

# Notes

## FRONTMATTER

1. My translation. *Preumenōs*, the word I translate as “with a gentle-temper,” is from the same word-family as the adjective *praos* and the noun *praotēs*, Aristotle’s terms for gentleness of temper in the quote below and elsewhere. (The word is usually translated “mildness,” but that suggests context-neutral lack of affect, whereas Aristotle is talking about a way of treating people that aims at situational appropriateness, and is not incompatible with strong affect.)

## CHAPTER 1

1. Aeschylus, *Eumenides*, translation and commentary by Hugh Lloyd-Jones (Englewood Cliffs: Prentice-Hall, 1970), 76.
2. Translations mine, with influence from Lattimore. Remarkably, she pauses long enough to mention that she knows what Gorgons look like, since she has seen them in a painting by Phineas.
3. He mentions various cruel punishments that are associated in Greek lore with Persian despotism.
4. On the various species of the genus *anger*, see Appendix C.
5. Wild dogs feed their puppies by chewing and swallowing the kill, then vomiting it up again in a more digestible form.

6. I write this after many hours of unfortunately close observation of wild dogs in Botswana. Strictly speaking, “African wild dogs” are not actual dogs, if we mean members of the genus *Canis*: their biological name is *Lycaon pictus*; they are thus canids but not canines.
7. See Allen (2000) and Allen (1999).
8. See Gewirtz (1988). Gewirtz rightly emphasizes that Athena has already gone ahead without them. The question is not whether the law courts will exist: they do exist. The only question is whether they will join or oppose.
9. I typically follow Lloyd-Jones’s excellent and very faithful translations, unless I want to bring out a point by greater literalness.
10. She exempts foreign war, which they are permitted to encourage.
11. See note 1 above. The term surely suggests that they have put their anger to one side, although it doesn’t clearly connote complete renunciation of anger.
12. Of course “Eumenides” is, in real Greek life, a cautious euphemism as used by citizens of these goddesses, but Aeschylus is doing something else with it. The ex-Furies are explicitly called *metoikoi*, resident aliens, and the group of escorts is said by Athena to be composed of those who guard her shrine—thus priestesses of the cult of Athena Polias.
13. For the general shift in attitudes to punishment that occurred in the fifth century, see Harriss (2001). This important and remarkable study provides an extremely convincing argument that the Greeks and Romans came to criticize the spirit of payback, and anger seen as involving it. Harriss documents the shift in speaking of punishment from the *timor-* word-family, denoting payback, to the *kolazein* family, denoting punishment without implication of payback. The shift Harriss documents, as he emphasizes on p. 26 and elsewhere, involves non-intellectuals as well as intellectuals, although intellectuals play a prominent role.
14. In this regard, the opera is the exact inversion of Mozart’s *Le Nozze di Figaro*, in which every phrase, even those of the “bad” characters, is illuminated by love. Strauss wrote his own *Figaro*—in *Der Rosenkavalier*.
15. *Sugnōmē*: sometimes this is translated “forgiveness,” but it just means “thinking-with,” i.e., participatory understanding, and its connection to forgiveness is added by modern theorists and translators. See below note 29, and further in chapter 3. Aristotle’s position is not mine, because he still recommends revenge in some cases, particularly in connection with family bonds.
16. For the place of the *Eumenides* in the evolving Greek critique of anger, see Harriss (2001, 162).
17. As Harriss argues, this position becomes gradually more common in Greece and Rome.
18. See also Konstan (2010), to be discussed further in chapter 3.
19. See Griswold (2007, xxiii). Griswold does not unequivocally endorse this development. His first-rate, subtle, and carefully argued book is an indispensable starting point for any further work on these questions, especially work like mine, which disagrees with some of his main contentions.
20. Murray (2010). The book itself is actually a great deal better than its title, and, not coincidentally, has nothing to do with forgiveness: the author’s generous and nonjudgmental attitude toward her parents is evident throughout. She does not even contemplate forgiving them, because she simply loves them.
21. Murphy (2003, viii).

22. See chapter 7.
23. Griswold's book is the best example, in its detail and thoroughness, and it gives a balanced discussion of many other people's views and a full bibliography.
24. Leading examples are Murphy (2003) and Miller (2006).
25. See Murphy (2003, ix and 19).
26. See Griswold (2007) and Konstan (2010). Konstan refers to this form of forgiveness as capturing "the strict or ample sense of the English word" (57), and as forgiveness "in the full sense of the word" (57).
27. From the *Dies Irae*, incorporated in the Requiem Mass: *Liber scriptus proferetur, in quo totum continetur, unde mundus iudicetur* (A written book will be brought forth, in which everything is contained from which the world will be judged). For full text, see appendix to chapter 3.
28. The hymn continues: *Oro supplex et acclinis, cor contritum quasi cinis: gere curam mei finis* (I implore, bent down, a suppliant, my heart as contrite as ashes, show concern for my end).
29. *Suggnōmē*, often wrongly associated with forgiveness (above n. 15), and even translated that way: see the Oxford translation of Aristotle, *Nicomachean Ethics* IV.5, 1126a1–3. Griswold's discussion of the Greeks also goes too far at times in this direction: see p. 4 and note 5. I used the term "forgiveness" loosely in part of my discussion of Aristotle's *Rhetoric* in Nussbaum (1999a, 161), and hereby withdraw that sentence! An important point made by Konstan (2010) is that *suggnōmē*, unlike forgiveness, often involves denial or diminution of responsibility: see pp. 28–33, and the similar point made about Latin *ignoscere*, p. 55.
30. I agree here with Konstan (2010) and Konstan (2012, 22). The impressive emotion study of Robert Kaster comes to the same conclusion: see Kaster (2005, 80–81). Another interesting contrast is that between transactional forgiveness and ancient supplication: see Naiden (2006), discussed in Konstan (2010, 13).
31. As we'll see in chapter 3, this tendency even influences translation: the Greek term *charizesthai*, which means simply "to be gracious to," often gets translated "to forgive" in the New Testament, where, however, a very different word, *aphiesthai*, is the canonical term for forgiveness.
32. Tutu (1999).
33. Segal (1970). Segal, a Classics professor, was an expert on ancient comedy, known for *Roman Laughter: The Comedy of Plautus* (1968) and *The Death of Comedy* (2001).
34. Here I shall be agreeing with Griswold, who distinguishes political apology from forgiveness.

## CHAPTER 2

1. Strawson (1968). Strawson does not say that resentment is an emotion, and he does not identify it as a type of anger—although he does treat it as something one can "feel." He just is not interested in the emotions as a philosophical category. R. Jay Wallace, summarizing Strawson's views, does, however, treat the "reactive attitudes" as emotions: "On P. F. Strawson's view, emotions such as guilt, resentment, and indignation—what Strawson calls the reactive attitudes—provide the key to understanding moral responsibility and its conditions." See Wallace (1994, 18). I think Wallace is right about Strawson, but this interpretive issue plays no role in my own argument. On my view about the relationship between resentment and anger, see Appendix C.

2. See for example Hieronymi (2001).
3. See Allen (2000; 1999).
4. See Vlastos (1991).
5. Butler (1827).
6. See Santideva (1995, 45–62).
7. Strawson (1968). Strawson does mention items, including resentment, indignation, gratitude, and “moral disapprobation” (87 and elsewhere). He does not define them or investigate their internal structure, however.
8. Wallace (1994).
9. Thus a valuable recent discussion of therapy in prisons, linking that question to discussions of blame and responsibility, speaks of a long list of “hostile, negative attitudes and emotions that are typical human responses to blameworthiness: . . . for instance, hatred, anger, resentment, indignation, disgust, disapproval, contempt and scorn” (Lacey and Pickard [2013, 3]). Hieronymi (2001), similarly, emphasizes the importance of studying specific emotions before approaching the topic of forgiveness, but she really does not do this: she does not dissect different elements in anger or differentiate it from other “reactive attitudes.”
10. Especially Lazarus (1991), Averill (1982), and Tavriss (1982); see below.
11. For a short summary of the overall view of emotions for which I have argued in earlier work, see Appendix A.
12. I introduce this term in Nussbaum (2001).
13. See Batson (2011); Smith (1982), discussing an earthquake in China and the reaction of a “man of humanity” in Europe. I discuss this issue in Nussbaum (2013, chs. 6, 9, 10).
14. Lazarus (1991).
15. Meaning that they are token-identical to neurochemical changes in the brain.
16. On all these claims, see Nussbaum (2001, chs. 1, 2); on the role of feelings, see also Nussbaum (2004b).
17. Aristotle’s project is to show orators what anger’s distinctive content is, in order to help them learn how to produce it or to take it away. Thus his whole procedure assumes that anger is in large part constituted by cognitive appraisals; the orator does not light a fire in people’s hearts.
18. Here I am following later versions of Aristotle’s definition, which substitute wrongful injury for down-ranking, which I consider too narrow: see below.
19. The grasp may be rudimentary: Paul Bloom’s research shows that babies as young as one year old have an inchoate sense of fair play and an inchoate approval of retribution. See Bloom (2013), and Appendix C.
20. Lazarus (1991, 219).
21. Arnim (1964, III.478). Compare Lazarus (1991, 224).
22. It does appear to be a male phenomenon, at least in this study. Or perhaps women who reacted angrily did not kick or rock the machine enough to topple it. Or perhaps they did not want to ruin their shoes and other clothing.
23. Tavriss (1982, 164, cf. 72). See also Averill (1982, 166).
24. Butler (1827).
25. And if we accept psychoanalytic ideas of infantile omnipotence of the type expressed in Freud’s “His Majesty the Baby,” we can go further: the infant expects to be waited on and to be the center of the world, and considers all deviations from that state of affairs to be wrongful damage. In other words, the real and full existence of other people, with lives of their own and not just slaves of the baby, is itself a wrongful damage—a terrible problem in human development.

26. See Appendix C.
27. *De Ira* I.2. Unfortunately this part of the work has a gap, which editors fill up from quotations of the work in later Christian authors. It appears that Seneca is mentioning a number of common philosophical definitions, rather than giving his own.
28. Arnim (1964, III.397): in Greek, *ēdikēkenai dokountos*, in Latin *qui videatur laesisse iniuria*. On this shift, see also Harriss (2001, 61).
29. Lecture by Rashida Manjoo, UN Special Rapporteur on Violence Against Women, University of Chicago Law School, May 14, 2013.
30. See Hossain (2013).
31. See for example Tavis (1982, 72 and 94).
32. Lazarus (1991, 221). See Tavis (1982, 152–53).
33. See also Lazarus (1991, 225), who argues that this goal is essential to differentiate anger from anxiety.
34. On different accounts of compassion in the tradition, see Nussbaum (2001, ch. 6).
35. I heard this interview on the news while in a gym away from home and cannot document it. But it happened. Jordan, Sr., was murdered in 1993. A suspect, Daniel Andre Green, was convicted in 1996 and given a life sentence. (A jury opted not to assign the death penalty. A second suspect, Larry Demery, agreed to a plea deal in exchange for testimony implicating Green. Demery will be eligible for parole in 2016.) In April 2015 Green requested a new trial, claiming that false evidence was presented during the original trial. An FBI audit found that the State Bureau of Investigation erred in a total of 190 cases in handling blood evidence, including this case.
36. See the similar critique of payback in Brooks (2012).
37. On this see Mackie (1982). Mackie agrees with my claim that payback thinking makes no sense, calling this the “paradox of retribution.” Bloom’s research (2013) with young infants purports to show that the idea of fair play is present in infants under the age of one, but what it really shows is that such infants like seeing someone get a painful punishment when they have done something unfair (for example, taken something from someone else): so it shows the deep-rootedness of payback pain-for-pain ideas, as well as those of fair play.
38. See Vermeule (2011), a Darwinian account of our interest in certain story patterns.
39. Compare Mackie (1982, 5): “It should be clear beyond all question that the past wrong act, just because it is past, cannot be annulled. . . . The punishment may trample on the criminal, but it does not do away with the crime.”
40. See the similar analysis in Murphy (1988, ch. 1) and in Murphy’s other writings on this topic.
41. Hampton and Murphy (1988, 54–59).
42. See Averill (1982, 177), reporting a survey in which subjects were asked about their motives in becoming angry. The two most common were “To assert your authority” and “To get back at, or gain revenge on, the instigator.”
43. For my own view about the concept of dignity and its political role, see Nussbaum (2008), summarized in Nussbaum (2010a).
44. When the Stoics said that animals are not rational, their opponents pointed to an ingenious dog allegedly belonging to Chrysippus, who came to a three-fork crossing, following a rabbit. He sniffed down the first path; no scent. He sniffed down the second; no scent. Without sniffing further, he galloped off down the third path—thus showing, they said, that he had mastered the disjunctive syllogism.

- Angela might be like that dog—but as I’ve imagined here she is not quite as smart, since she goes part of the way down the second path before turning back.
45. On the cultural construction of the idea of closure, and its subsequent psychic reality, see Bandes (forthcoming).
  46. I borrow this characterization from Harsanyi (1982).
  47. I am not claiming that retributivism is all about status. As will be clear in chapter 6, I believe that retributivism suffers from the second, not the first, problem. But the correct alternative, here too, is a focus on future welfare.
  48. Butler insists that anger “ought never to be made use of, but only in order to produce some greater good.”
  49. By which I mean rational and constructive.
  50. See the longer analysis of it in Nussbaum (2013). The text of the speech can be found online at <http://www.americanrhetoric.com/speeches/mlkIhaveadream.htm>.
  51. Throughout the speech King keeps on returning to the injustices that African-Americans have suffered, but he does not indulge in payback thinking. He keeps looking forward.
  52. In the larger plot of the series, McCord really is a welfarist, enduring personal ignominy to prevent revelations that he thinks will ignite a war between the United States and the Apaches.
  53. Butler (1827, Sermon VIII).
  54. See Bloom (2013).
  55. See Hampton and Murphy (1988, 58).
  56. I owe these examples to Charles Larmore and Paul Guyer.
  57. See Seneca, *De Ira*, particularly I.12.
  58. Bishop Butler sees anger’s role as in large part motivational: see Butler (1827, Sermon VIII). He argues that compassion by itself would render the “execution of justice exceedingly difficult and uneasy.”
  59. See Smith (1982, 35).
  60. I owe this point to Saul Levmore.
  61. See Butler (1827, Sermon VIII): “Since perfect goodness in the Deity is the principle, from whence the universe was brought into being, and by which it is preserved; and since general benevolence is the great law of the whole moral creation; it is a question which immediately occurs, ‘Why had man implanted in him a principle, which appears the direct contrary to benevolence?’”
  62. See Santideva (1995).
  63. I.48–49 = II.650–51.
  64. See Harriss (2001, 31, ch. 16).
  65. Lactantius, *De Ira Dei*, chs. 4 through 8. As we’ll see, Lactantius has some more interesting things to say later in the treatise.
  66. See also Harriss (2001, ch. 16) on struggles to reconcile biblical texts with Greco-Roman norms.
  67. See the excellent discussion in Halbertal and Margalit (1992, ch. 1).
  68. Lactantius, *De Ira Dei*, ch. 16.
  69. See Harriss (2001, 393 and notes). Harriss also shows that Paul’s statements on anger are not wholly consistent: sometimes he blames all anger, sometimes he permits some anger but urges that it be brief.
  70. Briggs (1970). See my detailed discussion in Nussbaum (2001, ch. 3).
  71. Briggs (1970, 330–31).
  72. October 13, 1988; the question was asked by Bernard Shaw.

73. See Kindlon and Thompson (1999).
74. See Condry and Condry (1976). There are a lot of other interesting contrasts. In the experiment, the baby was the same baby, but was just differently labeled.
75. See Levmore and Nussbaum (2014).
76. See Harriss (2001, ch. 11).
77. Typical is Cicero, *Ad Quintum Fratrem* I.1.37–40, discussed in Harriss (2001, 204–5): Cicero tells his brother Quintus, then governor of a province in Asia, that his reputation for effective leadership is undermined by his evident propensity to anger, and Cicero urges him to work on himself, concluding that angry outbursts are “not only inconsistent with literary culture and *humanitas*, they are also inimical to the dignity of imperial office.”
78. See Kindlon and Thompson (1999).
79. Again: by the bare term “anger” I mean garden-variety anger, not the special case of Transition-Anger.
80. I owe the question to Katerina Linos.
81. See my lengthy analysis of disgust in Nussbaum (2004a, ch. 2), with references to the psychological and philosophical literature; see also the update in Nussbaum (2010b).
82. Hence the long-standing confusion, in the law of sexual orientation, between discrimination on the basis of an act and discrimination on the basis of orientation.
83. Thus Dante’s distinction between Hell and Purgatory seems somewhat arbitrary: if people are located in the former by a single act, in the latter by an enduring trait, the single act somehow becomes definitive of the person, once it becomes the basis for their eternal punishment.
84. The best treatment of contempt in the recent philosophical literature is Mason (2003).
85. Mason (2003, 241).
86. This is the central issue in Mason’s fine article. Mason argues that it is justified, when contempt is properly focused on a legitimate ideal and gets things right about the person’s blameworthy failure to exhibit the ideal trait.
87. For a longer discussion of envy, see Nussbaum (2013, ch. 11). A very fine analysis is in Rawls (1971, 530–34).
88. See Lazarus (1991, 254).
89. Miceli and Castelfranchi (2007).
90. Proust’s novel is one classic development of that idea.
91. He analyzes anger and “being calmed down” in the *Rhetoric* II.2–3, and discusses the virtuous disposition in this area in the *Nicomachean Ethics* IV.5. The two accounts are never connected by him, but they are consistent.
92. Smith (1982, 34).
93. The Oxford translation uses “good-tempered” for the adjective and “good temper” for the noun, which is not terrible, but it seems too general, since it does not suggest a particular relation to anger.
94. The Oxford translation says “tends to forgive” for *suggnōmonikos*. But in fact there is no warrant for this: the word literally means “thinking with” and designates sympathetic understanding. See chapter 1, notes 15 and 29.
95. Konstan (2010) emphasizes that this is often the case with *suggnōmē*.
96. Of course I think all anger is inappropriate, but Aristotle does not.
97. See Marcus Aurelius, whose first lesson in avoiding anger is not to be “a fan of the Greens or Blues at the races or the light-armed or heavy-armed gladiators at the circus.”
98. See Winnicott (2005).

## CHAPTER 3

1. Griswold (2007, 149–50). This is not the entirety of Griswold’s account, since he has a lot to say about what the forgiver should do. Konstan’s account (2010) is basically the same.
2. Indeed, it is often suggested that forgiveness is incomplete without these transactional elements: thus Konstan (2010, 21 and *passim*); similarly Bash (2007), who summarizes his argument by saying that “the idea of unconditional forgiveness is difficult to defend from a pragmatic, practical, and philosophical point of view” (78), and who takes pains to show that the early Christian tradition contains the full-fledged transactional account. It will become clear that on this point I agree with Bash, and disagree with Konstan: the early tradition surely does contain this concept; however (here disagreeing with Bash), it also prominently contains ideas of unconditional forgiveness and unconditional love, and I disagree with Bash about the normative evaluation of these alternatives.
3. I shall, however, aim at greater historical detail and precision, which I think Nietzsche’s general goals require.
4. I import this image of unreflective conformity from Mahler, to be discussed later in this chapter. He saw conventional Christian behavior as like the aimless and unalert swooping of the fish to whom St. Anthony preaches, appropriately represented by swooping phrases on the E-flat clarinet, whose entrance is marked “mit Humor.” (The St. Anthony song in *Des Knaben Wunderhorn* was composed around the same time as the St. Anthony material in the third movement of the Second Symphony, to which I allude here: and see the detailed analysis in Nussbaum [2001, ch. 14].
5. Foucault (1975).
6. Foucault has a European audience. He is not talking about the degrading physical cruelty of actual imprisonment in the United States; he is talking about the intrusiveness and manipulativeness characteristic of programs of prison supervision and reform, with Jeremy Bentham’s Panopticon prison/workhouse a leading case study.
7. God’s anger often needs to be allayed by penitence, or sacrifice. In Isaiah 43:25–26, sins are apparently remitted because of an apology and an attitude of mindfulness. Similarly in Hosea 12, the prophet calls on Israel to repent, and in chapter 14, he urges a specific form of atonement, which, he imagines, will be followed by forgiveness. There are many such examples.
8. An excellent discussion of both biblical and Talmudic sources is Morgan (2011).
9. Although obviously enough Reform and Conservative Jews do not accept many aspects of this codified account—at least not its complete list of the commandments for violation of which *teshuvah* is required—there is continuous adherence, on the whole, to the overall conception of the *teshuvah* process as mapped out in the tradition. Thus Peli (2004) notes in his introduction that leading Reform rabbi Arnold Jacob Wolf praises the centrality and importance of the thought of Soloveitchik on this topic (p. 7). Soloveitchik (1903–1993), a highly influential Orthodox rabbi and professor, follows faithfully the accounts of Maimonides (twelfth century) and Yonah of Gerona (thirteenth century). (Soloveitchik’s oral discourses were originally given in Yiddish but later written down in Hebrew by Peli; the English translation was done by Peli and a large group of advisors.)
10. 1138–204, often referred to as the Rambam.



11. Yonah, d. 1263, was an influential Catalanian rabbi, a first cousin of the more famous Nachmanides. The story goes that Yonah was initially a bitter opponent of Maimonides and instigated the public burning of his work by Christian authorities in Paris in 1233. He later admitted error and undertook a pilgrimage to Maimonides's grave in Palestine. However, he never got further than Toledo, where he taught for the rest of his life. However, his teachings were consistently reverential toward Maimonides. For Maimonides, I have consulted two English translations available online, one by Immanuel O'Levy (1993), and one by Rabbi Yaakov Feldman (2010). For Yonah, I use the bilingual text with translation by Shraga Silverstein (1967).
12. Soloveitchik, cited above; Deborah E. Lipstadt, contribution to Wiesenthal (1997, 193–96). Lipstadt was the defendant in a famous Holocaust denial libel trial; sued by David Irving, she won on grounds of justification.
13. See Maimonides, ch. 1.1.
14. There is an interesting dispute in the tradition about whether one ought to confess and repent for sins that one has already confessed the previous year. Yonah's view is that one should not, both because it could distract from a focus on this year's sins and because to confess again shows a lack of trust in God's forgiveness: see Yonah (1967, 379–83). The sinner should nonetheless offer a general confession of sin that in principle covers former as well as current transgressions. But Maimonides holds that one should confess former as well as current sins, to keep them before one's eyes (2.8). There is also discussion of how many times one must confess on Yom Kippur. Maimonides mentions that one ought to confess before eating the large pre-fast meal, even though one is about to spend an entire day confessing repeatedly—because one might choke on the meal and die, and thus never get to the main confession (Maimonides, 2.6).
15. Maimonides, 1.4.
16. Soloveitchik emphasizes a traditional distinction between *kapparah* (acquittal) and *taharah* (purification): for the former, remorse is sufficient; for the latter, a revolutionary change of life and thinking is required. See Peli (2004, 49–66).
17. Maimonides, 1.5. By contrast, if the offense is only against God, one should not publicize one's repentance.
18. Ch. 2.2. (I've replaced the translator's "to never do" by "never to do.")
19. Ch. 2.4. Cf. Yonah (1967, 31).
20. Ch. 3.4: he connects the *shofar* particularly with charitable deeds and asserts that Jews are more charitable in the period between Rosh Hashanah and Yom Kippur than at other times.
21. Maimonides, 2.1.
22. Maimonides, 2.1.
23. Yonah (1967, 92).
24. Yonah (1967, 39).
25. Yonah (1967, 59).
26. Maimonides, 2.10. See Yonah (1967, 377).
27. For the dead, the transgressor brings ten men to the grave and makes a confession; if money is owed he pays the inheritors. But if he doesn't know them, he leaves the money with the court and makes confession there.
28. Compare John 7:53–8.11, where the woman taken in adultery is apparently offered a conditional forgiveness: "Go, and sin no more."
29. See the detailed philological discussion of the Greek text in Bash (2007, 80–87). As a Christian theologian, however, he may be imputing too much unity and

- consistency to these early texts: John practiced baptism before Jesus died, and may have had no clear idea that a further necessary condition remained to be supplied.
30. John does not require sacrifices or offerings, presumably thinking that the ritual of repentance takes the place of this Jewish ritual of atonement: see Bash (2007, 81–82), emphasizing again that repentance, while necessary for forgiveness, is not sufficient.
  31. Thus, the Book of Common Prayer asks the parents and godparents (or any old enough to speak for themselves): “Do you renounce Satan and all the spiritual forces of wickedness that rebel against God?” Answer: “I renounce them.” Question: “Do you renounce the evil powers of this world which corrupt and destroy the creatures of God?” Answer: “I renounce them.” Question: “Do you renounce all sinful desires that draw you from the love of God?” Answer: “I renounce them.” And the ritual continues with much about accepting Jesus as one’s savior and trusting and obeying him.
  32. See appendix to this chapter for the full text of the hymn. It remains in the Tridentine Mass today, and is still a respected text, although, with other depictions of suffering in Hell, it has been de-emphasized.
  33. This work predates Tertullian’s split from mainstream Christianity and his espousal of the Montanist heresy (around 207).
  34. See Hanna (1911).
  35. Hanna (1911).
  36. See also Konstan (2010, ch. 4).
  37. Naturally, as with any generalization about Jewish norms, this one has putative exceptions. The prohibition *lo tachmod*, “Thou shalt not covet” appears to focus on attitudes, not acts, although there is much debate about this.
  38. Strictly speaking one should not say “quasi,” since, following the Greek and Roman Stoics, this tradition thinks of inner movements as fully acts. The Stoic rationale is that they involve “assent” to an “appearance” to which, in principle if not in fact, one might always refuse assent. Cicero even called the external action a mere “afterbirth,” the core of the act being this inner performance of assent.
  39. See Tertullian, *On Penitence*, section 3, in William Le Saint’s translation, *Tertullian: Treatises on Penance* (Westminster, MD: Newman Press, 1959). For the Latin text, see the edition by Pierre de Labriolle (Paris: Alphonse Picard, 1906). Tertullian lived from around 160 to 225 CE; *De Paenitentia* is probably a relatively early work, from a period prior to Tertullian’s break with the established Church (in the direction of greater Puritanism, as a Montanist heretic).
  40. Brion and Harcourt (2012); an English version by Bernard Harcourt will soon be published.
  41. But see Brion and Harcourt (2012, 104–8).
  42. Brion and Harcourt (2012, 124–60).
  43. Thus, unabsolved sexual sin, when heterosexual, puts one in the circle of Hell in which we find Paulo and Francesca, and when homosexual, in the much lower circle of the “violent against nature”; characteristic but absolved lustfulness, whether same-sex or opposite-sex, puts one in a relatively cheerful circle of Purgatory in which one encounters all the famous poets, learning chastity through long penance.
  44. And the occasion is all too often turned into a type of prurient control over young “transgressors.”

45. For some very different studies coming to this conclusion, see Boyarin (1995); Kugel (1999); Schofer (2010).
46. *De Paenitentia*, section 9. Since the term is Greek, it is clearly already in use before Tertullian (the first major Christian thinker to write in Latin), but he is credited with codifying it into a set of practices supervised by religious authorities.
47. Nietzsche (1989).
48. See also Daniel 9:9.
49. This passage is not in the best manuscripts, so it may not be contemporaneous with the rest of the text. There is also the problem that ignorance mitigates culpability, so it is not terribly clear whether Jesus is offering forgiveness in the usual sense.
50. See above n. 31.
51. The difficult phrase “give place to anger” seems to mean clearing the way for God’s promised vengeance.
52. For extensive extracts from the statements, see Stewart and Pérez-Peña (2015) and Nahorniak (2015).
53. Its aftermath has certainly been Transitional, in the debates over the removal of the Confederate flag from the state capitol, and the somewhat surprisingly lopsided votes that led, on July 9, to the final passage of a law ordering its removal.
54. See for example Matthew 19:19, 22:39; Mark 12:31, John 13:34, 15:12.
55. A salient example is Ephesians 4:30–32, where *charizesthai* just means “be gracious,” “be generous,” and does not entail a reference to antecedent anger—and yet it is translated “forgive” in all translations I have been able to find. The standard word for forgiveness, *aphiēni*, is not found anywhere in the context. On mistranslations of biblical texts concerning forgiveness, see also Konstan (2010, 99). Konstan’s entire chapter 4 is a valuable treatment of the biblical material, both Hebrew and Greek.
56. My own translation; the precise distinction intended between *thumos* and *orgē* is not entirely clear.
57. I have modified the King James Version, substituting “wrongs you” for “trespasses against you,” and removing the gratuitous verbal additions in verse 4.
58. Luke 15:12–34, King James Version, with two alterations: I have put “and before you” in verse 21 as in verse 18, since the Greek is exactly the same; for no particular reason the translator has put “and in thy sight” the second time. Both are fine translations; the point is that the two statements ought to be exactly the same. The second change is more important: In verse 20, *esplanchnisthē* is translated “and had compassion,” which is too flat and weak for this rare word, and also inaccurately implies that the father was aware of the son as suffering, or in a bad way.
59. The metaphor is from sacrifice, where the entrails of the victim are removed and devoured. See LSJ, s.v. *splanchnēuō*. Such is the prestige of the King James Version that the nineteenth-century lexicographers also list a metaphorical meaning “Have compassion,” for which they attest only this passage—one reason why one should always look beyond the lexicon. In the New Testament, the word does occur a few more times, but not enough that we should think that the reference to “guts” has been lost and it has become a dead metaphor.
60. On the classical antecedents of this generous spirit, see Harriss’s discussion (2001) of the ideal of *philophrosunē*, p. 149, and of Roman *humanitas*, p. 205.
61. I have analyzed the symphony in detail in Nussbaum (2001, ch. 14).

62. Mahler, program for the Dresden 1901 performance; quoted in De La Grange (1973, 785–86), with a more literal rendering of the second paragraph substituted for his.
63. De La Grange (1973, 786).
64. Wagner (1850).
65. Mahler frequently characterized musical creativity as feminine in its emotionality and receptivity (see Nussbaum 2001).
66. See my discussion of *geschlagen* as both “heartbeat” and “downbeat” in Nussbaum (2001).
67. Strictly speaking, the father is never angry with the son at all, so far as the story tells us.
68. See Nussbaum (2001) for a more detailed argument on this point.
69. An interesting case in point is Britten’s *War Requiem*, in which greed, anger, and destructive resentment certainly make their appearance—but then are surmounted, in settings of texts by Wilfred Owen that contrast the unconditional love of Jesus with the practices of the organized Church. More generally, it is interesting that music expressing (officially) a longing for revenge often expresses this-worldly joy instead. Thus the “revenge duet” in Verdi’s *Rigoletto*, “Si, vendetta,” is actually full of joyful energy. When my daughter was three, it was her favorite piece of music on account of its joyfulness, and of course she had no idea what it was supposed to be “saying.” A search for real musical revenge would take us quickly to the realm of stifling and oppressive music, as with my comments about Strauss’s *Elektra* in chapter 1.
70. Thus Schoenberg could not permit Moses to sing, in his opera *Moses und Aron*: the religious attitude must be expressed in speech, leaving operatic music to Aaron and his followers.
71. Perhaps these examples just go to show that Mozart and Verdi were joyous and generous souls, who wrote Requiem masses out of cultural convention, rather than because of any profound spiritual affinity—as indeed is often said about the Verdi work. But the inner connection of music with love seems to me to lie deeper, and it is difficult indeed to think whom one would commission to compose a Requiem in the spirit of the analysis of divine anger I have presented. Of course a composer can ventriloquize the mentality I have described without writing an entire work in its spirit (as Wagner superbly ventriloquizes loveless narcissism in the music of Alberich and Hagen, though the work as a whole is supremely concerned with loving generosity). But an entire Mass? Wouldn’t this be like an entire *Ring* sung by Alberich and Hagen? I have suggested that *Elektra* is like that, but it is a short work designed to be almost unendurable, and it is an outlier in Strauss’s output.
72. In what follows, I am indebted to Halbertal (forthcoming), so far published only in Hebrew, but an English translation was made for the author by Joel Linsider, and sent to me for reference. A short version was published in *Jewish Review of Books*, Fall 2011.
73. See Halbertal (forthcoming).
74. Griswold (2007, 12–17).
75. Epictetus, *Encheiridion*, ch. 48.

## CHAPTER 4

1. All translations are mine. I discuss the play in detail in Nussbaum (1994b, ch. 12)
2. Again, we can note that the Greeks and Romans typically do not hold this view. Indeed they are inclined to think that even should some people think anger

- attractive in the outer world, they will quickly grant that it is destructive in the family. See Harriss (2001, 29), discussing Cicero, *Tusculan Disputations* 4.54. Cicero addresses the Peripatetics, who defend a moderate anger (rather than, as Cicero prefers, its complete elimination): “This warrior irascibility of yours, when it has come back home, what is it like with your wife, children, and slaves? Do you think that it’s useful there too?”
3. See Hieronymi (2001).
  4. The case of anger between siblings is fascinating, but my account can easily be extrapolated to fit it. Anger at strangers who damage one of our loved ones will be discussed in the next chapter.
  5. See Sherman (1989, ch. 4 and 118–56).
  6. Baier died in New Zealand in November 2012, at the age of eighty-three. Apart from her many other accomplishments, she was the first woman in almost a hundred years to be President of the Eastern Division of the American Philosophical Association (in 1990, and preceded only by Mary Whiton Calkins in 1918), and the first woman ever to give the Carus Lectures in that same association.
  7. See Baier (1995), “Trust and Anti-Trust” and other essays. For two other good philosophical accounts, see Hawley (2012) and O’Neill (2002).
  8. Thus I agree in part and disagree in part with Hardin (2006). Hardin holds that trust is “cognitive,” meaning that it involves beliefs. Since he does not tell the reader whether he thinks that emotions are partly cognitive, it is not possible to tell whether he would agree with my claim that trust involves the sort of cognitive appraisal that frequently plays a constituent role in an emotion. He then says that because trust is cognitive it is not possible to decide to trust—thereby bypassing a large philosophical debate about whether one can decide to believe something, and simply failing to consider the sort of willingness to be vulnerable that is in part a life-choice.
  9. See Lerner (1985), to be discussed in what follows.
  10. Butler (1827, Sermon 9).
  11. Williams, “Persons, Character, and Morality,” in Williams (1982, 1–19). In its original context the phrase refers to the moral reasoning of a man who saves his wife in a lifeboat situation, not with the thought that it is his wife, but rather, “that it was his wife and that in situations of this kind it is permissible to save one’s wife” (18). My use of the phrase is thus quite different and does not require the repudiation of impartial morality. Its link with Williams is that both of us oppose a spirit of moral discipline and strict moral scrutiny that he associates with Kant and I with one strand in Judeo-Christian ethics.
  12. See Baier (1995), “Trust and Anti-Trust.”
  13. Dickens (2004, ch. 4). Note, too, the terrible view of animals that this comparison betrays.
  14. Orwell (1952).
  15. Trollope (2014, ch. 3); see my analysis in “The Stain of Illegitimacy,” in Nussbaum and LaCroix (2013).
  16. Dr. Thorne’s fellow heretics, in the nineteenth-century British novel, are, significantly, usually either female (Peggotty, Betsey Trotwood) or true social outsiders (Mr. Dick).
  17. I say this in order to include children of divorced parents who divide their time between them.
  18. Or other caregivers, of course. This chapter focuses on the familiar nuclear family, but the analysis applies to any intimate group that focuses on the child’s well-being.

19. See Baier (1995) again.
20. Baier (1995).
21. See Plato, *Symposium*, where, however, it is only pretty low and unimaginative people who try to make themselves immortal by having children, rather than, say, by writing books or participating in politics.
22. It's not surprising that the two brothers are not just contrasting individuals but contrasting types of American Jews. The Swede's name says it all: athletic, tall, reserved, he's the successful assimilated WASP-Jew (he even marries a former Miss New Jersey, after all, although she is a Catholic, not a WASP), whereas Jerry is closer to the urban Jewish norms Roth depicts obsessively.
23. There is one flaw in this interpretation of Swede Levov. As Zuckerman invents the past, one time, asked by the prepubescent daughter to kiss her on the lips, he briefly, but passionately, complies. One could then read Merry's later problems as imputable to him—although prior to that time she already has the stutter, the hatred of her mother, and the signs of obsessive-compulsive disorder, that form her later trajectory. I actually think the kiss a literary error of Roth's—or at least of Zuckerman's—since the character depicted throughout the novel would not do that, however Oedipal such relationships often are. Zuckerman, childless, sex-obsessed, has reconstructed history after his own fashion. But then, as Zuckerman says, “getting people right is not what living is all about anyway. It's getting them wrong that is living, getting them wrong and wrong and wrong and then, on careful reconsideration, getting them wrong again” (35).
24. Lerner (1985, 69–70).
25. Lerner (1985, 76).
26. Lerner (1985, 77).
27. Lerner (1985, 79).
28. See also Tavis (1982), who emphasizes this point throughout.
29. I omit here the violent and terrible things children more rarely do to their parents, on which see Condry and Miles (forthcoming), and Condry (2007).
30. Murray (2010, ch. 1).
31. Returning us to the issue raised in chapter 2, this case of grief does appear to involve a wish to change the past, and to have at least an element of magical thinking, and she lets go of that.
32. For one typical contrasting Stoic example, in which a refusal of anger is part of a global program of emotional detachment, see Juvenal x.357–62, discussed in Harriss (2001, 226 and n. 99).
33. Really, any sort of intimate adult partnership, but I will use marriage as a shorthand.
34. Not of course a blanket permission, as has often been believed.
35. On the ambiguities of Tess's rape/seduction by Alec, and the larger issues of shame and purity, see Baron (2012, 126–49). A related case is Mrs. Gaskell's *Ruth* (original edition 1853), in which Ruth, seduced at a very young age, then lives “blamelessly” for many years, and is admired by all for her character and values; but the revelation of her long-ago “sin” makes her an outcast.
36. See also Tavis (1982, ch. 8), “The Marital Onion,” which contains many examples of a similar type.
37. I owe this point to Sharon Krause. On the futility of the “blame game,” I have learned from Iris Marion Young's marvelous posthumous book, *Responsibility for Justice* (2011). As the author of a foreword to that book, I expressed some skepticism about Young's repudiation of retrospective analysis, but I am now totally on her side.

38. Hieronymi (2001).
39. I am grateful to Emily Buss for suggesting this example.
40. The play is “Mojada,” by Luis Alfaro.
41. See Martin (2010).
42. Some representative titles would include Robert D. Enright, *Forgiveness Is a Choice: A Step-by-Step Process for Resolving Anger and Restoring Hope* (Washington, DC: APA LifeTools, 2001); Beverly Flanigan, *Forgiving the Unforgivable: Overcoming the Bitter Legacy of Intimate Wounds* (New York: Wiley Publishing, 1992); and Michael E. McCullough, Steven J. Sandage, and Everett L. Worthington, Jr., *To Forgive Is Human: How to Put Your Past in the Past* (Downers Grove, IL: InterVarsity Press, 1997).
43. See Tavis (1982).
44. EN IX, and see Cooper (1981).
45. See Nussbaum (2004a, ch. 4).
46. See Herbert Morris’s sensitive observations on this issue in Morris (1976, ch. 2).
47. See Nussbaum (2004a, ch. 4), and Nussbaum (2001, ch. 4).
48. See Sherman (2011).
49. On all this, see Nussbaum (2001, ch. 4).
50. Morris (1976), especially ch. 3.
51. Morris (1976, 96–103). The longer discussion explores this picture in a detailed and attractive way.
52. Williams (1985) makes a number of distinct arguments against Kant, and I am developing only one prominent strand. He and I have a related disagreement about the role of shame, which I shall not investigate here.
53. As a graduate student I observed with interest the fact that German scholars reconstructing the chronology of Aristotle’s writings typically reasoned that he would not have made sharp criticisms of his teacher Plato during Plato’s lifetime, while Anglo-American scholars, and my thesis advisor G. E. L. Owen in particular, reasoned that Aristotle would have become able to see the truth in Plato’s doctrines only after Plato’s death.
54. Nietzsche (1989, II).
55. See Croke (2014).
56. See Halberstadt (2014), an article ranging widely over recent research on animal emotions.
57. In Nussbaum (1986, chs. 2 and 3); “Flawed Crystals: James’s *The Golden Bowl* and Literature as Moral Philosophy,” in Nussbaum (1990); Nussbaum (2000a); and Nussbaum (2013, ch. 10).
58. Williams, “Ethical Consistency,” in Williams (1973, 166–86). Compare Nussbaum (1986, ch. 2).
59. Meaning that I follow the spirit of his critique of Utilitarianism, although he did not apply it directly to the case of moral dilemmas: see “A Critique of Utilitarianism,” in Smart and Williams (1973, 77–150).
60. To recant properly I must be more precise. In “Ethical Consistency,” Williams uses the word “regret,” not “remorse.” (In *Moral Luck* [1982], in a different context, he coins the term “agent regret,” to which I’ll return.) In *The Fragility of Goodness* (1986) I said that the agent’s emotion should include the thought “that this is an act deeply repellent to him and to his character,” and that for this reason “regret” is too weak a term. “His emotion, moreover, will not be simply regret, which could be felt and expressed by an uninvolved spectator and does not imply that he himself has acted badly. It will be an emotion more like remorse, closely bound

up with the wrong that he has as an agent, however reluctantly, done.” In *Love’s Knowledge* (1990) I went further, in writing about James’s *The Golden Bowl* (1904). There I spoke of the proper emotion as “guilt,” and suggested that the pervasive nature of these conflicts, particularly in the family, was a secular analogue of the biblical notion of original sin. I did not define guilt, and I’m really not sure whether I meant it as self-anger, including a wish for self-punishment. In the case of two conflicts late in the novel, I did observe that to respond with that emotion would be poisonous to the future of a loving and trusting relationship—so love, I said, required of Maggie Verver and of her husband a morally imperfect response. In those cases, at least, I was thinking of the proper emotion as painful self-castigation. These two cases, however, were not standard moral dilemmas, since the genesis of both dilemmas involved serious moral error, not forced on anyone by circumstances. So what I said about those cases, while certainly inconsistent with what I have said earlier in this chapter about the proper response to a betrayal, has no clear implications for the case of involuntary dilemma we are considering here. Finally, in my more recent paper on cost-benefit analysis, I used the word “guilt” a couple of times, but in the sense of accountability, and a duty to make reparations; I did not imply that the emotion ought to be self-punitive anger.

61. See Walzer (1973).
62. In short, Nussbaum (1986) and (2000a) both have the right idea, but (1990) wandered into error.

## CHAPTER 5

1. Seneca, *Moral Epistles* 12.1–3, my translations from the Oxford Classical Text. The term is *delicium tuum*, literally, “little delight,” which signifies considerable intimacy. (Robin Campbell’s Penguin version says “your pet playmate.”)
2. Seneca lived from c. 4 BCE to 65 CE. The *Moral Epistles* were very likely published in 63–64, and composed shortly before. Seneca does represent himself in the letters as in ill health, whether hypochondriacally, or really, or just for philosophical effect. Since he dies from politically commanded suicide shortly thereafter, after joining a conspiracy to overthrow Nero, it is difficult to assess the state of his health, apart from noting that Greek philosophers typically enjoyed long lives, in that salubrious climate. Ages at death: Socrates 70 (murdered), Isocrates 107, Plato 80, Aristotle (who had a bad stomach) 61, Zeno the Stoic 72, Cleanthes (a boxer and the second head of the Stoa) 100, Chrysippus 73, and Cicero 63 (murdered). When I delivered the Locke Lectures in 2014, I had just turned 67.
3. Lucilius is a fiction loosely based on a real Roman *eques*, but it’s important to see that the collection uses both self and other as philosophical exempla, and should not be read as straight biography or autobiography. See Griffin’s definitive *Seneca: A Philosopher in Politics* (1976). The collection is arranged with a fictive idea of philosophical progress, so the early letters represent Lucilius as less wholeheartedly Stoic than do the later letters.
4. I’m boringly explicit about this because I’ve been misunderstood before. I did the same thing in Nussbaum (2001), which opens with an account of my grief at the time of my mother’s death. As with Seneca’s readers, so with mine: this was widely understood as intimate autobiography, by people who had no reason to know whether any of it was at all true, apart from the obvious fact that I did have a mother. As it happens, such is the poverty of my imagination, the anecdotes in this chapter (like a fair amount of *Upheavals*) are all based on things that happened,



and anyone planning to grab my suitcase had better beware. But it really doesn't matter: my purpose, like his, is to remind readers of the sort of thing that provokes everyday anger, and to get them thinking about their own examples.

5. Seneca, *De Ira* III.38.
6. The Greeks made a big mistake here, since they had no public prosecutor. The bereaved individual would have to bring the prosecution. We shall see why this is a bad idea in chapter 6.
7. In what follows I typically cite the Procope (1995) translation, though I make occasional alterations for greater literalness.
8. Chrysippus died around 207 BCE, thus more than two hundred years before Seneca's birth.
9. See Fillion-Lahille (1984). Not all the works were Stoic: we possess fragments of Philodemus's (Epicurean) *On Anger*. Seneca himself knows a work on anger by the middle Stoic Posidonius, as well as (no doubt) Chrysippus's work.
10. See Nussbaum, "Erôs and Ethical Norms: Philosophers Respond to a Cultural Dilemma," in Nussbaum and Sihvola (2002, 55–94). The love in question is imagined as that of an older male for a younger male who does not feel erotic love in return, in keeping with well-established norms of Greek courtship. *Erôs* is defined by Zeno the Stoic as "an attempt to form a relationship of friendly love, inspired by the beauty of young men in their prime." In *Tusculan Disputations*, Cicero makes fun of them, suggesting that they make this exception to their rule about avoiding strong passions only because of pervasive Greek homoeroticism, but Craig Williams's magisterial *Roman Homosexuality* (1999) shows convincingly that Roman norms were very similar. And though Cicero never seems to have had a sexual relationship with a man, his best friend Atticus was well known for this practice.
11. Again, though, that isn't to say that it could not be fictional—or borrowed from some other author whose pet peeve it was.
12. Seneca does not oppose capital punishment on principle; he merely suggests that it is often misapplied because of emotion.
13. See also Harriss (2001, 415) on ancient examples of simulated anger.
14. "It's really a lot better to be courteous."
15. See Letter 47.
16. Trajan and Marcus both ruled for nineteen years and died of illness; Augustus ruled for forty-one years.
17. World Peace (now retired from the NBA and playing in Italy), who credits his psychiatrist with his share in the Lakers' NBA championship, crusades for the Mental Health in Schools Act; he also records bedtime stories for children and works with PETA against animal abuse. A related "track" away from anger is prominent in the career of ex-Bears wide receiver Brandon Marshall, who now crusades energetically for the Borderline Personality Disorder Foundation. His earlier angry phase included several suspensions for rampages of various sorts, and culminated in the famous brawl in 2004, during which he assaulted several fans as well as players. He was also convicted of domestic violence in 2007 and suspended again. In October 2015 Marshall, now playing for the New York Jets, admitted on national TV that he had quarreled angrily with a teammate after a bad loss. But, he said, "we talked it out and we love each other."
18. Those of us, that is, who are lucky enough to have work that is meaningful and rewarding.
19. Seneca, translated in Nussbaum (2010c).
20. See Martin (2010).

21. *Harris v. Forklift Systems, Inc.*, 114 S. Ct. 367 (1993).
22. *Baskerville v. Culligan*, 50 F. 3d 428 (1995), where the opinion by Judge Richard Posner holds that the offensive incidents were silly and just not concentrated or grave enough to constitute sexual harassment.
23. Scanlon (2013); see Appendix B.

## CHAPTER 6

1. See the outstanding discussion in Allen (2000; 1999).
2. Allen gives an excellent account of anger as disease, but she then offers a defense, to me unconvincing, of the structure of Athenian prosecution as a good way of addressing the problem of deformed social relations.
3. See “Socrates’ Rejection of Retaliation,” in Vlastos (1991, 179–99). His primary sources are early dialogues of Plato, particularly the *Crito*.
4. Although it is Protagoras and not Socrates who says this, he is presented as a sympathetic figure, and it is likely that Plato endorses this statement.
5. Trans. Vlastos (1991).
6. See Allen (1999).
7. Of course this is a matter of constitutional interpretation, where both civil rights and the rights of women and gays and lesbians are concerned. And there are many matters in which it could be argued that the U.S. Constitution still admits fundamental injustice (in the socioeconomic realm). But one could also argue, with Franklin Delano Roosevelt, that core commitments of the nation entail the recognition of social and economic entitlements.
8. See Nussbaum (2013).
9. For example Nussbaum (2000b; 2006; 2010a).
10. For caveats about the role of the notion of dignity, which, in my view, cannot be defined apart from a range of other notions and principles, see Nussbaum (2010a).
11. Certainly it is so understood by Amartya Sen, who orients his version of the “capabilities approach” with reference to Mill, and who has gone to some pains to argue that consequentialism can accommodate rights as intrinsic goods (see Sen 1982). One way in which my normative political view differs from other forms of consequentialism is in its limits: for I introduce the capabilities approach only as a basis for political principles in a pluralistic society, not as a comprehensive doctrine of the good or flourishing life, whereas most consequentialists portray their views as comprehensive doctrines. That difference, however, plays no role in the arguments to come.
12. Rawls (1986), “The Idea of an Overlapping Consensus.” On Rawls’s notion, see my introduction in Comim and Nussbaum (2014).
13. See Levmore and Nussbaum (2014), Introduction.
14. An especially fascinating reflection on these complexities is Wallace Stegner’s novel *Angle of Repose* (1971), an account of a woman from the talkative East who falls in love with and marries a strong, silent man at home in the (nineteenth-century) West: see the reflections on the connections between this tragic story and American law in retired judge Howard Matz’s paper in the Levmore-Nussbaum (2014) collection. See also, in the same collection, Saul Levmore, “Snitching, Whistleblowing, and ‘Barn Burning’: Loyalty in Law, Literature, and Sports,” a reading of Faulkner’s story and of the “unmanly” figure of the “snitch” in American law and literature, and Nussbaum, “Jewish Men, Jewish

- Lawyers: Roth's 'Eli, the Fanatic' and the Question of Jewish Masculinity in American Law," arguing that (as Roth's Tzuref insists) law is quintessentially Jewish, meaning based upon talk rather than "manly" self-assertion and on compassion rather than outraged honor.
15. On some of the changes over time, away from status offense (particularly male honor) to real injury, see Kahan and Nussbaum (1996).
  16. William Ian Miller has argued that even in early "honor" cultures, retributive competition over status was socially disciplined in such a way that it led to the bargaining table. See Miller (1990).
  17. See the excellent sociolinguistic study by Coyle (2013, ch. 3).
  18. See Coyle (2013, ch. 3).
  19. See Allen (1999) and Walker (2006).
  20. See Walker (2006).
  21. See Mackie (1982).
  22. Bentham (1948, 177).
  23. Santora (2013).
  24. CBS News (2012).
  25. I provide a summary of Heckman's results and a bibliography of some of his most important contributions in the appendix to Nussbaum (2010a).
  26. For the initial statement, see Zorn (2013); for the concession, Huffington Post (2013).
  27. See Coyle (2013) generally for the importance of our terminology in shaping thought.
  28. See Young (2011).
  29. Of the many well-done overviews of the topic, one that covers the terrain especially well is Tasioulas (2010, 680–91). It will be evident that I don't agree with everything in this piece, but its clarity is admirable.
  30. See Morris (1968).
  31. Moore (1995).
  32. A related point is made by Duff: Morris's view treats crimes such as rape and murder as acts that would not be wrong but for the existence of the criminal law: see Duff (2001, 22).
  33. See Jean Hampton, in Hampton and Murphy (1988), who calls the position "strange—even repulsive" (115), and she reports that her coauthor Murphy calls it "creepy" (116).
  34. Moore (1995, 98–99).
  35. Moore (1995, 98).
  36. Note that he holds that moral desert is sufficient for punishment, hence that non-legal as well as legal wrongdoing warrants retribution.
  37. Duff (2011) and Markel (2011). Both authors have published copiously on this question, but these recent articles provide succinct summaries of their positions. Markel was murdered outside of his Florida home in July 2014. His death remains a mystery.
  38. Duff (2001, 28).
  39. In this respect his view closely resembles Hampton's: see below.
  40. I owe the phrase "talk is cheap" to my colleague Richard McAdams. Prominent examples of such views, apart from Duff's, include Bennett (2001); Hampton (1984); and Primoratz (1989). For a critique of such views, see Boonin (2008).
  41. I owe this phrase, too, to Richard McAdams. Duff recognizes that it is so far an open question what conduct on the part of the state communicates censure, and

it doesn't automatically follow that "hard treatment" does so best. He justifies a focus on *ex post* hard treatment by a picture according to which punishment is a "secular penance." But apart from the question whether incarceration is reasonably seen in these quasi-religious terms, we need to ask why it isn't best to intervene before the sinner sins, rather than to wait for sin and then impose penance.

42. Hampton (1984, 213). She adds that whereas retributivism "understands punishment as performing the rather metaphysical task of 'negating the wrong' and 'reasserting the right,'" punishment aims at a 'concrete moral goal,' which includes benefiting both criminals and society. And she argues plausibly that this approach honors the need of victims to have their wrongs acknowledged.
43. In Hampton and Murphy (1988), published several years later, Hampton explores sympathetically, and appears to endorse, a different position, a form of retributivism. She explores two distinct ways of understanding "the retributive idea." One, which understands punishment as "vindicating value through protection," appears similar to the view she has previously endorsed, and is hard to understand as a form of retributivism, since it is an expressive statement with a forward-looking goal. The other idea, which clearly is a form of retributivism, is that of punishment as a "defeat" of the wrongdoer by the victim. Now if the thought were put in general terms, *viz.*, society is stating that wrongdoing is unacceptable and will be inhibited, it would be a form of her earlier educational/expressive position. But she appears to understand it, instead, in personal terms: a particular victim defeats a particular wrongdoer by ensuring the punishment of the latter. Besides being an inaccurate way to think about criminal punishment (surely the state, not the victim, punishes), it seems to raise all the problems of the *lex talionis*: for how, exactly, does the infliction of pain on an individual constitute a victory for someone who has suffered rape or some other crime? By the bare assertion of the victim's worth? But then it collapses into the first (expressive, general) construal. But if Hampton really means to say that the dignity of V rises as the pain of O intensifies, this does seem to be a form of the *lex talionis*, and subject to my critique. Hampton's chapter is exploratory, and she never announces commitment to either form of the idea, nor does she repudiate her earlier view.
44. On the fact that consequentialism can accommodate the importance of rights as part of the consequence set, see Sen (1982); see also Nussbaum (2010a).
45. See Nussbaum (2010a).
46. Some reformists would urge avoidance of the term "wrongdoing," as too closely linked with the demonization of offenders. I disagree. Coyle certainly shows how the term "evil" functions to demonize offenders and to deflect attention away from non-punitive strategies for crime prevention (Coyle 2013, ch. 5); but the term "wrongdoing" seems to me not to have the overcharged valence of "evil." It pertains to an act, not the entirety of the person, and it simply signals what is true: that we ought to distinguish between the intentional acts of human beings and the depredations of wild animals or the accidents of nature. However, my intuitions are not those of Mackie (1982), who holds that "calling for a hostile response" is part of the concept of "wrongdoing." To the extent that one agrees with Mackie's linguistic intuitions, which I believe to be unusual, one should become skeptical of the term. Will Jefferson has informed me that "Nonviolent Communication,"

an approach to conflict resolution started by Marshall Rosenberg in the 1960s, and now used throughout the world on many types of issues, holds that moral language must be eliminated from our thinking, and that this is necessary in order to remove anger. I am not convinced. But the position is subtle and deserves more extensive consideration than I can give it here. Jefferson's D. Phil. thesis will be a significant contribution on this question.

47. See Brooks (2012, ch. 1).
48. See Gewirtz (1998).
49. Bandes (1997). See also, more recently, Bandes (2016).
50. I owe this question to Jeff McMahan.
51. See Bandes (2016) on the socially constructed idea of closure and its relatively recent origin.
52. Harsanyi (1982), arguing that these preferences ought to be excluded from the social choice function. The point is as old as Utilitarianism: Mill's *The Subjection of Women* does not consider the pain of men at having their unjustified privileges abridged as a cost weighing against women's equality. It's not that these costs get outweighed by the benefits; they are simply not considered at all, as in Harsanyi's proposal.
53. I owe this suggestion to Mary Anne Case.
54. *Turner v. Saffley*, 482 U.S. 78 (1987), holding that prisoners serving life terms without the possibility of parole nonetheless have a constitutional right to get married, even though they very likely will never consummate the marriage. Marriage, the Court held, has expressive and religious meanings.
55. See Judge Posner's dissenting opinion in *Johnson v. Phelan*, 65 F. 3d 144, in which a male prisoner complained that the practice of having female guards observe him as he showered and used the toilet violated his sense of Christian modesty. Posner commented that some judges "view prisoners as members of a different species, indeed as a type of vermin, devoid of human dignity and entitled to no respect. . . . I do not myself consider the 1.5 million inmates of American prisons and jails in that light."
56. One valuable study that ought to be made available in English translation is Archimandritou (2000). A detailed summary of the book's contents was given to me orally by the author.
57. See my extensive treatment of this question in Nussbaum (2004a).
58. See Kahan (1996) and my critique in Nussbaum (2004a).
59. These five arguments are elaborated in Nussbaum (2004a).
60. See many references to studies of shame penalties in Nussbaum (2004a).
61. See Posner (2000). His argument and other related historical arguments are considered in detail in Nussbaum (2004a).
62. Gilligan (1997).
63. See Schulhofer (1995).
64. See Nussbaum (2004a).
65. For a good, albeit brief, discussion of this point, see McConnell (2012). And see Nussbaum (2014b).
66. See Levmore and Nussbaum (2010).
67. The theory is given in Braithwaite (1989); the practical implementation, with a thinner theoretical frame, in Braithwaite and Mugford (1994). For an overall assessment of a wide variety of practices of "restorative justice," see Braithwaite (2002).

68. To a large extent, the part with which I agree is the account of the approach in the later article; the earlier book contains a lot of material that is not necessary for the practice as described, and less appealing.
69. See Braithwaite (1989, 81).
70. In Braithwaite (2002), however, Braithwaite clarifies that we should distinguish between restorative processes (dialogue, conferencing) and restorative values (reform, reintegration). A restorative process might impose punitive and retributive sanctions; a process that fails to include all the community members who should in principle be included can still advance restorative goals.
71. See Braithwaite (1989), and also my correspondence with Braithwaite about Dan Kahan's proposals, cited in Nussbaum (2004a, ch. 5).
72. Braithwaite and Mugford (1994, 144).
73. Braithwaite and Mugford (1994, 144).
74. Braithwaite and Mugford (1994, 142).
75. Braithwaite and Mugford (1994, 144).
76. Braithwaite and Mugford (1994, 145).
77. Braithwaite and Mugford (1994, 147).
78. See the fuller discussion of the efficacy of all known programs of this type in Braithwaite (1989, ch. 3).
79. Braithwaite and Mugford (1994, 150).
80. Braithwaite and Mugford (1994, 152).
81. Braithwaite and Mugford (1994, 159–60).
82. Braithwaite and Mugford (1994, 144, 149).
83. See Braithwaite (2002, 152), where Braithwaite describes this as “[t]he most forceful critique of restorative justice.”
84. See Nussbaum (2004a, ch. 4).
85. See my treatment of the issue in “Equity and Mercy,” in Nussbaum (1999a); and for a new translation of *De Clementia* and *De Ira* by Robert Kaster, see Kaster (2010).
86. See Nussbaum (2001, chs. 6–8).
87. I did not understand this distinction in my earlier writing on mercy. I discuss it more fully in Nussbaum (forthcoming a).
88. On *Woodson v. North Carolina* (1976) and sympathy at the penalty phase of a capital case, see Nussbaum (1993).
89. For the influence of Stoicism on Nietzsche's moral psychology, see Nussbaum (1994a).
90. Nietzsche (1989, II.10).
91. See Nussbaum (1996).
92. Such concerns are not alien to ancient traditions, as Aristotle's *Politics*, with its extensive discussions of communal meals and clean water, makes clear. And consider this wonderful edict of the ancient Indian emperor Ashoka (3rd century BCE):

On the roads I have had banyan trees planted, which will give shade to beasts and men. I have had mango groves planted and I have had wells dug and rest houses built every nine miles. . . . And I have had many watering places made everywhere for the use of beasts and men. But this benefit is important, and indeed the world has enjoyed attention in many ways from former kings as well [as] from me. But I have done these things in order that my people might conform to *Dhamma*.

## CHAPTER 7

1. Reproduced in Jack (1956, 136).
2. When not otherwise stated, my sources are, for Gandhi, Jack (1956); for King, Washington (1986). I refer to these sources with G and K, and with page numbers given in parentheses in the text. Occasionally I shall also refer to Gandhi (1983), cited as GAut.
3. For a valuable collection of interviews, letters, and other writings, see Mandela (2010, 253) (hereafter C). The extract is from lengthy tape-recorded conversations with author Richard Stengel in the early 1990s, while the two men were working together to edit *Long Walk to Freedom* into book form. The title is a reference to the *Meditations* of Marcus Aurelius, emperor and Stoic philosopher, whose reflections have in Greek the title “To Himself.” Other sources for Mandela that I shall frequently cite are his autobiography, Mandela (1994) (hereafter LW), and Carlin (2008) (hereafter Inv).
4. The ideas in this section are treated at greater length in Nussbaum (forthcoming b).
5. The felony murder rule is still in force in South Africa. Paton seems unclear about this, since at one point he has the judge say that if Absalom really had no intent to kill, “then the court must find that the accused did not commit murder” (Paton 1987, 235).
6. Sorabji (2012) gives a far more detailed reconstruction of Gandhi’s attitudes and practices than I shall attempt here. I focus on the issue of non-anger, and, within this, on the common ground between Gandhi and King.
7. However, Gandhi did think that violence was a constant possibility among his followers, see Sorabji (2012, 122), and it took tremendous preparation to hold a nonviolent protest. He also weeded out followers likely to get angry under attack (122).
8. See Sorabji (2012, 88–92). Human self-defense is not an exception, but there are a few cases where he did hold that violence is less bad than the alternative.
9. Elsewhere, Gandhi also holds that hearts are changed by courageous self-sacrifice: see Sorabji (2012, 83).
10. Dalton (2012, 12–16). As Dalton shows, Gandhi was also concerned not to use an English term for his idea; he even ran a contest for the Indian-language renaming of the central concept, insisting that it was “shameful” to permit the struggle to be known only by an English name.
11. Compare ancient discussions of anger in armies: both Philodemus and Seneca emphasize that the type of discipline successful military strategies require is incompatible with a dominant role for personal anger: see Harriss (2001, 103).
12. Gandhi got angry at times, and criticized himself for this: see Sorabji (2012, 200).
13. See Dalton (2012, 16 and 96).
14. See also Dalton (2012, ch. 1). It is interesting to compare the “agonistic humanism” advocated by Honig (2013); although Honig makes no commitment to non-anger, she repudiates a politics based on grief and mourning and suggests an emphasis on solidarity and hope.
15. Nehru (1989, 274–75). See Dalton (2012, 66–67 and 168–69). Nehru does not mention the connection between fear and violence, but this connection is surely salient for Gandhi.
16. See the analysis of this speech in Nussbaum (2013, ch. 9).

17. He did attempt to impose this demand on his children, unsuccessfully; he was a very judgmental and punitive father, evincing to Harilal attitudes that seem pretty close to anger.
18. Nehru (1939). Nehru's first sentence: "An only son of prosperous parents is apt to be spoiled, especially in India." From that point on, the work makes a point of gentle self-mockery, as well as admission of longing and loneliness. On his release from prison, Mandela "wanted first of all to tell the people that I was not a messiah, but an ordinary man who had become a leader because of extraordinary circumstances" (LW 676).
19. Orwell (1949).
20. Erikson (1993, 248).
21. Orwell (1949).
22. See Nehru's moving meditation on his deficiencies as a husband in Nehru (1989, ch. 2), in a section entitled "The Problem of Human Relationships."
23. As Sorabji (2012, 32–42) shows, Gandhi's attitude owes a good deal to Christian asceticism, sometimes filtered through Tolstoy.
24. See Schalkwyk (2014, 58–59). Schalkwyk argues that Mandela followed Stoic detachment too far, to include a detachment from all emotions. I find his argument unconvincing. (He argues, for example, that Mandela's stunned silence on learning of his son Thembi's death is an example of Stoic non-grief, as if all genuinely grieving people would speak eloquently.)
25. Ahmed Kathrada, a close friend and fellow prisoner, interviewed in CNN's "Nelson Mandela," December 2013.
26. Another early incident he pointedly narrates illustrates the role of charm in race relations. Traveling to Johannesburg in his early twenties with his friend the Regent's son Justice, he was given a ride by a white attorney, who arranged for his elderly mother to drive them. She was at first uncomfortable being in the company of two young black men, particularly since Justice showed no inhibitions about whites. She watched him carefully. But gradually Justice's humor and charm got through to her, so that eventually she would even laugh at his jokes. Disarming anxiety with charm and humor was a strategy Mandela would use to good effect throughout his career.
27. Schalkwyk (2014, 60).
28. Personal conversations, 2013 and 2014.
29. See Schalkwyk (2014, 55–56), drawing on the memoirs of Mac Maharaj.
30. Janusz Walus was a Polish immigrant who was attempting to curry favor with right-wing Afrikaners.
31. Carlin narrates this incident based on Coetsee's memoirs.
32. CNN, "Nelson Mandela," December 2013.
33. In English, the current anthem goes: "Unity and justice and freedom for the German fatherland! Let us all strive for this, in a brotherly way, with heart and hand. Unity and justice and freedom are the guarantors of happiness. Bloom in the gleam of this happiness, bloom, German fatherland."
34. Justice Albie Sachs, recently retired from the South African Constitutional Court, and a freedom fighter who helped the ANC during the years of struggle, knows Mandela well and reported in conversation (2013) that Freeman's portrayal was utterly uncanny in its likeness.
35. Film clips of this moment can easily be seen, and are prominent in CNN's documentary "Nelson Mandela."
36. CNN, "Nelson Mandela."



37. See ESPN (2013).
38. For example, in CNN, “Nelson Mandela”: asked about the disadvantages of imprisonment, he replies, characteristically, by emphasizing its advantages.
39. See Dalton (2012, 24 and 138, with references).
40. If it were not a distraction from my focus on recent events, I would also be prepared to argue that the American Revolution was an example of non-anger, though of course not nonviolence. It was accompanied by careful and articulate reasoning, and its objective was not to punish the British for their injustices, but simply to achieve an independent future. Because of these features, it had the strategic advantages of non-anger in winning friendship for the new nation.
41. See Murdoch (1970).
42. Tutu (1999).
43. One excellent survey is Hayner (2001).
44. See the very interesting development of this theme apropos of transitional justice in Eisikovits (2009).
45. See Bennhold (2014).
46. In Oxford, May 2014, name confidential.
47. See Tutu (1999, 22), citing a statement by Justice Mahomed.
48. Tutu (1999, 23). There were some trials in egregious cases: Eugene de Kock, former head of covert operations of the South African police, a squad that hunted down and killed anti-apartheid activists, was tried and convicted in 1996 and sentenced to 212 years in prison. For a remarkable set of interviews with him, see Gobodo-Madikizela (2003).
49. Tutu (1999, 28–29).
50. Tutu (1999, 29–31).
51. See Levmore (2014). Levmore argues, however, that cultural strictures against “ratting” as unmanly often disserve the public interest.
52. See Walker (2006).
53. Personal communication with Albie Sachs.
54. Tutu (1999, 267).
55. Tutu (1999, 269).
56. Tutu (1999, 271).
57. Tutu (1999).
58. Tutu (1999, 273).
59. Tutu (2014).
60. Tutu (2014, 39).
61. In a 1999 speech, on leaving the office of president, Mandela does say, “South Africans must recall the terrible past so that we can deal with it, forgiving where forgiveness is necessary but never forgetting.” Albie Sachs comments (email, May 18, 2014) that by this point in his career he did allow the word on occasion, since audiences expected it, but that it did not mean buying into the transactional picture. “All it shows . . . is that he was not hard, relentless, and unforgiving. Everybody knows that. And in any event, the emphasis of the statement at that stage was not so much on the forgiving part as on the not forgetting.” And the evidence of thousands of pages of his published interviews and writings is that forgiveness is just not the way he himself chose to frame the issue: “The journey was not to forgiveness, it was to Freedom.” Sachs also notes that some ANC members, e.g., Oliver Tambo and Albert Luthuli, were deeply religious and used Christian terminology, and yet they too focused on freedom as goal. Liberation was liberation of all, white and black.

62. A range of such commissions might be assessed with this idea in mind.
63. Tutu and Tutu (2014).
64. Lomax (2008).
65. See Fairbanks (2014), describing how former police minister Adriaan Vlok undertook a pilgrimage through South Africa washing the feet of those he had injured.
66. See Dominus (2014). The story includes samples from an exhibit of photographs of victim/perpetrator pairs.
67. See Gobodo-Madikizela (2003).
68. Gobodo-Madikizela (2003, 117).

## CHAPTER 8

1. Nehru (1989, 38). The speech, which Nehru reported, was made in 1942.
2. Harriss (2001, 412).
3. On Gandhi's failure of love, see Orwell (1949).
4. See Harriss (2001, *passim*).
5. Compare John Rawls's idea, at the very end of *A Theory of Justice* (1971), that the institutions of a just society are a model of "purity of heart," an attitude that we can enter at any time, though often we do not.
6. These ideas are clearly present in Indian traditions, but I've had difficulty finding a single word, no doubt on account of linguistic ignorance. The same goes for the many other cultures that I have not investigated at all.

## APPENDIX B

1. Coates and Tognazzini (2013, 3 and n. 2).
2. Thomson (1975). Not coincidentally, Thomson's own influential analysis of the abortion right does not make use of the notion of privacy, preferring an analysis in terms of equality, stressing that women are unequally made to bear the burden of supporting fetal life: see Thomson (1972, 47ff).
3. Nussbaum (2002b). See Nussbaum (2003) for a shortened version. See also Nussbaum (2010b, ch. 6).
4. *Eisenstadt v. Baird*, 405 U.S. 438 (1972).
5. "Virtue Ethics" seems to me like "privacy," albeit with a very thin common ground uniting its different species: see Nussbaum (1999b).
6. See Coates and Tognazzini (2013, 8–10); a central case is Glover (1970).
7. Strawson (1968, 93).
8. Sher (2006), and see his (2013), esp. 65, summarizing his critique of other approaches; see also Smith (2013, 35).
9. Scanlon (2013).
10. Wallace (2011) and Wolf (2011).
11. Smith (2013).
12. Smith (2013, 29).

## APPENDIX C

1. These lists are reproduced in Arnim (1964, secs. 377–442). Arnim cites a variety of ancient sources in both Greek and Latin, but I shall focus on the apparently canonical lists reproduced in the first-century BCE grammarian Andronicus of Rhodes.

2. The Stoics also enumerate and define some species of anger. Thus, *thumos* is defined as “incipient *orgē*,” *cholos* as “*orgē* that swells up,” *pikria* as “*orgē* that breaks out on the spot like a torrent,” *mēnis* as “*orgē* kept in storage for a long time,” *kotos* as “*orgē* that watches for the right time to take revenge” (Von Arnim III.397). Those are the species mentioned by Andronicus. I’m not sure how useful those definitions are, since some of the terms are literary (and indeed many centuries removed from the making of the list) and others in more common use. Nor is it clear that the definition captures the usage. For example, since the paradigm of *mēnis* (a poetic term) is surely the anger of Achilles in the *Iliad*, does the definition really capture it? Maybe and maybe not. Equally important, is that the meaning of the word *mēnis*, or does it just happen to be the case that Achilles’s anger lasts for a long time? One would be hard put to make the case either way. Again, *thumos* is a term more often used in a variety of classical authors, but a central reference point for the much later scholar would surely be Plato’s *Republic*. However, the definition given seems quite off-kilter as a definition of what Plato is talking about there. From now on, then, I’ll ignore these subsidiary definitions.
3. Strawson suggests another sort of distinction: “resentment” is first-personal, and “indignation” is the attitude of an observer, or “vicarious”: see Strawson (1968, 84–87). This doesn’t seem to be generally true: I can resent an insult to someone else (provided it is someone whose well-being I care about, which, I argue, is always the case when one feels emotion for another); and I can be indignant about a wrong done to me.
4. Bloom (2013).
5. See Harriss (2001, 63 and 117) on *chalepainein* and debates about whether this milder state is to be extirpated.



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