SOME THOUGHTS ON *ΔΙΚΗ*

In a well-known passage of Plato's *Protagoras*[1] the sophist of that name is made to suggest that what makes a society or community of human beings possible is their possession of δίκη and αἰδώς, which are given to them by Zeus.[2] But though all men have these qualities, they are not 'natural' in the way that ugliness or beauty of face is natural. They are acquired; and Protagoras gives a detailed description of how they are inculcated, first by parents, then by schoolmasters, and then by laws. The view that these qualities are peculiar to men was, of course, not a new one. Already in the *Works and Days* Hesiod writes,[3]

> τόνδε γὰρ ἀνθρώποισι νόμον διέταξε Κρονίων
> ἰχθύσι μὲν καὶ θηρσὶ καὶ οἰωνοῖς πετεηνοῖς
> ἐσθέμεν ἀλλήλους, ἐπεὶ οὐ δίκη ἐστὶ μετ' αὐτοῖς·
> ἀνθρώποισι δ' ἔδωκε δίκην.

And again the age of lawlessness and violence is described as[4]

> δίκη δ' ἐν χερσί, καὶ αἰδὼς
> οὐκ ἔσται.

Both Protagoras and Hesiod suggest that there is a fundamental difference between animals and man which lies in man's possession of δίκη and αἰδώς. I intend in this article to discuss what they are likely to have meant by this distinction. In his study of Plato's life and works Taylor refers to the passage in the *Protagoras* where Zeus gives δίκη and αἰδώς to men and talks of him giving them 'the sense of right and conscience'.[5] Similarly Sinclair in his edition of Hesiod's *Works and Days* says,[6] 'αἰδώς is predominantly a good quality especially in this poem. It is compunction, a regard for others or "conscience".' What is meant by the word 'conscience' is, of course, always difficult to assess, but I take it that what Taylor and Sinclair refer to is a man's personal belief or conviction that certain actions are 'morally' or 'in principle' right and some 'morally' or 'in principle' wrong, regardless of the material consequences of those actions. The two scholars would therefore seem to imply that it was the possession of this 'moral sense of right and wrong', as the *O.E.D.* defines the word 'conscience', which was regarded by Hesiod and Protagoras as a distinctive feature of mankind. I propose, however, to bring forward some evidence to suggest that this may not have been what Hesiod and Protagoras meant by δίκη and αἰδώς.

The first discussion of any length that we have in Greek literature on right and wrong is Hesiod's admonition to Perses and the βασιλεῖς in the *Works and Days*. In this discussion it is very clear that he is *for* δίκη and *against* ὕβρις. The famous fable of the hawk and the nightingale is usually given as the prime example of this preference, and interpretation placed on the fable is that it

[1] Plato, *Prot.* 321 b ff.
[2] Plato, *Prot.* 322 c.
[3] Hesiod, *W.D.* 276 ff.
[4] Hesiod, *W.D.* 192 f.
[5] A. E. Taylor, *Plato: The Man and his Work* (London, 1937), 243.
[6] T. A. Sinclair, *Hesiod, Works and Days* (London, 1932), 35.

'serves as a condemnation of violence and injustice'.[1] Evelyn-White probably means by this that the actual situation portrayed in the fable, namely the hawk's exercise of his power over the nightingale, is given by Hesiod as an example of violence and injustice.[2] Certainly Sinclair says of this passage,[3] 'Again, to illustrate the difference between the rule of Force and the rule of Right, he tells a fable of the nightingale and the hawk; and when, some 300 years later, Thrasymachus was defining Justice as the rule of the stronger, he was repeating in effect what the hawk said to the nightingale: "He is a fool who seeks to resist the mighty." It is *against* [my italics] such a doctrine and the conduct to which it leads that Hesiod protests.' But is it? The assumption seems to be that Hesiod is condemning the actual situation he portrays in the fable, but I am not so sure myself, judging from the context, that this is so. Hesiod says:[4]

νῦν δ' αἶνον βασιλεῦσι ἐρέω φρονέουσι καὶ αὐτοῖς·
ὧδ' ἴρηξ προσέειπεν ἀηδόνα ποικιλόδειρον
ὕψι μάλ' ἐν νεφέεσσι φέρων ὀνύχεσσι μεμαρπώς·
ἣ δ' ἐλεόν, γναμπτοῖσι πεπαρμένη ἀμφ' ὀνύχεσσι,
μύρετο· τὴν ὅ γ' ἐπικρατέως πρὸς μῦθον ἔειπεν·
δαιμονίη, τί λέληκας; ἔχει νύ σε πολλὸν ἀρείων·
τῇ δ' εἶς, ἣ σ' ἂν ἐγώ περ ἄγω καὶ ἀοιδὸν ἐοῦσαν·
δεῖπνον δ', αἴ κ' ἐθέλω, ποιήσομαι ἠὲ μεθήσω.
ἄφρων δ', ὅς κ' ἐθέλῃ πρὸς κρείσσονας ἀντιφερίζειν·
νίκης τε στέρεται πρός τ' αἴσχεσιν ἄλγεα πάσχει.

This certainly may seem, particularly to us, a strong condemnation of the principle that might is right. But then Hesiod goes on,[5]

ὦ Πέρση, σὺ δ' ἄκουε δίκης, μηδ' ὕβριν ὄφελλε·
ὕβρις γάρ τε κακὴ δειλῷ βροτῷ· οὐδὲ μὲν ἐσθλὸς
ῥηιδίως φερέμεν δύναται, βαρύθει δέ θ' ὑπ' αὐτῆς
ἐγκύρσας ἀάτῃσιν· ὁδὸς δ' ἑτέρηφι παρελθεῖν
κρείσσων ἐς τὰ δίκαια· δίκη δ' ὑπὲρ ὕβριος ἴσχει
ἐς τέλος ἐξελθοῦσα· παθὼν δέ τε νήπιος ἔγνω.
αὐτίκα γὰρ τρέχει Ὅρκος ἅμα σκολιῇσι δίκῃσιν.

It is, I think, very clear in these lines that Hesiod is pointing out that what makes ὕβρις undesirable is that it does not pay. It is κακή, harmful, because it involves one in suffering. He then goes on to say that such suffering and disaster follow upon crooked verdicts, because Ὅρκος or even Zeus himself will exact punishment.[6] Surely the lesson he is trying to convey is that it does not pay to forswear oneself and pass crooked judgements, because those who

[1] H. G. Evelyn-White, *Hesiod, the Homeric Hymns and Homerica* (London and New York, 1914), p. xviii.

[2] A similar view of the fable seems to be implied by Wade-Gery's comment ('Hesiod', *Essays in Greek History* [Oxford, 1958], 12): 'Historically the poem's importance lies in the fact that the Nightingale had won. The Hawk had said, "Good bird why all this twittering . . ." but the Nightingale had got its hearing and the Hawk had to let it go.' He would appear to equate the hawk with the βασιλεῖς and the nightingale with Hesiod, so that the fable would show the (wrongful) exercise of power by a stronger over a weaker.

[3] T. A. Sinclair, *A History of Greek Political Thought* (London, 1951), 19.

[4] Hesiod, *W.D.* 202 ff.

[5] Hesiod, *W.D.* 213 ff.

[6] Hesiod, *W.D.* 219, 238 f.

do so are open to the wrath of the gods.[1] Since this seems almost certainly to be the moral behind these lines, can we not also read the same moral into the fable of the hawk and nightingale? Hesiod is addressing the βασιλεῖς who, by crooked judgements, have defrauded him, or are trying to defraud him, of money, and he says that when the hawk has the nightingale in his claws, the nightingale can moan all it likes, but the hawk has the upper hand. So too, he implies, when Zeus has them in his claws he will have the upper hand and they are fools if they hope to escape the consequences of his wrath.[2]

ἄφρων δ', ὅς κ' ἐθέλῃ πρὸς κρείσσονας ἀντιφερίζειν.

On this interpretation of his fable, Hesiod, far from condemning the attitude of the hawk to the nightingale, uses it to point to the facts of life. Those stronger than oneself can inflict disaster, and it is foolish to try to thwart them. This is ὕβρις and meets its own penalty. It is far better to be δίκαιος and safe. I have spent some time on this particular passage because it is important for our conception of what the Greeks meant by right and wrong. Did Hesiod and presumably other Greeks think that δίκη was the moral principle of not harming others, and ὕβρις the violation of this principle, or did they think that δίκη was 'not getting into trouble', in other words, expediency or prudence, and that ὕβρις was 'getting into trouble', in other words, rashness, imprudence, foolishness? I have suggested that the fable of the hawk and nightingale and the following lines imply the latter, and there are other passages both in Hesiod and other Greek authors which support this view. In the passage immediately preceding the fable Hesiod describes the age of iron in which αἰδώς and νέμεσις leave the earth, and it is interesting that the effect of this is:[3]

δίκη δ' ἐν χερσί, καὶ αἰδὼς
οὐκ ἔσται· βλάψει δ' ὁ κακὸς τὸν ἀρείονα φῶτα
μύθοισιν σκολιοῖς ἐνέπων, ἐπὶ δ' ὅρκον ὀμεῖται.

[1] Xenophanes points out (D.K. 21. B. 11) that

πάντα θεοῖς ἀνέθηκαν Ὅμηρός θ' Ἡσίοδός τε
ὅσσα παρ' ἀνθρώποισιν ὀνείδεα καὶ ψόγος ἐστίν,
κλέπτειν μοιχεύειν τε καὶ ἀλλήλους ἀπατεύειν.

This certainly suggests that he saw a discrepancy in these poets between the portrayal of the gods as the champions of 'right' and the gods' own behaviour to each other. In this view he was almost certainly unique, for, as Lloyd-Jones points out ('Zeus in Aeschylus', *JHS* lxxvi [1956], 65 f.), 'What is emphasized, in Hesiod and also in tragedy, is the supremacy of his [Zeus'] power... The poets talk not of the righteousness of the gods but of their power, and of their insistence that we be righteous.'

[2] Hesiod, *W.D.* 210. It may be argued that this interpretation ignores the obvious equation between the nightingale and Hesiod. But ἀοιδὸν ἐοῦσαν need not necessarily refer to Hesiod. The point is that the hawk has power over the nightingale *even though* she is a singer. In the same way Zeus has power over the judges *even though* they are kings. Moreover if the fable was really a condemnation of the violence and injustice of the hawk, would we not expect Hesiod to point this moral at the end? Most 'cautionary tales' of this sort do have their 'punch line' at the end, with an open or implied exhortation to avoid a similar fate. Phoenix ends his tale of Meleager's anger (*Il.* 9. 598 ff.),

τῷ δ' οὐκέτι δῶρ' ἐτέλεσσαν
πολλά τε καὶ χαρίεντα, κακὸν δ' ἤμυνε καὶ αὖτως.
ἀλλὰ σὺ μή μοι ταῦτα νόει φρεσί...

This, it seems to me, is exactly the formula of Hesiod's fable: ἄφρων δ', ὅς κ' ἐθέλῃ πρὸς κρείσσονας ἀντιφερίζειν (moral), ὦ Πέρση, σὺ δ' ἄκουε δίκης (exhortation). I am indebted to Prof. Gould for drawing my attention to a similar interpretation of this fable by C. Bradford Welles ('Hesiod's Attitude Toward Labor', *G.R.B.S.* viii (1967), 5–23, esp. 17–19).

[3] Hesiod, *W.D.* 192 ff.

In other words, men will no longer respect the power of the stronger. They will attack him with force and cheat him by false oaths. Of course, as he goes on to point out both in the fable and in the following lines, they will meet the equally violent opposition of the stronger and suffer for it, but the calamity of it is that the conflict will result in violence and general disaster,[1]

τὰ δὲ λείψεται ἄλγεα λυγρὰ
θνητοῖς ἀνθρώποισι· κακοῦ δ' οὐκ ἔσσεται ἀλκή,

instead of the peace and order which result from pursuing δίκη:[2]

οἳ δὲ δίκας ξείνοισι καὶ ἐνδήμοισι διδοῦσιν
ἰθείας καὶ μή τι παρεκβαίνουσι δικαίου,
τοῖσι τέθηλε πόλις, λαοὶ δ' ἀνθεῦσιν ἐν αὐτῇ·
εἰρήνη δ' ἀνὰ γῆν κουροτρόφος, οὐδέ ποτ' αὐτοῖς
ἀργαλέον πόλεμον τεκμαίρεται εὐρύοπα Ζεύς.

That δίκη is for Hesiod that which avoids disaster, is proved, I think, almost conclusively by lines 270 ff. in which he says:

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' οὔ πω ἔολπα τελεῖν Δία μητιόεντα.

In other words there is no point in being δίκαιος unless it pays. Being δίκαιος is not its own reward, it is inevitably tied up with advantage, with good consequences.

But an immediate objection to this interpretation of δίκη could be based on this same passage, since Hesiod can talk about an ἄδικος getting more δίκη than a δίκαιος. If, as I have suggested, δίκη is essentially that which pays and ὕβρις or ἀδικία that which results in disaster, then if a man gets the greater δίκη, that is, is successful, how can he be termed ἄδικος, that is, doing what is disastrous? Surely, it will be objected, Hesiod means by ἄδικος someone who has done something wrong 'in principle', and so is saying that it is a bad thing if the wicked prosper. But I am not convinced that this is the right interpretation. I have suggested that δίκη, being δίκαιος, is to bow to the power of the stronger, to avoid provoking his wrath and retribution. Whether one is δίκαιος or ἄδικος thus depends on the consequences of one's actions. This means that if A attacks B it is not certain, until the consequences are clear, whether he is δίκαιος or ἄδικος. But of course, it is perfectly possible to pass a judgement on a person or his action prior to the outcome of that action, basing the judgement on one's assessment of the relative strength of the two parties concerned. If the attacker appears obviously stronger than his victim, one can predict fairly accurately that he will win and that he is therefore δίκαιος, within his rights. If the attacker is the equal of, or only slightly superior to his victim, the onlooker may well reserve judgement until the outcome is known, while the victim will almost certainly claim that the attacker is ἄδικος, has gone too far. But if the attacker is obviously weaker, then it is clear to onlookers, if not to himself, that he is heading for disaster, and is therefore doing something ἄδικον. And this is the situation between men and gods. Gods are more powerful than men, and like the hawk can do as they will to them. To anger them is

[1] Hesiod, *W.D.* 200 f. [2] Hesiod, *W.D.* 225 ff.

thus extreme imprudence, so that one can say of anyone who does anger them that he is ἄδικος, that he is heading for certain disaster. One of the most obvious ways of angering a god, apart from failing to offer sacrifice, is to forswear an oath taken in his name, and this is clearly the situation that Hesiod has in mind throughout this homily on δίκη. The particular section in which the lines under discussion occur is addressed to the βασιλεῖς. They, as βασιλεῖς, have supreme power in the state, and can do as they will to their subjects and remain δίκαιοι, but as Hesiod warns them, they cannot do as they will to the gods by forswearing oaths and hope to remain δίκαιοι, that is, to get away with it. He can thus term them and men like them ἄδικοι because they are heading for certain disaster, certain, that is, because Hesiod like all Greeks firmly believed that the gods did destroy perjurers. But if the gods do *not* destroy perjurers, and this is the unlikely situation referred to in these lines, then there will be no point in being δίκαιος, in avoiding perjury. It will not pay one, which is the essence of being δίκαιος, but will be κακόν, harmful, because the perjurer, who would normally be ἄδικος, 'in the wrong' because heading for disaster, would not meet that disaster and so would be 'in the right', δίκην ἕξει. More than that, he would even have the fruits of his perjury into the bargain. The δίκαιος on the other hand would have neither the advantage of being safe nor the fruits of perjury.

So in these lines, as elsewhere in Hesiod, it can be argued that δίκαιος, δίκη, and ἀδικώτερος all carry the meaning not of what is right or wrong 'in principle', but of what is prudent or imprudent in the light of material consequences. Moreover Hesiod's usage is not exceptional. Δίκη, δίκαιος, ἀδικία or ὕβρις, and ἄδικος are always closely tied up with rewards and penalties. Observing δίκη, being δίκαιος, is remaining unharmed by keeping within one's limitations; committing ὕβρις or ἀδικία is incurring disaster by overstepping those limitations and the disaster involved is, of course, the retribution of the person one has harmed or angered. Thus Hesiod says that when Δίκη is thwarted she goes and complains to her father Zeus,[1]

ὄφρ' ἀποτείσῃ
δῆμος ἀτασθαλίας βασιλέων.

One of the best examples of this close correlation between ἀδικία and retribution is Anaximander's description of 'cosmic justice':[2] ἀρχὴν . . . τῶν ὄντων τὸ ἄπειρον . . . ἐξ ὧν δὲ ἡ γένεσίς ἐστι τοῖς οὖσι, καὶ τὴν φθορὰν εἰς ταῦτα γίνεσθαι κατὰ τὸ χρεών. διδόναι γὰρ αὐτὰ δίκην καὶ τίσιν ἀλλήλοις τῆς ἀδικίας κατὰ τὴν τοῦ χρόνου τάξιν. Creation and destruction is a continual cyclic process of give and take. Any imbalance produced by one of them taking too much so that too

[1] Hesiod, *W.D.* 260 f. In the *Theogony* (901 f.) Hesiod says that Dike is one of the daughters of Themis who are called the Ὧραι. Palmer points out ('The Indo-European Origins of Greek Justice', *Trans. Phil. Soc.* 1950, 149 ff.) that ὥρα is a word which is used for a boundary or division of time, and he argues very convincingly that the word δίκη itself may bear the basic meaning of '(boundary) mark'. He derives δίκη from the root **deik*, which appears most obviously in δείκνυμι. Its primary meaning is thus 'mark', 'indication', as it occurs, for example, in the phrase δίκη θεῶν, the mark or characteristic of the gods. He shows that in many other languages words with this basic meaning are also found indicating 'boundary mark' or 'limit', and argues that the usage of δίκη in early Greek authors is consistent with a meaning of the limit or boundary beyond which one may not trespass.

[2] Anaximander, D.K. 12. B. 1: cf. Heraclitus (D.K. 22. B. 94) Ἥλιος γὰρ οὐχ ὑπερβήσεται μέτρα· εἰ δὲ μή, Ἐρινύες μιν Δίκης ἐπίκουροι ἐξευρήσουσιν.

much is created or too much destroyed, is rectified by redress or retribution. In Herodotus this role of restoring the balance, particularly with regard to human affairs, is attributed to the gods, so that Zeus can be likened to lightning which strikes the highest point.[1] *ὁρᾷς τὰ ὑπερέχοντα ζῷα ὡς κεραυνοῖ ὁ θεὸς οὐδὲ ἐᾷ φαντάζεσθαι, τὰ δὲ σμικρὰ οὐδέν μιν κνίζει· ὁρᾷς δὲ ὡς ἐς οἰκήματα τὰ μέγιστα αἰεὶ καὶ δένδρεα τὰ τοιαῦτα ἀποσκήπτει τὰ βέλεα. φιλέει γὰρ ὁ θεὸς τὰ ὑπερέχοντα πάντα κολούειν.* The balance upset by those who fly too high, who exceed the limit, is restored by Zeus, who in Aeschylus is spoken of thus:[2]

Ζεύς τοι κολαστὴς τῶν ὑπερκόμπων ἄγαν
φρονημάτων ἔπεστιν, εὔθυνος βαρύς.

When therefore the gods are said to be the punishers of *ἀδικία* they are simply personifying or embodying the *lex talionis*, the system of retribution for harm suffered.[3]

ἀλλ' ὦ μεγάλαι Μοῖραι, Διόθεν
τῇδε τελευτᾶν,
ᾗ τὸ δίκαιον μεταβαίνει.
ἀντὶ μὲν ἐχθρᾶς γλώσσης ἐχθρὰ
γλῶσσα τελείσθω· τοὐφειλόμενον
πράσσουσα Δίκη μέγ' ἀυτεῖ.
ἀντὶ δὲ πληγῆς φονίας φονίαν
πληγὴν τινέτω. δράσαντι παθεῖν,
τριγέρων μῦθος τάδε φωνεῖ.

If, as I suggest, it is the consequences of an act which prove whether one is *δίκαιος* or *ἄδικος*, the Greeks will view an action in the light of its consequences, and not in the light of what is right or wrong 'in principle'.[4] And again there is evidence to show that this was so. When Achilles accuses Agamemnon of *ὕβρις*,[5] he means that Agamemnon is in the wrong because he is heading for disaster, namely Achilles' own vengeance. Achilles is not passing a moral judgement on Agamemnon, any more than is Odysseus who, after Agamemnon has acknowledged his mistake, advises him to be more *δίκαιος* in future.[6]

[1] Hdt. 7. 10. ε. [2] Aesch. *Pers.* 827 f.

[3] Aesch. *Choeph.* 306 ff. As Lloyd-Jones emphasizes (loc. cit. p. 291 n. 1), in Aeschylus 'Zeus is indeed the champion of Dike', but that 'the sort of justice implied . . . seems to be a rough, eye-for-an-eye justice'. 'There can be little doubt that the view of Zeus and that we find in Aeschylus is not materially different from that of Hesiod.' But, while agreeing very much with this, I would suggest that when, in a fragment discussed by Lloyd-Jones (*P. Oxy.*, vol. xx, 2256, fr. 9 (A)), Dike says:

5 *ἵζει δ' ἐν αὐτῶι . . .*
δίκηι κρατήσας τῶιδε . . .
πατὴρ γὰρ ἦρξεν, ἀνταμ . . .
ἐκ τοῦ δέ τοί με Ζεὺς ἐτίμ[ησεν
ὁτιὴ παθὼν ἠμ . . .
ἵζω Διὸς θρόνοισιν . . . ,

a vital point is that Zeus won (*κρατήσας*). Lloyd-Jones's statement that 'lines 6 and 7 seem to have said that Zeus gained his victory justly, because his father began the fight' might appear to imply that Zeus had Dike on his side because he was attacked. But I would argue that Zeus had Dike on his side because having been attacked he took *successful* counter measures. In other words, he would not have had Dike on his side if he had failed in his attempt to take vengeance. It is when the attacker is worsted, and only then, that Dike 'crosses over' to his victim, and this, I suggest, is what is meant, in the lines of the *Choephori* quoted, by the phrase '*τὸ δίκαιον μεταβαίνει*'.

[4] As Latte suggests ('Der Rechtsgedanke im archaischen Griechentum', *Antike und Abendland*, ii [1946], 63 ff.), 'Erst der Widerstand des Verletzten stempelt ihn zur Hybris', so that 'Unrecht im wesentlich an den Folgen für den Täter erkannt wird'.

[5] Homer, *Il.* 1. 203.

[6] Ibid. 19. 181 ff.

Odysseus is simply suggesting that Agamemnon be a bit more circumspect in choosing his victim next time,

οὐ μὲν γάρ τι νεμεσσητὸν βασιλῆα
ἀνδρ' ἀπαρέσσασθαι, ὅτε τις πρότερος χαλεπήνῃ.

Similarly Menelaus does not destroy Troy in order to punish Paris for an action considered wrong 'in principle'. He goes to Troy to get Helen and other valuables back, to exact retribution and thereby prove Paris weaker than himself and therefore in the wrong. As the peaceable embassy to Troy and the terms agreed on for single combat between Paris and Menelaus reveal, it is only because Paris refuses to acknowledge that he *is* weaker and offer redress that Troy has to be destroyed. It is of course true that Paris has violated the laws of hospitality, but what that means is that he runs the risk of divine vengeance as well. It is Zeus whose power has been challenged by such a violation of his law, and who can therefore be expected to seek redress to prove that power. That is why Menelaus prays to Zeus to help him gain retribution.[1]

Ζεῦ ἄνα, δὸς τείσασθαι ὅ με πρότερος κάκ' ἔοργε,
δῖον Ἀλέξανδρον, καὶ ἐμῇς ὑπὸ χερσὶ δάμασσον,
ὄφρα τις ἐρρίγῃσι καὶ ὀψιγόνων ἀνθρώπων
ξεινοδόκον κακὰ ῥέξαι, ὅ κεν φιλότητα παράσχῃ.

It is only that retribution which puts Paris in the wrong. Otherwise, as is pointed out in Aeschylus' *Agamemnon*, he could boast that he got away with his action scot-free, which would mean that he was stronger and so not guilty of ἀδικία.[2]

Πάρις γὰρ οὔτε συντελὴς πόλις
ἐξεύχεται τὸ δρᾶμα τοῦ πάθους πλέον.
ὀφλὼν γὰρ ἁρπαγῆς τε καὶ κλοπῆς δίκην
τοῦ ῥυσίου θ' ἥμαρτε καὶ πανώλεθρον
αὐτόχθονον πατρῷον ἔθρισεν δόμον.
διπλᾶ δ' ἔτεισαν Πριαμίδαι θἁμάρτια.

It is by losing more than he gained that Paris is proved in the wrong, and it is again noticeable that δίκη is connected with retribution. Paris literally 'owes δίκη'. Because he is proved to have exceeded the limit, to have more than his due, someone else has less than his due, and he has to restore it, just as Agamemnon is urged to restore to Achilles his δίκη.[3] It is also noticeable that what Paris pays for is ἁμάρτια, a mistake, a miscalculation, not a moral lapse. He thought he was stronger and could get away with his action, but he was not and did not.

The consequences of an action prove whether a man is right or wrong, and this concept of δίκη is particularly evident in Herodotus' history. His attitude to the Trojan war, for instance, is that,[4] τοῦ δαιμονίου παρασκευάζοντος ὅκως πανωλεθρίῃ ἀπολόμενοι καταφανὲς τοῦτο τοῖσι ἀνθρώποισι ποιήσωσι, ὡς τῶν μεγάλων ἀδικημάτων μεγάλαι εἰσὶ καὶ αἱ τιμωρίαι παρὰ τῶν θεῶν. Disaster is the penalty for ἀδίκημα, and more than that, because the gods disapprove of ἀδικία, it is also a divine judgement on that action. Thus to take one example from the earlier part of Herodotus' history, Croesus loses his son and his throne.

[1] Homer, *Il.* 3. 351 ff.
[2] Aesch. *Ag.* 532 ff.
[3] Homer, *Il.* 19. 180.
[4] Hdt. 2. 120. 5.

These disasters are evidence of his being guilty of ὕβρις or ἀδικία and represent a divine judgement upon his actions. He is therefore described by Herodotus as a proverbial proud tyrant expecting to be called the most blessed of men by Solon in a meeting that cannot have taken place historically. The death of his son can then be explained as divine punishment for his presumption.[1] As regards the loss of his empire, Croesus is represented as himself complaining about it to Delphi. He had made all due sacrifice to the gods and obviously cannot think of anything in his life that could be described as ὕβρις. But the oracle replies:[2] *Κροῖσος δὲ πέμπτου γονέος ἁμαρτάδα ἐξέπλησε, ὃς . . . ἐφόνευσε τὸν δεσπότεα καὶ ἔσχε τὴν ἐκείνου τιμὴν οὐδέν οἱ προσήκουσαν.* Delphi is to be congratulated on being able to ferret out a nice ἁμαρτάς to justify Apollo, but in all seriousness Herodotus describes Croesus as satisfied with this explanation and acknowledging that Apollo had not made a mistake in depriving him of the empire. Disaster is divine punishment for ὕβρις or ἀδικία, and since the anger of the gods, as the historical Solon describes it,[3] is slow but certain, and may delay for generations, one could always with more or less difficulty find some ἁμαρτάς to account for that disaster, if not in the life of the individual concerned, then in the life of his family or ancestors.

This view of history is clearly *post eventum*. The evaluation of actions is based on their outcome, and the example of Croesus shows how this evaluation is read back into the account of an individual's life, even to the distortion of historical truth. Nor is this view limited to the early part of Herodotus' history. It extends into his report of the Persian expeditions, particularly that of Xerxes. The Greeks had won, Xerxes had lost, so that the whole account turns into a cautionary tale illustrating the ὕβρις of the Persians. Xerxes rules by fear and force, he lashes the Hellespont, he receives Demaratus' warnings with pitying amusement, all of them actions typical of the doomed tyrant.[4] No wonder then that when his defeat comes it is easily seen to be the merited divine punishment not only for his initial ὕβρις in wanting to be master of Europe as well as of Asia, but for his whole hybristic way of life. The storm off Euboeia is viewed as divine intervention to help the Greeks,[5] and after Xerxes' final defeat Themistocles expresses the interpretation of that defeat which has coloured the whole account:[6] *τάδε γὰρ οὐκ ἡμεῖς κατεργασάμεθα, ἀλλὰ θεοί τε καὶ ἥρωες, οἳ ἐφθόνησαν ἄνδρα ἕνα τῆς τε Ἀσίης καὶ τῆς Εὐρώπης βασιλεῦσαι, ἐόντα ἀνόσιόν τε καὶ ἀτάσθαλον.* We are back with our jealous gods, with Zeus the lightning, the chastiser of excessive thoughts, and indeed it is precisely with reference to Xerxes that this phrase is used. For in Aeschylus, as in Herodotus, disaster is viewed as divine judgement, as the proof and penalty of ὕβρις.[7]

θῖνες νεκρῶν . . . σημανοῦσιν . . .
ὡς οὐχ ὑπέρφευ θνητὸν ὄντα χρὴ φρονεῖν.
ὕβρις γὰρ ἐξανθοῦσ' ἐκάρπωσεν στάχυν
ἄτης, ὅθεν πάγκλαυτον ἐξαμᾷ θέρος.

This is obviously only a very rapid and summary survey of the use of δίκη and ἀδικία up to the time of Herodotus, but I think there is fairly convincing evidence that ὕβρις or ἀδικία is that which incurs the retribution of the stronger,

[1] Hdt. 1. 34. 1.
[2] Hdt. 1. 91. 1.
[3] Solon, fr. 40. 25 ff. (I. M. Linforth, *Solon the Athenian* [Berkeley, 1919]).
[4] Cf. R. Lattimore, 'The Wise Adviser in Herodotus', *C.P.* xxxiv (1939), 24–35.
[5] Hdt. 8. 13.
[6] Hdt. 8. 109. 3.
[7] Aesch. *Pers.* 818 ff.

and δίκη that which avoids disaster by acknowledging and yielding to the power of the stronger. Nor is this concept of δίκη limited to Herodotus and earlier authors. I have suggested that one can tell whether a person is δίκαιος or ἄδικος in attacking another only when the consequences of that attack show whether he is stronger or weaker than his victim. But of course it does not always take an actual conflict to prove who is stronger. The owner of a Mini just does not bother disputing the claim of the owner of a Jaguar to faster speed, but have two Jaguars at the lights and the race is on. Similarly a member of the ordinary rank and file does not bother crossing swords with an Agamemnon, but have an Achilles and an Agamemnon at loggerheads and the fight is on. It is only when attacker and victim are equals or near equals that there is any point in the victim disputing the issue with the attacker.[1] This, of course, is precisely what Athens points out to Melos in the famous Melian dialogue:[2]

> ἡμεῖς τοίνυν οὔτε αὐτοὶ μετ' ὀνομάτων καλῶν, ὡς ἢ δικαίως . . . ἄρχομεν ἢ ἀδικούμενοι νῦν ἐπεξερχόμεθα, λόγων μῆκος ἄπιστον παρέξομεν, οὔθ' ὑμᾶς ἀξιοῦμεν ἢ ὅτι . . . ἢ ὡς ἡμᾶς οὐδὲν ἠδικήκατε λέγοντας οἴεσθαι πείσειν, τὰ δυνατὰ δ' ἐξ ὧν ἑκάτεροι ἀληθῶς φρονοῦμεν διαπράσσεσθαι, ἐπισταμένους πρὸς εἰδόταις ὅτι δίκαια μὲν ἐν τῷ ἀνθρωπείῳ λόγῳ ἀπὸ τῆς ἴσης ἀνάγκης κρίνεται, δυνατὰ δὲ οἱ προύχοντες πράσσουσι καὶ οἱ ἀσθενεῖς ξυγχωροῦσιν.

As the hawk said to the nightingale, 'Someone stronger holds you now. I can do with you as I will.' This may sound shocking to us, conditioned as we are by Christian ethics, by long eras of parliamentary rule, by declarations of human rights and so on to regard any assault on another, particularly on a weaker person, as wrong 'in principle'. But there is, I think, little, if any, evidence to suggest that Athens' control of an empire was considered by the rest of the Greeks wrong 'in principle'. Accusations of ἀδικία against Athens there are in plenty, but it is very clear from Thucydides' history that Sparta and her allies undertook the war against Athens not as a holy crusade against imperialism, but in an effort to curtail Athens' power, because they were not prepared to be her victims. This is, it is true, Thucydides' own personal view:[3] τὴν μὲν γὰρ ἀληθεστάτην πρόφασιν, ἀφανεστάτην δὲ λόγῳ, τοὺς Ἀθηναίους ἡγοῦμαι μεγάλους γιγνομένους καὶ φόβον παρέχοντας τοῖς Λακεδαιμονίοις ἀναγκάσαι ἐς τὸ πολεμεῖν. But it is also the charge laid against Sparta by Athens herself:[4] ἄξιοί τε ἅμα νομίζοντες εἶναι καὶ ὑμῖν δοκοῦντες μέχρι οὗ τὰ ξυμφέροντα λογιζόμενοι τῷ δικαίῳ λόγῳ νῦν χρῆσθε, ὃν οὐδείς πω παρατυχὸν ἰσχύι τι κτήσασθαι προθεὶς τοῦ μὴ πλέον ἔχειν ἀπετράπετο. Charges of ἀδικία are a form of defence, a threat of

[1] As Finley points out (*The World of Odysseus* [London, 1956], 89): 'Only once in either poem did a commoner, Thersites, presume to take the floor at an assembly, and he was promptly beaten down by Odysseus.' Thersites is very much the exception that proves the rule, and Odysseus' treatment of him only illustrated the complete lack of regard with which the ἄριστοι viewed the rank and file. (Cf. Odysseus' very different approach to the ἄνδρες δήμου on the one hand and the βασιλεῖς καὶ ἔξοχοι ἄνδρες on the other when attempting to stop the headlong flight to the ships, *Il.* 2. 188 ff., 198 ff.) It was hopeless for Thersites to expect any better treatment than he received, for, as Finley points out with reference to the dispute after the chariot race in *Il.* 23 (op. cit., p. 122), 'Menelaus and Antilochus were equals in status. That was an essential fact, for justice among the heroes . . . was a matter for equals alone. Menelaus could not more have challenged Thersites to an oath than a Junker could have challenged a Berlin shopkeeper to a duel.'

[2] Thuc. 5. 89.

[3] Thuc. 1. 23. 6.

[4] Thuc. 1. 76. 2.

retribution which, it is hoped, will deter the aggressor from his intent.[1] They are not moral judgements upon the aggressor, but a warning that he is riding for a fall. Sparta in all probability *did* admire Athens and her empire. The Greeks did admire success and power until themselves the victims, and for the successful imperial state power over others was a matter for the greatest pride:[2] *γνῶτε δὲ ὄνομα μέγιστον αὐτὴν ἔχουσαν ἐν ἅπασιν ἀνθρώποις . . . δύναμιν μεγίστην δὴ μέχρι τοῦδε κεκτημένην, ἧς ἐς ἀίδιον τοῖς ἐπιγιγνομένοις . . . μνήμη καταλελείψεται, Ἑλλήνων τε ὅτι Ἕλληνες πλείστων δὴ ἤρξαμεν . . .*

It is of course true that once Sparta has declared war she represents herself as the champion of 'free' Greeks against Athens the enslaver. But again this need not imply any disinterested moral condemnation of Athens. One episode, I think, makes this very clear. Brasidas is sent to 'free' the Acanthians, but when the Acanthians show a strange reluctance to be 'freed' his immediate reaction is that they cannot be allowed to ruin his prestige by refusing him entrance to their city, nor can they be allowed to continue giving financial support to Athens, but above all they will have to be 'freed',[3] *οἱ δὲ Ἕλληνες ἵνα μὴ κωλύωνται ὑφ' ὑμῶν δουλείας ἀπαλλαγῆναι.* The freeing of the Greeks is for the greater glory of Sparta and for the discomfiture of Athens, so they will have 'to be done good to' whether they like it or not.[4] Altruism was not one of the Greeks' outstanding virtues and Athens laughs to scorn the Melians' naïve expectations of help from Sparta.[5] *Λακεδαιμόνιοι γὰρ πρὸς σφᾶς μὲν αὐτοὺς . . . πλεῖστα ἀρετῇ χρῶνται.*

All this sounds very uncomplimentary to the Greeks. But it must be stressed that when Athens points out to the Melians,[6] *ἡγούμεθα γὰρ τό τε θεῖον δόξῃ τὸ ἀνθρώπειόν τε σαφῶς διὰ παντὸς ὑπὸ φύσεως ἀναγκαίας, οὗ ἂν κρατῇ, ἄρχειν,* she is not, as she herself goes on to say, introducing new, corrupt, and subversive ideas into the purity of Greek society. She is, like Hesiod's hawk, expressing the facts of life, the accepted practices and values of the time. Might *was* right. Justice *was* the advantage of the stronger.[7]

[1] Indeed Hermocrates goes so far as to accuse of cowardice those who, in the face of danger, take refuge in claims for justice (Thuc. 6. 79. 1), *δειλίᾳ δὲ ἴσως τὸ δίκαιον πρός τε ἡμᾶς καὶ πρὸς τοὺς ἐπιόντας θεραπεύσετε.*

[2] Thuc. 2. 64. 3. In exactly the same way men like Archelaus who usurp their master's throne etc. are greatly admired (Plato *Gorg.* 470 d ff.). They can be and are termed *ἄδικοι* because people who do these things normally come to grief. But until such time as they do come to grief they are the object not of censure, but of envy. As is stressed in Plato, *Rep.* ii, a 'normal' Greek would give his right hand to do such things and get away with it. Such acts are rash or imprudent only because of the penalties normally attaching to them. The notion that a man should not steal etc. even when, like Gyges, he knew he would never be found out was felt to be that of an utter lunatic, and this Socrates is constantly accused of being.

[3] Thuc. 4. 87. 3.

[4] That the Athenian allies were not the unwilling victims of Athenian oppression longing to be 'liberated' by the blameless Spartans is argued very persuasively by de Ste. Croix ('The Character of the Athenian Empire', *Historia*, iii [1954/5], 1–41). As he says of Lysander taking Iasos by storm, massacring the 800 male citizens, and selling the women and children into slavery, all presumably because he met with vigorous opposition, 'so much for the alleged enthusiasm of the allies of Athens for "liberation" ' (loc. cit., p. 9). He points out that Sparta, like other Greek states, was no more nor less 'humane' than Athens in the conduct of the war, and the 'liberation' of the Greek states meant in fact the setting up of pro-Spartan oligarchies in the 'freed' cities. It was the Few who welcomed 'liberation', whereas the Many remained always loyal to Athens (Thuc. 3. 47. 2).

[5] Thuc. 5. 105. 4.

[6] Thuc. 5. 105. 2.

[7] As de Ste. Croix argues (loc. cit. n. 4 above), in this passage the Athenians 'are merely recognising a natural tendency, a "law of human nature", not trying to adduce a moral justification'.

There is then evidence to support the view that δίκη has nothing to do with 'conscience', with a 'moral sense of right and wrong', and everything to do with power, with being the stronger.[1] If this is so, what do Protagoras and Hesiod mean by considering as a distinctive feature of man his possession of δίκη and αἰδώς? I have suggested that observing δίκη is not getting into trouble, which involves an acknowledgement of, and yielding to, the power of the stronger. What distinguishes man is therefore, I suggest, his ability to recognize what he can and cannot do with impunity, his ability to recognize his limitations, to recognize his status or level in society. This ability expresses itself in a due deference to the power of the stronger, and this, I think, is why it is so closely linked with αἰδώς. This word is generally accepted as denoting that respect, awe, fear, reverence etc. which one feels before a superior—a younger person before an older, a weaker before a stronger, and so on. Agamemnon who, as we saw, was not δίκαιος in his dealings with Achilles is also termed ἀναιδής.[2] Δίκη and αἰδώς indicate respect for one's betters; ὕβρις and ἀδικία on the other hand indicate lack of respect, an unsuccessful attempt to rise above one's station. Thus in Homeric society the king had virtually supreme power, and so having no superior to acknowledge 'had the right' to do as he willed to his subjects. Odysseus, for instance, is compared with other kings.[3]

οὔτε τινὰ ῥέξας ἐξαίσιον οὔτε τι εἰπὼν
ἐν δήμῳ· ἥ τ' ἐστὶ δίκη θείων βασιλήων·
ἄλλον κ' ἐχθαίρῃσι βροτῶν, ἄλλον κε φιλοίη.

The minor chieftains under the king however had the king as superior and any unsuccessful attempt to oust him was ὕβρις, as the suitors discovered to their cost. But of course they had the right to do as they willed to those beneath them, and so on down the social scale. Of course it was not simply a matter of one individual against another, of knowing whether one was physically stronger than someone else. In assessing a person's power one took into account his resources in the way of wealth, friends, and relatives that he could call upon to aid him. Thus in assessing the relative power of Achilles and Agamemnon, Nestor says that Achilles has a divine mother on his side, but on the other hand, and obviously more importantly because the gods were on the winning side, Agamemnon ruled over more people, and so could call on more people to support him. This is undoubtedly why Achilles refrained from physical conflict with Agamemnon. He knew he could not win if it came to actual physical contest between himself and his forces and Agamemnon and his forces. Had he been foolish enough to try he would have been guilty of ὕβρις. His power over Agamemnon lies in the indispensable role he plays in the attack on Troy, and by demonstrating this power by a one-man strike, he proves Agamemnon weaker and therefore guilty of ὕβρις in attacking him.

Being δίκαιος thus depends on knowing where one stands in society, on knowing who is and who is not stronger than oneself. This may seem rather

[1] That Dike is very much a 'harsh corrector', an exponent of power and might, is, I think, well illustrated by the vase-painting where she is depicted beating Adikia over the head (Beazley, *ARV*², p. 11, no. 3). I am indebted to Mr. Boardman for drawing my attention to this vase, and to the description in Pausanias of the same scene on the chest of Cypselus (Paus. 5. 18. 2): γυνὴ δὲ εὐειδὴς γυναῖκα αἰσχρὰν κολάζουσα καὶ τῇ μὲν ἀπάγχουσα αὐτήν, τῇ δὲ ῥάβδῳ παίουσα, Δίκη ταῦτα Ἀδικίαν δρῶσά ἐστι.

[2] Homer, *Il.* 1. 149, 158.

[3] Homer, *Od.* 4. 690 ff.

difficult to discover, and certainly mistakes were made, as for instance by Agamemnon and by the suitors. This, I think, is why Protagoras says that δίκη and αἰδώς are not natural to a man, but are acquired only after long training. If the new member of a society is not to go through the painful process of learning for himself by trial and error what he can and cannot do with impunity, who is and who is not stronger than himself, he must be taught by others, and it is precisely this process of indoctrination which Protagoras describes. The child's parents tell him what is right and what is wrong, that is, what gets him into trouble and what does not. If he does not learn, he gets beaten. His schoolmasters teach him, and if he does not learn he gets beaten. The laws teach the adult, and if he does not learn he gets beaten. Protagoras is not to be accused of thinking that one can beat a 'conscience' into a child or any one else. The child and later the adult is being taught to be δίκαιος, to know what he can and cannot do with impunity and a little practical example of this if he is foolish enough to go against his elders and betters, be they parents, schoolmasters, or laws, presumably does not come amiss. All that corporal or any other punishment teaches any one is that crime does not pay, and this knowledge is all that being δίκαιος entailed.

Man, then, as distinct from the animals, possesses as a gift from the gods the capacity to restrain his will, to recognize and voluntarily to obey authority, that is, the will of the stronger, whether men, laws, or gods. No form of society is possible without this gift,[1] a fact that is clearly recognized already in Homer. The Cyclopes are considered uncivilized in that they are each of them[2]

ἄνδρ' . . .
ἄγριον, οὔτε δίκας εὖ εἰδότα οὔτε θέμιστας,

and because[3]

τοῖσιν δ' οὔτ' ἀγοραὶ βουληφόροι οὔτε θέμιστες.

They do not, in other words, accept any restraint upon their will, they do not recognize the authority of laws and regulations, nor even, of course, as is also made clear, of the gods.

But though the contrast between men and animals serves to illustrate the importance attached to δίκη, in one respect it is not a fair contrast. It is true that animals eat each other in the sense that birds eat insects, cats eat birds, and so on, but it is equally true that men eat cows and in Hesiod's day, lions, bears, and wolves ate men. Hesiod is really doing the animal kingdom something of an injustice by contrasting the relations obtaining among members of the same species, man, with the relations obtaining between different species of animal. He should really compare the relations among men with those among wolves, or among dogs, or among birds, and here of course it is not so obvious that animals eat each other any more than men eat men.[4] Some spiders are known to eat each other and some fish will eat their young, but among many

[1] Plato, *Prot.* 322 b.

[2] Homer, *Od.* 9. 214 f.

[3] Ibid. 112.

[4] Indeed in direct contrast to Hesiod, in a fragment of Archilochus (fr. 94, E. Diehl, *Anthologia Lyrica Graeca*, 1952) the fox(?) is made to say,

ὦ Ζεῦ πάτερ, Ζεῦ, σὸν μὲν οὐρανοῦ κράτος,
σὺ δ' ἔργα ἐπ' ἀνθρώπων ὁρᾷς
λεωγρὰ καὶ θεμιστά, σοὶ δὲ θηρίων
ὕβρις τε καὶ δίκη μέλει.

Here δίκη is attributed to animals as well, but since this fragment is probably part of a fable, the society of animals is doubtless made analogous to that of human beings.

animals and bird species it is well known that there exists a fairly complicated social order. One cannot blame Hesiod for not knowing this, since the detailed observation of animal behaviour is fairly recent, though Virgil of course was aware of the community life of bees.[1] But I mention all this because in Lorenz's *King Solomon's Ring*[2] there is a passage describing social structure among jackdaws, which I think illustrates much of what I have been saying about δίκη. 'Every single jackdaw of my colony knew each of the others by sight. This can be convincingly demonstrated by the existence of an order of rank, known to animal psychologists as the "pecking order". Every poultry farmer knows that, even among these most stupid inhabitants of the poultry yards, there exists a very definite order, in which each bird is afraid of those that are above her in rank [αἰδώς]. After some few disputes, which need not necessarily lead to blows, each bird knows which of the others she has to fear and which must show respect to her [δίκη]. Not only physical strength but also personal courage, energy, and even the self-assurance of every individual bird are decisive in the maintenance of the pecking order. This order of rank is extremely conservative. An animal proved inferior, if only morally, in a dispute, will not venture lightly to cross the path of its conqueror [δίκη] . . . In the jackdaw colony, those of the highest orders, particularly the despot himself, are not aggressive toward the birds that stand far beneath them [cf. the ἄριστοι and the δήμου ἄνδρες]; it is only in their relations towards their immediate inferiors that they are constantly irritable; this applies especially to the despot and the pretender to the throne—Number One and Number Two.' I refer the reader to Agamemnon and Achilles and to Agamemnon's words at the height of his quarrel with Achilles:[3]

> ἀλλ' ὅδ' ἀνὴρ ἐθέλει περὶ πάντων ἔμμεναι ἄλλων,
> πάντων μὲν κρατέειν ἐθέλει, πάντεσσι δ' ἀνάσσειν,
> πᾶσι δὲ σημαίνειν . . .

and again,[4]

> ἐγὼ δέ κ' ἄγω Βρισηίδα καλλιπάρῃον
> αὐτὸς ἰὼν κλισίηνδε, τὸ σὸν γέρας, ὄφρ' ἐὺ εἰδῇς
> ὅσσον φέρτερός εἰμι σέθεν, στυγέῃ δὲ καὶ ἄλλος
> ἶσον ἐμοὶ φάσθαι καὶ ὁμοιωθήμεναι ἄντην.

As Athens said, the stronger rule, the weak obey.[5]

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[1] Aristotle too seems to have known something of the communication system of bees. It is known that hive bees pass on information about food supplies by 'dancing' and Haldane ('Aristotle's Account of Bees' "Dances" ', *JHS* lxxv [1955], 24–5) suggests that it is this 'waggle dance' which Aristotle describes in *Hist. Animal.* 9. 624b ὅταν δ' εἰς τὸ σμῆνος ἀφίκωνται, ἀποσείονται . . .

[2] University Paperbacks (London, 1965), 147 f.

[3] Homer, *Il.* 1. 287 ff.

[4] Ibid. 184 ff.

[5] I am very grateful to Professor Huxley for his many helpful comments on an earlier draft of this article.