

CHAPTER 8

Justice and Injustice

Machiavelli often uses the word “justice” (*giustizia, iustizia*) in his political and historical writings and correspondence. He seldom uses it, however, in the same ways as many Christian political theorists and humanists. This leaves the impression that Machiavelli is uninterested in developing a more adequate account of justice as part of his political theory. The impression is reinforced by the overtly prudential form of his reasonings. He does, of course, frequently discuss topics that classical and humanist authors place under the heading of justice. The distribution of public goods and offices, appropriate punishments for bad conduct or rewards for good, and the value of keeping promises and pacts are among the most prominent themes in all Machiavelli’s best-known writings. But his arguments seem to treat self-interested prudence, not justice, as the touchstone for evaluating distributions, punishments, and rewards, and for deciding when obligations are binding. These appearances explain why so many perceptive and sympathetic readers conclude that Machiavelli wanted to separate judgments grounded in reflective prudence from ethical considerations, especially considerations of justice, and to limit—if not obviate—the role of justice in political deliberations.¹

This chapter tries to show that, appearances notwithstanding, reasoning about justice is at the very center of Machiavelli’s ethics and political thought. Indeed, questions of justice and injustice arguably form *the* main, implicit subject-matter of all Machiavelli’s main political works. Although he uses the word “justice” more sparingly than more conventional republican writers, between the lines Machiavelli is always writing about justice and injustice. Even when he does not speak directly of *giustizia* or *iniustizia*, he often uses paraphrases or related words that signal a concern for justice, especially *leggi, rispetto, obbligo, or termini* (limits). Machiavelli employs these indirect modes of writing to discuss some of the most fundamental questions of political justice: how to define the limits of free action for individuals and sectional groups, how to regulate conflicts that ordinarily arise among free agents, and how to order various civil and judicial procedures under laws that everyone sees as fair. Moreover, Machiavelli does not set out standards

¹ Eric Nelson (2004, 85), for example, accepts the usual view: “as has been noted repeatedly, Machiavelli is not at all interested in ‘justice,’” and “in this respect Machiavelli’s account lacks the moral apparatus that would make real dialogue with the Roman or Greek traditions possible.” Also see Cassirer 1946, 148–49; Strauss 1958, 281; more recently Skinner 1988, 433–34 and 2002, 146–17; Ball 1984, 521–28; Philp 2007, 37–54.

for political justice that are separate from, and potentially competitive with, ethical principles. As previous chapters argued, while his standards of political prudence are expressed more directly than his ethical judgments, fundamental ethical principles are implied by his reasonings about what reflective prudence requires. He frequently invokes justice even in the *Prince*, though that work assumes that many readers are unlikely to be moved by appeals to justice unless these are concealed within arguments from self-interest.

8.1.

Justice as the basis of order and *libertà*

A central argument of the *Prince* is that brute force is seldom enough to underwrite political power. This is the thrust of the statement in chapter 21 that “Victories are never so clear that the winner does not have to have some respect, especially for justice [*le vittorie non sono mai sí stiette che el vincitore non abbia ad avere qualche rispetto, e massime alla iustizia*].” Here Machiavelli is arguing that princes become strongest when they are true friends to their allies in victory and defeat, refusing to be swayed from their commitments by “present dangers” or fleeting advantages. By showing themselves steadfast, they acquire a source of strength that is the necessary complement to military power: the firm, reciprocal commitments of those they have supported through good and bad fortune. Consistent reliability toward friends inside and outside one’s own city is one of the pillars of genuine *potenza*, as distinct from merely apparent power. Machiavelli acknowledges that a cynical realist might see this maxim as a recipe for self-destruction. A prince who offers unwavering support might find that his ally becomes strong through victory, then turns his new strength against him; or if his ally loses, that he brings losses to his friends. Machiavelli’s response to both concerns is that the benefits of long-term mutual trust are likely to counteract these disadvantages. If “the one to whom you adhere loses” yet you remain his friend, he will be under an obligation to return the favor if needed: “he helps you while he can, and you become the companion [*compagno*] of a fortune that can revive.” If your ally wins, “though he is powerful and you remain at his discretion,” nonetheless “he has an obligation [*obbligo*] to you and has a contract of love [*contratto lo amore*] for you.” One source of this *obbligo* is the human decency that can always be found alongside human *malignità*. Contrary to the cynics, “men are never so indecent [*disonesti*] as to crush you with so great an example of ingratitude.” And if powerful allies are not restrained by decency, they should be restrained—as the passage already cited suggests—by reflecting on why it is expedient to respect justice.²

As ever in the *Prince*, Machiavelli expresses these views by arguing from self-interest: it is in a prince’s own best interests to form transparent, uncoerced contractual ties (*contratto*) of *obbligo* with allies, and to meet obligations irrespective of changing fortune. Yet the prudential form of the arguments does not mean that

² P, XXI.90/181. A rare scholar who argues that the ethical message of this passage on justice should be taken literally, not as mockery, is de Alvarez (1999).

they have no independent ethical content. It is *both* prudent *and* just to fulfill one's obligations irrespective of changing fortune or self-interest. For persuasive purposes the argument can be made through an appeal to self-interest. But reasons of justice provide a firmer, more reliable guide to action than considerations of prudence alone. The initial premise of the *Prince* is that most readers live, as Machiavelli puts it in the *Florentine Histories*, "in such a way that just and unjust do not have to be of much account [*in modo che del giusto e dello ingiusto non si aveva a tenere molto conto*]." If one's aim is to persuade such people to act justly, the best strategy is to "leave out" explicit references to justice and injustice and "think only of utility [*utilità*]" for themselves or their city.³ Nevertheless, the prudential form of argument is ultimately subservient to its ethical substance.

The idea that justice is an indispensable foundation of political and military power is a recurrent, central theme in Machiavelli's writings. It appears in texts written before and after the *Prince*. Among the earliest extant sources of Machiavelli's views on justice is a series of proposals for reforming Florence's military defenses written in 1505–6. A letter from Cardinal Francesco Soderini thanks Machiavelli for outlining his "new military idea," adding: "You write wisely that this idea [*questo principio*] requires justice [*bisogna la iustizia*] above all, both in the city and in the countryside."⁴ Although Machiavelli's letter to Soderini is lost, some of its contents may be inferred from remarks made in his writings from the same year on the reorganization of Florentine arms. His *Provisione della ordinanza* begins by noting that all republics that have maintained and enlarged (*accesiute*) themselves over time have had two things, justice and arms (*la iustizia et l'arme*), as their principal foundation (*principal fondamento*).⁵ The same idea appears in another short piece written around the same time:

Whoever speaks of empire [*imperio*], kingdom, principality, or republic and whoever speaks of men who command, starting from the highest rank and descending to the captain of a brigantine, speaks of justice and arms. You have little justice, and no arms at all [*Voi della iustizia ne avete non molta, et dell' armi non punto*]. And the only way to recover the one and the other is to order arms through public deliberation, and to maintain them with good orders [*ordinarsi all'armi per deliberatione pubblica, et con buono ordine et mantenerlo*].⁶

While it is true that the emphasis on justice in this military context connotes discipline as well as the notion of justice in an ethical sense,⁷ Machiavelli's concept of justice here is not reducible to military standards of well-ordered command. The *Cagione dell'ordinanza* ties it to *libertà* as well as to security and stable order.⁸ The

³ See *FH*, IV.19.165/496, and chap. 2 on Thucydides TPW, III.42–49as a source of this persuasive strategy.

⁴ Soderini to Machiavelli, 4 March 1506, *MF*, 120/119.

⁵ Machiavelli, *Provisione*, *Opere* I:31.

⁶ Machiavelli, *Cagione*, *Opere* I:26–17.

⁷ As noted by the editors of *MF*, 463.

⁸ *Cagione*, 27, 29.

Provisione does propose measures that at first glance may seem to treat justice as a mere means to military ends. Machiavelli underlines the need to uphold “severe justice” (*severa giustizia*) against the heads of private factions who prevent individuals from fulfilling their duties, and against anyone who shirks his military duties without legitimate reason (*absente senza legitima cagione*).⁹ But the main argument of the *Provisione* is that well-ordered military defenses cannot be maintained unless general political and legal justice is upheld. If the men of different ranks and occupations in a city are asked to serve in its defense, more than punitive force and military discipline are needed to motivate them to serve loyally; they also need persuasive “reasons to obey” public demands for their service. Cities whose governments are seen to uphold general justice are more likely to secure the trust and loyalty of citizens than cities where “the many” perceive that their interests are subordinate to those of the few. The citizens called on to serve as their city’s *armi* are less likely to avoid service if they are confident that no exceptions to general conscription are made in exchange for political or monetary favors.¹⁰

Machiavelli’s later works reaffirm these early ideas about why justice is needed to maintain political and military power. The argument that justice is a “foundation” of good military defenses reemerges in the last two chapters of the *Art of War*. Here Machiavelli has the chief speaker Fabrizio Colonna use the word *giustizia* in three distinct senses, all of which are needed for adequate civil arms. One sense identifies justice with respect for due limits, self-restraint, and moderation. “That army cannot flee hunger,” Fabrizio declares, “which does not observe justice and which licentiously consumes whatever it wishes.” *Giustizia* in this sense is said to make armies ordered and sober (*ordinati e sobrii*), whereas without justice they are licentious and drunk. A second sense of justice is punitive: it refers to the public judgment of anyone who transgresses established legal limits, and to the issuing of authoritative punishments. According to Fabrizio, an effective way to ensure that individuals who transgress the bounds of good orders are duly punished is to make the people at large responsible for judging transgressors. Whether within military ranks or in wider civilian orders, “to want one individual not to be favored in his errors by the people, a great remedy is to make the people have to judge [*giudicare*] him.” This “mode of punishing [*modo di punire*]” helps to defuse disorders and “makes justice be observed [*da fare osservare la giustizia*].” A third sense of justice is distributive, referring broadly to judgments of what is due to different agents. At the start of the discussion about modes of punitive justice Fabrizio speaks more generally of distributing rewards and punishments to whoever “merited either praise or blame, either through their good or through their evil doings.” A few pages later he mentions another kind of distributive justice, this time concerned with judgments about the ownership and use of goods or the stewardship of other human beings. Caesar Augustus Germanicus earned a name for justice (*nome di giusto*) by taking care to pay local tribesmen for the wood he used to build fortifications in France. This reputation, Fabrizio says, made it easy

⁹ *Provisione*, 41–42.

¹⁰ *Ibid.* See also *Frammento di discorso sulla milizia a cavallo*, *Opere* I:43.

for Caesar to gain support for further conquests in that province. Scipio Africanus gained his name for justice by returning a beautiful young hostage in Spain to her father and her betrothed. This act showed respect for the girl's honor and that of her family and, at the same time, gave back to each what was rightly theirs.¹¹ In discussing each of these three senses, Fabrizio emphasizes the value of justice as a means of improving military capacities. But the basic principles of justice he identifies have a much broader scope than this, and are ethically prior to military ends. They should, Fabrizio implies, serve as *fondamenti* for any human orders, civil as well as military.

In the *Florentine Histories* Machiavelli says less about justice than about various forms of injustice. Nevertheless, the main elements of his earlier accounts can still be found in the *Histories*. As we have seen, a leitmotif of the work is that the worst injustices are often perpetrated "under color" of decent words, so that their true character is discovered too late to prevent the disorders that flow from injustice. A deeply unsettling example occurs in Book II with the Duke of Athens' rise to tyranny in Florence. Having promised to restore Florentine liberties and to rid the city of factions, the duke soon revealed his unjust intentions through actions that belied his *onesto* rhetoric. Showing no "regard to civil life" and no "shame," "the severity and humanity that he had feigned" in order to win support "were converted into arrogance and cruelty." He "increased the old taxes and created new ones," took all authority away from the Signori, and delivered unjust sentences (*giudicii ingiusti*). His actions were arbitrary: at first he lifted restraints on the "great" to ensure that they help promote his designs, but later regarded them with suspicion. He distributed "splendid titles," money, and other favors not according to merit but with a view to buying off those who might otherwise oppose his tyranny, or to play off different sections of the population.¹² Later books in the *Histories* focus on injustice as a cause of disorders between cities. Among the most common sources of injustice is the ambitious desire to acquire control over the territory and *libertà* of others.¹³ This includes the unjust desire to possess "the whole" (*il tutto*) of a province, or authority in a province, instead of resting content with "a part" (*la parte*).¹⁴

Let us now turn from particular cases to consider what they tell us about Machiavelli's general concept of justice. In its widest meaning, he uses the word as a general name for principles, rules, standards, and institutions that regulate the claims of different agents and bring them into some kind of order. *Giustizia* or *iustizia* is the quality that produces order among different parts of a city or agents interacting beyond the borders of cities, including cities and empires themselves. The main order-producing element of justice is expressed in Machiavelli's related concepts of *rispetto* and *termini*, translated as "limits" or "bounds."¹⁵ In any *ordine* that is

¹¹ AW, VI.128–39/654–65.

¹² FH, II.36.94–95/410–11.

¹³ As the Florentines do over Lucca, though never for long without fresh resistance; see FH, V.14.203/539–40.

¹⁴ FH, VI.20.251/410–11.

¹⁵ Instead of as "end" in the sense of conclusion. The sense of *termini* as limits or bounds is much more usual in Machiavelli; see, for example, D, I.7/218; II.27/402; III.35.292/506, *inter alia*.

founded on justice, the claims of all parties are limited by criteria that do not derive from the particular interests of any one. Instead the limits are justified by principles that can be judged reasonable by all parties. This point is expressed clearly by Niccolò da Uzzano, Machiavelli's chief spokesman for prudent policies in the *Florentine Histories*. Whatever order may be established in the city and called just by its architects, appearances of order and the name of justice are never enough to underpin stable authority. This is especially true when those who make the order claim to have all "just cause" on their side while giving no credit to the claims of their opponents, for "this justice must be understood and believed by others as by us [*questa giustizia conviene che sia intesa e creduta da altri come da noi*]."¹⁶

Here Uzzano spells out another element of Machiavelli's general conception of justice: the idea of impartiality. The idea is expressed in a different way at the end of the *Prince* chapter 21, which examines several different notions of justice "between the lines." On the one hand, Machiavelli says that a prudent prince should always fulfill his commitments to those with whom he takes clear "sides" in conflicts, however his or their fortune may change. These remarks seem to refer mainly to allies in other cities. On the other hand, the chapter concludes by stressing the need for princes to avoid taking permanent sides in conflicts within their *own* city's population. A prudent prince should rather show an evenhanded solicitude for the interests of different "communities" (*università*) within his own city, shunning partisan tactics of divide-and-rule. Since "every city is divided into guilds or clans," Machiavelli's prince should "take account [*tenere conto*] of those communities, meet with them sometimes," and thereby "make himself an example of humanity and munificence" as a leader who retains the "majesty of his dignity [*la maestà della dignità sua*]" needed to arbitrate conflicts among his subjects. Princes who identify too strongly with particular clans, guilds, or parties arouse resentment among those of which they take less account or with whom they meet less often. The argument can be expressed either in the language of utility or in the ethical language of humanity and *dignità*. Either way, it implies an account of justice as requiring the impartial treatment of different elements in a city and the evenhanded consideration of their diverse claims. Justice in this sense is a fundamental component of a prince's *potenza*, since it ensures that he will be highly "esteemed" (*stimare*) by all sections of his city.¹⁷

This raises a question: how is it possible to make impartial judgments about whether or not a prince, a policy, or a law is impartial, and therefore just? Machiavelli does not underestimate the difficulties involved in making such judgments, or in persuading others to endorse them. At this stage, two distinctive features of Machiavelli's epistemology of justice may usefully be outlined; more will be said later about each.

First, judgments about impartiality have an extremely important perceptual dimension. Claims that just orders have been instituted or that justice has been done in any given case "must be understood and believed by others as by us." While

¹⁶ *FH*, IV.27.174–75/506–7.

¹⁷ *P*, XXI.91/182.

formal criteria are important for ensuring that orders meet standards of impartiality, they are not always sufficient. If, for example, the formalities of justice have been instituted through processes that many see as unjust or partial to special interests, then the resulting institutions themselves may be rendered suspect, however impeccable their formal qualities of impartiality. The ultimate judges of whether particular standards or institutions that go under the name of justice are adequate to that name are the people who are expected to uphold them. If standards and institutions are placed by others over people who do not “understand or believe” their claims to embody justice, their doubt is a sufficient test of these institutions’ inadequacy. However, this reasoning does not entail the subjectivist and relativist view that *whatever* is “understood or believed” to be just by a particular set of people at a particular time is rightly viewed as just. Machiavelli’s perceptual test applies to the practical exposition and implementation of standards of justice, not to those standards *qua* ethical standards. When large numbers of people do not understand or believe the claims of justice made on behalf of the institutions they live under, their skepticism may relate to three different things: the content of formal standards of justice, the procedures used to apply them, or the manner in which standards and procedures were established in the first place. Most of the problems Machiavelli discusses arise not because people disagree about the general standards needed to uphold justice, but because they do not believe that the procedures set up to implement justice or the means used to establish the procedures are impartial. When different parties insist on sharply differing or incommensurable standards of justice, Machiavelli implies that such conflicts are often rooted in something other than moral disagreement alone. Mistrust, or a narrow conception of self-interest, may also motivate refusal to submit one’s own claims to reasoned adjudication on the basis of independent standards.

The other distinctive feature of Machiavelli’s epistemology of justice confirms a non-relativist reading of the argument that people need to “understand and believe” in the justice of orders they live under. This is the claim that correct judgments about the justice and injustice of actions always come to light in due course, though in corrupt conditions this may take a long time. One of the most serious forms of injustice for Machiavelli is the breaking of faith or obligations, whether these are formal or tacit. He frequently has prudent characters express the view that ignorance and imprudence cannot serve as *post facto* excuses for injustice. In the *Histories* a spokesman for the Milanese people, who were enraged by the treachery of Count Francesco Sforza, declares to the count that nothing can

excuse your perfidy or purge the infamy that our just quarrels [*giuste querele*] will bring upon you throughout the whole world. Nor will it keep the just pricking of your conscience [*il giusto stimolo della tua coscienza*] from tormenting you when the arms that were prepared by us to injure and frighten others will come to wound and injure us, because you yourself will judge yourself worthy of the punishment parricides have deserved. And even if ambition blinds you, the whole world as witness to your wickedness will open your eyes; God will open them for you, if perjuries, if violated faith [*la violata*

fede] and betrayals displease Him. . . . So do not promise yourself sure victory, for that will be kept from you by the just wrath of God [*giusta ira di Dio*] . . . have firm faith that the kingdom you have begun with deceit and infamy will come to an end for you or your sons with disgrace and harm.

The surrounding narrative acknowledges that deception and bad faith were the immediate cause of many of Sforza's victories. But the *Prince's* maxim that such victories are seldom lasting is borne out over time. On Machiavelli's account, Sforza soon found himself politically isolated and was forced to "request aid urgently from the Florentines, both publicly from the state and privately from friends," especially Cosimo de' Medici. The wider, corrupting effect of his deceptions was to deepen mistrust among Italian cities, whose republican orders were rapidly being eroded by "princely" entrepreneurs such as Sforza and Cosimo, paving the way for rival cities to invite French and imperial forces into Italy.¹⁸

Broadly speaking, then, we can say that the word "justice" for Machiavelli refers to standards, procedures, and judgments that are derived from reasoning about the conditions for ordered existence among free agents. Setting *limits* on any one party's claims is one hallmark of justice. The attempt to view claims *impartially* is another. Machiavelli discusses three main forms of justice in his works. One involves claims made with respect to *promises* or "keeping faith," where violations of faith are considered as a *prima facie* injustice. A second involves claims made with respect to *distributions* of goods, praise or blame, or rights to stewardship over human beings. The third involves claims relating to the *punishment* of violations of promises or rules and principles regulating distributions. As we will see, Machiavelli uses the word "justice" for informal standards and practices as well as formal rules and institutions. Informal standards such as respect for personal honor, duties of gratitude, and obligations to keep promises are very much part of Machiavelli's concept of justice. *Giustizia-justitia* includes, but is not exhausted by, formal laws and juridical institutions. Indeed, Machiavelli often treats the standards embodied in informal practices of justice as a valuable touchstone for evaluating particular laws and legal systems.¹⁹

What is the relation between Machiavelli's concept of justice and two other key ethical concepts, order and freedom? Drawing on examples discussed earlier in this section, it seems clear that justice is a necessary element—indeed, a *fondamento*—of any *ordini* that deserve that name.²⁰ If *virtú* is the capacity that enables human beings to work out and institute standards of justice, *giustizia* is what confers the quality of order on some laws and institutions; for Machiavelli, laws and institutions that lack *giustizia* are always disordered. Order and justice are not two discrete values that sometimes come into conflict so that one must choose

¹⁸ *FH*, VI.20/655–67; VI.22–23.254–55/600–603; VI.27.261/665; VI.32.267–68/672.

¹⁹ See sec. 8.4. As noted in previous chapters, Thucydides and other ancient authors often speak of "customs and laws" as foundations of decent human life.

²⁰ Among recent scholars, this is recognized most explicitly by Fischer (2000), 197. He does not analyze the relationship in detail, however, and argues that Machiavelli has a "positivist" conception of justice as a convention that should be put aside when it is not useful to authorities.

which to put first. Since order depends on justice, justice must always come first, even when this seems to some observers to threaten what they take to be order. Institutions that fall short of standards of acknowledged justice, or that are perceived as unjust by those who live under them, lack legitimacy and therefore stability. They do not deserve to be called orders at all; at best, they may be described as apparent orders for as long as they do not collapse due to lack of legitimacy. This view casts doubt on the widespread opinion that lasting order can be imposed by unilateral force or violence, whether the imposing agent is an individual, a city, or an empire.

When considering the relation between justice and freedom, it is important to distinguish between free agency as a capacity of individuals and political freedom or *libertà*. On the one hand, Machiavelli seems to treat the value of justice as derivative from the value of individual free agency. The need for standards and institutions of justice arises because individuals are innately free; and their pre-political freedom generates unavoidable conflicts over the proper limits of each agent's freedom. Different accounts of justice can be appraised by asking how well each does two things: first, accommodate the "ordinary and natural" phenomenon of innate freedom; and second, limit the potential for disorders that arise from conflicting claims. On the other hand, although free *agency* has moral weight independent of the standards and institutions of justice, Machiavelli treats justice as a necessary condition for any political freedom or *libertà* that deserves that name. He conceives *libertà* as a condition where conflicting claims are regulated by laws that are not tied to any particular private or partisan interests. The laws that maintain *libertà*, that is, are grounded in standards of justice. Justice is therefore the principal ethical foundation of political *libertà*.

If justice is as important to Machiavelli as the preceding discussion suggests, why does the concept seem to play a marginal role in his writings? We have already touched on the main reason: namely, that of all the *onesto* words used in public life, the concepts of *giustizia* and *giusto* are perhaps the most susceptible to misuse or abuse. Human *malignità* is only partly to blame for this. A more general explanation is that people often fail to reflect prudently on the causes of conflicts that impel them to seek justice. Appeals to justice are made when claims relating to promises, distributions, or punishments conflict. Several aspects of such conflictual settings tend to make the concept of justice appear ambiguous or multivalent. The language of justice is used both to assert the particular claims of each claimant, and to set up an impartial standpoint for arbitrating those claims. If those responsible for arbitration fail to persuade the parties that their standards and procedures are impartial, they will fail to ensure that their more general conception of justice takes precedence over the particular conceptions of the claimants. What remain are rival conceptions that go under the name of justice, none of which fulfill the conditions of reciprocal limits and impartiality needed for any adequate concept of justice. Machiavelli's discussions of justice and injustice treat these non-ideal, adversarial conditions as the inescapable starting-point for identifying more adequate notions of justice. Precisely because rival parties infuse the word with rival, self-serving interpretations, it is necessary to see what is wrong with these in order

to get beyond them. In all his main works Machiavelli recognizes that the initial standpoint for anyone who seeks justice is always a particular, partial standpoint. Unsurprisingly, the first thing people do when demanding justice is to assert standards and demand procedures that reflect their own narrow interests. Only when they see the shortcomings of these partial accounts are they likely to acknowledge more general standards of justice, and to give them authority to correct their initial self-serving views.²¹

8.2.

Partisan accounts of justice

The *Florentine Histories* are full of grim examples of how the ideas of honor, keeping faith, and justice were debased in Florence. In Book III a group of prudent citizens, “moved by love of their fatherland,” paints a depressing picture of their city’s moral bankruptcy. Having “reasoned much about these disorders among themselves,” they go before the Signori to offer their diagnosis of Florentine disorders. The patriots single out partisan ambitions and sectarian rivalries as chief causes. “The common corruption of all the Italian cities,” they tell the Signori,

has corrupted and still corrupts your city, for ever since this province extricated itself from under the forces of the empire, its cities have had no powerful check to restrain them [*un freno potente che le correggesse*] and have ordered their states and governments not to be free, but divided into sects [*sètte*]. . . . And because religion and fear of God have been eliminated in all, an oath and faith given [*il giuramente e la fede data*] last only as long as they are useful [*utile*]; so men make use of them not to observe them but to serve as a means of being able to deceive [*ingannare*] more easily. And the more easily and surely the deception succeeds, the more glory and praise is acquired from it; by this, harmful men are praised as industrious and good men are blamed as fools.²²

The last two sentences recall passages in the *Prince* where Machiavelli has often been taken to be recommending the skillful use of deception to gain private political ends.²³ In the *Histories* this same practice—ostensibly vintage Machiavellianism—is treated as a civic virus responsible for spreading *corruzione* throughout Italy. What most readers have read as non-ironic advice to seek praise from successful deception in the *Prince* is here identified as the main internal cause of Italy’s ruin, making the province vulnerable to foreign predators. The view that successful deception deserves praise encourages harmful men to prey on their fellow citizens under cover of public laws. Their example encourages licentious conduct among the young, who

²¹ Compare Socrates’ approach in Plato, *Rep.* I–II, which starts by canvassing various unreflective or corrupt opinions about what justice is, and only afterward identifies more adequate standards of justice.

²² *FH*, III, 5.109–10/429; translation slightly modified. Compare VII.1.276–77/628–29.

²³ See *P*, XVIII–XIX.68–82/165–75.

learn from experience that mendacity and excessive self-seeking bring “glory and praise,” while observing that men who keep their promises and stay within due limits lose out to the others: the reputedly great men who see nothing wrong with acquiring by deceit. Before long the whole city, indeed the entire province of Italy, is used to living “in such a way that just and unjust do not have to be of much account” in public life.²⁴ If standards of justice are invoked they are relativized to private and sectarian whims, while “good laws, because they are spoiled by wicked use, are no remedy” for bad customs. These developments arouse “the appetite, not for true glory, but for the contemptible honors on which hatreds, enmities, differences, and sects depend; and from these,” Machiavelli’s patriots continue, “arise deaths, exiles, persecution of the good, exaltation of the wicked.” And

what is most pernicious is to see how the promoters and princes of parties give decent appearance to their intention and their end with a pious word [*con un piatoso vocabolo adonestono*]; for always, although they are all enemies of freedom, they oppress it under color of defending the state either of the best or of the people. For the prize they desire to gain by victory is not the glory of having liberated the city but the satisfaction of having overcome others and having usurped the principality of the city. Having been led to this point, there is nothing so unjust, so cruel, or mean that they do not dare to do it.²⁵

In examining the use of these corrupting methods by different *setti*, the *Histories* are remarkably evenhanded. The broadest sectarian opposition portrayed in the work is that between the “great” and the “many,” or the *popolo*. On Machiavelli’s accounts, both are equally prone to abuse the language of justice and injustice to suit their own purposes. Machiavelli’s narrative does not take sides in the clash of partisan conceptions of justice. The *Histories* is structured in such a way that readers view conflicting claims now from one side, then from another. In many cases both sides have some serious ground for their claims. But they then assert their demands for justice in extreme and partial ways, making it difficult for their opponents to offer a reasonable compromise. Instead of reaching a settlement based on acceptance of limits to both sides’ claims, conflicts are frequently inflamed by excessive demands made in the name of *giustizia*. Machiavelli takes pains to acknowledge the legitimate concerns of each party while, at the same time, showing the futility of trying to address them without impartial standards of justice.

The main forms of injustice committed by the great in the *Histories* are to demand more than their share of *autorità* in the city; to act as if they were above the law by virtue of their birth, wealth, or status; and to seek exemption from ordinary punishments for such infractions. One of the rhetorical devices used by the *grandi* to excuse these actions is to portray the many as a mere multitude incapable of civil reasoning or good order, who could only be kept under control if the few were given free rein to govern as they saw fit. Machiavelli sometimes seems to accept

²⁴ *FH*, IV.19.165/496.

²⁵ *FH*, III.5.110/429–30; compare chap. 2, sec. 2.5, on Thucydides.

the classical aristocratic topos of an unruly *moltitudine* that needs to be kept in line by the strong leadership of the few. A closer reading suggests that he invokes the topos in order to question its conventional uses, not to second the opinion that the many are by nature prone to disorderly conduct which makes it necessary for the few to employ extraordinary modes—that is, modes not regulated by ordinary public laws—to keep them in line. Machiavelli puts bogeyman rhetoric evoking “the arbitrary will” or “audacity” of the multitude in the mouths of imprudent, excessively ambitious speakers such as the hotheaded Rinaldo degli Albizzi. Rinaldo’s arguments are patently self-serving and unjust. At one moment he wants to use the plebs as cannon fodder to check the insolence of princes. In the next he condemns them as “insolent” for seeking a share of authority in the city, declaring that they must be put down even “through deceit or force.” The prudent maxim set out by Giovanni de’ Medici a few chapters later might have served as a warning against this characteristic attitude of the traditional nobility: those who covet “others’ share” (*la parte altri*) usually “lose their own, and before losing it live in continual unease.”²⁶

The hallmark injustices committed by the many are demands for excessive forms of restitution, especially through punitive taxes levied against the *grandi*; and demands for unreasonably vengeful collective punishments of the great, whose individual members are penalized for their status rather than for specific transgressions. Often in the *Histories* the popular *parte* takes restitution to mean not the restoration of order based on giving each its share, but revenge for past injustices committed by the great against the many. In Book IV Machiavelli describes how the popular party sought to place increasingly heavy burdens of taxation on the *grandi*. These measures were supposed to establish a more equitable basis for public spending, and hence to underpin stable orders after a period of civil conflict. Their actual result, however, was the opposite. The *grandi* saw the escalation of burdens placed on them as egregiously unfair, their complaints were interpreted as provocations, and the seeds of fresh civil conflicts were planted. The citizens responsible for the punitive taxes, Machiavelli reports, “inspired by seeing the powerful . . . depressed by the last defeat, loaded them down without giving them any consideration [*sanza . . . alcuno rispetto*].” At first, although “this tax hurt the great citizens very much,” in order to “appear more honorable, they did not complain of their own tax but criticized it as generally unjust [*come ingiusta generalmente*] and advised that it should be lightened.” But when the many came to know this, they blocked the proposals in the councils. Their subsequent actions against the *grandi* created even more serious disorders.²⁷ These events bear out a behavioral observation made earlier in the *Histories*: namely, that “it is not enough for men to get back their own [*ricuperare il loro*],” for “they want also to seize what belongs to others and get revenge [*vendicarsi*].”²⁸ Machiavelli’s narrative suggests that popular desires to punish the arrogance of the *grandi* are natural, but seldom reasonable. Measures

²⁶ FH, IV.9.154/482–83; IV.16.161/491.

²⁷ FH, IV.8, 153/481; IV.14–15.159–60/447–49.

²⁸ FH, III.11.119/440.

that burden some people *sanza alcuno rispetto* are, he implies, “generally unjust” on the most general standards of justice; in this case the *grandi* had good grounds for complaining. Vengeance is not justice: it is partial, often respects no limits, and seldom restores stable orders that assign shares acceptable to all.

The perils of confusing revenge with justice are underscored in one of the most pathetic and violent pieces of writing in the *Histories*: a speech that Machiavelli gives to a nameless artisan during the Ciompi uprising. The speaker repudiates aristocratic doctrines of natural inequality based on birth. Instead he borrows the idea of natural right from his opponents and uses it to defend a radical egalitarianism. Urging the disgruntled plebs to revolt against “the avarice of your superiors and the injustice of your magistrates,” the artisan declares:

Do not let their antiquity of blood, with which they will reproach us, dismay you [*sbigottisca*]; for all men, having had the same beginning, are equally [*ugualmente*] ancient and have been made by nature in one mode. Strip all of us naked, you will see that we are all alike; dress us in their clothes and them in ours, and without a doubt we shall appear noble and they ignoble, for only poverty and riches make us unequal.²⁹

Like all skillful rhetoric, the artisan’s speech makes some reasonable points. The claim that present distinctions between nobles and ignobles lack any natural basis, and are often little more than appearances created by *couture* and grandiose names, concurs with the *Histories*’ generally skeptical view of traditional social ranks. To this extent, the speaker’s egalitarian arguments appear more reasonable than the natural-aristocratic theories he rejects. In several other respects, however, they are deeply defective when judged by Machiavelli’s own positions.

For one thing, the assertion that “poverty and riches” are the only basis for inequalities in cities is clearly at odds with Machiavelli’s meritocratic principles, as is the implication that the distribution of wealth is based on nothing but brute luck. The principles agree that political and economic inequalities should be decoupled from claims about the natural superiority and inferiority of persons. But principles of meritocratic equal opportunity do not say that absolute equality in wealth, rank, or authority is either natural or desirable. They say only that inequalities should be regulated by law and assigned to individuals according to transparent criteria based on merit. Machiavelli consistently holds that such inequalities, especially in the distribution of political authority, should be rigorously upheld against calls for radical leveling.³⁰ On his self-legislative principles, assertions about natural human equality cannot be an adequate basis for justice, which depends on deliberate human ordering.

Another fault in the reasoning behind the artisan’s rhetoric is that on Machiavelli’s arguments, social leveling cannot provide a stable solution to the problem of class arrogance and the civil disorders that stem from it. Machiavelli has little time for the view that social equality, any more than inequality, is underwritten by

²⁹ *FH*, III.13.122–23/444–45.

³⁰ See chap. 7, sec. 7.5.

human nature. He does not treat the formation of unequal ranks as a gross deviation from man's natural orders. On the contrary, the tendency of some human beings to set themselves above others and seek to dominate them is a "natural and ordinary" inconvenience in any city. The conflicts generated by scrambles for rank are endemic in all social orders; their sources are anthropological, not structural. If you raze one specific system of informal social ranks, another will soon rise up from the ashes.³¹ You can eliminate the present category of *nobili*, but a new category of superiors will soon be formed by the most ambitious among those who once insisted that all men are naturally equal. Indeed, these men are likely to lay claim to the very name and other outward trappings of nobility once the old lot have been deprived of it. The artisan's speech reflects this dangerous, though quite natural, temptation for erstwhile ignobles to set themselves up as arrogant new *nobili*. Machiavelli alludes to the fresh cycles of injustice that are in store for those who seek redress in this way when he has the artisan declare: "Now is the time not only to free ourselves" from the oppressions of their social superiors "but to become so much their superiors that they will have more to lament and fear from you than you from them."³² Almost imperceptibly, the speaker has moved from an initial, leveling egalitarianism, based on reasonable-sounding premises of natural justice, to an unjust call for new and vengeful forms of inequality. Given the presence of suspicious and domineering humors in all human associations, the project of leveling is self-defeating.

Finally, in the name of just retaliation for the destitute *ignobili*, the artisan's rhetoric attacks the most basic pillars of civil or "human"—that is, ethical—orders. He urges his hearers to brush away the pangs of conscience that restrain them from committing acts of violence against the *nobili*. "It pains me much," he declares, "when I hear that out of conscience [*per coscienza*] many of you repent the deeds that have been done and that you wish to abstain from new deeds," adding provocatively:

and certainly, if this is true, you are not the men I believed you to be, for neither conscience nor infamy should dismay [*sbigottire*] you, because those who win, in whatever mode they win, never receive shame from it. And we ought not to take conscience into account, for where there is, as with us, fear of hunger and prison, there cannot and should not be fear of hell . . . men devour [*mangiono*] one another and . . . those who can do less are always the worst off. Therefore, one should use force whenever the occasion for it is given to us; nor can a greater occasion be offered us by fortune than this one. . . . As a result, either we shall be left princes of all the city, or we shall have so large a part of it that not only will our past errors be pardoned but we shall even have authority enabling us to threaten them with new injuries [*nuove ingiurie minacciare*].³³

³¹ This can be seen in *FH*, I, where from the ashes of the Roman Empire new names and claims to dominance crop up.

³² *FH*, III.13.123/445.

³³ *FH*, III.13.123/444.

The assertion that victors never “receive shame” no matter what means they use is myopic and self-defeating according to maxims set out elsewhere in the *Histories*, and indeed in the *Prince*—notably that victories never last when the victors show no *rispetto* for justice.³⁴ The speaker presents not a coherent account of justice, but an eye-for-eye call for revenge. Whatever injuries the nobles have done to us, he implies, should now be done to them. In a provocative exaggeration, the orator asserts that “all those who come to great riches and great power have obtained them either by fraud or by force,” adding that “to hide the ugliness of acquisition, they make it decent [*adonestono*] by applying the false title of earnings to things they have usurped by deceit or by violence.” He now exhorts his impoverished hearers to undertake a similarly violent usurpation against the wealthy. “These persuasions [*persuasioni*],” Machiavelli remarks at the end of the speech, “strongly inflamed spirits that were already hot for evil on their own.” Acting under the “standard of justice [*il gonfalone della giustizia*]” these men “burned the houses of many citizens” and hunted down others.³⁵ In short, the effects of the speech were disastrous for order, while its arguments rested on a corrupt understanding of justice.

On a casual reading it might appear that Machiavelli depicts the so-called *infima plebe*, the “lowest plebs,” as incapable of *civiltà* when left to their own devices.³⁶ When the artisan’s oration is read in its full context, however, the reasons for the plebs’ “inflamed spirits” become evident. In the chapter preceding the oration Machiavelli offers a background account of the economic and political conditions that drove the *infima plebe* toward extremist reactions. He makes it clear that these men were not naturally prone to irrational rage or, for that matter, incompetent to assume civic responsibilities. In fact, they had previously played a larger role in political discussions relating to their trades, participating as well-represented members of Florence’s guild system. According to Machiavelli, the *infima plebe* emerged as a marginal group in the city as a result of the unreasonably inflated power of the greater guilds. Under popular republican orders the number of guilds multiplied, leading those in the more honored of these associations to demand an even higher status and more effective power than others. Despite the republic’s egalitarian rhetoric, new pecking orders began to form among the people at large, and then among the plebs. Some parts of the *popolo* and *plebe* were designated as greater (*maggiori*), some as lesser (*minori*). These distinctions flattered the ambitious humors of some popular men, but fueled resentments among those who were assigned an inferior status. Obsessed with their own honor and ambitious to dominate others, the so-called *maggiori* treated the *minori* with “arrogance.” Tensions between greater and lesser ranks of the people were exacerbated by relations with the great, who played on popular vanities to enhance their own power. Machiavelli remarks that many *grandi* “favored the people of the greater guilds and persecuted those in the lesser guilds together with their defenders,” adding that this favoritism gave rise to “many tumults”

³⁴ *P*, XXI; compare *FH*, II.34.92–94, 38.100; III.11.119; IV.8.153; IV.16.161; VII.30.309.

³⁵ *FH*, III.13–14.123–26/444–48.

³⁶ Compare *BH*, III.1.

against the *grandi*.³⁷ Many of the lesser plebs were gradually pushed outside the main guild system altogether, thereby acquiring the humiliating title of *infima plebe*. These people found themselves “subordinated” (*sottomissono*) under larger guilds, deprived of key channels for expressing their concerns. “In consequence,” Machiavelli writes, “when they were either not satisfied for their labor or in some mode oppressed [*oppressati*] by their masters, they had no other place of refuge than the magistracy of the guild that governed them.” It “did not appear to them,” however, “that they got the justice they judged was suitable [*quella giustizia che giudicavano si convenisse*]” from these larger magistracies.³⁸

This analysis is remarkable for its time, particularly in its sympathetic portrayal of the plebs’ motives. Machiavelli clearly registers his own judgment that the *infima plebe* had reasonable cause for anger. His account provides the historical perspective needed to understand and confront the unjust urgings in the artisan’s speech. The lesser plebs are not unscrupulous troublemakers. Their conduct is explained by specific deprivations: the elimination of their guilds deprived them of both civic rights and means of effective self-help. Unable to seek restitution through ordinary political means, they turned to extraordinary and violent modes. If the hatred the artisan vents against “the rich citizens and the guilds” is expressed in unreasonably violent ways, it does not lack reasonable causes, since “it did not appear to them that they had been satisfied for their labor as they believed they justly deserved [*che giustamente credevano meritare*].”³⁹ Machiavelli’s analysis suggests that unjust policies, driven by poorly regulated popular ambitions and vanities, were responsible for creating conditions that drove the *infima plebe* to violent revolt. In the preface to the *Histories* we read that “many who have not had the opportunity to acquire fame through some praiseworthy deed have contrived to acquire it with despicable things.”⁴⁰ Here not fame and status but security and the avoidance of starvation—the most basic conditions for a decent life—were at stake for the workers. The argument sells to the *infima plebe* not because it is their nature to be irrational or violent. It sells because, having been deprived of effective political power, they are driven to economic desperation.

Another remarkable feature of Machiavelli’s account of the Ciompi uprising is that the speaker, lowly though his birth and station, is one of the most brilliant orators in the *Histories*. Machiavelli introduces him as “one of the most daring and experienced [*arditi e di maggiore esperienza*]” of the assembled lesser-and-lower

³⁷ *FH*, III.12.121/442–43. Note Machiavelli’s (III.17.130/453) ironic remark later that “the better guildsmen” considered “what ignominy it was for those who had overcome the pride of the great to have to bear to stench of the plebs”—thereby setting themselves up as the new “great” entitled to the same arrogance that they had fought against.

³⁸ *FH*, III.12.121–22/442–44.

³⁹ *Ibid.* When the speaker says that “we” lesser plebs must have “two ends” (1) “to make it impossible for us to be punished” for offenses recently committed and (2) “to be able to live with more freedom and more satisfaction than we have in the past,” he is half wrong and half right. The first end is wrong when judged by standards of order and justice Machiavelli sets out elsewhere: people must get the punishments they deserve for breaking laws, or no order is possible at all. The second, however, is a perfectly legitimate demand.

⁴⁰ *FH*, Pref.7/310.

plebs.⁴¹ His speech contains some of the most skillfully modulated rhetoric found in the work. It moves smoothly between particulars and abstractions, makes effective emotional appeals under the color of reasoned argumentation, and shows an excellent grounding in sophisticated arguments equating justice with vengeance. The artisan achieves all this without the benefit of the scholastic education enjoyed by his social superiors. If a man who emerges from the mob of lesser plebs can perform this kind of rhetorical tour de force, he is surely capable of civil reasoning at a very demanding level. In a better-ordered polity, his persuasive talents and experience might have earned him high public office; he might, as Machiavelli puts it in the *Discourses*, have become an elective “prince” by his own virtue instead of urging his colleagues to become *principi* through violence.⁴² In this respect, Machiavelli’s ambivalent portrait of the artisan orator challenges aristocratic and popular-elitist prejudices about the political incompetence of the “lesser” *plebe*. At the same time, the incendiary speech offers no just or stable solutions. Even if one side has *just cause* for complaint, this cannot helpfully be met through unjust means. What is needed are standards and procedures of *justice* that appear reasonable to their opponents as well as themselves.

8.3.

Non-partisan persuasions toward justice

Throughout the *Histories* Machiavelli is careful to examine both sides of any conflict, whether inside or outside the city. He recognizes that conflicts often have important historical dimensions that may make them extremely hard to resolve. In many cases the wrongs alleged on both sides have multiplied over time, previous attempts to rectify them have failed, and both parties have concluded that previous efforts to compromise only gave their opponents an unjust advantage. Often they see no good reason to trust their opponents’ new overtures, while past experience makes them reluctant to relax their defenses. While historically generated anxieties make it difficult to identify non-partisan standards of justice that both sides can endorse, Machiavelli denies that finding them is hopeless. But because he takes historically generated concerns very seriously as an impediment to justice, the prudent speakers in his narrative do not ask rival parties to forget their old grievances as they look for solutions.⁴³ Machiavelli does not see history as irrelevant to political problem-solving. He approaches political problems through history because he sees a clear historical understanding of present problems as a *sine qua non* for finding

⁴¹ *FH*, III.13.122/443.

⁴² *D*, I.58.132/335.

⁴³ Although he does suggest that historical grievances should be put aside once such principles are agreed and authorized. See, for example, Giovanni de’ Medici’s prudent remarks on an attempt to impose a retroactive tax on the great: he quieted “excited humors” by pointing out that “it was not good to go back over things past, but rather to provide for the future; and if the taxes had been unjust in the past, they should thank God that a mode had been found to make them just and should wish that this mode might serve to reunite, not divide, the city, as it would if past taxes were looked into and made to be equal with the present ones” (*FH*, IV.14.159–60/488–49).

well-considered solutions. And since different parties start from their own partial and partisan views of a conflict's history, anyone who hopes to persuade them to adopt a wider view must start by showing what is wrong with their narrower ones.

A good example of prudent mediation occurs early in the *Florentine Histories* when Machiavelli describes attempts by men who “placed themselves in the middle [*si missono di mezzo*]” to end the cycles of violence between nobles and the people. These self-appointed mediators invoke a range of arguments to lead warring parties toward common standards of justice: self-interested prudence, the common good of the city as a whole, and ordinary decency. A crucial element of their persuasions is to try to bring people on both sides to acknowledge their share of responsibility for a conflict.

Addressing the side of the nobles, the mediators start with a historical account of the present impasse that apportions to the nobles their share of responsibility. The speakers start by pointing out that the nobles' own “pride and their bad government” had given rise over time to the popular hatreds now vented against them. To be sure, the people often used unjust means to fight the nobles, and these should not be excused. But their indignation was in large part justified, for the nobility's long history of arrogance and misgovernment were clearly “the cause of the honors taken from them and the laws made against them” by the vengeful people. Taking account of the historical injustices that the nobility and their ancestors had perpetrated, the mediators advise them against trying to reassert their authority through brute force. For one thing, this would only reinforce the existing perception that the nobles were indifferent to justice. By “taking up arms now to regain by force what they had allowed to be taken from them on account of their own disunion and their evil ways,” they would merely be seen as adding further injuries to an already long list of historical injustices.⁴⁴ It follows, further, that the nobles' attempt to regain authority through force would provoke redoubled, justified resistance; and—here the mediators appeal to common civic interests—this would be “nothing other than to wish to ruin their fatherland.” Finally, they appeal to the noblemen's narrower self-interest: such methods would also “worsen their own condition.” The nobles, they warn, “should remember that the people were far superior to them in number, riches, and hatred.” The “nobility by which it appeared to them that they were superior to others” might be considered a ground for granting them authority if their actions proved that they were willing to use it for the common good, instead of for their own private and class interests. But until they demonstrated this, their *nobilità* “would not fight” all by itself and “would turn out to be, when it came to steel, an empty name [*uno nome vano*] that would not be enough to defend them against so many.”⁴⁵ In few words and without using the word *giustizia*, then, Machiavelli's men-in-the-middle give persuasive reasons for the nobility to put down their arms and accept non-partisan constraints on their claims.

⁴⁴ Note the implicit appeal to the principle of public authorization: the nobles “allowed” the people to take away their authority because they failed to respect conditions for keeping it.

⁴⁵ *FH*, II.14.66–67/378–79.

Addressing the side of the people, the mediators start by invoking considerations of prudence. Their main prudential arguments have a general form rather than appealing to specific popular interests. First “they recalled that it was not prudent always to want the ultimate victory” instead of seeking compromises, and further that “it was never a wise course to make men desperate, because he who does not hope for good does not fear evil.” Next, the men in the *mezzo* point to a common interest with the nobles that the enraged people have failed to see. The more radical members of the popular party sought not only to place checks on the arrogant conduct of nobles, but to eliminate all distinctions of rank within civil orders. This, in Machiavelli’s view, would destroy any order whatever and lead straight to tyranny. He has the mediators remind the people that the original meaning of the word *nobilità* was “that which had honored the city in war.” The qualities of nobility in this sense ought, the speakers suggest, to have a place in any good civil orders. It was in the common interests of citizens of all backgrounds and humors to resist the seductive rhetoric of political leveling. The popular party was right to challenge the nobles’ demands for rank and authority based on bloodlines instead of personal merit, but wrong to condemn *nobilità* in its more adequate sense. Machiavelli’s mediators conclude that it was therefore “neither a good nor a just thing” for the people to “persecute” the nobles “with such hatred.” Their long history of seeking revenge for past oppressions had made the nobles ever more reluctant to put down their weapons and accept political equality in the republic. Rather than persecuting noblemen, the people should seek “to mitigate [*mitigare*] them and by this benefit to have arms be put down,” while toning down their own demands for absolute “victory” over the old class enemy.⁴⁶

These persuasions were not, Machiavelli says, convincing to all. But those among the people who were “wiser and of calmer spirit” saw that moderating the punitive laws against the nobles “would not mean much but that coming to battle might mean very much.” These prudent voices prevailed, and punitive laws against the nobles were “mitigated.”⁴⁷ Although the *mezzo*-men do not speak explicitly of justice and injustice, ideas about justice and injustice are implied by all their arguments, especially the idea that injustice—conceived in general terms as extreme partiality and lack of *rispetto* for the other party—is never prudent. Both people and nobility have erred in the past in seeking dominance or “ultimate victory” in the city. While acknowledging that both had historical reasons for doing so, the mediators show that the aims were unjust and destructive of any order. The ethics of self-restraint developed throughout the *Histories* treat the acceptance of limits as the chief condition for both justice and order. As Giovanni de’ Medici says in Book IV, “he who is content with half a victory will always do better from it, since those who wish to do more than win often lose.”⁴⁸ Reflective prudence and justice reach the same conclusions. Those men, parties, and peoples “who do not know how to put limits

⁴⁶ *Ibid.*

⁴⁷ *Ibid.*

⁴⁸ *FH*, IV.14.159–60/488–49. Again compare Diodotus’ argument in *TPW*, III 47. Also see IV.19 and IV.62.

[*termini*] to their hopes, and, by founding themselves on these without otherwise measuring themselves [*sanza misurarsi*] . . . are ruined” are unquestionably imprudent. On Machiavelli’s implied standards, they also act unjustly.⁴⁹

8.4.

Why it is dangerous to violate the law of nations

I have argued throughout this study that Machiavelli does not apply different ethical principles or standards inside cities and in foreign relations.⁵⁰ That this is true of his standards of justice can be seen in one of the few parts of the *Discourses* where he uses the language of justice and injustice. The text comes from Book II, chapter 28. The title alludes to the importance of punitive justice, albeit under the harsher-sounding language of avenging injuries: “How Dangerous It Is for a Republic or a Prince Not to Avenge an Injury [*vendicare una ingiuria*] Done against the Public or a Private Person.”⁵¹ By comparison with the *Histories*, the *Discourses* use the words *giustizia*—*giusto* and *ingiustizia*—*ingiusto* very sparingly. Here Machiavelli expresses ideas about justice and injustice by using paraphrases or near-synonyms: sometimes nouns such as *leggi* and *rispetto*, but often verbs that seem to call for extremely harsh measures: to avenge (*vendicare*), to eliminate (*spento*), or to punish (*punire*).

This choice of words does not reflect a judgment that public or private justice can be reduced to primitive, pre-judicial notions used in the context of private vendettas. Machiavelli’s tough-sounding paraphrases should, I suggest, be understood as part of a dialectical enquiry that takes common opinions about justice, often corrupt or incomplete, as the starting point for more reflective reasoning. To understand the reasons for his frequent use of harsh language to discuss justice in the *Discourses*, it is helpful to recall the distinction outlined in the *Art of War* between the “harsh” and “delicate” modes of action found in antiquity.⁵² Fabrizio Colonna uses the distinction to encourage his young interlocutors to consider the shortcomings of both extremes. If delicate modes are corrupt and weak, then harsh ones are clearly better. But if “harsh” is taken to mean cruel and unreasoning, it too is a poor standard. The question posed at the start of the dialogue, then, is: how can one move from a partly reasonable but incompletely reflective opinion—here, that harsh modes are better than delicate ones—to a fully reasoned, reflective account of the specific kinds of harsh ancient modes that deserve imitation? If participants in the dialogue or the *Discourses*’ various *discorsi* accept the tough-minded view that it is sometimes necessary to avenge injuries or inflict harsh punishments, what forms of vengeance or harshness would they see

⁴⁹ *D*, II.27.195/402.

⁵⁰ In this respect he is closer to ancient writers such as Thucydides, Xenophon, Plato, and Livy than to modern authors who do make this difference.

⁵¹ The title of the previous chapter (chap. 27) also hints at the theme of justice by stressing the need for prudent self-limitation: “For Prudent Princes and Republics It Should Be Enough to Conquer [*vincere*], for Most Often When It Is Not Enough, One Loses.”

⁵² See chap. 5, sec. 5.7.

as compatible with standards of *civilità* and *umanità*, which they recognize as the *fondamenti* of any stable orders?

When Machiavelli declares that it is necessary to avenge, to eliminate, or to act harshly, then, the very boldness of such statements signals to readers that they still need to be qualified. Vengeance and harshness must be bounded, at the very least, by basic standards of humanity as they were understood among the best ancients, since unlimited harshness and revenge generate grave disorders. Prudent readers of Machiavelli's discussions of the need for vengeance will realize that when modes of *vendicare* are restrained by the standards needed to uphold human orders, they might as well be called "justice" as "vengeance." Indeed, the excessively harsh sense of *vendicare* is no longer adequate for these maturer reflections. Machiavelli keeps the old word but gives it a new, more reasonable meaning: an ethical meaning that renders *vendicare* synonymous with *giustizia*.

Despite the dissimulating language of vengeance in its title, the chapter dealing with the Fabii episode is among the *Discourses*' most openly didactic—one might even say moralistic—discussion pieces. Its main points are reiterated at the beginning of Book III, where they are presented as a set of straightforwardly ethical precepts about "justice."⁵³ Closely following Livy, Machiavelli recalls "our historians'" account of the wrongs committed by Rome's Fabii ambassadors to Gaul. To summarize the main outlines of the episode, during their wars with Gaul the Romans sent three members of the Fabii tribe as ambassadors to the enemy; the Fabii then violated well-established conventions—known in Rome as the *ius gentium* or "law of nations"—that forbade ambassadors to fight their hosts. This action was only the first of a series of offenses perpetrated by the Romans against the law of nations. Rejecting the Gauls' legitimate request that the Fabii be handed over to their judgment, the Roman Senate rewarded the offenders by making them tribunes with consular powers.⁵⁴ Unsurprisingly, when the Gauls

saw those honored *who should have been punished*, they took all to have been done for their disparagement and ignominy. Inflamed with indignation and anger, they came to assault Rome and took it, except for the Capitol. This ruin arose for the Romans only through the inobservance of justice [*solo per la inosservanza della giustizia*]. For when their ambassadors sinned "against the law of nations" and *should have been punished*, they were honored [*peccato i loro ambasciatori <contra ius gentium>, e dovendo esserne gastigati, furono onorati*].⁵⁵

As we saw in chapter 5, Livy reports that these events were interpreted by many Romans as divinely ordained punishments for their multiple offenses. Machiavelli treats this interpretation sympathetically, implying that it reflected a reasonable—if belated—judgment about the Romans' own guilt, and a recognition that the Gauls had just cause for their ferocious assault on the city. The "prophets" who claimed

⁵³ The word *giustizia* occurs six times in the *D*, twice in III.1, once in II.28.

⁵⁴ *D*, II.28.195–97/402–4; III.1.209/416–17.

⁵⁵ *D*, II.28.195–96/403; emphasis added.

to foresee the disastrous consequences of Rome's violations only pointed out what anyone could have predicted who grasped the reasons why respect for principles of justice is always prudent. For as the last sentence of the chapter says, one "should never esteem a man," or in this case a people at war, "so little that he believes that when he adds injury on top of injury, he who is injured will not think of avenging himself [*vendicarsi*] with every danger and particular harm for himself."⁵⁶

In Livy's dramatic narrative the Romans endure unprecedented suffering at the hands of the injured party, whose depredations caused most of the population to abandon the city. The future of Rome itself hangs by a thread. If the remaining citizens also flee, the city will return to dust. If they can be persuaded to hold back, physically by defending their city and metaphorically by returning to the limits set by religion and the *ius gentium*, Rome might yet rise from the ashes.⁵⁷ Redemption depends on the *virtuoso* use of "one's own arms" under the most extreme necessity. But it also depends on the restoration of the sound moral orders that had been destroyed by the Romans' injurious conduct. Their "external beating" forced the Romans to "examine themselves" (*si riconschino*) critically and thus to recall "all the orders of the city" that had been destroyed by their lack of respect.⁵⁸ For Machiavelli as for Livy, one man serves as the symbolic agent of Rome's physical and moral redemption in the wake of the Gauls' attacks. The return from exile of the controversial general Marcus Furius Camillus heralds the restoration of strict justice after a period when commanders were chosen and praised for their so-called liberality, a code word in Xenophon and Machiavelli for corrupt leniency toward partisans.⁵⁹ Machiavelli treats Camillus as a devoted public servant whose unpopularity in corrupt times was due to his "severity" in upholding rigorous standards of justice. The general was "held marvellous" because of "the solicitude, the prudence, the greatness of spirit, the good order that he observed in employing himself and in commanding the armies; what made him hated" was that he was "more severe [*severo*] in punishing" his soldiers "than liberal in rewarding them."⁶⁰ Confronting Rome's imminent destruction, Camillus persuades his countrymen to hold back from flight and to defend their fatherland in its "necessity." Then he calls on them to restore the ethical orders they had violated at such high cost to themselves, orders based on self-restraint and respect for other peoples' claims under the *ius gentium*.

Machiavelli's retelling preserves Livy's suggestion that Rome's redemption depended as much on the restoration of ethical order as on a renewed show of military *virtú*. "As soon as Rome was retaken," he writes in Book III, the Romans "renewed [*rinnovarono*] all the orders of their ancient religion" that had been corrupted in the period prior to the sacking of Rome. A basic condition for this renewal was to make amends for injuries perpetrated in the past. The Roman people

⁵⁶ *D*, II.28–29.197/404–5.

⁵⁷ On the idea of "pulling back" (*ritirasse indietro*) see *D*, III.22.256/477.

⁵⁸ *D*, III.1.210/417.

⁵⁹ See chap. 2, sec. 2.2, and chap. 3, sec. 3.4.

⁶⁰ *D*, III.23.269/480. Machiavelli's (and Livy's) countermodel is Scipio Africanus; see chaps. 3, 12.

had to realize, Machiavelli writes, “that it was necessary not only to maintain religion and justice [*necessario mantenere la religione e la giustizia*],” but also to esteem “good citizens” such as Camillus who had been unfairly castigated in corrupt times, and to punish “the Fabii who had engaged in combat ‘against the law of nations.’” These measures of just “renewal” were, Machiavelli says, *necessario* to rebuild civil order. The concurrence of prudential and ethical necessity is underlined again when Machiavelli writes that “it was necessary that Rome be taken by the French, if one wished that it be reborn and, by being reborn, regain new life and new virtue,” and thus to “regain the observance of religion and justice, which were beginning to be tainted in it.”⁶¹

In reviving and sharpening Livy’s arguments about why it is “necessary” to respect the “law of nations,” Machiavelli implies that there are compelling reasons to respect standards of justice even when these are not formally embodied in civil laws. The reasons can be expressed in terms of reflective prudence. Among the wiser of Machiavelli’s “ancients,” conventions regulating conduct in relations between “peoples” in war and peace were considered as sacred; hence the need to restore *religione* as well as *giustizia* as a basis for ordered relations between Rome and foreign peoples. Reflective prudence suggested the ethical necessity for “religious” respect for the *ius gentium*. The ancients understood that without them no stable human orders could be sustained. Orders depend on trust. If trust is violated without warning or reason, this destroys orders and inflames the “indignation” of those who have been wronged.⁶² “It is therefore to be considered,” writes Machiavelli,

how much every republic and every prince should take account [*tenere conto*] of doing similar injuries, not only against a collectivity [*una universalità*] but even against an individual [*uno particolare*]. For if a man is greatly offended either by the public or by a private person and is not avenged according to his satisfaction, if he lives in a republic he seeks to avenge himself, even if with its ruin; and if he lives under a prince and has any generosity in himself he is never quiet until he avenges himself against him, even if he sees evil [*male*] in himself for that.

The suggestion here is not that the victims of a great offense are justified in using evil means for revenge. Machiavelli says simply that it is *reasonable* they will be angry and seek redress, and *probable* though not reasonable that they will regard themselves as relieved of any obligation to exercise self-restraint in avenging it. As a maxim of reflective prudence, then, republics, princes, and individuals should take careful account of these probable consequences and avoid violating commitments.⁶³ Machiavelli stresses that crimes of omission are as imprudent as those of commission, affirming ancient standards of justice that held authorities—whether individuals or collectivities—responsible for failing to punish transgressions committed under their watch. Having started with the case of an injustice

⁶¹ *D*, III.1.209–10/417.

⁶² See *D*, II.32.203–6/412–14, III.33.285–87/498–500.

⁶³ Compare TPW, I.84, III.45–49, V.97–98, VII.18.

between collectivities, the Romans and Gauls, Book II, chapter 28 ends with the case of individuals: the Macedonian king Philip's failure to punish a courtier who "by deception and by force" had his way with a young man under Philip's protection. Machiavelli notes that the victim, Pausanias, "turned all his indignation not against the one who had done him the injury but against Philip, who had not avenged him."⁶⁴ While Machiavelli does not recommend Pausanias' chosen form of revenge as an example of just retribution, he does imply that the youth was right to hold his negligent superior accountable for the crime.

Once again, the prudential form of these reasonings should not obscure their ethical content. When Machiavelli insists that prudent men should always expect fierce resistance when they violate "limits" set by conventions or laws, he implies that indignation and resistance are more than natural human reactions. They are often reasonable responses to actions that show agents' scant "esteem" for the claims of others. To act in ways that might be expected to provoke reasonable indignation is imprudent because it is dangerous for the perpetrator. But the reasons why it is dangerous can also be expressed in terms of justice and injustice. Injustices are rightly seen by victims as slights to their dignity. Those who show disregard for tacit or formal standards of justice seem to place themselves above other human beings who find it necessary to respect the "law of nations." The conventions of reciprocal self-restraint that made up much of the *ius gentium* in Roman times were established to promote a modicum of trust in conditions where deception and violence would otherwise have free rein, particularly conditions of war. To violate such conventions unilaterally was not just an order-destroying act of arrogance; it was seen as an insult to the other party's human dignity, and therefore as an injustice. These ethical reasons for respecting standards of justice hold independently of judgments about prudence. Moreover, they help to explain *why* it is always prudent to avoid committing the injuries prohibited by tacit conventions of justice even when they lack the force of civil laws.

For Machiavelli these ethical reasons clearly trump narrower considerations of utility, including what some assertive patriots called the "ultimate necessity" to defend the fatherland.⁶⁵ In Livy's much longer account, some of the Romans who defended the Fabii acted out of patriotic motives. Imprudent though their actions were, their intentions were not all bad. They were motivated by a sincere desire to defend their fatherland and possibly shorten an already drawn-out war; fear and exhaustion made them act unjustly, not ambition alone. Machiavelli might have given some credit to such motives of common utility or the "defense of fatherland," but refrains from doing so.⁶⁶ He simply accepts the Romans' own belated, severe judgment on themselves: that their actions were intrinsically wrong, and deserved the punishments inflicted by the gods and the Gauls. As we will see in chapter 9,

⁶⁴ *D*, II.28.196–97/403–4.

⁶⁵ See chaps. 4, 9.

⁶⁶ Even if these had been among agents' motives, their action was still shortsighted and irresponsible; for "peoples are often deceived" who, "greedy for present peace, close their eyes to whatever other snare might be laid under the big promises" (*D*, III.12.248/458).

he consistently maintains that when a people is faced with policies that are “very useful but very dishonest” honesty is always the better choice, since there can be no genuine, lasting utility in policies that violate agreements. Thus a people acts prudently and justly when it refuses to “break faith” even for the sake of a policy “that would be of great utility to their fatherland.”⁶⁷

8.5.

Forms of justice: Promises, punishments, and distributions

The discussion so far has touched on the three main forms of justice discussed in Machiavelli’s works: promissory justice, punitive justice, and distributive justice. This section outlines his distinctive positions on each, especially as he presents them in the *Discourses*.

8.5.1. Promises and oaths

I have argued that for Machiavelli, trust in others’ willingness to impose limits on their own actions is a condition for any ordered and sustained relations. The idea that it is prudent and just to act in good faith, keep promises, and respect conventions follows from this understanding of the conditions for order. When the Fabii and Roman Senate violated the *ius gentium*, they took away any reason for others, the Gauls or anyone else, to trust their good faith. By adding insult to injury, they appeared to set themselves above the most basic standards of human justice, which require human beings to respect each others’ dignity and capacities for free agency even in the most uncivil conditions of war. This implied assertion of superhuman status by any agent constitutes a just cause for others to pull them back to the “limits” that they should have “held and observed” from the start.⁶⁸ We have already mentioned three more specific features of Machiavelli’s arguments that are worth underlining.

First, as the Fabii episode suggests, for Machiavelli injustice does not consist only in violating formal codes of positive or civil law.⁶⁹ The injustices in this instance involved the breaking of customary commitments accepted by a large number of peoples who frequently interacted with one another, including explicit and tacit conventions regulating the conduct of war and diplomatic missions. The formal status of an agreement may have some bearing on questions of justice and injustice, insofar as formal agreement signifies an act of willed authorization on the part of both parties. But in discussing relations between cities and peoples Machiavelli clearly implies that it is unjust to violate even commitments that do not have the

⁶⁷ *D*, I.59.120–21/320–22.

⁶⁸ *D*, III.35.292/505–6.

⁶⁹ I have been arguing that for Machiavelli, basic ethical principles and prudence require (optimally) that any human orders should be expressed in the form of law, understood as a general, impartial, impersonal, and compulsory standard. But where the political conditions needed to impose that form are absent, standards of justice can stand in and set ethical limits on acceptable action that are confirmed by reflective prudence.

status of civil law, for the reasons outlined earlier. He does say that men deserve special condemnation who do not respect the limits of justice to which they hold others. The worst offenders are often found in the context of civil life, where they explicitly authorize a law, then exempt themselves or their friends from respecting it. “I do not believe,” Machiavelli declares, “there is a thing that sets a more wicked example in a republic than to make a law and not observe it, and so much the more as it is not observed by him who made it.”⁷⁰ Yet this kind of double standard may just as well apply in relations among peoples, where more powerful cities such as Rome played a leading role in defining and upholding conventions of the *ius gentium* yet frequently acted in ways that eroded the authority of those conventions.

A second noteworthy feature of his arguments is that Machiavelli recognizes no difference, from a standpoint of prudence or one of principle, between violating faith with friends and violating faith with enemies. As we saw in chapter 2, he accepts the convention—endorsed under the *ius gentium*—that fraud and deception are admissible in any of the conditions of war that are not regulated by tacit and formal conventions. But necessary limits are imposed by standards of justice in war as in peace, between enemies or allies. The conventions of *ius in bello* permitted the use of deception in battlefield tactics and communications, notably the writing of misleading codes that might be intercepted by the enemy.⁷¹ They prohibited fraud and the betrayal of trust in other fields of activity relating to the conduct of wars, such as the declaration and holding of truces and the conduct of diplomatic missions between enemies. Contrary to a widespread prejudice, Machiavelli’s views on these matters are old-fashioned, not daringly subversive. Observing that fraud in war is often praised, Machiavelli writes:

I do not understand [*non intenda*] that fraud [*fraude*] to be glorious which makes you break faith given and pacts made [*la fede data ed i patti fatti*]; for although this may at some time acquire state and kingdom [*stato e regno*] for you . . . it will never acquire glory for you.⁷²

It would be misleading to say that these views were conventional for their time, since Machiavelli judged contemporary conventions to be utterly corrupt. His view of how sound conventions were generally used is highly critical; and because of this, he gives them new life by placing them on more thoroughly reasoned foundations, in place of the fine-sounding clichés that had come to be identified with them. Instead of suggesting merely that it is good and just to keep faith with enemies, Machiavelli’s examples show why it is also prudent and necessary to do so.⁷³

⁷⁰ *D*, I.45.93–95/291–93.

⁷¹ See *AW*, VII.154–56/678–80 on codes and chap. 2, sec. 2.4.

⁷² *D*, III.40.299/514.

⁷³ Grave disadvantages accrue to leaders who acquire a reputation for being “a breaker of faith” as was Hannibal (*D*, III.21.263–64). Compare the *FH* where Machiavelli (VIII.33.355–57/725–76) offers a rare, uplifting example of Florentines, “since they were in league,” putting “their faith ahead of convenience and danger to themselves” to support allies. The result was advantageous for them, since their just action showed the pope and other predatory foreign powers “with how much promptness and zeal the Florentines keep their friendships.” If the Florentines behaved more consistently in this way,

A third distinctive feature of Machiavelli's arguments about promissory justice can be seen in the single exception he allows to the general requirement of keeping promises. This is expressed in the title of a chapter in the *Discourses*, Book III: "That Promises Made through Force Ought Not to Be Observed [*Che le promesse fatte per forza non si debbono osservare*]." Here Machiavelli argues that "it is not shameful not to observe the promises that you have been made to promise by force; and when the force" that compelled you to make a promise is later "lacking, forced promises that regard the public will always be broken and it will be without shame for whoever breaks them."⁷⁴ The reason for this exception is procedural: it has to do with the injustice of the procedures used to extract an avowed commitment. By contrast, Machiavelli admits no exceptions based on non-procedural considerations admitted on other accounts of promissory justice, such as feelings of enmity or compassion, special relations with one's co-compacters, or the balance of power between parties.⁷⁵ Nor, as we have seen, does he allow exceptions for the sake of utility, even that of "great utility to the fatherland." He cites an example of a judicious decision by the Athenian people to reject an attempt by a leading citizen to secretly break faith with the city's allies. The people's representative did not doubt that in the short term, the betrayal of faith "would be of great utility to the fatherland [*fare alla loro patria grande utilità*]." But the people judged this policy to be "very useful but very dishonest [*utilissimo ma dionestissimo*]" and therefore rejected it. The prudent presumably reasoned that those who are dishonest toward one party will be suspected of bad faith by others, and those who are under general suspicion find it harder to get support for their actions. Dishonesty is therefore not only unjust; it is not useful on a reflective conception of *utilità*.⁷⁶

8.5.2. Punishments

For Machiavelli punishments are among the most primitive forms of justice.⁷⁷ Throughout the *Discourses*, the concept of punishment is closely linked to the concepts of justice and law. *Punire* almost always means to impose a just penalty for a violation of accepted conventions or civil laws, and is distinct from revenge taken for merely private reasons or by means that exceed the bounds of justice. Thus Machiavelli distinguishes between ordinary *punishments* and extraordinary *commands*, writing that anyone who does not overestimate his own "strength of

Machiavelli implies, they might find themselves less often "alone in their wars" without "anyone to aid them in the spirit with which they help others."

⁷⁴ *D*, III.42.301–2/516.

⁷⁵ Machiavelli frequently implies that promises and obligations should hold firm over even strong passions and feelings. For example, see *FH*, V.13.200–201; V.31.223; VI.21.253.

⁷⁶ *D*, I.59.120/321. From PL, *Themistocles*. On the idea that justice is always advantageous (*sumpherōn*) for the just, affording the most valuable kind of self-protection, see Plato, *Gorg.* 522d and 527b; TPW, V.105–7. For a recent collection of essays that examine the relations between morality and self-interest, see Bloomfield 2008. Bloomfield's introduction and contribution in chap. 12 draw heavily on ancient Greek ethics.

⁷⁷ See next section on *D*, I.2.

spirit” should “guard himself from extraordinary commands [*l'imperi istraordinari*] and . . . use his humanity in ordinary ones [*e degli ordinari può usare la sua umanità*]; because ordinary punishments [*le punizione ordinarie*] are imputed not to the prince but to the laws and . . . orders.”⁷⁸ The careful wording suggests that as a general rule, for Machiavelli a *punizione* only deserves that name when it is ordered under *ordinario* standards and publicly known procedures of justice. Extraordinary commands or imperatives, on the other hand, arise from private wills and are not regulated by standards of justice or law. These deserve some other name than *punizione*.

As to how punitive standards and procedures are applied, Machiavelli sees this as a matter of the utmost importance for preserving orders within and among cities. If punitive justice is not upheld in a strictly impartial way, corruption will follow fast. Punishments must be applied in a non-partisan manner so that they are equally “harsh to everyone” who infringes them, and so that judges are not swayed by any “particular goodwill” toward friends or enmities.⁷⁹ Moreover, a man’s past good works cannot absolve him of punishments for new infractions. Punishments relate only to particular actions, not to an agent’s character or previous actions. For “no well-ordered republic ever cancels the demerits with the merits of its citizens; but, having ordered rewards for a good work and punishments for a bad one,” if a man rewarded at one time “later works badly,” he must be punished “without any regard for his good works.” As usual, Machiavelli defends this severe precept in terms of reflective prudence. If, he observes, “a citizen has done some outstanding work [*qualche egregia*] for the city, and on top of the reputation that this thing brings him,” there arises a risk that he will gain “an audacity and confidence that he can do some work that is not good without fearing punishment [*senza temere pena*].” If men who do good at one moment think they can get away with doing harm later on, citing their previous good works to deflect criticism, soon they “will become so insolent that any civility will be dissolved.”⁸⁰

Punishments, then, should meet harsh—that is, strict—standards of transparency, impartiality, and impersonality both in their formal or conventional definition and their modes of application.⁸¹ These forms of harshness are not cruel, arbitrary, or extraordinary but humane, reasonable, and ordinary. Machiavelli treats them as the most effective ways of dealing with offenses committed within and between cities, in war or in peace. Since the goal of justice is not unilateral revenge but the restoration of limits needed for good order, even infractions caused by “malice” should be punished “humanely,” not maliciously.⁸² Machiavelli underlines this point by noting that the Romans punished military commanders “with fines of money,” that is humanely, although the same acts would have been punished in “another republic . . . with the capital penalty.” The Romans had less punitive

⁷⁸ *D*, III.22.266/477.

⁷⁹ *D*, III.22.267/479.

⁸⁰ *D*, I.24.59/256.

⁸¹ Also see *D*, I.28.62, 45.93–94, 59.120; II.28.196; III.2–5.214–17, 8.237–38, 22–23.268–69, 32–33.285, 42.301.

⁸² Recall Diodotus’ arguments against the mass death penalty in TPW, III.44–48.

laws “not because their sins did not merit greater punishment but because . . . the Romans in this case wished to maintain their ancient customs [*antichi costumi loro*].” So long as their orders were robust they wanted to keep their punishments humane, relying on reason rather than brute force to uphold the laws’ authority. Humane punishments helped to preserve a “free and ready spirit” among their soldiers and people, ensuring that the latter complied with the laws because they understood the reasons for them. Penalties that are too harsh rely too much on fear, and too little on reason and free will, to produce obedience. They “terrify” (*sbigottire*) people into obedience and, by adding “new difficulties and dangers to a thing in itself difficult and dangerous,” make it harder for anyone to “ever work virtuously.”⁸³ Since virtuous *opere* depend on leaving people as free as possible within the limits needed to protect common freedoms, punishments that inhibit freedom with terror are both unjust and bad for good orders. Machiavelli states this clearly: “it is harmful to a republic or to a prince,” he writes, “to hold the spirits of subjects in suspense and fearful [*sospesi e paurosi*] with continual penalties and offenses.”⁸⁴ So that harsh laws do not seem unjust, alongside punitive orders any well-ordered city should have a system of just rewards for good works.⁸⁵

8.5.3. Distributions

A third form of justice discussed in Machiavelli’s writings concerns the distribution of a range of goods: especially rewards and honors, shares of public authority, and shares of material goods. The most general principle that regulates all these distributions is meritocratic. Unless exceptions are justified by publicly known and accepted reasons, judgments about individual merit are the principal basis for apportioning any of these goods to some people rather than others. When in early chapters of the *Discourses* Machiavelli identifies what he regards as the most important *virtuoso* Roman orders, meritocratic principles are among their chief foundations. Later chapters apply these principles beyond the selection of personnel for public offices.⁸⁶ Meritocratic commitments inform Machiavelli’s critical view of hereditary inequalities as a basis for social or political power. Anyone and their offspring should, as he says, be able “by their virtue” to become princes in a well-ordered city—that is, in a republic where the word “prince” means a high office held by different men in turn.⁸⁷ At the same time, Machiavelli’s principles lead him to insist on the equal rights of individuals from the traditional nobility to be judged by their virtue, not by their estate. Meritocratic principles underpin his defense of a strong judicial order based on procedures designed to ensure that cases against any defendant, however rich or poor or well connected, are judged impartially. Ideally, long-lasting polities will establish such orders early on in their

⁸³ *D*, I.31.69/266.

⁸⁴ *D*, I.45.94/292–93.

⁸⁵ *D*, I.24.59/255–56.

⁸⁶ On merit see also *D*, I.60.121, III.16.255, 19.260, 22.265–67, 25.271–72, 28.277.

⁸⁷ *D*, I.58/318–19, I.60/322–23.

life, and maintain them by establishing systems for public scrutiny and the election of personnel designed to check corruption.

Machiavelli's conception of distributive justice therefore has strongly individualist foundations. In the *Discourses* and elsewhere, demonstrated individual merit is the primary basis for the most important procedures that allocate public honors, offices, and authority. As we saw in chapter 7, however, Machiavelli does sometimes suggest that meritocratic orders are easily corrupted by extreme social and economic inequalities. These often emerge through private transactions rather than as a direct result of public policy. Machiavelli's analysis of the causes of the Ciompi revolt points to the dangers of allowing poorly regulated shifts in economic power to dictate changes in public orders. He implies that in a less corrupt republic, citizens would have refused to accept new distinctions in economic rank among the guilds as a basis for depriving the lower ranks of effective political power. The surest way to preserve political meritocracy, Machiavelli suggests in the *Discourses*, would be to keep the citizens "poor." Good order in early Rome was preserved above all by "seeing that the way to any rank whatever and to any honor whatever was not prevented for you because of poverty, and that one went to find virtue in whatever house it inhabited. That mode of life," he adds, "made riches less desirable."⁸⁸ But since respect for free agency is the ground of Machiavelli's meritocratic principles and respect for free agency precludes forced equalization, a less brutally "harsh" way of preserving meritocracy is needed. Although Machiavelli does not spell out what this might be, his principles support moderate forms of public regulation and redistribution of wealth.

Once again, Machiavelli makes these arguments by appealing to the prudent self-interest of those who currently have a greater share of ranks and honors, authority, or material goods. On the negative side, he points to the disorders that arise in cities where some people find it extremely hard to compete for these goods on a level playing field. Those who perceive that they are marginalized or disempowered eventually grow "indignant" and, like the *infima plebe* in the Ciompi revolt, may turn to violent means of redress. Early in the *Discourses* Machiavelli offers a more general analysis of the sources and effects of exclusionary modes in cities. These arise, he says, when early in a city's life the population grows "to such a number" that if they wish to live together they need "to make laws." When it appears to those who constituted the government and legislative councils that there are "as many as would be sufficient for a political way of life," they close "to all others who might come newly to inhabit there the way enabling them to join in the government." Once there are many inhabitants who are left "outside the government," the bare fact that they are excluded is deemed "to give reputation" to those who govern. The insiders then come to be called gentlemen (*gentiluomini*) and the outsiders the populace (*popolani*). This mode, Machiavelli remarks, is given "by chance more than by the prudence of him" who gives them laws.⁸⁹ Machiavelli's account underscores the arbitrary, self-serving purposes of political exclusions that

⁸⁸ *D*, III.25.271/483–84.

⁸⁹ *D*, I.6.2–9/213–17.

are based on ambitious desires for status rather than the necessity for orders of command and obedience. He goes on to stress the dangerous effects of such unreasonable exclusions, noting that they make men “indignant in two modes: one, to see themselves lacking their rank; the other, to see unworthy men of less substance than they made partners and superiors to themselves.”⁹⁰

On a more positive note, Machiavelli emphasizes the advantages of inclusive meritocratic orders for civil order and *virtú*. He asks readers to “consider the generosity of spirit of those citizens whom, when put in charge of an army, the greatness of spirit of those citizens lifted above every prince. They did not,” he goes on, “esteem kings, or republics; nothing terrified or frightened them.” Many *grandi* might be wary of allowing such men of the people to assume high ranks. But Machiavelli’s next words are reassuring. “When they later returned to private status,” he points out, they again “became frugal, humble, careful of their small competencies, obedient to the magistrates, reverent to their superiors, so that it appears impossible that one and the same spirit underwent such change.”⁹¹ An argument developed throughout Book I of the *Discourses* is that exclusionary public modes waste valuable resources of *virtuoso* ordering that may be found in the wider population. The hard political work needed to maintain virtue and order cannot be done by a few remarkable men or a dominant social class. A *virtuoso* city is one whose laws induce all able-bodied citizens to contribute to the common good. Conversely, a polity may be said to suffer from degenerative political idleness when many are prevented from making a full contribution to its political life and defense. Popular desires to have a say in government and legislation and a role in military defense were, Machiavelli argues, among the main causes of Rome’s greatness. Therefore “if you wish to make a people numerous and armed so as to be able to make a great empire,” he argues, “you must give the population at large opportunities and political powers.” These might make it impossible to “manage it” in a more exclusionary mode, but inclusive meritocratic orders would make any city stronger.⁹²

8.6.

Ignorance of justice: Who is responsible for upholding just orders?

Like other elements of his ethics, Machiavelli’s standards and procedures of justice derive from the two strands of his philosophical anthropology: prudent reflections on the conflict-engendering desires and humors found in “any city whatever” (N1), and ethical reflections on the conditions for coexistence among innately free agents (N2). This distinction raises a question about how people come to recognize fundamental standards of justice. Does Machiavelli imply that they can be known a priori through ethical reflections grounded in the concept of free agency? Or can human beings acquire knowledge of justice only through experience of

⁹⁰ D, III.16.255/465.

⁹¹ D, III.25.272/484.

⁹² D, I.6.21–22/215.

civil and uncivil life, which brings home the need for some regulative standards while showing them the defects of others?

Machiavelli frequently implies that various forms of justice and the principles underlying them are in some sense already known to the people who violate them. In the case of the injurious Fabii, for example, he does not suggest that the unjust parties were unaware that they were committing a grave wrong. Perhaps some Roman defenders of the Fabii transgression believed that they were acting for the common good by placing the apparent “utility” for their fatherland above good faith and the “law of nations.” But if anyone did try to portray the wrong as a right, Machiavelli gives no credit to their claims. On his retelling of the episode, there are only two possible views of why the transgressors acted as they did. Either they knew what justice required and knowingly chose to act unjustly, thinking that advantages could be gained from wrongdoing. Or they did not know what justice required and acted in sheer ignorance. Machiavelli suggests that ignorance is a poor excuse in this instance. Even if some Romans could say honestly that they *did* not know that they or their ambassadors acted unjustly, it would be irresponsible of them to claim that they *could* not have known this until the “heavens” began to reproach them. As Machiavelli emphasizes in Book II, chapter 29 and again at the beginning of Book III, at the time of the Fabii disaster the Romans had already lived for some time under orders that embodied reasonable standards of justice. Sound standards and procedures needed to uphold just civil orders were set out in the good laws of Romulus, and later improved by the founders of the republic. Standards and conventions regulating relations between peoples were well-established in the “law of nations,” which the Romans themselves had done much to articulate.

If some Romans did not know that it was unjust to violate that law, then, they could not plead ignorance as the cause of their injustice, since the problem was not that the only accounts of justice available to them were primitive or naïve. Their violations were not due to excusable ignorance, but to a culpable failure to defend well-established standards of justice. No one could plausibly argue that the Fabii and the Roman Senate erred because the standards of justice relevant to their case were obscure or incompletely developed. Nor could they argue that the Romans needed the scorching experience of getting it wrong before they could be set on the right path to full *cognizione* of justice. On Machiavelli’s account, the early Roman republic was already on the right path. It already had simple, sound notions of justice enshrined in civil laws and the law of nations. Although the sorry episode of the Fabii became an occasion to restore justice and good orders, Machiavelli does not suggest that the Romans needed to go through this “ruinous” experience in order to *acquire* knowledge of justice. He suggests only that such experiences sometimes bring people and cities back to knowledge that they or their fathers already possessed, but through their own fault forgot.⁹³ In the Romans’ case

⁹³ In this respect again, I see Machiavelli’s position as closer to Socrates’ and Plato’s than, for example, to Hume’s. On the view I attribute to Machiavelli, there can be no progress in the content of ethical knowledge, including knowledge of justice, although there may be improvements in (a) education about justice and (b) practical applications in institutions and laws. He does not depict justice as a

ignorance of justice was a symptom of deep-seated corruption, not an extenuating circumstance.

Nothing in Machiavelli's account implies that every individual or generation must wait to experience the effects of other people's "indignation and anger" before they can recognize that certain actions are unjust. Indeed, people would spare themselves a good deal of trouble if instead of waiting to experience resistance, they simply presupposed that other people are innately free; exercised self-restraint whenever their actions encroached on others' claims; and freely acknowledged the need for impartial standards and procedures to arbitrate conflicting claims. If human beings were not eminently corruptible beings, a priori reasoning about the necessary conditions for order among free agents would suffice to give people knowledge of justice. Since human orders and human judgments are corruptible, harsh experiences are sometimes the only means of bringing them back to their previous sound principles. But the bottom line of Machiavelli's moral epistemology is, as I suggested in chapter 3, essentially non-empirical. Although he treats particular re-educative experiences as necessary for the restoration of justice, the content of the original standards of justice remains the same before and after the phase when they were corrupted. No progress occurs in people's knowledge of what justice is between the pre-corrupt phase and the later renewal. The basic standards are constant; if anything, Machiavelli consistently implies that their strongest, purest form is found in the most ancient *ordini* and *opere*. Novel features are added by individual restorers, but not substantive changes that can be said to represent progress in moral knowledge. The basic elements of that knowledge, including knowledge of justice, are clear enough to uncorrupt reasoners. They are expressed in different ways by different peoples at different times. They are compatible with a wide range of particular orders and laws. Yet Machiavelli's transhistorical arguments seek to demonstrate the remarkable universality, continuity, and simplicity of the most basic standards of right and wrong.

So while recognizing that most people *do* in fact gain their knowledge of justice through particular experiences, Machiavelli also implies that they *can* apprehend independent grounds for standards of justice as well as reasons discovered through experience. Moreover, they *should* try to do so as a matter of reflective prudence, since this can help them to avoid dangerous mistakes such as those committed during the Fabii *débâcle*. If individuals grasp basic standards of justice and the reasons that ground those standards, they will easily understand why it is always imprudent to violate them. Particular new experiences always test people's commitments to justice, revealing the need to stem corrupt dispositions in some quarters. Trying experiences of civil or external conflict force citizens to "examine themselves" and bring back to light the ethical standards that form the foundations of their city. Prudent citizens may put such experiences to good use, treating great dangers as occasions to purge corruption. But redemption is not inevitable.

set of rules gradually "discovered" or constructed through collective learning processes over successive generations. As argued in chap. 3, Machiavelli's arguments imply skepticism about the idea that steady, cumulative progress in moral knowledge can be gained from experience.

It depends on the *virtuoso* choices of citizens who have not forgotten what justice is, and who are able to remind others why it is prudent to restore it. Regrettably, as Machiavelli's examples show, there are all too many people who wait for punishing experiences to push them back to the limits, instead of imposing limits on themselves by their own reasoning. The Romans were fortunate enough to have a Camillus to pull them back to a redemptive outcome. Other peoples, including the Florentines, did not have this good fortune after they perpetrated injustices. It is, Machiavelli suggests, extremely unwise to depend on either harsh experiences or the prudence of a few good men to make you respect the limits set by justice. Every citizen and reader of Machiavelli's works should come to recognize the need to impose those limits on themselves, whether or not they have directly experienced a physical necessity to do so. Moreover, while basic standards of justice are simple and easy to grasp, people's ability to grasp them may very easily be corrupted. Machiavelli suggests that ethical judgments may become corrupted even under the best laws and orders through the unjust actions of individuals. Referring to the Fabii incident and its upshot, he notes that "if what I say happened at Rome (where there was so much virtue, so much religion, and so much order)," then "it is no marvel that it should happen much more often in a city or a province that lacks" these qualities.⁹⁴ This serves as further warning against ethical complacency, and underlines the need to recall the principled grounds for justice as well as reasons learned from experience.

As Machiavelli describes it, then, the Romans' chief failure was a moral failure of collective self-examination, not an error stemming from ignorance. Had they reflected sooner on what their ancestors and even more ancient peoples already knew, they would easily have recognized that it was unjust to reward the Fabii who violated the law of nations, and avoided all the ensuing trouble. Had they re-examined the reasons for the standards upheld in the *ius gentium* and in their own "ancient" orders, they would easily have seen the imprudence in subordinating these standards to utility or private advantage. There would have been no need to wait for the onslaught of disastrous consequences to recognize that such conduct was reckless and unjust. The Romans must be held responsible, Machiavelli implies, for failing to uphold and continuously "renovate" the principles laid down by their "fathers." The failures of collective self-examination led them to take their orders for granted. They forgot the general standards and principles that served as *fondamenti* of their orders, and soon confounded justice with self-serving arguments from utility, natural superiority or natural equality, or other criteria that could never be "understood or believed" just by all concerned. When people allow these corrupt reasonings to obscure well-known standards of justice, they are bound to make disastrous errors of judgment. And when this happens, Machiavelli argues, responsibility is shared by those who offered the corrupt reasonings to the public and the citizens who failed to recognize that they were corrupt. Pleas of ignorance cannot exonerate either party. Both could have known better had

⁹⁴ *D*, II.29.197/404–6.

they simply reflected on the reasons for upholding standards of self-limitation and impartiality when addressing any conflict.

The Fabii case shows how easily people may lose sight of clear standards of justice that they or their ancestors already grasped through reasoning, ancient customs, or laws. Machiavelli treats the relationship between experience and ethical knowledge here as double-edged. Experience may stimulate the renewal of that knowledge. But it may also obscure it. Independent, self-critical reasoning about experience is what makes the difference. If people reflect prudently on their experiences, they may recover and refresh their knowledge of justice. If they fail to examine themselves in the light of various *accidenti*, they may be tempted to interpret their own experiences in a narrow or self-serving way, and soon forget that standards of justice must seem just to others as well as to themselves.⁹⁵

⁹⁵ *D*, III.1.209–10/416–20.