THE DEFENSE OF INJUSTICE
BY MARCUS TULLIUS CICERO

LAELIUS: For the purposes of argument, see if you can offer a defense of injustice!

PHILUS: What a fine cause you have handed over to me—to speak in favor of evil!

LAELIUS: Yes, I can see what you have reason to fear. You are afraid that, if you repeat the customary arguments against justice, you might be supposed also to approve of them. Yet you yourself, I must point out, stand for old-fashioned integrity and honor to an almost unparalleled degree! And your habit of arguing on the other side—on the grounds that you find it the easiest way to arrive at the truth—is something with which we are quite familiar.

PHILUS: All right, then. In order to humor you, I will smear myself with dirt, quite deliberately. For that is what people who are looking for gold always feel that they have to do. So we who are looking for justice, which is far more valuable than all the gold in the world, surely ought to do the same, without shrinking from any hardship whatever.

But I only wish that since I am now going to make use of what someone else has said, I could also use his own language! The man I am referring to is Carneades. For he, with his gift for sophistical disputation, was quite accustomed to making the best causes sound ridiculous! And so, after reviewing the arguments of Plato and Aristotle in favor of justice—a subject on which the latter filled four large books—what Carneades then proceeded to do was to refute them! From Chrysippus I did not expect anything substantial or impressive. He uses his own peculiar method of argument, analyzing everything from a purely verbal rather than a factual point of view.

These heroes acted correctly in exalting the virtue of justice, in disrepair as it was. For justice, when it exists, is the most generous and liberal of all virtues, loving itself less than it loves all the people in the world, and living for the benefit of others rather than of itself. In seating it, therefore, upon that heavenly throne, not far from wisdom itself, those philosophers were perfectly right. But one more thing has to be pointed out. They did not, evidently, lack the desire to exalt justice. For, if they had, what would have been their reason and purpose for writing at all? Nor did they lack the ability to do so, in which, indeed, they surpassed everyone else. Yet their enthusiasm and eloquence alike were undermined by a certain weakness. For the justice into which we are inquiring is not just something that naturally exists, but a quality that is created by those who are occupied in government. It cannot be merely natural, because if it was, justice and injustice would be the same thing to all human beings, like heat and cold, or bitter and sweet.

But that is not the case; on the contrary, beliefs on the subject vary enormously. If, for example, one could climb into Pacuvius's “chariot of winged snakes” and drop in on many diverse nations and have a good look at them, one would find, first of all, that in Egypt, that most unchanging country of all in which the written records of the events of a vast series of centuries are preserved, a bull is considered a god—which the Egyptians call Apis. And numerous other monsters and animals of every kind are ranked among divinities and regarded as holy. That, to us, appears thoroughly alien. Here in Rome, on
the other hand, as in Greece, splendid shrines can be seen, adorned with statues of deities in human form.

Yet the Persians have always considered that to be a blasphemous custom. Indeed, Xerxes I is said to have commanded that the temples of Athens should be burnt down, for this sole reason, that he considered it blasphemous to keep the gods shut up within walls, when they belong to the entire world. Indeed subsequently Philip II of Macedonia, who planned to attack the Persians, and Alexander III the Great, who actually did so, quoted as their pretext their determination to avenge the Greek temples—which the Greeks had decided that they must never rebuild, so that later generations would always have before their eyes this visible memorial of Persian sacrilege.

Furthermore, a considerable number of peoples, unlike ourselves, have believed that the practice of human sacrifice is pious and thoroughly pleasing to the immortal gods. They include the Taurians on the coast of the Euxine Sea, King Busiris of Egypt, and the Gauls and the Carthaginians. Indeed, people’s lifestyles are sometimes so divergent that the Cretans and Aetolians consider banditry respectable. As for the Spartans, they declared, habitually, that any territory whatever that they could touch with their spears belonged to themselves! And the Athenians, too, swore oaths, in public, pronouncing that every piece of ground that produced olives or grain was their own property. The Gauls, however, consider it degrading to grow grain by manual labor. For that reason they take up arms so that they can go and reap other people’s fields. But consider the customs that we—who are, of course, the most just of men!—habitually follow. What we do is to tell the Gauls across the Alps that they must not plant olives and vines, because we want to increase the value of our own. That, you might say, is prudent; “just” is not the word you could apply to it. One can see, from this example, that what is sensible is not always truly wise. Consider Lycurgus. He invented a series of admirably wise and sensible laws. Yet he felt able to insist, all the same, that the lands of the rich should be cultivated by the poor as if they were slaves.

Moreover, if I wanted to describe the differing ideas of justice, and the divergent institutions and customs and ways of life, that have prevailed, not only in various nations of the world, but even in this single city of our own, I could show you, also, that they have not remained the same, but have been changed in a thousand different ways. Take for example Manius Manilius here, our interpreter of the law. The advice that he generally gave you about women’s legacies and inheritance when he was a young man, before the Voconian Law was passed, was not at all the same advice as he would give you now. (Yet that law, I might add, was passed for the benefit of males, and is very unfair to women. For why should a woman not have money of her own? And why should a Vestal Virgin be permitted to have an heir, when her mother cannot? Nor can I see why, if a limit had to be set to the amount of property a woman could possess, the daughter of PubliusLiciniusCrassusDivesMucianus, provided that she were her father’s only child, should be authorized by law to own a hundred million sesterces, while three million is more than my own daughter is entitled to own.) …

So laws, then, can vary considerably, and can be changed. If they had all come from God, that would not be so. For, in that case, the same laws would be applicable to all, and, besides, a man would not be bound by one law at one time of his life and
by another later on. But what I ask, therefore, is this. Let us accept that it is the duty of a just and good man to obey the laws. But which laws is he to obey? All the different laws that exist?

There are difficulties here. Inconsistency, between laws, ought to be impermissible, since it is contrary to what nature demands. But the point is that laws are not imposed on us by nature—or by our innate sense of justice. They are imposed by the fear of being penalized. In other words, human beings are not just, by nature, at all.

Let us reject, moreover, the argument that, although laws vary, good men naturally follow the true, authentic path of justice, and not merely what is thought to be just. That argument maintains that what a good and just man does is to give everyone his due. (One problem which arises in this connection is what, if anything, we are to grant dumb animals as their due. Men of far from mediocre caliber, indeed men of powerful learning such as Pythagoras and Empedocles, insist that identical standards of justice apply to all living creatures, and declare that inexorable penalties await those who ill-treat animals. To do them harm, in other words, seems to them to be criminal.)

PHILUS: Anyone who has the power of life and death over a people is a despot—though they prefer to be known as kings, following the example of Jupiter the Best.

When however, instead, a group of men seize the state by exploiting their wealth or noble birth or some other resource, that is a political upheaval, though they call themselves conservatives. If, on the other hand, the people gain the supremacy, and the whole government is conducted according to their wishes, a state of affairs has arisen which is hailed as liberty, but is, in fact, chaos. But when there is a situation of mutual fear, with one person or one class fearing another, then because nobody has sufficient confidence in his own strength a kind of bargain is struck between the ordinary people and the men who are powerful. The result, in that case, is the mixed form of constitution which Scipio recommends. Which means that weakness, not nature or good intention, is the mother of justice.

For we have to choose one of three things. We can perform injustice and not suffer it. Or we can both perform and suffer it. Or we can neither perform it nor suffer it. The most fortunate choice is the first, to perform injustice, if you can get away with it. The second best is neither to perform it nor suffer it. And the worst is to engage in an everlasting turmoil consisting of both performing it and suffering it.

Wisdom, as commonly understood, prompts us to increase our resources, to multiply our riches, to enlarge our frontiers. For the essential significance, surely, of those eulogistic words inscribed upon the monuments of our greatest generals, “he extended the boundaries of the empire,” is that he had extended them by taking territory from someone else. That, then, is the teaching of “wisdom,” that we should rule over as many subjects as possible, indulge in pleasures, hold on to power, be rulers and masters. But justice, on the other hand, demands that we should be merciful to all men, act in the interests of the entire human race, give everyone what they are entitled to, and never tamper with religious property or what belongs to the community or to private persons.
If you follow the dictates of what we call wisdom, then, you acquire wealth, power, resources, lofty status, military commands, and positions of supreme authority, whether you are a state or a private person. What we, however, are at present considering is the former of these two categories, the state, and so what is done by states assumes priority for our present purpose. True, the same standards of justice apply to states and individuals alike, but the former are what we now have to consider. In particular, not to mention other nations, it is clear enough that our own Roman people, whose history Scipio traced from its beginnings in yesterday’s discussion, and whose empire is now worldwide, grew from the smallest to the greatest dimensions by wisdom, and not by justice.

When, however, one sets justice against wisdom in the way I have attempted to do here, the contrast is sometimes blurred by arguments that complicate the issue. The men who put these arguments forward understand very well how to argue; and their reasoning on the subject carries all the more impressive weight because, in the course of their investigation into how to find the good man (a man who himself should be open and frank), they, like him, refrain from using underhand, crafty, or dishonest methods of argument. What these philosophers do, then, is take a closer look at the “wise” man, and put forward the view that he is good not because goodness or justice automatically, or in themselves, offer him satisfaction, but, on the contrary, because a good man’s life is free of fear, worry, anxiety, and peril, whereas bad men always have something to feel uneasy about, and the prospects of trials and penalties are never out of their sight. No benefit or reward gained by injustice, these thinkers add, is substantial enough to counterbalance perpetual fear, or the never-ending thought that some punishment or other is not far away. …

Let us imagine that there are two men, one a paragon of virtue, fairness, justice, and honesty, and the other an outrageous ruffian. And let us suppose that their country is so misguided that it believes that the good man is an evil, villainous criminal, and that the bad man, on the other hand, is a model of honorable propriety. Then let us go on to suppose that, since this is the unanimous opinion, the good man is attacked, seized, imprisoned, blinded, convicted, chained, branded, expelled, and beggared, so that everyone feels, quite rightly, that he is the most wretched man alive. Whereas the bad man, on the other hand, is praised, courted, and loved by one and all. Every kind of public office and military command is showered upon him, as well as riches and wealth from every quarter. To sum up, then, he will have the universal reputation of being the best man in the world, who deserves everything good that fortune can give him. Now, I ask you, who could be so mad as to doubt which of the two men he would prefer to be?

The same applies to states, just as much as to individuals. No country would not rather be an unjust master than a just slave. I shall not range far ahead for the example I am going to quote. While I was consul, and you were on my council, the question of the treaty with Numantia came up before me. Everyone knew that treaties had been made already, by Quintus Pompeius and then by Gaius Hostilius Mancinus. Mancinus, a good man, went so far as to favor the bill which I myself had proposed in accordance with a senatorial decree, even though he was to be the sufferer. Pompeius, on the other hand, fought back strongly against an equally critical resolution directed against himself. If you are looking for self-denial, honor, and integrity, those are the qualities that Mancinus displayed. But if
you want rationality, good sense, and prudence, Pompeius wins.

LAELIUS: True law is in keeping with the dictates both of reason and of nature. It applies universally to everyone. It is unchanging and eternal. Its commands are summons to duty, and its prohibitions declare that nothing wrongful must be done. As far as good men are concerned, both its commands and its prohibitions are effective; though neither have any effect on men who are bad. To attempt to invalidate this law is sinful. Nor is it possible to repeal any part of it, much less to abolish it altogether. From its obligations neither Senate nor people can release us. And to explain or interpret it we need no one outside our own selves.

There will not be one law at Rome, and another at Athens. There will not be different laws now and in the future. Instead there will be one single, everlasting, immutable law, which applies to all nations and all times. The maker, and umpire, and proposer of this law will be God, the single master and ruler of us all. If a man fails to obey God, then he will be in flight from his own self, repudiating his own human nature. As a consequence, even if he escapes the normal punishment for wrongdoing, he will suffer the penalties of the gravest possible sort.