

Mitzi Lee (University of Colorado Boulder) 'What's innovative about Aristotle's theory of justice'
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Outline

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§1. Introduction.

Everyone knows that Aristotle has a concept of justice, but I think that it remains poorly understood. There are a number of misconceptions about Aristotle's theory of justice which serve to obscure the true import and unique significance of what he's doing. As I shall try to argue, Aristotle is the first to try to show that one constitution is better than another by being more *just in the sense of being more fair*. It is thanks to his notion of special justice — which he is the first to carve out as distinct from general justice — that he is able to make this claim. In this paper, I will try to rectify some of those misconceptions, and then will explain what's truly innovative about Aristotle's way of thinking about justice in the *Politics*.

First, it is sometimes said that justice is a personal virtue for Aristotle, and that he either lacks the concept of institutional justice, or that this is not a major concern of his.¹ Rawls famously

¹ For example, see Slote 2014, LeBar 2020 edition 'Justice as a Virtue', *Stanford Encyclopedia of Philosophy*. This is driven by the assumption that Aristotle is a "virtue ethicist" in the modern sense of the term. In general, Aristotle's theory of justice is poorly understood and neo-Aristotelian virtue ethics has not known what to make of it (though see Coope 2006 who points out the problem, as well as Hursthouse 1999: 5-6, Lu 2017).

begins his *A Theory of Justice* with the sentence, “Justice is the first virtue of social institutions, as truth is of systems of thought” (Rawls 1999: 3). He goes on to spell out the primacy of justice in ensuring and settling certain rights in a society. By contrast, it is assumed that Aristotle, as a good ‘virtue ethicist’, must make justice a personal virtue, which then leaves it obscure how that is related to the “justice” that he talks about in the *Politics*.² There is some truth to this, but the real situation is more complex and in need of clarification, which I will attempt to give in §2.

Another misconception has to do with his concept of distributive justice: it is sometimes said that Aristotle does not have a concept of distributive justice — that what goes for ‘distributive justice’ in Aristotle is a type of “desert-based conception of social justice” (Slote 2014), according to which “situations and communities are just when individuals receive benefits according to their merits, or virtue: those most virtuous [*sic*] should receive more of whatever goods society is in a position to distribute (exemptions from various burdens or evils counting as goods).”³ According to this picture, Aristotle has the view that the basic goods and resources of society should be distributed according to merit, i.e., moral or political virtue, so that the virtuous should get a greater share than everyone else. What an extraordinary thought! No wonder some people conclude that Aristotle doesn’t actually have a concept of distributive justice in ‘our’ sense.⁴ But it is I think a great simplification of Aristotle to describe him as holding the view that the virtuous always merit a greater share of everything — Aristotle

² E.g., LeBar 2020a: “Aristotle seems torn...between a conception of justice as a virtue ... and justice as having the form of a formal normative structure, to which the virtue threatens to become subsidiary.” As I shall argue, Aristotle is not torn, and he does think that the virtue is subsidiary to a prior notion, of what is just and unjust (*to dikaion, to adikon*).

³ Slote 2014.

⁴ Cf. Fleischacker 2004.

certainly does not think this in all cases, and even in the case of the *polis* there are other considerations that can outweigh the virtuous citizens' claim to having a greater share, as we shall see in §4.

In §2, I will try to characterize some of Aristotle's most important innovations with respect to justice, and then in §§3-4, I will try to say how he puts those innovations to work in the *Politics*. My thesis is that Aristotle introduces two innovations: (1) a threefold distinction between ways that things can be "just", namely, to *dikaion* (D1), *dikaiopragêma* (D2), *dikaioSynê* (D3), and (2) a distinction between two kinds of justice: general justice and special justice. Carving out a notion of special justice separate from general justice allows Aristotle to find a distinctive type of mean for special justice, namely, the thesis that *to dikaion* is itself a *mesotês* consisting of a kind of equality. This in turn he puts to powerful use in the *Politics*, when he uses the idea to show how it's possible to argue that some forms of *politeia* are more just, i.e., more fair, than others.⁵

§2. Two innovations with respect to justice

Let me begin with two of Aristotle's most important and significant innovations.

⁵ To my knowledge, this argument has not been made before. Keyt 1995 in his supplementary essay to the 1995 reprint of Robinson's commentary on *Politics* III-IV argues that the true centerpiece of Aristotle's *Politics* is his idea of distributive justice, and his use of it as the foundation of the argument in *Politics* III (see also Keyt 1991). I agree with Keyt, and add that Aristotle's theory and application of distributive justice in his political theory was an innovation. Nussbaum 1988 is well-known for its argument that Aristotle has a perfectionist theory of distributive justice focusing on the distribution of capabilities; that argument focuses on *Politics* VII and does not touch on the question of the distribution of political office and authority that are the topic of this paper.

The first is Aristotle's famous distinction between "special" and "general" justice. This is first of all an innovation in relation to Plato, who makes no such distinction between two kinds of justice.

Thesis 1: The justice terms are not univocal; there are two ways that something can be said to be just (*dikaion*) and correspondingly two kinds of justice (*dikaionunê*).

The first type of justice has to do with what is required by the law: what is just is what is legal, and what is unjust is what is contrary to the law (*CB* V.1. 1129a32-1129b1, 1129b11-1130a13).⁶ Unjust actions are those which violate laws in our community that prevent us from doing harm to each other, such as theft, murder, fraud, rape, violent attack; these action-types are 'unjust' in the sense of being criminal and illegal. To be a just person in this sense is to be law-abiding and conform to moral and legal norms; to be unjust is to violate those norms. Aristotle indicates that in a way, general justice and virtue as a whole are the same:

T1. "This form of justice [general justice], then, is complete virtue, although not without qualification, but in relation to another" [αὕτη μὲν οὖν ἡ δικαιοσύνη ἀρετὴ μὲν ἐστὶ τελεία, ἀλλ' οὐχ ἀπλῶς ἀλλὰ πρὸς ἕτερον] (*CB* V 1. 1129b25-27; V 2. 1130a32–b2).

The second type of justice has to do with equality: what is just is fair or equal, and what is unjust is unfair or unequal (*CB* V.1. 1129b1-11, V.2. 1130a14-1130b5). The paradigm example of this type of injustice is an unfair or unequal division of some shared good. Someone who is just in this sense is 'fair-minded', aiming at, or respecting, fair distributions, allocations, or determinations between people, such as a fair and equitable judge. Aristotle accordingly

⁶ I will refer to the books common to the *Eudemian* and *Nicomachean Ethics* (*EE* III-V = *EN* IV-VI) using "CB" (for 'common books') but will use the Book and Chapter numbers from the *Nicomachean Ethics*. For discussion of some of the differences between justice in the *EE* and in the *EN*, see Frede 2019, Lee 2022.

distinguishes between two or possibly three subtypes of special justice: (1) justice in distributions, (2) corrective or compensatory justice, and (3) justice as reciprocity.

The two types of justice are usually labelled ‘general’ and ‘particular’ or ‘special’, because Aristotle describes them in terms of whole and part, so that general justice is the genus of ‘virtue’ and special justice is one species of virtue among many.⁷

To appreciate what Aristotle’s up to, it’s helpful to compare him with Plato – for Plato makes no distinction between general and special justice, and neither of these corresponds exactly to Plato’s conception of justice. At the same time, his discussions of justice clearly contain elements of each of Aristotle’s two types of justice.⁸ Aristotle’s definition of general justice as lawfulness clearly harkens back to Thrasymachus’ definition of justice – which holds that [T2] justice (*dikaiosynê*) is obeying the laws of a city. [T3] In *Republic* I, Cephalus and Polemarchus propose a Simonidean definition of justice: first, that justice is “giving to each what is due to each” [Ἵτι, ἧ δ’ ὅς, τὸ τὰ ὀφειλόμενα ἐκάστῳ ἀποδιδόναι δίκαιόν ἐστι] (*Rep.* I. 331e3-4), which they then explain in terms of a familiar principle of reciprocity: one owes benefits to friends, and harm to enemies.⁹ [T4] In *Republic* IV, Socrates proposes a definition of justice – each part

⁷ Aristotle argues that there is a particular virtue of justice distinct from general justice at *CB* V.2. 1130a14-1130b5. Though he does not use the terms ‘general’ and ‘particular’, he does use the ‘whole’/‘part’ language characteristic of the genus/species relation at *CB* V.1. 1130a8-10, V.2. 1130a14-16, 1130b6-32 *passim*. Kraut prefers ‘broad’ and ‘narrow’ justice.

⁸ See also Barker 1959: 340n1; Striker 2006.

⁹ This would later become the standard philosophical definition of justice: see ἀρετὴ ψυχῆς διανεμητικὴ τοῦ κατ’ ἀξίαν ἐκάστῳ (pseudo Aristotle, *On Virtues and Vices* 2. 1250a12), as well as the Stoic definition of justice, e.g., that “justice is knowledge of how to distribute what is deserved to each [δικαιοσύνην δὲ ἐπιστήμην ἀπονεμητικὴν τῆς ἀξίας ἐκάστῳ]” (Stobaeus 2.59,4-60,2 (SVF 3.262) = LS 61H). And eventually it becomes enshrined in Justinian: “Justice is giving to each person what is due to each” (Justinian’s *Digest* I.1); “Justice is that virtue which gives to each his due ... but what kind of justice is it, then, that takes a man away from the true God and subjects him to impure demons? Is this giving to each what is due?” (Augustine, *City of God*, Book XIX Chapter 21, pp. 951-952).

of the city or soul ‘doing its own work’(433b), it is the “the having and doing of one’s own” (433e) (*Rep.* 4. 432b-434d; 4. 442d-444d) – which seems to develop and transform that Simonidean principle into a kind of functional conception of justice. Justice in each is defined as the parts of the thing doing their own work – and hence, presumably contributing to overall good-functioning. In the city, that means, the guardians, auxiliaries and productive class each functioning well; in the soul, that means, the rational, spirited and appetitive parts each functioning as they should. So defined, justice has no special characteristics, in contrast with courage, wisdom, and moderation—it is, instead, a general virtue, a meta-level, master virtue in both the psychê and the polis because if each part is functioning as it should, then the whole will have not only justice but also the other virtues. As Socrates says in the *Republic*, once they’ve identified the city as having courage, wisdom and moderation, it turns out that justice was there all along (432d), since the principle that “everyone must practice one of the occupations in the city for which he is naturally best suited” (433a) was there from the beginning: “I think that this [each doing his own work] is what was left over in the city when moderation, courage, and wisdom have been found. *It is the power that makes it possible for them to grow in the city and that preserves them when they’ve grown for as long as it remains there itself.* And of course we said that justice would be what was left over when we had found

¹⁰ See Algra 1996 who argues that *pleonexia* is a key term in Plato’s presentation of Thrasymachus, and Balot 2001: 234-248, who argues that Plato’s association of *pleonexia* with injustice is a key idea that he takes from the political thought of Athens in its archaic and classical periods. Balot helpfully goes through the occurrences of *pleonexia* along with the related words *pleonektein* and *pleon echein* at 343d5-6, 344a1, 349b3, 349b8, 349c1, c4, c6, c8, c12, 349e12, 349e12-13, 350a2, b1, b8, b14, c1, 359c5, 362b7 (twice), 365d6, 574a8-9, 586b1. He argues that the notion of greed and justice in distributions is an old one in Greek thinking going all the way back to Homer, but that Aristotle offers a clear theoretical account of distributive justice that serves both as an endpoint in the historical development of Greek political thinking about justice, and also as a useful starting point for study of that development (Balot 2001: 22-57).

the other three” (433b-c). In other words, justice is not a specialized virtue, but the founding principle of the city: that each should do the work for which he is best suited. One could therefore arguably say that justice in Plato’s *Republic* corresponds to Aristotle’s general justice, and is not a species-level virtue.¹¹

Aristotle’s 1st innovation, then, is to point out that there is a specific virtue of justice which is distinct from the general one that Plato was talking about, a virtue with its own specific characteristics.¹²

If special justice is Aristotle’s innovation, then one might naturally ask why he introduces it and what, if any, use he puts to it. The answer is hinted at in *CB V 1*, but is more obvious when one turns to the *Politics*, where it’s clear that Aristotle makes important use of special justice in his discussion of *politeia*. I will turn to this in §3.

But first, let me turn to Aristotle’s second innovation. This one is less well-known.¹⁵

Thesis 2: The virtue *dikaioṣunê* ‘justice’ is a disposition to do what is just (*to dikaion*) and to do just actions (*dikaiopragein*).

¹¹ Of course, one could point to differences e.g., Kraut 2002: 169-170 who contrasts Plato’s intrapersonal vs. Aristotle’s interpersonal conceptions of justice (and takes *CB V 11. 1138b5-13* to be a critique of Plato, esp. *Rep.* 443c-d); for Plato, justice within is fundamental, and justice between individual is derivative. But I would still argue that Plato’s justice is what Aristotle is referring to as ‘general justice’, as opposed to special justice, which is an innovation.

¹² There are hints of the idea that distributive justice is a kind of geometric proportion in Plato, *Gorgias* 507e6-508a8 and *Laws* VI. 756e9-758a2. For more discussion of the first innovation, see Chapter 3 of my book *Justice in Aristotle* (in progress).¹⁴

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¹⁵ I discuss this in more detail in Ch. 4 of my book *Justice in Aristotle* (in progress).

In the opening lines of the common book on justice, Aristotle announces that

We see that all men mean by justice [δικαιοσύνην] that kind of state of character which makes people disposed to do what is just [ἀφ' ἧς πρακτικοὶ τῶν δικαίων εἰσι] and makes them act justly [ἀφ' ἧς δικαιοπραγοῦσι] and wish for what is just [βούλονται τὰ δίκαια](*CB* V.1. 1129a6-9)¹⁶

The point of this is sometimes obscured in translation, because of the ambiguity of the English term 'justice', which can refer to the personal virtue ('he is a just and righteous man') or the abstract quality of justice (e.g., John Rawls' two principles of distributive justice).¹⁷ However, the difference is clearer in the Greek terms: the abstract nouns *to dikaion* 'the just' and *to adikon* 'the unjust' (which are formed from the adjective *dikaios*, -a, -on 'just' 'right' and its opposite *adikos*, *adikon* 'unjust' 'wrong') are distinct from the virtue terms *dikaiosunê* and *adikia*.¹⁸ *To dikaion* and *to adikon* refer to objects of just or unjust action: states of affair, distributions, allocations, or exchanges which are 'just' or 'unjust', 'fair' or 'unfair'. By contrast, *dikaiosunê* and *adikia* and the personal adjectives *dikaios* and *adikos* are virtue-terms belonging to persons (and by extension to a *polis*), characterizing them as being 'just' or 'unjust'. Thus, far from being trivial or circular, the claim that *dikaiosunê* is the disposition to 'do what is just' (and the corresponding claim that *adikia* is the disposition to 'do what is unjust') connects two

¹⁶ Translations of the *EN* are from Ross/Brown 2009; translations of the *EE* are from Kenny 2011, unless otherwise noted.

¹⁷ The same ambiguity can be found in German (*Gerechtigkeit*) and in French (*la justice*). The question of whether the Greeks have the notion of the abstract quality of justice (and whether *dikê* can ever have this meaning) is a classic debate going back to Havelock 1969, Lloyd-Jones 1971, Gagarin 1974.

¹⁸ These in turn derive from an older word *hê dikê* which, by Aristotle's time, is mostly used to mean 'lawsuit'. In the *EE* and *EN*, Aristotle uses this term only five times, mostly to mean 'lawsuit' or 'trial' (*EE* VII.10. 1243a9, *CB* V.6. 1134a31, *EN* VIII.13. 1162b30, *EN* IX.1. 1164b13), and only once in the older sense of 'justice' in a bit of poetry he quotes to illustrate an older notion of reciprocity as justice (*CB* V.5. 1132b27).

concepts, that of the virtue term *dikaiosunê* and the moral term ‘*to dikaion*’, and shows that Aristotle makes the notion of a fair or just outcome prior to that of a fair or just person. This sets the terms of his project: to explain what *to dikaion* and *to adikon* are (to set out his ‘principles of justice’, so to speak), in terms of which the virtue terms *dikaiosunê* and *adikia* (the ‘good of persons’ as Rawls puts it)¹⁹ can be defined. This is exactly what he goes on to do: in *CB* V.1-5 he offers definitions of *to dikaion*, and then defines (in *CB* V.5) the concepts of just action and just character in terms of it.

In *CB* V.6 and 8 Aristotle makes the thesis more precise by distinguishing the following:

- (D1) What is just (*to dikaion*) or unjust (*to adikon*)
- (D2) Just action (*dikaiopragein*) or unjust action (*adikein*)²⁰
- (D3) Just or unjust action that speaks of a just or unjust character (*dikaiosynê*, *adikia*)²¹

What is just in the sense of D1 consists of some action-type, such as obeying a law, or correctly making a just distribution. Typically it will be spelled out in terms of a rule or law, or principle of justice. This is distinct from just *actions* in category D2 – which are tokens corresponding to the type in D1. Aristotle will go on to specify that a just or unjust action must be done knowingly and voluntarily; it is not sufficient for one’s action to merely conform to the type under D1, as when one, for example, unknowingly breaks a law. A voluntary just action in sense D2 however

¹⁹ In Part III of *Theory of Justice* Rawls defines justice as a good of persons (Rawls 1999: 380-386).

²⁰ Aristotle’s terms for ‘just action [*dikaiopragia*]’ (*CB* V.5. 1133b30) and ‘acting justly [*dikaiopragein*]’ (twice in the *EE*, five times in the *EN*, 9 times in *CB* V, once in the *Rhetoric*, and once in the *Topics*) are his own coinage, invented in order to have something corresponding to the term *adikein* ‘act wrongly’ (e.g., *Rhet.* 1373b22 *adikein kai dikaiopragein*).

²¹ Cf. *CB* V.6. 1134a17-23, V.7. 1135a8-15, V.8. 1135a15-17, 1135b19-25.

is not the same as (D3) just action that speaks of a just character; for that, Aristotle says that one must act from *prohairesis* or 'choice'.

This threefold distinction between what is just, just action, and just character is unique to justice; for no other virtue does Aristotle make a parallel threefold distinction.²² Aristotle does not attempt to define courage (for example) in terms of doing what is courageous (*ta andreia*) or courageous action (*andreiopragia?*), or define *sophrosynê* in terms of doing what is temperate (*ta sôphrona*).²³ This has to do with the way the Greeks talk about justice: first, *to dikaion* and *to adikon* were commonly used in everyday language to talk about what's required and what's forbidden with respect to justice, while the corresponding adjectives (*to andreion*, *to sôphronon*) were not so used in the case of the other virtues. This in turn comes from the fact that 'what is just' can be defined in terms of laws or equality, as Aristotle maintains (*contra* Plato²⁴); but laws do not legislate what is temperate or courageous. Second, again *contra* Plato, justice cannot be defined purely in terms of a state of the soul (e.g., passions, appetites, emotions), but has to be defined in terms of an agent's intended object, and whether the agent

²² Williams 1980: 190 thinks that this is all 'standard Aristotelian doctrine about bad acts and their relation to character and intention', and does not notice some of the ways that the case of justice is unique. However, his distinction between (A) 'acts that are V acts but are not the acts of a V person, and (B) acts that are both V and the acts of a V person roughly correspond to my distinction between D2 and D3, but he does not recognize D1 as a separate category.

²³ Aristotle does use the expression *ta andreia* for 'courageous actions' (*MM* 1.34.23.5) and *to andreion* in the sense of 'manliness' or 'courage' at *Rhet.* 1364b37 (which reflects its use elsewhere at *Th.* 2.39, *E. Supp.* 510, *Andr.* 683); he uses *ta sôphrona* for 'temperate actions' (*EN* II.4. 1105a18 ff.), though he does not use *to sôphron* in the sense of *sôphrosynê* which reflects its use elsewhere at e.g., *S. Fragm.* 786, 683; *E. Hipp.* 431, *Th.* 1.37, 3.82. But none of these are the counterpart to Category D1 for justice.

²⁴ Polemarchus' attempt to define justice in terms of characteristic just actions founders in *Republic* I; by contrast, in *Republic* IV, Socrates defines justice in terms of the parts of the soul in *Republic* IV. This gives rise to the famous objection by David Sachs (1963), that Socrates' definition fails to capture 'vulgar justice' as opposed to psychic justice.

correctly aims at what is just.²⁵ One cannot know what the virtue *dikaiosynê* is without knowing what it is for an action or state of affairs to be *dikaion*, and doing what is just and avoiding what is unjust are requirements for being just and unjust in character, respectively. This in turn implies that the just person acts on reasons and that those reasons involve a correct evaluation of what things are worth, what people deserve, and what they are owed. By saying that the just person is one who does just actions, or brings about just states of affairs, Aristotle makes it essential to being a just person that one possess the intention to do what is just—the just person doesn't do just actions unknowingly or by accident. Justice is not a matter of feelings or (mere) desires, nor is it simply a matter of the holistic relations between soul-parts, as Plato holds – rather, some things are required by justice, and one must have an awareness of something as those as being the just thing to do, and hence one must have a rational intention to do it, in order to qualify as being a just person. This is of course consistent with the central role that practical reason and deliberation play in Aristotle's theory of virtue; justice, more than any other virtue, requires practical reason and deliberative awareness of what is just and morally valuable. Another way of putting this is to say that justice, unlike the other virtues, is about external 'facts' as we might put it, about duties, obligations, and other requirements that one must meet, in order to do 'what is just'. The virtue of justice cannot be characterized without essential reference to these 'external facts'.

²⁵ This is certainly true of Plato's *Laws*, but arguably is true of the *Republic* as well, where the role of laws in the Kallipolis has generally been neglected, though see Brown 2000, Brown 2004, Schofield 2006, Lane 2013a, and Annas 2012.

Thesis 2 – with its three-fold distinction between (D1) just action-types or just outcomes, (D2) just actions, and (D3) just character – sheds light on the question of whether Aristotle should be understood as a ‘virtue ethicist’. For it makes a claim about the relative priority among these three terms. ‘Virtue ethics’ makes the notion of character primary in ethical theory; it makes the notion of virtuous character definitionally prior to that of right or virtuous action, since virtuous action is defined in terms of what the virtuous person would do.²⁶ This is true for most of the virtues in Aristotle; for example, the virtue of courage is definitionally prior to courageous actions if (as many people think he holds) courageous actions are all and only those actions that a courageous person would do. But as I understand Thesis 2, it implies that justice is exceptional, since Aristotle in the case of justice, this priority is reversed, and just actions (D2) are definitionally prior to just character (D3).

There are plenty more things to say about Thesis 2, but for our purposes, the important point is that one should not assume that Aristotle as a good ‘virtue ethicist’ makes the virtue of *dikaiosynê* prior to what is just *to dikaion*. It is the latter that is the more important notion.²⁷ As we shall see, Aristotle’s principal concern in both the *CB* III 3-5 and in the *Politics* is *to dikaion*; the virtue of *dikaiosynê* is by comparison hardly mentioned.²⁸ The *mesotês* in justice is not like that of the other virtues. First of all, there is no *mesotês* in general justice, only in special

²⁶ For a classic discussion of this question see Watson 1990.

²⁷ For a discussion of *pleonexia* and special justice, see Ch. 5 of my book.

²⁸ Schütrumpf 2018a notices this too; he however comes to very different conclusions from mine, arguing that ‘distributive justice’ plays a very small role in Aristotle’s constitutional theory, and is only confined to *Pol.* 3.9 and 5.1 (see also Schütrumpf 2018b). He is right to note that most treatments of justice in the *Politics* ignore the distinction between what I’m calling ‘what is just’ (D1) and ‘justice’ (D3) (e.g., Irwin 1988: 432-6), but I think that important conclusion to draw is that, for Aristotle, *to dikaion* and *to adikon* are the central notions in his theory of justice, not the virtue *dikaiosynê* and vice *adikia*.

justice. Furthermore, in special justice, the virtue (D3) cannot be represented as a mean, but rather *to dikaion* (D1); for the intermediate for special justice is *to ison* 'the equal'. As we shall see, Aristotle's primary interest in the *Politics* is not in the personal virtue of justice, but in *to dikaion* (D1).

§3. Special justice in Aristotle

The payoff for Aristotle's new conception of special justice comes in the *Politics* where he puts his notion of distributive justice to work. In *Politics* III 9, Aristotle famously discusses the different types of *politeiai* in terms of what is just. It is remarkable that Aristotle is arguing that different *politeiai* can be compared in terms of fairness. For it is, I believe, the first time that such an argument is made in Greek thinking, and it's only possible because Aristotle carved out a notion of special justice to put to this use.

First, a bit of background is needed to establish the idea that what Aristotle is doing is innovative. Aristotle defines [T5] a *politeia* as 'an arrangement in cities connected with the offices, establishing the manner in which they have been distributed, what the authoritative element of the regime is, and what the end of the community is in each case [πολιτεία μὲν γὰρ ἐστὶ τάξις ταῖς πόλεσιν ἢ περὶ τὰς ἀρχάς, τίνα τρόπον νενέμηνται, καὶ τί τὸ κύριον τῆς πολιτείας καὶ τί τὸ τέλος ἐκάστης τῆς κοινωνίας ἐστίν·]' (tr. Lord, IV.1.x. 1289a15-18); hence, 'politeia' is variously translated as 'constitution' or 'regime'.²⁹ But elsewhere Aristotle describes the *politeia* of a city quite broadly as 'the way it lives' or 'its way of life' (Pol. IV.11.iii. 1295a40-b1; IV 1.

²⁹ See Robinson 1995 (orig. 1962): xv-xvii and Mulgan 1977: 55-60 for differences between the modern notion of a constitution and Aristotle's *politeia*; see Keyt 1995: 132-133 for reasons for thinking that the two notions are not as different as they supposed.

1289a15-18), and here he is following Greek usage, where the *politeia* refers not just to the political and legal institutions and arrangements of the city, but more broadly the aims and values of those institutions, including a certain 'way of life'.³⁰ The *politeia* of a city, quite generally understood, is therefore both an ethical and institutional concept. And it was a subject of intense interest already by the late 5th century BC, giving rise to a genre of written texts variously called *Politeia*, *Peri politeias*, *Peri tês aristês politeias*, and *Politeia of the so-and-so's*, a genre that was partly historical ('this is how the Athenians do things...') and partly normative ('in praise of the Athenians...'). Plato's *Republic* was of course his *Politeia*, and to write a book entitled *Politeia* in the early 4th c. BC was to make a contribution to this genre as well. Such texts might discuss various kinds of *politeiai*, with a view to arguing for one best kind, or they might focus on one particular type in order to praise it in contrast with other types.³¹ For example, pseudo-Xenophon's *Politeia of the Athenians* argues that while the *tropos tês politeias* of the Athenians is bad, all of their laws and customs are good in the sense of preserving that *politeia*. He makes, as Menn puts it, a distinction between the *tropos tês politeias* identifiable with the ruling group, and the particular customs designed to preserve that *tropos*. The genre thus assumes that the laws of each *politeia* promote the interest of the rulers; the *politeuma* or 'ruling body' which is sovereign (*kurion*) in the city is the *politeia* (an

³⁰ Aristotle holds that a constitution is a city's way of life, assigning them different ends. Oligarchy aims at wealth (*Pol.* IV 8. 1294a11, V 10. 1311a9-10); democracy aims at freedom (IV 8. 1294a11, V 9. 1310a28-34, VI 2. 1317b11-14); aristocracy aims at virtue (III 17. 1288a9-12, III 18. 1288a32-41, IV 8. 1294a10-11).

³¹ Extant texts of this genre include the pseudo-Xenophon *Politeia of the Athenians*, the genuine Xenophon *Politeia of the Spartans*, Aristotle's *Politeia of the Athenians*, and Cicero's *De re publica*; these references are from Menn 2005: 5, who also gives references to works now lost by authors such as Hippodamus of Miletus, Phaleas of Chalcedon, a *Peri politeias* by Protagoras, a *Politeia* forged in the name of Aristoxenus, the lost *Politeiai* of the Spartans and of the Thessalians by Critias, as well as those by Thibron, Lysander and Pausanias. Menn gives enough examples to confirm that the genre was neither begun by Plato, nor was his the generic model for all subsequent examples of the genre.

assumption still visible in Aristotle—*Pol.* III 7. 1279a25-8, cf. III 6. 1278b8-14), and the laws of the *politeia* should aim at the interest of the ruling party. The genre is Laconizing and Sparta-focused, clearly motivated by the very great enthusiasm that some Athenians had for the Spartan *politeia*. But there were evidently *Politeia of the so-and-so's* for other types of *politeia* as well.

This genre of political writing was evidently intended to demonstrate or teach about how to legislate for particular states. It is assumed that the laws of any *politeia* ought to promote the aim, interests, and values of the ruling party, and to preserve the *tropos tês politeias* ‘political way of life’ characteristic of each type.³² Protagoras is particularly associated with this kind of political science: in the *Protagoras*, Plato has Protagoras lay claim to ‘political wisdom’ (*politikê sophia*, 321d4-5), ‘the art of politics’ (*politikê technê*, 322b5), and ‘political excellence’ (*politikê aretê*, 322e2-3), which he identifies with ‘the art of deliberation’ (*euboulia*, 318e5-319a2).³³ As for the content of this teaching, we get hints that it was tailored to the regime or character of each city ([T6] *Tht.* 167c2-7 ‘The wise and efficient politician is the man who makes wholesome things seem just to a city instead of pernicious ones. Whatever in any city is regarded as just and admirable *is* just and admirable, in that city and for so long as that convention maintains itself; but the wise man replaces each pernicious convention by a wholesome one, making this both be and seem just. Similarly the professional teacher who is

³² As Mulgan 1977: 56 puts it, “The concept of ‘constitution’, though it has ethical connotations, is still a descriptive concept, referring to the actual values of particular communities without implying preference for any particular set of values. The aims and values of a particular constitution are not valuable absolutely but only to the members of that constitution.’ Thus, for example, Aristotle gives a definition of citizenship that is neutral between politeiai: the virtue of the citizen is to preserve the *politeia* (*Pol.* III 4).

³³ Aristotle describes the sophists as claiming to teach ‘politics’ (*ta politika*, *EN* 10.9.1180b35-1181a23). On Protagorean political wisdom, see Barney (ms 2009); Denyer 2013.

able to educate his pupils on these lines is a wise man, and is worth his large fees to them’; ‘Consider political questions. Some of these are questions of what may or may not fittingly be done, of just and unjust, of what is sanctioned by religion and what is not; and here the theory may be prepared to maintain that whatever view a city takes on these matters and establishes as its law or convention, is truth and fact for that city. In such matters neither any individual nor any city can claim superior wisdom. But when it is a question of laying down what is to the interest of the state and what is not, the matter is different. The theory will again admit that here, if anywhere, one counsellor is better than another; here the decision of one city may be more in conformity with the truth than that of another’ *Tht.* 172a-b). Socrates suggests that a Protagorean philosophy of legislation would hold that what is just is simply whatever the laws of a city-state establish—here, things are just if they seem so for a city-state. But as to what is in the interest of the city, it is a matter of political wisdom to be able to discern it and to persuade a city to adopt legislation that promotes its own interest (*Tht.* 167c, 179a). When Thrasymachus in Plato’s *Republic* holds that the art of ruling is being able to legislate whatever maintains power and wealth for the “ruling part” (*Resp.* 1.338d-339a), he is simply putting Protagoras’ ideas more crudely, and in a more sinister light: ruling parties will legislate for their own interests and institute laws that promote their own advantage.³⁴

Thrasymachus says, [T7] “Each (*polis*) makes laws to its own advantage. Democracy makes democratic laws, tyranny makes tyrannical laws, and so on with the others. And they declare what they have made—what is to their own advantage—to be just for their subjects,

³⁴I owe this point to Menn, ‘On Plato’s *Politeia*’; see also Balla forthcoming. For a very helpful study of Thrasymachus and Plato’s reaction to him, see El Murr 2019.

and they punish anyone who goes against this as lawless and unjust. This, then, is what I say justice is, the same in all cities, the advantage of ‘the established rule’ (τὸ τῆς καθεστηκυίας ἀρχῆς συμφέρον, 339a1; cf. Protagoras’ title *περὶ τῆς ἐν ἀρχῆς καταστάσεως*, DL IX 55). Since the established rule is surely stronger, anyone who reasons correctly will conclude that the just is the same everywhere, namely, the advantage of the stronger” (*Rep.* I. 338d-339a). This implies, of course, that there is no further way of evaluating laws besides whether they promote the interest of the ruler (or the “stronger”, as Thrasymachus puts it), no further normative question to be asked about whether the laws are *just*, since “justice” talk is nothing more than what the laws order and command.³⁵ This origin story about justice shows that it is simply a matter of obeying the laws of one’s *polis*—laws themselves are to be evaluated not by whether *they* are just or unjust, but rather by whether they do or don’t effectively promote the interest of the rulers. Thus for example, in his *Politeia of the Lacedaimonians*, Xenophon nowhere attempts to argue that the Spartan *politeia* is more just than the Athenian *politeia*.³⁶ In Aristotle’s *Ath. Pol.*, the term *dikaion* ‘just’ only appears twice (9.2.8, 11.1.6); likewise, Book II of the *Politics* hardly refers to considerations of what is *dikaion* or ‘just’.³⁷ If, as Rawls says,

³⁵ Menn 2005: 14; Barney 2011.

³⁶ The term *dikaion* doesn’t appear in that work; it appears three times in the *Constitution of the Athenians* (1.2.8, 1.13.10, 3.13.6).

³⁷ My somewhat cursory and admittedly inexpert search has not yielded any examples in Greek political writing of discussions of the relative advantages of one type of *politeia* over another couched in terms of justice as fairness. Herodotus’ famous debate between Otanes, Megabyzus and Darius comparing monarchy (Darius III 82.1-6), *plêthos archon* ‘rule of the multitude’ (Otanés III 80.1-6) and oligarchy (Megabyzus III 81.1-3) does not contain considerations about what would be most just (though once they opt for monarchy, the question does arise, what is the fairest way (δικαιότατα) to make a king, III 84.1). Solon certainly discusses justice and injustice; *eunomiê* is for Solon the state of social well-being which any act of injustice impairs and which *stasis* destroys. Solon reacts to and rejects demands for *isomoiria* (see Vlastos 1946). He does not compare *politeiai* or suggest that one type of *politeia* is more just than another, but he does defend certain political arrangements and institutions as being more just in the sense of being more fair:

δήμῳ μὲν γὰρ ἔδωκα τόσον κράτος ὅσον ἀπαρκεῖ,
τιμῆς οὐτ’ ἀφελῶν οὐτ’ ἐπορεξάμενος:

justice is the first virtue of social institutions, that is not a leading consideration for these discussions of *politeia* in antiquity. In other words, there are many other values and bases for comparison besides justice (such as overall happiness, security, stability, law and order) when these authors talk about *politeiai* and ways of arranging the *polis*.

Plato of course puts us on notice that he's going to call this into question when he begins *his Politeia* with a statement of this tacit assumption and puts it into the mouth of Thrasymachus; he thereby signals that this assumption is in his cross-hairs, and indeed, he goes on to give a very different account of justice that goes beyond the idea that justice is simply whatever the *polis* legislates for its citizens. Rather, the *politeia* itself can be evaluated as being just or unjust — even as an individual can be — depending on whether its parts are functioning as they should, and, in a nod to Simonides, each part does what it should (Rep. IV). This re-definition of justice allows Plato to make meaningful cross-*politeia* comparisons, such as that

οἱ δ' εἶχον δύναμιν καὶ χρήμασιν ἦσαν ἀγητοί,
καὶ τοῖς ἐφρασάμην μηδὲν ἀεικέες ἔχειν.
ἔστην δ' ἀμφιβαλῶν κρατερόν σάκος ἀμφοτέροισι:
νικᾶν δ' οὐκ εἶασ' οὐδετέρους ἀδίκως. (Solon, Frag. 5 (Bergk); Aristot. Ath. Pol. 12.1)
For to the common people I gave so much power as is sufficient,
Neither robbing them of dignity, nor giving them too much,
And those who had power, and were marvelously rich,
Even for these I contrived that they suffered no harm
I stood with a mighty shield in front of both classes,
And suffered neither of them to prevail unjustly.

A nascent idea of distributive justice also seems to be present in Solon Fr. 36. 18-19 εἰς ἕκαστον ἀρμόσας δίκην 'awarded to each his due', as well as in Theognis: δασμὸς δ' οὐκέτ' ἴσος γίνεται ἐς τὸ μέσον "no longer is there an equal distribution in the common interest' (677-78). See also Thucydides 6.39: 'It will be said that a democracy is neither wise nor equitable but that the holders of property are also the best fitted to rule. ... But an oligarchy gives the many their share of the danger, and not content with the largest part takes and keeps the whole of the profit; and this is what the powerful and young among you aspire to, but in a great city cannot possibly obtain.' (spoken by a Syracusan about democracy) This too seems to be about what is equitable and fair—and comes close to being an example of an argument for the idea that one type of *politeia* is more fair than another. *Isonomia* 'equality before the law' and freedom were bywords for democracy (Herodotus 5.78). My argument is therefore not that the Greeks were incapable of thinking about fairness and equality in political and social arrangements and relations, but rather that these types of arguments were not being made in the *Peri politeias* genre to which Plato's *Republic* and Aristotle's *Politics* were contributions.³⁸ See also Menn 2005: 15 who notes the connection between Thrasymachus and the sophistic theory of the *politeia* in both *Republic* I and in *Laws* IV.

the Kallipolis is more just than a timocracy, which in turn is more just than an oligarchy, etc. The cross-*politeia* comparisons in Rep. VIII-IX are all about good functioning in the respective *poleis*. The Kallipolis is the ‘happiest and most just’ *polis* (“the best, the most just, and the most happy is the most kingly, who rules like a king over himself, and that the worst, the most unjust, and the most wretched is the most tyrannical, who most tyrannizes himself and the city he rules”, *Rep.* IX. 580b-c, see also VIII. 544e, 545a, 548d); a tyranny is the most ‘unjust’ because it is the most lawless and anarchic (572b, e, 575a, b, 576a). “Just” and “more just” here clearly mean something like “well-functioning” and “well-ordered”, as opposed to “unjust” which means lawless and disordered.

In the *Laws*, Plato has the Athenian argue that in a true *politeia*, one part does not rule over the others for its own interest.³⁸ At *Laws* 4. 712e-713a the Athenian says, [T8] ‘As for the ones we named a moment ago, they are not true political systems, but simply ways of running cities in such a way that they are masters and slaves to one part of themselves—each of them being called after the ruling element in it’ (tr. Griffith). The Athenian alludes to the Thrasymachean view of justice here:

“You’re aware that *some people say* [i.e., writers of *Peri politeias*] there are as many types of law as there are types of political system. ... The laws, *according to these people*, should not have an eye to war, nor to human goodness taken as a whole. No, whatever the prevailing system of government may be [ἥτις ἂν καθεστηκυῖα ἦ πολιτεία], that is the body

³⁸ See also Menn 2005: 15 who notes the connection between Thrasymachus and the sophistic theory of the *politeia* in both *Republic* I and in *Laws* IV.

whose interest the laws should look to [ταύτη ἰδεῖν τὸ συμφέρον], to make sure it continues in power for ever and is not overthrown. And they say that the best natural definition of justice...is that justice is what is in the interest of the stronger [τὸ τοῦ κρείττονος συμφέρον, cf. Rep. I. 338c2]. ... It is what has power, presumably, in any particular city—this is what they say—which makes the laws, isn't it? ... 'And do you remotely suppose,' they say, 'when the common people comes out on top—or some other form of government, or a tyrant, for that matter—that left to itself it will make laws whose principal aim is anything other than what is advantageous to itself, namely, the maintenance of its own rule? ... And whatever has been enacted, whoever enacted it will give it the name 'justice', and will punish as a wrong-doer anyone who infringes it. ... In which case, what is enacted would, at any particular moment — and by this process—constitute justice.' ” (*Laws* 4. 714b-d, tr. Griffith)

The Athenian then goes on to reject this conception of justice, arguing that

“...these are not systems of government [*politeiai*], nor are they proper laws if they were not made for the common good of the city as a whole. Where laws are made for the benefit of one group only, we call these people partisans, not citizens. The 'justice' proclaimed by these laws is nothing but words' (4. 715b).

The only 'true' *politeia* is therefore one where the aim of legislation is the common good of the citizens as a whole. Much more can be said about Plato's argument against

Thrasymachean/Protagorean relativism (e.g., his appeal to natural theology at *Laws* X. 888d7-890d8) but I hope this is enough to establish the leading ideas in Plato that Aristotle is following.

To whom we now turn. Like Plato, Aristotle rejects the Thrasymachean view of justice. He alludes to the Thrasymachean view of justice³⁹ at *Pol.* III 10, when he asks, who should be *to kurion* ‘the authoritative element’ of the city—the multitude, the wealthy, the virtuous (*hoi epieikeis*), the one who is best of all, or a tyrant? He imagines how a debate between these might go; the debate illustrates what claims of justice and injustice look like on the Thrasymachean view.

- (1) Suppose the poor distributes the possessions of the wealthy—how is this not unjust (e.g., in the view of the wealthy)?⁴⁰ Reply by the poor: “By Zeus, it was resolved in just fashion by *to kurion*! [ἔδοξε γὰρ νῆ Δία τῷ κυρίῳ δικαίως]” (*Pol.* III 10. 1281a16).⁴¹ That is, whatever *to kurion* resolves to be just *is* just in a democracy. But if the extreme of injustice is the majority distributing among itself the possessions of the minority, this will lead to civil war and destroy a city. How could a law (i.e., that the majority should take over the possessions of the minority) be just if it destroys the city in this way?
- (2) Likewise, suppose a tyrant “is superior and uses force, like the multitude with respect to the wealthy”—and again, presumably he would reply “By Zeus, it was resolved in just fashion by *to kurion*!”. But to regard the tyrant’s actions as just would be an even greater paradox, since a tyrant was commonly regarded as the incarnation of injustice (*Pl. Rep.* 344a).

³⁹ Schütrumpf also takes *Pol.* III 10 to be about Thrasymachus (Schütrumpf 1991: 491). Newman (v. 3, p. 210) thinks Aristotle probably has in mind “*Xen. Mem.* I 2. 42ff., where Pericles is compelled by Alcibiades to admit that a law imposed by force whether by a tyrant, the few, or the many, is not law but lawlessness. Compare also Plutarch, *Ad Princ. Inerudit.* c. 4.”

⁴⁰ *Rep.* VIII. 557a ‘That’s how democracy is established, whether by force of arms or because those on the opposing side are frightened into exile’.

⁴¹ Newman translates ‘No, for by Zeus it was justly decreed by the supreme authority’—where ‘justly’ means, ‘what the supreme authority decides is *ipso facto* just’ (Newman v3, p. 210).

(3) Likewise, suppose the wealthy rule and “act in the same way and rob and plunder the possessions of the multitude”⁴²—this is not just either, despite the fact that they could argue in the same way as the democrats above.

The Thrasymachean view about justice cannot explain why those who are ruled and are shut out of power have a legitimate complaint about this being unjust, i.e., unfair. But Aristotle’s reply is that all of these would be “bad and unjust.” And his theory can explain why. Like the Athenian in the *Laws*, Aristotle rejects the Thrasymachean view when, in *Politics* III 6. 1279a18-22 and III 7. 1279a22-b10 (and IV 2. 1289a26-30), he distinguishes between correct [ὀρθαί] and deviant [παρεκβάσεις] *politeiai* on the basis of this question of whether the laws are made for the benefit of the ruling party only, or the common good. Aristotle thus follows Plato in (1) rejecting the Thrasymachean view of justice, and in (2) suggesting that the ‘true’ or ‘correct’ *politeia* is one whose aim is the common good or common advantage, which in turn (3) makes cross-politeia comparisons possible. Some are “correct” and others are deviant depending on whether they aim at the common good or not (*Pol.* III 6-7).⁴³

(Things are in fact a bit more complicated than I have represented, because there is a definite, though limited, way in which Aristotle accepts the Thrasymachean picture. For he actually agrees that the aim of legislation is to preserve the *politeia* and that political justice and virtue is different in each *politeia* (cf. Menn 2005: 18; *Pol.* III 11. 1282b10-11, IV 1. 1289a11-15, V 9. 1309a36-39; EN X 9. 1121b22); hence, he notoriously defines the citizen as one whose goal

⁴² Cf. *Rep.* VIII. 547b.

⁴³ Aristotle does not say whose advantage the common advantage is, but seems to take it for granted that it is the advantage of the citizens. After all, it does not include the advantage of slaves (III 6. 1278b32-7). Newman remarks: “The common advantage ... which a State should study is the common advantage of the citizens...and that of other classes, only so far as their advantage is bound up with that of the citizens’ (Newman i. 119n).

is to preserve his *politeia* (III 4. 1276b21-9).⁴⁴ And so to that extent he accepts the Thrasymachean picture, though in a very qualified sense. And at least in the case of the deviant constitutions Aristotle adopts what Paul vander Waerdt has called a “double teleology”, namely, that the laws of the *politeia* should aim to preserve that *politeia*, but at the same time, they should attempt to ameliorate the defects of that type by aiming at the common good.⁴⁵ But we can set this aside for the purposes of this paper.)

But notice that Plato never makes claims about the relative fairness of the *politeiai*. In the *Republic*, there are no arguments about fairness, no attempts to argue that one type of *politeia* is more fair than another. Plato never suggests that one type of *politeia* might be more fair than another in the *Laws*; indeed, the topic of justice hardly comes up in the *Laws*.⁴⁶ He does not discuss or make use of a notion of distributive justice. He does discuss property distribution and debt cancellation in Book V,⁴⁷ as well as the desirability of an even distribution of property in the new colony, but he never mentions that such a distribution would be *dikaion*, and in general, justice is not the motivation in making sure that the distribution of land in the colony is equal and equitable (*Laws* V. 737c-d), but rather the avoidance of conflict and strife (737ab “property needs somehow or other to be allocated in a way that does not allow disputes between the citizens”).⁴⁸

⁴⁴ For discussion see Kraut 2002: 363, 369n13, 368-376.

⁴⁵ Vander Waerdt 1985.

⁴⁶ See Bartels 2017; on her view, the relative absence of *dikaiosynê* and considerations of justice in the *Laws* is to be explained by the pragmatic methodology that Plato adopts for the *Laws* (Bartels 2017: 10, 11).

⁴⁷ See also Solon’s rejection of *isomoiria* in Vlastos 1946.

⁴⁸ Many thanks to Susan Sauvé Meyer for drawing my attention to these passages. Considerations of equality are certainly present in the *Laws*. For example, the Athenian proposes a method of selecting the members of the council, which has the effect of weighting in favor of the two highest property classes. He seems to identify the principle being used as the *meson*, which he then identifies with a kind of equality – not strict equality but proportionate equality – which he then in turn says is justice (6. 756e-757e) (see Barker pp 196-7; Schütrumpf

Aristotle advances beyond Plato in proposing a rather different, and arguably more powerful, theory.⁴⁹ That is because he has a concept of distributive justice, which he puts to use for precisely this purpose, i.e., to argue that there are different conceptions of justice for the different *politeiai*,⁵⁰ and that they can be evaluated in terms of fairness. Disputes between different groups all of whom advance a claim to just rule should be settled “philosophically”, as Aristotle puts it (*Pol.* III 12. 1282b17-23).⁵¹ That is, it is political philosophy that can help to explain what people disagree about, and to resolve disputes about fairness and unfairness in the *politeia*.

§4. Justice as fairness in the *Politics*

Let us now turn to Aristotle’s concept of special justice. The payoff for his distinction between special and general justice as well as his distinction between D1 from D3 is this: it is now possible to talk about justice as fairness in the institutions of the *polis*.

Aristotle defines distributive justice as the allocation to persons of shares of some good (V 3. 1131a19-20): it is a kind of geometric proportion (EN V 3. 1131b12-13) involving at least two

2018: 163). He never quite comes out and says that this is the fairest method of selection. But it is interestingly close to Aristotle’s formula of justice = meson = equality.

⁴⁹ For another reading of Aristotle according to which he has an anti-Platonic agenda, see Kraut 2002: 100-1, 169-174.

⁵⁰ To use Rawls’ distinction between a concept of justice and conceptions of justice (1999: 5).

⁵¹ [T9] “Justice is held by all to be a certain equality, and up to a certain point they agree with the discourses based on philosophy in which ethics has been discussed [e.g., CB V 3. 1131a9]; for they assert that justice is a certain thing for certain persons, and should be equal for equal persons. But equality in what sorts of things and inequality in what sort of things—this should not be overlooked. *For this involves a question, and political philosophy* [ἔχει γὰρ τοῦτ’ ἀπορίαν καὶ φιλοσοφίαν πολιτικὴν].” (1282b17-23)

⁵²

⁵³ But there are other types of distribution of honor, such as public rewards to athletes (e.g., the free meals at the Prytaneum that Socrates proposes in *Pl. Apol.* 36d-e).

persons A and B, and two things, C and D (EN V 3. 1131a18-20). Such a distribution will only count as just when the ratios are equal (1131a20-24): $\frac{A}{B} = \frac{C}{D}$.⁵⁴

But what do “A” and “B” represent? The quantities that these represent are not the persons themselves, but some basis of comparison between persons, their worth or *axia* (EN V 3. 1131a24, 26). Justice can therefore be defined as proportionate equality (as opposed to strict numerical or arithmetical equality):

$$\frac{\textit{The worth of person A}}{\textit{The worth of person B}} = \frac{\textit{The value of the thing allotted to A}}{\textit{The value of the thing allotted to B}}$$

To dikaion is what is equal, which is to say that what is just is for each person to get what is proportionately equal relative to the others’ share. But what is the relevant measure of the merit of each person? What should determine the relative amounts that C and D deserve? This is of course the big question in any dispute about justice—and the origin of conflict (CB V 3. 1131a21-28). For everyone agrees that equals should have equal shares (to use Rawls’ terminology, they agree about the *concept* of distributive justice, and assent to the principle stated above)— but they disagree about who is equal to whom—i.e., what the right measure of merit should be (and thus about the particular *conception* of distributive justice, which evaluate a person’s worth in terms of different standards). Democrats, he says, identify merit with being free; thus, anyone who’s free is “equal” to anyone else who’s free, and there are no other relevant measures of merit. Likewise, oligarchs identify merit with wealth, and think that the proper measure of desert is how much money or land you have. And finally, aristocrats identify

⁵⁴ To represent this, Aristotle replaces the ratio of things with a ratio of sums that reflects the ‘yoking together’ of A and C and B and D as follows: $\frac{A}{B} = \frac{A+C}{B+D}$ (EN V 3. 1131b3-12). For a very helpful and thorough discussion of distributive justice in Aristotle see Keyt 1991.

merit with virtue.⁵⁵ Thus, they disagree about the relevant measure of merit, and regard as unjust and unfair the “justice” proposed by the other parties.

Aristotle returns to this idea of justice as proportionate equality again and again throughout the *Politics* (III 9, as well as in IV 1 and V 1): it would not be an exaggeration to say that is the center of the normative political theory of the *Politics*—and it is these chapters where *dikaion* appears most frequently in the *Politics*.⁵⁶

Aristotle applies the concept of distributive justice to the *politeia*.

T10. ‘All constitutions are a kind of justice; for [a constitution] is a community and every community is held together by what is just’ (EE VII 9. 1241b13-15).

That is, a *politeia* is conception of distributive justice. Aristotle defines a *politeia* as an [T5] “arrangement in cities connected with the offices, establishing the manner in which they have been distributed, what the authoritative element of the regime is, and what the end of the community is in each case” (Pol. IV 1. 1289a15-18); that is, it is a distribution of offices (or

⁵⁵ Keyt 1995: 135 points out that Aristotle thinks virtue comes in degrees (EN VII 1. 1144a15-27), and therefore that there will be various kinds of correct constitutions. “Heroic virtue is the standard for kingship (I 12. 1259b10-17, III 13. 1284a3-12, VII 14. 1332b16-23); complete virtue for aristocracy; and military (or hoplite) virtue for so-called constitutions (III.7.1279a37-b4).”

⁵⁶ *Dikaios*, -on appears in the *Politics* Book I (21 times) Book II (3 times), Book III (46 times), Book IV (4 times), Book V (10 times), Book VI (14 times), Book VII (18 times), Book VIII (none); *adikos*, -on appears in the *Pol.* Book I (2 times), Book II (0), Book III (4 times), Book IV (0), Book V (1 time), Book VI (0), Book VII (1), Book VIII (0). Why do these terms appear so frequently in Books III and V, and so seldom elsewhere in the *Politics*? That is a question on which my answer diverges from that of Schütrumpf 2015, Schütrumpf 2018 (see also Garver 2012 who notes how little Aristotle discusses distributive justice in for example *Politics* VII-VIII, but for discussion see Riesbeck 2014).

'honors') according to some understanding of merit.⁵⁷ Aristotle turns to these competing conceptions of distributive justice in *Pol.* III 9:

T11. "It is necessary first to grasp what they speak of as the defining principles of oligarchy and democracy and **what justice is from both oligarchic and democratic points of view. For all fasten on a certain sort of justice, but proceed only to a certain point, and do not speak of the whole of justice in its authoritative sense. For example, justice is held to be equality, and it is but for equals and not for all; and inequality is held to be just and is indeed, but for unequals and not for all; but they disregard this element of persons and judge badly. The cause of this is that the judgment concerns themselves, and most people are bad judges concerning their own things.** And so since justice is for certain persons, and is distinguished in the same manner with respect to objects and for persons, as was said previously in the discourses on ethics [i.e., EN V 3], they agree as to the equality of the object, but dispute about it for persons. They do this particularly because of what was just spoken of, that they judge badly with respect to what concerns themselves, but also because both, by speaking to a point of a kind of justice, consider themselves to be speaking of justice simply. For the ones, if they are unequal in a certain thing, such as goods, suppose they are unequal generally, while the others suppose that if they are equal in a certain thing, such as freedom, they are equal generally." (*Pol.* III 9. 1280a7-25, tr. Lord).

⁵⁷ In II 7, he opposes Phaleas' proposal that land be divided equally. He seems to think that no one in his ideal city should be in want of sustenance (*Pol.* VII 10. 1329b40-1330a4)– and seems to envision the new colony being established with equal plots of land (1330a10-23). But he does not entertain more radical proposals of wealth egalitarianism even for the ideal city. For discussion see Kraut pp. 221-4, 388. Schofield 1999 argues for a qualified egalitarianism in Aristotle's *Politics*.

In this passage, Aristotle acknowledges that saying that something is ‘unfair’ is to make a very specific type of complaint. Saying that “this is unfair” is different from saying “this is bad for me” or “boo to this.” As any parent can attest, the complaint is specifically relative—it’s about what I get or deserve in comparison with another. The complaint that (for example) I got less than he did, or that I got less than I should, or that I got less than my fair share, is very different from two people each expressing incompatible preferences (e.g., that I and not she should get the toy or the car), and each desiring to get their own way.⁵⁸ The complaint expresses a particular type of disagreement, which appeals to a common standard that would justify the claim. Thus, the person who complains of unfair treatment or of receiving an unfair share is not denying that the others might also have some standing to make a claim. But she is insisting that she too deserves a certain, i.e., her fair share. That is, she is insisting on equality and equal treatment.

To hear the difference between the two types of complaint, compare *Politics* III 11 and III 9. In *Politics* III 11, which I quoted above, Aristotle says, imagine the poor redistributing amongst themselves the possessions of the wealthy — “how is this not unjust?” They receive the reply: “By Zeus, it was resolved in just fashion by *to kurion!*” That is, whatever *to kurion* resolves to be just *is* just in a democracy. The implication then is that whoever is *kurios* establishes the laws favoring their own rule, and that there’s nothing more to be said about justice than that.

⁵⁸ Hatzistavrou 2013 distinguishes between “injustice-induced faction” and “greed-induced faction” in Aristotle’s account of faction in *Politics* Book V. For a very helpful discussion of the connection between resentment and justice in *Politics* V see Saxonhouse 2018; she rightly (in my view) argues against the view that Aristotle’s main goal in Book V is stability as a political end, since as she argues stability is not unconnected with justice.

By contrast, in *Politics* III 9, Aristotle is pointing out that there is in fact a common ground between the two parties, as well as a basis for the complaint. For all parties agree that justice is equals for equals, but they disagree about what measure or standard should be used for determining merit or desert. That is, how should one adjudicate between the “democratic” conception of equality and the “oligarchic” conception of equality?⁵⁹ His answer is not to “resolve it in just fashion by *to kurion!*”, which is to say that might makes right — but rather to develop a way of resolving the differences by considering what the relevant measure or standard should be used. And in his view, both conceptions of justice have some merit to them, but they also miss part of the truth as well. That is why he emphasizes that “they judge badly” concerning themselves and their own merits. They only notice what their own claim to merit is, and think that outweighs any other conception of merits that others might have. And this is a mistake that leads to the disagreement.

Aristotle argues that to resolve the dispute and to see the mistake each party is making, one must consider the nature of the *polis*. The *polis* is a ‘community’ or ‘partnership’ (*koinônia*), a concept that is fundamental to his political theory. As he says in the opening lines of the

Politics:

⁵⁹ Aristotle goes on to characterize each type of constitution as having a dominant principle and goal; wealth is the goal of an oligarchy, and accordingly the distributive principle in an oligarchy is wealth, where political office typically involves a property qualification (III.8. 1280a1-6). Virtue is the goal of an aristocracy and virtue (in the form of good birth) will likewise be the distributive principle (III.17. 1288a9-12; III.18. 1288a32-41). In a democracy the dominant goal is freedom, and free status is therefore the distributive principle in a democracy (III.8. 1280a1-6). Accordingly, Aristotle speaks of “demotic equality” (“demotic justice” VI 2. 1317b3. See also VI 2. 1318a4 ‘democratic justice’) or “oligarchic equality”, meaning, the mistaken conception of justice as equality that these partisans hold.

T12. ‘Since we see that every *polis* is some sort of *koinônia*, and that every *koinônia* is constituted for the sake of some good (for everyone does everything for the sake of what is held to be good), it is clear that all communities aim at some good, and that the community that is most authoritative of all and embraces all the others does so particularly, and aims at the most authoritative good of all. This is what is called the city or the political community.’
(*Pol.* I 1. 1252a1-7)

The noun *koinônia* derives from the adjective *koinos* ‘common’, and means literally a ‘having in common’ or a ‘sharing’. Each *koinônia* then has some good that is being shared among the members of the community, and aims at that as a shared good (cf. *Pol.* 2.1. 1260b39-40).⁶⁰

That shared good will be the key to the question about merit—as Aristotle argues in *Pol.* III 9. In *Pol.* III 9, Aristotle considers three types of *koinônein* or *koinônia*, all of which have different shared goods that are aimed at. With different shared goods go different notions of merit that are relevant to the question of fairness.

“If it were **for the sake of possessions** that they participated and joined together (ἐκοινώνησαν καὶ συνῆλθον), **they would share in the city** [μετέχουσι τῆς πόλεως] **just to the extent that they shared in possessions**, so that the argument of the oligarchs might be held a strong one; for [they would say] it is not just [οὐ γὰρ εἶναι δίκαιον] for one who has contributed one mina to share equally in a hundred minas with the one giving all the rest,

⁶⁰ See also EE VII 9 (quoted earlier) and EN VIII 9. 1159b26-27 (quoted later in this paper). For a helpful discussion of this argument see Keyt 1991: 253-4; see also Mulgan 1977: 14-15. For a comprehensive discussion of *koinônia* in Aristotle, see Riesbeck 2016.

whether [he derives] from those who were there originally or the later arrivals.” (III 9.

1280a25-30)

If the purpose of the *koinônia* were ‘for the sake of possessions’, say in a going concern, then the correct measure of merit for each share would be the amount of initial investment each partner put into it; it would not be fair for the person who put in one mina to receive the same profits as the one who put in 99 minas. Thus, in a corporation or business partnership, wealth – i.e., contribution of investment – is absolutely the way to determine merit. Of course, sweat equity might make a difference too. If one party puts up the investment, whereas the other does all the work – it is fair for each to get a share of the profits.

But if the shared goal of the *koinônia* were a treaty of alliance (e.g., “for the sake of an alliance to prevent their suffering injustice from anyone” 1280a34), or pact to provide mutual aid or mutual non-aggression, then presumably the share of each should be determined by how much they contribute to that goal. Thus, the bigger and more powerful states might have more of a say than the smaller and less powerful states.

But Aristotle argues that a *polis* is not for the sake of wealth, or security—though both are necessary for the city to exist.

T13. “It is evident, therefore, that a city is not a community sharing a location and for the sake of not committing injustice against each other and conducting trade. These things must necessarily be present if there is to be a city, but not even when all of them are present is it yet a city, but *the city is the community in living well both of households and families for the sake of a complete and self-sufficient life*. This will not be possible, however, unless they inhabit one and the same location and make use of intermarriage. It was on this

account that marriage connections arose in cities, as well as clans, festivals, and the pastimes of living together. (*Pol.* III 9. 1280b30-35)

It is certainly a necessary condition that of the *polis* that it secure mutual defense and mutual non-aggression (1280b30-32). But if that were its sole end, then the *koinônia* could consist of people who didn't actually live together, and indeed it could consist of parties that were located far from each other—as with a deal between the Etruscans and Carthaginians. But a *polis*, Aristotle wants to say, consists of people who seek a “complete and self-sufficient life” together (1280b34-35, 1281a1), and that requires living together and intermarriage. Thus, a *polis* is “a partnership in living well both of households and families for the sake of a complete and self-sufficient life [ἡ τοῦ εὖ ζῆν κοινωνία καὶ ταῖς οἰκίαις καὶ τοῖς γένεσι, ζωῆς τελείας χάριν καὶ αὐτάρκους]” (1280b33-34, repeated again at 1280b40-1281a10). A ‘self-sufficient’ life is one which lacks nothing to be the best possible life, as spelled out in the *Nicomachean Ethics* I 7. 1097b20. Because its aim is *autarkeia*, i.e., a life that lacks nothing for happiness, its aim is “living well” (1280b39), or “living happily and finely” (1281a2).

Why would people enter into such a partnership? Aristotle's answer:

T14. “This sort of thing is the work of friendship [φιλίας ἔργον]; for the intentional choice of living together is friendship [ἡ γὰρ τοῦ συζῆν προαίρεσις φιλία]” (1280b38-40, tr. Lord modified).

It is friendship that induces people to live together and seek a good life together. And since the forms of friendship include families and villages, that is why a city “is the community of families and villages [ἡ γενῶν καὶ κωμῶν κοινωνία] in a complete and self-sufficient life” (1280b40-1281a1); other forms of community include “connections by marriage, brotherhoods, religious

festivals, and the pursuits in which people share their lives” (1280b36-38).⁶¹ Living together in a partnership that aims at *autarkeia* is the work of friendship, which glues the group together with affection for one another and concern for each other’s welfare; this marks the difference between a mere association and a *polis*, for in the latter the people care enough about each other to choose to pursue a good life together.

Now one might then expect Aristotle to talk about how *philia* especially in its civic form can work to produce virtue. But instead, he focuses on a basic requirement of *philia* and the political *koinônia* — namely, that there can be no friendship without justice. As he puts it,

T15. “The political good is justice, and this is the common advantage [ἔστι δὲ πολιτικὸν ἀγαθὸν τὸ δίκαιον, τοῦτο δ’ ἐστὶ τὸ κοινῆ συμφέρον].” (Pol. III 12. 1282b16-18).

The slogan ‘justice is the common advantage’ makes the point that the advantage for the rulers alone is not ‘complete’ justice at all—justice requires that the *polis* aim at the common advantage (cf. III 6. 1279a17-19). Furthermore, the common good is just because it is fair: it consists of equal or fair distributions of the goods of the city.⁶² The common good can only be achieved by means of allocations, arrangements, and institutions that are fair. Otherwise, what results is not friendship, but *stasis* and conflict.

⁶¹ For references to and discussion of ‘civic friendship’ in Aristotle, see Cooper 1977 (esp. 642-8), Cooper 1990: 234ff.

⁶² References to the ‘common advantage’: Pol. III 3, τὸ κοινῆ συμφέρον III 6. 1279a17, τὸ κοινὸν συμφέρον III 7. 1279a28-29, III 12, III 13. Aristotle equates the common interest with ‘absolute’ or ‘unqualified’ justice at Pol. III.6.xi. 1279a17-19, III.12.i. 1282b16-18, III.13 1283b35-42; EN VIII 9. 1160a13-14; see also NE V 1, 1129b11–15; VIII 9, 1160a9–30; Rhet. I 6, 1362b27–28. Perhaps this is general justice, i.e., ‘complete social justice’, as Mulgan suggests p. 61 n25. But I think the contrast is between ‘unqualified’ justice and demotic or oligarchic justice—i.e., ‘equality’ in the unqualified sense. As Robinson notes (p. 42), the slogan ‘justice is the common advantage’ has a much more liberal sound to it than his other description of the *polis* as aiming at the good (i.e., virtuous) life; he thinks it’s unclear which one Aristotle intends; he concludes that ‘the doctrine has the negative purpose of condemning all rule by a party for its own advantage. On the positive side it is overridden by the doctrine that the aim of the city is the good or virtuous life.’

Once Aristotle has established that the *polis* is a kind of *koinônia* for the sake of *autarkeia*, he now has the key to the question about justice, as he indicates in his conclusion to the argument here:

T16. “Hence those who contribute most to a partnership of this sort have a greater part in the city than those who are equal or greater in freedom and family but unequal in political virtue, or those who outdo them in wealth but are outdone in virtue [διόπερ ὅσοι συμβάλλονται πλεῖστον εἰς τὴν τοιαύτην κοινωνίαν, τούτοις τῆς πόλεως μέτεστι πλεῖον ἢ τοῖς κατὰ μὲν ἐλευθερίαν καὶ γένος ἴσοις ἢ μείζοσι κατὰ δὲ τὴν πολιτικὴν ἀρετὴν ἀνίσοις, ἢ τοῖς κατὰ πλοῦτον ὑπερέχουσι κατ’ ἀρετὴν δ’ ὑπερεχομένοις].” (Pol. III 9. 1281a4-8)

Since Aristotle has established what the nature and aim of the political *koinônia* is, he can then derive from it the relevant of measure for determining share in the goods of the city—namely, the extent to which citizens contribute to the goal of the partnership, namely the common advantage. One very interesting thing about this passage is that Aristotle signals that he’s abandoning the profit metaphor favored by oligarchs: he does not think that the goods of the cities are rewards or spoils to be distributed among the victors. Rather, he switches to a different metaphor, contributions to the common good (συμβάλλονται πλεῖστον εἰς τὴν τοιαύτην κοινωνίαν, Pol. III 9. 1281a4-8).⁶³ I take this to mean that the distribution will have to reflect contributions to the good functioning of the polis—its ability to make the common good possible for all the citizens.

⁶³ For further discussion of ‘contribution’ as a second-order attribute of the standard of merit, see Keyt 1991: 249-250.

Next, we need to have a more precise idea of what ‘the common advantage’ is, and how it relates to the other subordinate goals of the *polis*.⁶⁴ In my view, the most interesting aspect of Aristotle’s conception of the common advantage is that (i) it is clearly not just about collective virtue, but is a comprehensive and composite good, including political goods such as justice itself (hence, Aristotle says in deliberative speech, the aim of discussion is *to sumpheron*, Rh. I.3.5. 1358b22). The idea that the *polis* aims at the most authoritative good, one which embraces the others, is first hinted at in the opening lines of the *Politics* I 1 (quoted earlier), where Aristotle says “It is clear that all communities aim at some good, and that the community that is most authoritative of all and embraces all the others does so particularly, and aims at the most authoritative good of all.” (Pol. I 1. 1252a5-7). In *EN* VIII 9, Aristotle spells this out, arguing that the common advantage is comprehensive and composite, consisting of many subordinate goods.

T17. “Now all forms of community are like parts of the political community; for men journey together with a view to some particular advantage, and to provide something that they need for the purposes of life; and it is for the sake of advantage that the political community too seems both to have come together originally and to endure, for this is what legislators aim at, and they call just that which is to the common advantage. Now the other communities aim at advantage bit by bit, e.g. sailors at what is advantageous on a voyage with a view to making money or something of the kind, fellow soldiers at what is

⁶⁴ For discussions of the common good, see Morrison 2013, Kraut 2013.

⁶⁵ See Curzer 2012: 275-92 for discussion of the implications of this idea in *EN* VIII-IX that justice is only to be found within friendships.

advantageous in war, whether it is wealth or victory or the taking of a city that they seek, and members of tribes and demes act significantly. ... **But all these seem to fall under the political community; for it aims not at present advantage but at what is advantageous for life as a whole....** ... All the communities, then, seem to be parts of the political community; and the particular kinds of friendship will correspond to the particular kinds of community.” (EN VIII 9. 1160a8-30).

The argument at EN VIII 9. goes as follows.

- (1) We begin with a claim that he’s already made before (*Pol. I 1*), that each *koinônia* aims at and is constituted by a certain type of advantage. In his lovely phrase, Aristotle says “men journey together with a view to some particular advantage” — which implies that it is part of their joint aim that fellow travelers arrive at their destination together. This joint aim is the common advantage for that type of community.
- (2) The political *koinônia* aims at the complete common advantage of the community (1160a21-22). And the various types of advantage that communities aim at are all encompassed within the ‘complete advantage’ that the political community aims at. That is, the common advantage is a composite, including the subordinate types of advantage that are the aim of the subordinate types of community. Those would include wealth production (households), security (military), as well as virtue, which is the concern of the city as a whole.⁶⁶

⁶⁶ It seems to me that this need to get clear about the variety of goods comprising *autarkeia* is one major motivation for Aristotle’s interest in a theory of goods: figuring out their dependence relations is important for understanding the common advantage as a whole. See e.g., *EN I 9. 1099b25-28*, and Tuozzo 1995.

(3) The political community is therefore also a composite, encompassing the smaller and subordinate types of community that aim at subordinate parts of the common advantage (1160a28-30, see also 1160a8-9).⁶⁷

I take it, then, that political communities and the common advantage are composite in corresponding parallel ways. For our purposes the most important part of this argument is (2): the common advantage includes but is not limited to *to kalon*, since it includes the useful and the pleasant as well.⁶⁸ This shows that the political *koinônia* aims at the common advantage, which in turn is a comprehensive and composite set of goods, including but not limited to virtue.

We're now ready for Aristotle's "solution" to the question of equal distribution in the *polis*. So far: the *polis* is a *koinônia* that aims at 'a complete and self-sufficient life' for the community, which is to say that it aims at the common advantage—understood as indicated above as a comprehensive and composite set of goods. It follows that the relevant standard of merit for distributing the goods of the city will have to do with the common advantage that the *polis* aims at.

⁶⁷ As Stewart 1892 v. 2: p. 303 puts it: "Since, ἐν κοινωνίᾳ (§1), the various associations (κοινωνίαι) included in the commonwealth (πολιτικὴ κοινωνία), all of them subserving its end—the public good, by means of their own special ends (whether these special ends be described as useful or pleasant), involve their corresponding friendships." ⁶⁸ Stewart 1892 v. 2, p. 304 (ad 1160a11) makes this point. See also *Pol.* 2.2.3, 3.1.2, 4.3, 4.4.7-11, 7.8.7-9 for the idea that every city has parts.

⁶⁸ Stewart 1892 v. 2, p. 304 (ad 1160a11) makes this point. See also *Pol.* 2.2.3, 3.1.2, 4.3, 4.4.7-11, 7.8.7-9 for the idea that every city has parts.

What then is the relevant measure of merit? For not any measure of merit is relevant -- preeminence in complexion or height for example is not enough to justify “aggrandizement in political justice [πλεονεξία τις τῶν πολιτικῶν δικαίων]” (Pol. III 12. 1282b23-1283a15). Preeminence and height “contribute nothing” to flute-playing, and it is, instead, the person with preeminence in flute-playing capacity who should get the flutes. That is, if the aim is to produce good flute music, then the person who can play flute music best should get the best flutes. As I noted earlier, Aristotle disavows the profit-distribution model in favor of a model in terms of functional contributions (Pol. III 12. 1282b33-35, see also III 9. 1281a4-8).⁶⁹ But the virtuous, the wealthy, and the multitude all make functional contributions to the common advantage. That is because, as Aristotle says, a city could not exist without land and wealth, and hence the wealthy contribute to the economic well-being of the community. (One wants to ask: but why must there be some wealthy and some poor people? But even in his ideal city, as well as the non-ideal city of the middle class, Aristotle thinks that there will be differences in wealth.⁷⁰) The just and politically virtuous have more than others the qualities that make them fit for political office— presumably through their competence and honesty in organizing and managing all things in the city (1282b23-1283a3, 20).

⁶⁹ Cf. Barker; Newman 1887: i. 249-50, Irwin 1988: 427-8 ; Keyt 1995: 137 thinks that ‘Aristotle never irons out the relation between his two criteria, and the conflict between them haunts discussions of distributive justice down to our own day. Should ambassadorships, for example, be *rewards* for past service to a political party or *awards* based on diplomatic skills?’

⁷⁰ At Pol. VII 10. 1330a9-25, Aristotle says that each citizen is to own one plot of land near the urban center and another close to the perimeter. The language of the passage suggests that citizens do not purchase these plots of land, but that they’re divided into equal lots. This appears to be consistent with what we know about Greek colonies, where some of them were established with an initial equal division of land (see Graham 1964: 59— reference thanks to Kraut 2002: 221). At the same time, there is no reason to think that Aristotle favors the enforcement of economic equality, and it was a well-known fact that over time such equal allotments can through luck and good or bad management result in unequal resources — in Pol. II 7, he discusses and rejects Phaleas’ proposal to make wealth and land holdings equal between citizens.

The multitude too make a functional contribution to the common advantage: for when taken as a collective, they have an advantage over any single individual (III 11. 1281a45-1281b22). (1) For example, a banquet where many contribute can be better than a dinner created by one chef. (2) The multitude can be a better judge of art works than a single individual judge. That is, many people collectively can be a better, more reliable judge than a single individual, even though none of the many is individually a superior judge.⁷¹ (If so, then the solution is not to put them into the greatest offices, but to give them collectively a share in deliberation and ruling — as in Athens, where the multitude take part in juries and in assemblies.) This argument is intended to show that the multitude merit a share in political authority because of their collective judgment which makes a functional contribution to the common advantage.

In sum, then, the standard of merit to use in the *polis* will be contributions to the common good, understood, in a condensed formula, as ‘virtue fully furnished with external means’ (IV 2. 1289a31-3; VII 1. 1323b41-1324a1)—that is, the noble life together with the wealth and security that make it possible.⁷² And since all three groups make a functional contribution to the common good, it’s not a surprise that all three will turn out to merit a share in the *politeia*. Aristotle argues that those who have any of these – wealth, free status (the poor and middle-class), good birth, and virtue – all have a claim to contributing to the existence and

⁷¹ As Keyt 1995: 143-4 points out, the trick in this argument is to consider groups as having merit collectively. Aristotle’s use of this argument not only here in III 11 but also in III 13 to justify absolute kingship leads to incompatible results. Some have taken Aristotle to be advocating the “wisdom of the multitude” and the epistemic value of their full-scale democratic participation (e.g., Ober 2013), whereas Lane 2013b cautions against this, arguing that the role envisioned for the multitude is that of judging office holders rather than holding office themselves.

⁷² For discussion see Keyt 1991: 259.

well-functioning of a city— for as he notes at the end of *Pol.* III 12, a city cannot exist without any of these things. That conclusion is summarized in [T18] *Pol.* III 13. 1283a24-43:

- 1) The end of the polis is not simply to exist, or living for human beings, but living well.

That means that “it is education and virtue above all that would have a just claim in the dispute, as was also said earlier.” Aristotle doesn’t really explain but presumably he thinks it’s obvious that political virtues ensures competence and honesty in carrying out the duties of political office. (III 13. 1283a24-26)

- 2) “The wealthy have a claim because they have the greater part of the territory, and the territory is something common; further, for the most part they are more trustworthy regarding agreements.” (III 13. 1283a31-34)

- 3) “The free and the well born have a claim as being close to one another; for the higher born are more particularly citizens than the ignoble, and good birth is honorable at home among everyone. Further, the well born have a claim because it is likely that better persons come from those who are better, for good birth is virtue of a family. In a similar way, then, we shall assert that virtue has a just claim in the dispute, for we assert that justice is a virtue characteristic of communities, and that all the other virtues necessarily follow on it.” (III 13. 1283a34-40)

- 4) “Finally, the majority has a just claim in relation to a minority, for they are superior and wealthier and better [born] when the majority is taken together in relation to the minority.” (III 13. 1283a40-43) – alluding to the argument in *Pol.* III 11.

Aristotle then concludes: “if all should exist in a single city—I mean, both the good and the wealthy and well born, as well as a political multitude apart from them—will there be a dispute as to which should rule, or will there not?” (1283b1-4).

The answer, of course, is that there *will* be a dispute about fairness if any one of them is excluded from *to kurion*. That is, no one claim to merit can stand alone cancelling out the others.

T19. “All of these things seem to make it evident, then, that none of the defining principles [horôn] on the basis of which they claim they merit rule, and all the others merit being ruled by them, is correct. For, indeed, multitudes have an argument of some justice to make against those claiming to merit authority over the governing body on the basis of virtue, and similarly also against those claiming it on the basis of wealth: nothing prevents the multitude from being at some point better than the few and wealthier—not as individuals but taken together.” (1283b27-34)

The conclusion is that justice in the allocation of political authority will consist of proportionate equality, i.e., distribution of office according to the merit of their claims. And since Aristotle concludes that merit is to be measured in terms of contribution to the common good, then since this is composite and many groups contribute to some part of the common good, it follows that they should all have some share in the ‘goods of the city’. Aristotle’s actual proposals for distributive schemes are too complex to go into here—for one thing, he distinguishes between (i) the best and most ideal *politeia* (‘the *politeia* of our prayers’) assuming that one can assume all the best starting points for the city, (ii) the best *politeia* for a

given city (i.e., fitting the *politeia* to a particular city given facts on the ground), (iii) the best *politeia* ‘based on a presupposition’ (a project of amelioration), (iv) the best *politeia* for most cities.⁷³ But in answer to the last question, Aristotle endorses the relative merits of the mixed constitution (*Pol.* IV 8-9), which integrates all groups that ‘claim an equal share in the constitution, free birth, wealth, *aretê*’ (*Pol.* IV 8. 1294a19-25).⁷⁴ In a non-ideal state where qualities that contribute to the common good are possessed by different groups, distributive justice requires that all groups have a share in the *politeia*.⁷⁵ There are certainly some circumstances under which one might favor an aristocracy or kingship (*Pol.* III 17-18).⁷⁶ But these are special circumstances — and arguably Aristotle thinks that there are usually competing reasons to favor a more equitable distribution of political authority.⁷⁷ Hence at III 13. 1283b36-42, Aristotle asks: should the politician create laws that favor the better (few) or the inferior (many)? The answer: the legislator must look to the good of the whole city—neither the rich nor the poor are to be singled out for special treatment. He thus advocates a “common and equal” political system (1296a30), one which promotes the common good, where no group is

⁷³ See Hatzistavrou 2013 for a discussion of the application of the principle of unqualified proportionate equality to the case of the constitution as an organization of political offices.

⁷⁴ He also praises the rule of the middle class (*Pol.* IV 11), and recognizes, among the deviant constitutions, democracy as being the least bad (V 1. 1302a9), precisely because it aims at a kind of numerical equality. For helpful discussions of the mixed constitution and the ‘middling’ constitution, see Lockwood 2006, Lockwood 2018.

⁷⁵ ‘So it is evident that if one wishes to have a just mixture [*dikaiōs*], elements from both [the rich and the poor] must be brought together’ (*Pol.* IV 13. 1297a39).

⁷⁶ *Pol.* III 17-18 seems to conclude that the best *politeia* is a kingship or aristocracy, *assuming that* one or a few people are outstanding in virtue (III 17. 1288a15-29, III 18. 1288a32-b2, III 13. 1284b22-34; see Kraut 2002: 359 and his Ch 11.12). But there are problems with this conclusion, one of which is that it seems to conflict with the portrait of the ideal city that Aristotle draws in *Politics* VII and VIII. That city is not ruled by one or a few superior people, but is a kind of ideal polity, where the principal ruling element is the entire body of citizens (though perhaps not a polity in the sense of a mixed constitution, discussed at IV 11). For discussion see Kraut 2002: 358-361. Keyt 1991: 260-270 considers Book VII’s account of the ideal city to hold the key to Aristotle’s theory of distributive justice.

⁷⁷ Aristotle goes on in *Pol.* IV-VI to advise oligarchies and democracies to achieve a more equitable balance between the rich and the poor, and to advocate for the city of the middle class (‘The city wishes to be composed of those who are equal and alike, so far as it can’ IV 11. 1295b25-6). See Kraut 2002: 388-391.

singled out for special treatment. Thus, far from advocating a virtue-based view of social justice, Aristotle seems to hold the remarkably liberal-sounding view that distributive justice in the city requires that all parties have a share in rule.⁷⁸

§5. Conclusion

I noted earlier that complaints about fairness are a specific type of complaint, which are comparative and relational. Aristotle can explain why complaints of this kind in the political sphere have some basis and justification. This is why the other place in the *Politics* where Aristotle's theory of justice as fairness is prominent (and where the term *dikaion* appears most frequently) is in *Politics* V 1, where Aristotle argues that inequality leads to faction and conflict. As he says, *philia* is necessary to keep the *polis* together, and inequality leads to conflict which makes the sharing which is essential to a *polis* impossible. (As he puts it, "enemies do not wish to have even a journey in common" (*Pol.* IV 11. 1295b24-5).) It is thus the centerpiece of Aristotle's book on *stasis*, which he argues is not simply caused by power plays for domination, but by perceived unfairness among parties in the *polis*. Recall that in the *Laws* Plato too has the thought that the *polis* should do whatever it can to avoid strife and conflict. But he doesn't make any connection between unfairness and conflict — whereas Aristotle does, and can thereby explain why conflict occurs and what's needed to prevent it: it occurs because friendship is lacking, and people are only friends when they accept that something is just and

⁷⁸ There's a lot more to say about distributive justice in the *Politics*. One application of that principle delivers the result that when citizens are equal in ability, it is a matter of justice that they share not only in ruling but being ruled—Aristotle calls this 'political rule', and it follows from the principle of distributive justice (III 7. 1279a8-13, II 2. 1261a30-1); cf. Kraut 381, 382n26.

fair. People cannot join in a happy union when they believe that the terms of that union are not just and fair. As Aristotle puts it, it's a "question for philosophy" — and one that he is able to provide.

We can take a step back and consider what sort of a value justice and equality are in Aristotle's theory. To judge from the arguments we've seen so far, justice and equality are not intrinsic purely 'formal' values — but rather necessary requirements of the common good. The chief good for human beings is a complete and self-sufficient life, which is only possible — given man's political nature — in a political community, i.e., in a *polis*. As he says, living finely is only possible in a *polis*. But by 'polis', he means, a political community that aims at the common advantage, where the common advantage is what is unqualifiedly just. That is, the common advantage cannot be achieved when the political arrangements in the city are unfair. For one thing, a *polis* is a kind of community — a 'partnership' — and *philia* is needed to make the living together possible. But injustice and inequality give rise to complaints, and cause conflicts that tear the city apart. It therefore follows that justice and equality are necessary conditions for any *polis* to attain its goal. One could argue that Aristotle is not a pure egalitarian, and does not prize egalitarianism for its own sake. Nor does he argue that justice is an intrinsic value, i.e., one to be valued even apart from whatever contribution it makes to human happiness. Rather, justice is a necessary condition of the social good 'the common advantage', and without justice that good cannot be attained. Justice and equality are therefore political goods that make possible the personal good of living finely and well.

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⁷⁹ Some MSS have 'military' [*polemikê*] virtue instead of 'political virtue' [*politikê*].

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