

## X9 – EXchanging Worldviews, 9: EXploring Prospects for Peace & Prosperity, 1: EXamining Justice

Dear: As you may recall from way back in the **P**-chapters, I promised you that after addressing topics in understanding, values, and worldviews, I'd return to the task of "exploring prospects for peace and prosperity". Well, as Charles Dobson (alias Lewis Carroll) wrote in *Through the Looking Glass* in his poem "The Walrus and the Carpenter":

"The time has come," the Walrus said,  
    "To talk of many things:  
Of shoes – and ships – and sealing-wax –  
    Of cabbages – and kings –  
And why the sea is boiling hot –  
    And whether pigs have wings."

And I'd admit that adequately addressing the topics of peace and prosperity would require consideration of "many things" (including "shoes and ships and sealing wax, and cabbages and kings", i.e., economics and politics) and that prospects for peace and prosperity during your lifetime are almost as remote as the sea becoming boiling hot and pigs sprouting wings!

Consistently, I'd agree if you said that "It's gotta be a joke" for me to propose even "EXploring Prospects for Peace and Prosperity" as the goal for a single chapter. Yet, I'd agree with you, not because the subject is huge and complex and not because my knowledge of the subject is meager and my time and energy available to learn more is quite restricted, but because it is a bit of a joke, in a sick sort of way: I plan to use multiple chapters. In fact, I plan to use the rest of these **X**-chapters.

More seriously, though, my general goal for the remaining **X**-chapters is to try just to stimulate your thoughts about prospects for peace and prosperity. More specifically, whereas my assignment was "only" to respond to a certain four-year-old's question about why I don't believe in god, I'd be satisfied if I can convey some impression of the prospects for peace and prosperity if humanity would rid itself of all supernaturalism. But I admit that I'm ill-prepared to make useful recommendations: during my studies, I've dug into science; during my life, I've only dabbled in politics.

Yet even from my dabbling, I've reached some conclusions about how to improve prospects for peace and prosperity. Relative to the question asked by a certain troublesome four-year-old, maybe my most relevant conclusion can best be summarized using an expression that she would frequently say to me. Thus, my goal is to comment on prospects for more peace and prosperity if more people would "Get real!" In reality, there are many (and some, really serious) consequences of people refusing to get real, living in dream world rather than in the real world, pretending that some giant Jabberwock in the sky is available to rescue people from their folly, "believing" that they're headed for a better world after they leave this one, provided they do as their clerics dictate. In the **P**-chapters, I commented on some of these consequences (to individuals, families, and larger groups, including societies). Therefore, in the remaining **X**-chapters, two of my main goals will be to explore inhibitions to prospects for more peace and prosperity throughout the world caused by such "make believe" and to suggest how more progress could be made if more people would "Get real".

But rather than trying to help more people to "get real", an alternative is to try "just" to build peace bridges between the two sides. If you think that you might want to try such an approach, you might want to start by reading some of the many available articles and books dealing with "conflict resolution".<sup>1</sup> If so, you can find that progress can sometimes be made, finding solutions to what appear to be otherwise "intractable" social problems derived from fundamental differences in cultures and values, e.g., problems dealing with abortion or environmental issues. Progress is sometimes possible when communications develop, when contentious groups understand their opponents' viewpoints, and when both sides begin to respect their opponents as fellow, struggling humans.

But as I've suggested before, the mother of all contentious issues is between "Brights" and "believers". Indoctrinated since childhood, most religious people in our culture (including Yahwehists, Christians, Muslims, and Mormons) agree with Jesus that the one over-riding good is to "Love the Lord thy God with all thy heart, and all thy soul, and with all thy mind" and that it's evil (and ignorant) to be a nonbeliever. Meanwhile, ever since they've been able to think for themselves, humanists generally agree with Socrates "There is only one good, knowledge, and one evil, ignorance."

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<sup>1</sup> For example, you might want to start by reading some of the essays at the website hosted by the Intractable Conflict Knowledge Base Project, Conflict Research Consortium, of the University of Colorado: <http://www.beyondintractability.org/iweb/>.

Thereby, although there are communications between the two contentious groups and each understands their opponent's viewpoint, respect is usually impossible: members of each side are convinced that, fundamentally, the conflict is between their side's good and their opponent's evil – and neither side can countenance compromise between good and evil.

In any event, the general goal of these remaining X-chapters is to try to answer the following conditional question:

If the vast majority of people abandoned supernaturalism for naturalism (i.e., mysticism for science and “obeying” for “evaluating”), agreeing that external to one's mind an objective reality exists whose properties and processes should be explored and probably can eventually be understood *via* the scientific method, and

If (consistently) the vast majority of people abandoned the silly goal of trying to placate various fictitious gods and agreed on a realistic prime goal for humanity such as trying to help solve humanity's problems more intelligently and thereby help humanity to evolve into a more intelligent, kind, thoughtful, knowledgeable, creative... species,

Then could social justice and Homer's dream of “peace and plenty” be achieved?

And immediately let me give you my succinct answer to the above question, namely: “No!”

Now, Dear, in case your immediate reaction is something similar to “Well, thanks anyway, but what's the point: I'm gonna skip these chapters”, then let me provide a more complete version of my answer:

Although complete social justice and worldwide peace and prosperity will almost certainly never be achieved – both because as Emerson said (here paraphrased) “one person's opinion about social justice is another's opinion of injustice” and because both “social justice” and “peace and prosperity”, similar to “truth”, are states that can at best only be approached asymptotically and never achieved – yet, if there were widespread agreement on both worldviews and goals (and therefore values), then we could make major progress toward more social justice and peace and prosperity for all.

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Consequently, Dear, maybe I can entice you to read on, because surely you agree that “major progress” toward such asymptotic states would be highly desirable.

A major reason why the prospects for worldwide peace and prosperity seem poor is that opinions about peace and prosperity range “all over the map”. To see what I mean, first consider peace. There’s the famous line: “If you desire peace, cultivate justice.”<sup>2</sup> But social justice is just opinion, and if you think about it, so is peace. Certainly my opinion of peace (and quiet!) is different from yours: how can you stand playing that music so loud?! Or how about having all members of your family list their definitions of ‘peace’ in the family – and then fight over whose opinion is to prevail! As another example, in the opinion of radical Muslims (similar to the opinion of the Nazis) ‘peace’ means death to all Jews; for some strange reason, the Jews disagree. Then think of Ireland, the former Yugoslavia, the Kurds, Kashmir, Burma, Indonesia, Taiwan, North Korea... If everyone had the same opinions on everything, then we could have peace – but if everyone had the same opinions, we would be more like sheep than humans. In fact, if we didn’t have different opinions, we’d be even worse than sheep.<sup>3</sup>

As with peace, there’s a similar wide range of opinions about prosperity. Not everyone agrees even that ‘prosperity’ would be having more than what they already have. Some people (especially Buddhists) would consider themselves more prosperous if they had less attachment to fewer “things.”

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<sup>2</sup> “In awarding the Nobel Peace Prize to the International Labour Organization (ILO) in 1969, the Nobel Committee referred to the motto enshrined in the foundations of the ILO’s original building in Geneva, “*Si vis pacem, cole justitiam.*” And by the way, if the documentary about the Los Angeles riots associated with the Rodney King trial is correct, then apparently the rioters chanted the corollary: “No justice; no peace.”

<sup>3</sup> Recently, by the way, there were hundreds of sheep in a pasture below the hill where I walk (I guess that, similar to most followers, they were being prepared for slaughter), and I noticed that even some sheep have opinions (or notions) different from the rest of the flock – and then the stupid flock follows the opinionated one. For a while, it was interesting to watch. One of the sheep (I called him Moses) headed off to another part of the pasture, and the rest followed – scores of them, just following the one in front – until one strayed off (I called him Jesus), and those behind him (or her, I couldn’t tell) followed him (or her). For a while, that resulted in two different streams of sheep – until the ones at the tail end of the original group (following Moses) apparently noticed that none was following them. So, the ones at the tail end following Moses turned to follow Jesus; then, more at the tail end of the Moses-line turned – until eventually the whole flock was following Jesus. But then, from somewhere in the middle of the flock, another one wandered off (I called him Muhammad), and sure enough, the whole flowing process repeated itself – and no doubt would continue to repeat, but I got tired of watching those stupid sheep following the occasional opinionated “leader”.

Even some Americans are waking up, realizing that they would be more prosperous if they had fewer things and more interactions with other people. Also, many people (especially those “into Zen”) consider themselves prosperous when they are doing what they want to do rather than having more.

But beyond those two reasons why I say that the prospects for peace and prosperity are poor (i.e., because peace and prosperity, similar to truth, are asymptotes that can only be approached, even in ideal cases, and secondly, because opinions about peace and prosperity are “all over the map”), there are a host of other reasons why the prospects for peace and prosperity appear dim. That is, even if most people could agree on at least some dominant, desirable characteristics of “peace and prosperity asymptotes” (and they probably can!), I trust you agree that, before humanity can make progress toward such states, a huge number of extremely difficult problems must be solved.

In earlier chapters I’ve addressed some of these problems. In the **P**-chapters I focused on personal and interpersonal problems derived from religious “beliefs”. In earlier **X**-chapters I’ve been emphasizing societal and world-wide problems; in this case, their numbers, alone, are absolutely staggering: if you go to the home page of the Union of International Associations (at <http://www.uia.org/>) you will find (or at least, at the time of this writing you would find) a listing and description of 59,175 issues and problems, from abandoned children to Zionism! (Actually, the range is from Aarskog Syndrome to Zoosadism, but then there’s the problem of even knowing what those problems are!) In chapters to follow, I’ll address a few details of some problems, e.g., dealing with economics, environment, education, governance, population, etc. First, though, I think I should insert comments both about “where I’m coming from” and about the approach that I plan to use to try to make progress.

As for “where I’m coming from”, perhaps you’d agree (from what I’ve already suggested in previous **X**-chapters) with the following summary about the Human System – or if you don’t agree, then perhaps you’ll at least appreciate my viewpoint.

The Human System is organized (or more appropriately, disorganized) by grouping into factions, with each faction trying to learn how survive in a hostile environment and how to outsmart competing factions – by

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<http://zenofzero.net/>

capturing the benefits of cooperation (in part by punishing cheaters), by utilizing the advances of relatively few innovators, by trying to gain advantages through manipulating political processes, and almost invariably, by raping the environment. Thereby, essentially all politicians profit from the largess of “special interests” and most people profit from the resulting supply of goods and services, but competition demands that people work harder with less security (undermining their quality of life), manipulation of political processes leads to feelings of injustice, injustices and intense competition stimulate violence, and the environment continuously deteriorates, becoming more hostile.

Next, relative to my planned approach to try to identify solutions to humanity’s problems, let me assume you agree that humanity faces a huge number of problems, some of which are not so obvious as pollution, injustice, violence, famine, etc. As I already mentioned, there’s an absolutely astounding array of such problems (even in our society), from child neglect to over indulgence, from boredom to over stimulations, from dependencies to alienations, and so on. Now, whereas such problems seem to be simpler to solve (at least in principle) in specific societies than worldwide, my plan for subsequent chapters is to focus on such problems first in our own society. After that focus, then it might be possible to discern how to intelligently solve some of humanity’s global problems. Stated differently, I plan to emphasize US politics not only because you and I are more familiar with US political shenanigans but also because US politics provide a microcosm (albeit a big one!) for politics everywhere, in part because of the diversity of viewpoints in America.

Those points made, let me turn to the task of trying to show you that the conclusion that social justice (and therefore peace) will never be achieved is actually very old, having been seen first (as far as I know) by the amazing Greek philosopher Heraclitus (c.540 – c.480 BCE). Little is known about him; what remains are only a few fragments of his (difficult to understand) writings and only a few anecdotes (of unknown veracity) about his life. On a webpage by Paul Harrison and entitled “Heraclitus – the fire priest” you can find the following.<sup>4</sup>

Heraclitus flourished in the Greek city of Ephesus, on the Ionian coast of what is now Turkey, at the end of the sixth century BCE when the area was under Persian rule.

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<sup>4</sup> At <http://www.pantheism.net/paul/heraklit.htm>.

Little is reported of his life. His own writings make it plain that he had nothing but scorn for the popular mass, for political leaders, and for most previous writers on philosophy and religion, including Homer, Hesiod, Pythagoras and Xenophanes.

Heraclitus was once asked to write a constitution for Ephesus, but refused. He used to play at knucklebones with children by the temple of Artemis. When adults came to gape, he replied “Why should you be astonished, you rascals? Isn’t it better to do this than to take part in your civil life?” Another story relates that the Persian King Darius once invited him to his court to explain his ideas. Heraclitus declined...

Heraclitus’ writings, like those of most pre-Socratics, have survived only in small fragments cited by other classical authors – and in Heraclitus’ case they are even smaller and more fragmentary than usual. They are often dense and paradoxical – throughout antiquity he was known as “Heraclitus the obscure”. Aristotle complained of his word order, while Socrates said it would take a Delian diver to get to the bottom of his work.

Now, Dear, I don’t claim to be a “Delian diver”;<sup>5</sup> consequently, I don’t claim that I fully understand the points that Heraclitus was making. Yet, it seems that his main message was not only the “connectedness of opposites” (an idea that I tried to explain way back in Chapter C) but also that this “connectedness” is the essence of everything that exists. I’ll look into this theme in more detail later (in **Z**, where I’ll suggest that this entire universe seems to be the result of an amazingly complicated “connectedness of opposites” – and thereby I will be agreeing with Heraclitus and the similar, Ancient-Chinese perspective of Yin and Yang). But that aside for now, here let me focus “just” on showing you that Heraclitus might also have seen the essence of social justice. Thereby, maybe you’ll not be too discouraged about the slim chance of ever achieving social justice.

Here are some fragments from Heraclitus, from which you may begin to understand what he meant:

- The opposite is beneficial; from things that differ comes the fairest attunement; all things happen by strife and necessity.

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<sup>5</sup> Actually, Dear, I don’t know even what a “Delian diver” is! My guess is that there’s some myth about some “Delian divers” who dove to get “to the bottom of things”. ‘Delian’ means “of or having to do with Delos”, which is “a small island of the Cyclades in the Aegean; legendary birth place of Artemis and Apollo.” As I’ve mentioned before, Artemis was “the Greek goddess of the moon, wild animals, and hunting; known by the Romans as the goddess Diana”, and Apollo was “Artemis’ twin brother, also known as Helios (the son god); the god of music, poetry, prophecy, and medicine; represented as exemplifying manly youth and beauty.” In Socrates’ time, perhaps Delos was famous for its divers.

- Men do not know how what is at variance agrees with itself. It is an attunement of opposite tensions, like that of the bow and the lyre.
- We must know that war is common to all and strife is justice, and that all things come into being and pass away (?) through strife.

To show you another of his assessments, let me first quote the last few paragraphs from Homer's second book, *The ODYSSEY*, written approximately 200 years before Heraclitus. At the end of his long story, Homer pleaded for an end to "strife" as follows (in which I have added the italics):

Jove [aka Zeus] answered, "My child [Minerva], why should you ask me? Was it not by your own arrangement that Ulysses came home and took his revenge upon the suitors? Do whatever you like, but *I will tell you what I think will be most reasonable arrangement*. Now that Ulysses is revenged, let them swear to a solemn covenant, in virtue of which he shall continue to rule, while we [the gods] cause the others *to forgive and forget* the massacre of their sons and brothers. *Let them then all become friends as heretofore, and let peace and plenty reign.*"

But Ulysses gave a great cry, and gathering himself together swooped down like a soaring eagle. Then the son of Saturn [Jove] sent a thunderbolt of fire that fell just in front of Minerva, so she said to Ulysses, "Ulysses, noble son of Laertes, *stop this warful strife*, or Jove will be angry with you."

Thus spoke Minerva, and Ulysses obeyed her gladly. Then Minerva assumed the form and voice of Mentor, and presently made a covenant of peace between the two contending parties.

That is, in Homer's view, "the good" was friendship, peace, and plenty – a prescription that's as good today as 2700 years ago, but it's a prescription that still hasn't been filled.

Now, Dear, I grant you that Homer saw some of it. He saw that it's unlikely to have peace without "plenty", for if some people must do without, then the law of the jungle, "might makes right", is always waiting in the wings to right the imbalance. But apparently Homer missed two even-more important points, namely, that without justice there can be no peace and that different opinions about "social justice" are, in essence, just differences of opinions.

But more to the point, perhaps Heraclitus was right that Homer missed an even more concept. Thus, another fragment from Heraclitus is:

Homer was wrong in saying: “Would that strife might perish from among gods and men!” He did not see that he was praying for the destruction of the universe; for, if his prayer were heard, all things would pass away...

“And what,” a certain brilliant grandchild might be asking, “is the grandfather’s point?”

My point, my Dear, is that maybe Heraclitus was right: “strife” may not only always continue, it may be necessary; “social injustices” may not only exist, perhaps societies can’t exist without them; if there were no differences among people, if we didn’t hold different opinions, if we didn’t have different views about “social justice”, we wouldn’t be people!

Further, Dear, you can see, here, the ingredients for strife, as evident today as they were in Heraclitus’ time (~2500 years ago) and as they were 2500 years before Heraclitus. When different groups with different cultures interact (e.g., today, interactions between “Western” and “Islamic” cultures), then customs usually clash, and if one culture’s customs become threatened, then those who seek to maintain their culture’s customs (who are almost always led by their clerics) will do whatever they consider necessary (up to and including declaring a “holy war” or “jihad” against the “unbelievers” or “infidels”) to maintain the *status quo*. Even within a single society, if an individual or a minority of the members of the society revolts or rebels against (or even just abandons) the majority’s customs, then the majority (almost always led by the clerics) will similarly declare some sort of “war” on the “rebellious minority”, attempting to force the rebels to conform to the majority’s customs. Thus, always there is tension (and sometimes much worse) between those who seek to maintain the *status quo* (almost invariably led by clerics) and those who seek change, between those who decry lack of cooperation and those who competitively seek new ways of doing things.

Stated differently, always there has been (and probably always there will be) strife between the punishers and the “punishees” – and therefore, probably always there’ll be claims of injustice. In later chapters I’ll address some of the worldwide consequences of such strife; later in this chapter (and in later chapters) I’ll show you examples of such strife in our society; first, though, in the next paragraph, I want to comment briefly on the question: How did the clerics in almost all societies get away with claiming control (and in many cases, gaining control) of their society’s customs (and in many cases their laws)?

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In the long “excursion” Yx, I’ll to show you some of the long and complicated answer to that question. Summarizing what’ll take me many, many chapters to outline, I’d say that the clerics gained control through an enormous number of mistakes by the people, a huge number of lies by the clerics, and unending power mongering by priests and politicians. In Yx, I’ll also show you some details of the resulting rebellions, revolutions, and wars, including clashes between different societies, between groups within specific societies, and between clerics and various “rebels”, such as Protagoras, Socrates, Jesus (ben Pandera?), Galileo, and even John Lennon. It’s a huge record, at least 5,000 years long (!), of people struggling to create laws in harmony with their ideas of morality. Given this huge quantity of data, it’s easy to agree with Heraclitus “all things happen by strife and necessity.”

And maybe I should add that, at its root, the theory of Mormonism-Islam-Christianity-Zoroastrianism also supports Heraclitus’ view. In all such religions, “good” is assumed to eventually triumph over “evil” – and this will occur at the end of the world, just as Heraclitus suggested:

Homer was wrong in saying: “Would that strife might perish from among gods and men!” He did not see that he was praying for the destruction of the universe; for, if his prayer were heard, all things would pass away...

Thus, Dear, whether or not you agree with Heraclitus that tension and strife are necessary, I trust you agree that they exist and that, almost certainly, they’ll continue. As he said:

All is flux; nothing stays still. Nothing endures but change. The opposite is beneficial; from things that differ comes the fairest attunement; all things happen by strife and necessity. People do not know how what is at variance agrees with itself. It is an attunement of opposite tensions, like that of the bow and the lyre.

Thereby, for any group, for any society, and in fact for the entire world, maybe the goal of more peace and social justice amounts to no more than seeking attunements (“of opposite tensions, like that of the bow and the lyre”) as melodious as possible – rather than unharmonious discord.

The trouble is (as I’ve learned from experiences with you!): what’s music to some is noise to others. For example, as you saw in the previous chapter in the quotation from Peter Corning, about a century after Heraclitus, Plato concluded:

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Social justice is concerned with equitable rewards for the proper exercise of our abilities and our calling, and our conduct, in a network of interdependent economic relationships.

In the previous chapter, you also saw Aristotle's definition that "social justice" means "giving every man his due." The troubles with such concepts, however, are: Who's to decide what are "equitable rewards?" What's the "proper exercise of our abilities and our calling, and our conduct"? Who does the "giving" and who decides what each person is "due"? The philosopher Plato, for example, concluded that the "proper exercise" of philosophers was to rule! Shucks, who would question that?!

Well, as you also saw in the previous chapter, Epicurus questioned it all:

There never was an absolute justice but only a convention made in mutual intercourse, in whatever region, from time to time... Whatever in conventional law is attested to be expedient in the needs arising out of mutual intercourse is by nature 'just', whether the same for all or not, and in case any law is made and does not prove suitable to the expediency of mutual intercourse, then this is no longer 'just'... For the time being, it was 'just', so long as we do not trouble ourselves about empty terms but look broadly at facts...

But if Epicurus would have looked more "broadly at the facts", he would have seen that many of "the convention[s] made in mutual intercourse" were based on the principle "might makes right". Would he then have suggested, for example, that slavery was "just"?

One the other hand, two examples (artfully coupled into one) about the possibility of "melodious attunement" are given by John J. Reilly in his review of a book on Supreme Court Justice Oliver Wendell Holmes, Jr. (1841–1935).<sup>6</sup> Reilly's review is entitled *Justice Faustus* and includes the following perceptive paragraphs [to which I've added the italics and a few notes in square brackets]:

Professor White [the author of the book under review by Reilly]... lays out the history of Holmes's friendships with Felix Frankfurter and Harold Laski and the rest of *The New Republic* [magazine] crowd to show how their ideas influenced Holmes around the time of the First World War and after. Certainly Holmes was disturbed by broad new laws forbidding speech that tended to "interfere with recruiting" or that

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<sup>6</sup> The book review, originally published in the January 1996 issue of the magazine *Culture Wars*, is available online at <http://pages.prodigy.net/aesir/holmes.htm>.

advocated the overthrow of the government at some indefinite point in the future, or that otherwise hinted you might be up to no good. He began to grope for a principle that would be consistent with the rest of his ideas about the power of government. His first solution was the “clear and present danger” test. [For example, Holmes’s famous statement about restriction on free speech was: “The most stringent protection of free speech would not protect a man in falsely shouting ‘Fire!’ in a theater and causing panic.”] He tried, without much luck, to get the Supreme Court to agree that you could say or print pretty much anything you wanted that did not seem likely to start a riot. This, of course, is really just a rule about evidence, it is not a definition of a personal right that an individual could assert against a hostile government. What he picked up from his young friends was the notion of “the marketplace of ideas” as something necessary for the conduct of a democracy. The courts had to make sure that even bad ideas got a hearing, because otherwise there was no way to be sure good ideas might not be suppressed by accident. The First Amendment was thus not a dead letter after all, but a clear textual restriction on the power of government.

Professor White finds that this defense of freedom of speech [by Holmes] was contradictory, an anomaly in Holmes’s positivistic universe. He points out that Holmes’s theory of government was that the majority in society will always work its will eventually, yet here was Holmes creating a “fundamental principle of democracy” that was rigidly anti-majoritarian. This assessment, I think, fails to appreciate the true underlying unity of Holmes’s thought throughout his career. The justice’s late championship of unfettered expression was not a break with his ancient pragmatism. Rather, it was its final flower, the highest good to which the intersubjective mind can attain. Fundamentally the marketplace argument is not new: a version of it was Milton’s thesis in favor of free speech in the *Areopagitica*. However, for Holmes, who lived in a post-metaphysical intellectual environment, the notion could take on a whole new significance. The marketplace of ideas was as close as Holmes’s philosophy would let him come to the idea of truth. As a pragmatist, he had rejected the idea of absolute truth, but he also venerated the search for it. The best he could hope for was a free exchange of ideas... The transcendent was inaccessible, perhaps, but it could be approximated in this world by a *perpetual dynamic stability*.

Readers of Goethe’s *Faust* will recognize that these were the very terms on which Faust was damned. The devil had agreed that he would not carry Faust to Hell until Faust found something in which his heart could rest, some moment to which he could say, “stay, you are so fair”. At the end of his restless career of ever-growing power and knowledge, Faust finally conceives of a world he could love. *It is world of perpetual struggle, in which mankind and nature achieve a kind of stability through their unceasing efforts to overcome each other. It is an eternal conversation of antagonistic forces, a marketplace of will that never closes.* When Faust embraced this vision, the devil’s bill came due...

To gain further understanding of Reilly's reference, Dear, consider Faust's agreement with the devil [from near line 1365 of Goethe's *Faust* and to which I've added some notes in square brackets]:<sup>7</sup>

If e'er upon my couch, stretched at my ease, I'm found,  
 Then may my life that instant cease...  
 [i.e., I commit myself to perpetual strife]  
 When to the moment I shall say,  
 "Linger awhile! so fair thou art!"  
 Then mayst thou fetter me straightway,  
 Then to the abyss will I depart!

And then consider the following (from near line 11,560, in which I've added the italics), which is Faust's final statement (and Goethe's summary statement for his epic poem, considered by many people to be Goethe's crowning achievement):

A swamp lies there below the hill,  
 Infecting everything I've done:  
 My last and greatest act of will  
 Succeeds when that foul pool is gone.  
 Let me make room for many a million,  
 Not wholly secure, but free to work on  
 Green fertile fields, where men and herds  
 May gain swift comfort from the new-made earth,  
 Quickly settled in those hills' embrace,  
 Piled high by a brave, industrious race.  
 And in the centre here, a Paradise,  
 Whose boundaries hold back the raging tide,  
 And though it gnaws to enter in by force,  
 The common urge unites to halt its course.  
*Yes, I've surrendered to this thought's insistence,  
 The last word Wisdom ever has to say:  
 He only earns his Freedom and Existence,  
 Who's forced to win them freshly every day.*  
 Childhood, manhood, age's vigorous years,  
 Surrounded by dangers, they'll spend here.  
 I wish to gaze again on such a land,  
 Free earth: where a free race, in freedom, stand.  
 Then, to the Moment I'd dare say:  
 "Stay a while! You are so lovely!"  
 Through eons, then, never to fade away  
 This path of mine through all that's earthly. —

<sup>7</sup> Available at, e.g., <http://www.tonykline.co.uk/klineasfaust.htm>.

Anticipating, here, its deep enjoyment,  
Now I savor it, that highest moment.

Thus, Reilly's analysis suggests that near the ends of the lives of both Justice Oliver Wendell Holmes (1841–1935, said by many to be America's greatest legal mind) and Johann Wolfgang von Goethe (1749–1832, said by many to be the most brilliant human who ever lived) rediscovered the wisdom from Heraclitus: "All things happen by strife and necessity." It seems even that Heraclitus criticism of Homer,

Homer was wrong in saying: "Would that strife might perish from among gods and men!" He did not see that he was praying for the destruction of the universe; for, if his prayer were heard, all things would pass away...

was used by Goethe as the plot line for his *Faust!*

Yet, in spite of this common view of the inevitability of strife, Heraclitus, Goethe, and Holmes each saw something different – and acted accordingly. For example, from the fragments quoted above, Heraclitus appears to have refused to engage in the strife within societies:

He used to play at knucklebones with children by the temple of Artemis. When adults came to gape, he replied "Why should you be astonished, you rascals? Isn't it better to do this than to take part in your civil life?"

Consistent with his own experiences, Goethe had Faust (at the end of the poem) organize society in strife against nature:

And though it [Nature] gnaws to enter in by force,  
The common urge unites to halt its course.

In contrast, but consistent with his experiences, Justice Holmes focused on strife between and among competing ideas and concluded that this strife should be given free rein:

When men have realized that time has upset many fighting faiths, they may come to believe (even more than they believe the very foundations of their own conduct) that the ultimate good desired is better reached by free trade in ideas – that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out... [*Abrams v. United States*, 250 U.S. 616, 630 (1919)]

Yet, although I agree that strife will continue, I think that the engagement in strife of all three of these geniuses (Heraclitus, Goethe, and Holmes) was inadequate.

In my (obviously not very humble) opinion, I think that the most important strife in which to engage is in expunging ignorance and expanding knowledge, e.g., to be against theism, in favor of scientific humanism. I see this as including the goal Goethe assigned to Faust (knowledge of and thereby control over nature), which will need to be continuously pursued until humans find or build a friendlier universe to live in! Also, although it's easy to agree with Holmes that "a free trade in ideas" is highly desirable (as I've written before, "if in doubt, let the system go free"), yet the fight against theism, for example, won't be free so long as theists are permitted to indoctrinate children with ignorance – thereby generating another generation of adults who, in the main, are unable to think for themselves.

As for the claim of all clerics that the most important strife in which to engage is between good and evil, of course I agree. I would, however, add not only Socrates' assessment "There is only one good, knowledge, and one evil, ignorance" but also: organized religion is nothing but ritualized ignorance, promoting the speculations of savages. In fact and in fairness to Goethe, I should add that he reached the same conclusion: he said not only "The real, the deepest, the sole theme of the world and of history, to which all other themes are subordinate, remains the conflict of belief and unbelief" but also "Nothing is more terrible than ignorance in action."

Now, Dear, in case all the above seems too general and too philosophical, let me give you a specific practical example – which I agree may seem rather trivial, at least at first blush. A few days ago a little girl (maybe 5 or 6) in a beautiful pink dress came to our door (along with her mother) and this pretty little girl said, "We were in the neighborhood and were wondering: What questions would you like to ask God." Normally, I just say "No thank you" to such "Bible pushers" and close the door on such simpletons, but in this case, emotion overcame me, and I blurted out: "Oh... you poor little girl... No thank you." To which the mother yelled out, as I shut the door: "What do you mean 'poor'?" I didn't respond; I wasn't in the mood – or wasn't as quick with my tongue as I was with the door. What I said to myself as the door was shutting: "To have such an ignorant mother."

Think of it, Dear. That mother could have been teaching her daughter how to grow vegetables and use computers, how to plan a healthful diet and fix a car, how gravity controls the tides and defines the orbits of the planets, how geological and biological evidence supports the theory of evolution, how the body works, how airplanes fly, and how electromagnetic radiation is used, how tsunamis could be detected using space-born altimetry, how quantum mechanics explains the atomic world, how DNA contains the blueprint of all living things, how... But instead, she taught her poor little daughter that some giant Jabberwock in the sky made the world in six days, confused people with multi-languages so they wouldn't be so productive, killed people in a flood because they didn't obey, killed off all the first-born Egyptian children to impress people, and on and on, in an almost unending series of absolutely atrocious myths, plus (worse) that she'll be able to live for eternity in paradise if only but only she'll do exactly as the power-mongering clerics demand. And that ignorant mother wondered why I involuntarily said: "Oh you poor little girl"!

Please, Dear, think about a generalization from the above example. I trust you agree with the folk wisdom "It takes a village to rear a child." Consistently and with care, our society has adopted laws to protect children from physical abuse. So now I ask you: should we adopt similar laws to protect children from mental abuse? Should we adopt the proposal by the German philosopher Arthur Schopenhauer (1788–1860):

No child under the age of fifteen should receive instruction in subjects which may possibly be the vehicle of serious error, such as philosophy or religion, for wrong notions imbibed early can seldom be rooted out, and of all the intellectual faculties, judgment is the last to arrive at maturity. The child should give its attention either to subjects where no error is possible at all, such as mathematics, or to those in which there is no particular danger in making a mistake, such as languages, natural science, history, and so on... The memory should be specially taxed in youth, since it is then that it is strongest and most tenacious. But in choosing the things that should be committed to memory the utmost care and forethought must be exercised; as lessons well learnt in youth are never forgotten... There is no absurdity so palpable but that it may be firmly planted in the human head if you only begin to inculcate it before the age of five, by constantly repeating it with an air of great solemnity.

If you agree with Schopenhauer's opinion, then would you agree that society should take actions against that mother for indoctrinating her little girl in religious balderdash?

More generally, should society take steps to try to prevent parents from indoctrinating their children in such nonsense? Should we define and enforce some conditions that people must meet before they're permitted to become parents? Our Constitution starts with

We the people... in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish...

From those ideas, one can proceed logically to the conclusion that people must be tested before they are permitted to drive cars. We require testing before people are permitted to drive automobiles. Is driving cars more important to society than rearing children? Should we require prospective parents to learn how to rear children?

I certainly agree that, as with all animals, people don't need lessons in how to have sex (and in contrast to religious nuts, I'm not opposed to people having safe and considerate sex), but do they need lessons about rearing children? The other day on some tabloid TV-show, a 13-year-old girl (who already had sex with more than a dozen males, between her age and twice her age), said she wanted a baby, claiming that she would be a "good mother". To her that seemed to mean that she would "love" the baby – probably the way some other girls her age "love" their dolls. She showed not even a whiff of concern about associated responsibilities. I can imagine that, 5 years later, that girl's child will be knocking on some door asking if the home owner had any questions for God, and that 13 years later, the child will be having sex with multiple partners, hoping for still another baby.

And so, as I already wrote: I think that the most important strife in which to engage is in expanding knowledge and expunging ignorance. As I also already wrote, I think that Socrates' assessment should be modified to: There is only one good, willingness (even "eagerness") to learn, and one evil, refusal. And thus I conclude that all religious people, refusing to learn what science has discovered since their silly doctrines were dogmatized, are practicing evil. Correspondingly, all clerics and all politicians who promote religion are promoting evil.

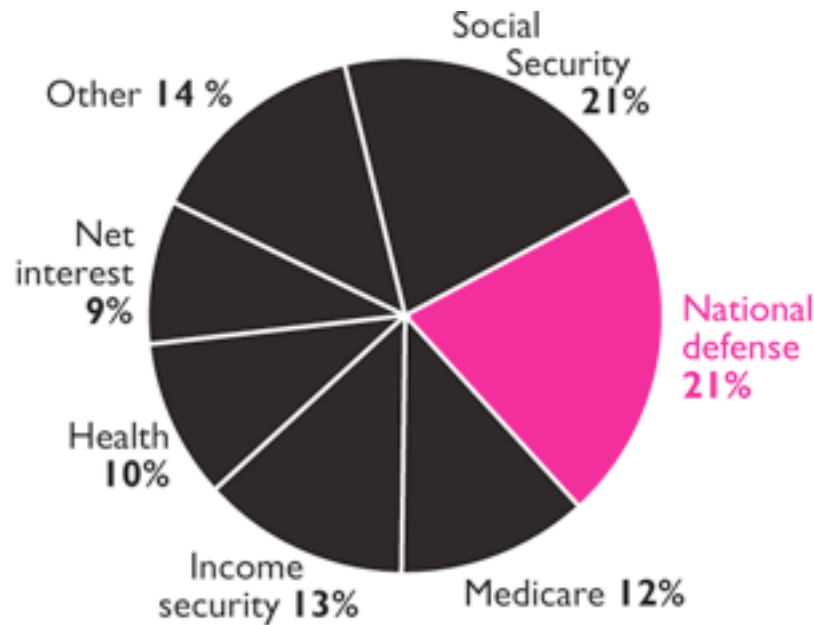
Yet, I admit that the resulting inability to achieve social justice is not confined to differences in opinions about religion. For example, think again about different "taxation schemes". I expect you agree that taxes are

necessary: any government must tax its citizens to pay for “domestic tranquility”, “the common defense”, and so on. As Justice Homes wrote: “Taxes are what we pay for civilized society.” But then: Should each citizen pay the same amount of taxes? Should each citizen’s income (and/or other “property”) be taxed at the same percentage rate? Should these percentage rates increase with increasing income? Should some other scheme be used (such as taxing only commerce, e.g., with a “value-added” tax)? Where’s the justice in people being required to pay taxes to promote ideas with which they totally disagree (whether it be “religious fundamentalists” required to pay for teaching evolution in schools or humanists required to pay extra taxes so that religious institutions can be granted tax-exempt status)?

And let me add, Dear, that if you can identify some fundamental principle from which you can derive answers to such questions, answers upon which there will be universal agreement, then I essentially guarantee you a Nobel Prize in economics – and probably the Nobel Peace Prize as well! Otherwise, Dear, do you see that all opinions about the “social justice” of different taxation schemes are just opinions – and therefore, do you agree that it’s highly unlikely that agreement will ever be reached that a particular taxation scheme is “just”?

But I trust you agree that we should keep trying to find such a scheme. For example, as my entry for the Nobel Prize in economics (☺), how about this: everyone should be taxed at the same percentage rate (maybe 15% of their salary, regardless of their salary, if the total taxes collected is judged by the people to be sufficient to pay for the joint ventures conducted in their society). There should be no taxes on corporations (since, in the end, corporations never pay taxes; only people do), and all direct government services (from obtaining passports to maintaining parks) should be funded *via* the principle: “user pay.” In addition, and importantly, when taxes are paid each year, each person would indicate how the person’s money is to be allocated. For those who would consider specifying such allocation to be too onerous, then maybe the form could contain a choice something similar to: “Allocate my money as recommended by my elected representatives.” Otherwise, the rest of us could specify the details. To assist the people in making their choices, I would recommend every tax form show how the previous year’s taxes were spent, shown as percentages of the total expenditures spent by each of the major government agencies at each level of government (Federal, State, Local).

And I appreciate that creating a list (or, to start, a pie chart), showing how the previous year's tax dollars were spent, could be difficult and contentious. For example, below is a pie chart published in the 6 February 2007 issue of the *Washington Post* (derived from data from the Federal Office of Management and Budget), showing a distribution of the Federal budget for the 2008 Fiscal Year.



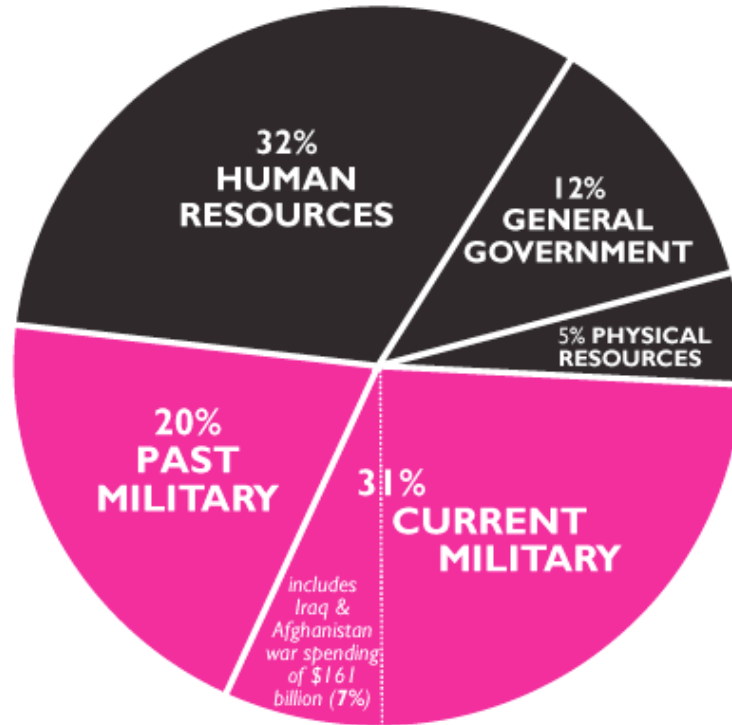
But such a distribution (even of only the Federal budget's major components) is already contentious.

Thus, as pointed out at an anti-war website,<sup>8</sup> the above distribution mixes apples and oranges:

The pie chart [above] is the government view of the budget. This is a distortion of how our income tax dollars are spent, because it includes Trust Funds (e.g., Social Security) and the expenses of past military spending are not distinguished from nonmilitary spending.

This same website then provides an estimate for the distribution of how only income taxes are "actually" spent, as shown below.<sup>7</sup>

<sup>8</sup> <http://www.warresisters.org/piechart.htm>.



But assuming that our representatives in government would see that an informative (and honest!) distribution of how are taxes are spent is provided to the people (surely they can at least do that!), assuming that computer programmers could create a system so that taxpayers could distribute their money in as much detail as they desired, then “we the people” could specify each change that we desire. For example, I might specify that, with my Federal tax dollars, I want 10% less spent on medical research, 5% more spent on ecological research, 20% less spent on welfare, 10% more spent on education, 10% less spent on military personnel, 5% more spent on Federal highways, and so on, and similarly for State and Local budgets. Further, new categories should probably be created: not just to pay off the debt (~10% of the current Federal budget is used to pay interest on the debt!), but categories such as “for surplus”, and better yet “for refunds”!

If, say, 10% of the people chose to let our representatives distribute their tax dollars, then so be it: our representatives would then have the authority to allocate 10% of the budget. Then, they’d still have much to do. Thus, with the next year’s allocation of tax dollars specified, it would still be a huge challenge to increase and decrease funding for specific projects, e.g., at one level of detail, how much to decrease cancer research vs. increase funding to fight infectious diseases, and at the next level of detail, what cancer research

to curtail (and at what government agencies) and what infectious diseases to fight (and how). And I should add what Jefferson wisely wrote in his 28 September 1820 letter to William Jarvis:

I know of know safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion.

Anyway, Dear, with my Nobel Prize now assured (☺) and with all Americans now happy with how their tax dollars are spent (☺), let me move on – because, Dear, there are an enormous number of contentious issues, besides those dealing with taxes: Should inter-racial marriages be allowed? Should abortions be permitted? Should euthanasia be allowed? Should homosexual unions be recognized? Should everyone's vote have the same weight? If "taxation without representation" was a major cause of the American Revolution, what about "representation without taxation" (e.g., allowing welfare recipients to vote)? Should a person's vote be weighted in proportion to taxes paid? Should the use of hallucinatory drugs by adults be legalized? Should dealers who sell illegal drugs to children be executed? Should the state take charge of children who are physically abused by their parents? Should the state do similar for children who are mentally abused? Should parents be prohibited from indoctrinating their children with concepts about "the supernatural"? Should all religions be outlawed? Should all clerics be branded as con artists and all church property be returned to the people who've been conned? You have opinions about such matters. So does everyone else. What then of "social justice"?

Yet, I'm not particularly distraught by the conclusion that social justice is impossibility. And if you reach a similar conclusion about social justice, Dear, I hope that you are neither distraught nor will refuse to engage in strife against what you perceive to be social injustices.

One "saving grace" is the observation that, in reality, people don't want social justice! That is, Dear, as far as I can make it out, what people seek under the guise of "justice" is "just" to make progress toward their trio of survival goals. To see what I mean, Dear, once again please focus on objectives.

Thus, when people say that they want (social) justice, please consider their real objectives. For example (as I've written before), when someone is

imprisoned unjustly and says he wants justice, what he really wants is to get out of prison (and probably he wants some retribution for being improperly imprisoned). When people of some minority who suffer from some discrimination say they want justice, what they really want is an end to the discrimination. And when most people in this country who pay taxes say they want justice, what they really want is to know that they are receiving appropriate value for their tax dollars. That is, when people say they want justice, they're not seeking something abstract but something concrete, such as to get out of prison, higher wages, an end to discrimination, value for their money, etc.

Stated differently, what people really want when they say they want justice is some specific inhibition or encumbrance removed from their quest to pursue at least their trio of survival goals (not yet addressing their thousand-and-one lower priority goals). When this is seen, then it's easy to see why, throughout the world and throughout history, there has been and will continue to be an unending demand for "justice"; i.e., people have always striven (and no doubt will always continue to strive) to achieve their survival goals. And thus, Dear, maybe you see why I disagree with what was written in the *Federalist Papers No. 51* (written either by Alexander Hamilton or James Madison): "Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit..." I would, however, agree with the statement if it had been cut short: "Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued..." – even though it'll never be achieved!

To me, the important question is not so much why people continue to seek social justice but why so many inhibitions and encumbrances have thwarted and continue to thwart the people's pursuit of their prime goals (their trio of survival goals). In turn, the source of those problems seems to continue to be either too many lazy and immoral people or just too many people. For example, in the "limiting case" that I explored many chapters ago (with you and your mate the only people on Earth), he was lazy and wanted you to do more than your share of the work; in addition, he adopted the immorality of not giving equal value for value received – and was prepared to enforce this immorality with the principle that "might makes right". In the real world, populated with so many people, there's both the problem that many people adopt the same immorality of not giving equal value for value received and

the problem that sometimes in a crowded world, we step on other people's toes even when we morally pursue our own trio of survival goals.

And actually, I think it's really quite amazing how much "injustice" people are willing to tolerate if they feel that they still have a "reasonable shot" at achieving their own goals. Thus, although in their "game of life" most people wouldn't object if the "playing field" is tilted in their favor (such as being born an American!), and although essentially everyone would be willing to play on a level field (except, perhaps, Americans!), yet it amazes me how many people (the vast majority of people in the world!) would be quite willing to play even on a field tilted against them – if they felt that they still had a reasonable chance to achieve their goals. But when there are huge obstacles (and ruts and mud and sink holes and...) in their playing field, obstacles that seriously hinder people from pursuing their trio of survival goals, then people will do what they feel is necessary to eliminate such obstacles – such injustices.

In their pursuit of justice, people institute "judicial systems", i.e., laws to regulate behavior plus courts (with their judges and police power) to enforce the opinions of those who "the system" defines to be judges. Thus, for at least the past 5,000 years, people have submitted their cases to a judge or jury, ostensibly agreeing to abide by the "court's" decision – but have always been prepared to fight if, in their opinion, "justice was perverted".

As an example of the importance of a society's judicial system, Dear, think of the importance to the daughter who, in about 1,500 BCE, went to the apparently very advanced Egyptian court, and pleaded (as shown on one of the earliest papyrus records, a copy of which you can find on the internet):

Help me, my lord! My mother has caused quarreling with my brothers, saying: "I gave you two shares of copper", though it was really my father who gave me a copper bowl, a copper razor, and two copper jars. It was the Scribe Pentaweret who gave them to me. But she [my mother] has taken them and bought a mirror. May my (lord) establish a price in deben for them.

If redress is sought from a court, of course the characteristics of the judge (and, as appropriate, the jury) would be very important. As I mentioned in an earlier chapter, desirable characteristics of judges are that they be as near as possible to Mother Nature: unswayed by "fancy arguments" (legal rhetoric), unbiased, incorruptible, etc. In addition, we hope that our judges are intelligent, have learned all applicable law, seek social harmony, and

keep their personal opinions about morality and religion to themselves. Failing that, the least we want is that, similar to Mother Nature, the judge (and as appropriate, the jury) should be disinterested in the outcome – and if not, then we want (and even demand) that we be able to impeach the judge, to throw the bum out.

But although it's necessary that our judges be honest, intelligent, knowledgeable, and disinterested in the outcome, yet if more social justice is to be achieved, certainly these conditions aren't sufficient. That is, the role of even the best judge is just to interpret and apply the law – but if a law is unjust, then of course it's impossible to achieve justice. Therefore, Dear, except in rare, pathological cases of judges, it's not nearly so important to judge our judges, as it is to judge our laws. For example, slavery was “the law of the land” for almost the first century of this nation's existence – but surely everyone now judges that a law that permits slavery is unjust. Therefore, to advance toward more social justice, it's necessary to inquire: “How can we ensure that our laws are ‘just’ – especially when laws just promulgate opinions?”

If you attempt to answer this question, Dear, then once again you can become quite depressed: you can reach the (correct) conclusion that after thousands of years of trying to formulate “just” laws, no one and no group has ever formulated important laws that are “just” – and no one ever will! It's true that many unimportant laws are “just” (such as the law that requires people in this country to drive on the right-hand side of the road), but such laws simply ratify customs, and it would be “equally just” if the law required that everyone drive on the left-hand side of the road, i.e., the law could have been decided by flipping a coin. But when more than a coin flip is needed to define a law – when opinions are involved – then injustice is inevitable. That is, modifying Emerson's statement: one person's opinion about a “just law” is another person's opinion about an “unjust law”.

If you think I exaggerate, Dear, then think of any one of perhaps a hundred thousand tax laws in this country. Whichever one you choose, I'm essentially certain that you'll find that someone's ox is being gored for someone else's feast. As Frederic Bastiat wrote:

When plunder becomes a way of life for a group of men together in a society, they create for themselves, in the course of time, a legal system that authorizes it and a moral code that glorifies it.

The same is true for essentially all important laws: a range of opinions existed, a group of lawmakers (interested in their own re-election, in many cases strongly influenced by campaign contributions from “special interests”, probably influenced by “back scratching” and “wheeling-and-dealing” with other politicians, and maybe in a few cases wanting to do what they considered “right” for the people) chose some position between the range of competing opinions – and still another law was promulgated, satisfying essentially no one’s opinion of “justice”.

That is, Dear, in the history of the world, never have important laws been “just”. In particular, no matter how hard the Framers of our Constitution sought to design a system that would make such “fairness” possible, they failed – as will all future legislators. Certainly the Framers of our Constitution tried: they purposefully rejected a democratic form of government for this country, choosing instead to define a republican form, i.e., a system in which representatives of the public would define all laws. Such a government, they thought, could control at least of some of the evils recognized to flow not only from majority rule of a democracy (which is little more than mob rule) but also from rule by various “factions”, i.e., subgroups within the society with special interests.

Of course, the Framers of our Constitution included many other critically important features of our government, especially including “checks and balances”, separate legislative, judicial, and administrative branches (with methods for impeachment of members of each branch), two houses of Congress with different methods and periods of representation in each, authorities remaining with the states and with the people, methods for modifying the Constitution, and so on. In school you’ve studied these and other features of our government; therefore, here, let me emphasize just three aspects: 1) Recognition by the Framers that laws would never be “just” (because of the influence of various “factions”), 2) The importance of (and yet the failure of the Framers to include) a Bill of Rights (which, as you know, subsequently became the first 10 Amendments to the Constitution), and 3) How, today, our “rights” are routinely trampled by “unjust laws”!

To try to show you what I mean, first let me quote a little more from *FEDERALIST No. 51*, which was written either by Hamilton or Madison.

Justice is the end of government. It is the end of civil society. It ever has been and ever will be pursued until it be obtained, or until liberty be lost in the pursuit. In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature, where the weaker individual is not secured against the violence of the stronger; and as, in the latter state, even the stronger individuals are prompted, by the uncertainty of their condition, to submit to a government which may protect the weak as well as themselves; so, in the former state, will the more powerful factions or parties be gradually induced, by a like motive, to wish for a government which will protect all parties, the weaker as well as the more powerful.

Unfortunately, however, data show that our form of government has been unable to contain factions (as have all other forms of government), especially when the faction is in the majority and has trampled rights of minorities (African-American slaves, Japanese-Americans during WWII, members of the Communist Party during the McCarthy era, and many others, including, today, those of us who have included that all ideas about all gods are stupid). And I should add that perhaps the “vice” and “disease” caused by factions is worse today than Hamilton or Madison envisioned, because, on the one hand, American society has become so homogeneous (in turn caused by the “shrinking” of the country by modern methods of communication) and because, on the other hand, our original republican form of government has almost totally degenerated into a democracy: just as in the first democracy in Ancient Athens, our politicians have learned how to buy the people’s votes by confiscating the property of the richest property owners.

One way to attempt to constrain factions is to define certain rights for all citizens, rights that can’t be violated by any new law. The original “Articles of Confederation” had no “Bill of Rights”, and as you can learn by reading Federalist Paper #84, Hamilton (who is given credit for building a strong Federal government) argued strongly against including a Bill of Rights in the new Constitution. The following is illustrative.

I go further, and affirm that bills of rights, in the sense and to the extent in which they are contended for, are not only unnecessary in the proposed Constitution, but would even be dangerous. They would contain various exceptions to powers not granted; and, on this very account, would afford a colorable pretext to claim more than were granted. For why declare that things shall not be done which there is no power to do? Why, for instance, should it be said that the liberty of the press shall not be restrained, when no power is given by which restrictions may be imposed? I will not contend that such a provision would confer a regulating power; but it is evident that it would furnish, to men disposed to usurp, a plausible pretense for claiming that power. They

might urge with a semblance of reason, that the Constitution ought not to be charged with the absurdity of providing against the abuse of an authority which was not given, and that the provision against restraining the liberty of the press afforded a clear implication, that a power to prescribe proper regulations concerning it was intended to be vested in the national government. This may serve as a specimen of the numerous handles which would be given to the doctrine of constructive powers, by the indulgence of an injudicious zeal for bills of rights.

On the subject of the liberty of the press, as much as has been said, I cannot forbear adding a remark or two: in the first place, I observe, that there is not a syllable concerning it in the constitution of this State [of New York]; in the next, I contend, that whatever has been said about it, in that of any other State, amounts to nothing. What signifies a declaration that “the liberty of the press shall be inviolably preserved”? What is the liberty of the press? Who can give it any definition which would not leave the utmost latitude for evasion? I hold it to be impracticable; and from this I infer, that its security, whatever fine declarations may be inserted in any constitution respecting it, must altogether depend on public opinion, and on the general spirit of the people and of the government. And here, after all, as is intimated upon another occasion, must we seek for the only solid basis of all our rights.

There remains but one other view of this matter to conclude the point. The truth is, after all the declamations we have heard, that the Constitution is itself, in every rational sense, and to every useful purpose, A BILL OF RIGHTS. The several bills of rights in Great Britain form its Constitution, and conversely the constitution of each State is its bill of rights. And the proposed Constitution, if adopted, will be the bill of rights of the Union. Is it one object of a bill of rights to declare and specify the political privileges of the citizens in the structure and administration of the government? This is done in the most ample and precise manner in the plan of the convention; comprehending various precautions for the public security, which are not to be found in any of the State constitutions. Is another object of a bill of rights to define certain immunities and modes of proceeding, which are relative to personal and private concerns? This we have seen has also been attended to, in a variety of cases, in the same plan.

Adverting therefore to the substantial meaning of a bill of rights, it is absurd to allege that it is not to be found in the work of the convention. It may be said that it does not go far enough, though it will not be easy to make this appear; but it can with no propriety be contended that there is no such thing. It certainly must be immaterial what mode is observed as to the order of declaring the rights of the citizens, if they are to be found in any part of the instrument which establishes the government. And hence it must be apparent that much of what has been said on this subject rests merely on verbal and nominal distinctions, entirely foreign from the substance of the thing.

Yet, in spite of such arguments and as you well know, subsequently (in 1791) the Constitution was amended, and the first ten Amendments constitute what are now called the “Bill of Rights” – which (along with

\* Go to other chapters *via*

rights defined in subsequent amendments) provide a bulwark, attempting to protect minorities against abuse by various factions.

But our Bill of Rights and our judiciary notwithstanding, our rights can be (and are) routinely trampled by various factions in control of the legislative and administrative branches of the Federal government. For example, *Amendment V* states (in part):

No person shall be... deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

But as Hamilton warned in the Federalist Papers, most of this is mere verbiage, because it fails to identify who gets to define “just compensation”.

For example, people who purchase alcohol, tobacco, and many other products are required “by law” to pay enormous “excise taxes”, which are then used to fund various government activities from building sidewalks to funding health care for children. How is this anything but taking “private property” for “public use”? And what “just compensation” is offered? The “right” to consume alcohol, use tobacco products, or go for a ride in a boat? Was such consumption a “right” that the government withheld from citizens (by not including it in the Bill of Rights) and which the government now sells to citizens in the form of taxation? Somebody’s gotta be kidding! I can almost hear Hamilton say: “I told you so.”

But that example is just one of thousands (if not hundreds of thousands) of examples of social injustice perpetrated by “factions” and perpetuated in laws. In general, the possibility of any government promulgating “fair laws” is essentially zero – so long as those who prescribe the laws are affected by them. Maybe a disinterested monarch who is “above” all laws could prescribe “fair laws”, but experience has taught the fundamental principle that “power usually corrupts”. Thereby, essentially all “absolute” monarchs became corrupt, with some of their laws little more than whims of maniacs.

Alternatively, as Ancient Athenians learned, direct democracy is a disaster: when the people rule, the majority (i.e., those with less wealth than “the privileged”) pass laws to rob the minority (the rich people). Subsequently, the Romans found that a republic was better, in which representatives of the public ruled – which of course is what the founders of this country established. But after more than 200 years experience with this form of

\* Go to other chapters *via*

government in this country, its many faults are readily apparent. As the 20<sup>th</sup> century American journalist and writer Ambrose Bierce cynically wrote: “Politics... is a strife of interests masquerading as a contest of principles.”

Thereby, one can quickly come to the conclusion that in this country the *modus operandi* of the Democratic Party is to buy the votes of people in lower economic classes by promising to rob the rich (which is just slightly above “mob rule” or anarchy) while the *modus operandi* of the Republican Party is to obtain vast sums of money from “special interests” (such as large companies and “Political Action Committees” or PACs, which is one modern form of “factions”) to pay for propaganda to convince the voters to vote for Republican candidates (a process that is not much different from that used by any oligarchy). Meanwhile, our Presidents of late have behaved as if they were monarchs ruling in what is otherwise a theocracy, with the most common phrase used by all presidents during the past 50 or more years being “God bless you, and God bless America”!

So, then, is there no chance for liberty and justice in America? Liberty is impossible without “equality before the law”, but not only does “equality before the law” conflict with the common advice “get the best lawyer that money can buy” but also “equality before the law” is meaningless when laws are necessarily unjust. Thereby, Dear, one can easily become quite discouraged: I expect that no form of government will ever be able to contain factions; therefore, no laws will ever be fair; therefore, social justice will never be achieved – fundamentally because “one person’s justice is another’s injustice”, i.e., “social justice” is just opinion.

In his book *The Common Law*, Justice Holmes wasn’t quite so cynical:

The life of the law has not been logic; it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy avowed or unconscious, even with the prejudices which judges share with their follow-men, have had a great deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation’s development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics.

But if this is the best that can be said for our laws, then they’re really quite sick. Holmes states that the law embodies “the felt necessities of the time”, but “felt” by whom? The leaders? The majority? Goethe wrote:

There is nothing more odious than the majority. It consist of a few powerful men who lead the way, of accommodating rascals and submissive weaklings, and of a mass of men who trot after them without in the least knowing their own minds.

Holmes states the law responds to “the prevalent moral and political theories”, but 1), if the “prevalent moral and political theories” are those of “the majority”, what about justice for minorities? Surely anyone who thinks will have some opinions shared only by a minority. And 2), what, pray tell, is meant by the “prevalent” morality? Further, even if that question can be answered, is the “prevalent” morality sane?

Thus, Dear, consider again the “god-awful mess of muddled morality”, both in this country and in the world (a topic that I began to address in **M**). In communist countries, “prevalent” moral codes include “Workers Unite!” and “From each according to his ability; to each according to his need.” In Muslim countries there is: “There is but one god, Allah, and Muhammad is his prophet”. In France, there is the wonderful “Liberty, Equality, Fraternity” (although, as I mentioned in an earlier chapter, this mantra oversimplifies many important complexities). In Britain (and in many of the Commonwealth countries) there is “God save the Queen” [or King, as the case may be], which (if you think about it, is rather silly – save if the royalty is taken to be merely a symbol for the social system).

Meanwhile, in America, there are a great number of similar “slogans”, any one of which (or group of which) can be arguably identified as this country’s “moral code”. Let me list a few:

1. “We hold these truths to be self-evident; that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness...”
2. “Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind. This is the first and great commandment. And the second is like unto it, Thou shalt love thy neighbor as thyself...”
3. “Do unto others as you would have them do unto you.”
4. “One Nation, under God, with Liberty and Justice for all”
5. “Preserve, protect, and defend the Constitution...”
6. “Judo-Christian moral values”
7. “God bless America”

8. “In God We Trust”
9. “Might makes right”
10. “Law and order”
11. “Obey!”
12. “Evaluate!”

Now, Dear, if you suggest that the vast majority of Americans accept #1 (Jefferson’s statement in the Declaration of Independence) as the prevailing moral code, I would agree – but is #1 the basis of our morality? And if you think that #1 is (or could be) the basis for the moral code for the vast majority of Americans, do you think that it represents an adequate statement of our moral code? Does it lead to a harmonious society? What is meant by “happiness”? What if the vast majority of Americans are “happy” believing in God? What if clerics of different religions preach conflicting “morals”? What if one group of clerics preaches that abortion is “immoral” while another group of clerics preach that abortion is “moral”? And then, what if another group of “leaders”, namely, politicians, state: “You can’t legislate morality” – and then proceed to legalize abortion?

If you similarly examine all of the “moral codes” listed above, I think you’ll find similar problems. Maybe many people would choose “Might makes right” – provided they had the “might”! Probably many people would agree that “Evaluate!” would be a great moral code, but then their (confused) thinking has led them to adopt the moral code “Obey!” Apparently the majority of Americans accept “In God We Trust” and “One nation under God” but many of us grew up!

Thus, Dear, consider again the childishness of most religious schemes. We all know, instinctively, that our prime goal is to survive. Capitalizing on that instinct, power-mongering clerics catch childish people by their instinct and sell them with: “You want to live? Well, how would you like to live forever? Yes? Well, do I ever have a deal for you: today, for only pittance, I can offer you...” It’s astounding that anyone would be so naïve as to fall for such a con game – and even more astounding that somewhere around 90 percent of Americans (and 100 percent of Muslims) have bought into such childishness. All of which (and yet there’s more) can lead one to become very cynical. I think of this nation’s Pledge of Allegiance, with its “One nation, under God, with liberty and justice for all”, and conclude that more appropriate wording would be: “One nation, led by power mongers and fools, where ‘liberty and justice’ is a joke.”

\* Go to other chapters *via*

For contrast, Dear, imagine a society in which everyone agreed that the only “moral absolute” was “Evaluate!” Imagine that “Evaluate!” became the basis for all laws – but don’t hold your breath waiting for it to occur! Maybe some day it will, but to me, it appears to be far off in the future. Widespread acceptance of the same moral code has never worked in the past, and today, many people are working to ensure that it won’t happen in the near future. Thus, if the myth can be trusted, it’s what Moses tried to do when he led the Hebrews from Egypt, 3,000 years ago, it’s what “Muslim fundamentalists” are currently trying to do in many Muslim countries, and it’s what the Christian fundamentalists (or “Christian Right”, or better, “Christian Wrong”) are currently trying to do in this country.

Yet, if people in a society generally agree on a “common set of moral values” (or has a “common moral code”), then generally such a society will contain less strife than a society, such as ours, that doesn’t have a widely accepted moral code. In fact, it’s really rather amazing that America has managed to survive even for the short time that it has, since it has such a “god-awful mess of muddled moralities”! Surely credit for this should be given to Jefferson and the others (Paine, Franklin, Adams, Madison...) who rejected Christianity (and all “revealed” religions). They (perhaps especially Jefferson) constructed a wall between “church and state”. And basically the people said “good”, because there are some fundamental “moral concepts” that Mother Nature had taught all of us (and other animals, including the dolphins), e.g., try to be kind to one another.

Meanwhile, as cynical (and as worried) as one can become, there’s something else very satisfying and even encouraging about this country’s Constitution. I find encouragement in the wonderful way it starts:

*We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America...*

In my opinion, the key is “We the People”. The rest of the Constitution is just details, which “We the people” can change (and have changed). “We the people” says it all: “We the people” will decide on the constraints that we want in our society; not some judge, not some politician, not some leader, not some king, not some con-artist clerics, not some giant Jabberwock in the sky!

It took humans 5,000 years of strife, struggling, and revolutions to gain the strength of that glorious phrase “We the People...” Those three little words, “We the people”, are quite likely the most important words ever written and ever stated.<sup>9</sup> Thus, if one were to codify all of our society’s rules in one document, the result would be our Constitution, and if one were to reduce the Constitution to its essence, it would be “We the people”. Indeed, “We the people” should be our country’s motto – not “In God we trust”! The essence of our society and the source of its strength is “We the people” – which I suspect is what Lincoln saw and therefore said: “a government of the people, by the people, and for the people...”

Therefore, Dear, I hope you’ll be neither unduly upset about the injustices in our society nor feel unduly constrained to try to correct some of them. “We the people” will muddle through. If the clerics and judges and politicians get too far out of line, “We the people” will rein them in. Besides, although it seems that the vast majority of religious leaders and politicians seek mostly just to stay in power, yet there have been a few leaders deserving of the title “leader”: a Jefferson here, a Lincoln there. Even in my lifetime there has been Martin Luther King, Mahatma (i.e., “great soul”) Gandhi, Nelson Mandela, Suu Kyi (pronounced Soo Chee) of Burma, and Mikhail Gorbachev, and I admit to fond admiration of others who did their best, such as Ambassador Adlai Stevenson, Senator Patrick Moynihan, and Secretary of State Colin Powell. Who knows, maybe someday you, too, could... provided you get more exercise!

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<sup>9</sup> As you may know, Dear, the Preamble to our Constitution was written by Gouverneur Morris. The following is from <http://usinfo.state.gov/scv/Archive/2006/Apr/04-805076.html>, a web site of the U.S. Department of State:

Pennsylvania selected Gouverneur Morris as a delegate to the 1787 Constitutional Convention, where Madison’s notes document him as the most active speaker. James Madison wrote to his biographer Jared Sparks on April 8, 1831 that Gouverneur Morris was “an able, an eloquent, and an active member” of the Constitutional Convention: “The finish given to the style and arrangement of the Constitution fairly belongs to the pen of Mr. Morris; the task having been probably handed over to him by the Chairman of the Committee, himself a highly respectable member, with the ready concurrence of the others. A better choice could not have been made, as the performance of the task proved.” As the key member of the Committee on Style at the Philadelphia Convention, the entire text of the preamble and most of the stylistic improvements to the Constitution came from Morris’ pen.