Justice as a Virtue

In sub-subunit 1.4.2, it is made clear that for Aristotle a crucial precondition of virtue is that actions must be intentional. For Aristotle, voluntary action—or intention—is required if praise or blame is to be appropriate. Praise and blame are important in that they testify to that which is virtuous in the *polis,* which substantiates the virtues among the citizenry and subsequent generations through habituation. Through praise and blame, we come to witness that to which we should aspire and that from which we should abstain, which in turn contributes to the kind of *polis* that makes for or perpetuates the right kind of habituation for both our peers and for the next generation. Praise and blame cannot apply to acts that are involuntary, and one criterion that can establish the involuntary character of an act is if it were undertaken in ignorance for which the agent is not responsible. However, as shown in sub-subunit 1.4.2, Aristotle sets the bar high for an act to be characterized as involuntary both on the basis of being associated with force or ignorance. Ample room is left available for acts to be understood as voluntary and hence potentially worthy of praise or blame.

Aristotle's concern with establishing the conditions necessary for praise and blame stand in sharp contrast to Plato, who takes the position that *all* wrongdoing is involuntary because it is necessarily done in ignorance. For Plato, we all want to do what is good, and whenever we do something, we do it for the sake of the good even if this is in fact not the case. Plato is not concerned with establishing the conditions necessary for this-worldly praise or blame, although ignorance of the good is reprehensible and worthy of censure or punishment. Plato's aim is to underscore the importance of seeking and cultivating moral knowledge of the good, often in spite of societal conventions:

> And those who have been of this little company [of philosophers] and have tasted the sweetness and blessedness of this possession and who have also come to understand the madness of the multitude sufficiently and have seen that there is nothing, if I may say so, sound or right in any present politics, and that *there is no ally with whose aid the champion of justice could escape destruction*, but that he would be as a man who has fallen among wild beasts, unwilling to share their misdeeds and unable to hold out singly against the savagery of all, and he would thus, before he could in any way benefit his friends or the state, come to an untimely end without doing any good to himself or others—for all these reasons I say the philosopher remains quiet, minds his own affairs, and, as it were, standing aside under shelter of a wall in a storm and blast of dust and sleet and seeing others filled full of lawlessness, is content if in any way he may keep himself free from iniquity and unholy deeds through his life and take his departure with fair hope, serene and well-content when the end comes.[1]

[1] Plato, Republic, in *Plato: The Collected Dialogues,* eds. Edith Hamilton and Huntington Cairns, trans. Paul Shorey (Princeton, Princeton University Press,) 1961, pg. 732, 496c5-e2, italics mine.

For Plato, philosophy alone is capable of arriving at that which is just, and it provides freedom from the power of the state while safeguarding the soul from complicity with what would seem to be the intrinsic injustice and evils of politics. Justice is a good in itself arising from the pursuit of moral self-perfection. A beautiful, good, and just *polis* might come about through the pursuit of personal virtue—or the perfection of the individual soul—which in turn would cause a gradual yet substantive shift in both individual and collective priorities, as well as the norms, of Athenian society. However, for Plato what matters in individual justice is not its connection with the city but its role in helping us to achieve and sustain what really matters: an apprehension and appreciation of formal reality.[2]

Recall that Aristotle divorces ethical inquiry from the theoretical inquiry associated with Platonic metaphysics; ethics as a field is to stand on its own. For Aristotle, Plato's Theory of Forms is irrelevant to ethics: "for even if the Good predicated in common is some single thing, or something separated, itself in itself, clearly it is not the sort of good a human being can pursue in action or possess; but that is just the sort we are looking for in our present inquiry."[3] Aristotle's account of justice is anchored in situational factors that are largely external to the just individual:

> *It requires the observance of law*
>
> Since, as we saw, the lawless person is unjust and the lawful person is just, it clearly follows that whatever is lawful is in some way just; for the provisions of legislative science are lawful, and we say that each of them is just. Now in every matter they deal with the laws aim either at the common benefit of all, or at the benefit of those in control, whose control rests on virtue or on some other such basis. And so in one way what we call just is whatever produces and maintains happiness and its parts for a political community.[4]

Aristotle distinguishes between two forms of justice. General justice amounts to the whole of virtue, meaning it includes all of the particular virtues exercised towards other people. Special justice is an individual virtue of character, and like courage, temperance, generosity, and so on, is a part of general justice. Aristotle further distinguishes two main areas in which special justice operates: the rectification of wrongs committed by one individual or party against another; and distributive justice, meaning the fair division of goods, property, benefits, or rights in any relevant social context. Included within distributive justice is political justice, which addresses how political power is distributed within a system of government. For Aristotle, special justice refers to moral issues having to do with the distribution of "honors or wealth or anything else that can be divided among members of a community who share in a political system; for here it is possible for one member to have a share equal or unequal

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[2] Charles M. Young, "Aristotle's Justice," in *The Blackwell Guide to Aristotle's Nicomachean Ethics,* ed. Richard Kraut (Oxford: Blackwell Publishing, 2006), pg. 196.
[3] Aristotle, *Nicomachean Ethics*, trans. Terence Irwin, (Indianapolis, IN: Hackett Publishing Company, Inc. 1985) pg. 12, (1096b 34).
[4] Ibid, pg. 118, (1129b 12-19).

to another's."[5] It might be said that general justice concerns the overall welfare, or well-being, of the *polis,* while special justice of the distributive vein concerns particular virtuous acts involving the distribution of goods or property according to worth.

As embodied in the scope of the law, general justice extends to all the virtues: the law requiring actions that express the virtues and prohibiting actions that express the vices:

> …for the majority of lawful actions, we might say, are the actions resulting from virtue as a whole. For the law instructs us to express each virtue, and forbids us to express each vice, in how we live. Moreover, the actions producing the whole of virtue are the lawful actions that the laws prescribe for education promoting the common good.[6]

Aristotle's framework assumes that the laws in any political community aim at the well-being of its citizens, whether all or some of them, and to equal or varying degrees. However, he does entertain that the laws of some political communities aim better than others. Logically, laws might be wrong about what the well-being of citizens consists of but successful in creating laws that promote this ill-conceived notion of well-being, or laws might be right about what the well-being of citizens consists of but unsuccessful in creating laws that promote this well-conceived notion. Aristotle himself thinks that (i) happiness consists of a life of action on the part of the soul that has reason in accordance with virtue, and (ii) that the laws in a proper human community will promote this aim.

Laws can be just or unjust according to whether they promote the correct or incorrect view of happiness, and they can be just or unjust according to whether they promote the view of happiness they seek to promote. As noted in sub-subunit 1.4.1 on the doctrine of the mean, virtue is not merely intertwined with the *polis*; it cannot exist without the *polis.* The laws are constitutive, in part, of the world around us, and it is with reference to the world around us that we come to know, albeit in a variety of ways, what is excessive and deficient, and hence virtuous.

Although general justice concerns the overall welfare of the *polis* and therefore many people, and special justice concerns particular, or individual, virtuous acts, it is the case that special justice as a virtue also concerns other people and the common good:

> …*and hence general justice is complete virtue*
>
> This type of justice then, is complete virtue, not complete virtue unconditionally, but complete virtue in relation to another. And this is why justice often seems to be supreme among the virtues, and 'neither the evening star nor the morning star is so marvelous', and the proverb says 'And in justice all virtue is summed up.'

[5] Ibid, pg. 122, (1130b 32).
[6] Ibid, pg. 122 (1130b 25).

> Moreover, justice is complete virtue to the highest degree because it is the complete exercise of complete virtue. And it is the complete exercise because the person who has justice is able to exercise virtue in relation to another, not only in what concerns himself; for many are able to exercise virtue in their own concerns but unable in what relates to another.
>
> …And for the same reason justice is the only virtue that seems to be another person's good, because it is related to another; for it does what benefits another, either the ruler or the fellow-member of the community.
>
> The worst person, therefore, is the one who exercises his vice towards himself and his friends as well as towards others. And the best person is not the one who exercises virtue only towards himself, but the one who also exercises it in relation to another, since this is a difficult task.
>
> This type of justice, then, is the whole, not a part, of virtue, and the injustice contrary to it is the whole, not a part, of vice.
>
> At the same time our discussion makes clear the difference between virtue and this type of justice. For virtue is the same as justice, but what it is to be virtue is not the same as what it is to be justice. Rather, in so far as virtue is related to another, it is justice, and in so far as it is a certain sort of state unconditionally it is virtue.[7]

To clarify, general justice is concerned with the common good, and all virtuous acts whether they be acts of bravery or generosity or temperance that involve other people are a part of general justice (e.g. there is justice in the bravery of a soldier who refuses to abandon his post, or justice in helping someone who is suffering from bad luck). Particular acts of special justice always involve other people, whether rectificatory or distributive; therefore, they are a part of general justice. If general justice aims at the common good, then an act of distributive justice no matter how small (e.g. selling something for the correct price or paying one's bills) will also be aimed at the common good.

Acting justly is always likely to require the exercise of other more basic virtues. As Malcolm Schofeld points out, this indicates why justice is "complete excellence *to the highest degree*."[8] It is complete in the first instance, because there is no basic virtue that we might not be required to exercise in acting justly. It is complete to the highest degree, because its exercise perfects each of the other virtues. Schofeld explains that inasmuch as the good of the city is greater than the good of the individual, courage exercised in defense of the city will simply be a more admirable thing than courage in coping with a life-threatening disease or the perils of seafaring. Again, consider justice in distribution. For Aristotle, situations and communities are just when individuals receive benefits according to their merits, or virtue: those most virtuous should receive more of whatever goods society is in a position to distribute. This is a desert-based

[7] Ibid, pg. 119, (1130a).
[8] Malcolm Schofeld, "Aristotle's Political Ethics," in *The Blackwell Guide to Aristotle's Nicomachean Ethics,* ed. Richard Kraut (Oxford: Blackwell Publishing, 2006), pg. 314.

conception of social justice, and Aristotle treats the virtue of individual justice as a matter of being disposed to properly respect and promote just social arrangements. An individual who seeks more than their fair share of various goods has the vice of greediness. A just individual is one who has rational insight into his or her own merits in various situations and who habitually takes no more than what the situation merits.

However, as Schofeld points out in the passage quoted above, it looks as though Aristotle is describing what is called altruism; he seems to be talking of a general disposition to act out of consideration for others, not just ourselves. Yet, Aristotle's justice as embodied both in the laws and particular virtuous acts has what Schofield calls greater social density than altruism. Aristotle indicates this social dimension by appeal to the notion of law and what constitutes a failure in justice; Aristotle, as with the other virtues, comes to find what something is through what it is not. There are two kinds of people who are deemed unjust: lawbreakers (corresponding to general justice) and those that are greedy or unfair, attempting to secure more than their fair share (corresponding to particular justice). Aristotle infers that someone who is law-abiding, or someone who is fair, is just, with what is unfair always being lawless but not everything lawless being unfair: "…the type of injustice and the way for a thing to be unjust that expresses unfairness are not the same as the type that expresses lawlessness, but differ as parts from wholes."[9] The *telos* of the law is to promote the common good, and breaking the law is detrimental to that end: the lawbreaker is unjust, because he is an anti-social threat to the well-being of the *polis.* At the same time, compliance with the law, and therefore of general justice, requires the exercise of moral virtues in at least an other-regarding, if not altruistic, manner.

On this other-regarding point, Charles Young emphasizes that in coming to a final view of Aristotelian justice, we must appreciate how thoroughly political it is.[10] Earlier it was said that Plato's aim is to underscore the importance of seeking and cultivating moral knowledge of the good, often in spite of societal conventions, and that philosophy alone is capable of arriving at that which is just and provides freedom from the power of the state while safeguarding the soul from complicity with what would seem the intrinsic injustice and evils of politics. Justice is a good in itself. However, as was shown in sub-subunit 1.3.2 based on Professor Steven Smith's lectures, Socrates' notion of an individual's sovereign reason fostered through philosophical discourse is but one of two irreconcilable moral codes constitutive for the *polis.* The second code consists of the established law and customs of the *polis,* which takes priority over individual conscience in the form of what might be called an ancient precursor to the notion of a social contract. As Young points out, justice does have a political dimension for Socrates and Plato: in the *Crito*, Socrates believes that it is unjust to disobey the city's laws, except under very special circumstances. As Young sees it, the injustice of disobeying the law is secondary; it derives from the injustice of harming those responsible for our existence

[9] Aristotle, pg. 121 (1130b 15).
[10] Charles M. Young, "Aristotle's Justice," in *The Blackwell Guide to Aristotle's Nicomachean Ethics,* ed. Richard Kraut (Oxford: Blackwell Publishing, 2006), pg. 196.

or those who have benefited us in some way. For Plato, what matters in individual justice is not its connection with the city but its role in helping us to achieve and sustain what really matters: again, an apprehension and appreciation of formal reality.[11] This stands in sharp contrast not only with Aristotle's embodiment of general justice within lawfulness, and the *telos* of lawfulness as the common good. The account offered earlier, where (far from being secondary) our inclination and capacity for regarding others and our taking virtuous actions towards them, allows for "complete excellence to the highest degree."

Given the thoroughly political nature of justice for Aristotle and that laws can be just or unjust according to whether they promote the correct or an incorrect view of well-being, this begs the question of what is the common good and what kind of state is commensurate with it. As mentioned, Aristotle himself thinks that (i) happiness consists of a life of action on the part of the soul that has reason in accordance with virtue, and (ii) that the laws in a proper human community will promote this aim. But for who? For all? Upon what basis are conflicts of what we might call the pursuit of happiness to be resolved? The social density of Aristotle's conception of justice as shown above discloses the dependency between the good of an individual and that of a city. But given the choice of achieving and preserving the happiness of the population at large rather than one's own, the first option represents a greater good, something more refined and admirable. This does not tell us who or what determines the greater good, who or what is charged with its care, and who constitutes its recipients.

As mentioned earlier, special justice counts as just if certain goods are distributed among different individuals in accordance with worth. Political justice, which addresses how political power is distributed within a system of government, is part of distributive justice. For Aristotle, if people are equal in worth, it is just for their shares of the relevant goods to be equal; however, if their worth is unequal, then it is just for there to be an inequality between their shares that matches or is proportional to the difference in worth. As Aristotle notes, equality of shares is fairly easy to measure compared to equality of persons:

> *How equality is determined*
> Equality for the people involved will be the same as for the things involved, since in a just arrangement the relation between the people will be the same as the relation between the things involved. For if the people involved are not equal, they will not justly receive equal shares; indeed, whenever equals receive unequal shares, or unequals equal shares, in a distribution, that is the source of quarrels and accusations.
>
> This is also clear from considering what fits a person's worth. For everyone agrees that what is just in distrubutions must fit some sort of worth, but what they call worth is not the same; supporters of democracy say it is free citizenship, some supporters of oligarchy say it is wealth, others good birth, while supporters of aristocracy say it is virtue.[12]

[11] Ibid, pg. 196.
[12] Ibid, pg. 123, (1131a 21-29).

Democrats think of equal citizenship as the ground of worth. Aristotle says they think so because they mistakenly believe that the end of the state is freedom, and they identify the best life with the life of freedom to satisfy one's desires. On the other hand, oligarchs think that wealth—a characteristic in terms of which citizens are unequal—is the ground of worth. According to Aristotle, they think so because they mistakenly think the end of the state is accumulating wealth and property, and they mistakenly identify the best life with the possession of these external goods.

Apparently Aristotle thinks it is desirable, as a matter of justice, that a distribution of goods, including political power, should be proportional to the relevant kind of worth of the individuals concerned. The desirability of this distribution would be based on desert and would be independent of the consideration of promoting the common good. However, as Dennis McKerlie has argued, Aristotle might also explain the importance of distributive justice in terms of promoting the common good. Aristotle does not merely believe that better people deserve larger shares of political authority. Instead, he thinks that assigning this particular good to virtuous people is the best way to promote the common good of the political community. Based on this interpretation, Aristotle thinks that a distribution according to worth has instrumental as well as intrinsic value. It is important because of its consequences: greater happiness for the citizens of the state.[13]

For Aristotle—ideally—the state must enable everyone to live well. An improvement in a life that enables it to cross the threshold of *eudaimonia* is more important than improvements in better or worse lives where the former has already passed over that threshold, if not to the highest degree obtainable, while the latter has either no hope of reaching its most rudimentary of levels and at the least is clearly less worthy than other lives that lie on the cusp of crossing the threshold. The connection with egalitarianism is that everyone must be brought to that level before anyone is allowed to advance significantly beyond it. McKerlie writes that the crucial test is the choice between bringing one life up to the threshold and giving an even larger gain to someone else who is already happy. Compare two states, he says, "where the first satisfies distributive justice while the other does not. And suppose that for some reason the citizens in the second state achieve a greater total amount of *eudaimonia* overall. I think Aristotle would say that the first state contains something good that the second lacks, a good that consists in the fact that the first state realizes proportional equality."[14]

[13] Dennis McKerlie, "Aristotle's Theory of Justice," *The Southern Journal of Philosophy,* 39 (2001), pgs. 123-124.
[14] Ibid, pg. 133.