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Aristotle and Theories of Justice*

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Today it is all the rage for political theorists and even philosophers to have theories of justice. Looking back on the history of political thought, we cannot help but notice that not all previous philosophers have taken justice and theories of justice so seriously. Among those who did not was Aristotle. To be sure, he had a theory of justice, and from this fact we might infer that he thought it necessary to have one. But I shall presently argue, primarily from Aristotle's treatment of the problem in the Nicomachean Ethics, that Aristotle thought all theories of justice, including his own, to be unsatisfactory. In his opinion, a politics that understands its highest purpose as justice and a political science that attempts to comprehend all political phenomena within a theory of justice are practically and theoretically unsound.

Today it is all the rage for political theorists and even philosophers to have and to expound theories of justice.¹ Looking back on the history of political thought, we cannot help noticing that not all philosophers have taken justice and theories of justice so seriously. Among those who did not was Aristotle. To be sure, he had a theory of justice, and from this fact we might infer that he thought it necessary to have one. But the argument that I shall make is that Aristotle thought all theories of justice, including his own, to be insufficient.² In his

opinion, a politics that understands its highest purpose as justice and a political science that attempts to comprehend all political phenomena within a theory of justice are practically and theoretically unsound.

Aristotle's theory of justice is perhaps best understood by understanding its place in the *Nicomachean Ethics*.³ The *Ethics* as a whole is meant to be a comprehensive investigation of

¹The rage reached epidemic proportions after the publication of Rawls (1971) and Nozick (1974). A comprehensive bibliography of the literature spawned by Rawls' *A Theory of Justice* can be found in *Political Theory* (Nov., 1977).

²As will become obvious, in presenting my argument I have not made frequent reference to the secondary literature on Aristotle. My argument is uncommon not so much because it is opposed in the literature, but because analyses of Aristotle's treatment of justice as a whole are generally lacking. Many of the commentaries are very helpful in clarifying details. But for the most part, they fail to do the two things I have attempted to do here: to suggest the possible implications of Aristotle's explicit statements and to treat them as if they were components of a coherent, if dialectical, argument with a point and a purpose. My attempt has led me to state a somewhat surprising and offensive conclusion, at which the very decent commentators might have balked in any case. The standard modern works on the *Ethics* or on Book 5 in particular are Burnet (1900), Gauthier-Jolif (1958–59), Grant (1885), Hamburger (1965), Hardie (1968), Jackson (1973), Joachim (1951), Ritchie (1894), Ross (1923), Stewart (1973), Thomas Aquinas (1964), Vinogradoff (1922). Notable works not subject to the above criticism are Faulkner (1972), Jaffa (1952), and Ritchie (1894). Cropsey's (1977) fine essay on justice and friendship came to my attention after this article was completed. Gauthier-Jolif

(1958–59), and to a lesser extent Hardie (1968), are also useful.

³In my references to Aristotle's works, all Bekker numbers cited, unless otherwise specified, refer to the *Nicomachean Ethics*.

Justice is also treated in the *Eudemian Ethics* and the *Magna Moralia* as well as in the *Politics*, but in the *Nicomachean Ethics* it is treated thematically and at length. More important for present purposes, the structure of the *Ethics* as a whole, and therefore of the place of the theory of justice in Aristotle's moral and political philosophy as a whole, is perhaps easiest to grasp. In making my argument, I necessarily assume that the *Nicomachean Ethics* was written by Aristotle and that the text we have is at least roughly in the form intended by the author. Speculations about the authorship of the *Nicomachean Ethics* and its integrity are reviewed, for example, in Grant (1885, Vol. 1, pp. 1–171), Hamburger (1965, pp. 1–6), and Jackson (1973, pp. xxii–xxxii).

In any case, I am fairly confident that nothing in the *Politics* or elsewhere is fundamentally inconsistent with the teaching of the *Nicomachean Ethics*. Consider, for example, *Politics*, 1323a 27–34. For reasons that will become clear later, it is significant to note that in the *Politics*, too, Aristotle conceives of friendship as an improvement upon justice and identifies aristocracy most closely with friendship. He rarely, if ever, speaks of the justice, as distinguished from the goodness of aristocracy. For the superiority of friendship to justice generally, cf. 1262b 7–8, 1263b 29–37, 1287b 30–35, 1295b 23–24.

the end of human action, which is the human good, or happiness (1094a 1–3, 1094a 18–26, 1097b 20–21, 1179a 33–b 4). Since the science which has this study as its object is political science, the *Ethics* is “a sort of political science” (1094a 24–29, 1094b 10–11). The premise of the *Ethics* is that the core of happiness is the practice of virtue (1098a 16–18). Virtue is divided into virtue of character, or moral virtue, (*ethike*) and intellectual virtue (*dianoetike*) (1103a 3–7). Or sometimes Aristotle says that the subject matter of political science is the noble and the just (1094b 14–16). According to this formulation, what we call moral virtue is treated in terms of what seem to be its principal components, nobility and justice. In the discussion of the particular moral virtues in Books 3–5, it becomes clear that both the pride, or greatness of soul, characteristic of nobility and justice are comprehensive virtues. That the noble and the just are not components of a unified morality, that they might at times be incompatible, or that they point to and reflect opposed principles of morality is not suggested in Book 1, because the working hypothesis is that the good of the city, and therefore the just, and the perfection of the individual, and therefore the noble, are roughly the same and effected by the same means.⁴

Justice is the last of the virtues of character which Aristotle treats, and its treatment is followed by that of the intellectual virtues. This placement reflects the fact that it forms a bridge of sorts between them, not only because justice is shown to require discriminating judgment as well as good character, but because the analysis reveals that the ground of the moral virtues is problematic. Justice is the only virtue to which an entire book of the *Ethics* is devoted, as if to emphasize its importance. Only to friendship, which is the unitary subject of Books 8 and 9, is a larger solid block of argumentation devoted. Because justice and friendship are said to be concerned with the same things (1115a 22–24, 1159b 25–26), we must consider at some length friendship as well as justice.

The demand for a theory of justice arises from political practice (1129a 6–10). The theory formulated to meet that demand may seem more or less adequate in practice, but as I shall argue, it is not adequate to satisfy a demand for knowledge of politics. Consequently, if it is adequate in practice, it must be so for

the wrong reasons. In what follows, I shall comment on how the theory of justice emerges in Book 5 and what that theory is. I shall then show how in Book 5 Aristotle raises objections to his own theory, or at least forces his reader to raise them, and how he indicates that these objections can be met in the context of a teaching on friendship, not justice. To anticipate, Aristotle's central objections to the theory of justice are of two sorts: First, it seems that a theory, like any art or science, must embody knowledge of universals to merit the name science, but the universals of politics are not true universals in the sense that they fit *all* cases, and in politics the particulars, especially the particular exceptions to the general rule, may be worthy of more serious consideration than the universals. Second, if justice as the practice of virtue toward others requires a disregarding of virtues conducive to one's own good, to insist upon this disregard may be not only to ask the impossible of human beings, but to ask the undesirable as well. Consequently, we could not consistently defend as correct and beneficial a political science which is nothing more than a prescription for justice.

Aristotle begins his inquiry into justice as he begins all such inquiries, with what is first for us (1095a 30–b 4, 1129a 5–6), hence with the kind of questions someone serious about morality and politics would ask. What we commonly mean by justice is that it is a habit of some sort which issues in actions that we could call just and which assures that these actions are undertaken with the intention of their being just (1129a 6–10). The minimal demands for a theory of justice adequate to common opinions are, then, that it enable us, first, to distinguish just from unjust actions and, second, to establish a connection between consequences and intentions. To meet these demands we would need a definition of the just and a plausible explanation of human behavior.

As Aristotle remarks (1129b 17–23), as we might know good condition of body and its cause from knowing bodies in good condition, so we must begin by assuming that we have an adequate perception of just actions, from which we can make inferences about the just and justice. More precisely, both his contemporaries and we now are prone to attribute injustice to those who act outside the law and to those who take more than their fair share.⁵ Now if we call

⁴1094b 7–10. This assumption is questioned at 1130b 26–29 and at 1180b 23–25.

⁵To identify the just and the legal may strike the contemporary reader as passé, if not incorrect, but first of all, Aristotle speaks here in the name of

what is illegal unjust, must we not be supposing that what is legal is just? And similarly, if we say that in taking too much, someone is unjust, must we not be supposing that it is desirable and possible to determine the right amount, or the "equal?" The just, then, appears to have two meanings, the legal and the equal (1129a 32–34).⁶

In attempting to understand why Aristotle reports the opinion that the legal is or intends to be the just, it is perhaps useful for us to think not of laws like the hedges of Hobbes and Locke (Hobbes, 1968, p. 388; Locke, 1960, p. 348), but of religious and customary laws, written and unwritten, which correspond to Aristotle's dictum, so strange to ears of liberals, that what the laws do not command, they forbid (1138a 7). For Aristotle, the legitimacy of law and the propriety of unreflective obedience to laws are grounded in the presumption that the intention of law is to secure the happiness of the political community and its parts and that the law of a particular community fulfills the intention more or less well. At the same time, since happiness is said to be a consequence of the practice of virtue, we can

say that law intends to prescribe the practice of virtue, or of all the virtues. If the legal is the just, then justice as law-abidingness must be the whole of virtue. But more precisely, justice is said to be the practice of complete virtue *toward others*, and from this we might infer that justice is a concern for the good of others. Aristotle concludes this elaboration with the comment that justice as law-abidingness is the whole of virtue, but that it differs essentially from virtue. Only at the end of Book 5 does the reader fully understand this, but we might remark now that virtue, having been introduced as the condition of happiness, reflects a primary concern for one's own good, as distinguished from that of others. No wonder the proverbial wisdom finds justice more amazing than the evening or the morning star (1129b 11–1130a 13).

Aristotle considers first not justice as virtue as a whole, or law-abidingness, but the justice which he insists is a part of virtue (as courage is a part of virtue). This partial justice is justice in the sense of taking one's fair or equal share of good and bad things. Upon reflection, we can see how the first consideration presupposes this examination. The presumption that law secures the happiness of the political community and its parts is ultimately a presumption that the law was made by some one or many who thought about what is good for the whole and its parts and distributed whatever good the political community can supply in accordance with this determination. Our respect for the law leads us to suppose that some legislator has employed the principle of partial justice on behalf of future citizens; our suspicion that it may not have been employed properly—that we live in an imperfectly just regime—leads us to presume to apply the principle ourselves. Partial justice should give us a standard for law, although to think about this is potentially subversive of law. In the discussion of partial justice that follows, Aristotle makes us assume the perspective of a legislator, or at least of a judge. But we, as distinguished from the hypothetical legislator, already live in a regime toward whose probable injustice we are likely to have some animus. For this reason, our judgments might reflect partisan passions and even anger. We might be tempted to criticize from the perspective of what is most conducive to our own benefit. In what follows, Aristotle presents what is for him an unusually abstract account of partial justice, perhaps to show us what the perspective of an impartial legislator would have to be. I believe that he does so primarily to teach us the habit of justice: One who wishes to be just must first learn to calm

common opinion, and he himself later questions the identification. Even we ought not to disregard the opinion of our own usually "silent majority" on this issue. Furthermore, many of those who purport to deny that the legal is the just do admit that disobedience is the exception rather than the rule, while seeking a principle to justify their deviation. And, in fact, since that justification often assumes the form of an appeal to a "higher" law or universal principles of conscience or reason, they concede that the attempt to identify the just with some legal order is not unreasonable. While less willing to attack the law publicly, Aristotle is less convinced than many of us that there are universal principles of justice in the name of which to attack laws that appear to deviate from the just.

⁶As Gauthier and Jolif (1958–59) point out, Aristotle's method of inquiry is not merely to begin from common opinions, but to make language as precise as possible (Vol. 2, Pt. 1, p. 330). They correctly note that Aristotle belabors the distinction between the meanings of the just as the legal and the equal, as if to say that in common opinion the two were used equivocally and not sufficiently distinguished (p. 336). This common tendency to identify the legal and the equal they would trace to the democratic context in which Aristotle wrote (pp. 325–27), although Aristotle himself does not do so. Rather he suggests that all law necessarily tends to be egalitarian. Consequently, his later insistence on the formulation of the just as equal shares to equal *and* unequal to *unequals* serves to reveal an inevitable tension in the notion of justice.

the anger which is at the core of righteous indignation at injustice and to overcome the natural, unreflective, concern for one's own good.

The theory of justice Aristotle presents is surprisingly simple. Partial justice is divided into two forms: distributive and corrective (1130b 30–1131a 1). Distributive justice provides the principle underlying the distribution of goods and honors in a political community; it is the principle embodied in a regime. The general principle, that equal persons must have equal shares and unequals, unequal shares, can be stated with the certitude, clarity, and precision of a mathematical formula. Distributive justice is a proportion. Corrective justice provides the principle applied in courts of law when contracts must be rectified. Here persons are not to be taken into account, but the gain reaped from inflicting loss on a partner in contract is to be equalized by a judge who, again with impressive mathematical rigor, imposes a fitting loss on the one who has gained unjustly. At the conclusion of this elaboration, Aristotle remarks that mathematical appearance notwithstanding, neither form of justice is simple reciprocity or retaliation (1132b 20). Whether this deviation from strict reciprocity should be seen as an improvement or a defect is never clearly stated.

Let us consider some peculiar details of the argument thus far. First of all, the theory of justice is emphatically mathematical in formulation, as if to suggest that such theories are properly mathematical. Since we speak of someone who is unjust as getting more or less than a fair share, we must necessarily be able to speak of an equal share (1131a 10–13); in our accusation of injustice we presuppose the kind of precise calculation of equality which is characteristic of mathematics. In the discussion of corrective justice Aristotle goes so far as to contend that the word for the judge who performs the mathematical calculation of gain and loss is etymologically derived from the word for “to halve” (1132a 32). What is most curious about this presentation is that Aristotle warns us on several occasions that we ought not to expect mathematical rigor from the political scientist because the subject matter of political science does not lend itself to such treatment (1094b 19–27, 1098a 26–33, 1165a 12–14).

Indeed, there are some difficulties in the theory. Few would deny that equal persons ought to have equal shares in good and bad, but as Aristotle notes in passing, people often disagree about what constitutes equality in persons (1131a 25–29). Are human beings to be deemed equal and deserving of equal shares

because they are equally capable of contributing wealth or performing virtuous acts for the common good; because they are equally born of the human race; or because they are equally needy? Different answers to this question are the causes of regimes, which are for Aristotle the most important political phenomena (*Politics*, 1282b 10–13, 1289a 13–15, 1337a 11–14). A regime is “the regulation of offices in a city, with respect to the way in which they are distributed, what is sovereign in the regime, and what the end of each community is” (*Politics*, 1289a 15–18). Simplicity and rigor notwithstanding, according to the manifest teaching of the *Ethics* and the *Politics*, no significant political controversy would be resolved by the application of the principle of distributive justice as stated. It is too general, and it presupposes a prior resolution of the hardest political problem. Aristotle's rhetorical display obscures the controversial nature of the regime and, therefore, of justice.

The discussion of corrective justice, which oversees contractual relations, is also peculiar. What are classified as involuntary (as distinguished from voluntary) contracts are *crimes*, and, therefore, the corrections applied ought to include punishments. According to the formula as stated, nothing extra is to be taken from the criminal to satisfy the demand, born of anger, for punitive damages (1132a 24–1132b 11). By subsuming the whole problem of crime and punishment under an overtly economic terminology (1132a 10–12, 1132b 11–13), Aristotle undoubtedly means to make us forget about the potential violence of politics and the punitive consequences that inevitably accompany corrective judgments. Both one who might refrain from judging to avoid inflicting harm and another who might take particular pleasure in inflicting it would benefit from the oversight. Indeed, that political problems are solved neither by blatant vindictiveness nor by quasi-economic calculation is suggested by one of Aristotle's own examples (1132a 6–10). The judge must rectify the murderer's gain and the victim's loss; but how the dead victim's loss is rectified by the murderer's fitting loss of life is not obvious. Furthermore, whatever the transaction, the judge is required not to consider the persons involved (1132a 1–6). That judges ought not to discriminate in favor of friends in applying the law strikes us as reasonable, but we might as easily recall the observation that it is also illegal for the rich to sleep under bridges in Paris. The judge is permitted no more mercy than revenge or favoritism. The final difficulty we find in this corrective justice is that we must suppose that

the initial distribution of goods, here restored, was fair (1132b 13–20). Corrective justice, however fair, is not shown to lead to any improvements, except insofar as it might be better to allow the taking of an eye for an eye instead of an eye, ear, nose and throat. If anything, the discussion of corrective justice serves to emphasize the importance of the problems of distributive justice and tempts us to think about the possibility and desirability of redistribution. If our objections to the theory of justice as stated are valid, then we really demand of the just not only rigor to prevent partiality, but flexibility to promote benefits. In sum, what Aristotle's presentation does thus far is to remind us that we settle for rigor in order to ensure that flexibility never becomes a weapon of the vindictive or tyrannical.

To posit as the principles of justice equal shares to equals and impartial legal correction is to conceive of justice as something like reciprocity (*antipeponthos*). But at times even to demand "an eye for an eye" might strike us as unjust. As Aristotle reminds us, it might not be fitting that a citizen strike back at an official and we might want to distinguish between voluntary and involuntary crimes. To conceive of justice as reciprocity, therefore, is to deny the relevance of a possible rank order of human beings and to forget that human beings are thought sometimes to be capable of deliberate action and sometimes not. In making an argument against this conception of what is just, Aristotle notes that the Pythagoreans and those who speak of Rhadamanthys did so conceive of it (1132b 21–28). We might surmise that the Pythagoreans did so because they found no theoretical difficulty in relating beings to one another on the basis of some assigned or discovered numerical value of each (*Metaphysics*, 985b 23, 986b 3). There would be a theoretical difficulty if the natures of beings were not quantifiable or commensurable and if it were necessary to ask whether and how they might constitute a rank order of being. We might surmise that those who spoke of Rhadamanthys—that is, all who believed in the Olympic gods—could so speak of justice because they imagined that human affairs were judged and all injustices eventually rectified by a divine being whose ability to read souls and whose fairness need not be doubted. If there were no such being to rely on, one would have to understand how justice might emanate from fallible human judgments. To argue that justice is reciprocity is thus to suppose that natures are not problematic or that nature as a whole, in its perfection, supports our efforts to secure jus-

tice. In defense of his contention that justice is not reciprocity, Aristotle grants that something like reciprocity, or perhaps something like the belief that justice is reciprocity, is essential to the maintenance of political communities (1132b 31–34). He denies that this is "the just simply," presumably because the justice necessary to political communities is in truth not grounded in a nature or a divinity as conceived of by either mathematical physicist or the pious.⁷

Rather, Aristotle proposes that the reciprocity of political communities originates in the willful demand to requite evil with evil (1132b 34–1133a 1), as well as in the inability of individuals to provide for all of their own needs (1133a 16–19). He thus acknowledges nature's imperfection, or at least the temporal priority of injustice, although he characteristically obscures the harshness of nature and human nature by emphasizing economics, speaking as if the exchange necessary for survival were an exchange not of harms, but of goods like beds and shoes.⁸ Exchange is possible only if various goods are lacked and desired by some and supplied by others and only if the various goods can be made commensurate in value. While raising the question of whether things have value in themselves,⁹ Aristotle explicitly says

⁷As Ritchie (1894, p. 190) succinctly puts it: "Particular Justice in both its forms has been explained in terms of mathematical formulae. [To use mathematical conceptions in ethics was for the Greeks to make ethics 'scientific,' to take the subject out of the level of mere popular moralizing by using the conceptions of the only science which by that time had made conspicuous progress and so come to be the type of scientific thought.] But it was the Pythagoreans who first introduced these mathematical formulae into ethics. They, however, defined Justice simply as 'Reciprocity.'" None of the commentators dwells on the significance of the mention of those who speak of Rhadamanthys and the error of either the believers or the god about the meaning of justice. The failure of Gauthier and Jolif (1958–59) to point this out is somewhat surprising, for they begin their discussion of Book 5 with the observation that Aristotle's silence about the traditional connection of justice and religion is remarkable (p. 325).

⁸Similarly, at 1133a 3–5 Aristotle takes as a sign that the city's justice is reciprocity temples to the Graces, which remind us of the need to exchange favors. He says nothing of shrines to *Dike*, which might remind us that justice entails reciprocal harms.

⁹Consider 1133b 18–28. To argue that the values of beds and houses are made commensurable by need or money is not to insist that these things have no intrinsic worth, but only that we cannot practically compare their worth.

that the true measure of value is human need (1133a 26–27). But human need, he contends, is too unstable to provide the security required to exchange with confidence. Money, the conventional character of which Aristotle emphasizes, must replace need as a more stable standard to guarantee exchange and, thereby, association (1133a 27–31, 1133b 10–23). We infer that convention or law generally is also necessary to lend stability and clarity to the definition of the relations of human beings to others and to things. If conventions serve this necessary purpose of minimizing inconveniences caused by the variation of nature and human nature, we must nevertheless see that they obscure that variation. The just established by means of laws and conventions is necessary, but it is apparently not natural.

While Aristotle speaks of the “nature” of justice, he speaks only of the “what” of the just and the unjust (1133b 29, 1134a 14–16). This difference reflects the problem his text has thus far led us to formulate. What is just seems to exist not by nature, but by convention. Convention or law, which properly fits the usual or the average case, assumes the form of a constant rule, serving as each community’s statement of what is universally just (1135a 5–8). Similarly, the theory of justice found in the first part of Book 5 is established without adequate reflection on the natures and ranking of those who devise and are subject to rules of justice and on the intentions of their deliberate actions. Thus it entails the supposition that nature can be disregarded or taken for granted in our calculations. Aristotle, while granting that for practical purposes convention must replace nature in political communities, contends that the just presupposes certain human needs. Given his conclusion that he has spoken of the universally just (1134a 15–16) and given his remark soon thereafter that we must not forget about the search for the simply just and the politically just (1134a 24–26), we might surmise not only that the universally just is not the simply just, but also that one cannot ascend from an analysis of the universally just to the simply just.¹⁰ We cannot evaluate conventions and

laws until we know more about the human needs from which they issue. The analysis of political justice which begins at this point does not take for granted that there is a natural support for justice; if anything, it views justice in potential opposition to an intransigent human nature. It may be necessary to conclude that a theory of justice is impossible, because if justice is merely an expedient human creation, then it may have no natural or necessary principles. In what follows, Aristotle will restate the need for law, which serves as the universally just for every city, and then state with a clarity unusual for him, the necessary insufficiency of law because of its universality. He will not speak of the simply just, although he will refer once to “the first justice” and will speak of equity as a kind of justice superior to legal justice. This ascent is made by means of an analysis of the intentions of the doers and sufferers of injustice or unjust deeds. Aristotle faces with more seriousness than most philosophers and citizens the possibility that there is no natural ground for justice and that if this is known to be so, neither should continue to take justice very seriously. He seems to show us that the demand for the simple theory of justice provided thus far has been met at the price of a neglect of an inquiry into nature. Aristotle’s own inquiry here does bring to light the problematic truth, which at the same time engenders the gentleness characteristic of his own writings on justice.

Political justice, we are now reminded, subsists among beings whose relations are defined by law. Such legal definition is desirable when one expects that injustice will otherwise prevail, since human beings tend to seek their own good. The rule of a law which distinguishes in a formulaic manner the just from the unjust is preferable to the rule of human beings who would presumably make such distinctions with only their own good in mind. Just rulers, who rule for the good of others, must be compensated with rewards and honors, that is, assured that their good is otherwise provided for (1134a 34–b 8). Thus we must not suppose that rulers will be altruistic or even impartial

¹⁰Jackson (1973, pp. 101–02) plausibly translates this as “what we seek is not merely *to haplōs dikaion*, but also *to politikon dikaion*,” implying, as he makes clear in a note, that the simply just has already been discussed. He nevertheless considers the discussions of political and household justice which follow to be elaborations on the simply just. Gauthier and Jolif (1958–59, p. 386) take the politically just, as distinguished from the simply just, to be justice as it can

be realized in the city, as distinguished from an ideal reality. Stewart (1973, pp. 479–80) reads the passage in a similar way. But see Grant (1885, Vol. 2, p. 124). A plausible translation of the phrase *to haplōs dikaion* as “the simplistically, crudely, or naively just” is not offered by any of the commentators. Such a translation would in any case not vitiate my contention that “universal justice” cannot be equated with a justice that satisfies all the demands we make of justice.

distributors of justice. The opportunity for tyranny, however, is diminished by the very nature of law, which, in intending to be impartial, leads us to assume that individuals do not differ much or that they are roughly equal (1134a 26–28). Law also incorporates the assumption that human beings are free—free to define their relations by law and to act on that definition or in violation of it. Political justice, then, as opposed to universal justice, does not fail to account for the rank and willfulness of human beings, although it necessarily takes as answered questions which would strike the philosopher as still unsettled. Aristotle shows that political justice rests on at least this much of an opinion about human beings and their possible orders, as well as on the plausible assumption that there is no natural guarantee for order which would make human law unnecessary.

If this position is correct, however, then one is confronted with the following difficulty: If justice and the laws that compel humans to act justly are contrary to the natural good of each, then someone may reasonably ask why one should have any respect for those laws, as distinguished from an expedient regard for the strength of those who enforce them. To argue that laws are merely conventional, not natural or authoritative because they exist prior to and beyond human devising, and that obedience to them is merely necessary, not good or choice-worthy in itself, is to undermine whatever disposition toward law-abidingness there might be. From the point of view of politics and its necessities, such an argument could be tolerated only if it were completed by a demonstration that justice, even if depending more on convention than nature, is nonetheless in accordance with nature and that law-abidingness, while necessary, can also be understood as choice-worthy. In what follows Aristotle attempts to make this required demonstration. Whether it is consistent with the truth as he sees it remains to be considered.

It is after his apparent admission that what is just depends on law that we find the only explicit discussion of natural justice or right in all of Aristotle's writings (1134b 18–1135a 5).¹¹ He insists that the politically just, while

conventional, is only partly conventional and is also partly natural. The evidence given in support of the conventionalists' argument was that human laws and conventions vary, whereas natural laws seem to be unchanging.¹² Greeks and Persians have different political regimes and they bow to different gods and in different ways, but fire burns the same in Greece as it does in Persia. In response, one might counter (as some have done¹³) that the variation of laws in different times and places can be traced to an imperfect perception or imitation of the eternal fixed and universal natural principles of justice and, therefore, that the evidence does not preclude the possible existence of natural principles of justice. Aristotle, however, does not make this argument.¹⁴ Rather, he responds that the natural as well as the conventional is changeable: If anything just exists by nature, it will have changeable rather than fixed universal principles. If there is any fixed principle in nature (other than those which might pertain to the gods and which in that case would not be principles of justice),¹⁵ it is that of the best, or the good.¹⁶ Conventional determinations of

¹²Gauthier and Jolif (1958–59, pp. 392–94) recognize that this argument is directed against the conventionalists. For an analysis of the conventionalists' argument and its significance, see Struass (1953, pp. 97–117). My essay as a whole reflects a far larger debt to the work of Leo Strauss than could properly be repaid in any number of footnotes.

¹³Consider Cicero (1929, pp. 215–16), where the argument is made by Laelius. See also Thomas Aquinas (1948, pp. 640–44). The passage is from the *Summa Theologica* I–II, q. 94 (aa. 4–5).

¹⁴Ritchie (1894, p. 191) contends, correctly I believe, that “the definite theory of a *Jus naturale* which would apply if there were no *Jus civile* is indeed post-Aristotelian.” Thomas, in the passage cited above, does understand Aristotle to say that there are first, as distinguished from secondary, principles of justice which remain unchanging. Hardie (1968, p. 205) also understands that a distinction is made “between principles or rules of justice which would be observed in an ideal community and which accord with the real nature of man and the conditions of human happiness, and, on the other hand, rules observed in some community which falls short of the human ideal.”

¹⁵1178b 10–18: We do not properly ascribe to the gods acts of moral virtue. As for Aristotle's private opinion on this point, in the passage in which the sign of nature's unchanging character is that fire burns the same in Greece and in Persia, Aristotle neglects to mention that fire was, nonetheless, worshipped as a god in Persia, but not in Athens. (Herodotus, Bk. I, §131).

¹⁶Although Aristotle criticizes the Platonic teaching about the Good (1096a 11–1097a 14), most of

¹¹Reference is made to a common law, unchanging because according to nature in *The Art of Rhetoric* (1373b 2–18, 1375a 27–b 5). There, however, the context is the proposed usage of such an argument in forensic rhetoric.

the just will vary, and if they are to be compared, it must be with respect to their goodness, not their justice. Aristotle says that the natural element in the politically just is that which has everywhere the same capacity; he also says that one regime is the best according to nature. The example of natural changeability is that the right hand is stronger by nature, although it is possible to become ambidextrous. Nature, in giving us capacities, seems to sanction our development of them (perhaps even by means of the laws we make to command virtue). Nature has given us two hands, of which the right is usually stronger. In giving us two hands, nature suggests to us the possibility of going beyond what she has done for us, although not beyond what she herself has shown us. Ambidexterity, the consequence of an unusually gifted nature and training, is both possible and undoubtedly superior to the "universal" phenomenon of right-handedness. Moreover, seeing right-handedness in the light of this possibility enables us to be more tolerant of left-handedness.

The demand for a theory of justice is, to repeat, a demand for a precise standard by means of which we can distinguish just from unjust actions. This demand might seem to be met at first by human laws and then by something like a natural law, articulating the universal principles underlying every just legal order. From Aristotle's presentation thus far, we can infer that he does not believe that the demand can truthfully be met in this way. For him, the universality which at first seems so desirable and is the necessary form of the just is, on reflection, not always desirable and in fact, impossible or possible only by means of the tyrannical imposition of human will over nature, because it is contrary to nature.

The demand for a theory of justice, we are told, is also a demand that justice be shown to be a disposition which issues in just acts and intends the just. An examination of the reasonableness of this demand seems to be the theme of the later portions of Book 5.¹⁷ The discus-

sion of natural justice, I have contended, was meant in part to indicate that the best, or the good, might be the standard in the light of which laws and conventions should be evaluated. Human beings naturally tend to act on their opinions about the good, not the just. I believe that what Aristotle attempts to do at this point is to show that reason as well as passion suggests that an exclusive or dominant concern for justice is not the appropriate standpoint from which to view politics. The incidence of just or unjust acts successfully executed and intended as just or unjust is exceedingly rare, and it may be that more actual injustice is averted not by the intention of justice, but by a concern for one's own good, conceived of and pursued in a certain way.

The topics treated in the remainder of Book 5 are the distinction between justice and injustice and the commission of acts with just or unjust consequences (1135a 15–1136a 9), whether one can suffer injustice willingly (1136a 10–1137a 30), the relation of equity to legal justice (1137a 31–1138a 3), and whether one can do injustice to oneself (1138a 4–1138b 11). The first topic, Aristotle reminds us, has been considered once before (1135a 23, 1109b 30–1114b 25).¹⁸ The difficulty is that a moral posture is unintelligible without the questionable supposition that human actions are deliberate or at least voluntary. When we praise or blame or reward or punish someone for performing a certain action, we necessarily suppose that the doer chose it, or at least did it willingly and was free not to do it. More important for our immediate concern, justice: it is surely wrong to punish someone for doing or failing to do what could not have been helped. In Book 3 of the *Ethics*, where there is at most a threat of censure and none of legal judgment and punishment, Aristotle attempts to argue that there is virtually no action which cannot be conceived of as voluntary (1109b 35–1110b 17). He speaks as if we could make ourselves responsible for our natures (1114a 21–1114b 25), although what we usually mean by nature is what is given to human beings in contrast to what they make or do. Here, in Book 5, we learn not only of the numerous varieties of excusable ignorance or miscalculation (1135b 11–24), but also of actions which, while done

these criticisms are logical criticisms of the Platonic formulation or arguments from contemporary practice which would not be decisive for a philosopher. Cf. Taylor (1818, pp. 12–21).

¹⁷Gauthier and Jolif (1958–59, pp. 328–29, p. 385) divide Book 5 into objective and subjective points of view. Or as Grant (1885, Vol. 2, p. 102) puts it, the first part deals with the just things and the second with justness. According to Thomas (1964, p. 383), however, the fundamental divisions of the book

are justice in the proper sense and, at 1138a 4, justice in the metaphorical sense.

¹⁸Aristotle's treatments of spontaneous actions are usefully compared in Faulkner (1972, pp. 81–106). Cf. Gauthier and Jolif (1958–59, pp. 397–405).

knowingly, are neither voluntary nor involuntary, but *natural*, as are growing old and dying (1135a 33–1135b 2). One purpose of Aristotle's argument seems to be to show us how difficult it is, given the absence of universal rules of actions, to determine the just act in each situation (and, therefore, how much we might excuse). We are also shown how few legally just acts originate in the intention to be just (and, therefore, how contemptuous we might be of the opinion that justice is law-abidingness). Just acts done out of fear of punishment are not essentially just (1135b 4–6). And injuries done not with deliberation and choice, but out of anger or other "necessary or natural" human passions are not essentially unjust; many such acts are, in fact, reactions to supposed injustices (1135b 19–1136a 1). Presumably when there is general agreement that the supposed injustice was an injustice, among these reactive injuries are included acts undertaken in enforcement of the law, especially punishment of offenders. These acts are neither essentially unjust nor just, because they originate in passion or anger rather than deliberate choice (and are probably not choiceworthy in themselves).

Our increasing disdain for the opinion that justice is law-abidingness is mitigated only by our cognizance, awakened by the next set of questions posed by Aristotle, that to act justly at all is exceedingly difficult. Common opinion has it that justice is a habit or disposition in contrast to a science (1129a 11–16). While Aristotle does not hold that justice is a science, he surely shows that it is dependent on intellectual virtue of some sort (1137a 4–26, 1144b 28–32). How different the requisite intellectual virtue might be from what we now usually think of as political theory or science, is indicated by the fact that instead of being mathematical in form, as was the first portion of Book 5, this later portion makes the questions raised by the poets thematic. Aristotle uses the example of a man who ignorantly kills his father (as did Oedipus, thereby fulfilling his destiny) (1135a 28–30); he attempts to answer Euripides' question as to whether someone can willingly suffer injustice (as Alcmaeon's mother might have done in order to relieve her son of the burden of a curse) (1136a 10–16); he reports Homer's account of Glaucus' giving away his treasures (because deluded by the gods) (1136b 9–11). He seems to concede tacitly that the poets would be correct in elaborating on the inevitable doing and suffering of injustice if the knowledge necessary for justice were withheld from us by the gods or nature. The requisite knowledge, however,

seems to be knowledge of the passions "necessary or natural" to human beings.

The poets, who teach us about the passions necessary or natural to human beings and the ones which are "neither natural nor human" (1136a 7–8), ask "strangely" whether one can willingly suffer injustice (1136a 10–15). Despite Aristotle's assertion that the question is "strange," it is less strange than it might seem if we recall that Aristotle has insisted that moral virtue must be a mean between two vices (1106b 36–1107a 2), and vices are necessarily voluntary. Justice then, must be thought of as a mean between willingly having too much and willingly having too little (1129a 3–5, 1133b 30–1134a 14). But justice, as the practice of virtue toward others, always involves the willfulness of those others for whose actions we cannot be responsible. Our not having enough might be a consequence of others' not giving enough, not of our being unwilling to take enough. Their wills inevitably limit our actions, but to make the intentions and actions of those to whom we would be virtuous a part of our calculations is fraught with complication, if not absurdity. This point Aristotle makes first in an argument about suffering injustice. Even if we were willing participants in unjust or just acts, we could not will to be treated unjustly, because injustice, as distinguished from the commission of unjust acts, depends on the will of the doer. In a second argument he contends that one could not even willingly suffer an unjust act, because everyone intends the good, but an unjust act is presumably a harm to the sufferer. Thus at the same time that he shows the difficulty in attempting to make the good of others the ground of one's actions, Aristotle reminds us that the natural ground of all actions is a concern for the good, or the serious (*spoudaion*) (1135b 7–8), which is not necessarily one's own good capriciously willed or the good of others as they see it.

Although it *appears* possible to suffer injustice willingly, this cannot be so, according to Aristotle. For to call it a matter of injustice, we must be able to say that the unfair distribution of goods or harms was voluntary. Yet no one wishes to be harmed—by oneself or by anyone else. Must we then somehow understand the phenomenon as that of the apparent sufferer's viciously intending to take too little for himself? We might say that here the individual neither suffers injustice nor inflicts it on himself, because the disdain for a fair share of apparent goods is a consequence of the intention to secure greater, if less tangible, goods—reputation or nobility simply (1136b 21–22). The strange phenomenon of someone who

seems to suffer injustice willingly is in fact the phenomenon of someone who desires and pursues goods about which most people, who seek wealth, do not think. This individual might well be guilty of injustice in a double sense: giving others more economic goods than is fair and selfishly appropriating another kind of good. No one would be convicted on the first count, because the definition of injustice has now been revised to specify that the act must be contrary to the wish of the sufferer,¹⁹ and few people unwillingly accept an undeservedly large share. But even if no legal complaints were filed, and even if the wrong judgment were given unknowingly, there would be a violation of "the first just" (1136b 32–35).²⁰ It is at this point that Aristotle remarks how hard it is to be just—to act knowingly and with the intention of distributing fair shares. If the law compelled such actions and distribution, that would be accidental (1137a 11–12); law and legal justice do not ensure a wise distribution of all goods or of "the simply good things" (1137a 26–27). Our immediate difficulty, however, is that it seems paradoxical to conceive of men usually praised for their restraint or equity as unjust,²¹ or as men who knowingly and

willingly harm others. I think we must acknowledge that the teaching about justice presented thus far does not satisfactorily account for the interesting, albeit rare, phenomenon of the man who seems to suffer injustice willingly. An attempt to do justice to this phenomenon leads to the critique of universal justice which follows in Aristotle's text.

We have begun by assuming justice to be good because it is a virtue, if not the whole of virtue. The just, we have seen, is necessarily embodied in laws and conventions which articulate the rule of the usual or average case. At the same time, we often say that equity (*epieikeia*) is good, praising it even more highly than justice. The equitable man characteristically does not demand his just share, taking less than he is legally entitled to (1137b 24–1138a 3). But such a man, we have concluded, is unjust.

¹⁹Gauthier and Jolif (1958–59, pp. 414–15) point out that the qualification of the definition of injustice at 1136b 3–5 with the addition of the phrase "against that person's [the sufferer's] wish" is in striking contrast to Aristotle's usual qualification "against the law," citing 1138a 8 and *Rhetoric* 1368b 6. They do not observe that the formula for vice in general should be "against the right rule or reason [*logos*] as the prudent man would define it" (1106b 36–1107a 2) or simply "against the right rule or reason" (1133b 18–21). The qualifications "against the sufferer's wish" and "against the law" could be reconciled if laws were—as they often are in republican governments—made according to the wishes of like-minded people. The absence of the qualification "against the right rule or reason" merely underscores the problematic character of justice as a virtue because of its necessary dependence on law and politics.

²⁰What is meant by "the first just" is most unclear. According to Gauthier and Jolif (1958–59, p. 419): "Le 'juste au sens premier,'—on reconnaît la saveur platonicienne de l'expression—c'est le juste non écrit (*agraphon*), naturel (*phusikon*), par opposition au juste legal et conventionnel (*nomikon*), que suppose une intervention humaine.... L'idée de justice est plus exigeante que toutes les déterminations humaines...." Given that Aristotle never speaks of an idea of the just, this explanation may be to find too much of a "saveur platonicienne" than is warranted.

²¹Out of respect for the common love of justice, I have conformed to the new requirement that half the human race not be slighted unfairly or unnecessarily because of thoughtless use of the English language.

Out of respect for philosophy, I have attempted to make my language consistent with Aristotle's. What has traditionally been rendered as "man" in English can be "*anthrōpōs*," "*aner*," or an adjective used as a noun in Greek. *Anthrōpōs* refers to the human species, but *aner* is emphatically "male human being." Perhaps to be consistent in his point that law and justice tend to abstract from individuals and natural human differences, Aristotle uses *aner* only twice in Book 5 (aside from one quote). Remarkably, he does so to speak of "the good man," whose education may not be supplied by a mere citizen's education (1130b 27–29), and of "the equitable man," whose justice is superior to legal justice (1137a 35). Generally in Books 5, 8, and 9, he uses *anthrōpōs* to indicate the human species, as distinguished from brutes and gods (1129b 4, 1134a 35, 1135a 4, 1135a 29, 1135b 22, 1136a 9, 1137a 30, 1155a 18, 1155a 20, 1155a 22, 1155b 9, 1159a 10, 1161b 6, 1161b 8, 1162a 5, 1162a 17, 1162a 20, 1163b 24, 1169b 18, 1170a 17, 1170b 13), in political contexts (1168b 33, 1169b 18, 1170b 3), and in a somewhat derogatory tone (1129b 4, 1134a 35, 1135a 4, 1137a 5, 1157a 25, 1167b 27). In Books 8 and 9 he uses *aner* chiefly in contrast to female human being, a contrast which is required because man and woman are to be distinguished according to their characteristic "works" or functions, even as they live together as friends. *Aner* is used at 1158b 13, 1158b 17, 1160b 32, 1160b 33, 1160b 34, 1160b 35, 1161a 22, 1162a 16, 1162a 22, 1162a 30, 1164a 27, 1165b 27, 1171b 6–11. The rule of male over female is fitting and just, *assuming* that the male is superior in virtue (1161a 22). That the distinctions may ultimately pertain more to soul than to body is acknowledged at 1171b 6–11, but Aristotle often deferred to his readers' prejudices for the sake of persuading them on more important issues. His own high regard for the virtues of women is revealed in the *Politics* at 1260a 20–24, 1260b 8–20, and 1277b 16–25.

Justice and equity, therefore, seem to be opposed to one another, and we might wonder how two opposed things can both be good. Aristotle says that we must reconcile the two by understanding equity as something which, although different from legal justice, is another sort of justice, not generically different from it (1137a 33–34, 1137b 33–34). We understand it as a necessary correction of legal justice and superior to it; in so understanding it, however, we acknowledge the necessary insufficiency of law or of any statement of the universally just (1137b 17–19). We demand a universal measure of the just, but if there is to be such a measure, it must be not a rigid rule, but a flexible one as the Lesbian builders use (1137b 29–32). Even the legislator, were he present, would correct or suspend the law in the exceptional case (1137b 19–24), but Aristotle says nothing about the kind of principle that might inform the legislator's judgment. Art, we are told soon thereafter, is necessarily concerned with universals (1138b 2–4). We might wish to think of the necessary principle as the sought after "just simply," but Aristotle does not mention it at this likely point. In any case, Aristotle never says that equity should replace rather than supplement legal justice. We are left with the necessity of reconciling a universal with a particular which is distinct from and opposed to it. I do not believe that this theoretical difficulty is resolved in the context of the teaching about justice in Book 5.

Should we wish to dismiss this difficulty as merely theoretical or abstract, Aristotle brings home its practical significance in his concluding discussion, which is a return to the question of whether one can ever be unjust to oneself.²² The answer given is a "no." Injustice as willful disobedience of the law cannot be conceived of as injustice to oneself because, being injustice, it must be voluntary, but being voluntary, it cannot be a harm to oneself, because human beings do not willingly harm themselves. For this and other reasons, neither can injustice in the partial sense be conceived of as injustice to oneself. One can harm others, however. Aristotle's principal example of an unjust act is

suicide. Justice, we recall, is the practice of virtue toward others. Since the purpose of the law is to encourage the virtues, the refusal to obey it is an injustice to the city, properly punished by the city. Yet suicide, or its consequence, death, we can also understand as the greatest harm that can befall a human being, for it is probably the ultimate denial of opportunity to practice toward anyone the virtue which is also the condition of one's own good, or happiness. If it can be demonstrated that in committing suicide one does not do an injustice to oneself, then we must conclude that justice is concerned *only* with the good of others, not one's own good. Yet at the same time, Aristotle continues to insist that human beings do act in pursuit of a good in which they can share.

The injustice of suicide is traced to the principle that what the law does not command, it forbids. Here we might remind ourselves of Socrates' philosophizing and see that it, too, in not being commanded by the law, was forbidden (Plato, *Apol.*, 29c–d). Rather than to cease his illegal philosophizing, Socrates chose to die, or, in effect, to commit suicide. The failure of the law to command or permit the perfection of his intellectual virtue left him no choice but to act illegally, hence unjustly, for the sake of fulfilling the intention of the law. The two concluding points in Aristotle's exposition of justice are, first, that to do injustice is not always the greatest evil (1133a 28–b 6), and second, that one can speak of doing justice to oneself only metaphorically (1133b 7–13). Thus for the respectable to grieve for Socrates is tantamount to an admission that they do not in truth hold justice to be the most serious thing in life or even in politics. Justice, even if it is the whole of virtue to others, should not be mistaken for the whole of virtue, moral and intellectual. Only in friendship is the practice of the whole of virtue necessary and possible.

The demand for justice and for a theory of justice must be met, because such a demand originates in a "necessary or natural" human passion; but the political philosopher above all ought to perceive that the theory which meets this demand does not satisfy all human demands, especially those of reason. Aristotle shows us, therefore, that the demand is somewhat misguided. First, as friends of the truth, we must acknowledge that the opinion that a theory of justice is possible, because there are natural and necessary universal principles of the just to be grasped, is based on unexamined assumptions about nature. Insofar as the theory does implicitly posit an understanding of human nature it is that human beings intend and

²²Most commentators find the presence of the last chapter of Book 5 problematic. Grant (1885, Vol. 2, p. 141) calls it superfluous, observing that "there is no merit to the present discussion. Amidst the feeble reasonings and the repetitions which it represents, the only points the least interesting are the view that is taken of suicide, §§2,3, and the saying that it is a mere metaphor to speak of justice between the higher and lower parts of a man."

act in pursuit of their own good. In effect, then, the theory bids us to act contrary to our natures—for the good of others, so we might doubt the efficacy of the theory as a moral imperative. Finally, its benefits would be limited, although not insignificant. Laws and universally applicable rules would help to ensure that the good of the nasty and excessively greedy, especially their good conceived in anger and haste, is not bought at the price of the suffering of the weak. But the universal rules provide no guidance for the resolution of the greatest political problems, and in strengthening our tendency to neglect exceptions, they blind us to certain things which might be worthy of our most serious attention. Aristotle's critique of his own attempt at a theory of justice points to the conclusion that our demand might be better served if shown to point elsewhere than to justice. What we really demand is a theory which, although undeniably valid, is not necessarily universally applicable; which, consistent with the necessity of human nature, intends a good in which all doers as well as sufferers of deeds can readily perceive their share; and which, nonetheless, does have just consequences.

At this point, we should briefly recall the other comprehensive virtue of character, pride, or greatness of soul (*megalopsychia*) (1123a 34–1125a 35). Whereas justice is said to be the whole of virtue toward others, pride is said to be the ornament (*kosmos tis*) of the virtues. It presupposes all of the virtues and makes them greater. The proud man or woman deserves great honors and does not fail to claim them. Being deserving of honors, he or she possesses the virtues, because only virtue is worthy of honor.²³ Pride and claims to honor make the virtues greater and ornament them, we might surmise, because to be conscious of virtue as virtue is to possess an element of intellectual virtue in addition to moral virtue (1144b 1–4). The extreme which is most opposed to pride is pusillanimity, and this is more an error than a vice, for not to make claims for one's own virtue is not to know oneself and one's worth. Furthermore, we might suppose that should the law fail to command all the virtues, the proud individual, insisting that, being virtuous, he—like the gods—is worthy of honor, presents himself as a model of virtue for us to admire and imitate. He is *justly* contemptuous of inferiors and shows his hates and loves openly,

²³*Aner* is not used in the discussion of the magnanimous individual.

although he is not incapable of ironic self-deprecation. While accepting honors, he nonetheless disdains them, because to take honors seriously would be to judge his own worth by the estimates of the inferiors who accord him honors. The only one he could live for would be a friend.²⁴ Yet he willingly helps and benefits others, because as a benefactor, he can take pleasure in demonstrating his superiority. For the same reason, he is loathe to ask for help and does not like to recall benefits conferred on him, although he will repay them lavishly. He acts infrequently—only when the occasion requires the exercise of great and rare virtue.

The theme of Book 8 and 9 of the *Ethics* is friendship. My purpose here is not to offer a comprehensive analysis of Aristotle's teaching on friendship, but to make some observations and speculations about the place of that teaching in his political science. In particular, friendship and justice are said to be concerned with the same things and persons. Indeed, we are now told that friendship holds cities together, that legislators are more serious about it than justice, and that while friends do not need justice, the just still need friendship (1155a 22–28). Here, from the perspective of friendship, the problems mentioned in Book 5, but not developed or left unresolved, are developed and suggestions for their resolution made. We might infer that in proceeding as he does, Aristotle means to show us that the problems that arise in politics can be solved only in the spirit of friendship, trust and good will, not in the spirit of punitive justice or even impartiality. Furthermore, in calling our attention to the everyday phenomena in which the presence of trust and good will cannot reasonably be denied, he gives the evidence that those who assumed nature's beneficence failed to give and he shows to those who would deny it, that something like justice, or virtue toward others, does have a ground in human nature.²⁵

By means of an examination of friendship, Aristotle attempts to make intelligible all human associations, both among human beings and within human beings, who have composite natures, and perhaps all associations, or wholes.

²⁴The noble individual is said repeatedly to desire honor in order to confirm his or her opinion about the existence and worth of his virtue. In Book 8 (1159a 12–27) he is shown that the affection of a good human being who befriends him serves this need as well as better, so the honor accorded the good could be said to be as useful to others, as a reminder of what virtue is, as to the noble.

²⁵See p. 1205.

More precisely, he makes them intelligible by comparing and contrasting them to a perfect form of friendship, which is possible only among the good, brought together on the basis of their virtue. Because this form of friendship is comprehensive as well as superior, all inferior forms of association can, when measured by it, be seen as partial or defective forms. Thus they can be seen not only as what they are, but as what they are meant and fail to be. Whoever thinks he intends the just really intends friendship, and if the city cannot secure that friendship, it is properly depreciated.

Friendship is some virtue or is with virtue (1155a 3–4). It begins with good will, but is sustained by mutual affection or passion (1155b 27–1156a 5, 1166b 30–1167a 21). Each human being has affection for what seems good to him or her (1155b 23–25), and what seem to be good are the good, the pleasant, and the useful (1155b 18–19), so friendships can exist for the sake of any of these three ends. The good, who love the good, befriend others like themselves because of their goodness. If to be good is good for human beings, then in loving a friend as good, one not only loves him or her for himself or herself, or essentially, but one promotes his goodness, and thus his good, for a friend will prize the affection which is affection for his goodness (1156b 7–11, 1159b 4–7, 1170a 11–13, 1172a 8–15). Since a friend becomes dear to oneself, one secures one's own good in intending his or hers (1157b 33–35). Since the friendship of the good is also pleasant and useful to both parties (1156b 13–15, 1157a 1–3), their association secures to both the comprehensive good or happiness that the law claims to secure to political communities.²⁶ Because their association is by a choice, born of disposition as well as passion (1157b 28–32), it will be stable and long-lasting without the convention and law needed to stabilize associations for utility or pleasure.²⁷ The good who are friends can and do trust one another (1156b 28–29, 1157a 20–24), so injustice need not be anticipated and the institutions and procedures to minimize it need not be established. Such friendships, “complete in time and all other things” (1156b 33–34), are rare, not only because good human beings are rare, but because trust is the product of long familiarity or, we might say, of knowledge of the nature or character of one's friend²⁸

(1156b 25–29). Indeed, good friends must spend time together, living together and sharing activities by speaking together of them (1159b 7–13, 1157b 19, 1158a 10, 1171a 8–10, 1171b 29–1172a 15). Now if it is correct to define human life by the active exercise of the capacities of perception and intellection (1170a 16–19), then it seems correct to say that in such a friendship one actualize one's being, and life, especially the life of a good human being, is good for him or her and perhaps good simply (1170a 25–1170b 19). Thus it can be said that perfect friendship satisfies the natural, reflective concern for one's own good. Perfect friendship begins and ends with the love of the good in which one necessarily shares.²⁹

Aristotle begins to make the comparison of politics to friendship explicit in the context of a consideration of friendships among unequals, in which one friend is superior to the other in some respect (1158b 11–14, 1159b 25–26). To raise the question of how such relationships are to be equalized is to raise the question to which different political regimes are answers.³⁰ Here, Aristotle speaks not of a natural law, or even of a natural justice, but of the *justs*, which are not only conventional, but variable (1159b 35, 1162b 21–23). Nevertheless, he moves from the first acknowledgement of unequal friendships to the explanation of political regimes by means of a statement about the kinds of familial relationships (1158b 15 ff.), thereby implying that the various determinations of the just are imitations of natural models. Political

²⁹See p. 1211. Hardie (1968, p. 335) is to be commended for the recognition, all too infrequent today, that one can be a moralist without being a Kantian: “Moral obligation is not a simple concept of which there is an agreed account so that we can ask whether Aristotle had the concept, yes or no. If we ask in what shapes the experience or fact of obligation came into his view we should consider his use of ‘ought’ (*dei*) and of ‘right’ (*dikaion*) but also what he calls the ‘noble’ (*kalon*). This is something which ‘we divine to be proper to a man and not easily taken from him’ (I.5, 1095b 25–26). His doctrine of the final good is a doctrine about what is ‘proper’ to a man, the power to reflect on his own abilities and desires and to conceive and choose for himself a satisfactory way of life. What ‘cannot easily be taken from him’ is his power to keep on trying to live up to such a conception; to obey, as Aristotle says, his ‘reason’ (*nous*). It may indeed be admitted that Aristotle did not distinguish sharply, as Kant tried to distinguish, between the rationality of the moral law and the rationality of ‘enlightened self-interest’ or, to use Aristotle's word, ‘self-love.’”

³⁰See p. 1204.

²⁶See p. 1203.

²⁷See p. 1206.

²⁸See p. 1206.

communities, however, are said to be less just than families because strong natural affections among citizens are lacking (1160a 3–8). Aristotle revises his famous dictum, asserting that by nature the human being is more a conjugal than a political animal (1162a 17–18). The lack of natural affections does not seem to constitute the essential flaw in the political association, however, for the discussion at the beginning of Book 9 about how to rank differing and conflicting obligations (1136b 30–1165a 36) serves to remind us that the friendship of the good requires an element of deliberation and choice which is lacking in a mother's instinctive love for her child. This same discussion of friendships among those who are not only unequal, but who have differing ends, does bring to light the almost inevitable defect of political associations. Those with differing ends are exemplified by philosophers or teachers as opposed to students who think that philosophers care about the money they are paid for teaching (1164a 22–1164b 6). The political association is a friendship for utility (1162b 22–25), not for pleasure or the good. Although natural affections, characteristic of the family, or patriotism in the city might diminish the controversy which is characteristic of friendships for utility (1162b 5–6), bickering over the distribution of goods and over payments, monetary or honorific, for services rendered is virtually inevitable, since "all or most men intend the noble, but choose the profitable" (1162b 34–36). Noble friends, the equitable who often do not claim their due, demand not the just, but the possible repayment (1163b 15). Noble friends, furthermore, determine worth and, therefore, payment due by the intention of the first giver, but in politics worth must be judged by the recipients' estimates of their own needs (1163a 16–23).

With some sense of what seems good for themselves, most people try to understand the city as either a business partnership or a charitable institution. Oligarchs contend that the distribution of goods must be a distribution of profits commensurate with contribution to the common wealth; democrats contend that the distribution must be commensurate with need. Aristotle proposes the reconciliation of these two correct, but opposed, views in what is, in effect, aristocracy or kingship (1163a 24–1163b 12). Those who contribute wealth and virtue are to be recompensed with honors (not wealth), and the poor are to be given what they need (wealth) and denied what needy people do not deserve (honors and political offices). In politics, honor replaces the affection said to equalize friendships between un-

equals. In Book 9 we learn that concord (*omonoia*), or political friendship, is most of all the agreement of the demos and the equitable men that the best should rule (1167a 35–1167b 1). (An example of the rule of the best is the rule of Pittacus, a wise man.) Aristotle says soon thereafter that such concord is found among the equitable, but not among the base (1167b 4–12), so we might surmise that if concord is maintained at all, it is in a regime in which the equitable hold office without being dependent on election by the base. What makes a political solution possible at all, although not inevitable, is that there be capable and fortunate individuals who understand their good in a way most people do not and that the distinction between need and desert or between base and noble needs be maintained in an obvious way. Although Aristotle's theory of justice does not preclude aristocracy and constitutional monarchy, that theory, which relies more on impartiality than equity, lends little support to the necessary distinction. Aristotle's lengthy explanations of pride and of friendship based on knowledge of the superiority of oneself and one's ends do support it. In other words, according to Aristotle, a just and good political regime is the consequence not so much of making justice one's end as of acknowledging a rank order of human needs and the human beings who exhibit them.

Given this understanding of the conditions required for the solution of practical political problems, Aristotle would deem it essential that political scientists speak as he does of friendship as well as justice. In practice, friendship is meant to be a supplement to justice. Because perfect friendship is rare and not universally practicable, Aristotle teaches about justice and never denies the necessity of the kind of justice in which his theory of justice tends to issue. But in theory the teaching on friendship is, I believe, meant to replace rather than supplement the theory of justice attempted in Book 5 of the *Ethics*, because it grounds in a more satisfactory way the institutions and habits which are necessary to ensure a modicum of justice in cities. We might suppose that those least likely to accept the imperfect theory of justice would be potential tyrants, who need to pursue their own good as they see it, and philosophic natures, who need to follow the dictates of reason.³¹ Aristotle's best response

³¹Cf. *Politics*, 1266b 38–1267b 17. Potential tyrants; the perpetrators of the greatest injustices, need a special education. That education is an exposure to the pleasures of philosophizing.

to the first is a rhetorical display in which friendship is made so attractive that they will perhaps come to see friendship, and not tyranny, as their good. His response to the second is an argument to the effect that if one reflects on what it means to be a human being, one must grant that the human good is realized in the most perfect friendship. Most might well choose not to act on Aristotle's teaching, but because of it, they will be hard pressed to give a rational defense of their choice. If friendship is the human good or makes possible the human good, if friendship requires virtue, and if virtue is a disposition or habit acquired with the aid of laws that compel to some extent virtuous actions (1179b 20–1180a 24), then those concerned about their own good have a reason for obeying and defending decent laws. For the most part, they could choose to act in accordance with them. Rather than proposing that friendship replace justice, Aristotle uses the teaching on friendship to justify the most comprehensive laws. Otherwise, the city and its justice are indefensible.³²

Politics rarely, if ever, transcends itself, but it can always be understood by statesmen and political scientists in the light of what transcends it. Seen in the light of friendship, the city is an imperfect friendship, and its good, justice, is not the whole human good. This point of view presupposes an examination of human nature, of its rare, but possible, perfection as well as of its "universal" imperfection.³³ Nature is neither disregarded nor taken for granted. By the necessity of human nature, friendship is necessary, although what Aristotle means by necessary is not that it is inevitable, but that it is the condition of human being, properly understood (*Physics*, 199b 33–200b 9). No reasonable individual concerned with his or her good as a human being would fail to choose it. But friendship is also noble and choice-worthy (1155a 28–29), and far from being inevitable, it must be intended and chosen, and certain activities must be undertaken to sustain that choice. At the conclusion of Book 9, Aristotle contends that the choice would be made whatever fortune might befall one, as if to say that, practically speaking, no more of

nature or the gods need be known.³⁴ In this way, Aristotle's political science can be said to be precise and comprehensive, even if it offers no universal formulae for justice.³⁵

Political philosophers and philosophers today assume that their task is to formulate a theory of justice, which will result in justice in practical politics. Their theories, which they suppose to be in accordance with reason or science, may in truth have no real basis in any fact other than an incoherent human demand for justice. In the *Nicomachean Ethics* Aristotle implicitly contends that the attempt to formulate a satisfactory theory of justice leads us to see for ourselves that what we desire when we demand justice and formulae for justice, and therefore a general political solution, is properly supplied in a friendship of the virtuous, which is a rare, but possible, nonpolitical solution. Our expectations from politics are properly diminished as a consequence of our deeper reflection on human nature and on the limits of politics. In looking at politics in a way that brings to light its necessary imperfection, Aristotle is nonetheless able to justify politics and its justice as what they are, as well as to show how his taking justice less seriously may well lead to more equity in practice. We are led by Aristotle to wonder whether the attempt to transform philosophy and politics into the search for perfect justice is not intellectually futile and politically harmful. The current rage for theories of justice may well be an unfortunate, if well-intentioned, manifestation of the passion for justice.

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³⁴At the beginning of the examination of friendship (1155a 32–b16), Aristotle acknowledges that some try to find a "deeper and more physical (natural)" explanation of friendship in non-human nature. While Aristotle puts aside such inquiries, he reopens them briefly (1159b 12–24) and later himself offers two "more physical" explanations (1167b 28–29, 1170a 13–14). The account of human being in Book 9 is followed by an argument in Book 10 about what it means to be.

³⁵At the conclusion of the *Ethics* (1180b 20–23), the legislator or student of politics is said to need knowledge of some universals "perhaps." Nothing is said of justice, however.

³²See p. 1207.

³³At the beginning of Book 7 (1145a 15–33), a "new beginning" is made. That beginning is an examination of the full range of human natures, divine, human, and bestial. The phenomena of virtue and vice are reconsidered in this context.

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