

The essential duty of the state is to protect the most fundamental rights of individuals. Now, rights of any human being are correlative to duties incumbent on the owner of rights, or, to put it otherwise, to rights owned by those against whom he has rights ; and the main element in any one's right to life, to liberty or property, is extinguished by his failure to respect the corresponding rights in others. There is thus a distinction in kind which we all in fact recognize, but which utilitarianism cannot admit, between the punishment of a person who has invaded the rights of others and the infliction of pain or restraint, on one who has not. The state ought, in his efforts to maintain the rights of innocent persons, to take what steps are necessary to prevent violations of this rights ; and the offender , by violating the life or liberty or property of another, has lost his own right to have his life, liberty or property respected, so that the state has no *prima facie* duty to spare him, as it has *prima facie* duty to spare the innocent.

D. Ross, *The Right and the Good*, Oxford, Clarendon Press, 1930, "Appendix II : Punishment", p.60-61.