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Justice as a Virtue

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I shall consider some points in Aristotle's treatment of justice in Book 5 of the *Nicomachean Ethics*, in order to raise certain questions about justice as a virtue of character. I am concerned with what Aristotle calls "particular" justice, that is to say, with justice considered as one virtue of character among others. This disposition is said to have two basic fields of application, the distributive and the rectificatory; this distinction will not concern us, and almost all the discussion can be referred to the first of this pair. Particular justice and injustice are concerned with a certain class of goods—"those which are the subjects of good and bad luck, and which considered in themselves are always good, but not always good for a particular person" (1129b3-5). These are listed at 1130b3 as honor, money, and safety: these are "divisible" goods, which are such that if one person gets more, another characteristically gets less.

From the beginning, Aristotle associates particular injustice with *pleonexia*—variously, greed, the desire to have more, the desire to have more than others: *pleonektēs ho adikos* 1129b1. This characteristic Aristotle treats as the defining motive of particular injustice:

If one man commits adultery for the sake of gain, and makes money by it, while another does so from appetite, but loses money and is penalized for it, the latter would be thought self-indulgent rather than *pleonektēs*, while the former is unjust and not self-indulgent: this is obviously because of the fact that he gains. Again, all other unjust acts are ascribed in each case to some kind of vice, e.g.
adultery to self-indulgence; deserting a fellow soldier, to cowardice; assaulting someone, to anger. But if he makes a gain, it is ascribed to no other vice but injustice. [1130a24 f.]

This passage occurs in chapter 2 where Aristotle is concerned to find the distinguishing mark of particular injustice. It seems clear that the reference to “unjust” acts is to acts that are unjust in the general sense—that is to say, roughly, wrong—and a similar interpretation is given to adikēi at 1130a17. Aristotle’s point is that the way to pick out acts that are unjust in the particular sense from the whole range of acts that are contrary to justice in the general sense is by reference to the motive of pleonexia (which, on any showing, is excessively restricted, at this point of the discussion, to the desire for monetary gain). This is what the passage means; but its exact conclusion is unclear, and discussions of it do not pay enough attention to the Aristotelian distinction between unjust acts and an unjust character. It is one question whether particular injustice as a vice is characterized by the motive of pleonexia; it is another question whether all acts that are unjust in the particular sense are motivated in that way. The two questions come together only if some quite complex assumptions are made, which I shall try to bring out.

Later in the book, Aristotle directly addresses the distinction between acts and character, and also applies his usual distinctions about responsibility. In chapter 8, he first considers acts done from ignorance, and makes various distinctions among these: of a person acting in this way involuntarily, he says that they act neither justly or unjustly except kata sumbebēkōs—they do things that merely happen to be just or unjust (1135a17-18). Beyond this, if someone acts, not out of ignorance, but also not from deliberation (ek prohairesēs) and, rather, from some passion, the act will indeed be an unjust act, but the agent will not be an unjust person: adikēi men oun, adikos d’ ouk estin (1134a21, the first paragraph of chapter 6, a passage evidently displaced from its context). One who acts unjustly ek prohairesēs is a person who possesses in the full sense the vice of injustice, and is fully an unjust person.

This, so far, is standard Aristotelian doctrine about bad acts and their relation to character and intention. Leaving aside acts that are involuntary through ignorance (more simply, unintentional), we can concentrate on the distinction, among intentional acts, between those that are the product of passion and later regretted, and those that are the expression of a settled disposition or vice of character.

This distinction bears a close relation, of course, to that between the akratēs and the mochēthēs, but it is not exactly the same. Akrasia is itself a disposition, a trait of character, and as with any other bad charac-

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teristic, one can draw the distinction between someone who has this characteristic and is regularly disposed to give in to certain kinds of impulse, and someone who on some few occasions does so. We need not be concerned here to fit the disposition of akrasia into the account.

For the present purpose we need only a distinction between acts. With respect to some undesirable characteristic V, it is the distinction, among acts that are, in the relevant aspect, intentional, between:

(A) those that are V acts but are not the acts of a V person

and

(B) those that are both V and the acts of a V person.

The usual situation with the vices of character, in Aristotle’s treatment, is that it will be a necessary condition of an act’s being V that it is the product of some particular motive—lust, fear, or whatever.

To be put alongside this is another distinction among acts, in terms of their motives: the distinction between those that are motivated by a desire for gain, and those that are motivated otherwise. Now the distinction between (A) and (B) standardly consists in this, that (A) acts are the episodic and later regretted expressions of a motive that regularly motivates the person who does (B) acts, that is to say, the person who is V. But it is obvious that an (A) unjust act need not be motivated by desire for gain at all. To take Aristotle’s paradigmatic distribution case, a person could on a particular occasion, be overcome by hopes of sexual conquest, or malice against one recipient, and so knowingly make an unjust distribution, and his act would surely be an unjust act.

Another of Aristotle’s claims, admittedly an obscure one, indeed leads to this conclusion. In his rather unhappy and perfunctory account of the application of the mean to justice, he says:

... just action is intermediate between acting unjustly and being unjustly treated; for the one is to have too much and the other to have too little. Justice is a kind of mean, but not in the same way as the other virtues, because it relates to an intermediate amount, while injustice relates to the extremes. [1133b30-31]

It is not worth pursuing all the difficulties raised by these remarks, but one thing that the passage seems awkwardly to acknowledge is that if X has been unjustly treated, then someone else (chap. 11), Y, has acted unjustly toward him. But it cannot be a necessary condition of X’s being unjustly treated by Y that Y be motivated by the desire for gain, rather than by lust, malice, anger, or whatever.
However, Aristotle is certainly tempted by his standard model, according to which, since pleonexia is the motive of the unjust person, (A) acts of injustice must be episodic expressions of pleonexia. This idea issues in a desperate device at 1137a1 f.: 

If (the distributor) judged unjustly with knowledge, he himself gets an unfair share of gratitude or revenge. As much, then, as if he had shared in the plunder, one who judges unjustly for these reasons gets too much.

There must be something wrong in extending pleonexia to cover someone’s getting more of this kind of thing. What would it be in such a case to get the right amount of gratitude or revenge?

Aristotle correctly holds:

(a) one who knowingly produces an unjust distribution acts unjustly.

He also explicitly claims:

(b) the characteristic motive of the vice of injustice is the desire for gain.

In addition, he seems disposed to accept the standard model from which it will follow that:

(c) the difference between (A) acts and (B) acts of injustice is not of motive, but only a difference in the dispositional grounding of that motive.

and the consequence of accepting all these claims is obviously false. There are acts that are unjust, and in the “particular” sense, but which are the products of fear, jealousy, desire for revenge, and so on. Moreover, they may be not just episodic expressions of motives of that kind, but rather of some related dispositional trait. The cowardly man who runs away in battle acts not only in a cowardly way, but also unfairly, and does so because of his cowardice. Unjust acts that are not expressions of the vice of injustice can thus stem from other vices. But the motives characteristic of those other vices are not the motive of pleonexia supposedly characteristic of the vice of injustice. So we cannot, granted these truths, accept both (b) and (c).

It might be said that the cowardly man’s act of injustice is in fact motivated by pleonexia, the desire for gain, as well as by fear: he is aiming at an unfair share of the divisible good of safety. That description, unlike

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the nonsense about an unfair share of gratitude or revenge, could contain some truth. But it will not do in order to straighten out Aristotle’s account of the matter, since 1130a17 f. makes it clear that pleonexia is seen as contrasted with such motives as fear, and not as coexisting with, or being a product of, such motives. The broader question of what pleonexia exactly is I shall come back to at the end.

(c) is one of the assumptions that I referred to earlier as needed to bring together the two questions, whether the unjust character is characterized by the motive of pleonexia, and whether all unjust acts are the product of that motive. (c) states that each unjust act must have the same motive as the unjust acts that are the product of an unjust character; and that is surely wrong. We can recognize that it is wrong, however, only because we can identify certain intentional acts as unjust in the particular sense, and can do this without referring to their motive. Indeed, we are helped by Aristotle in doing this, by his drawing our attention to such basic cases as the intentional misdistribution of divisible goods. Aristotle himself gives us a clear indication of the areas in which some unjust acts are to be found; in doing so, he also puts us in a strong position to deny, as he does not seem clearly to have done, the assumption (c).

However, the fact that some unjust acts can be located without referring to their motive does not entail that they all can be. It might be that some other unjust acts could be identified simply from their motive; in particular, by their flowing from a settled dispositional motive characteristic of the unjust character. In this case, they would not all have to be of the same types as those unjust acts that are identified independently of motive, such as misdistributions of divisible goods. They might, for instance, be acts of a sexual kind which, if motivated in a more usual way, would not be identified as having anything to do with particular injustice at all. Aristotle clearly thinks that there are acts of this kind. He associates the vice of adikia so closely with a certain motive (or rather, I shall suggest later, a certain class of motives), pleonexia, that he calls a person who is dispositionally motivated by that an adikos, and holds, in chapter 2, that any act which that person does from that motive is an act of particular injustice. Aristotle could of course go further, and hold that any act, of any kind, which is even episodically motivated by pleonexia is an unjust act in the particular sense. He would then have completed the equation of adikia and pleonexia, not only with respect to character, but with respect to acts. It is not clear to me, however, that he does hold that: chapter 2, at any rate, seems to commit him only to the view that any act of a dispositionally pleonetic man which is an expression of his pleonexia is an unjust act.

Aristotle, then, certainly equates the character-state of adikia with that
of pleonexia. He certainly thinks that any act, whatever its other characteristics, which flows from that state is an unjust act. He may think, though it is not absolutely clear that he does, that any act that is even episodically motivated by pleonexia is an unjust act. He is strongly disposed to think, lastly, that any act that is an unjust act is motivated, even if only episodically, by pleonexia; but since he himself suggests some plausible ways of identifying some unjust acts independently of their motive, this is an unsound conclusion for him to hold, and insofar as he tends to hold it, it is probably because of the unsound theoretical assumption (c).

Treated in this way, adikia comes out as something rather different from anything that we would now be disposed to call "injustice." One must certainly recognise that the dikaiosumē-adikia scheme does not exactly match even a part of our justice-injustice scheme. The point, however, can also be put more critically. Since Aristotle leads us so clearly, as has already been said, to some areas in which dikaiosumē undoubtedly overlaps with justice, his dealings with the question of motive can be seen as an imperfection in his attempt to relate those areas to the virtues of character. Even in his own terms, the assumption (c), if indeed he made it, would be a mistake. His willingness, further, to equate the character state of adikia with that of pleonexia and to call an unjust act any act that arises from that state, can be seen as the other side of the same coin. In both ways his theory inclines him to think that the state of character that stands opposed to dikaiosumē must have a characteristic motive; and dikaiosumē is enough like justice to make it convenient, and perhaps even fair, to call this a mistake.

I now turn to some questions about justice and injustice as states of character, independently, to some degree, of Aristotle's treatment. I shall concentrate on the area where our concepts most clearly overlap with Aristotle's, that of distributive justice. As a way of dealing with justice as a virtue, this concentration is obviously very selective, but the general shape of the conclusions will, I believe, apply more widely. In discussing distributive justice, I will not always assume, as Aristotle does, that we are concerned with some unallocated good that is, so to speak, "up for grabs" and waiting to be distributed by some method or other to some class of recipients. We can, besides that, recognize also the case in which the good is already in somebody's hands, and the question is rather whether he justly holds it. We can extend the term distribution to cover such possibilities, though since I am mainly concerned with justice as a virtue of character and am discussing the case of distributive justice in the interest of that concern, the case where there is no distributor will be of secondary interest.

In the distributive case, we can distinguish three items to which the terms just and unjust can be applied: a distributor (if there is one), a method, and an outcome. The question basically raised by Aristotle's treatment concerns the relation between the first of these and the other two; but it is worth saying something about the priority between method and outcome in determining what is just. Is a just outcome to be understood as one reached by a just method, or is a just method, more fundamentally, one that leads to just outcomes? At a first glance there seem to be examples that tell either way. Aristotle's own preferred examples tend to be ones in which the relevant merit or desert of the recipient is understood (at least by the distributor) beforehand, so that the basic idea is of a just outcome, namely, that in which each recipient benefits in proportion to his desert, and a just method will be, derivatively, a method that brings about that outcome. It seems different, however, if one takes a case in which some indivisible good has to be allocated among persons who have equal claims to it, and they agree to draw lots (a method that can be adapted also to cases in which they have unequal claims to it).

Here the justice is not worn in its own right by the outcome of, say, Robinson, getting it, nor is it the fact that it has that outcome that makes the method just; it is rather the other way round.

This distinction is more fragile than it first looks, and it is sensitive to the ways in which the outcome and the method are described. Thus if the method is itself described as that of allocating, say, the food to the hungry, the "desert" can come to characterize the method itself, and not merely the outcome. Not all the difficulties here are very interesting; they flow from an evident indeterminacy in the notions of method and outcome. But, even allowing for the difficulties, there is a class of cases in which the justice very specially rests in the method rather than in the particular outcome. In these, when we ask "what makes it fair that A has it (or has that amount of it)?" the answer refers to a process by which A came to have the good in question, and, moreover, no characteristic of A which does not relate to that process is appropriately cited as grounding his claim to the good. This is true of Nozick's "entitlement theory," under which someone justly holds an item if he received it by an appropriate process (e.g., buying it) from someone who justly held it. Under such a theory, the process by which someone receives something is constitutive of the justice of his holding, and there is no independent assessment of the justice of the outcome at all.

This bears a resemblance, illuminating and also politically relevant, to another kind of case that also satisfies the condition for primacy of method, the case of allocation by lot. If Robinson draws the long straw, then what makes it fair that he gets the good is simply the fact that it was he who drew the straw. We may of course want to go further than that,
and add that the straw-drawing was itself a method that, for instance, was agreed upon in advance. The fact that we can do this does not mean that the justice of the method ceases to be primary over the justice of the particular outcome: in explaining the fairness of Robinson’s getting the good, we still essentially refer to the method. However, the point that we can, in the case of lots and similar processes, relevantly go on to say such things as that the method was agreed upon in advance, serves to bring out an important contrast with entitlement theory. In the case of lots, it is possible to ask questions about what makes the method a just or fair method.

The answers to those questions may even refer, in a general way, to outcomes. They will not refer to the particular outcome, and relative to that, the method remains primary, but some general relation of the method to outcomes may be relevant. For instance, a familiar argument in favor of a particular method of allocating some indivisible good would be that the probability it assigned to any given person of receiving the good was the same ratio as the share which that person, under the same general criteria, would appropriately receive of a divisible good (he gets one fifth of the cake, and a one-in-five chance of getting the chess set). A similar point emerges from the fact that lot-drawing can be modified, in certain circumstances, to allow for repeated trials; for instance, earlier winners may be excluded from later draws because it is thought fairer to increase over time the chances of a given person’s winning. In such ways it is possible to criticize the fairness of methods such as drawing lots, by reference to general patterns of outcome, and by applying a notion of justice to such general patterns. But this resource seems mysteriously not available with Nozick’s entitlement theory, and no other considerations, it seems, can be brought to bear on the question whether established methods of transfer are fair methods. But if we are to be convinced that the favored transactions are not only just but unquestionably just, some special argument needs to be produced: it certainly does not simply follow from the truth that, relative to the particular case, the concept of “justice” applies primarily to the method and derivatively to the outcome. That is a feature which Nozick’s preferred methods of transfer share with other methods of distribution, where criticism of the methods is nevertheless possible.

For our present purposes, however, the priorities of method and outcome are a secondary issue. The main question concerns the relations of either of these to the notion of a just person, and from now on I shall speak of a “just distribution” to cover both those cases in which the method would naturally be considered primary, and those in which it is more natural to pick on the outcome. The notion of a fair distribution is prior to that of a fair or just person. Such a person is one who is disposed to promote just distributions, look for them, stand by them, and so on, because that is what they are. He may also be good at inventing just distributions, by thinking of a good method or proposing an acceptable distribution in a particular case: this will be a characteristic of Aristotle’s _epieikēs_ (1137b34), the person who is good at particular discriminations of fairness. But even there, it is important that, although he took him, or someone like him, to think of it, the distribution can then be recognized as fair independently of that person’s character. It cannot rest on his previous record that some particular distribution, which perhaps seems entirely whimsical, is just (except in the sense, uninteresting to the present question, that his past record may encourage us to believe that there are other considerations involved in the present case, known to him though invisible to us).

The disposition of justice will lead the just person to resist unjust distributions—and to resist them however they are motivated. This applies, very centrally, to himself. There are many enemies of fair conduct, both episodic and dispositional, and the person of just character is good at resisting them. This means that he will need, as Aristotle himself insists, other virtues as well: courage, for instance, or _sphrōsmē_. But the disposition of justice can itself provide a motive. The disposition to pursue justice and to resist injustice has its own special motivating thoughts: it is both necessary and sufficient to being a just person that one dispositionally promotes some courses as being just and resists others as being unjust.

What then is the disposition of injustice? What is it to be a dispositionally unjust or unfair person? The answer surely can only be that it is to lack the disposition of justice—at the limit, not to be affected or moved by considerations of fairness to all. It involves a tendency to act from some motives on which the just person will not act, and indeed to have some motives which the just person will not have at all. Important among the motives to injustice (though they seem rarely to be mentioned) are such things as laziness or frivolity. Someone can make an unfair decision because it is too much trouble, or too boring, to think about what would be fair. Differently, he may find the outcome funny or diverting. At the end of that line is someone who finds the outcome amusing or otherwise attractive just because it is unfair.

It is important that this last condition is not the central or most basic condition of being an unjust person. The thoughts that motivate the unjust do not characteristically use, in this upside-down way, the concepts of justice and injustice. Those concepts, however, as has just been said, do characteristically figure in the thought of the just person. It is not
untypical of the virtues that the virtuous person should be partly characterized by the way in which he thinks about situations, and by the concepts he uses. What is unusual about justice is that the just person is characterized by applying to outcomes and methods, in an analogous sense, the concept under which he falls; this is itself connected with the priority of the justice of distributions over justice of character.

On this account, there is no one motive characteristic of the unjust person, just as there is no one enemy of just distributions. In particular, the unjust person is not necessarily greedy or anxious to get more for himself, and insofar as Aristotle connects justice essentially with pleonexia, he is mistaken. The mistake can, moreover, be fairly easily diagnosed at the systematic level: the vice of adiktia has been overassimilated to the other virtues of character, so that Aristotle seeks a characteristic motive to go with it, whereas it must be basic to this vice, unlike others, that it does not import a special motive, but rather the lack of one.

The point is not merely that "injustice" is not the name of a motive. Beyond that, there is no particular motive which the unjust person, because of his injustice, necessarily displays. In particular, he does not necessarily display pleonexia, which, whatever else needs to be said about it, certainly involves the idea of wanting something for oneself. Not all the motives that operate against justice, and gain expression in the unjust person, fit this pattern—not even all the important ones do so.

Beyond this, however, what is pleonexia? Is it even a motive itself? To call someone pleonéktas surely does ascribe certain motives to him, but motives that are very indeterminately specified. The pleonéktas wants more, but there must be something in particular in a given case he wants more. But "more" than what? More than is fair or just, certainly, but he does not characteristically want it in those terms—he has no special passion for affronting justice, and, like the unjust person generally, he is not specially interested in using the concepts of justice and injustice at all. It is rather that he wants more than he has got, or that he wants more than others. Now anyone who wants anything that admits of more or less wants more than he has got, or at least more than he thinks that he has got; but when this becomes a recursive condition, it is called greediness, and that is certainly one sense of pleonexia. Such a person does not necessarily, or even typically, worry about comparisons with others. But in another, and probably the most important, sense of pleonexia, comparisons with others are the point, and the notion of having more than others is included in the motivating thought. The application to such goods as money or honor or the Nobel Prize is obvious.

The case of Aristotle's third divisible good, safety, is more difficult. To want more safety than others is surely an odd want, if that is its most basic intentional description; what one wants is as much safety as possible—enough, one hopes, to keep one safe. Of course, since safety is in the circumstances a divisible good, the steps taken to satisfy this want will involve, and may be aimed at, taking away other people's safety (pushing them out of the fallout shelter). Thus the actions involved are much the same as with cases of pleonexia, but there is still a significant difference. With the Achillean pleonéktas of honor, an essential part of his satisfaction is that others do not have what he has; but the Thersitean pleonéktas of safety does not mind how many are eventually saved, so long as he is, and for this reason, his pleonexia is a different thing. The important point is that pleonexia is not, in his case, ultimately a motive at all: he is a coward, with a keen understanding that safety is a divisible good, and no sense of justice. Thus even in some cases of the egoistic desire for a divisible good, pleonexia is not the most basic or illuminating way of characterizing what is wrong with the man who does not care about justice. The love of competitive honor, however, is essentially pleonéktic, and straightforwardly directed at making sure that others do not get it instead of oneself.

The word pleonexia can cover both greed and competitiveness. It certainly refers to a class of motives, rather than to any single motive. Those who are pleonéktic of some things are not usually pleonéktic of everything: as Aristotle well knew, those who are pleonéktic of honor are not necessarily pleonéktic of money, and conversely; and if there is anyone who is pleonéktic of safety, it is certainly not Achilles. These various motives have no doubt at all times fueled some of the most settled indifferences to justice; but it is a mistake, one that dogs Aristotle's account, to look for something other than that settled indifference itself to constitute the vice of injustice, and, having looked for it, to find it in such motives.

NOTES
2. Robert Nozick, who strongly emphasizes this point in his Anarchy, State and Utopia (New York, 1974), calls the chapter in which this is discussed "Distributive Justice."