1. Ulpius 1 inst. Iuri operam daturum prius nosse oportet, unde nomen iuris descendat. autem a iustitia appellatum est: nam ut eleganter Celsus finit, ius est ars boni et aequi. 1. Cuius merito quis nos sacerdotes appellet: istitiam namque colimus et boni et aequi notitiam profitemur, aequum ab iquo separantes, licitum ab illicito discernentes, bonos non solum metu poenarum, verum etiam praemiorum quoque exuortatione efficere cupientes, veram nisi fallor philosophiam, non simulatam affectantes. 2. Huic studii duae sunt positiones, publicum et privatum. Publicum ius est quod ad statum rei romanae spectat, privatum quod ad singularum utilitatem: sunt enim quaedam publice utilia, quaedam privati publicum ius in sacris, in sacerdotibus, in magistratibus constituit. Privatum ius tripartitum est: collectum etenim est ex naturalibus praeceptis aut gentium aut sacerdotibus, in magistratibus constitit. Privatum ius tripartitum est: collectum etenim est ex naturalibus praeceptis aut gentium aut civilibus. 3. Ius naturale est, quod natura omnia animalia docuit: nam ius istud non humanis generis proprium, sed omnium animalium, quae in terra, quae in mari nascantur, avium quoque commune est. Bine descendit mari atque femeaque coniunctio, quam nos matrimonium appellamus, bine liberorum procreatio, bine educatio: videmus etenim cetera quoque animalia, feras etiam iuris perita senser. 4. Ius gentium est, quo gentes humanae utantur. Quod a nature recedere facile intellegere licet, quia illum omnibus animalibus, hoc solis hominibus inter se commune sit.

Iuris (…): thus ius gentium is common to so many people, and therefore the people ought to have reverence for God and obey the father and the fatherland. And the beasts do not do so. Similarly it is permitted by the natural law to repel force by force, as we all had had (this faculty) since the Adam’s origin. And therefore no one ought to be submitted to another. And he (Ulpian) provides an example that manumission arises from the same law, because by natural law all were born free, but by the law of nations nowadays there three types of men. And similarly wars and lots of other things have been introduced by the law of nations. Vivianus

Iustitia: Law (ius) comes from ‘Justice’ as its mother, and hence first there was justice and then law, but confer contrary below in the same title on ‘Justice’ (see D. 1.1.10 pr.) where it is said ‘unto everyone his right etc’. From this it is deduced that what was firmly considered ius (law, right), later became justice: but he says there that (one has to render) unto everyone his right according to the merits of this person.

Ius est ars: this may be understood in three ways (…). Or third one: art is skill (profession?), as the maker of law is man, God is maker of justice, and it comes from it that law is equitable and useful for him. And observe that good is something else and equitable is something else. Sometimes the same thing is good and equitable: for example if one claims a certain sum owned to him, and sometimes it is good but not equitable, just like in prescription, and thirdly sometimes it is equitable but not good, like in case of the governance of the things belonging to the wife, and finally there are some things more equitable than others.

Quod natura: that is God, if we understand ‘natura’ in nominative case.

1 That the husband does not own things brought by his wife into marriage apart from the dowry (parapherna).
1. D. 1.1.2 (Pomponius, from the Manual) and for example the principles of religion towards gods, or the duty to obey to one's parents or the fatherland.

2. D. 1.1.6 pr. (Ulpianus, from the 1st book of Institutes). Law of citizens is that which neither wholly diverges from natural law and law of nations nor follows the same in every particular. And so whenever to the common law we add anything or take anything away from it, we make a law special to ourselves, that is, law of citizens.

3. D. 1.5.4 pr.-1 (Florentinus, from the ninth book of Institutes) Freedom is one's natural power to do what one pleases, but for the things prohibited by force or law. 1. Slavery is an institution of law of nations, whereby someone is made subject to another's authority, contrary to the nature.

4. D. 1.1.10 pr. (Ulpian, from the 1st book of Rules): Justice is a constant and perpetual will to render unto everyone his right. (iustitia est constans et perpetua voluntas ius suum cuique tribuere). 1. The principles of right (ius) are to live honourably, not to harm another, to render to each his own. 2. Jurisprudence (juris prudentia) is acquaintance with divine and human things, knowledge of just and unjust.

5. I. 1.1.11: Natural laws, which are equally observed among all the nations and constituted by some divine providence, remain immutable and stable. These however, which have been constituted by a community of citizens (civitas) are prone to frequent changes either by a tacit consent of the people or by a posterior statute.

6. G.1.1. All the nations which govern themselves by laws and customs, partly use their own law and partly law common to all people. This law which a nation has created for itself, is proper only for it and thus it is called law of citizens (ius civele), as the law proper for the community of citizens. This law, however, which natural reason has constituted among all people, and which is equally observed among all people is called law of nations (ius gentium) as all the nations use this law. Therefore the Roman nation partly uses its own law, partly law common to all the nations.

7. D. 1.1.11. Paulus libro 14 ad Sabinum: ius pluribus modis dicitur: uno modo, cum id quod semper aequum ac bonum est ius dicitur, ut est ius naturale. Altero modo, quod omnibus aut pluribus in quaque civitate utile est, ut est ius civele. Nec minus ius recte appellatur in civitate nostra ius honorarium. Praetor quoque ius reddere dicitur etiam cum tute decernit, relatione scilicet facta non ad id quod ius praetor fecit, sed ad illud quod praetorem facere convenit. Alia significacione ius dicitur locus in quo ius redditur, appellacione collata ab eo quod fit in eo ubi fit. Quem locum determinare hoc modo possumus: ubicumque praetor salva maiestate imperii sui salvoque more maiorum ius dicere constituit, is locus recte ius appellatur. – ‘Law/Right’ is used in various ways. One of them calls ‘law/right’ what always is good and equitable, just like natural law. Another one calls ‘law’ what is useful for all or many in a civic community, just like law of citizens. Nor is Honorary law less rightly called ‘law’ in our civic community. Also a praetor is said to ‘render right/law’ even if he decrees unjustly, as the connection so made does not refer to that what a praetor has actually done this way, but to what a praetor is allowed to do. Yet another meaning of ‘law/right’ denotes the place in which the law/right is rendered, a denomination made taken from what is done to where it is done. We may determine this place in the following way: any place where a praetor decides to ‘render law/right (ius dicere) (administer justice), is rightly called ‘ius’, provided that the dignity of his power and the custom of the ancestors is preserved.

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