] This opposition is stressed at the beginning of each subsection addressed to Perses (Ὦ Πέρση, σὺ δ' ἄκουε δίκης μηδ' ὕβριν ὄφελλε [213]; Ὦ Πέρση, σὺ δὲ ταῦτα μετὰ φρεσὶ βάλλεο σῇσι / καί νυ δίκης ἐπάκουε, βίης δ' ἐπιλήθεο πάμπαν [274–75]), and it is fundamental to the advice given to Perses; in fact in 217 the opposition between the two is partially personified (δίκη δ' ὑπὲρ ὕβριος ἴσχει). Hesiod's point is clear: settle your disputes peacefully through δίκη rather than violently, submit to arbitration, and support arbitration as a general practice rather than violence.[47] Since this is the purpose of the opposition between δίκη and ὕβρις, it is of course not surprising that there is no mention of ὕβρις (or βίη) in the subsection addressed to the kings (248–73), for it is not the task of kings to give up violence and submit to arbitration, but rather to insure that the arbitration system works fairly and effectively. If they give too many crooked settlements, the whole process is damaged (258), so the kings must keep their judgments straight. But for the people, represented in the poem by Perses, the avoidance of ὕβρις in favor of δίκη is essential.[48]

Second, there is a connection between δίκη and the swearing of oaths. Although our evidence is just as slight for Hesiod as for Homer, it seems likely that oaths were sworn both by the litigants themselves (cf. 193–94) and by other witnesses called to testify (cf. 282–83, although this passage might also refer to a litigant rather than an outside witness). That Hesiod attaches importance to oaths is clear from his reference in 219 to the personified Ὅρκος,[49] who accompanies σκολιῇσι δίκῃσιν (more likely the "crooked pleas" of the litigants than the "crooked judgments" of the judges), and indeed it is obvious that any process of arbitration must emphasize truthfulness and punish false oaths.

Third, δίκη is closely connected with

44. Cf. Frags. 10. 3, 141. 13.

45. Cf. Frag. 343. 14.

46. This opposition between δίκη and βίη is foreshadowed in *Il.* 16. 387–88. Cf. also 16. 542.

47. In the fifth age of iron, one of the marks of disintegration is that δίκη δ' ἐν χερσί [sc. ἔσται], that is, "settlement of disputes will be by force" (192). (If 189 is genuine, χειροδίκαι presumably means "settling disputes by force.")

48. The translation of ὕβρις as "violence" is strongly supported by the close similarity of 213 and 274–75. There is no evidence in Hesiod for a meaning "outrage against the gods" or "excessive behavior," such as we find, say, in Herodotus (where it is of course characteristic of kings rather than the common man). The closest Hesiod comes to the notion of "going beyond the limit" is the phrase παρεκβαίνουσι δικαίου (226), where, however, the verb means rather "deviating from" than "going beyond." Nor is there any evidence to suggest that ὕβρις is a moral evil, as, e.g., Solmsen states (p. 84).

49. On Ὅρκος see 804 and *Theog.* 231–32.

kingship,[50] and it is the kings who give judgments and oversee the legal process in general. This is in accordance with the Homeric practice, where those who give judgments are not always called kings, but are usually in a class with kings.[51] The fact that kings are not always wise or honest in their judgments means that Hesiod sometimes finds himself praising δίκη (the legal process) while denouncing particular δίκαι ("crooked settlements"). The context, however, always makes his meaning clear. Another problem is that the kings either charge a fee or receive voluntary gifts for settling disputes. Thus while the system of δίκη may be good, a working man should try not to resort to it too often, or he will lose all his hard-earned savings.[52]

Fourth, there is a strong connection between δίκη and Zeus, probably arising from the connection between δίκη and kings on the one hand, and kings and Zeus on the other. That is, just as in Homer and elsewhere the treatment of guests and suppliants is under the special care of Zeus, so in Hesiod the administration of δίκη is under the care of Zeus. This connection is emphasized in the invocation at the beginning of the poem, where Zeus, who "humbles the mighty and raises the lowly and straightens the crooked" (ἰθύνει σκολιόν, 7), is called upon to "straighten out (crooked) decisions with a (straighter) legal process" (δίκῃ δ' ἴθυνε θέμιστας, 9),[53] and there are repeated references to the role of Zeus in supervising the functioning of δίκη (36, 229, 239, 242, 253, 256, 259, 267–69, 276, 281; cf. *Theog.* 902).

It must be kept in mind, however, that the role of Zeus is to oversee and enforce δίκη; he does not dispense δίκη (give rulings) himself. Although Zeus in the *Iliad* is twice said to decide a dispute (δικάζειν), he never does so in Hesiod. Zeus has given δίκη to men in the first place (279);[54] he is also responsible together with his thirty thousand helpers for observing violations of δίκη, and he ultimately sends the punishment (δίκη) for such violations. But as overseer of δίκη he dispenses punishment only for this particular violation, not for violations in general.

In view of this close connection between δίκη and Zeus, however, many scholars have tended to assume that δίκη is "divine justice," the eternal order sanctioned by Zeus, and that the goddess Δίκη oversees all human morality.[55] This is completely erroneous. Δίκη in Hesiod oversees only one activity, the peaceful litigation of disputes. No homicide,[56] no violator of the rights of a suppliant or a guest, no doer of any wrong except that connected with litigation is ever spoken of as violating δίκη or committing ὕβρις. Δίκη sits next to Zeus, which of course indicates her importance for Hesiod; but it does not give her unlimited authority. It gives her

50. It would perhaps be more accurate to translate βασιλῆες as "princes" (see Sinclair, pp. xviii–xix), but since there is really no modern equivalent to this position, I shall use "kings" for the sake of convenience.

51. E.g., γέροντες, *Il.* 18. 503; ἡγήτορες ἠδὲ μέδοντες, *Il.* 23. 573; cf. *Il.* 1. 238, 16. 542; *Od.* 11. 186, 11. 570, 19. 109–111. Note also the importance of the σκῆπτρον in pronouncing δίκη.

52. This seems to be the meaning of Hesiod's advice to Perses that they should settle their dispute themselves rather than turn to the kings (35–39). On δωροφάγοι βασιλῆες as "kings who receive gifts" (i.e., fees, not necessarily bribes), see Hirzel, pp. 419–21.

53. δίκη here may to some extent mean "punishment," and Hesiod may use θέμιστας in this line in order to avoid the apparent contradiction, δίκῃ ἴθυνε δίκας (see below on 219–24). Similarly, he probably uses θέμιστας in 221 and *Theog.* 85 to avoid the repetition of δίκη.

54. Zeus also sends δίκη to men in Protagoras' myth (Plato *Prt.* 322C).

55. E.g., Solmsen, pp. 87–96. Jaeger (*Paideia*, I, 63) speaks of Hesiod's "religious and moral doctrine of Justice and Injustice."

56. "In the Homeric poems homicide is a simple wrong against the individual or the family; it is not looked upon as morally reprehensible, or as an offense against the common welfare" (G. M. Calhoun, *The Growth of Criminal Law in Ancient Greece* [Berkeley, 1927], p. 11). Note also that there is no mention of homicide in the law code of Gortyn. See Willetts, p. 9.

authority only over her own sphere of activity.

It is important to realize this, for otherwise one might try to see the *WD* as a poem of morality, a poem setting forth the "justice of Zeus."[57] This is a basic misunderstanding. The *WD* tells first how life came to be as hard as it is—and there is certainly no "justice" in the stories of Prometheus and Pandora, or the five ages of man, or in the little fable of the hawk and the nightingale (although the search for justice, especially in the fable, never ends)[58]—and then it gives advice on how to improve things, first through an effective litigation process and second by harder and more efficient labor. Life is hard; prosperity comes only through peaceful co-operation and hard work. This is the "moral" of the *WD*.

Now let us briefly consider two important passages in greater detail:

αὐτίκα γὰρ τρέχει Ὅρκος ἅμα σκολιῇσι δίκῃσιν·
τῆς δὲ Δίκης ῥόθος ἑλκομένης ᾗ κ' ἄνδρες ἄγωσι 220
δωροφάγοι, σκολιῇς δὲ δίκῃς κρίνωσι θέμιστας·
ἣ δ' ἕπεται κλαίουσα πόλιν καὶ ἤθεα λαῶν,
ἠέρα ἑσσαμένη, κακὸν ἀνθρώποισι φέρουσα,
οἵ τέ μιν ἐξελάσωσι καὶ οὐκ ἰθεῖαν ἔνειμαν
[219–24].

δίκη will win out in the end, says Hesiod (217–18), one reason at least being that Ὅρκος attends crooked δίκαι (i.e., punishes those who pervert δίκη). The next lines elaborate upon this punishment and seem to mean, "and there is a tumult when Δίκη is dragged away wherever gift-devouring men lead her, judging crookedly, and she follows (where they lead) lamenting for the city and the ways of the people, invisible,[59] bringing trouble to those who drive her out and have not judged straightly." In other words, when Δίκη is perverted, she remains no longer (though crooked δίκαι remain), and when she leaves, lamenting, everyone knows it, for she (by her absence) brings disaster. There are admittedly difficulties in this interpretation (e.g., 222 must be somewhat forced to yield acceptable sense),[60] but other possibilities are even more difficult.[61]

However, we should not always expect clarity or consistency from Hesiod, and since δίκη can mean both "legal process" and "penalty for the violation of legal process" (which of course becomes part of the legal process itself), it is possible, I think, to understand that δίκη in the first sense is being dragged out in 220, while δίκη in the second sense is returning in 223.[62] Moreover, if we do not insist on being strictly logical, we may perhaps understand δίκη to include at the same time the two ideas of legal process and

57. "Hesiod proclaims that the extrinsic evils come upon man as a result of and punishment for moral evils and that this unbreakable sequence is a manifestation of Zeus' justice" (Solmsen, p. 86). See also Lloyd-Jones (p. 35): "Zeus' justice requires not only that men be just in their dealings with one another, but that they remember their subordinate station, and do not try to obtain a share in the privileges of the immortals."

58. The most common solution is to see the fable as illustrating life in the animal kingdom where there is no justice (*WD* 277–78), the implication being that it is (or should be) different for mankind. See, e.g., L. W. Daly, *TAPA*, XCII (1961), 45–51. But the function of a fable is precisely the opposite: to illustrate a truth about human society by a story about similar behavior among animals. Here the fable follows the description of the hard life of man in the age of iron. The meaning is obvious: the weak are at the mercy of the strong. The common people already understand this, but Hesiod makes his fable simple and clear for the kings so that they too will understand. Hesiod describes reality, not morality, and we should cease trying to alter the clear meaning of his words. (The traditional moral interpretation of the fable is rightly challenged by C. B. Welles in *GRBS*, VIII [1967], 17–19).

59. Mazon brackets 223.

60. To take ἤθεα as "dwellings" (Mazon, *demeures*) is no better.

61. If we take δίκη as "punishment" in 220 (as the Loeb translator does), it is hard to understand why she is dragged in. The verb certainly implies her reluctance to go, and it is thus natural to understand that she is being dragged out, not in.

62. For this general line of interpretation, see Wilamowitz, *Hesiodos Erga* (Berlin, 1928), pp. 65–66.

penalty for its violation, even though this may seem confusing or contradictory. For it is likely that Hesiod himself was aware of the conflict between these two meanings but did not have a sufficient vocabulary for expressing his views about the legal process and its preservation. Thus in this passage, when he wants at the same time to warn against the violation of the legal process (*δίκη*) and to threaten punishment (*δίκη*) for the violators, he must use one word to express both ideas.[63]

νῦν δὴ ἐγὼ μήτ' αὐτὸς ἐν ἀνθρώποισι δίκαιος
εἴην μήτ' ἐμὸς υἱός, ἐπεὶ κακὸν ἄνδρα δίκαιον
ἔμμεναι, εἰ μείζω γε δίκην ἀδικώτερος ἕξει.
ἀλλὰ τά γ' οὔπω ἔολπα τελεῖν Δία μητιόεντα
[270–73].

These lines illustrate the conflict between the adjective *δίκαιος*, in the sense of "behaving properly," and the noun *δίκη*, "settlement." It is theoretically possible, says Hesiod, for the less *δίκαιος* to get more *δίκη* (a larger settlement), in which case there would be little point in being *δίκαιος*. He does not think Zeus will let such a state of affairs come to pass,[64] but the mere fact that he considers this conflict between *δίκη* and *δίκαιος* possible confirms that the two areas of meaning were still separate.

Further evidence for this conclusion comes in 327–34, after Hesiod has left the subject of *δίκη* and is discussing human behavior in general. He warns against a whole series of traditionally improper acts (violating the rights of a suppliant or guest, defiling a brother's bed, etc.), and concludes that in the end Zeus "lays down a harsh requital for these improper deeds" (*ἔργων ἀντ' ἀδίκων χαλεπὴν ἐπέθηκεν ἀμοιβήν*, 334). *ἄδικος* here refers to deeds which are traditionally wrong, but which have nothing to do with the legal process. And punishment for these *ἄδικα ἔργα* has nothing to do with *δίκη* since there is no question of harming any legal process. The penalty is not a *δίκη* because it does not result from any legal settlement, and since *δίκη* does not mean "justice" or "retribution" in general, Hesiod does not mention it in this passage.

We have thus seen that for Hesiod there was a separation between proper behavior and lawful behavior. I have argued that this separation can be traced back to the original meanings of the root **deik-*, and that the two meanings developed separately rather than one from the other. Moreover, the split between these two areas remained after Homer and Hesiod.[65] From the first area developed the later use of *δίκη ἐστί*, "it is proper, right," and *δίκην* with the genitive, "in the manner of." From the second area came all the meanings associated with judicial litigation, "settlement, penalty, plea, case,[66] trial, legal process." From the meaning "trial," *δίκη* easily became associated with the idea of balance,[67] and in this sense it is also easy for Heraclitus (undoubtedly having in mind the *WD*) to say that *δίκη* is *ἔρις* (Frag. 80D.-K.), and for the Presocratics in general to make *δίκη* into a universal principle of order.[68] But this expansion of

63. This combination of meanings is probably also present in 249, in the personified *Δίκη* in 256, and perhaps also in 9, 213, and 275. The inadequacy of the language available to Hesiod suggests that he was striving to express ideas which were unknown to his predecessors.

64. This implies that such a state does not at the moment exist. Thus we cannot, as Sinclair does (note *ad loc.*), take 269 to refer to the corrupt legal system in Thespiae under which Hesiod's litigation with Perses is to be settled (unless with Rzach we delete 273).

65. In Aeschylus, for example, *δίκη* in a phrase such as *δίκη γάρ ἐστι*, "for it is proper" (*Ag.* 259, etc.), is clearly separate from *δίκη* as "natural order, law," etc.

66. One person's case can, of course, conflict directly with another's, as in Aesch. *Choeph.* 461, *Ἄρης Ἄρει ξυμβαλεῖ, Δίκᾳ Δίκα* (where *δίκᾳ δίκα* should probably be written).

67. In the *Hymn to Hermes*, Hermes and Apollo go before the council of the gods to settle their dispute, *κεῖθι γὰρ ἀμφοτέροισι δίκης κατέκειτο τάλαντα* (324).

68. See Anaximander's fragment, Heraclitus (94 D.-K.), and Parmenides (1. 14, 8. 14).

the meaning of δίκη came later than Hesiod, where meanings such as "natural order" have no place.

In conclusion, then, the *Works and Days* is a poem about achieving prosperity under difficult circumstances. One important element in this process is δίκη, an effective peaceful system for settling disputes. The people must submit to δίκη, shun violence, and keep to their sworn oaths; the kings must administer δίκη wisely and honestly. Straight δίκαι result in manifold benefits; crooked δίκαι lead to general decay. But the operation of δίκη extends no further. It does not mean morality or "justice" in general, but "law, legal process." In emphasizing the importance of this legal process, Hesiod certainly makes an important contribution to the theory of a peacefully functioning society, and he prepares the way for later expansion of the meaning of δίκη. But he himself is no moral prophet or religious reformer. He is a peasant and his basic concern is a more prosperous existence.

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