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JUSTICE AND THE LAWS IN ARISTOTLE'S ETHICS

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1. INTRODUCTION

It is commonly supposed, by readers and admirers of Aristotle's ethics, that the laws of the state have very little to do in his conception of the behavior and the deliberation of the truly virtuous person. The laws play a merely contingent role, both epistemically and motivationally, in the psyche and actions of the virtuous person: (1) epistemically, the virtuous person is perfectly capable of figuring out what the right thing to do is, and does not need the law to tell her, and (2) motivationally, the virtuous person does not need the threat of punishment to get her to do the right thing; unlike the immature person or ordinary sinner, she does the right thing for the right reason, that is, because it is the right thing to do, not because otherwise she might lose her good reputation or be punished.

That this is Aristotle's view is strongly suggested by his way of distinguishing between the fully virtuous and less than fully virtuous by saying that the former are those who know what the right thing to do is and why, whereas the latter are those who merely follow rules set down by others, for example by one's parents, or by the laws of the state. Aristotle quotes Hesiod to help him make the point:

Far best is he who knows all things himself;
Good, he that hearkens when men counsel right;
But he who neither knows, nor lays to heart
Another's wisdom, is a useless wight.
(*EN* I 4. 1095b10–14, trans. Ross rev. Brown)

The point is that the merely "good" man lacks understanding, but at least can be credited with "hearkening when men counsel right"—that is, of following the instructions of others, thus approximating the behavior and actions of the fully virtuous person who is "far best." Later, at the very end of the *Nicomachean Ethics*, Aristotle returns to this thought—now explaining that the law is a good way of training the people of a

state for virtue, presumably via appeals to their sense of shame and nobility, and incentives of reward and punishment (*EN* X 9. 1179b31–1180a5).

These passages and others seem to suggest that Aristotle thinks that the virtuous person really has no need of the law, either to tell her what to do, or to get her to do what she already knows she must do. The function of the law is, rather, to educate, train, and if necessary coerce that part of the populace in whom the virtues have been imperfectly and insufficiently inculcated. It is, even so, a rough and imperfect tool—perhaps adequate for the masses, in the absence of anything better, but not the ideal method for moral instruction. It follows, or so it seems, that Aristotle's moral theory can be understood independently of his theory of the aims and content of the laws of the state.

I want to argue that this is a mistaken view about the shape and ambitions of Aristotle's ethics, for he thinks that there is an essential connection between virtue and the law. In this paper, I will take up and develop an argument made by Gisela Striker, namely that the virtuous person deliberates by thinking about what the law requires her to do.¹ The law spells out in detail what the right thing to do is, and the virtuous person is someone who correctly grasps what the law requires of her, and does it for the right reasons. For the virtuous agent decides what to do by considering what is legislated for citizens in her society for the common good.

Now, it's certainly true that Aristotle thinks that the virtuous person is not motivated by the threat of punishment and the sanctions attached to any law. Her actions flow from her good character—not from her fear of punishment. It's also true that the virtuous person doesn't need the law to direct her actions, because she has *phronêsis*, that is, practical wisdom. For example, if she sees someone in need of her help, she doesn't have to be told to give assistance; if she makes a promise, she doesn't need reminding by the law that she ought to keep it. So the laws are not needed to tell the virtuous person what to do, and it also does not motivate her to do what she should do. The reason why every virtuous person is necessarily obedient to the laws is instead the following:

- (1) Every virtuous person is just.
- (2) Being just means being concerned to promote the common good.
- (3) ∴ Every virtuous person is concerned to promote the common good.
- (4) What will promote the common good is spelled out by laws (at least, by good laws in a well-ordered state).
- (5) ∴ Every virtuous person is obedient to the laws.

¹ Striker 2006: 134.

Clearly, if we are to be persuaded by this line of thought, we will want to hear more about two related ideas. The first is the idea that a just person is necessarily a lawful and law-abiding citizen. The second is the idea that the virtuous person necessarily cares about the common good. In the rest of this paper, I will explore these two ideas. I hope to show that justice and its concern for the common good is central to Aristotle's conception of the virtuous agent, and that justice, in turn, cannot be understood apart from the various laws that states devise for the common benefit.

2. THE JUST PERSON IS A LAWFUL PERSON

Let us start with the first idea, that being a just person means being a lawful and law-abiding citizen. At the outset I should acknowledge that in English, it sounds odd to call someone "just"; we think that institutions, laws, distributions, and states of affairs can be "just," meaning above all that they are fair and equitable, but if you say that a person is "just," it's not quite clear, in English, what you mean. In Greek, when Aristotle talks about a man being "just" (*dikaios*), he means, as we shall see, that the person is law-abiding and that his relations with other people are as they should be, because he does what he should for other people, and has a concern for the good of others or for the common good. Thus, it might be better to translate "just man" here by "good man" or even "morally good person," in order to capture the idea that one is "just" insofar as one's relations with others are as they should be. Indeed, it has been suggested that for Aristotle, *dikaiousunê* "justice," not *aretê* "virtue," is the concept that corresponds most closely to our concept of moral goodness or moral rightness.²

In fact, Aristotle acknowledges that in Greek, there is an ambiguity between two senses of the word "just," roughly corresponding to the idea of fairness and to the idea of moral goodness; as we might put it, there are in fact two distinct, but related, concepts of justice in Aristotle.

Both the lawless man [ὁ παράνομος] and the grasping and unfair man [ὁ πλεονέκτης καὶ ἄνισος] are thought to be unjust [ἄδικος], so that evidently both the law-abiding [ὁ νόμιμος] and the fair man [ὁ ἴσος] will be just. The just [τὸ δίκαιον], then, is the lawful [τὸ νόμιμον] and the fair [τὸ ἴσον], the unjust [τὸ ἄδικον] the unlawful [τὸ παράνομον] and the unfair [τὸ ἄνισον].³ (V 1. 1129a32–b1)

² Irwin 1986; Striker 2006: 135.

³ All translations of Aristotle's *Nicomachean Ethics* are from the Oxford translation by Ross revised by Brown (Oxford World Classics 2009).

The term “unjust” (*adikos*) sometimes describes (1) someone who is “lawless,” a law-breaker, and sometimes describes (2) someone who is “grasping and unfair.” Conversely, to call someone just is to say either (1) that he is lawful and law-abiding, or (2) that he is “fair.” Aristotle goes on to identify justice in the sense of lawfulness with the whole of virtue, and justice in the sense of being fair-minded with just a part of virtue, because it is an individual virtue of character, coordinate with courage, moderation, generosity, wittiness, and so forth (*EN* V 2. 1130b10–16). These two concepts of justice are traditionally called “general justice” and “special justice.” Special justice is the virtue that belongs to people who care above all about the fairness of social and political institutions, arrangements and distributions of benefits and harms. Aristotle clearly has in mind a virtue that would belong to magistrates, statesmen, and especially judges—but presumably this is a virtue that all citizens in a good state should be expected to have. Special justice is a virtue that is conceptually secondary to a prior concept of fairness, understood as equality in distributions of goods, or equality in rectification of harms. General justice, by contrast—which is the subject of this paper—is a broader umbrella concept, which includes special justice, but goes beyond a concern for fairness, and has to do with correctness in one’s relations with other people quite generally.

So Aristotle describes general justice as the virtue of being a law-abiding person (the *nomimos*) who cares about the norms of society and obeys the constraints that are imposed on his or her behavior; general injustice refers to the person (the *paranomos*) who shows disrespect for the laws and norms of society, both written and unwritten. The law lays down constraints on behavior in many areas—for example, it requires you to pay your taxes, perform military service, keep your hands off your neighbor’s property, support your parents in their old age, and so on. The just person obeys those constraints whereas the unjust person does not. (It is worth keeping in mind that Greek *nomoi* include laws both written and unwritten—and the latter includes customs, conventions, and norms widely endorsed and followed.)

When Aristotle defines general justice in terms of lawfulness, he is insisting upon two things. First, his definition shifts the focus away from the motivational set of the agent, back to the behavior and actions of the agent described in terms of action-types. A person is just *because* he does the things required by the laws of society; he is unjust *because* he breaks those laws.⁴ Second, Aristotle is insisting that justice has to do with one’s relations with other people—it is above all a *social* virtue, spelled out in terms of laws that sometimes require one to confer benefits on other people. That justice has to do with one’s relations with other people, and that it requires obedience to the laws,

⁴ Hence, general justice corresponds roughly to what Sachs calls the “vulgar conception of justice” in Plato’s *Republic* IV 442d–443a (Sachs 1963).

are deeply familiar ideas in Greek thought. That it requires obedience to the laws is familiar for example from Antiphon's *On Truth*:

Justice is a matter of not transgressing what the laws prescribe in whatever city you are a citizen of. (Oxyrynchus Papyrus XI no.1364, ed. Hunt, col. 1 line 6–col. 7 line 15 = Antiphon DK 87B44, trans. McKirahan)

The idea that justice has to do with one's relations with other people and more specifically that it requires one to benefit others besides oneself, is familiar from Thrasymachus in Plato's *Republic*, for example, who says that justice is "the advantage of the stronger." As he explains, the laws are the product of existing power relations in a state, and hence serve the advantage of those who are in power. That is, the just person always benefits someone else rather than himself (*Republic* I. 338d–339a).

Aristotle endorses this familiar conception of justice when he says that justice is lawfulness. In his view, justice has to do with proper relations with and fulfillment of obligations to others. It is a social virtue that belongs to people insofar as they live with, cooperate with, and rely on others. Furthermore, it is a virtue that is characterized above all by its benefits for a group of people—maybe *only* for other people and not for oneself, as Thrasymachus says so memorably.

3. OBEDIENT TO ANY LAW?

Aristotle thinks that the just person is lawful and law-abiding. But does obedience to the laws necessarily make one virtuous?⁵ It would only if the laws were good laws. After all, if one lived in a state where the laws were unjust, or badly conceived, then it would seem to follow that the virtuous agent would have the obligation *not* to follow the laws of that state. So when Aristotle says that "all lawful acts are in a sense just acts," does he mean *everything* that *any* law sets out is just? And that there are no unjust laws? Is he a conventionalist about justice and the law?⁶ On the one hand, there is a close connection between *nomos* and *doxa*, such that a *nomos* is a norm or expectation generally accepted and endorsed by a group of people. Now in English usage of the term "law," it is conceivable that there could be a law that is unknown or not accepted by anyone. By contrast,

⁵ The following discussion is greatly indebted to Kraut 2002: Ch. 4, esp. 103–25, which defends the cogency of Aristotle's discussion of general justice.

⁶ One might think of Cleitophon's interpretation and defense of Thrasymachus' conception of the laws in Plato's *Republic* I 340b: justice is what the stronger believes to be to his advantage. Kraut 2002: 104 cites for comparison Hobbes' claim that no sovereign power can be guilty of injustice, because injustice consists in the violation of a covenant, and no sovereign makes a covenant.

there couldn't be a *nomos* which no one believes or endorses; *nomoi* are norms which a group of people regard as valid and binding, and includes customs, norms, and unwritten laws. Furthermore, the conceptual connection between *nomos* and *dikaioi* is so tight that Myles Burnyeat has gone as far as to say that a law cannot be unjust;⁷ a law may be badly formulated, or ill-conceived, but cannot be *adikos*.

I am skeptical about the idea that Aristotle is a conventionalist about law, and also about Burnyeat's specific claim that laws in Greek can't be unjust. For Aristotle holds that laws can be unjust. For example, in *Pol.* III 11. 1282b8–13, he says that the laws must suit the regime, and since there have been both correct and deviant regimes, "it is clear that laws that accord with the correct constitutions must be just, and those that accord with the deviant constitutions not just."⁸ So he clearly doesn't think that laws are just simply because they are the law.

Rather, when Aristotle offers two arguments that obedience and lawfulness is indeed a virtue (*EN* V 1. 1129b11–25), he is thinking of obedience to laws that meet a certain minimum standard of correctness. Here is the first argument he offers:

Since the lawless man was seen to be unjust and the law-abiding man just, evidently all lawful acts are in a sense just acts; for the acts laid down by the legislative art are lawful, and each of these, we say, is just. Now the laws in their enactments on all subjects aim at the common advantage either of all or of the best or of those who hold power, or something of the sort; so that in one sense we call those acts just that tend to produce and preserve happiness and its components [i.e. virtues] for the political society. (V 1. 1129b11–19)⁹

He argues that acts are lawful when they are laid down *in accord with the lawgiver's art* (*nomothetikê*), and hence are in accord with the *right* laws; when they are lawful in *this* sense, they are just. This would imply that a law that was not in accord with *nomothetikê* would not be a good law. What then is the lawgiver's art? It is, in the first instance,

⁷ I have heard Burnyeat say this at Princeton in the early 1990s; he apparently has an unpublished paper on this which I have not seen.

⁸ See also *Pol.* II 8. 1268b38–1269a3 where he says that the laws of archaic societies are "simple and barbaric," though he does not use the word "unjust" for them. Kraut 2002: 104 also mentions the distinction made in *EN* V 7 between legal or conventional justice and natural justice, where the latter seems to imply a basis for evaluating the justice or goodness of laws.

⁹ Ἐπεὶ δ' ὁ παράνομος ἄδικος ἦν ὁ δὲ νόμιμος δίκαιος, δηλὸν ὅτι πάντα τὰ νόμιμά ἐστὶ πως δίκαια· τὰ τε γὰρ ὠρισμένα ὑπὸ τῆς νομοθετικῆς νόμιμά ἐστι, καὶ ἕκαστον τούτων δίκαιον εἶναι φαμεν. οἱ δὲ νόμοι ἀγορεύουσι περὶ πάντων, στοχαζόμενοι ἢ τοῦ κοινῇ συμφέροντος πᾶσιν ἢ τοῖς ἀρίστοις ἢ τοῖς κυρίοις [κατ' ἀρετὴν] ἢ κατ' ἄλλον τινὰ τρόπον τοιοῦτον· ὥστε ἓνα μὲν τρόπον δίκαια λέγομεν τὰ ποιητικά καὶ φυλακτικά εὐδαιμονίας καὶ τῶν μορίων αὐτῆς τῇ πολιτικῇ κοινῶνι.

the “controlling part” of political science, which is the same as practical wisdom (*EN* VI 8. 1141b23–5).¹⁰ But Aristotle does not now immediately move to the realm of ideal legislation, by saying for example that an act is just if it is in accord with the laws that an ideal legislator would legislate; instead, he simply says, “Now the laws in their enactments on all subjects aim at the common advantage either of all or of the best or of those who hold power, or something of the sort; so that in one sense we call those acts just that tend to produce and preserve happiness and its components [i.e. virtues] for the political society” (V 1. 1129b14–19).

I take Aristotle to be arguing as follows:¹¹

- (1) The laws in their pronouncements about everything—that is, the laws, both written and unwritten—aim at (i.e. try to attain, but may fail to secure) the common advantage of a political community—whose membership may be more or less inclusive (inclusive in democracies and, perhaps, Aristotle’s ideal city-state, exclusive in oligarchies and tyrannies).¹²

That the laws should aim at the common advantage can be true of legislation for a wide variety of political systems, ranging from more democratic to more aristocratic forms. But the common advantage he’s talking about is presumably not mere expedience, but genuine common benefit—ruling out cases like the law instituted by the Thirty confiscating the property of metics to finance the Spartan garrison, which was perhaps

¹⁰ There, Aristotle is concerned to defend his claim that practical wisdom and political wisdom “are the same state of mind, but their essence is not the same.” He thinks the widely held opinion that practical wisdom requires one to mind one’s own business is wrong; instead, practical wisdom requires one to recognize the extent to which one’s own good depends on the good of others. As he says, “yet perhaps one’s own good cannot exist without household management, nor without a form of government. Further, how one should order one’s own affairs is not clear and needs inquiry” (*EN* VI 8. 1141b34–1142a11; see also *Pol.* III 4. 1277b25–30). See also Reeve 1992: §§12, 20, 32; Schofield 2006: 318–21.

¹¹ It is somewhat uncertain how exactly to construe the sentence: *koinêi* can go either with all four disjuncts (“the common advantage either of all or of the best or...”, with Ross and Kraut) or just with the first (“either the common advantage of all or the advantage of the best or...”, with Irwin 1988: 424–5), and some manuscripts omit *kat’ aretên* in the third disjunct; for helpful discussion, see Kraut 2002: 113n24. Kraut I think correctly notes that, however one construes the text, Aristotle’s meaning is clear: “however narrowly or broadly the political community is defined, justice in the broad sense produces and preserves happiness for the whole of it.”

¹² One can either read Aristotle as saying, as here, that the laws are comprehensive, and address all matters, or as saying that the laws, in all the matters that they deal with, aim at the common advantage.

expedient for the Thirty who were in power, but not to the common advantage of the political community. That is, he thinks that

- (2) The common advantage of a political community consists of the happiness and its parts (i.e. the virtues) for the members of that community.

For this reason, it follows that

- (3) Lawful acts—those in accord with laws that aim at the common advantage, that is, the production and preservation of happiness and its parts for the members of the political community—are therefore the ones we call just.

From the nature of the law and its orientation towards the happiness and virtue of the members of a political community he infers that lawful actions are just and virtuous. The argument, then, is that law-abiding behavior is just and virtuous because the aim of legislation is to promote the common good for the political community (as Aristotle frequently maintains elsewhere, cf. *EN* VIII 9. 1160a13–14, *Pol.* III 6. 1279a17–19, III 12. 1282b16–18, III 13. 1283b35–42). The lawbreaker's actions are unjust because they are inimical to the general happiness of a polis; he engages in anti-social behavior, and is a threat to the well-being of his fellow citizens.

Aristotle offers a second reason why law-abidingness is a virtue: it is precisely because the laws legislate virtue:

And the law bids us do both the acts of a brave man (e.g. not to desert our post nor take to flight nor throw away our arms), and those of a temperate man (e.g. not to commit adultery nor to gratify one's lust), and those of a good-tempered man (e.g. not to strike another nor to speak evil), and similarly with regard to the other virtues and forms of wickedness, commanding some acts and forbidding others; and the rightly-framed law does this rightly, and the hastily conceived one less well. (*EN* V 1, 1129b19–25)¹³

According to this argument, the laws provide moral instruction and guidance, by prescribing forms of behavior that will promote virtue—or, more realistically (since then the task would presumably be endless), as here, by prohibiting forms of behavior

¹³ προστάττει δ' ὁ νόμος καὶ τὰ τοῦ ἀνδρείου ἔργα ποιεῖν, οἷον μὴ λείπειν τὴν τάξιν μηδὲ φεύγειν μηδὲ ῥιπτεῖν τὰ ὅπλα, καὶ τὰ τοῦ σώφρονος, οἷον μὴ μοιχεύειν μηδ' ὑβρίζειν, καὶ τὰ τοῦ πρᾶου, οἷον μὴ τύπτειν μηδὲ κακηγορεῖν, ὁμοίως δὲ καὶ κατὰ τὰς ἄλλας ἀρετὰς καὶ μοχθηρίας τὰ μὲν κελεύων τὰ δ' ἀπαγορεύων, ὀρθῶς μὲν ὁ κείμενος ὀρθῶς, χεῖρον δ' ὁ ἀπεσχεδιασμένος.

that are incompatible with virtue and common happiness. That the aim of politics is “making the citizens be of a certain kind, viz. good and capable of fine deeds” (*EN* I 9, 1099b29–32; see also I 13, 1102a7–12) is emphasized throughout the *Nicomachean Ethics*. He returns to the thought that laws will provide moral education in *EN* X 9, where he compares the state to a father educating his children.¹⁴ Insofar as the laws aim to make citizens good, lawful acts will be virtuous.

But now we can reformulate the earlier question about obedience to the law: given the fact that many or perhaps most laws fall short of what ideal *nomothetikê* would legislate, doesn't this imply that many or perhaps most laws are bad ones, and hence shouldn't be obeyed? There is, of course, nothing sacrosanct about the particular laws that a particular state happens to have—and Aristotle is neither a relativist nor a reactionary with respect to the laws. For example, in *Politics* II 8 he acknowledges that sometimes laws need to be changed.¹⁵ And as Richard Kraut has argued, even though Aristotle states in *Politics* III 4 that civic virtue consists of the ability to both rule and be ruled—and that it more specifically charges each citizen with the “preservation” (ἡ σωτηρία) of the constitution of the state to which he belongs (*Pol.* III 4, 1276b27–30; cf. Kraut 2002: 363–84)—even so, there are limits to what the good citizen will do. For example, in *EN* III 1, Aristotle says that there are some things that no one should contemplate doing, even if ordered by a tyrant. He also seems to think that under some circumstances, the good citizen ought to act to overthrow the constitution—for example, a tyranny (*Pol.* IV 10). Furthermore, Kraut argues persuasively that it is compatible with “preserving” the constitution that one act to meliorate its defects; in particular, if one lives in a democracy, which Aristotle regards as a deviant constitution, the good citizen will do what he can to prevent the more extreme and unstable forms of democracy from arising. Such a citizen might, for example, advocate proposals for a mixed constitution—tempering a democracy with elements of an oligarchic constitution (see e.g. *Pol.* IV 13–14; cf. Kraut 2002: Ch. 12). All of these indicate that Aristotle fully recognizes that some laws and constitutions are defective and require change.

If, then, what makes laws good is that they aim at the common good, then this is the proper criterion for judging which laws are good and which are not. And it is possible for the lawgivers to miss the mark in one of two ways (Young 2006: 182). First, the lawgivers could hold a mistaken conception of happiness, but craft the laws well so that they do a good job of promoting this mistaken conception of happiness.

¹⁴ For an idea of what laws and customs that educate citizens for virtue will look like, see *Politics* VII 13–17 and VIII.

¹⁵ De Romilly 1971 attributes to Aristotle an anti-progressivist conservative thesis *against* changing the law on the basis of *Pol.* II 8, but see Brunschwig 1980.

Second, the lawgivers could hold a correct conception of happiness, but fail to implement that conception well in the laws. Hence, drafting the laws of a state is presumably no easy matter. It is the job of *nomothetikê*, or the art of legislation, to formulate laws that correctly identify what is good for a community of citizens and that promote it well. Aristotle goes on in the *Politics* to argue that correct identification of the end and nature of the polis is what distinguishes the correct forms of constitution from the deviant ones (*Pol.* III 6, 7, 9); thus, for example, oligarchies are deviant because they are conceived along the lines of a commercial enterprise, not a polis (*Pol.* III 9). And existing laws count as lawful and just to the extent that they conform to or approximate what ideal legislation aims at, that is, to the extent that they aim at the happiness and well-being of the citizens.

Aristotle is therefore able to accept and reject laws as being good, or well-formulated, from an objective point of view. And he recognizes that the laws of a corrupt state will not be an infallible guide to virtuous action. Only from the perspective of *nomothetikê*, the lawgiver's art, is it possible to determine which laws are just and which are not. But the question "how do you decide which laws of your state are correct and should be obeyed?"—that is, the question of individual action—is not a question that he is interested in answering, not here and maybe not ever. He may think that citizens of a state are obliged to obey its laws as long as they meet to some minimal degree the standard set out here: that of producing and preserving happiness and the virtues for a political community.¹⁶ Perhaps Aristotle thinks that there are so many commonalities among different law systems, such as laws against violence and theft (see *EN* V 7 on the prevalence of what he calls "natural" as opposed to "legal" or "conventional" justice), that he is generally satisfied that most legal systems meet this minimum standard.¹⁷ In any case, his project is not to offer guidance to individuals for deciding which laws to obey and when, but rather to describe the science whose subject matter is the correct administration of the state. He is interested in giving guidance to the legislator who is trying to determine what the aim of the best state and laws should be, and this is clearly his focus throughout the *Nicomachean Ethics* and the *Politics*. Hence, the real burden on Aristotle is to spell out what kind of laws would promote the common good best

¹⁶ Kraut discusses the difference between the equitable juror or judge who tries to rectify deficiencies in a law, and the citizen who decides that a law is unjust and hence does not require compliance (Kraut 2002: 111–18, esp. 110–11), as well as Aristotle's views on the obligation of citizens to "preserve the constitution" and civil disobedience (2002: §10.6–10.8, esp. 379–84).

¹⁷ Aristotle's claim that "Practically the majority of the acts commanded by the law are those which are prescribed from the point of view of virtue taken as a whole" may perhaps imply that this can be found in most existing laws (*EN* V 2. 1130b22).

under what conditions—which is, as he tells us in the last chapter of the *Nicomachean Ethics*, his next task for the *Politics*.

4. THE VIRTUOUS PERSON IS JUST AND ACTS FOR THE COMMON GOOD

Let us turn to the second idea we wanted to explore, the idea that every virtuous person is necessarily just, that is, possesses the virtue of general justice and hence a concern for the common good. While we may accept Aristotle's definition of justice as a virtue motivated by concern for the common good, and we might grant that the laws of a good state should promote the common good, still we might wonder why Aristotle's happy and virtuous person necessarily has to be a just and law-abiding citizen—that is, why she should care about promoting the common good.

Let's begin by examining Aristotle's argument for identifying general justice with the whole of virtue. It is worth quoting the argument in full:

This form of justice, then, is complete virtue, although not without qualification, but in relation to our neighbour [αὕτη μὲν οὖν ἡ δικαιοσύνη ἀρετὴ μὲν ἐστι τελεία, ἀλλ' οὐχ ἀπλῶς ἀλλὰ πρὸς ἕτερον]. And therefore justice is often thought to be the greatest of virtues, and “neither evening nor morning star” is so wonderful; and proverbially “in justice is every virtue comprehended.” And it is complete virtue in its fullest sense because it is the actual exercise [χρήσις] of complete virtue. It is complete because he who possesses it can exercise his virtue not only in himself but towards his neighbour also; for many men can exercise virtue in their own affairs, but not in their relations to their neighbour. This is why the saying of Bias is thought to be true, that “rule will show the man”; for a ruler is necessarily in relation to other men, and a member of a society. For this same reason justice, alone of the virtues, is thought to be “another's good,” because it is related to our neighbour; for it does what is advantageous to another, either a ruler or a co-partner. Now the worst man is he who exercises his wickedness both towards himself and towards his friends, and the best man is not he who exercises his virtue towards himself but he who exercises it towards another; for this is a difficult task. Justice in this sense, then, is not part of virtue but virtue entire, nor is the contrary injustice a part of vice but vice entire [αὕτη μὲν οὖν ἡ δικαιοσύνη οὐ μέρος ἀρετῆς ἀλλ' ὅλη ἀρετὴ ἐστίν, οὐδ' ἡ ἐναντία ἀδικία μέρος κακίας ἀλλ' ὅλη κακία]. (V 1. 1129b25–1130a10)

Aristotle claims that “this form of justice [i.e. general justice], then, is complete virtue, although not without qualification, but in relation to another” (V 1. 1129b25–7). To put it

another way, justice is coextensive with “the whole of virtue,” though not identical. If one has general justice, one necessarily also has all of the special character-virtues all together, and conversely, if one has the special virtues, one necessarily also has general justice. Though “general justice” and “virtue” may refer to the same dispositions and activities, in definition they are different: by calling someone who has one of the special character virtues “just,” one is calling attention to a particular aspect of her virtue, namely, her “relation to others.” General justice, then, picks out the social or other-regarding aspect of virtue, as the term “virtue” does not. As Hardie puts it, “As states or dispositions they are the same, but the terms ‘justice’ and ‘injustice’ convey, as ‘virtue’ and ‘vice’ do not, a relationship between a man and his neighbours (1130a8–13)” (Hardie 1968: 185).

In addition, Aristotle says that general justice “perfects” the other virtues, by extending their exercise beyond oneself. Justice is “complete” or “perfect” virtue, where the virtues have been activated not just in a limited sphere of action having to do with one’s own affairs, but in every sphere, including one’s relations to other people. One may demonstrate courage in attending to one’s own affairs and interests, but that is incomplete and imperfect unless one is capable of doing so when it comes to matters that affect one’s neighbors as well. That is why those who have been given the opportunity to govern and administer the affairs of an entire state, not just their own affairs, have been given the widest possible scope and latitude in which to “perfect” their virtue—or indeed to perfect their vices.

Thus, anyone who has general justice must also have all the specific virtues, for possession of the specific virtues is in a sense a necessary condition of achieving general justice. For one always exercises general justice in some special area (e.g. in matters where one’s temper might be provoked or where one’s judgments about liberality are required), and in order to exercise general justice in that area one must have the special virtue relevant to that area—for example, one’s feelings of fear, anger, or about money must be as they should be. Thus, being just is not a matter of passively and blindly following the laws—it includes the proper cultivation of character and *phronêsis* of someone who has all the particular virtues, all together. Having the character virtues means that one’s appreciation of what the right thing to do is—especially when others are involved—is not impeded or occluded by one’s desires and emotions.

Of course, many of the other specific virtues are also essentially other-oriented, such as generosity, the virtues having to do with honor, and the conversational virtues, as Broadie notes (2002: 34–5). So what then is distinctive about the other-regarding aspect of justice? To call an action just is specifically to call attention to the fact that it fits in with what the agent owes to others, to do and not to do, whereas to call it generous is to call attention to the presence or absence of a certain type of special motivation and to note that the agent was or was not incorrectly guided by that kind of motivation. When we describe someone as generous, we mean that his impulse to give to others

is as it should be; his desires to help others are in the right balance between giving too little and too much (presumably at the cost of attending to his own needs or doing so even when it is not helpful or useful). To call someone “generous” is to praise his emotional dispositions and state (with respect to the other-regarding desire to give to others) for being properly modulated, such that he is not put off by his own stinginess or wastefulness from doing the right thing. But to call a generous person just is to say that his generous impulses and actions are what they should be with respect to other people—he helps other people in the right way, that is, in accordance with the laws and customs that promote the good of the whole. Hence, a generous person is just (or “morally good” as we would say) when his charitable giving is in line with our social expectation that each of us should try to help friends and fellow citizens whenever we can, either for their sake, or for the common good.

Similarly, “courageous” and “just” pick out different aspects of the same disposition. When we say that someone is acting courageously (e.g. by defending himself or standing at his post in battle), we are pointing to his emotional dispositions and state, and saying that his sense of fear and confidence are properly modulated, and do not prevent him from seeing and acting on the right thing to do. We say this in abstraction from how his actions affect other people—hence, one can act courageously even when no one else is involved. But when we say that he is just, we’re drawing attention to the fact that his courageous action is what it should be with respect to other people—namely, his actions are in accordance with laws that promote the good of others—say the good of the soldiers in his platoon, that of the whole army, and ultimately that of the community he is defending. Thus, the courageous person is just when, for example, he stands at his post, even at peril to life or limb, precisely because the law and the common good require it of him.

If this is correct, then we might venture further and make a distinction between the disposition to act in conformity with what the laws prescribe, and the disposition to act out of respect for the law and its intent. Someone who is mindlessly obedient to the law acts in conformity with the law simply because this is what the law requires. But if she not only (a) acts in conformity with the laws and norms generally accepted by the community, but also (b) acts out of respect for other citizens and for the laws governing them, then she is just. She acts in conformity with the law not simply to avoid censure or punishment, nor because she is in the habit of acting in a generous, mild, or temperate fashion, but because she endorses those laws and what they demand of her and others.¹⁸

¹⁸ That is, general justice is, as Broadie puts it, “a sort of meta-excellence: one that has its own sort of motive and gives rise to some actions of its own [i.e. lawful ones], but is not expressed in any area that is special or exclusive to itself” (Broadie 2002: 35).

Now Aristotle doesn't precisely say this in the *Nicomachean Ethics*—he doesn't use the Kantian language of “acting out of respect for the law.” What he does say, instead, is that it is distinctive of the virtuous agent that she aims at the fine or the noble (*to kalon*), and that she chooses to do virtuous action “because it is fine” or “for the sake of the noble.”¹⁹ Thus, for example, courage is described as “a mean with respect to things that inspire confidence or fear, in the circumstances that have been stated; and it chooses or endures things because it is noble to do so, or because it is base not to do so” (*EN* III 8. 1116a10–12).²⁰ It is remarkable and odd, given its evident importance, that Aristotle nowhere explains in the *Nicomachean Ethics* the concept of the fine and noble. I think this is because Aristotle doesn't think of it as a technical notion, but one that is familiar and obvious from common use. He discusses its common use—the grounds on which an action or person is commonly taken to be “fine”—in *Rhetoric* I 9 and in *Eudemian Ethics* VIII 3. From these and other passages, it is clear that someone who cares about what is fine is not exclusively concerned with her own self-interest (*Rhet.* I 3. 1358b38; II 12. 1389a32–5; II 13. 1389b35; *EN* II 3. 1104b31; IX 8. 1169a6). Rather, what is characteristic of fine actions is that they benefit others (*Rhet.* I 9. 1366b3–4, *EN* IV 1. 1120a11, 1121a27–30, IV 2. 1123a31–2).²¹

Take for example Aristotle's distinction between “civic” (*politikē*) courage and real courage: “Citizen-soldiers seem to face dangers because of the penalties imposed by the laws and the reproaches they would otherwise incur, and because of the honours they win by such action This kind of courage is most like to that which we described earlier [i.e. real courage], because it is due to virtue; for it is due to shame and to desire of a noble object (i.e. honour) and avoidance of disgrace, which is ignoble” (*EN* III 8. 1116a18–21, 27–9). The citizen soldier is motivated by something noble—namely, fear of disgrace, and love of honor. While this person is better than someone who follows the general's commands simply to avoid punishment, he falls short of the really courageous person, who acts “for the sake of the noble,” for the courageous person is

¹⁹ A point I owe to Gisela Striker.

²⁰ See also III 8. 1115b12, 1116a28, b2–3, 1117b9, 14. The other virtues are also all described as present when the agent acts “for the sake of the fine or noble,” including temperance (III 11. 1119a18: “If something is pleasant and conducive to health or fitness, he will desire this moderately and in the right way; and he will desire in the same way anything else that is pleasant if it is no obstacle to health and fitness, does not deviate from what is fine, and does not exceed his means”; and also b16), generosity (IV 1. 1120a12, 23), magnificence (IV 2. 1122b6: “In this sort of spending the magnificent person will aim at what is fine, since that is a common feature of the virtues”; see also 1123a24), and justice (V 9. 1136b22).

²¹ Here I have found Irwin 2007: 206–9 very helpful. I am in agreement with his explanation of the connection between virtue, the fine, and the common good; for a different view, see Rogers 1993 and Lear 2004 on *to kalon*. Lear thinks that calling an action *kalon* is to draw attention to the teleological features of an action, e.g. the presence of order and symmetry and form in it.

not thinking of himself at all, but of the good of the community, and what will happen to it if he does not act. By contrast, the citizen-soldier is thinking of the wrong thing, namely glory if he acts well, and disgrace if he does not. Gaining glory for oneself is of course a noble and admirable thing, in Aristotle's view (in comparison for example to living an obscure and undistinguished life), but to act for the sake of the noble is to act not because glory will follow but because it is required for the good of his fellow soldiers, and the whole community. In other passages, Aristotle frequently describes those who do things "for the sake of friends and fatherland" as "choosing what is fine."

In a discussion of self-love, Aristotle again emphasizes that the true self-lover acts for the sake of the noble, where this means acting for the common good, or the good of others:

It is true of the good man too that he does many acts for the sake of his friends and his country, and if necessary dies for them; for he will throw away both wealth and honours and in general the goods that are objects of competition, gaining for himself nobility (περιποιούμενος ἑαυτῷ τὸ καλόν); since he would prefer a short period of intense pleasure to a long one of mild enjoyment, a twelvemonth of noble life (καλῶς) to many years of humdrum existence, and one great and noble action (μίαν πράξιν καλὴν καὶ μεγάλην) to many trivial ones. Now those who die for others doubtless attain this result; it is therefore a great prize (μέγα καλόν) that they choose for themselves. (IX 8. 1169a18–26)

Here, Aristotle describes doing things for the sake of friends and fatherland as "choosing what is fine."

We can now see why Aristotle thinks that the virtuous person is necessarily someone who cares about the common good—it is already built into the virtues that the virtuous person acts for the sake of the fine, where that means, in this context, acting for the common good. General justice, then, is the virtue of someone who acts out of respect for the common good. Since the laws are supposed to spell out what is required for the common good, the virtuous person is necessarily lawful.

Now one might object to the thesis that when Aristotle says that the virtuous person acts for the sake of the noble, that what he means is that the virtuous person acts for the sake of the common good. This has been labeled by Kelly Rogers the "altruistic interpretation" of *to kalon*, and she rejects it, on the grounds that it is not part of the concept of the fine that it just *means* "for the common good." Although it may be correct that "fine" does not *mean* "for the common good," nevertheless, in the context of what people regard as most admirable in fellow members of their community, "acting for the sake of the fine" does refer to acting for the sake of the common good. It is misleading to call this the "altruistic" interpretation, since this equates Aristotle's idea

that justice is acting for the *common* good with Thrasymachus' idea that justice is acting for someone *else's* good. It would be more accurate to call this the political sense of the term "*to kalon*."

Irwin, who is the most prominent advocate of this reading, agrees that "for the sake of the fine" does not mean "for the common good" (2007: 207); rather, the fine is what is admirable—and things can be admired for many reasons, such as for being aesthetically beautiful, or for being impractical and hence tokens of luxury (e.g. long hair for men). What is fine is either that which *is* admired by people, or that which is most deserving of admiration—that is, that which is most worthwhile, as we might say, or of supreme value. It is in this stricter sense of "most deserving of admiration" that actions aiming at the common good are "fine": political communities organized around the principle of mutual and shared happy lives regard these actions as most deserving of admiration and praise (*EE* VIII 3. 1248b17–25; cf. *EN* I 12. 1101b31–2; VIII 1. 1155a28–31; *Rhet.* I 9. 1366a33–6, 1367b28). And they are deserving of such praise because they benefit many rather than one, as Aristotle explains at the beginning of the *Nicomachean Ethics*:

For even if the end is the same for a single man and for a state, that of the state seems at all events something greater and more complete whether to attain or to preserve; though it is worth while to attain the end merely for one man, it is *finer and more godlike to attain it for a nation or for city-states*. (*EN* I 2. 1094b7–10)²²

Thus, to say that attainment of the final good for an entire city-state is "fine" or noble is to say that it is admirable, and it is admirable because it is simply better and more worthwhile to bring about the good for a whole community than for a single individual. *Politikê*, the science of producing the good for all the members of a city-state, is the highest science because its end—the common good—is the noblest and finest end of all. Thus, what is regarded as *most* noble and admirable by political communities is in fact what promotes the common good.

It is a commonplace in classical Greek oratory and in Herodotus that the law directs people to do what is noble, and the two most typical examples of what is noble are (1) fighting for one's country, and (2) respecting one's parents (i.e. caring for and supporting them financially in old age). Both are examples of virtuous actions which benefit others. They are noble because they are actions that are highly worthy of praise, and

²² εἰ γὰρ καὶ ταῦτόν ἐστιν ἐνὶ καὶ πόλει, μείζον γὰρ καὶ τελειότερον τὸ τῆς πόλεως φαίνεται καὶ λαβεῖν καὶ σῶζειν· ἀγαπητὸν μὲν γὰρ καὶ ἐνὶ μόνῳ, κάλλιον δὲ καὶ θειότερον ἔθνη καὶ πόλειςιν.

what makes them praiseworthy is the fact that they require one to set aside self-interest narrowly construed and act for the good of others.

Aristotle thinks that it is the job of the laws to set fine or noble ends for the citizens. Examples of noble ends set by the state include funding the construction of a new warship or financing a theater production for the enjoyment of one's fellow citizens (Striker 2006; see e.g. *EN* IV 2. 1122b19–23). The laws thereby get people to do actions that promote the common good and happiness and to love doing what is fine and noble. Furthermore, they also encourage virtuous behavior, and hence virtue, in the citizens of a state.

The character, then, must somehow be there already with a kinship to virtue, loving what is noble and hating what is base. But it is difficult to get from youth up a right training for virtue if one has not been brought up under right laws. (X 9. 1179b29–32)²³

This is why some think that legislators ought to stimulate men to virtue and urge them forward by the motive of the noble, on the assumption that those who have been well advanced by the formation of habits will attend to such influences. (X 9. 1180a5–8)²⁴

These passages make it clear that Aristotle thinks that the laws are supposed to educate people by causing them to learn to love doing what is fine.

In a passage where Aristotle is distinguishing the true self-lover from the rank egoist, Aristotle describes the common benefit that results when everyone is eager to do fine actions:

...Hence he will count as “self-lover” the most—not the same kind people speak of censoriously, but different by as much as living by reason differs from living by emotion, and desiring the fine, on the one hand, from desiring what appears to bring advantage on the other. Those, then, who are exceptionally eager for fine actions are welcomed and praised by everyone; and if everyone vied for what is fine, and strained to do the finest things, not only would everything be as it should on the communal level but as individuals too each person would be possessed of the greatest goods, given that excellence is such a thing. Thus the good person

²³ Δεῖ δὴ τὸ ἥθος προϋπάρχειν πως οἰκεῖον τῆς ἀρετῆς, στέργον τὸ καλὸν καὶ δυσχεραῖνον τὸ αἰσχροῦν. ἐκ νέου δ' ἀγωγῆς ὀρθῆς τυχεῖν πρὸς ἀρετὴν χαλεπὸν μὴ ὑπὸ τοιούτοις τραφέντα νόμοις.

²⁴ Διόπερ οἶονται τινες τοὺς νομοθετοῦντας δεῖν μὲν παρακαλεῖν ἐπὶ τὴν ἀρετὴν καὶ προτρέπεσθαι τοῦ καλοῦ χάριν, ὥς ἐπακουσόμενων τῶν ἐπιεικῶς τοῖς ἔθεσι προηγμένων.

should be a self-lover, since by doing what is fine he will both be better off himself and benefit others, but the bad one should not; for he will harm both himself and those round him through following worthless attractions. (trans. Rowe, *EN* IX 8. 1169a3–15)

Aristotle claims that (1) by doing what is fine, each person is better off (because he acts virtuously) and also benefits others (because actions are *kalon* which benefit others), and (2) if the competitive impulse is harnessed so that everyone is eager to do fine things, then the whole group or community will be better off—presumably because the whole community is better off when its members are in competition so to speak to see who can do the most for others. Institutions that encourage this kind of competition in virtue benefit the community as a whole.²⁵

Thus, good laws will be crafted in such a way that they endorse and recommend certain actions because they promote ends that are fine and supremely worthwhile, and will attach sanctions to noncompliance. Some people will obey such laws only out of fear of punishment. But others will do it because these actions are fine—that is, they promote the common good. But one can see that acting for the common good need not imply some kind of pure and selfless altruism or benevolence. It is entirely consistent with acting for the common good that one should do so because this indirectly benefits oneself, and that one should look forward to the praise and honor that will be one's just desert. Acting for the sake of the fine thus seems to me less like altruism and more like civic-mindedness, with its respect for one's fellow citizens and its willingness to participate fully in the cooperative ventures that constitute the city. And it would help to explain why Aristotle so frequently associates justice with civic or political friendship; each is necessary for, and fosters, the other. That it is natural to human beings to act in these ways is, I believe, part of what Aristotle means when he says that man is a "political animal."²⁶

5. CONCLUSION

I will conclude by making two broad points about what I hope to have shown. First of all, it is unfortunate that justice is, of all the virtues and ethical concepts in Aristotle, the most neglected. This is partly due to the very rough and disjointed state of the book on justice in the *Ethics*, a book that is clearly an early draft in need of revision. It

²⁵ Cf. Demosthenes, *Against Leptines* 20.5: Demosthenes says that if you give people rewards for virtuous behavior, they will vie with each other to see who can do the most for the city.

²⁶ *Pol.* I 2. 1253a7–18, III 6. 1278b15–30; *EN* VIII 12. 1162a16–19, IX 9. 1169b16–22, *EE* VII 10. 1242a19–28.

may also be due to current fashions in virtue ethics, which in centralizing the concept of virtue have tended to marginalize that of justice, with its Kantian overtones of duty and obligation. In any case, this often means that readers assume that Aristotle's ethics can be described purely in terms of his moral psychology and theory of the individual virtues. But when Aristotle describes general justice as the same as the whole of virtue, he clearly means that virtue and justice are, for him, two ways of talking about the same thing. This shows that his theory of justice is, in fact, central to his project in the *Ethics*.

Second, the law plays a much more interesting role in Aristotle's theory than one might have thought. Particular laws will provide the starting points in the practical reasoning of virtuous agents. Further investigation of this will show, I believe, that what makes virtuous agents possess understanding of these starting points—what allows them to apply the law not blindly but with understanding—is the fact that they are capable of taking the point of view of the legislator—of reasoning about the common good, and how it can be achieved, from an impartial perspective (e.g. *EN* VI 8, *Pol.* III 4). It is, in any case, the point of view of the legislator that is Aristotle's primary concern. There are of course large questions about what the common good is, and how Aristotle thinks it can be achieved—but those require further study, especially of the *Politics*.

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