Distributive Justice as the Task of the Polis

In sub-subunit 1.6.3, on the subject of justice as a virtue in the *Nicomachean Ethics*, it was mentioned that distributive justice applies to political justice in addressing how political power is distributed within a given society. 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. Aristotle mentions the following about how equality should be 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 [receive] 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 distributions 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.\(^1\)

Aristotle takes this issue up again in Book III of the *Politics*:

It is a problem who should be the sovereign in the city. Apparently it must be either the masses, or the rich, or the good, or the one best man, or a tyrant. But all of them seem unacceptable.\(^2\)

Democrats think of equal citizenship as the ground of worth. Aristotle says that democrats think so because they mistakenly believe that the end of the state is freedom and 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, oligarchs think so because they mistakenly think the end of the state is accumulating wealth and property and mistakenly identify the best life with the possession of these external goods.

Aristotle’s constitutional theory is based on his theory of justice. Recall that Aristotle distinguishes two different but related senses of justice: the general and the particular. In the general sense, justice means the rule of law constitutive of the *polis*, or lawfulness, and is concerned with the common well-being of the political community. In

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the particular sense, justice means equality or fairness, and this includes distributive justice according to which different individuals have just claims in transactions, or to shares of some common asset like that of political power distributed across the populace in terms of the criteria for citizenship, participation, and the holding of state offices. As mentioned previously, democrats think of equal citizenship as the ground of worth. Aristotle says that democrats think so because they mistakenly believe that the end of the state is freedom and 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, oligarchs think so because they mistakenly think the end of the state is accumulating wealth and property and mistakenly identify the best life with the possession of these external goods.

In Book III of the *Politics*, Aristotle analyzes arguments for and against different constitutions that employ different notions of a person’s worth, including his preferred notion of distributive justice as proportionate equality taken from Book V of the *Ethics:* justice requires that benefits be distributed to individuals in proportion to their merit or desert. Oligarchs are mistaken in thinking that those who are superior in wealth should also have superior political opportunities and standing. Democrats are mistaken in thinking that those who are equal in free birth should also have correspondingly equal political opportunities and standing. Though different in their conception of personal worth, for Aristotle both the oligarchs and the democrats are mistaken for the same reason: they assume a false conception of the ultimate end of the *polis*. As Fred Miller writes, “the city-state is neither a business enterprise to maximize wealth (as the oligarchs suppose) nor an association to promote liberty and equality (as the democrats maintain). Instead, Aristotle argues, “the good life is the end of the city-state,” that is, a life consisting of noble actions. Hence, the correct conception of justice is aristocratic, assigning political rights to those who make a full contribution to the political community, that is, to those with virtue as well as property and freedom. This is what Aristotle understands by an “aristocratic” constitution: literally, the rule of the *aristoi*, i.e., best persons.”

Nonetheless, what does Aristotle mean exactly by rule of the best persons, and what is the scope of the citizenry over which they are to rule? For instance, how can we make sense between Aristotle’s apparent preference for rule by the *aristoi*, and the following passage from Book III?

If there is one man who differs so much in excess of goodness (or more than one, who are nevertheless not enough to fill up a city) that there is no comparison between the goodness and political ability of all the other persons and theirs, if there is more than one of them (or his, if he is only one), then they must no longer be reckoned as part of a city. For it will be wrong to expect them to submit to equal shares, when they are so unequal in goodness and political ability. Such a man is

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presumably like a god among men. Hence it is plain that lawgiving too must concern itself with those who are equal both in kind and in ability. For such men as these there is no law; they themselves are law. Anyone who tried to legislate for them would be ridiculous;...

As Miller states, what exactly the common well-being of the polis entails is a matter of scholarly controversy. Some passages of the Politics, or at least some would argue, imply that the common good means a good that belongs to, or is the good of, the state itself and is distinct from the individual goods of the state, while others are of the view that the good of the state resides within and is spread across its citizens. Some passages from the Politics imply that justice involves a constitution that promotes the advantage or well-being of all citizens, including full participation in the holding of political offices. And in Book VII, chapter 2, Aristotle goes so far as to say that the best constitution is that arrangement according to which anyone whatsoever might do best and live a flourishing life.

One way to think about the above "god among men" passage is to recall from sub-subunit 1.6.3 the contrast between Aristotle and Plato's approach to justice. 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 and in particular the Form of the Good. For Aristotle, Plato's Theory of Forms is irrelevant to his theory of justice: "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." Aristotle anchors what it means for a person to be just in situational factors that are largely external to that person, and it is for that individual's powers of practical reason to recognize and assess those situational factors. The virtue of a just soul is treated as a matter of a person being disposed to respect and promote just social arrangements where individuals receive benefits according to their merits or virtue. Justice as a good in itself, outside of social arrangements and consequences, is meaningless to Aristotle:

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4 *Politics*, Book 3, chap. 13, pg. 45, (1284a3)
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 as 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.\(^7\)

Notice in the “god among men” passage that Aristotle says that “they [or he] no longer must be reckoned as part of the city.” As emphasized throughout the subunits on the \textit{Ethics}, virtue and the possibility of \textit{eudaimonia} is entirely dependent on being a part of the \textit{polis}. Justice is supreme among the virtues, because it entails the exercise of virtue with regard to another. The \textit{polis}, depending on the quality of its structure, provides the context in which justice can be exercised to varying degrees—the virtue of a just soul treated as a matter of a person being disposed and able to respect and promote just social arrangements. Martha Nussbaum writes: “…human flourishing has material and institutional necessary conditions that can be described and also realized. Good functioning, and even good thinking and good desiring, are not independent of the resources people have and the institutions in which they live. It is the job of political thought to imagine such conditions. This is Aristotle’s view.”\(^8\) Notice also that the “god among men” has an excess of goodness, which in the Aristotelian framework, could be argued to be something of an oxymoron: to have an excess is to depart from that which is virtuous according to the doctrine of the mean. Furthermore, in being a law unto himself (“they themselves are law”), he is lawless (“for such men as these there is no law”).

Nussbaum takes issue with the notion that Aristotle considers the correct conception of justice as aristocratic in the sense of assigning political rights to those with virtue as well as property and freedom. She writes: “For Aristotle elsewhere insists that in order for a conception [of political order] to be best in the first place it will have to have a certain relationship to what is in general practicable in human life…And in \textit{Politics} IV.11, he spells out this possibility condition further. The question about the best form of political order and the best life must, he says, be asked with reference to ‘most human beings.’ Because this is so, we should be concerned…

‘…not with a standard of excellence above the reach of most ordinary people, nor with an education that needs exceptional natures or exceptional resources, nor with a form of government that exists in wishes alone, but with a life in which most people

\(^7\) Ibid, pg. 118, (1129b 12-19).
...are capable of sharing and a form of government in which most citizens can participate.‘ (Politics, IV, 10, 1295a26-31)”

Nussbaum continues stating that Book IV’s emphasis on the idea that the lawgiver’s concern should be that of the ordinary person and the good life of most human beings is commensurate with Aristotle’s claim in Book VII that it is evident that the best constitution is that arrangement according to which anyone whatsoever might do best and live a flourishing life. Her argument consists of an interpretation of Aristotle’s notion of the common good as distributed in a sense both broad and deep: broad, in that it is concerned with the good lives of many people, not just a small elite; deep, in that it is concerned with the totality of the functionings that constitute a good human life.

To give some idea of the scholarly controversy over the issue of the scope of citizenry and distribution of political power and material resources with regard to Aristotle’s framework, Dennis McKerlie argues against views that diminish the importance of proportional equality in Aristotle’s theory of justice. He considers Nussbaum’s distributive conception of the common good as giving a special significance to the difference between an individual falling short of eudaimonia and one that has attained it. An improvement in a life that enables it to cross the threshold of eudaimonia is more important than improvements in better or worse lives that would not involve crossing the threshold. The connection with egalitarianism is that the distributive conception treats conditions necessary to reach eudaimonia as a kind of minimum entitlement to citizens, and one that is mandated by justice when enough resources are available. Everyone must be brought to that level before anyone is allowed to advance significantly beyond it. McKerlie claims that the crucial test of Nussbaum’s interpretation is the choice between bringing one life up to the threshold of eudaimonia on the one hand, and giving an even larger gain to someone else who is already happy on the other hand. Nussbaum would assert that Aristotle would take the first option, while someone with a view towards maximizing perfectionism across individuals, or maximizing the common good of the state distinct from that of individuals, would prefer the second.

McKerlie himself argues that 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. And on the question as to whether Aristotle would ascribe to Nussbaum’s position that everyone must be brought up to the threshold of eudaimonia before anyone is allowed to advance significantly beyond it, McKerlie argues that, for Aristotle, it would depend on the circumstances. However, McKerlie proposes another litmus test of comparing two governments where the first satisfies distributive justice according to virtue, while the

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9 Ibid, pg. 5-6.
other does not. Suppose that for some reason the citizens in the second state achieve a greater total amount of *eudaimonia* overall. McKerlie thinks that 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.\textsuperscript{11}

Alongside the positions of Miller, Nussbaum, and McKerlie, Jeremy Waldron presents a fourth line of interpretation with regard to the meaning of the common good. Waldron calls his argument “the doctrine of the wisdom of the multitude” or DWM, which focuses upon this passage, also from Book III, of the *Politics*:

…but the view that the masses rather than the few best men should be sovereign would seem to be held and to contain some difficulty and perhaps some truth. For the many, none of whom is a good man, may nevertheless be better than the few good men when they are together. Not that each by himself will be better but that as a whole they will be, as meals to which many have contributed are better than those provided by one outlay. For each of these many may possess some part of goodness and wisdom; and when they get together, as the mass may be a single man with many feet and many hands and many senses, so it may be with their character and thought. That is why the many are better judges of works of music and poetry; some judge one part, some another, and all together they judge it all.\textsuperscript{12}

Waldron relates that this line of thought is sometimes referred to as “the summation argument,” which suggests that nothing more is going on in the above passage than an aggregation of what each person brings to the table in making judgments regarding matters of state. Waldron considers that Aristotle has something else in mind: “His [Aristotle’s] view is that deliberation among the many is a way of bringing each citizen’s ethical views and insights—such as they are—to bear on the views and insights of each of the others, so that they cast light on each other, providing a basis for reciprocal questioning and criticism, and enabling a position to emerge which is better than any of the inputs and much more than aggregation or function of those inputs.”\textsuperscript{13} Aristotle does not endorse deliberation among many for some kind of amalgamation or watered-down outcome that all can accept. Although Aristotle very much values harmony of opinion, the quest for harmony is not a quest to merely assuage the dispositions of all those concerned. The point of deliberation among many is for views to be dialectically challenged in the hopes of arriving at better views, or views that converge in approaching the truth more closely.

Consider again Aristotle’s supposed man who differs so much in excess of goodness that there is no comparison between his goodness and political ability and that of all other persons, and that such a man should be reckoned not a part of the city. Waldron contrasts this god among men with the deliberative quality integral to the wisdom of the

\textsuperscript{11} Ibid, pg. 133.
\textsuperscript{12} *Politics*, Book 3, chap 10, pg. 36, (1281a40).
masses, and draws upon Aristotle’s claim at the beginning of the *Politics* that the mark of man’s political nature is his power of speech:

> Anyone who by his nature and not by ill-luck has no state is either a wretch or superhuman; he is also like the man condemned by Homer as having ‘no brotherhood, no law, no hearth;’ for he is at once such by nature and keen to go to war, being isolated like a piece in a game of *pettoi*.

The reason why man is an animal fit for a state to a fuller extent than any bee or any herding animal is obvious. Nature, as we say, does nothing pointlessly, and man alone among the animals possesses speech. Now the voice is an indication of pleasure and pain, which is why it is possessed by the other animals also; for their nature does extend this far, to having the sensations of pleasure and pain, and to indicating them to each other. Speech, on the other hand, serves to make clear what is beneficial and what is harmful, and so also what is just and what is unjust. For by contrast with the other animals man has this peculiarity: he alone has sense of good and evil, just and unjust, etc.  

If the god among men were to rule according to desert, the office which would correspond to or be worthy of his virtue would be that of a monarch. Waldron makes the point that if politics were typically a matter of monarchy, then the power of speech would largely be redundant, except as a vehicle for expression of decision and command. Waldron writes that “speech is the mark of man’s political nature because speech is the medium in which politics takes place. And since politics takes place in the medium of speech, it necessarily takes place in a medium of plurality—a context in which there are many speakers, each contributing to a collective decision something none of the others could have got to by himself.” Waldron’s argument aligns with the broad and deep scope of Nussbaum, but in a less-welfarist manner: the reason for a broad and deep scope is that people acting as a body are capable of making better decisions, by pooling their knowledge, experience, and insight, than any individual member of the body, however excellent, is capable of making on his own. It would also seem that Waldron’s doctrine lends itself to a dynamic *polis*, capable of adjusting to circumstances and open to possibilities, the focus being on potentiality, or what might come *out of* deliberation. Consider these passages from Book I of the *Ethics*:

> Some views are traditional and held by many, while others are held by a few reputable men; and it is reasonable for each group to be not entirely in error, but correct on one point at least, or even on most points.  

and

> We must examine these common beliefs; but we must not take for granted our first principles, since we are arguing towards them, not from them.

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14 *Politics*, Book I, chap. 2, pg. 3, (1253a3-17)
15 Waldron, pg. 576.
16 *Nicomachean Ethics*, pg. 20, (1098b 28)
To argue towards first principles we must begin from common beliefs that are familiar to us.\footnote{Ibid, pg. 6, (1095a 30, 1095b 2)}

Although common beliefs with regard to the good are necessary as a starting point, this heteronomy of what constitutes the good makes common beliefs inadequate in the search for the highest good. It takes the consideration of many—a broad scope—engaged in deliberation to arrive at that which does not exist beforehand as common beliefs to come towards first principles.