Chapter 3
Aristotle’s Theory of Justice

I

Like Plato, Aristotle (384–322 BCE) believed that people are separated by dramatic differences in their natural capacities, so much so that, while some are qualified to rule or to participate in ruling, others – who comprise the bulk of humankind – are fit only to be ruled. For him as for Plato, the right relation between these two categories (the latter, according to Aristotle, consists of several diverse groups, including women, children, and people who are naturally suited to be slaves by virtue of their limited powers of reasoning) is one of command and obedience. For Aristotle, however, relations between those who are radically unequal are not the primary subject of justice. The concept of justice in Aristotle’s theory applies primarily to a set of relations among men who are free and relatively equal to one another – relations that play a very slim role in the argument of the Republic.

The principal source for Aristotle’s theory of justice is Book V of his Nicomachean Ethics, a book that is a companion to, and precedes, his Politics in expository order. The Ethics is essentially an inquiry into the nature of the good human life, and especially into the virtues that are integral to it. His theory of justice is couched within this (for him) much larger frame.
At the outset of his account, Aristotle takes pains to distinguish between “complete” (or “general”) justice and “partial” (or “particular”) justice. In one sense, he says, “we call things just which produce and secure happiness or the parts of happiness for the political community” (1129b). Justice in this sense is “complete virtue or excellence [...] in relation to one’s neighbour” (1129b). Here Aristotle quotes the line “in justice is every virtue summed up” from the poet Theognis. Complete justice, then, is an attribute of character, the virtue that is exhibited by human beings in their relations with others insofar as these interactions promote a good life and lead to happiness for the members of the political community as a whole.

In contrast, partial justice has to do with the share of benefits individuals should receive and of burdens they should bear. Among the benefits with which partial justice is concerned, Aristotle specifically mentions honor, material goods, and security. Although he emphasizes burdens less than benefits, it is clear that partial justice is concerned also with the share of burdens and harms that individuals should bear. Injustice in the partial sense occurs when a person receives an unfair share of benefits or burdens.

Aristotle’s decision to begin his discussion with this distinction between different types of justice is a typical example of his philosophical method and entails a departure from Plato’s approach to philosophy. In the Republic, Plato insists that justice must be one thing only, being always the same in any and all of its manifestations. Plato’s search for justice therefore proceeds by way of refutation and exclusion, that is, by showing what justice is not in order to arrive at a univocal view of what it is. Aristotle’s approach, in contrast, accepts that justice may be several different things, and especially that it may be seen in a number of different ways, each of which may contain significant truth.

Aristotle’s notion of complete justice is very broad. It corresponds roughly with the idea of rightness in modern English and denotes the quality or qualities of character that lead people to do the right thing,
broadly speaking, whether that involves being fair or exercising good judgment in some other way. In contrast, his notion of partial justice is considerably narrower and corresponds roughly with the ordinary concept of justice or fairness in English. Although the notion of complete justice is important to his account of the virtues, the central subject of Book V of the *Nicomachean Ethics* is partial justice, which is a part of complete justice: the part that has to do with fairness. I shall follow Aristotle by focusing in this chapter on partial justice, namely on what we, today, would call “justice,” as distinct from the broader subject of rightness – bearing in mind, however, that the larger context of his discussion is provided by the idea of complete justice and that Aristotle defined the idea of complete justice by reference to the idea of a good life for the members of the political community as a whole. For the sake of simplicity, I shall usually apply the label “justice” to this topic, dropping the more cumbersome “partial justice.”

It is usual in discussions of Aristotle’s views on justice to follow his own order of exposition. After drawing the distinction between complete and partial justice and declaring his intention to focus on the latter, Aristotle proceeds to distinguish two forms of it, namely distributive justice and corrective justice. He then goes on to discuss several additional topics: the relation between justice and reciprocity, justice in the political sense, and others. Most commentators have concentrated their attention on Aristotle’s comments on distributive and corrective justice, treating the subsequent topics as appendages, despite the fact that these later discussions occupy about two thirds of his account overall. This approach has led to some curious difficulties, especially in treatment of Aristotle’s discussion of justice and reciprocity. Many of his interpreters have concluded that this discussion is anomalous. Some have decided that it is distinctly out of place, a digression that might have been better located somewhere other than in the context of his discussion of justice.

In reality, Aristotle’s discussion of the relation between justice and reciprocity is the anchor for his entire theory of justice in the sense of
fairness in individuals’ shares. The concept of reciprocity is the fixed point to which his ideas about (partial) justice, with all the ebb and flow and qualifications to which those ideas are subject, are tethered. Before considering his ideas about distributive and corrective justice, then, let us take a moment to understand the basic character of Aristotle’s conception of reciprocity.

Aristotle opens his discussion of the relation between reciprocity and justice by noting that “some think [...] that reciprocity is without further qualification just, for the Pythagoreans defined justice unqualifiedly as reciprocity” (1132b). He quickly goes on to suggest that this understanding of justice cannot be correct, since in many cases reciprocity and the just are not identical. For example, if an ordinary citizen strikes a police officer or other public official while the latter is on duty, justice is not served if the official merely returns the blow. Nor is justice done if a private citizen strikes back when struck by an official while the latter is acting to carry out his duties. Aristotle’s point seems to be that, when the relations between parties are hierarchical or unequal in some way, justice does not take the form of reciprocity – or, more precisely, it does not take the form of (what I have called) balanced reciprocity, which entails the return of benefits or harms of equal value to those which one has received.

Many readers seem to have concluded that Aristotle’s dismissal of the Pythagorean association between justice and reciprocity is the end of the matter, and that the sole conclusion to which he wants to lead his readers is that justice does not consist in reciprocity. Yet this conclusion is not consistent with the text. Immediately after the arguments discussed above, Aristotle offers the following observations, all within the context of his opening question about how we should conceive of justice “unqualifiedly”:

In associations based on mutual exchange the bond of union is this sort of justice, namely reciprocity in accordance with a proportion rather than with arithmetic equality. In fact it is by proportional requital that the city holds together. People seek either to return evil for evil – for
otherwise they consider themselves reduced to slaves— or to repay good with good, for otherwise there is no mutual contribution, and it is by mutual contribution that men hold together. (1132b–1133a)

Let us consider this crucial set of claims in some detail. What points is Aristotle trying to convey in this passage?

First, Aristotle associates justice with “reciprocity in accordance with a proportion” rather than with (what he alleges to be) the Pythagorean conception of reciprocity as an exchange of arithmetically equal values. In other words, an exchange will be just if the things exchanged are in proportion to the merits, desert, or contributions of the parties to the exchange. If the parties in question are strict equals and enter into a relation of exchange with one another, then justice is done when the benefits they exchange are of equal value. In this case the just relation between these two parties is one of balanced reciprocity. If, on the other hand, the parties are unequal in merit of the kind that is relevant to their transaction, then justice is served when the benefits exchanged differ in value in proportion to the different merits of the parties involved. In this case the just relation between these parties is one of imbalanced reciprocity, where the extent of the imbalance can be determined by comparing their respective merits. Justice is very much a matter of reciprocity, though that reciprocity is not necessarily of the “arithmetic” (as Aristotle calls it) or balanced sort.

Second, Aristotle’s focus here is on collectivities in which people associate with one another for the purpose of exchange. Now a political community in the true sense, for Aristotle, is an association based on mutual exchanges that enable its members to flourish and to be self-sufficient as a collectivity. Such an association is made up of men who are free-born and stand in relations of relative equality with one another, at least in the sense that none has, by nature, the right to command any of the others to do his bidding. Human beings who are not at least relative equals of the members who make up a political community, such as women, children, and slaves, are not parties to
Aristotle’s scheme of justice on the basis of proportional reciprocity. As we shall see, there is a qualified sense in which the relations between free adult men and those whom Aristotle believes to be their radical inferiors by nature can be said to be just or unjust, but the central and unqualified concept of justice applies only to the relations of proportional reciprocity among relative equals.

For Aristotle, then, ideas about justice — that is, about the kind of justice that deals with the fairness of individuals’ shares — are concerned centrally with relations among men who are free and equal to one another in the sense that none is entitled by nature to command over any of the others. The focus of these ideas is upon the shares individuals receive — both shares of benefits, such as honors, material goods, and security, and shares of burdens or harms. And the concept to which any adequate theory of justice must be tethered is the concept of reciprocity.

II

Aristotle divides justice — understood as fairness in individuals’ shares — into two forms, distributive and corrective. These forms are based on two distinct variations of the concept of reciprocity. Let’s look first at justice in its distributive form.

Aristotle introduces the topic of distributive justice by saying that it is

exhibited in distributions of honors, property, or anything else which is divided among the members of the community. For in such matters men may receive shares that are either equal or unequal to the shares of others. (1130b)

This introduction is subject to two significant qualifications. First, although Aristotle is interested principally in analyzing justice in the context of the political community, the political community is not the
only kind of association based on mutual exchange that is formed by men who are relative equals. The concept of distributive justice applies to any such association, and not merely to the political system. Second, the terms translated here as “equal” and “unequal” are *isos* and *anisos*, which are equally well translated in some contexts as “fair” and “unfair.” So Aristotle seems really to be saying that it is possible for a man to have a share that is fair or unfair in comparison with his neighbor’s share, where a “fair” share need not necessarily be an “equal” share.

Aristotle explicates the notion of distributive justice by sketching a simple illustration. The just, he points out, involves at least four terms, namely two persons and two shares. Distributive justice is achieved when “as the one person is to the other person, so is the one thing to the other thing” (1131a) – in other words, when the ratio between the things in question is the same as the ratio between the persons. If two persons are equals, then their shares should be equal as a matter of distributive justice. If the persons are not equals, then their just shares will be unequal in proportion to the inequality between them. (Bear in mind that, for Aristotle, all the persons who come into play in anything to do with distributive justice are relative equals in the sense that none is entitled to command the others. Nevertheless, these relative equals may be, and often are, unequal in merit or desert.)

Aristotle offers only the most abstract account of the basis on which the equality or inequality of persons should be determined. He argues that

all admit that in distributions justice should be determined on the basis of desert (or merit), though all do not acknowledge the same criterion of desert, democrats claiming that this criterion is free birth, oligarchs that it is wealth and sometimes birth, and aristocrats that it is virtue or excellence. (1131a)

In his discussion here, Aristotle makes no attempt to adjudicate among these alternative criteria of desert. That task is left to his
Politics, a work that appears to be the product of a significantly later stage in his thinking. In Book V of the Nicomachean Ethics he offers only a bare framework for thinking about questions of distributive justice.

Yet Aristotle is not wholly silent about the basis on which just distributions should be made. After declaring that “justice in the distribution of public possessions is always governed by the proportion described above,” he goes on to observe that,

if the distribution is made from public funds, it will be in proportion to the contributions the members have made, and the unjust opposed to this justice is that which violates the proportion. (1131b)

Aristotle here suggests that, at least in the case of funds, the theory of distributive justice points to an unambiguous conclusion, namely that the participants in a common enterprise should reap benefits in proportion to their contributions to that enterprise.

Although Aristotle is clear that the idea of distributive justice can be applied to many types of common enterprise, the most important type of enterprise for him is the political association. A political association is constituted by human beings who share a common life in order to maintain self-sufficiency and to attain a good life. These ends are attainable only by way of contributions that are necessarily diverse in kind. The production of material goods is one kind of contribution. The provision of services is another. But, since human flourishing is constituted through participation in a range of activities – including, for example, the activities characteristic of friendship – the ends of a political association can be attained only if these economic contributions are complemented by a range of contributions of non-economic kinds.

It is plausible to infer, then, that, since the ends of a political community can be attained only through contributions that are diverse in kind, differences of opinion about the basis of desert in the community are, at bottom, differences about the comparative
worth of diverse kinds of contributions to the common enterprise of the political community. As he demonstrates in his chapter on the relation between justice and reciprocity, Aristotle is aware that it is difficult to make quantitatively meaningful comparisons between the values of things that differ in kind (1133b). In relations of exchange between people who produce different kinds of goods, this difficulty can be addressed through the introduction of money, which makes it possible to measure the values of diverse goods by a single standard. This is the reason why it is possible to draw unambiguous conclusions from the theory of distributive justice in cases that involve the distribution of funds. In the case of contributions to a political community that are resistant to valuation in monetary terms, however, no such common standard is readily available. This may be one reason why “battles and complaints arise in consequence of equals having and possessing things which are not equal, or persons who are not equal having things which are equal” (1131a). In the absence of a common standard to which to appeal in adjudicating competing claims, such conflicts are probably inevitable.

Aristotle’s theory of distributive justice appears to be underpinned by a version of what later came to be called the contribution principle, which states (roughly) that it is just for people to reap rewards from a common enterprise that are proportional in value to the contributions they have made to that enterprise. Some, but not all, of this principle’s nineteenth-century champions (Herbert Spencer among them) seem to have thought that all contributions can be quantified in monetary terms and that the contribution principle can best be realized through an unrestrained free market system. The version of the contribution principle we may ascribe to Aristotle occupies a completely separate territory from this market-based conception. Indeed, it is a point of considerable importance in his theory that, in the absence of a common standard by which to compare the values of diverse contributions, this unambiguous principle will not lead to similarly unambiguous practical prescriptions and that it is only through political processes that such prescriptions can be devised fairly.
Nevertheless, the anchor point of the most plausible interpretation of
Aristotle’s theory of distributive justice is a version of the contribution
principle in which the concept of a contribution is construed expan-
sively rather than in narrow economic terms.

III

Let us turn to Aristotle’s account of corrective justice. This concept, as
he envisages it, applies to private transactions of two types. Voluntary
transactions are those into which all parties enter voluntarily. Aristotle
illustrates this category with examples that are financial in character:
sale and purchase, lending funds with or without interest, renting,
giving security, and depositing funds in trust. The second category is
comprised of involuntary transactions. In modern English we nor-
manly apply the term “transactions” to voluntary exchanges, but for
Aristotle any interaction between two or more persons that involves a
transfer of benefits or harms is a transaction to which principles of
justice apply.

Involuntary transactions are of two kinds. Some, by his account,
involve clandestine activities, such as theft, adultery, poisoning,
assassination, procuring, the enticement of slaves to escape their
bondage, and bearing false witness. The other kind of involuntary
transaction involves the use of force; examples include assault,
imprisonment, murder, robbery, maiming, defamation, and libel.

Aristotle introduces his account of corrective justice by saying,
immediately after he completes his discussion of distributive justice,
that “the other kind of justice is the corrective kind” (1131b). This
claim, together with his earlier statement distinguishing justice into
two (and only two) forms, distributive and corrective, seems to have
misled some of his readers and is probably a principal reason why
many have treated his subsequent discussions in this chapter – that is,
the bulk of the text – as a series of appendages to his central arguments
about justice. In fact Aristotle’s account of corrective justice in transactions presupposes a conception of just transactions. For transactions are subject to correction only when something has gone awry. When Aristotle focuses on distributive and corrective justice, what he seems to have in mind is the kind of justice that is effected by the self-conscious actions of an agent: in the case of distributive justice, some person or persons who have responsibility for distributing honors, material goods, security, or the like; in the case of corrective justice, a judge or an arbitrator. In the latter case, the self-conscious actions of an agent are required as a matter of justice only when the transactions for which correction is sought have been unjust.

Let us first consider corrective justice in relation to voluntary transactions. In order to grasp Aristotle’s conception of this kind of justice, we must first understand his ideas about just transactions, which are laid out in his chapter on the relation between justice and reciprocity. We must therefore probe a little more deeply into his claim (discussed in Section I above) that justice “without qualification” consists of proportional reciprocity.

Although the finer points of Aristotle’s account are beyond the scope of this book, the broad outlines of his view are plain enough. Aristotle illustrates his notion of reciprocal exchange made on the basis of a proportion through a series of examples: a builder and a shoemaker exchanging a house for some shoes; a physician and a farmer; a shoemaker and a farmer. In order to be equal and fair, any exchange between any of these pairs will have to be proportional. Specifically, Aristotle argues that proportional reciprocity will have been achieved when “the product of the shoemaker is to the product of the farmer as the farmer is to the shoemaker” (1133a). Aristotle assumes that producers in different professions or trades are unequal in some respect that permits comparisons among them, for “it is not two physicians between whom a community is formed, but a physician and a farmer, and in general those who are different and unequal” (1133b). Similarly, he appears to assume that products possess inherent value and that the values of qualitatively different
products can be compared meaningfully through the medium of a common currency.

Suppose the worth of the builder (as measured by whatever standard enables comparisons among producers in different professions) is twice as great as the worth of the shoemaker. (Bear in mind that, for Aristotle, the builder, the farmer, and the shoemaker are all relative equals – that is, they are free as well as equal in the sense that none is entitled by nature to command the others.) According to Aristotle’s formula, then, an exchange between them of shoes for a house will be fair if the inherent value of the shoes the builder receives is twice as great as the inherent value of the house he relinquishes to the shoemaker. The relation between the builder and the shoemaker (2:1) will then correspond to the relation between the given number of shoes and that of the house (2:1).

Aristotle does not explain the basis on which the relative values of the builder and the shoemaker, or of any pair of professionals or tradesmen, is determined. Yet it is reasonable to suppose that he may have been thinking about the contributions these professionals or tradesmen make to the overall stock of goods and services available to the members of the political community. Suppose that the builder in the example above is twice as productive as the shoemaker. The builder’s high productivity accounts for his higher value than the shoemaker. It also explains why, as a matter of justice, the builder is entitled to receive shoes from the shoemaker worth twice as much as the house he transfers to the shoemaker. The builder contributes twice as much value to the overall stock of goods, and is justly entitled to receive twice as much value as the shoemaker in return. This, I suggest, is what Aristotle means by “reciprocity in accordance with a proportion rather than with arithmetic equality.” Proportional reciprocity, in this context, is a form of the contribution principle in which the concept of a contribution is construed expansively – the same principle that appears to underpin his theory of distributive justice.

Now we may return to Aristotle’s account of corrective justice in transactions, a form of justice that is predicated on the assumption
that some injustice in transactions – some departure from Aristotle’s principle of proportional reciprocity in exchange – has occurred. The principal feature of corrective justice is that it is based on what Aristotle calls “arithmetic” equality, not proportional equality. Unlike in the kind of justice that underpins the mutual exchanges holding the political community together, and unlike in distributive justice, in corrective justice the relative values of the parties’ contributions to the overall stock of the political community have no place in ascertaining what constitutes corrective justice. “It makes no difference whether a good man defrauds a bad man or a bad one a good one, nor whether it is a good man or a bad one who commits adultery” (1132a). When one person has defrauded another, it is as if a line were divided into two unequal parts, the perpetrator possessing the larger part and the victim possessing the shorter part. A judge who has been called upon to correct the injustice committed will take the excess away from the perpetrator and restore it to the victim, with no regard either for the characters of the parties or for the value of their contributions.

Aristotle’s assumption is that the worth of the parties to a dispute (where worth is determined by the value of their contributions to the common enterprise) has already been taken into account in determining the shares of goods they possess prior to the unjust transaction. It would be a perversion of justice, then, to take this factor into account again, in the course of adjudicating their dispute. The premise of corrective justice is that each party possessed a fair share prior to an unjust transaction. The aim of the adjudicator or judge should be to restore the equilibrium that existed between the parties prior to the injustice. The judge does this by depriving of his unfair gain the party who has benefited and by restoring to the aggrieved party any unfair loss. In the terms I suggested in an early chapter of this book, the principle underlying Aristotle’s theory of corrective justice in relation to voluntary transactions is based on the concept of balanced reciprocity.

Now we may turn to Aristotle’s ideas about corrective justice in relation to involuntary transactions. Many scholars have suggested
that, in his theory of justice, Aristotle has nothing to say about issues of punishment or retributive justice, a point that more than a few of these scholars regard as an oddity at best and as a serious omission at worst. In fact the oddity is that this view, which can be traced back at least as far as a widely used 1926 edition of the *Nicomachean Ethics*, would ever have spread as widely as it has. The error may stem from an inclination to impose the modern distinction between crimes and torts anachronistically onto the writings of Aristotle, who lived in a society that entertained no such distinction. It seems clear enough that, although he offers few examples to flesh out his ideas about retributive justice, Aristotle has retributive justice in mind in his discussions of both proportional reciprocity (the basis for his thinking about partial justice generally) and corrective justice. The term that is translated as “reciprocity,” *to antipeponthos*, means literally “suffering in return for one’s actions” and is close in meaning to the well-known rule of reciprocity in retributive justice, “an eye for an eye, a tooth for a tooth [. . .].” Toward the beginning of his discussion of justice as reciprocity, Aristotle cites the rule of Rhadamanthys (the mythical son of Zeus and Europa), “if a man suffers that which he did, right justice will be done” (1132b), though he does not endorse the Pythagoreans’ interpretation of this rule. When he argues that simple, balanced reciprocity is insufficient as a rule of justice in the case of an ordinary man who strikes a public official, he seems to be suggesting that some form of punishment for the man would be just. And in his discussion of corrective justice (about which we shall see more below) Aristotle states that,

when one man strikes and the other is struck, when one man kills and the other is killed, the action and the suffering have been divided into unequal portions, and the judge endeavors to equalize the profit and the loss by a deduction from the former. (1132a)

Aristotle’s reasoning here evokes the notion that the just response to crime is to restore the equilibrium that has been disturbed by its
commission – a notion that, by his time, had long been the dominant way of thinking about the subject of retributive justice. It seems clear enough that he did not ignore the subject.

As in the case of voluntary actions that have gone awry and hence require correction, Aristotle assumes that, prior to an involuntary transaction, each party involved possessed his fair share of any goods that might be at issue. Likewise, his thinking about corrective justice in relation to involuntary transactions assumes that, prior to the relevant “transaction,” the parties involved stood in a relation of justice toward one another. Aristotle assumes it to be self-evident that theft, assault, murder, and other acts in which a perpetrator inflicts harm on an unwilling or unknowing victim are unjust.

Corrective justice as applied to involuntary transactions “treats the parties as equals, considering whether one has inflicted an injustice and the other has suffered it” (1132a). In the case of an offender who has wounded or killed another person, this equalization – or restoration of equilibrium – is achieved by inflicting harm on the offender. Aristotle does not offer a formula for determining precisely the kind or magnitude of the harm that should be inflicted on offenders. For him, the key point is that the harm that perpetrators unjustly inflict on victims should be requited by a harm that is imposed on the perpetrators in return, “for otherwise they [the victims] consider themselves reduced to slaves” (quoted above). As a general rule of thumb, however, he suggests that the magnitude of the punishment or loss imposed on the perpetrator of an unjust harm should be in “arithmetic” proportion with (that is, equal in value to) the magnitude of the loss or harm inflicted by the perpetrator.

The most plausible interpretation of Aristotle’s theory of corrective justice in regard to involuntary transactions – his theory of retributive justice – is that it calls for something like an eye for an eye or lex talionis, or, in a more generalized form, for balanced reciprocity. The fundamental principles underlying both parts of his theory of corrective justice appear to be rooted in the concept of balanced reciprocity.
Although the idea of justice is applicable to any association of relative equals that is based on mutual exchange, the most important locus of justice is the political community:

what we seek is not merely justice in the unqualified sense, but also political justice, i.e. the justice of free and (proportionally or arithmetically) equal citizens living together with a view to the satisfaction of wants. (1134a)

Aristotle subdivides what is just in the political sense into two categories: what is just by nature and what is just by convention. This distinction has been a source of considerable puzzlement on the part of Aristotle’s interpreters.

The most common interpretation of Aristotle’s notion of what is just by nature (or “natural right”) identifies that notion with Stoic, Christian, and rationalist conceptions of natural law, all of which treat natural law as an eternal, universal, and immutable standard of justice. According to this view, Aristotle’s theory is an early – perhaps the earliest – formulation of a conception of justice independently of any particular legal system, one that can be invoked to evaluate, criticize, and in some instances condemn existing legal provisions as unjust.

We shall see below that Aristotle’s theory of justice is indeed adorned by an aureole of ideas that purport to transcend the provisions of any particular existing system of positive law. However, his notion of what is just by nature is not the primary source of this light. That notion at best gives off only a faint glow, in comparison with the bright beams associated with the Stoic and later ideas of natural law. We can see why by considering two features of that notion.

First, unlike many other writers, including some of the Greek writers of his own time, Aristotle classifies what is just by nature as a subdivision of what is just in the political sense. If that notion were
similar in status to the Stoic and later ideas with which it is often compared, then it would have made much better sense for Aristotle to characterize it as independent of, and in a sense prior to, what is just in the political sense. That he does not do so suggests strongly that his notion of what is just by nature is not intended to play the role the idea of natural law or natural right was to perform in many later systems of ideas.

Second, Aristotle insists that what is just by nature is subject to change – indeed, that what is just by nature is as much subject to change as what is just by convention (1134b). This claim – which has been a stumbling block for interpreters, from Thomas Aquinas onward, who see Aristotle as a source or founder of the theory of natural law – is irreconcilable with the usual conception of natural law as eternal and immutable.

The best interpretation of Aristotle’s distinction is relatively simple. What is just by convention refers to matters about which we would be indifferent in the absence of a set of rules that we can regard as matters of agreement or convention. Aristotle suggests the example of the choice of animal (goat or sheep) that should be deemed suitable for a sacrifice. We might add the example of a choice between driving on the right or on the left side of the road. Inherently, it makes no difference whether we select goats or sheep to be the subjects of sacrifice, no more than it does to select the left or the right side of the road for forward travel. Once an agreement is reached, however, that choice becomes a convention and its violation becomes an injustice. In this case, justice and injustice are constituted by the adoption of a convention.

Conversely, what is just by nature refers to matters about which we are not indifferent, even in the absence of a set of agreed rules. It seems obvious that we would not be indifferent to acts of assault or murder, even if no legal provisions were in existence to prohibit and punish those acts. More generally, actions that contribute to human flourishing – actions that produce and preserve happiness for the social and political community – are just by nature, whereas actions that detract
from the preservation or happiness of the community are unjust by nature. Because the kinds of actions that contribute to the preservation and happiness of the political community vary from one time and one situation to another, what is just (and unjust) by nature is subject to change. Further, and perhaps more importantly for Aristotle, each particular political community differs from every other political community in some respects. The kinds of actions that contribute to the preservation of one kind of political community differ from the kinds that contribute to the preservation of another kind, so that actions that are just in one sort of community may be unjust in another. Yet, at any given time or in any given circumstance, the set of actions that contribute to human flourishing is relatively clear. As Aristotle says, it is not difficult, except perhaps at the margins, to distinguish between those things which are unjust by nature and those which are unjust by convention alone (1134\textsuperscript{b}).

If Aristotle’s conception of natural law is not intended to constitute an eternal, universal, and immutable standard of justice, does anything in his theory yield a standard to which one might appeal in order to assess the justice or injustice of existing laws? Or is the concept of justice in Aristotle so parasitic on the concept of law that justice for him is virtually synonymous with law?

Some passages in the *Nicomachean Ethics* suggest the latter conclusion. For example, near the beginning of Book V Aristotle comments that the “‘just’ then includes what is lawful and fair, and ‘unjust’ is what is unlawful and unfair” (1129\textsuperscript{a–b}). A few lines later, he observes that “it is plain that all laws are in a sense just. For laws are the products of legislation, and we acknowledge that each of the products of legislation is just” (1129\textsuperscript{b}). There is a sense, then, in which what is lawful is just, according to Aristotle.

However, it is clear from other parts of his discussion that actual positive laws can be imperfect, and even, in some cases, straightforwardly unjust, in a sense of justice that does not identify the just strictly with the legal. (Recall that, for Aristotle, justice may be envisioned in a number of different ways, each of which may contain
significant truth.) For example, Aristotle observes that “the laws pronounce upon all subjects [...] enjoining some things and forbidding others, the rightly established laws doing this rightly, and the extemporized law with less propriety” (1129b). Here he seems to acknowledge that actual laws are sometimes flawed, even in cases in which the lawmakers were well intentioned. Moreover, Aristotle points out that even the best-framed laws are sometimes imperfect when applied to specific cases. Laws by nature are general prescriptions or injunctions, but “there are some cases for which it is not possible to provide in a statement which is general” (1137b). That is why conclusions based strictly on law can justly be set aside in the interest of equity when a judge finds that the laws fail to make sense in a particular case. “Though the equitable is just, it is not legal justice, but a rectification of it” (1137b).

Further, Aristotle notes:

People conceive that the power to act unjustly rests with themselves, and therefore that to be just is easy. But this is not the case [...] [similarly,] people assume [...] that it requires no special wisdom to discriminate between things which are just and those which are unjust, because it is not difficult to apprehend such matters as are provided for by the laws. But it is only by happenstance that actions prescribed by law are identical with those dictated by justice. To be just, actions must be done and distributions must be made in a particular manner, and the knowledge required to do these things is more difficult to attain than knowledge of what makes people healthy. (1137a)

In this passage Aristotle makes it clear that, even at their best, laws are inherently imperfect expressions of justice. To understand the just and the unjust requires wisdom, not merely knowledge of the law, because laws are not inherently just, but are made so only by being crafted carefully and judiciously.

The most serious discrepancies between law and justice arise when the regime lacks the key attribute needed to support justice “without qualification,” namely, a common life among men who are free and
relatively equal to one another. In the absence of this basis for justice and law,

... political justice does not exist, but only a semblance of justice. For justice exists only among those who have law to govern their mutual dealings, and law exists only where injustice occurs. (1134a)

Aristotle here has tyranny in mind, as his immediately ensuing words make clear. Tyrannical regimes are capable of adopting laws and ruling through them. Yet these laws will not embody justice, since they are not the products of relations among free and relatively equal men. It is clear that, for Aristotle, although there is a narrow sense in which the legal is just, there is no strict synonymy between justice and law.

Aristotle’s idea of the political community is integral to his theory of justice, and especially to his conception of the role of reciprocity, which lies at the heart of his theory of justice. Community (koinonia) is in fact the underlying principle of his discussion of reciprocity. He uses the term koinonia six times in his chapter on reciprocity alone, and he makes it clear that community is one of the main goals of reciprocal exchange. Recall a portion of what he says at the outset of his discussion of reciprocity:

... in associations based on mutual exchange [...] this sort of justice, namely reciprocity in accordance with a proportion rather than with arithmetic equality, [...] [is the thing by which] the city holds together [...] for [...] it is by mutual contribution that men hold together. (1132b–1133a)

He touches on the same point in the Politics:

The parts which are to constitute a single organic whole must be different in kind. And thus it is the principle of reciprocal equality which is the preservative of every polis, as I have already stated in the Ethics; for this principle necessarily obtains even in a society of free and equal persons. (Politics, II.ii, 1261a)
For Aristotle, each act of exchange that accords with justice in transactions reaffirms the values that the community sets on its various members and on their products and services. Reciprocity upholds the norms through which the community is bound together into one entity. Similarly, each act of corrective justice, whether it is applied to voluntary transactions that have gone awry or to involuntary transactions, helps to sustain the bonds that hold the association together by enforcing its underlying norms and understandings of just and unjust actions. Aristotle did not imagine that we can make judgments about the justice or injustice of existing laws on the basis of an eternal and immutable natural law, because he did not believe that such a law for political and legal matters exists; in fact he seems not even to have conceived this idea of natural law. But he did believe that the concept of reciprocity supplies a standard to which we should appeal in assessing the justice or injustice of laws, because the well-being of every polis depends on the maintenance of relations of reciprocity.

Aristotle’s writings repeatedly confirm that, in his view, the concept of justice applies primarily to relations among men who are free and relatively equal to each other. He contrasts these relations sharply and consistently with those that obtain among categorical unequals. Recall one of the key statements in his discussion of justice in the unqualified sense: “People seek either to return evil for evil – for otherwise they consider themselves reduced to slaves – or to repay good with good, for otherwise there is no mutual contribution [...]” (1132b–1133a). Healthy relations among equals are rooted in the practice of reciprocity, a practice that fosters a sense of community among men who are relative equals, yet who differ in the ways in which they are capable of contributing to their common life. For Aristotle, the practice of reciprocity binds together the political community.
Aristotle’s conceptions both of justice and of the kind of community through which a healthy political association is constituted stand in sharp contrast to Plato’s ideas on these matters. Just as he implicitly criticizes Plato’s insistence that justice must be one and only one thing by opening his own discussion of justice with an account of the different kinds of things that justice can be, he also criticizes Plato for arguing that the best kind of political community is the kind that attains the greatest possible unity. On the contrary, in his Politics Aristotle argues that “it is evident, however, that, as a polis advances and becomes more of a unit, it will cease to be a polis at all” (II.ii, 1261a). A political community must be composed of different kinds of men with different capacities. Because they are of different kinds, those men must be bound together through relationships of reciprocity that acknowledge and strengthen the norms on which the community is based.

We see that Aristotle makes a related argument, accompanied by a similar criticism of Plato, in his discussion of political rule. Recapitulating Plato’s view, Aristotle recites the following:

As it is best that this should be the case, i.e. that a man who is a cobbler or carpenter should be so always, so too in the political association it is obviously best that the same persons should, if possible, be perpetual rulers. (II.ii, 1261a)

Turning to his own view, however, he observes:

Where, however, this is impossible owing to the natural equality of all the citizens, and at the same time justice demands that rule, whether it be a privilege or a burden, should be shared by all alike, in these cases an attempt is made to imitate the condition of original dissimilarity by the alternate rule and submission of those who are equals. Here there are always some persons in a position of rule and others of subjection; but the rulers of one time are the subjects of another and vice versa, as though their actual personality had been changed. (II.ii, 1261a)
Reciprocity plays a key role in Aristotle’s conception of ruling – in ruling and being ruled in turn by one’s equals – as well as in his theory of justice in transactions. In both cases, reciprocity plays a central role in maintaining community among men who are relative equals, but who differ in kind. In Aristotle’s view, a healthy political community – a true polis – is one that brings together different kinds of men in a communion of interests that is bound together by common norms.

Although Aristotle applies the concept of justice primarily to relations among men who are free and relatively equal to each other, he agrees with Plato that a healthy association among categorical unequals is based on relations of command and obedience. Reciprocity among relative equals on the one hand and hierarchy between categorical unequals on the other are the two fundamental types of human relations for Aristotle.

Despite the fact that relations among equals are at the focus of his theory of justice, Aristotle also applies the concept of justice, albeit in a qualified sense, to relations among categorical unequals, which in his view are by nature hierarchical. “There is no injustice in the strict sense of the word towards what is one’s own,” because “the slave and the child, until he reaches a certain age and becomes independent, are as it were parts of oneself [...] [and] no one deliberately chooses to harm oneself” (Nicomachean Ethics, 1134b). Here Aristotle restates his central theme that justice in its core sense “depends upon law, and subsists only among those with whom law is a natural institution, that is to say [...] those who have equality in ruling and being ruled” (1134b). Yet there is a significant sense in which the concept of justice also applies to the relations between a male head of household and the various members of that household. Within the household, in Aristotle’s view, the relation between husband and wife most nearly resembles the reciprocal relations among free and equal citizens, since women, though not as well endowed with reason as men, are considerably better endowed than children or those who are deficient enough in rationality to be deemed slaves by nature. Still, Aristotle concludes that what is just for the master of a slave and for the father of
a child is similar to, though not identical with, what is just in the
relations among free and equal men.

Aristotle is more explicit about the way in which the relations
between master and slave or father and child differ from those
among free and equal men than he is about the similarities between
these relations. Hence the content of the kind of justice he envisages
among categorical unequals is largely a matter for conjecture. His
main contention seems to be that there is a similitude of justice
in the relations among categorical unequals because the superior
party in that relation cannot rationally intend harm toward the
inferior party.

In the closing argument of his book on justice (Book V of the
Nicomachean Ethics), Aristotle extends this similitude to the relation
between the rational and the irrational parts of a person. He notes that
it is possible for one part of the soul to frustrate the desires of the other
parts. Alluding to Plato, he observes that some people infer that “these
parts [...] may have a sort of justice with one another like that
between ruler and subject” (1138b). While Aristotle is wholly in accord
with Plato’s view that it is right for the rational part of the soul to rule
over the irrational part, the central point of his allusion to Plato’s
conception of justice is, once again, to dissociate his own theory from
that of his teacher. Plato applies the concept of justice first and
foremost to the hierarchical relation between the parts of the soul,
and only secondarily (and by analogy) to the hierarchical relation
between those who are qualified to rule and those who are fit to be
ruled. He bestows only cursory notice on questions having to do with
the relations among equals and takes little interest in the subject of
worldly interests. Although for Plato the objective of justice is the
attainment of wisdom, the core of his conception of justice is a
description of right relations of command and obedience.

Aristotle’s theory of justice inverts these emphases. For him, the
concept of justice applies primarily to relations among men who are
free and equal and who have diverse capabilities, which enable them to
contribute to the political community in different ways. That concept
can be applied also to relations among categorical unequals, but only in a qualified sense, and it can be applied to the relations among the parts of the self in an even more qualified or extended sense. Justice is anchored not to a conception of proper relations of command and obedience, but to the concept of reciprocity.

For Plato, as Aristotle intimates (Politics 1261a), the polis is a highly hierarchical affair, rather like a military body. Plato’s conception of justice reflects this hierarchical understanding of the political community. For Aristotle, in contrast, the polis is a community of relative equals, none of whom is entitled by nature to command the others, and each of whom should participate in ruling and being ruled in turn. His conception of justice, which is based on the concept of proportional reciprocity in the cases of justice in transactions and distributive justice and on balanced reciprocity in the case of corrective justice for both voluntary and involuntary transactions, is a product of his sharply different understanding of a political community.

In a broad sense, teleology played a far larger role in Aristotle’s thinking than it did in Plato’s. Aristotle’s philosophy was deeply affected by his early training in biology, and his familiarity with life processes that led individual specimens of a species to grow into pre-established forms shaped his approach to a host of other subjects, including politics. Nevertheless, within the framework of a broad contrast between conceptions of justice that are founded on the concept of reciprocity – the concept that is at the base of all significant ideas about justice prior to the advent of Greek philosophy – and conceptions like that of Plato, who construes justice in relation to the attainment of a goal or ideal, it is Plato who is the more evidently teleological thinker and Aristotle who is the advocate of reciprocity as the proper basis for thinking about justice. Aristotle articulated a new and immensely important theory of justice, but he did so by elaborating on the concept of reciprocity, which had played a central role in every major set of ideas about justice except Plato’s (and had played the role of a central foil even in Plato’s thought). Where Plato’s theory constituted a broad attack on conventional understandings of justice,
Aristotle’s theory was framed with considerable respect for intuitions about reciprocity that are integral to the sense of justice.

With the formulation of his theory, Aristotle had created places for many of the principal ideas that would prevail in the later history of western thinking about justice. He developed a systematic, albeit schematic, framework for thinking about issues of distributive justice, a subject that had received scant attention before him. He offered a lucid analysis of the terms on which corrections to voluntary transactions that had gone awry should be made, as well as of the fundamentals of retributive justice. He provided an insightful analysis of justice in transactions. At the base of all these ideas lies a conception of reciprocity that would eventually come to be known as the contribution principle (or the principle of desert). For many centuries, this principle maintained a powerful hold on the imagination of those people who would eventually come to be known as Europeans. Indeed it retains a strong grip on the imagination of many people today, despite the fact that its intellectual foundations have been shaken by modern insights – particularly Adam Smith’s insight that virtually all the wealth generated in societies with complex divisions of labor is better understood as a social product than as the sum of the products of individual producers, taken singly. In Aristotle’s theory we can discern many of the principal concepts, categories, and claims about justice that have shaped western ideas down to the present day. No single thinker has had a greater impact on our ideas about justice.