

Definition and Standards of Δίκη  
in Homer and Hesiod

by

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That today's generations know precious little about the life and times of people in the ancient Greek world is no mystery. The lack of plentiful sources describing ancient life makes trying to piece together what these people thought about δικη difficult, so discovering this word's original meaning requires an in-depth study of what little solid evidence of the Greek mind has come down through the ages in the form of Greek literature. The authors Homer and Hesiod, who composed their works around the seventh or eighth centuries B.C., offer the best look at the earliest concepts of this word.<sup>1</sup> While investigating their works,<sup>2</sup> one must be especially careful to seek out δικη's core meanings instead of relying on the most common modern translation of δικη, "justice," which is in fact an extended meaning of the word, not one of its original uses. With that in mind, the study of δικη will yield an accurate picture of the ancient conception of the word, a conception which includes several definitions that apply in various ways to different groups of characters in the stories. This paper aims to determine for readers just what these ancient ideas of δικη were and how they applied to each class of people in the ancient tales.<sup>3</sup>

The groups of characters in Homer and Hesiod's stories for whom δικη applies differently include mortal men, the gods, and the kings of the Heroic Age that Hesiod defines and Homer describes (*Works and Days* 158-160). Of all the groups, mortals reveal the most about δικη, since investigation shows that these lowly commonfolk were the ones most constrained by its dictates. In order to determine or understand the definitions of δικη as they applied to mortals, one must first know whence the word 'δικη' comes. From there, the other meanings of the word give rise, and connections may be drawn between these origins and the consequent developments of the word.

### **The meaning of δικη for the common man**

The first meaning of δικη stems from the word's traditional etymology from the root *deik-* of δεικνυμι (Gagarin 1973, 82). This word, meaning "to show or point out," gradually led to its application to mankind's the legal process, in which the right way or the most fair settlement was shown or pointed out in respect to a particular case. Thus, when used in the singular form the word δικη in the works stands for a trial, the "peaceful settlement" itself (Gagarin 1973, 82), or for the side of the case that one litigant in a trial proposes. The plural δικαι often represents the actual rulings or pronouncements, and the verb form of the word, δικαζειν, signifies the process of settling a dispute. Further development led to the combination of δικη with πολος when referring to the person responsible for pronouncing judgments or settling disputes in the judicial system. In other words, δικασπολος became the ancient word for "judge."

Proof of this use of the word δικη occurs regularly in Homer and Hesiod. While the word appears significantly less often in Homer than in Hesiod (Gagarin 1973, 85), Homer paints a good picture of what the ancient mind must have conceived of as the legal aspect of this term. For one thing, his repeated use of the word together with αμφοτεροισι ("each" or "both of two") suggests the trial aspect of its meaning, since in no other way could δικη be associated with this word unless it referred to a case of deciding between two litigants. An example of this appears in Book 23 of the *Iliad*, where Antilochus and Menelaus are debating over the outcome of a horse race. Menelaus orders the leaders and rulers of the Argives to judge between the two, ες μεσον αμφοτεροισι δικασσατε (*Iliad* 23.574), so that the person who truly deserves the prize for this race will receive it. As infrequently as the word δικη is used in Homer, it is significant

that this passage, which is one of the few that discusses verbal disputes in the presence of a judge with an appeal to the righting of a wrong, contains multiple references to δικη in several of the word's forms: δικάσσατε (just mentioned), δικάσω in line 579, and an implied δικη in 580 in the sentence, ιθεια γαρ εσται. This just goes to show that δικη is indeed connected with the legal process in an undeniable way.

One can see other instances of the trial aspect of human justice in Homer in Books 11 and 12 of the *Odyssey*. In Book 11, the hero Odysseus witnesses the esteemed Minos in Hades giving judgment to the dead (568-571). The inferior shadows of former people in Hades come to seek the rulings (δικας) of this superior leader, just as they were supposed to have done as mortals living on earth (Gagarin 1973, 85). At 12.440, Homer specifically describes the trials of men and even at what hour of the day these typically occurred. The trials, which take place during an assembly, he says, involve young men seeking judgment (δικαζομενων αιζητων) from a presumably older man who presides over the affair (12.439-440). Here again the legal aspect of δικη in the realm of human life is illustrated.

Undoubtedly the most important example of δικη serving a judicial function in human life occurs in Book 18 of the *Iliad*. Here, on the shield of Achilles that Hephaestus crafts for the hero, a city of men appears. In the city, two men have gathered with a group of the citizenry to seek a settlement concerning the payment of a blood-price for a murder committed, and each of these two presents one of the opposing claims to be decided upon (δικαζον) by the distinguished leaders of the city, who each pronounce what he feels to be the best judgment (δικη) in regard to the case (490-508). With two instances of forms of the word δικη appearing here, this passage comprises another of the few occasions in Homer where δικη occurs more than once in a span of only a few lines. Once again, this repetition goes to show that δικη is indeed related to

the idea of a settlement or trial. Most scholars point to this passage as the most concrete example extant today of the process of the Greek judicial system of this time period, and for the purposes of this paper, it must be noted that this occurs in regard to human δίκη, since, although Homer for the most part describes the Heroic Age of men in his stories, he makes a special effort here to point out that this is a city of normal mortals. From this, one can infer that the description of the trial closely reflects the system in place at the time of the author's composition (during what Hesiod considers the Iron Age of men, as *Works and Days* 174-196 conveys, who are of a less noble make-up and who constitute the men of history from the end of the Heroic Age through the age of both authors' lives). Furthermore, this passage points out that it is necessary that humans carry out the process of judgment in this way.

Hesiod, in his attempt to convince his brother Perses through his poetry of the necessity of obeying the rulings of peaceful settlements, gives a long exposition on the need for δίκη as a peaceful settlement and the consequences of failing to follow through with this. In *Works and Days* lines 213 to 285, Hesiod employs some form of δίκη twenty times. Most interestingly, fully half of these instances have to do with δίκη in the judicial system. The system he prescribes comes complete with both judges and verdicts, just as Homer's does, revealing again δίκη's connection with this mortal system of judging right.

Answering the question as to why Homer and Hesiod (or the ancient Greek mind in general) believed mortals had to maintain peaceful settlements can be useful for shedding light on this definition of the word δίκη. Theories on this range from the practical to the moralistic to the theological, and there are good reasons to believe that all of these factors played a part in convincing Homer and Hesiod's audience of the necessity of the peaceful settlement. Homer tends to focus on the theological issue in answer to this question. He suggests that humans, who are ever at the mercy of the gods, should show respect for peaceful settlements on earth

because this is what the gods, specifically Zeus, command. This is not a moral issue for Homer whereby he claims that it was right to obey the will of Zeus, but the poet instead emphasizes the practical application of this rule in his story. He stresses that Zeus would severely punish any person who flouts his commandment by not submitting to a peaceful settlement. Homer also indicates at *Iliad* 16.387-388 that mortal men who “give crooked judgments in the place of gathering, and drive justice (δικη) out” will receive the full anger and wrath of Zeus. Mary Lefkowitz in her book *Greek Gods, Human Lives* attests to this interpretation of Homer (2003, 8), pointing to the passage at the end of the *Odyssey* where the goddess Athena, who was usually more than willing to help her favored Odysseus, refuses her assistance until he promises to settle on peaceful terms and continue this practice throughout his rule. The *Works and Days* includes theological appeals, too, as when the personified immortals Orkos (Oath) and Dike work together to make sure that corrupt judges receive punishment for failing the judicial system (219-224, 282-285). This personification of aspects of the judicial system, which also occurs, according to Gagarin’s interpretation, at *Works and Days* 9, 213, 217, 275, 220, and 256, and at *Theogony* 902 (1973, 89), was most likely a traditional part of the polytheistic religion of the people in those ancient times. Yet this literary device serves as an excellent tactic in trying to convince listeners of the importance of a situation in the story, since the presence of an immortal would have immediately drawn the audience’s attention. It was Hesiod’s hope that these listeners would obey the dictates of the peaceful settlement (δικη) out of respect to the gods he mentioned. This was undoubtedly Hesiod’s strategem at *Works and Days* 270-273 as well, where Zeus, the most powerful of all the gods, is said to set 30,000 spirits on earth to make sure that the trials (δικαζ) of humans occur without criminal activity. While much more will be written later on the topic of antonyms of δικη such as criminal activity, a look at other practical and moral implications of δικη in Homer and Hesiod is first necessary.

The idea that δίκη was a peaceful settlement made practical sense to both Homer and Hesiod for many reasons. If, based on theological or moral connotations of the word, the ancients believed δίκη should be respected in the form of judicial practice, the result would be peace in the land. The *Works and Days* is most explicit about this point, since its whole purpose is to appeal to its addressee's sense of what would be best for himself (both morally and practically) so that he would obey the dictates of δίκη and give Hesiod the fair share that he (the author) deserves. Hesiod extends the benefits of a well-observed judicial system beyond the mere peace it provides, claiming that the city whose judges are fair will blossom in many sorts of ways; he professes that its people will not suffer disease, their fields will bear good fruit, and their harvests will be plentiful. These benefits extend even to the children of the people of this peaceful land, who will grow tall and look like their parents (which, based on the context, must have been one of the hopes of people in ancient times). All these apparent benefits Hesiod lists in *Works and Days* 260-275, where the word δίκη is used frequently in order to convince his readers of the practical reasons to submit to peaceful settlements and thereby win themselves a smooth and easy life.

Moreover, in the passage following this one Hesiod explains that freedom from the punishment of the gods constitutes another reason to submit to peaceful settlements and avoid their opposite. Ancient theology contained practical implications for people's lives, as Hesiod points out when he suggests that disaster in the guise of famine, plague, war and consequent defeat, women's barrenness, and the end of family lines would come upon those who fail to make peaceful settlements due to the gods' desire to punish those who do not uphold δίκη. Accordingly, Hesiod states that misrepresentations of δίκη would have a negative impact not only on the individuals involved, but on their family, friends, neighbors, and everyone else in their

vicinity, so each person must see to it that this horrible fate does not befall him or her by making sure that the judicial system works properly throughout the region in which he or she lives.

Of course, the reason that Hesiod and others in the ancient Greek world had to make pleas in this way was the complete lack of any structure or institution to see to it that such judicial processes were carried out. People in ancient Greece at this time were just emerging from their Dark Age and were having to recover some sort of civilization. In the early stages of their newfound civility, the idea of community had not yet taken hold. Instead, it was expected that each household would take care of its own members. From what Homer and Hesiod demonstrate, no definitive laws existed, and certainly there would have been no method of enforcing such laws if they had. As a result, there was little in those times to compel the people to obey proper rulings or enact a fair judicial system (Seymour 1963, 88-91). Even human leaders such as kings had no way to impose upon the people their edicts, as the *Odyssey* clearly shows in multiple places where Odysseus' men simply refuse to obey his orders (9.39-61, for instance), as Sarah Pomeroy points out in her synopsis of Dark Age Greece (1999, 67). In fact, as the description of the shield of Achilles in Book 18 of the *Iliad* reveals, the litigants in a peaceful settlement of any kind had to be willing to consent to the judgment given at this time, as there was no authority to enforce the decision (Seymour 1963, 91). Since no one had formulated rules for the people, there was basically no way to know what was identifiable as right or wrong except by the reaction of the majority of the people. Helen makes this known in *Iliad* Book 3 when she speaks to Aphrodite of Alexander, whom the goddess had just plucked out of battle with Menelaus. Helen insists that she cannot go to him because "it would be shameful to share that man's bed" after he received a cowardly rescue from the fighting and contends that doing so would cause an uproar among the women of Troy (399-412). This goes to show that popular opinion

was what compelled people to act or behave in certain ways in ancient Greece, and the act of making a peaceful settlement was no exception. The peaceful settlement represented one way that the people could express their opinion on an issue, but unless the person who received the verdict was willing to respect their wishes, no action would be taken on his or her part. As Hesiod demonstrates with his appeal to Perses, the only real way to get a person to do something was to attempt to make an argument to convince him or her that this action was worth taking.

Perhaps the best way to convince people of this need to obey peaceful settlements was to appeal to their sense of morality. While it is true that abstract concepts of right and wrong as they pertain to the human condition and human nature did not fully develop until the later Greek philosophers, precursors of the concepts remain quite obvious in the early works discussed here, as the reputable Hugh Lloyd Jones testifies (1983, 35). Naturally, the *Iliad* and the *Odyssey* have less to do with the moral quality of settlements since they describe a situation of war and its ramifications on the journey home, while Hesiod's main goal, as has been stated, involves drawing on sympathies his brother may harbor for right (in other words, morally correct) action. Nonetheless, Homer does portray some kind of respect for the peaceful settlement that is *δικη*, as exemplified in the following passages in his works.

First of all, the Greeks made sure to establish a camp court on the shores of the Aegean in order to settle debts and property disputes even though they intended to make war in the foreign land, not peace (*Iliad* 11.807). This shows that these ancient men felt a need for peaceful settlements out of some obligation not imposed by any power other than their own. Gagarin writes of just such an obligation in his article on "Morality in Homer," where he points out that, though the actions of the Greeks in Homer are seldom free of self-interest, they do convey a concern for behaving rightly toward others insofar as this is beneficial to themselves and because it fulfills what they understood as the gods' commandments for their lives (1987, 288). In

addition, though the characters in Homer's tales do not question whether or not they act in accordance with the "highest" right, the absolute truth, or any other metaphysical concept as would be the concern of the later philosophers, these Greeks do show respect for what is considered right in their own day and age. In Homer's case, this sense of right happens to be defined by the strongest and most powerful men in battle. As Pomeroy acknowledges, good (*αγαθος*) and bad (*κακος*) are determined in respect to behavior in battle in Homer (1999, 60). Though analysts such as Gagarin would suggest that this basis for right and wrong only applies to the legal or judicial sphere of Greek life in a realistic, not moralistic way, this does take into consideration the fact that the ancients put stock in the "might makes right" principle (1973, 92).<sup>4</sup> While not a true model for morality as defined today due to its external rather than internal source,<sup>5</sup> this should not be discounted as some sort of morality for the Homeric people. Just because these people assumed that the most powerful of men and of course the immortals should rightly dictate the rules for their lives does not detract from their capability to base morality on this system (even if they did not label it as such), for a system that bases right on the rules of the mightiest at least has this as a prototype for the sense of right and therefore has some concept of morality, although following leaders applied mostly to times of conflict rather than to everyday life, where popular opinion was more prevalent than any leader.

Homer proves his acceptance of the might makes right principle throughout both his epics. Thomas Day Seymour points out that the monarchical structure of the ancient Greek society remains evident throughout the *Iliad* and the *Odyssey* and was characterized by a single king who was believed to have received his authority from the gods (1963, 78 & 100). Even the immortals in Homeric times operated within a monarchical hierarchy under the leadership of Zeus, as *Iliad* 8.431 suggests when Hera, the queen of the immortals, acknowledges Zeus' sole right to command the fortunes of the mortals in war. That the most physically and mentally

strong ruled in Homer is also evident in the *Iliad*, where Agamemnon, leader of the most men at Troy, asserts his influence over the others, even when his judgment seems not the best course of action.

Hesiod, too, endorses the “might makes right” philosophy in his famous tale of the hawk and the nightingale. Though much disputed,<sup>6</sup> this passage reveals at first reading that the might makes right principle is its moral lesson (Paley 1883, 32). Here the hawk carries off a “speckle-throated nightingale” (αηδονα ποικιλοδειρον, 203), which he censures for complaining since, he claims, “Only a fool struggles against his superiors” (210-211). The entire fable recommends trying to remain content with one’s position in life, as it is futile to attempt to combat this. Thus, might did make right in ancient Greece, as suggested both here and in Homer, and because of this, there exists something of an identifiable morality (by today’s standards) within the tales of these two authors.

Another reason that defining δικη as a peaceful settlement that must involve morality has to do with the qualified forms of δικη as they appear in the texts. While judgments (δικαι) are never called “good” or “bad,” nor are they termed “right” or “wrong” in either Homer or Hesiod, they are labeled “straight” (ιθυς) or “crooked” (σκολιος) throughout both works. Gagarin attributes this to the root *deik-*, meaning “boundary, dividing line” and the idea that this line could be placed straightly or crookedly between two people arguing over it (Gagarin 1973, 82). The words’ moral connotations are best exemplified in the *Works and Days*, where Hesiod calls “the best kind of judgment...a straight one from Zeus” (αλλ’ αυθι διακρινωμεθα νεικος/ιθειησι δικαις, αιτ’ εκ Διος εισιν αρισται) (35-36). Straight δικαι are also praised throughout the entire passage at *Works and Days* 247-304. Here, as stated previously, Hesiod credits a city’s flourishing to straight pronouncements of δικαι and blames suffering on the crooked verdicts of the judges of that place. The words modifying δικη are so tied to its mean-

ing that, at such lines as 230 of the *Works and Days*, the words even appear in combined form according to some editors, as ἰθυδικησι. In fact, this combination reveals itself at the very beginning of the *Works and Days* (line 9), where Hesiod calls for the laws to be made straight with δικη (δικη δ' ἰθυε θεμιστας/τυνη). With such a prominent position in the beginning of this tale, it is clear that Hesiod intended this concept of maintaining peaceful settlements to be a focal point of his work. For any who are still not convinced that ἰθυς implies some moralistic undertone, they should take into account that these people probably did not have better terminology to explain such notions at this early period in history. In respect of their insufficient vocabulary, words like “straight” and “crooked” probably functioned much like our substitutes, “good” and “bad,” do today.

Hesiod's *Theogony* lends credence to this argument as well. Though references to δικη in this work are not as many, there is still some evidence of continuity in thought concerning this word between this work and the *Works and Days*. In lines 85-86, for example, ἰθειησι δικησιν again appears, this time in the context of the wise leader who arbitrates settlements *with straight judgments* and has the approval of the gods. Though no mortal man of the Iron Age receives such divine backing, this passage will become relevant in the following comments regarding the role of δικη for heroes and kings.

As a last word on this point, one must look at a few references in Homer that pertain to the topic of morality. As has already been noted, the shield of Achilles holds great significance in the argument over what comprised δικη in ancient times. Thus, the fact that δικην ἰθυντατα (*Iliad* 18.508) is used in reference to the decisions that the judges on the shield give suggests that δικη must have contained some moral connotations, or else this combination of words would not have appeared here. In addition, though the passage about the horse race at *Iliad* 23.580 does not explicitly contain the word “δικη,” its implication here associated with the word ἰθεια,

as authoritative translators from the Loeb Classical Library acquiesce and its agreement in gender with *δικη* affirms, adds more proof that this word contains moral sentiments (Murray 1999, 537).

Showing what *δικη* is *not* will also help reveal what the ancients considered *δικη* to be. The first negative idea connected with *δικη* is violent behavior, as this term is frequently opposed to violent actions in the epics. The most prominent example of this opposition occurs in Book 16 of the *Iliad*, where the punishment for giving crooked judgments in the agora is described by way of comparison with the sound of horse hooves. Homer likens both the hooves and the judgments to a “violent rain” sent to destroy the fields at harvest time (587-588). Homer also contrasts violence and *δικη* indirectly when referring to the people of the Abioi at *Iliad* 13.6, who are labeled *δικαιοτατων ανθρωπων*. While this does not mean anything to the uninformed reader of Homer, especially since these people are not mentioned anywhere else in his works, it is significant in light of the fact that the peoples’ name means “nonviolent,” as V. Ehrenberg verifies (Gagarin 1973, 87, n. 32). Similarly, the “reckless (cruel) deeds” (*σχετλια εργα*) of men at lines 14.83-4 of the *Odyssey* are scorned while their opposite, *δικη*, is praised (Cunliffe 1924, 372). Noteworthy, too, is the fact that *δικη* is *always* praised, whether in Homer or Hesiod, as it is here, suggesting that (going back to its moral quality), *δικη* represents the good no matter the context unless used improperly (as with crooked judgments), at which points only its negative qualification is renounced, not *δικη* itself.

Hesiod, too, defines *δικη* as nonviolent by opposing the two terms. At *Works and Days* 247-285, for instance, and in multiple other places in this work, Hesiod contrasts *δικη* and *βιη* (force), in his attempt to convince his brother to concede to a fair trial. This same portion of the work features Hesiod’s explanation of the result of failing to follow such a trial: more violence

in the form of warfare, famine, plague, and other torturous elements. So not only is violence opposed to δίκη, but it causes the things which earlier were said that δίκη prevents. Moreover, Hesiod uses an adverbial form of δίκη to denote violent or nonviolent behavior. At *Works and Days* 260, for example, he speaks of the ἀδικον νοον of men, which Gagarin interprets as the heart (or mind) of men “behaving violently” (1973, 95).<sup>7</sup> At *Theogony* 236 the adjective δίκαιος is used alongside ηπιος to describe just and gentle thoughts, signaling a parallel between δίκη and gentleness.

The final term directly opposed to δίκη several times throughout Homer and Hesiod is υβρις. In some places, as at the very beginning of the exposition of δίκη at *Works and Days* 213, υβρις can actually be translated as “violence,” as Stanley Lombardo does, which, as has already been shown, is obviously opposed to δίκη (30). Though Cunliffe initially defines υβρις in its overall sense as the “wanton disregard of decency or of the rights or feelings of others,” he, too, recognizes that the term’s semantic domain includes violence (393). It is therefore clear that υβρις delineates something opposed to the concept of δίκη in the minds of the ancient Greeks, and, in turn, that this definition must have something to do with the judicial system.

Despite this overwhelming evidence for defining δίκη as a peaceful settlement, it is obvious from these works that this cannot be the only meaning of the word, and this necessarily has to be so for several reasons. Since substituting the words “peaceful settlement” or “judgments” for all occurrences of the noun form δίκη does not yield sense in all cases, other meanings exist and must be employed. That the sole meaning of δίκη as “judgments” is unacceptable may also be demonstrated by its related adjective δίκαιος, especially in its comparative and superlative forms. Gagarin, who hoped to demonstrate that these forms could be translated as “more peaceful” or “more violent” in all instances, failed to take into account some of

the following uses of this word (Gagarin 1973, 86).<sup>8</sup> Its occurrence at, for example, *Works and Days* 270 and *Iliad* 11.832 and 19.181 (as δικαιοτατος and δικαιοτερος) would make little sense if one tried to interpret them using some concept of a peaceful settlement, since the “most just of the Centaurs” (as δικαιοτατος appears in *Iliad* Book 11, line 832) could not bear that label if the word δικη had something to do with trials (especially since the Centaurs were notoriously unsophisticated, so much so that Cheiron, the Centaur to whom this passage refers, would not have had other members of his clan with whom to conduct a trial since these ruffians would never have complied with such a sophisticated civil process); nor could Agamemnon promise to “be more righteous hereafter,” as the Murray translation reads in *Iliad* Book 19, if δικη only applied to a trial setting. Therefore, another definition of δικη must exist to explain these usages.

Lexicographers such as Cunliffe and Ebeling propose that one alternative definition of δικη is “custom, way” (Cunliffe 1924, 95; Ebeling 1963, 308).<sup>9</sup> Rationale for this definition based on grammar reveals itself in two ways. First of all, δικη’s usual accompaniment by a genitive (a.k.a. “limiting”) phrase suggests that it assumes this meaning, since the custom or tradition of a certain group would have to be marked as belonging to that group, thereby allowing the genitive to fulfill its purpose as a possessive. Gagarin suggests translation for the genitive when used with instances of δικη such as this be “in the manner of...,” and he believes this lays the groundwork for a formula to exemplify some sort of tradition (Gagarin 1973, 82 & 93). In addition, δικη’s occurrence in references to a large group of people must mean “custom” because these references have to do not with something *between* the people, but within the group. Furthermore, δικη’s close association with θεμις (law), which is reminiscent of tradition because it imposes a sense of duty upon the people, justifies defining δικη as “custom.” As Gagarin points out, these two words could be used interchangeably at certain points in the epics, and thus

“tradition,” as a sort of law, is reasonably a good translation of δικη.

In many ways, Homer and Hesiod specify the exact traditions that fall under the jurisdiction of δικη in the normal human life. All of these stipulations for customs, Hesiod claims, came from the hand of Zeus himself and help to distinguish men from savage and uncivilized animals (*Works and Days* 277-280). Zeus rightly played the role of the custom-maker since “tradition, social hierarchy, and seniority” in reality determined what custom was supposed to be in the human world in the times of these writers, and Zeus served as leader in all of these (Robertson and Dietrich 1999, 589). Not all these customs, however, dictated a custom or way of life that was “supposed to be” in a moral sense, as Homer proves in *Odyssey* 24.255, where he uses the word δικη when describing “the way” of old men, and by this he means that “the way” is the characterization of the men. For the most part, though, use of the word δικη as a custom in Homer and Hesiod contains some moral connotations, as it does in the following paragraphs that delineate the specific customs that the ancient mind considered part of the sphere of δικη.

By far the most inclusive list concerning δικη’s different facets is found in lines 327-34 of the *Works and Days*. Within this section of text, which is part of that which translators such as Lombardo typically title “Justice,” Hesiod lists a multitude of acts that go against custom and are therefore labeled αδικη (334). Among those included in the list are wrongs committed against suppliants or guests, sleeping with a sibling’s spouse (adultery), speaking harshly to one’s old father, and doing ill to an orphan. Following this section, Hesiod also suggests that respecting the gods and helping one’s neighbors also keeps a person in accordance with δικη. As will be shown, these customs form part of the list of those that apply to δικη throughout both Homer and Hesiod, and thus it is these customs that must have been associated with whatever concept of justice existed in the ancient Greek mind.

One of the most often mentioned of the aspects of δικη in these authors has to do with

the notion of treating guests and strangers well. The guest-host relationship played a large part in foreign relations in ancient times (Pomeroy et al. 1999, 59-60), so this was an important tradition to maintain. The vast number of references to this custom of relating to guests and hosts in Homer and Hesiod assert its significance, especially since gods and goddesses are frequently called upon within the narratives to enforce this aspect of *δικη*. The most prominent example of supplication for such purposes occurs in the episode of the *Odyssey* in which the suitors' treatment of the house of Odysseus is explained. While these suitors, by custom (*δικη*), have a right to expect a welcome and hospitality from a friendly household (Seymour 1963, 100), they overwhelmingly abuse such hospitality. The common swineherd Eumaeus explains the importance for mortals of respecting the guest-host relationship and treating strangers well in his commentary about the behavior of the suitors at *Odyssey* 14.57-8. Both he and Penelope repeatedly complain about the suitors' lack of proper behavior in this regard, and Telemachus and even Athena join in voicing this same irritation at various points in the story.<sup>10</sup> Penelope describes the exact nature of the crime that these suitors commit at *Odyssey* 18.275, where the details of the guest-host relationship are explained. For one thing, Penelope asserts that guests are supposed to bring gifts and shows remorse that her guests instead use up all the possessions that Odysseus has accumulated. Eumaeus also mentions such abuse of Odysseus' possessions in Book 14 of the *Odyssey*. Here, Homer describes the suitors' neglect of the gods' wrath, their lack of pity, and the way they waste Odysseus' property insolently and in a manner so disrespectful that not even enemies would be thought to do this. In his passage (lines 14.80-100) Eumaeus repines, too, over the unfair (*οὐκ δίκαιως*) method by which the suitors attempt to woo Penelope, since this also goes against custom. The suitors add further injury to insult (to invert the normal expression), as mentioned in the *Odyssey* 1.387, when they ignore the fact that Telemachus has the right to the throne despite their knowledge of this custom of kingly succession.<sup>11</sup>

The suitors (namely Ctesippus) even admit the importance of not abusing the guest-host relationship in a speech at *Odyssey* 20.294, saying that this would be οὐδε δίκαιος, though apparently such speech falls on deaf ears, since these offenders of the custom fail to reflect upon their own actions after hearing such words.

Respecting strangers and suppliants and treating them kindly also came to be a highly regarded aspect of δίκη in ancient times, as the words of Homer's *Odyssey* prove. Eumaeus has already been credited for showing this in his speech at *Odyssey* 14.56-58, where he says, "Stranger, it is not right for me to slight a stranger, even though one of less account than you were to come: for all strangers and beggars are from Zeus, and a gift, though small, is welcome from such as we." If this statement is truly representative of the Greek mindset on this matter, then it coincides with other passages from Homer, as in the instance where Penelope defends the right of any stranger to a portion of her house (*Odyssey* 21.312). The suitor Antinous, upon striking a stranger in the house of Odysseus (who ironically turns out to be Odysseus himself in disguise), is rebuked by his comrades, the other suitors, who realize that any stranger could be an immortal masquerading as a beggar to fool human eyes (*Odyssey* 17.483-487). The suitors, of course, will suffer punishment at the hands of Athena and Odysseus in the end for their violation of crimes against both host and stranger. In the meantime, though, the suitors (specifically Agelaus) praise Telemachus for his well-spoken (δίκαιος) words at 20.304-322, in which the young man verbally condemns the suitor Ctesippus for mistreating strangers, sexually abusing the handmaidens of Odysseus' household, and doing all this as a guest (thus violating the guest-host relationship and several other established customs).

The suitors, though, were not the only characters in Homer's tales to break the traditional guest-host relationship and receive punishment for it. Lefkowitz makes note of the fact that Paris, in violating this custom when stealing Menelaus' wife from her home, receives ten

years of war for his misconduct. She goes on to rightly justify this punishment, saying that both Zeus and Hera (the former the one who is responsible for upholding the tradition, and the latter the one who protects the sanctity of marriage) see reason to bring punishment on Paris until this crime is set right (2003, 2 & 56).<sup>12</sup>

This particular situation also goes to show that certain crimes as they are known today do not relate to the ancient Greek concept of *δικη*. As one can see here and as it will be shown later in this paper, theft was not a matter of *δικη* to the ancient Greeks. With their lack of emphasis on the importance of the private ownership of property, the Greeks had fewer qualms with Paris for his stealing of Menelaus' bride than they did for his violation of guest-host relationship. They found the latter breach much more offensive, or at least much more worthy of the attention of the populace than the act of theft. Seymour notes in his *Life in the Homeric Age* that this, as well as other crimes such as murder, were not public (that is, subject to the constraints of the rules of tradition) but private matters unless guest-friendship or the failure to follow through with an oath regarding these matters was also a factor (1963, 89-90). As evidence of this, consider the trial on Achilles' shield in Book 18 of the *Iliad*. The two litigants in this trial are disputing over restitution for a murder that has taken place. Interestingly, the issue here is not whether or not *δικη* has been violated on account of the murderous act, but whether or not the price has been paid for that murder. Seymour points out that murder, as well as other crimes that would today be considered a violation of justice, was a private matter in ancient times, so required individual repayment by the guilty party and had no reason to come to trial unless the payment was outstanding (88). Consequently, only the acts described in the following pages were those that fell to the realm of *δικη*, whereas murder and other such crimes did not hold such distinction in the ancient mind.

Keeping oaths is another such aspect of *δικη* as shown in Homer and Hesiod. For one,

Hesiod puts much emphasis on not lying under oath since this damages the goddess Dike and thereby brings ruin to men (*Works and Days* 283). He also suggests that immortal Oath “keeps up with crooked verdicts” in coordination with Δίκη (220). Homer, too, highlights oaths as a facet of δίκη. Pomeroy notes that, “the gods in Homer primarily condemn only oath breaking and mistreatment of strangers, suppliants, and beggars” (1999, 65). Lefkowitz concurs, adding that the immortal Erinyes, the “divinities of retribution,” protect oaths by punishing the breakers of them (244, n.18). Homer reveals further proof of his disdain for oath breakers at *Odyssey* 13.209, where Odysseus prematurely curses the Phaeacians and calls them οὐδε δίκαιοι for leading him astray and not following through with their promise to deliver him to his Ithacan homeland. Menelaus uses this tradition to his advantage at *Iliad* 23.570-595 when he forces Antilochus to swear an oath before giving his side of the story of the horse race. In this way, Menelaus assures that the truth will be told, that the right will be declared (δικαζῶ), though in fact, Antilochus concedes to give up the prize to Menelaus rather than swear falsely on the horse and be considered “a sinner in the eyes of the gods.” In addition, this tradition regarding oaths encompasses a rule against being deceitful towards other human beings, since humans should neither “bear false witness” nor use an oath to cheat each other, as Katherin Olstein (1980, 295) explains via the *Works and Days*’ representation of the myth of Prometheus (*Works and Days* 282).<sup>13</sup>

Maintaining respect for elders (as exemplified in the line mentioned above about not speaking harshly to one’s old father) comprised yet another of the aspects of δίκη for mankind. The Erinyes, whose connection to δίκη has already been expounded upon, are said to favor elders in Book 15 of the *Iliad* (203-204). A person failing to do likewise may suffer their wrath, and most assuredly, as the goddess Iris mentions here, these enforcers of δίκη will always side with the elder in a dispute (Lefkowitz 2003, 69). Peisistratus, for one, successfully demonstrates adherence to this dictate in his banquet with Telemachus and Athena. As the result of his

remembering to follow this custom at *Odyssey* 3.52, Athena (in disguise) was pleased with the δίκαιος ἀνήρ (Gagarin 1973, 86).

The passage of the *Odyssey* mentioned in the preceding paragraph may be interpreted a bit differently and can thereby suggest another custom required by δίκη. Instead of the δίκαιος here standing for Peisistratus' adequate respect for the elders at the table (3.52), this can be taken to refer to his remembering to give praise to the gods before the feast. This view reveals the importance of acknowledging the gods' role in human life and honoring them on all occasions, actions which the ancient Greeks considered proper decorum or custom. Out of both fear and a sense of indebtedness to the gods for past victories and successes, the Greeks of Homer and Hesiod's time felt it necessary to always attempt to win the favor of the immortals via sacrifice and prayer. By these and other acts of piety such as offering sacrifices or building temples to the gods (Lefkowitz 2003, 57-61), they hoped to earn special rewards from individual gods, or, at the very least, to evade the punishment the gods would send if humans failed to recognize them. At one time or another, most of the characters in Homer and Hesiod reveal their belief in this aspect of their theology, either by way of invoking the gods' help by prayer or crediting a god or goddess for some accomplishment of wit or battle that the individual realized. Achilles affirms this idea early on in the *Iliad* at 1.218, where, speaking to Athena, he says, "Whoever obeys the gods, to him they gladly give ear." That this respect for the gods has something to do with δίκη can be seen when the two bards show what not to do in respect to behavior towards the gods. At *Odyssey* 3.133, for instance, wise Nestor deems the Argives οὐδε δίκαιοι because they failed to sacrifice properly to the gods. Because of this, these transgressors of δίκη faced the wrath of Zeus on their homecomings from Troy. The same distinction is given to many others over the course of the *Odyssey*, mostly while Odysseus deliberates

about certain sets of people and wonders whether they are fearful of the gods or οὐδε δίκαιοι. The two-line phrase incorporating these words occurs in exactly the same form in four different places in the *Odyssey* (lines 6.120, 9.175, 13.201, and 8.575), clearly suggesting that those people not fearful of the gods should be avoided since they are tainted by their failure to obey proper custom.<sup>14</sup> Odysseus' men also failed to respect a god in the *Odyssey* and subsequently received punishment. In this case, they stole the cattle of the god of the Sun, and since theft was a personal matter to the Greeks, not a thing of public concern, the only reason for their punishment had to be the men's failure to obey the orders of the god (Seymour 1963, 90).

Respecting one's position in life (especially the fact that this position remained below that of the gods) was another important part of δίκη. Lloyd-Jones maintains this idea in saying, "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" (1983, 35). Countless characters in Homer and Hesiod are rebuked for their attempt to gain some of the privilege for themselves that the immortals already possess (as when Telemachus accuses the suitors of ὑβρις in *Odyssey* 4.321, for example). Moreover, humans must respect their superiors, allowing their leaders to lead and giving them respect for performing this service (Pomeroy et al. 1999, 56).

The last tradition that Homer and Hesiod expound upon in relation to δίκη has to do with hubristic and violent behavior in the same moralistic way that this applied within the context of the alternate legal definition of δίκη. In addition to the "sinner" reference at *Iliad* 23.595 and various other instances in the previously mentioned occurrences of δίκη, the word defined this way has moral undertones. When it comes to ὑβρις and βιη, this is particularly true. In respect to tradition, Hesiod talks once again about the horrible punishment that will come upon mankind if either force or violence is chosen over δίκη. Both Hesiod and Homer maintain that

violence goes against custom when used on suppliants and strangers, guests and hosts, or in violation of any of the other aspects of *δικη*. Since custom is based on what the people consider right, this also violates the sense of morality inherent in everyday human action.

One last note on *δικη* as it relates to human life concerns the role of divine punishment. Since the ancients, as is obvious from their theology, regarded most natural events and disasters as the works of a god or goddess sent to mankind because of some foul error that an individual or group committed, it is natural for Homer and Hesiod to ascribe many of their characters' sufferings to whatever deviation from custom they told about or witnessed. Divine retribution is blamed for events such as the Trojan War, which involves, as Lefkowitz notes, suffering for many from the actions of only one (or two, if Helen is held responsible for her own actions) (29). While punishment may not come to the wrongdoer immediately following his or her indiscretion, he or she may be punished according to the divine timetable, which may actually force retribution onto the heads of the children or even the grandchildren of the guilty party. Either way, fear of the immortals' tendency to bring pain to human lives provides a very sound reason for mortals to follow the traditions and customs set forth by *δικη*.

So these are the standards of *δικη* as they apply to mankind. All men, Homer and Hesiod demonstrate, must honor the gods and their elders, follow through on their word when it comes to oaths, respect suppliants and strangers, maintain a healthy guest-host relationship, and do right within a peaceful judicial system that excludes *υβρις* and *βιη*, among other things, in order to avoid the punishment that results from interfering with *δικη*. These rules apply to mortal men from the tallest to the smallest in every society living in the Iron Age. Since might makes right, the rules must be exceptionally stringent and limiting for the lowest classes of men, especially for slaves and the like who have more superiors to follow than do those above them in the social hierarchy. Eumaeus, one of the few men of lesser status (a self-proclaimed servant)

who has a role in Homer, speaks about the treatment and torture that masters place upon those they lord over, and this provides but one example of what life must have been like for lowly people in those ancient times (*Odyssey* 14.59-61 in Lattimore 1951, 211). Though modern analysts cannot learn much about the lives of non-heroes from the lines of Homer, this example rings clear: they would have necessarily had more restrictions placed upon their actions under a most strict set of rules and regulations when it came to δίκη due to their low status. As in the case of Thersites in Book 2 of the *Iliad* (211-277), whose minor status does not even give him the right to speak in assembly and causes him to be the target of much derision, the life of the mere mortal had to have been rough indeed.

### **The meaning of δίκη for the immortal**

But what of the upper echelons of Homeric society and those living well in the times of Hesiod? Particularly for the immortals, who occupy the highest rung of the ladder of all the life forms on earth (or on Mount Olympus, as the case may be), δίκη was an entirely different story. These great and powerful beings were not held to the same standards as common humans existing in the Iron Age. In fact, few of humanity's rules applied at all in the world of the gods. Significantly, mere mortals such as Homer and Hesiod did not hold these higher beings to the standards to which they held their own fellow men, but instead they in their works hold the gods and goddesses responsible to only a few of the aforementioned conventions.

Of the rules listed above concerning δίκη set forth for humans to follow, several can be eliminated straightaway, because they have no way of applying to an immortal who has severely fewer cares or worries than those found in the world of humans below. No guest-host relationship need apply, for instance, since gods had no need for the food or shelter or friendly territory that a host would provide. Nor do the immortals have to comply with rules out of fear of divine retribution, though they can receive injury from another god. Furthermore, the rules

that remain for them to follow seem skewed or lax in a way that makes it easier for them than for humans to adhere to the dictates of δίκη.

One aspect of δίκη that does not seem to apply strictly at all to the immortals is the tradition of keeping oaths and avoiding deceit. The Olympian gods who roam about the ranks of the Greeks and the Trojans at Troy freely promise whatever they choose to their favorite humans. However, the gods do not always intend to make good on these promises, nor do the humans themselves particularly expect these promises to be honored, or, if they do, they simply pass it off as the “will” of this or that god if the immortal does not keep his or her word. In fact, the gods deliberately deceive humans throughout these epics, as when Zeus tricks Agamemnon in a dream at *Iliad* 2.53 so that the human leader chooses the wrong course of action in battle. Gods continuously manipulate humans and even other gods to get what they want, though when this involves Zeus, the offending god will have to pay for his deception, as Prometheus does in *Theogony* 537-572. Zeus himself unabashedly lies and attempts to deceive his own wife (*Iliad* 1.542), a fact that neither Homer nor Hesiod rebukes him for in either of their works. The one exception to this transpires when the gods swear by the river Styx. In doing so, they bind themselves to their word, though no evidence in the texts suggests that it bound them to keep oaths to humans, but only to other gods (*Iliad* 14.263-276).

The apparent inequality of these rules and their difference between men and gods must have seemed quite natural to the ancient Greeks because it simply followed the “might makes right” principle so central to their concept of δίκη. For example, the immortals could lie all they wanted to humans with no thought of repercussion, since there was no one looking out for mortal interests who would dare attempt to reprimand a god or goddess on behalf of the lowly humans. Hence one can reasonably conclude that Zeus, as the mightiest of all the powers in the

ancient Greek universe, had to follow no one's rules. As for the rest of the gods and goddesses, both Olympian and those of the earlier generations, there remained a few meager boundaries that Zeus would enforce if crossed, and it was for this reason that some of the aspects of *δίκη* applied to them.

If the "might makes right" hypothesis holds true, it follows that the Olympian gods would have to subscribe to the rules of *δίκη* that require being content with one's station in society and obeying one's superiors. For the gods, of course, this meant only that they had to fear and respect Zeus. From the minor goddess Calypso, who lets Odysseus go in *Odyssey* Book 5 out of fear of Zeus' fury, to Hera, queen of the gods who declares that the other gods should allow Zeus alone to decide the fate of mortals in *Iliad* 8.431,<sup>15</sup> all feel it necessary to submit themselves to the will of Zeus. Thus, the hierarchical structure of the gods' world reflects the similar monarchical structure of the human one, with Zeus as the eternal king and leader.

Since Zeus has the unending right of subjecting those below him to his will, there is little need for a judicial system among the gods such as the one prescribed for humans. Despite this, however, Zeus actually seeks the advice and opinions of the other gods, as he does in the *Odyssey* 1.76-79, though he does not always act in accordance with their suggestions. Moreover, the gods make little attempt to settle their disputes peacefully and regularly resort to violence to accomplish their selfish goals with no regard for anyone else's wishes besides those of Zeus. As in the beginning of the *Iliad* when Apollo sends violence to the Greeks at Troy so that they will make their peace with him by way of his priest, Chryses, the gods show no remorse for their cruel and violent actions against mankind, and neither Homer nor Hesiod insinuate that the gods should behave in any way other than the one in which they are portrayed. As expected, this standard for conducting peaceful settlements applies least to Zeus, who regularly punishes violently whoever comes in his way, including the god Prometheus, whose tale is found in both

the *Works and Days* and the *Theogony*.

The one character of these epics who does not feel the need to pay the utmost respect to the wishes of Zeus is Polyphemus, the Cyclops whom Odysseus encounters on his journey homeward. This giant behaves so badly that he even claims to “shun the wrath of Zeus” and says that the Cyclopes, being far better than the gods, need pay no attention to their dictates (*Odyssey* 9.275-278). Polyphemus thinks himself stronger and more powerful than all the immortals, and due to his belief in the idea that might makes right, this causes him to feel superior to everyone else’s rules.<sup>16</sup> He scorns the appeal that Odysseus makes that he assist beggars and suppliants (as Odysseus and his men are), though this only goes to show that the Cyclopes have *not* in fact reached divine status, since Zeus does indeed allow him to be punished for this transgression. Audiences can discern this fact from Odysseus’ departing speech, during which the hero blames Polyphemus’ fateful accident (his being blinded by humans) on his failure to treat the suppliants with respect (9.475-479). Also telling, too, is Odysseus’ receipt of punishment for wronging his host, Polyphemus. Though the Cyclops treated him and his men poorly (by eating some of them) and had no intention of dealing with them at all considerately, it is Odysseus whose travel plans Poseidon thwarts as the result of his encounter with the giant.

Instead of following the dictates of *δικη*, the gods and goddesses function as the enforcers of it in all respects. More than any one of them Zeus, whom Hesiod claims gave *δικη* to men at *Works and Days* 274-285, watches with his 30,000 spirits over men to make sure that they follow all the rules that *δικη* entails (*Works and Days* 254, 263-269). Zeus supervises the mortal judicial procedure in many instances in the *Works and Days* and at *Theogony* 902 and is called upon to straighten out crooked decisions with *δικη* (*Works and Days* 9). Significantly, Zeus even decides two disputes in Homer (Gagarin 1973, 91).

Other gods and goddesses also play a role in the concept of *δικη*. Hecate, for one, over-

sees the legal process of kings, as *Theogony* 434 affirms. The Erinyes, as has been written, punish oath-breakers. Athena, too, makes sure to maintain δίκη at the end of the *Odyssey*, requiring Odysseus to pay what he owes to the families of the suitors he has slain. As Lefkowitz asserts, this is significant, since Athena usually assisted Odysseus in any way possible and required nothing of him in return, that is, until δίκη was involved, which must have been a concept too important to the goddess not to uphold (2003, 8 & 10). While seeing Hades, Odysseus relates the story of how Athena also helped judge (δικάζω) the contest between Odysseus and Ajax (*Odyssey* 11.547), revealing yet again that sometimes the immortals, who can involve themselves in every aspect of mortal life, rarely do so except for their own selfish reasons unless in the name of δίκη, for there are very few other reasons that call so urgently for their direct intervention.

Beyond establisher of δίκη, Zeus' role includes punisher for acts not in compliance with δίκη. Evidence for this resides in the *Works and Days*, where Hesiod insinuates that Zeus will help him in his dispute with Perses (265-273). The *Iliad* is most explicit in exemplifying this role of Zeus. In 16.384-388, for instance, Zeus sends a flood in anger at men who gave crooked judgments in the agora, destroying their fields as a punishment for driving δίκη out. The *Odyssey* contributes to this image of Zeus as well, as in 13.209 when Odysseus calls on Zeus to punish the Phaeacians for their apparent deception, thus acknowledging Zeus as the appropriate god for this role.

One last thing that is significant regarding δίκη in connection with the immortals is that Dike herself is personified in Hesiod. If one assumes that the Greek deities represent the ancient minds' unsophisticated attempt to portray whatever it knows of abstract concepts in human life (since they were incapable of expressing higher concepts in any more effective way), then certain conclusions can be drawn based on Dike's place in Hesiod. As the daughter of

Zeus and Themis (as Dike is in the *Theogony* lines 901-903), her importance to Zeus is revealed, for this father of the gods would want to look out for his daughter and protect what she stands for. The fact that she sits beside him on the throne heightens her significance in the Greek mind, for from this vantage point she is able to convince Zeus who is deserving of punishment, and he in turn avenges all acts against her (*Works and Days* 256). Her relationship to Themis is also quite telling, since Themis is one of the primordial goddesses and representative of “law.” This demonstrates either that Dike works within the framework of law, or perhaps that custom is a type or branch of law, and so suggests it should be followed in the same way. Dike’s relation to Themis’ other daughters, namely Eunomia (“Good Order” or “Divine Government”) (Sourvinou-Inwood 1999, 1497; Lefkowitz 2003, 20), Eirene (“Peace”), and the Moirai (“Fates”) also suggests possible characteristics of Dike. Like fate, Dike represents the way things should be, and following her remains on a par with good order and can bring peace. Thus, one can see why all of these concepts would be related in the Greek mind. That the sum of these goddesses comprises the Horae (“Seasons”), which are labeled so at *Theogony* 901-904, also suggests that they represent the way things should be.

### **The meaning of δικη for the hero and the king**

While mortals of the Iron Age must hold strictly to the many dictates of δικη and the immortals loosely to many fewer rules, the heroes of Homer’s tales fall somewhere in between. This is fitting because, as Hesiod points out, the Heroic Age of men far surpassed his own age in nobility and behavior (*Works and Days* 158), yet they remain inferior to the gods. This age’s connection with the immortals gave them the right of exemption from some of the rules as well. Some heroes relate to the gods because they are demigods, sons of one immortal parent. Because might makes right, this generation of kings necessarily had to be markedly δικαιότερος, as they were more powerful physically than their non-heroic and completely mortal Iron Age

counterparts. Just for this fact, the heroes would not have had to follow the same rules as simple humans. Zeus himself honored the heroes, as their possession of his scepter and their birth-right proves (*Iliad* 2.197, 4.489), and some of them even have epithets that reiterate this position. Whereas no mere mortals receive a title in Homer or Hesiod that commends them for their character with respect to the way they observe δικη, several of the heroes earn this distinction, such as Nestor, whom Telemachus says, “knows judgments (δικαζ) and wisdom because he’s a king and seems to appear divine,” (*Odyssey* 3.244) and Odysseus, who “did no wrong in deed or word to any man in the land as the custom (δικη) is of divine kings,” according to Penelope (*Odyssey* 4.691).<sup>17</sup>

One rule that the heroes needed not worry about following was the one denouncing deceitfulness. While some try to claim that the heroes only play by different rules because they are depicted in a time of war, not peace (Gagarin 1973, 87), and would reason that deceitfulness is merely a strategy accepted in times of war, they do not take into account the fact that Odysseus remains deceitful in the *Odyssey* as well as the *Iliad* and receives punishment for these actions in neither of these two works.<sup>18</sup> Odysseus, who was just labeled as one who upholds δικη in the previous paragraph, would not be able to hold this designation while committing these acts of deception throughout the *Odyssey* and not receiving punishment for them if separate rules did not apply to heroes. Though Odysseus does suffer for some of his actions over the course of both of Homer’s epics, it must be noted that the author does not attribute these punishments to his characteristic deceit (which Homer makes no claims to refute nor rebukes Odysseus for), but to specific other deeds of the hero, such as the blinding of Polyphemus. So though mortals must avoid deceiving one another, as Hesiod tells Perses, heroes are free to deceive whomever they would like, save their immortal superiors.

Another rule from which heroes and kings are exempt has to do with violence and force.

Though these kings must perform their duty by ensuring that peaceful settlements take place in their lands, they by no means must utilize peaceful means themselves to accomplish this, for they are allowed and even obliged to remedy situations with violence. Evidence of this can be found in several episodes of both Homer and Hesiod. At *Iliad* 16.542, the hero and Lycian leader Sarpedon is praised for guarding his homeland with judgments (δικαι) that he must make in conjunction with strength or might (σθενος). Not only does Homer not decry this use of force, but the force even becomes part of his praise of the hero. Likewise Hesiod, at *Theogony* 81-91, praises the god-like king who can arbitrate disputes in court but makes no claim that such a ruler must be at all times peaceful. As Gagarin notes of the *Works and Days*, “there is no mention of υβρις (or βιη) in the subsection addressed to the kings (248-73), for it is not the task of the kings to give up violence and submit to arbitration, but rather to insure that the arbitration system works fairly and effectively” (1973, 90). The king must pronounce straight judgments, while average people like Hesiod and Perses must act out these dictates in a peaceful way. When the people fail in this respect, it is evidence of their worthiness to be placed among the degenerates of the Iron Age, as this is the disintegrated generation that attempts to settle disputes by force and receives punishment for it, as *Works and Days* 192 relates.

The difference in stipulations of δικη for heroes and kings would have been acceptable to the mind of the common ancient Greek due to the necessity in those times of the defense of the group. Since the people of Homer and Hesiod’s time, who lived in communities with very low levels of organization, would have had no stability or guarantee of safety without someone to physically protect them, they would naturally allow a person who was capable of providing such a service whatever concessions he needed or wanted in exchange for this benefit to the society. Because the common people would not be able to sustain their existence on their own without such help from heroes or kings, these best of men, as the Trojan hero Sarpedon affirms

in *Iliad* 12.309-317, get the best of food, drink, privileges, and amenities in their homelands “since they fight among the foremost” of their people in battle for defense. In return for their distinguished position, then, it was the duty of the hero and king to lead both at home and abroad.

Part of this leadership responsibility for the king included, of course, maintaining *δικη* in the sense of it being a custom, as all the works considered here suggest. Seymour points out that the *δικασπολος* or “minister of justice” mentioned at 11.186 of the *Odyssey* was approximately equivalent to a king in the ancient mind (1963, 88). At *Odyssey* 19.111, Homer professes that the good king maintains *ευδικιας*, and, as a rule that heroes are required to follow, must fear the gods. Hesiod affirms this idea, suggesting that kings must keep *δικαι* straight because Zeus is watching over them (*Works and Days* 263-269). So, in keeping with the might makes right scenario, this proves that kings (who are represented as nearly equivalent to Homer’s heroes) must do as the gods will due to the need to be obedient to superiors. The kings and heroes have other rules to follow, and this is true only because of the necessity of having to obey the gods.

In regard to the heroes, the gods enforce the keeping of oaths. The incident of the horse race mentioned above provides one unquestionable example of this dedication to oaths since Antilochus reveals his fear by preferring to give up the prize instead of swearing a false oath and suffering the wrath of the gods for this infraction. If he had not feared that he would infringe upon the dictates of *δικη* with this act (thereby incurring the wrath of the gods), he would have gone ahead and sworn the oath. However, the hero knew that the gods require him to keep oaths, so he did not want to disobey them by swearing falsely.

The final dictate of *δικη* imposed upon heroes involves the convention of the peaceful settlement. Because heroes are strong enough that they can provide for themselves, they need

not hold themselves responsible to any inferior person unless contracted to do so. In other words, though they do owe the gods, they only owe common men when a settlement requires them to do so. The use of *δικη* occurs in this way at *Iliad* 19.180-181, where Agamemnon agrees to be *δικαιοτερος* in his dealings with others if Achilles will rejoin battle. Previous to this agreement, Homer implies, Agamemnon owed nothing to anyone and acted in whatever way he chose. However, with this new rule instated, he would have to take into consideration the route that would promote peace with others so that he could avoid such rebellion as this in the future. The fact that Achilles refuses to accept this compromise does not detract from Agamemnon's new willingness to abide by another's rules and to be indebted to another to work out a peaceful agreement, which lowers his own position from that of the unyielding dictator, proving that the king and hero had no such obligation at the start.

So do Homer and Hesiod contain some aspects of modern justice in the form of the judicial system and proper custom? Absolutely. In fact, these authors honored some of the same principles of justice as the courts do today, including respect for oaths, maintenance of peace, and avoidance of violence. Though the modern concept of the word may contain more depth in that its moral value is taken into consideration, the basis for the concept of justice still reveals itself in the early times of Homer and Hesiod. In addition, these authors portrayed a worldview that holds different classes of people to different standards of this justice, a practice that still exists today. While the distinctions between social classes no longer fit into categories such as gods, heroes, and kings, as it did in Homer and Hesiod's day, today's social classes receive treatment congruent to these classes. Despite these variations, the in-depth look at the uses and definitions of *δικη* in Homer and Hesiod shows just how much modern derivatives rely on the thoughts of the people in the world of ancient Greece.

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<sup>1</sup>This study makes some basic assumptions about Homer and Hesiod that are worth noting. First, I assume that both were independent authors who composed each of their respective texts. Second, I confess that we today cannot precisely date either of the works, nor determine the order in which they were composed.

<sup>2</sup>When using the term Homer, I am referring exclusively to the works traditionally ascribed to him, such as the *Iliad* and the *Odyssey*, without taking a stand on the issue as to whether or not such a poet actually lived and composed these works. Also, since the other works attributed to him are of dubious origin or are exceedingly fragmentary, I do not use them as evidence for this study. Similarly, I include only the *Theogony* and the *Works and Days* in my discussion of Hesiod, as other works attributed to him, such as the *Shield of Herakles*, are the subject of much debate and are thus more problematic than I wish this study to be.

<sup>3</sup>Unless otherwise noted, all substantial translations of Homer are those of A. T. Murray in the Loeb's version of the *Iliad* and the *Odyssey*, vols. 1 & 2 (Cambridge: Harvard University Press, 1999 and 1995, respectively). All translations of Hesiod come from Stanley Lombardo, *Works and Days and Theogony* (Indianapolis: Hackett Publishing Company, Inc., 1993), though line numbers mentioned correspond to F. A. Paley, *The Epics of Hesiod*, 2nd ed. (London: Whittaker and Co., 1883).

<sup>4</sup>Though his statements in “Δίκη in the *Works and Days*” specifically address Hesiod, whom Gagarin argues only advises that proper litigation makes life easier or better, he applies this concept to Homer early on in the article. The kind of pseudo-morality Gagarin sees, which he labels so because he feels Hesiod's statements are pieces of practical advice and not a true consideration of right, does not do justice to either of the ancient authors for the reason that might makes right was internalized in these people to the extent that it was not just being forced upon them. This is not to say that they did not act on the basis of other external circumstances nor that they always followed their leaders, but the fact of the matter is that this belief in the might makes right principle contributed to their decision-making process. They did follow the principle to some extent, especially in times of war, thus proving that Gagarin does not give them enough credit, for he denies some of their depth.

<sup>5</sup>*Oxford American Dictionary*, 1980 ed., s.v. “moral,” which reads, “based on people's sense of what is right or just, not on legal rights and obligations.”

<sup>6</sup>Gagarin cites L. W. Daly on page 92 of his “Δίκη in the *Works and Days*,” who is known to read the lesson into this fable that humans should act contrary to the animals depicted here.

<sup>7</sup>Though Gagarin would not admit this, the application of this adverb to the heart or mind of men must have moral significance, for no translation can make this a realistic or practical statement, since the heart cannot be qualified in any realistic or practical way, but the passage must have some more abstract meaning.

<sup>8</sup>Nota bene: this applies only to adverbial form of δίκη in Gagarin's work (not to be confused with his interpretations of other forms of the word mentioned later in this paper).

<sup>9</sup>In fact, Cunliffe lists “custom, way” as the first definition of δίκη.

<sup>10</sup>Athena disguised as Mentor calls the suitors ουδε δικαιοι and fools at *Odyssey* 2.282, as does Penelope at *Odyssey* 21.312.

<sup>11</sup>Though δίκη is not mentioned in this excerpt, Seymour brings up this point about the further violation of custom by the suitors (1963, 82).

<sup>12</sup>Lefkowitz ignores at this point Paris' other unwise decision in the contest for the golden apple, which can also make him blameworthy as the cause of the Trojan War.

<sup>13</sup>Olstein believes that the ancients' idea of punishing for trying to cheat one another is the result of the Prometheus myth as it appears in the *Works and Days*.

<sup>14</sup>Though some may argue that these lines are repeated due to the nature of oral poetry, the fact remains that the concept had to be present in the first place so that the lines formed in this way.

<sup>15</sup>An instance of the word δικάζετω is used here.

<sup>16</sup>Though no mention is made of δίκη in this episode, Odysseus claims that Polyphemos has acted against custom, as line 352 reveals: επει ου κατα μοιραν ερεξας.

<sup>17</sup>Though this passage could be discredited as a statement of an over-boastful wife, others make this same claim of Odysseus elsewhere in the *Odyssey*, as Athena does (as Mentor) in 2.146-234, though less succinctly.

<sup>18</sup>It must be noted that, though Odysseus is punished throughout the *Odyssey*, being forced to wander seemingly

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endlessly in an attempt to reach Ithaca, this punishment is the result of his encounter with the Cyclops, not as the product of his deceitfulness.