POLITY, POLITICAL JUSTICE AND POLITICAL MIXING

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Abstract: In numerous places in his *Ethics* and *Politics*, Aristotle associates political justice (or ruling in turns) and the regime of polity. I argue that there is a necessary connection between political justice and polity due to their origins in political mixing. Aristotle is the first to discover political justice and polity because his predecessors had thought that the elements which they combine — excellence and equality in the case of political justice, and oligarchy and democracy in the case of polity — were antithetical. The novelty of Aristotle's 'discoveries' points to their connection, namely that both originate in the political mixing of elements. This article examines such political mixing in detail and shows how an institutional arrangement such as ruling in turns can be adapted to different regime-types.

Introduction

In the *Politics*, Aristotle claims to have made two important discoveries. First, the *Politics* begins with the claim that rule between citizens — what Aristotle calls political justice or the ruling and being ruled in turn which takes place between free and equal citizens — is unlike any other kind of rule.[2] Although Aristotle's democratic contemporaries recognized the notion of ruling in turn, he presents his conception of political justice as a discovery which previous thinkers had failed to understand.[3] Second, in his constitutional taxonomies, Aristotle claims that he has discovered a certain kind of political system which previous political scientists had missed.[4] The system in question, usually entitled 'polity' after its Greek name *politeia*, is one in which all free men with the means of owning hoplite weapons participate in the ruling of a city.[5] Although Aristotle is aware of historical precedents for polity, such as Mali, Tarentum, Oreus, Syracuse and the Athenian constitution of 411, he nonethe-

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[2] *Pol* I.7.1255b16–22; cf. *EN* V.6.1134a28–30, 1134b8–18. Throughout this paper my translations from the Greek are based on Bywater's *Aristotelis Ethica Nicomachea* (Oxford, 1894) and Ross's *Aristotelis Politica* (Oxford, 1957), although I am much indebted to Irwin's *Aristotle Nicomachean Ethics* (Indianapolis, 2nd edn., 1999) and Rackham's *Politics* (Cambridge, MA, 1932).

[3] See *Pol* VI.2.1317a40–b17. For the central differences between Athenian democratic practice and Aristotle's novel account of ruling and being ruled, see J. Ober, *Political Dissent in Democratic Athens* (Princeton, 1998), pp. 300–1.

[4] *Pol* IV.7.1293a40–41; cf. IV.11.1296a36–38.

[5] *Pol* II.6.1265b26–29, III.7.1279a37–b4; III.12.1283a19–22, III.17.1288a12–15, IV.13.1297b1–2.

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less claims to be the first to recognize the nature of this regime.[6] Thus, there appears to be something novel in Aristotle's self-understanding of ruling and being ruled in turn and the regime of polity. Although there were precedents for both, they are two rare instances when Aristotle claims to be the first to understand a matter of political science.[7]

At first glance, it seems likely that these two discoveries are interrelated. Political justice is precisely the sort of justice appropriate to a regime based on civic participation. But what is so unusual about either polity or political justice that other thinkers had failed to comprehend them? In this article I argue that political justice is derived from and interrelated to polity because of their shared origins in Aristotle's notion of 'political mixing'. Political justice, at least to Aristotle's predecessors, appears so unusual because it combines things thought to be antithetical, namely the notion of rule (*archē*), which was thought to require excellence and expertise, and the notion of random rotation of office, which was thought to require democratic notions of equality. The novelty of political justice consists in seeing how excellence and equality can be combined. At the same time, Aristotle's regime of polity mixes elements of oligarchic and democratic regimes, and its novelty consists in the fact that those two regimes were also thought to be antithetical. But, since both political justice and polity derive from two similar kinds of political mixing, it follows that political mixing is the point of connection between polity and political justice.

In order to defend my claim that Aristotle connects political justice and polity through the fact that they are both the result of political mixing, I first explain briefly what the two notions entail and how political justice fits within the regime of polity. In the second part of the article I argue that the novelty of political justice and polity points to the reason for their interrelation, namely that they are interrelated through political mixing. In Part III, I examine Aristotle's account of political mixing in order to show how political justice and polity are composed. I argue that the mixed nature of polity is the source of the mixed nature of political justice. Finally, in Part IV, I consider a counter argument to my thesis that political justice is derived from the regime of polity. Both aristocracy and democracy incorporate ruling and being ruled in turn into their institutional organizations, and thus one could claim that political justice is a principle of justice broader than the regime of polity. In response to such a claim I argue that the notions of ruling and being ruled in the regimes of

[6] See *Pol* IV.13.1297b14, V.3.1303a3, 1303a18, V.4.1304a27. On the historicity of polity, see E. Barker, *The Political Thought of Plato and Aristotle* (New York, 1959), pp. 475–7; and F.D. Miller jnr., *Nature, Justice and Rights in Aristotle's Politics* (Oxford, 1995), pp. 253–4.

[7] In general, Aristotle is self-consciously hesitant to claim novelties on behalf of his political science for both methodological and prudential reasons. See his general statements about novelty, innovation and discovery in political science: *Pol* II.1.1260b27–38, II.8.1269a14–27; cf. II.6.1265a12–14.

aristocracy and democracy are fundamentally different from political justice. In the conclusion, I suggest a way to understand how different specifications of ruling and being ruled in different regimes illustrate the relationship between the institutional organization of regimes and their principles of justice.

I
The Nature of Political Justice and Polity

This first section explains the nature of political justice and polity, and establishes that political justice is a principle of justice for the distribution of offices in polity.[8] In *Nicomachean Ethics* V.6 Aristotle explains that political justice (*politikon dikaion*) exists between free and equal individuals who share in common a life which aims at self-sufficiency under the rule of law; Aristotle further characterizes the equality between such individuals by saying that it consists in their ruling and being ruled.[9] In the *Politics*, Aristotle describes such an arrangement as 'political rule' (*politikē archē*) and he characterizes it as 'ruling in turn' or a kind of rule based in reciprocity.[10] It appears that political justice requires more than simply ruling in turn, since the notion of ruling in turn can be found in both democratic and aristocratic regime-types.[11] Although I will argue that one version of ruling in turn, namely that found in political justice, has pride of place within polity as a regime, ruling in turn can be implemented in different ways in at least three different kinds of regimes, viz. democracy, polity and aristocracy.

[8] Some authors deny that polity possesses a single principle of justice, and instead suggest that as a mixed government it must have multiple principles of justice or criteria according to which office is distributed. (See, for instance, Barker, *Political Thought of Plato and Aristotle*, p. 477; Miller, *Nature, Justice and Rights*, p. 256; and P. Simpson, *A Philosophical Commentary on the Politics of Aristotle* (Chapel Hill, 1998), p. 316.) In the first section of this article I simply wish to indicate some connections between political justice and polity and establish that the former is *a* principle of the latter. In my conclusion I will argue that political justice is *the* principle of polity.

[9] *EN* V.6.1134a26–28, 1134b13–15; cf. *EN* VIII.11.1161a30–31. See further T.C. Lockwood, Jr., 'Ethical Justice and Political Justice', *Phronesis*, 50 (2006), pp. 29–48.

[10] *Pol* I.13.1259b4–9, I.5. 1254b5–6, I.7.1255b16–20, II.2.1261a31–b7, III.4.1277b7–11, III.6.1279a8–16. Within his texts Aristotle refers to political justice or rule as 'ruling and being ruled' (*archōn kai archomenon*) or 'ruling in turn' (*archōn en merei*). At *Pol* II.2 Aristotle suggests that since all cannot rule at one time, they must observe 'reciprocal equality' (*to ison to antipeponthos*) and so ruling and being ruled is sometimes referred to as 'reciprocal rule' in the secondary literature, although there is no precise Greek locution which corresponds to that phrase (*Pol* II.2.1261a31 ff.; cf. *EN* 5.2.1132b31–34; see further B. Yack, *The Problems of a Political Animal* (Berkeley, 1993), pp. 128–40). For discussion of reciprocity and ruling and being ruled in the *Politics* see M. Nichols, *Citizens and Statesmen: A Study of Aristotle's Politics* (Lanham, MD, 1992), pp. 85–123; and J. Frank, *A Democracy of Distinction* (Chicago, 2005), pp. 81–111.

[11] *Pol* VI.2.1317b2–17, b20–21, VII.3.1325b7–10, VII.14.1332b12–1333a6.

Aristotle characterizes the regime of polity in at least three different ways.[12] First, within Aristotle's classificatory scheme of regime-types, polity (the regime's Greek name, *politeia*, also means constitution or regime as a genus term) is a regime in which the many rule themselves aiming at the common good.[13] As a regime-type, it is naturally fitted to a people who possess martial virtue (since that is most commonly possessed by large groups rather than individuals) and it has been aptly characterized as a 'hoplite constitution, i.e. one in which citizenship is restricted to those with the resources to equip themselves with heavy arms'.[14] Second, Aristotle characterizes polity as a mixed regime, namely a regime that mixes the fundamental principles of oligarchy and democracy.[15] Whereas so-called aristocracy is a form of regime that distributes offices on the bases of virtue, wealth or freedom (i.e. native birth), polity bases its distribution only on the basis of wealth and freedom because it is only a mix of oligarchy and democracy.[16] Third, a special version of polity — that regime which is most suitable for all cities — appears to be the so-called middle regime of *Politics* IV.11.[17] The middle regime is a constitutional republic or polity in which the excesses of the rich and poor are mitigated because there exists a significant number of moderately wealthy citizens who are more inclined to listen to reason than those people who are rich or poor and less likely to either shun political duty as a burden or seek it as an avenue of wealth. Unlike the poor, their life circumstances give them the chance to learn how to rule and, unlike the rich, they have also experienced being ruled.[18]

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[12] Some scholars have thought that Aristotle's different ways of characterizing polity entail inconsistencies. On the whole, my account follows that of Miller's *Nature, Justice and Rights*, pp. 254–69, which argues that the inconsistencies in Aristotle's account are only apparent.

[13] *Pol* III.7.1279a37–39, IV.7.1293a40–41.

[14] C. Rowe, 'Aristotelian Constitutions', in *Cambridge History of Greek and Roman Political Thought*, ed. C. Rowe and M. Schofield (Cambridge, 2000), p. 371; cf. *Pol* II.6.1265b26–29, III.7.1279a37–b4, III.12.1283a19–22, III.17.1288a12–15, IV.13. 1297b1–2.

[15] *Pol* IV.8.1293b33–4, 1294a16–17, 22–23, IV.9.1294a36–b1. Clifford Bates has argued that attributing the notion of a mixed regime to Aristotle is erroneous, and that the notion of such a regime stems from medieval Christian misinterpretations of Aristotle, especially that of Thomas Aquinas (C. Bates, *Aristotle's Best Regime* (Baton Rouge, LA, 2003), pp. 114–19, 133 n.5). I find his revisionary argument unpersuasive. See further E. Schütrumpf's review of Bates in *Ancient Philosophy*, 25 (2005), pp. 465–6.

[16] *Pol* IV.8.1294a14–25, V.7.1307a7–19.

[17] *Pol* IV.1.1288b34–35, IV.11.1295a31–34, 1295b34–1296a9, 1296a37–38. Curtis Johnson has argued that the middle regime is distinct from polity (*Aristotle's Theory of the State* (New York, 1990), pp. 143–52), but Miller persuasively refutes his arguments (*Nature, Justice and Rights*, pp. 262–3, fn. 27). See also R. Kraut, *Aristotle Political Philosophy* (Oxford, 2002), pp. 438–44; and Simpson, *A Philosophical Commentary*, pp. 332–3.

[18] *Pol* IV.11.1295b6–19, IV.12.1296b35–97a6, V.1.1302a12–16, V.4.1304a38–b6.

Aristotle connects political justice and polity in numerous ways. Etymologically, of course, the two terms are interrelated with the word for citizen, which is clearest in Aristotle's assertion that a citizen (*politēs*) in the regime of polity (*politeia*) is one who shares in ruling and being ruled or political justice (*politikon dikaion*).[19] Further, Aristotle claims that the regime of polity is most fitting for a people who are naturally martial and capable of ruling and being ruled under law with offices distributed amongst the well-to-do according to merit.[20] In his discussion of the middle regime, Aristotle emphasizes that it is the special characteristic of the middle class that its members are well prepared to rule and be ruled.[21] Finally, Aristotle identifies a specific mechanism of polity, the election and auditing of public officials by the general citizenry. This allows the citizen body to share in ruling without exercising mob rule such as that found in democracy where the people rather than the law rule.[22] Such a reform, apparently implemented by Solon, shows how polity is a regime in which political justice mixes elements of ruling (for instance, having a say in who runs the government) and being ruled (since one is nonetheless subject to the law and to the decisions of one's officials).[23] But if the evidence presented here suggests that there is some relationship between polity and political justice, it is necessary to explain the reason behind that relationship. Their novelty, at least in Aristotle's eyes, points to the reason why they are necessarily connected.

II
The Novelty of Political Justice and Polity

Although Aristotle's notion of political justice and polity are derived from his experience of Greek politics, he believes that his accounts of ruling and being

[19] *Pol* III.13.1283b42–84a1; cf. III.1.1275a24, III.3.1278a36. Rowe, writing on III.7.1279a39–b4, claims that 'it is not easy to see what exactly "constitutional rule" has to do with this explanation of why "polity" is called what it is' (Rowe, 'Aristotelian Constitutions', p. 386), but it seems to me that this connection is much clearer when political justice or ruling in turn is understood as 'citizen justice'. R. Bodéüs has made a similar suggestion about the relationship between polity as a regime and political justice (see R. Bodéüs, 'Deux notions aristotélicienes sur le droit naturel chez les continentaux d'Amérique', *Revue de métaphysique et morale*, 94 (1989), pp. 369–89).

[20] *Pol* III.17.1288a13–15.

[21] *Pol* IV.1.1295b13–25, IV.12.1296b37–97a13.

[22] *Pol* III.11.1281b1–10, b31–34. See further J.T. Bookman, 'The Wisdom of the Many: An Analysis of the Arguments of Books III and IV of Aristotle's *Politics*', *History of Political Thought*, 13 (1992), pp. 1–12; J. Waldron, 'The Wisdom of the Multitude: Some Reflections on Book 3, Chapter 11 of Aristotle's *Politics*', *Political Theory*, 23 (1995), pp. 563–84; and Ober, *Political Dissent in Democratic Athens*, pp. 319–24.

[23] *Pol* II.12.1273b42–74a2, 1274a15–22, IV.9.1294b6–13, IV.14.1298a20–25, 1298b35–99a1, VI.4.1318b22–26. See further, Kraut, *Aristotle Political Philosophy*, pp. 406–7.

ruled in turn and a regime based on civic participation say something new which his predecessors overlooked or were unable to see because of erroneous presuppositions. Since there appears to be a similar reason why Aristotle's predecessors failed to recognize both polity and political justice, examining their apparent novelty points to a possible cause of their interrelation. In the case of political justice or ruling and being ruled in turn, Aristotle's key insight was to find a way to combine the egalitarian notion of random rotation of office with the aristocratic notion of justifying a claim to rule on the basis of ability. In the case of the recognition of polity, Aristotle's key insight was to see how a form of government composed of institutions from unjust regimes, such as oligarchy and democracy, could nonetheless be a just and legitimate kind of government. Let me explain each discovery.

Political justice or ruling in turns combines apparently antithetical notions because on the one hand ruling seems to be justified on the basis of one's ability or excellence, but on the other hand taking turns ruling seems to involve a degree of random egalitarianism. In two places in the *Politics*, Aristotle articulates his account of political justice in opposition to thinkers who thought such a combination was impossible. First, Aristotle begins the *Politics* with a discussion of political justice directed against an apparently Socratic position which had claimed that there were no qualitative differences between different kinds of rule: whether one ruled a child, spouse, slave, citizen or subject, one used the same sort of knowledge or science (*epistēmē*).[24] Such a view justifies a claim to rule on the possession of a certain kind of expertise, but Aristotle rejects the claim that there is a universal science of ruling. Second, Aristotle's discussion of the virtues of a good man and a good citizen in *Politics* III.4 raises the same problem since people dispute whether the *paideia* appropriate to one who is to rule is the same as that which prepares one to be ruled.[25] Some claim that the knowledge of ruling excludes a knowledge of being ruled, but Aristotle argues that the knowledge of ruling and being ruled are distinct but not mutually exclusive. The virtue of the good man consists in *phronēsis*, or prudence, that of the good citizen in *doxa alēthēs*, or true opinion, but a citizen develops the virtue of a good man through experience, much like senior military officers who were at one time subordinates.[26] Both discussions

[24] *Pol* I.7.1255b17–21; cf. I.1.1252a7–18, I.3.1253b17–23, I.5.1254b2–6. See further M. Schofield, 'Ideology and Philosophy in Aristotle's Theory of Slavery', in M. Schofield, *Saving the City* (New York, 1999), pp. 128–32. For the Socratic 'science of ruling' being criticized, see Plato, *Statesman*, 258e–59d; Xenophon, *Memorabilia*, III.4, 12; III.6, 12; *Oikonomikos*, XIII.5, XXI.10.

[25] *Pol* III.4.1277a21–24, 1277a33–77b7. See further R. Devlin, 'The Good Man and the Good Citizen in Aristotle's *Politics*', *Phronesis*, 18 (1973), pp. 71–9.

[26] *Pol* III.4.1277b29–31; 1277b11–12, 13–14 (with Diogenes Laertius, *Vitae* I.60), 14–16.

of political justice in the *Politics* illustrate the novelty of Aristotle's discovery. Civic participation presupposes equality, but a claim to rule presupposes virtue and ability which are not distributed equally. Political justice mixes equality and virtue, and Aristotle's predecessors thought that that was impossible.

Aristotle's account of polity reconciles elements of political systems which Aristotle's predecessors also thought were antithetical. Aristotle claims that previous thinkers had failed to recognize polity as a kind of regime because they were mislead into thinking that all political systems were reducible to one of two kinds, namely oligarchy or democracy.[27] Within such a framework, aristocracy was assimilated into oligarchy and polity was assimilated into democracy.[28] Rather than categorize regimes on a continuum between democracy and oligarchy, Aristotle first distinguishes regimes according to whether one, a few or the many rule, and then according to whether they who are sovereign rule in their own interest or that of the ruled.[29] Whereas political experience first suggests that governments are reducible to two basic kinds — one in which the poor predominate, another in which the rich predominate — Aristotle claims that the political realm is more complex and nuanced. In fact, there are six basic kinds of regime and numerous species within each kind. Although Aristotle acknowledges the predominance of the oligarchic and democratic political systems of his time, his account of the common good makes it clear that the opinion that governments are reducible to oligarchy and democracy is based on the contingent fact that in Hellenic society the middle class was an empirical rarity.[30]

The notions of both a virtuous man taking turns ruling and a political system in which all citizens ruled in the interest of the common good are Aristotelian discoveries which his predecessors failed to perceive.[31] Both institutions combined things thought to be antithetical, namely virtue and equality or oligarchy and democracy. But the novelty of Aristotle's two discoveries is a

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[27] *Pol* IV.7.1293a40–41; cf. *Pol* IV.11.1296a32–37, V.7.1307b20–24. Newman suggests that Demosthenes' view of regime division may be Aristotle's target, and that a central project of *Politics* IV is the repudiation of the two-fold classification of regimes. See W. Newman, *The Politics of Aristotle* (Oxford, 1887), Vol. 1, pp. 494–5.

[28] *Pol* III.1.1281a29–35, IV.5.1292b3–5, IV.8.1293b35–40, V.6.1306b22–28, 1307a10–20, VI.1.1316b40–1317a3.

[29] *Pol* III.7.1279a27 ff. See further J. de Romilly, 'Le classement des constitutions d'Hérodote à Aristote', *Revue des Études Greques*, 72 (1959), pp. 81–99; and R. Mulgan, 'Aristotle's Analysis of Oligarchy and Democracy', in *A Companion to Aristotle's Politics*, ed. D. Keyt and F.D. Miller jnr. (Oxford, 1991), pp. 279–306.

[30] *Pol* IV.1.1289a7–10, IV.4.1290a13–29, IV.11.1296a33–b3.

[31] As A. Samaras has pointed out in comments on this article, it is hardly surprising that Aristotle's democratic predecessors did not embrace this solution. The proper qualification of polity — much like the Athenian constitution of 411 BCE — would disenfranchise a large number of Athens' democratic citizens; and no doubt Aristotle's oligarchic predecessors would probably claim it did not disenfranchise enough.

point in need of explanation. Let us now examine how political justice and polity actually mix allegedly antithetical elements in a fashion which accounts for their novelty and their interrelation.

III
Political Mixing and Principles of Justice

To argue that there is a necessary relationship between political justice and polity, it is necessary to explain why political justice is uniquely suited to the regime of polity and to show that political justice is appropriate only to the regime of polity. Aristotle's account of political mixing proves that there is a necessary connection between the two. Let me first explain political mixing in the case of the regime of polity, examine some examples of mixed regimes, and then show how political mixing works in the case of political justice.

As I have noted above, Aristotle characterizes polity as a mixed regime, namely a regime that mixes the principles and institutions of oligarchy and democracy.[32] To arrive at a better sense of what Aristotle means, consider the different ways principles or institutions can be mixed according to *Politics* IV.9.[33] One way is to combine legislative schemes from two different regimes. For instance, with respect to jury service, oligarchies fine the rich but do not pay the poor, whereas democracies pay the poor but do not fine the rich. The mixture of the two proper for polity is to both pay the poor and fine the rich.[34] A second way aims at the mean between the two: whereas oligarchies have high property qualifications for participation and democracies possess none, polity should aim at the mean between the two, namely a moderate property qualification.[35] A third way aims at combining eclectic features from the two: whereas democracies assign office by lot without a property qualification, and oligarchies by election with a property qualification, polity ought to combine the two by having elective offices without property qualifications.[36]

Aristotle identifies several mixed regimes which are praiseworthy because they can equally be called oligarchic, democratic or neither of the two, since

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[32] *Pol* IV.8.1293b33–35; cf. 1294a14–25, V.7.1307a7–19.

[33] The elements being mixed are institutional arrangements characteristic of different regime-types. Thus, election by lot, universal suffrage, term limits, popular juries, strong councils (*boulē*) and payment for public duties are institutions characteristic of democracies, whereas election by choice, property qualifications, penalties for not taking part in public offices and hereditary offices are institutions characteristic of oligarchies (see further *Pol* IV.13.1297a14–37 and VI.2.1317b17–18a3). *Politics* IV.14–16 examines such elements with respect to assemblies, magistrates and offices: for detailed analysis, see Miller, *Nature, Justice and Rights*, pp. 166–83.

[34] *Pol* IV.9.1294a40–41.

[35] *Pol* IV.9.1294b4–6.

[36] *Pol* IV.9.1294b10–13.

they are means between two extremes.[37] The first two — those of Sparta and that of the mixed regime of Plato's *Laws* — are polities (in Aristotle's terminology) because they only mix democratic and oligarchic elements. Sparta, for instance, includes democratic elements such as universal education for rich and poor, common mess halls, egalitarian culture, and its practice of election from the common people; at the same time it possesses oligarchic elements such as offices determined by election rather than by lot, and very few citizens possess the power of ostracism or death.[38] According to Aristotle, the mixed regime of Plato's *Laws* combined oligarchic elements such as the election of magistrates, compulsion for the rich to serve in public duties and a property qualification for election to certain magistrates with democratic elements, such as the election of other magistrates by lot.[39]

Aristotle's other two examples — that of Solon's constitution for Athens and that of a democratic aristocracy — are what Aristotle entitled 'so called aristocracy', because they mix virtue, wealth and free birth. Thus, in Solon's Athenian constitution, according to Aristotle the court of the Areopagus was an oligarchic element, elective magistrates was an aristocratic one, and the law courts (*dikastēriai*) were democratic, because they were determined by lot.[40] Finally, an interesting but undeveloped example is one which Aristotle identifies as a mix of aristocracy and democracy, in which it seems both the notables and the many get their respective ways: all are capable of election to office, but the offices offer no opportunity for personal remuneration. Thus the many preserve their right to be chosen for any office, but decide not to pursue it because they are too poor to devote themselves to a non-remunerative office, and the wealthy can hold office without there being any danger of them stealing from common funds or being ruled by the poor.[41]

If polity is a mixed regime, does it follow that political justice, or reciprocal rule between free and equal people, is also a 'mixed' principle of justice? To be sure, Aristotle never makes such a claim explicitly, but he provides the pieces from democracy and oligarchy that seem to constitute political justice. The democratic element of political justice is that of rotation in office. The fundamental principle of the democratic regime is freedom or native birth,

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[37] *Pol* IV.9.1294b13–18, 35–40. See further I. Evrigenis, 'The Doctrine of the Mean in Aristotle's Ethical and Political Thought', *History of Political Thought*, 20 (1999), pp. 410–14.

[38] *Pol* IV.9.1294b18–35; cf. *Pol* II.6.1265b27–1266a2.

[39] *Pol* II.6.1266a6–23; see further *Laws* 693d, 701e, 756e.

[40] *Pol* II.12.1273b36–42; see further *Athenian Politeia* V.1–3, VIII.1–5, IX.1–2.

[41] *Pol* V.8.1308b32–09a9; cf. IV.13.1297b7–11, V.2.1302b1–3. Frank identifies such a regime as a 'democracy of distinction' and claims that it is substantially the same as the true aristocracy of *Pol* VII–VIII. See further Frank, *Democracy of Distinction*, pp. 163–78.

which confers equality on all free born males of a city.[42] Aristotle claims that there are two aspects or components to the democratic principle of freedom: the first entails that men should rule and be ruled equally or in turn so as to preserve equality and majority rule, the second entails that each man should live as he chooses and not be governed by another unless that governing be temporary and ultimately in turns or by lot and rotation in office.[43] The problem of course is that such a partial understanding of equality leaves no room for discerning relevant differences between individuals and such a libertarian view of government fails to see that there can be safety in the protection of the constitution. Simply to live as one likes is, for Aristotle, not liberty but license.[44] Nonetheless, the notion of ruling in turn in political justice seems to be derived from the democratic principle of justice.

The oligarchic element of political justice is the notion of martial virtue which requires wealth and leisure. As noted above, the virtue most accessible to all in the regime of polity is martial or polemical virtue, but such fighting excellence presupposes the leisure to train and the wealth to equip oneself with weapons and a mount upon which to fight.[45] Thus when Aristotle examines the 'best' or most complete form of oligarchic government — that which, he observes, comes closest to polity[46] — he notes that it is especially strong militarily if it is situated in country suited for horsemanship, since the keeping of horses is the pursuit of those with extensive estates. Since oligarchies establish property qualifications which delimit participation in the government, they provide a principle of selection or discrimination that can counter the egalitarian component of democratic justice.[47] Taken by itself, of course, wealth is not a criterion of virtue: Aristotle is well aware that the disease most common to oligarchy is luxury and softness.[48] But political justice presupposes a certain level of virtue common to its free and equal citizens, and such 'common' excellence is martial.[49] Martial virtue presupposes a certain level of wealth since it requires

[42] *Pol* VI.2.1317b19–26, IV.14.1298a10.

[43] *Pol* VI.2.1317b3–8, b12–14.

[44] *Pol* V.9.1310a21–36. See further, T. Lindsay, 'Aristotle's Qualified Defense of Democracy Through "Political Mixing" ', *Journal of Politics*, 54 (1992), pp. 101–9.

[45] Indeed, Rowe goes so far as to claim that the notion of military virtue in polity is really a criterion for wealth rather than virtue. See further Rowe, 'Aristotelian Constitutions', pp. 371–2; cf. *Pol* IV.7.1293b8–22.

[46] *Pol* VI.6.1320b23.

[47] Mulgan notes that the notion of hereditary nobility is as much a part of oligarchy as the notion of wealth, and in places Aristotle identifies oligarchy with good birth and culture (Mulgan, 'Aristotle's Analysis of Oligarchy and Democracy', pp. 315–16; cf. *Pol* IV.8.1293b36–38, V.8.1309a2–3).

[48] *Pol* V.9.1310a23–24; cf. IV.11.1295b13, V.3.1302b5–10, VII.14.1334a28–33.

[49] Aristotle's emphasis on any virtue in polity seems at odds with the claim that it only mixes wealth and freedom. But martial virtue is only an approximation of virtue (cf. *EN* III.8.1116a17–b3). As Simpson notes about virtue in oligarchies (1291b28), this 'can

leisure for training and money for armour and weapons. Thus, the place of martial virtue in polity derives from the oligarchic notion of virtue and provides the oligarchic element to political justice.

In sum, just as polity is a mixed regime that combines oligarchic elements such as minimum property qualifications and democratic elements such as equality in rule, political justice mixes oligarchic elements such as martial virtue and democratic elements such as rotation in office. At the same time, both polity and political justice are more than the sum of their parts. Polity is not just a mixed regime, additionally it is one in which those who rule do so in the interest of the ruled. So too with political justice: not only does political justice presuppose free and equal people possessing a bare minimum of martial virtue, it also presupposes that they live under the law. Is political justice found only in the regime of polity? It has been noted above that ruling in turn is found in democracy and aristocracy, but political justice is more than ruling in turn. To prove that there is a necessary relationship between political justice and the regime of polity, it is necessary to show that although aristocracy and democracy implement forms of ruling and being ruled in turn, strictly speaking both lack political justice.

IV
Ruling and Being Ruled in Aristocracy and Democracy

In the regime of polity, political justice is implemented by having individuals rule and be ruled through the process of rotation in office and the election and auditing of officials by the majority of the citizens within the framework of rule of law. But in the aristocracy described in the last two books of the *Politics*, ruling in turn is implemented by having the same individual ruled as a young man and then ruling over others as an adult; further, ruling in turn is also an institutional arrangement found in democratic regimes. Thus, against my claim that there is a necessary relationship between political justice and polity, someone could advance the counter-argument that since ruling in turn exists in aristocracy and democracy, political justice may be a necessary condition of the regime of polity but it is not a sufficient one. In response to such an argument I claim that one cannot reduce political justice to ruling and being ruled in turn. Although Aristotle endorses a version of ruling and being ruled in turn in the city of one's prayers, it differs from political justice in that Aristotle's notion of equality in rule in such a regime is different from the equality found in political justice. Although Aristotle locates a version of ruling and being ruled in democratic regimes, it differs from political justice in that it omits any place for the rule of law.

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hardly mean perfect virtue — for that would produce an aristocracy, not an oligarchy — but rather certain parts of virtue, as military virtue in particular, or certain approaches to and beginnings of virtue born of elegant and leisurely living' (Simpson, *A Philosophical Commentary*, p. 305). See also Newman, *The Politics of Aristotle*, Vol. 1, p. 511; and Barker, *The Political Thought of Plato and Aristotle*, pp. 473–4.

Let me begin by explaining why democratic regimes lack political justice. As I have previously noted, the notion of rotation of rule in office is one closely related to the democratic principle of freedom.[50] But whereas political justice presupposes the rule of law, democratic regimes lack the rule of law in two relevant senses. First, for Aristotle, the notion of law makes reference to the notion of the common good.[51] Polity is a regime in which individuals exercise ruling in turn with an eye to the common good, but democracy is a regime in which individuals exercise ruling in turn in the interest of the rulers.[52] Second, rule of law also requires that a society's constitution is responsible for the ordering of offices in the society.[53] But whereas in polity the constitution stands above the whims of an assembly, in democracies there is a sliding tendency towards making the people sovereign rather than the constitution.[54] Rule of law, in this sense, is not entirely absent in all varieties of democracy, but it exists in decreasing degrees as the democracy grows more extreme because the notion of law is antithetical to the democratic notion of freedom.[55] For both of these reasons, although democracy implements a form of ruling and being ruled, such a democratic interpretation is inconsistent with political justice. Ruling and being ruled is an abstract or general institutional arrangement which can be specified differently in different regimes. Thus, ruling in turn in a democracy poses no counter argument to the claim that political justice and polity are necessarily connected.

Let me now explain why Aristotle's aristocracy lacks political justice. In his account of the best regime (*aristē politeia*) in *Politics* VII and VIII, Aristotle states, almost as an axiom, that his aristocratic regime must be based on a fundamental equality between its citizens,

> since for people who are equals [*homoiois*] the noble and the just consists in their taking turns, since this is equal and alike, but for those who are equal to have an unequal share and those that are alike an unlike share is contrary to nature, and nothing contrary to nature is noble.[56]

But when Aristotle turns to the distribution of offices within the city of one's prayers, he grapples with the fact that although the city requires people to defend it militarily and to guide it in its deliberative functions, normally these

[50] *Pol* VI.2.1317b2–17, b20–21.

[51] *EN* V.1.1129a34, 1129b12–14, V.2.1130b22–26; cf. V.7.1135a6, V.10.1137b12–14, X.9.1180b4. See also *Pol* II.8.1268b42–a1, V.3.1303a22, VII.2.1324b27, VII.2.1325a11.

[52] *Pol* III.7.1279a29–79b10.

[53] See *Pol* III.10.1281a37, III.11.1282b1–13, III.15.1286a3 ff., IV.1.1289a13–20, IV.5.1292b5–7, 11–22, IV.8.1294a1–10, IV.10.1295a15–17, IV.12.1296b35–40.

[54] *Pol* IV.4.1292a3–32, IV.6.1292b27 ff.

[55] *Pol* VI.2.1317b2–17, b20–21. See further Ober, *Political Dissent in Democratic Athens*, pp. 332–9.

[56] *Pol* VII.3.1325b7–10.

functions are fulfilled by different classes of individuals.[57] Aristotle resolves the problem of equality and rule by adapting the notion of ruling in turn across a person's lifetime. In his discussion of whether rulers and those who are ruled in the best regime ought to change, Aristotle writes,

> nature has provided the distinction by making that which is the same by type have a younger and an older element, of which it is proper for the former to be ruled and the latter to rule. No one chafes at being ruled on the basis of age or considers himself superior, particularly when he is going to recover his contribution when he attains the age to come. In one sense, therefore, it must be asserted that the same persons rule and are ruled, but in another sense different persons.[58]

Such an arrangement — namely one in which seniority and experience justify one's position of ruling over younger, less experienced citizens of the regime — appeals to nature as a normative principle since, just as in the household, we have natural impulses and feelings of respect for our elders as we do for our parents or siblings.[59] Nonetheless, such an arrangement also seems to be a counter-example to my claim that political justice and the regime of polity are necessarily related, since it appears that the aristocracy of *Politics* VII and VIII implements political justice.

In response to such a counter-argument to my thesis, I claim that the aristocratic regime of *Politics* VII and VIII implements a version of ruling in turn inconsistent with true political justice. In his discussion of political justice in *Nicomachean Ethics* V.6, although Aristotle grants that there are approximations of political justice within the household — for instance in the case of household justice between a husband and wife — nonetheless political justice is unique in that the equality that exists between citizens admits of no gradations or distinctions of superiority.[60] To use the model of the household, Aristotle compares political justice or ruling in turn to the relationship of two brothers of similar age who share a form of republican fraternity.[61] But the version of ruling and being ruled in turn which Aristotle prescribes for the equal citizens of his aristocracy is not based on the model of equals or brothers, rather it is based on the model of an elder and a minor or perhaps even a

[57] *Pol* VII.9.1329a3–7; cf. IV.4.1291a19–b2.

[58] *Pol* VII.14.1332b36–33a1l; cf. VII.9.1329a7–18.

[59] It is interesting to note that Aristotle's proposed arrangement is consistent with Athenian sentiments on political authority in the fourth century. Mogens Hansen writes that the division of the Athenian 'citizen body by age was both demographically and sociologically of highest importance', indeed more important than class or family status (M. Hansen, *The Athenian Democracy in the Age of Demosthenes* (Cambridge, 1991), p. 89).

[60] *EN* V.6.1134a28–30, 1134b15–18; cf. *Pol* I.13.1259b4–10.

[61] *EN* VIII.12.1161a4–9, VIII.13.1161a25–31, VIII.14.1161b24–62a4, 1162a9–15. See further T.C. Lockwood, Jr., 'Justice in Aristotle's Household and City', *Polis*, 20 (2003), pp. 1–21.

father and a son. Aristotle's solution to the problem of equality in his best regime appeals to a version of ruling in turn, but it is one which is inconsistent with true political justice in which citizens are truly equal. Thus, Aristotle's account of ruling and being ruled in the aristocracy of *Politics* VII and VIII does not contradict my thesis that political justice and polity are necessarily related; rather it supports the thesis and underscores the crucial place of equality as a precondition of political justice.[62] My argument also discloses a counterintuitive corollary. If my analysis is correct, the regime of Aristotle's *Politics* VII–VIII is indeed his best regime, and yet it lacks political justice in the strict sense of complete ruling and being ruled in turn. Even among the best peers, there are limits to egalitarianism.

Conclusion

In numerous places in his *Ethics* and *Politics*, Aristotle associates political justice and the regime of polity. This article has argued that there is a necessary connection between political justice and polity due to their origins in political mixing. If the argument is correct, then the thesis invites speculation about the relationship between regime-types, the organization of their offices and their principles of justice. A *politiea* or constitution, for Aristotle, is an organization of offices, and ruling and being ruled in turn is a general institutional mechanism for the distribution of offices which can be implemented differently in different regimes.[63] What my argument suggests is that the determination of such a mechanism is governed by the principle of justice or the basis for mixing within each different regime-type. For instance, aristocracies and kingships base the distribution of office on virtue, so-called Aristocracies do so on the basis of wealth, freedom and virtue, polity does so on the basis of wealth and freedom, democracies do so on the basis of freedom, and oligarchies do so only on the basis of wealth.[64] The interrelation of regimes, institutional organizations and principles is most easily seen in tabular form (see Table I, below). The table excludes kingship and tyranny, because both of those regimes have no principle for the distribution of offices

[62] As Newman points out, such an arrangement also distinguishes polity from the mix of aristocracy and democracy, which is a regime in which the few rule content to receive honour while the many have access to public goods (see *Pol* V.8.1308b31–1309a9, VI.4.1319a1–6). He writes that 'a polity is not a union of a few *epieikeis* and a passive Many, but a state of free and equal citizens' (Newman, *The Politics of Aristotle*, Vol. 1, pp. 511–12). For Aristotle's place within the Greek discussion of equality, see further R. Zhu, 'Equality in Worth as a Pre-Condition for Justice in Greek Thought', *History of Political Thought*, 24 (2003), pp. 1–15, at pp. 10–11.

[63] *Pol* III.6.1278b8–10, III.7.1279a25, IV.1.1289a15–18, IV.3.1290a7–9, IV.4. 1292a32–34, IV.11.1295a41–b1.

[64] *Pol* IV.7.1293b3–19, IV.8.1294a9–25; cf. V.8.1308b35, VI.2.1317a40–41.

Table I: Regimes, Principles of Justice and the Distribution of Offices*

General Principle of Organization	Regime-Types (*politeiai*)	Underlying Principle(s) of Mix	Specification of Institutional Arrangement
Ruling and being ruled in turn	Aristocracy **	Virtue	Deliberative offices are distributed to wise elders by election. Military offices are distributed to virtuous young men by election.
	Polity (or the 'hoplite constitution')	Native birth and wealth	Political justice in which citizenship is based on a property qualification (able to own hoplite weapons) and citizens elect and audit individuals in higher offices.
	Oligarchy	Wealth	Opportunity for office determined by property qualification, but offices determined by election rather than lot.
	Democracy	Native-birth	Opportunity for office determined by native birth, but offices determined by random turns of ruling and being ruled.

* My scheme for the interrelation of regimes, institutions and principles of justice is speculative and only speaks to the implementation of one kind of institutional mechanism, namely one concerned with the distribution of judicial and deliberative offices. Aristotle's discussion of the three elements of governments in *Politics* IV.14–16 makes clear that there are numerous institutional mechanisms (e.g. property qualifications, candidacy pools for different offices, determining office by lot or election, length of tenure in office, etc.) and so too myriad ways in which they can be combined.

** I include here the aristocracy described in *Pol* VII–VIII; the so-called aristocracy discussed in *Pol* IV.7 mixes native birth, wealth and virtue (see *Pol* IV.7.1293b9–22).

amongst citizens.[65] In kingship, someone of overwhelmingly superior virtue overrides any other claims to rule, and in tyranny, justice has no place and strictly speaking there is no constitution, just the personal whim of the tyrant.[66]

Is political justice the sole principle of distributive justice in the regime of polity? Many scholars have suggested that polity is a regime in which there is no single principle of justice, but rather, by accommodating the only partially just claims of oligarchic and democratic partisans without denying either of them, polity is a regime with at least two principles of distributive justice, namely wealth and free birth. In the words of Barker, polity 'recognizes the claims not of some one quality, and that alone, but of several. It remembers wealth, and does not forget free birth; and in it both the rich and the poor come by their own.'[67] My account of political justice suggests a way to acknowledge that there are diverse notions of justice within polity which are nonetheless unified in the single principle of political justice. Precisely because political justice mixes elements of oligarchy and democracy it can serve as a single principle to accommodate the claims of wealth and free birth. On the one hand, ruling and being ruled in turn allows a way for all to participate in government as a sort of *modus vivendi* between competing claims to rule, but on the other hand, political justice by its very nature awards recognition to both the oligarch and the democrat. Such a principle of justice is both prudential and noble.[68]

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[65] *Pol* III.17.1288a15–25, III.18.1288a34–39, VII.3.1325b3–14; cf. IV.8.1293b27–31.

[66] On the nature of kingship, see further T.C. Lockwood, Jr., 'The Best Regime of Aristotle's *Nicomachean Ethics*', forthcoming in *Ancient Philosophy*. On the nature of tyranny, see S. Boesche, 'Aristotle's "Science" of Tyranny', *History of Political Thought*, 14 (1993), pp. 1–25.

[67] Barker, *Political Thought of Plato and Aristotle*, p. 477; see further Miller, *Nature, Justice and Rights*, p. 256; and Simpson, *A Philosophical Commentary on the Politics of Aristotle*, p. 316. For a recent alternative account of the problem, see M. Ewbank, '*Politeia* as Focal Reference in Aristotle's Taxonomy of Regimes', *Review of Metaphysics*, 58 (2005), pp. 815–41.

[68] See further *Pol* VII.3.1325b7–10, VII.14.1332b28–33; cf. IV.10.1296b15–16, 1297b2–6, V.9.1309b16–18, VI.3.1320a14–17.

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