

Divine Jurisprudence as a Mechanism for Interpreting Justice

Both the Greek oral epics and the later Greek tragedies were part of a narrative tradition intended to disseminate a coherent cultural framework to their audiences. The Greek oral epics performed the function of recording a repertoire of legendary and mythical narratives which served a didactic purpose by emphasizing certain cultural values enshrined by the Greeks. The Greek tragedies were an entrenched facet of civic engagement in the Athenian polis – often derived from the myths of the epic oral tradition, their musings on human nature informed the cultural and moral values on which Athenian civic engagement was predicated. One aspect of the Greek societal framework often explored in works of epic oral poetry and tragedy is that of justice, which is often inextricably tied to divine intervention and judgement. Though both Homer in *The Odyssey* and Aeschylus in *The Oresteia* consider divine jurisprudence to be critical to their respective interpretations of justice, their diverging views as to the responsibilities of mortals leads them to conceptualize justice differently.

In *The Odyssey* Homer portrays justice as a system of reciprocity enforced by the gods in which virtuous actions are rewarded and transgressions are punished. In the proem of the work, we learn that *The Odyssey* is the story of the “pain [Odysseus] suffered on the sea and how he worked to save his life and bring his men back home,” though “He failed...for their own mistakes,” (Homer 1.4-7). Meanwhile Zeus contends that it is “absurd that mortals blame the gods,” because though mortals “say [the gods] cause their suffering...they themselves increase it by folly,” (Homer 1.32-35). Homer has established that the hardships that Odysseus and his crew face stem from their own actions – though it may appear that the gods punish wantonly, in reality consequences stem from impious and unjust actions. Many examples of this mechanism are presented in the text, including the “bitter journey home” that Zeus had planned for the Achaeans since “some of [them] had neither sense nor morals,” in their sacking of Troy (Homer 3.132-133); the drowning of Ajax due to his “crazy boast – that he survived the waves against the wishes of the gods,” (Homer 4.503-504); and how Odysseus lost 72 men after sacking many cities of the Cicones and getting drunk on wine (Homer 9.41-60).

One of the key mechanisms through which Homer educates his audience on his reciprocal system of justice is through the discrepancies between the views of gods and those of mortals regarding similar circumstances. We learn that many of the troubles of Odysseus were facilitated by “Lord Poseidon [who] rages, unrelenting, because Odysseus destroyed the eye of godlike Polyphemos, his own son,” (Homer 1.68-70). However, Odysseus claims that Polyphemos had his eye struck at spearpoint due to Polyphemos’ own “lack of ‘shame at eating [his] own guests...Zeus and other gods have paid [him] back,” (Homer 9.478-479). How can Odysseus claim that Polyphemos was punished by Zeus for having mistreated his guests (Homer 9.478-479), when Odysseus himself is punished by Poseidon for gouging out Polyphemos’ eye (Homer 1.68-70)? Was Odysseus just a divine instrument of justice in this tale, or was he rightfully punished by Poseidon for his actions? Moreover, if justice is to be a robust institution in the framework of society, it must be enforced by the gods equitably. During Odysseus’ departure from Ogygia, Poseidon cries that “it seems the gods have changed their plans about Odysseus while I was absent...but I will goad him to more misery,” (Homer 5.285-290) – the gods do not have a consensus regarding Odysseus’ punishment, so who among them is right? Athena herself claims that she would have aided Odysseus if not for the fact that she “did not want conflict with [her] father’s brother,” (Homer 13.342). Such discrepancies encourage the reader to consider who is justified in their actions. Is Odysseus a righteous hero? Which of the gods is correct in their judgement?

Homer suggests that only the gods could reconcile such discrepancies and be the true arbiters of justice – it is the duty of mortals to be pious towards them. If individuals are to face consequences stemming from impious actions, we can see how acting in due reverence to the gods leads to prosperous outcomes. In the incident between Odysseus and Polyphemos, Odysseus approached Polyphemos’ cave to see “if he would give [Odysseus] gifts,” (Homer 9.228-229) and consumed his food without permission (9.230-235); while Polyphemos notes that his people “think nothing of that Zeus with his big scepter, nor any god,” (Homer 9.274-275), and proceeds to consume Odysseus’ crew (Homer 9.291-292). Odysseus and Polyphemos both violated conventions

of *xenia* (the guest-host relationship) upheld by Zeus. Consequently, both are punished for their impropriety. The Phaeacians lavish Odysseus with many gifts and send him home after his long and difficult journey, unknowingly failing to honor Poseidon's desire to keep Odysseus away from home (Homer 13.112-125). Despite their reverence of *xenia*, Zeus sanctions Poseidon's destruction of the Phaeacian ship that had carried Odysseus and for him to surround the city with a mountain – it is only because the Phaeacians immediately performed sacrifices to Poseidon and prayed at his altar that the latter does not come to pass. (Homer 13.142-183). This episode is particularly compelling because the Phaeacians had acted in accordance with the principles of *xenia* (honoring Zeus) but he authorizes their punishment for having transgressed against their patron god Poseidon in the process. It is only because of their show of piety and immediate deference to Poseidon that they avoid adverse outcomes.

Homer emphasizes the critical role that the gods play in enforcing his reciprocal system of justice – it is the purview of the gods to judge virtuous actions and transgressions since no mortal could reconcile complicated moral discrepancies which the gods themselves cannot. If even crafty and wise Odysseus could not recognize his follies, it would be difficult for the audience to argue that mortals could offer superior judgement in place of divine jurisprudence. It is the responsibility of mortals to be pious and deferential to the gods who carry out such judgements. It is only when Odysseus and Telemachus demonstrate this piousness (equated with maturity by Homer) towards the end of the epic that Athena and Zeus facilitate their revenge against the suitors and suppress dissent among their people to allow them to be the prosperous rulers of Ithaca.

In *The Oresteia* Aeschylus examines how conceptualizations of justice could evolve beyond divine jurisprudence – in *Agamemnon*, the will of the gods is equated with righteousness. Upon Agamemnon's arrival to Argos, he notes that it was the gods who exercised judgement against Troy, since it was “not from the lips of men the gods heard justice, but in one firm cast they laid their votes within the urn of blood that Ilium must die and all her people; while above the opposite vase...no vote fell” (Aeschylus I.814-818). Following Agamemnon's death at the hands of Clytemnestra, Aegisthus states that “the high gods look down on mortal crimes to vindicate the right,” (Aeschylus I.1578-1579). We learn that the gods (not men) exercise justice on those who commit wrongdoings, and their execution of justice is in the right. This technicality that the gods rigorously uphold righteousness is more deterministic and absolutist than Homer's perception that the gods can face discrepancies in their judgements – after all not a single god voted for Troy to be saved according to Aeschylus. The chorus of Argive elders reinforces this notion, stating that “The truth stands ever beside god's throne eternal: he who has done shall suffer; that is law,” (Aeschylus I.1563-1564). This belief in the faultless judgment of the gods shapes mortal perceptions and actions in *Agamemnon*. There are numerous examples of characters justifying their actions with the will of the gods – if the gods allow an action to come to pass, then it must have been righteous. Clytemnestra hopes that “Justice leads [Agamemnon] in...[her] unsleeping care shall act with the god's aid to set aright what fate ordained,” (Aeschylus I.911-913) and as she prays to Zeus she asks him to “accomplish these my prayers. Let your mind bring these things to pass. It is your will,” (Aeschylus I.973-974). How could Agamemnon believe he was justified in killing Iphigeneia to ransack Troy when Clytemnestra clearly wants him to suffer for the same crime? Each of the characters perceive their view to be just and defend their actions with the righteousness of the gods' will, although their outcomes are clearly at odds.

Having posited an issue with mortals believing the absolute righteousness of divine jurisprudence, Aeschylus further explores the notion of mortal interpretations of justice and righteousness in *The Libation Bearers*. The chorus of serving women describe to Orestes the prophetic dream of Clytemnestra in which she gives birth to a snake which bites her breast (Aeschylus II.527-533) and Orestes interprets the dream to mean that he will kill Clytemnestra, his own mother (Aeschylus II.540-550). The chorus, in favor of his interpretation, chooses him to be their, “interpreter to read these dreams, so may it happen,” (Aeschylus II.551-552). Moreover, the chorus outright defines righteousness in stating, “The spirit of Right cries out aloud and extracts atonement due: blood stroke for the stroke of blood,” (Aeschylus II.310-312). The chorus is exercising their own agency in defining the appropriate response to Clytemnestra's crimes, and noting the wishes of the “spirit of Right” itself. Prophecies are the domain of Apollo, that are meant to foresee an outcome to events – here we

see mortals performing the functions of the gods in evaluating the right course of action. The mortals (Orestes, Electra, and the chorus) are not justifying their actions by only believing in the righteousness of the gods, but through their own logical determination of what the “spirit of Right” means to them. When Orestes kills his mother, he condemns her, noting that she “killed, and it was wrong. Now suffer wrong.” (Aeschylus II.930). In a later address to the people, he invites them to “judge [Clytemnestra and Aegisthus] by what befell them,” (Aeschylus II.976-977) as he proceeds to outline their crimes against his father and house – “behold again, O audience of these evil things, the engine against my wretched father they devised...” (Aeschylus II.980-981). Not only does Orestes charge his mother with a crime directly, but he invites the people of Argos (and the audience) to judge their actions and their punishment at his hands by outlining their crimes and justifying his decision. Aeschylus has effectively primed his audience to consider interpreting justice for themselves. It is worth mentioning that Orestes did receive a mandate from an oracle of Apollo who warned “of chill disaster under [his] warm heart were [he] to fail against [his] father’s murderers,” (Aeschylus II.272-273), but Orestes notably dismisses it – “Even if I do not trust them, here is work that must be done,” (Aeschylus II.297-298). Aeschylus could not reject the purview of the gods so prematurely in his work. In allowing Orestes to be dismissive of such a prophecy from Apollo, Aeschylus allows us to accept that Orestes does have the backing of the gods though he clearly engages in his own autonomous decisions and judgments.

In *The Eumenides*, Aeschylus explicitly extends the mandate of divine jurisprudence of justice onto mortals through Athena’s actions and formalizes the notion that man can interpret justice and righteousness. When Orestes and his defender Apollo reach Athens pursued by the Furies, Athena notes that “The matter is too big for any mortal man,” to judge but, “Nor yet [does] [she] have the right to analyze cases of murder where wrath’s edge is sharp,” (Aeschylus III.470-473). Symbolically, this matter is unprecedented, as we have three divine characters unable to judge what is right – Apollo seeks to justify Orestes’ actions as restitution for the crimes against his family; the Furies seek to punish him for matricide; and Athena notes that it is outside her purview to judge. Noting that the issue is too large for any single man, Athena instead summons a court of eleven jurors who will preside over the case alongside her – after hearing arguments presented on both sides, the twelve votes cast are tied and Athena notes that Orestes is to be set free (Aeschylus III.730-753). Aeschylus has effectively outlined a mechanism (the Athenian court) and a system (of jurors, defendants, and prosecutors) which have the authority to judge cases. Athena, after all, declares that, “this forevermore shall be the ground where justices deliberate,” (Aeschylus III.683-684). Aeschylus has declared this system of judgment to be equivalent to the mandate of Athena herself. It is noteworthy that Athena’s vote is given the same weight as the other eleven jurors – though no single mortal man can judge such cases (as stated by Athena), a group of jurors individually are equal to the gods in exercising justice.

Aeschylus has constructed a system in which mortal men have appropriated divine jurisprudence of justice and righteousness from the gods. Having noted the problem of having divine jurisprudence being equated with righteousness in *Agamemnon* – individuals merely defend their own position in the name of the gods’ will – he primes his audience to judge Orestes’ actions by having Orestes defend his actions to the audience directly in *The Libation Bearers*. The extension of this form impassioned defense – the Athenian court with mortal jurors – is what Athena cedes her authority of divine judgment to in *The Eumenides*. To Aeschylus, it is the responsibility of men to judge matters fairly and with prudence in a jury. The symbolic transmutation of the Furies into the Eumenides – transitioning from spirits of anger and retribution to spirits of prosperity and goodwill – is emblematic of society transitioning to a superior form of jurisprudence and justice.

The system espoused by Homer – in which it is solely the purview of the gods to judge virtuous actions and transgressions– is (in many respects) the antithesis of Aeschylus’ view. Aeschylus believed that a jury of mortals had equal claim to a purview over justice that the gods had, while Homer felt that the responsibility of mortals was merely to be pious and deferential to the gods’ will. Homer – in highlighting scenarios where even the gods could not find a consensus, or situations in which the gods behaved unpredictably – emphasized the lack of agency held by mortals and the need for them to be subject to the gods’ ruling. Aeschylus, meanwhile, sought to invert this paradigm, giving mortals the ability to judge a case in which the gods were divided.

Works Cited

Aeschylus. *The Oresteia - Agamemnon, the Libation Bearers, the Eumenides*. Translated by David Grene, and Richard Lattimore. The University of Chicago Press, 2013.

Homer. *The Odyssey*. Translated by Emily Wilson. W. W. Norton & Company, 2018.

Vivek Kantamani
HUMA 1001 Section 060