The *Polis* as a Society
Aristotle, John Rawls and the Athenian
Social Contract

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In a key sentence from book III of the *Politics*, Aristotle (1276b1-2) suggests that the *polis* may be a *koinonia* of *politai* arranged in respect to the *politeia*. What is at stake in this claim? The *Politics* is typically (and fruitfully) read as a teleological theory of the state as a natural entity. Moreover, M.H. Hansen has recently argued that the term *polis*, when used of a "community" rather than of a physical "city," means state and not a fusion of state and society. Here I will argue that when an analyzing the *polis*, neither the state/society distinction nor the community/city distinction can be fully sustained at the level of either Aristotelian theory or Athenian practice. Viewing the *polis* as at once society and state can, I think, contribute in meaningful and useful ways to our understanding of Aristotle's *polis* and the historical *polis*.[1]

First, definitions: If we posit a human population inhabiting a given territory, "society" is the sum of participants in the overall set of rules, norms, and practices whereby social goods (e.g. rights, privileges, powers, property) are produced and distributed. This larger society will encompass sub-societies with specialized rules and norms; the interaction between sub-societies helps to determine the structure of the whole society. "State" denotes the arrangement by which formal political power (legitimate coercive authority backed by physical force) is distributed among recognized institutions and deployed by them. Thus the procedural rules of governmental institutions fall largely outside the purview of this paper, but some "political" aspects of production and distribution are within its scope.[2] I will attempt to make three points: 1. When Aristotle uses the term *polis* he always assumes the existence of, and sometimes refers specifically to, the society at large. 2. In the *Politics*, in modern liberal democratic theory, and in Athenian practice alike, the problem of stabilizing the political regime is inseparable from issues of social justice. 3. While fourth-century Athenian social practice did recognize a distinction between state and civil society, that distinction was far

from clearcut and interchange between the public and private spheres was constant and meaningful.

Aristotle

In several passages from Book III Aristotle seems specifically concerned with the state:

The *politeia* is an ordering (*taxis*) of the *polis* in respect to various powers (*archai*) and especially [in respect to the power] which is authoritative over all (*tes kurias panton*). For what is authoritative (*kurion*) everywhere is the governing body (*politeuma*) of the *polis*, and the governing body is the *politeia* (*politeuma d' estin he politeia*). I mean, for example, that in democracies the *demos* is authoritative (*kurios*), while by contrast it is *hoi oligoi* in oligarchies; we say that the *politeia* too is different in these [two] cases. (1278b8-12) ... *politeia* and *politeuma* signify the same thing (*semainei tauton*), and *politeuma* is the authoritative element (*to kurion*) in *poleis*, and ... it is necessary that the authoritative element be one person, or a few, or the many (1279a25-28).[3]

The abstraction *politeia* is thus identified with the *politeuma* (cf. 1308a6-7), which is the element (either an individual or a sociological part, e.g. *hoi oligoi*) of the *polis* that is authoritative (*kurion*). If the *polis* is only a state (according to the definition used above) "authoritative over all" would mean the monopoly of legitimate authority to deploy force both internally (within the *polis*, e.g. by inflicting legal punishments) and externally (e.g. by dispatching military expeditions).[4] This formulation leaves aside the question of social goods and yet the *Politics* is deeply concerned with how social goods are produced and distributed.

When Aristotle uses *politeia* as an abstraction that "signifies the same thing" (has the same root meaning) as the authoritative governing element, he is not merely defining the institutional "locus of sovereignty." In book II Aristotle (1273a21-25) noted the intimate connection between the ideological predisposition (*dianoia*) of *hoi polloi* (regarding wealth requirements for office) and the form taken by the *politeia*, and (1273a39-b1) states specifically that whenever the authoritative element (*to kurion*) assumes something to be worthy of honor, by necessity this opinion (*doxa*) will be adopted by the rest of the citizenry.[5] The authoritative element is (at least in a democracy) the sociologically defined segment of the *polis* which takes the lead in establishing and maintaining the terms by which the members of a *koinonia* as a "community of interpretation" (in the terminology of Stanley Fish) will discuss the world and will (in the

terminology of J.L. Austin) perform, through felicitous speech acts, social realities within the world. Ergo, the term *politeia* embraces not only the constitution (legal arrangement of governmental institutions), but the ideology (the system of beliefs by which actions are organized) and social practices promoted by the dominant sub-society within the *polis*.[6] And hence, "*politeia* is the particular way of life (*bios tis*) of the *polis*" (1295b1).[7]

For Aristotle, that way of life is founded on social relations. Sociological articulation into "parts" (*mere, moria*: especially economic classes [e.g. 1303a1-2, 1318a30-33], but also occupational groups, families, etc.) defines a *polis*' *politeia*, just as physical attributes determine an animal's species (1291a23-38).[8] Governmental powers (*archai*) are distributed according to preexisting relations of power (*dunamis*) among the parts (1290a7-13). Thus, while Aristotle surely does have the state in mind at III.1278b-1279a, his discussion presumes that the state will be embedded in a matrix of preexisting social divisions and practices.[9] We may now hazard a more elaborate restatement of the key sentence: "the *polis* is a *koinonia* of citizens whose practices and norms are arranged in respect to the beliefs and powers of the dominant sub-society (i.e. *politeia/politeuma*)." Turning from general to specific, "the *polis* of Athens is a *koinonia* of Athenian citizens; because the *demos* is the authoritative element in this *polis*, the Athenian *koinonia* is arranged in respect to the ideology of the mass of ordinary citizens."

The definition of the *polis* as a *koinonia* of citizens might seem to exclude noncitizens from consideration.[10] And yet Aristotle devotes much space in the *Politics* (especially in book I) to categories of noncitizens: children, women, slaves, and free males. The tension between conceptualizing the *koinonia* that is the *polis* as a society of citizens and as a more heterogeneous entity that includes noncitizens is evident in the beginning of book III: Aristotle begins by stating that for one investigating the *politeia* it is necessary to decide "what the *polis* is (*ti pote estin he polis*)." He then points to a dispute among those who use the term *polis*: some say it was not "the *polis*" that performed some action (*peprachenai ten praxin*), but rather "the tyrant" or "the oligarchy" (1274b32-36), on the grounds that such regimes exist through domination (*toi kratein*) rather than for the common advantage (*to koinei sumpheron*: 1276a12-13).[11] But if the *polis* is not simply equated with its government, then it must be equated with the territory and its residents (or some part of them) and therein lies the problem:

We see that the entire activity of the *politikos* and the legislator is concerned with the *polis*,

and the *politeia* is a certain ordering of those who inhabit the *polis* (*ton ten polin oikounton esti taxis tis*). But since the *polis* belongs among composite things (*ton sugkeimenon*), and like other composite wholes is made up of many parts (*morion*), it is clear that the first thing to be sought is the *polites*; for the *polis* is a certain multitude (*plethos*) of *politai*. (1274b32-41)

In this brief passage, Aristotle uses *polis* in two different ways: first, when explaining that *politeia* is a certain ordering of "those who inhabit the *polis*," he clearly means *polis* as a geographical term (*polis* as city or territory: "geo-*polis*"), and here the "inhabitants" so ordered must include noncitizens.[12] In the second part of the passage, "the *polis* is ... the citizens" (*polis* as community of citizens: "politico-*polis*"). The difficulty of separating the affairs of the politico-*polis* from the larger sociey is intrinsic to Aristotle's understanding of *ta politika*. His primary concern was with the citizens (those who "had a share" in the *polis*) and with how the *politeia* was affected (sustained or threatened) by sociological subdivisions within the citizenry. Yet he could not ignore the fact that citizens and noncitizens (those lacking a share) cohabited within the geo-*polis*. More to the point, he saw that explaining the terms of their cohabitation was fundamental to a comprehesive understanding of what sort of *koinonia* the *polis* was. Aristotle could distinguish "the advantage of the entire *polis*" from "the common (*koinon*) advantage of the *politai*".[13] Thus, while he focused on citizen-society, he assumed the existence of a broader society (*koinonia tes zoes*: 1278b17) of which the citizenry formed only one (key) part. In the opening passage of book I, the *polis* is described as a *koinonia politike* which is "most authoritative of all and encompasses (*periechousa*) all the other [sorts of *koinonia*]" (1252a5-6). One of the purposes of the *Politics* is to explain how the broader society could be encompassed by the narrower citizen-society. If we translate *koinonia* as "society," then in the key sentence Aristotle is asking "what sort of society is the *polis*?"

But why "society" rather than (e.g.) "partnership"?[14] The answer is Aristotle's concern with the fundamental significance of difference, inequality, and autarky in the definition of the *polis*. Autarky, which demanded both an ability to defend against aggression and a sufficiency of material goods, was the end (*telos*) of the *polis* and was best for it (*beltiston*).[15] Defense required military service; material sufficiency required productive labor. Depending on the *politeia*, the citizens themselves (or some of them) might work productively, but much of their time and energy was devoted to "political" affairs: deliberation, rule, and military service. Thus it was unlikely that the citizens could, by themselves, produce enough substance to maintain the *polis*' autarky. Noncitizen resi-

dents of the geo-*polis* were not distracted from production by direct participation in politics and the surplus value of their labor was necessary for the *polis* to remain autarkic. Thus the presence of noncitizens in the *polis* was foundational rather than epiphenomenal; were they removed from the *koinonia*, the *polis* could not exist.[16]

Moreover, the primary productive unit of *polis* society was the *oikos*. Within the confines of the *koinonia* that was the *oikos*, the (adult free male) citizen was master (*despotes*: 1260a7-10). But to produce the material goods that sustained the *oikos* itself (on the micro-economic level) and the *polis* as a whole (on the macro-economic level) he relied upon cooperation (based on a recognition of mutual interests) as well as coercion in dealing with noncitizen *oikos* members (his wife, children, and slaves – if he had them: 1252b9-12, 1323a5-6). The productive *oikos* was the basic building block of the *polis* (1253b2-3); in Aristotle's naturalized developmental scheme, *oikoi* banded together into villages and villages into a *polis* in order to achieve autarky (1252b15-16, 27-29).[17] Thus, at the fundamental level of the productive activity which allowed the *polis* to achieve its *telos*, the interests of citizens and noncitizens were conjoined.

Aristotle claims that the *oikos* was characterized by "masterful" and "economic" relationships and the *polis* by "political" relationships and he describes the society-building process as natural. Yet only the first of the three steps in this process (formation of 1. *oikos*, 2. village, 3. *polis*) did not involve human choice (*ouk ek proaireseos*: 1252a28).[18] The society-building process may be regarded as quasi-contractual in that it was rational and consensual. It was rational in that even the involuntary first stage (which brought together master and slave, man and woman into an *oikia*) furthered the common material and security interests of all parties. The second stage was consensual because the relevant parties (masters of *oikiai*) are assumed to be capable of recognizing and acting in their own interests: their households were joined together in part in order to gain a long-term (*me ephemerou*: 1252b16) necessity – the avoidance of unjust treatment.[19] Thus, while natural, the society-building process is not automatic or naturally predetermined. Although Aristotle's theory does not aim at the social contract, it is founded upon a contractarian assumption: the *polis* could not exist without the prior agreement of households to live together justly and profitably.[20]

Aristotle's *polis* is logically prior to the individual or *oikos* (1253a18-19), but it is neither historically prior nor a precondition for human existence. Although Aristotle knows of no historical period in which men ordinarily lived outside *oikoi*, he states that "in antiquity" (*to archaion*) families were

scattered and each was under the sole authority of the head of household (1252b23-24). Man is the most "political" of animals (1253a7-8), but living together and cooperating in human affairs is always difficult (*chalepon*: 1263a15-16, cf. 1286b1). Thus, although "there is in everyone an impulse (*horme*)" to live in a *politike koinonia*, nonetheless he who first brought men together (to live in a *polis*) was the cause (*aitios*) of the greatest of goods.[21] Moreover, once achieved, the *polis* can be destroyed by improper, unjust actions by its members (*phtheirousi ten polin*: 1281a18-20, book V passim). In sum, the desirable natural *telos* of the *polis* is (unlike an oak, a horse, or an *oikos*) predicated upon human agency, consent, and practice, even though not predicated upon the free choice of each individual.[22]

Slaves were obviously problematic from the point of view of consent: it was difficult for anyone living in a society that valued *eleutheria* as a primary good to argue plausibly that a slave would recognize his best interests in the productive practices organized by his master. Enter Aristotle's elaborate theory of natural slavery: The assumption that being ruled as a human possession was a natural condition for certain people allowed Aristotle to postulate that "the same thing is advantageous for the master and slave" (1252a34) and that slavery was therefore just (1255a1-3). This explained affection between slave and master (1255b12-15). Despite his innate inability to deliberate about or to choose the circumstances of his life (1260a12, 1280a34), the slave was rational and could be expected to understand that his best interests were furthered by his membership in the *koinonia* of the *oikos*.[23]

Women were, collectively, a part of the *polis* constituting half of its population (1269b15-17) and were necessary to *oikos* and *polis* alike for biological reproduction (1252a26-31). No woman could be a *polites*, but her interests were conjoined to those of her *polites*-husband through the institution of marriage. Although (unlike the slave) she possessed deliberative ability, her lack of citizenship could be justified by her natural "lack of authority" (1260a12-13) which led her to enter into a relationship that offered her protection.[24] Male children were (potential) future *politai*. When properly educated (i.e. after he had been coerced into mastering and internalizing the principles of the *politeia*), and after his deliberative faculties had matured (1260a13-14, 31-32), the child would come to understand his true interests clearly. Ensuring through education that children understood their interests to be one with those of previous generations of *politai* guaranteed the political and cultural reproduction of the *polis*.[25] Aristotle concludes book I with a general sug-

gestion that, since the household as a whole (*oikia...pasa*) was a part (*meros*) of the *polis*, and since women made up fully half the free population and children were future sharers in the *politeia*, that it is clear that both wives and children of citizens should be educated "looking towards (*blepontas pros*) the *politeia*" (1260b15-20). Here noncitizens are connected to both *polis* and *politeia* and so are surely to be regarded as encompassed within the *koinonia* of the *polis*.[26]

Aristotle emphasizes the necessity to the *polis* of the concept of difference when, at the beginning of book II, he refutes Plato's *Republic* as a valid description of a *polis* on the grounds that it was based on a higher level of commonality (or sameness) than any actual *polis* could tolerate. Aristotle points out that Plato's *polis*

attempted as far as possible to be entirely one... And yet it is evident that as it becomes increasingly one it will no longer be a *polis*. For the *polis* is in its nature a certain sort of multitude (*plethos*), and as it becomes more a unity it will be an *oikos* instead of a *polis* and [then] a human being instead of an *oikos*... So even if one were able to do this, one ought not to do it, as it would destroy the *polis*. Now the *polis* is made up not only of a number of human beings, but also of human beings differing in kind; a *polis* does not arise from persons who are similar (*ex homoion*). (1261a15-24).

Not only is actual sameness ontologically destructive, but so is perfect ideological homogenization: "that 'all say the same thing' is in one way fine (*kalon*) but impossible, while in another way it is not even productive of concord" (*homonoetikon*: 1261b31-32). The differences necessary to allow the existence of the *polis* pertain between citizens and noncitizens (who possess different sorts of *arete*: 1259b18-1260b20), but there must also be inequalities among the citizens themselves: As we have seen, Aristotle can describe the *polis* as a multitude (*plethos*) of *politai* and a composite entity, made up of "parts." The parts are both households and sociologially defined subgroups of the *politai*. The latter includes especially the *penetes* and the *plousioi*, but also the well-born and the base-born, and the skilled and the incompetent.[27] In his discussion of Plato's *Laws* and the ideas proposed by Phaleas of Chalcedon (1264b26-1267b20), Aristotle denies that it would be either possible or desirable to eliminate all differences in wealth (or income – cf. 1309a15-16) by equalizing property holdings.

The upshot is that each *polites* necessarily played various and differentiated roles in the *polis*. As a master of an *oikos*, his interests were attached to those of women, children, and slaves (if he had them). His interests might also be connected, at least through relations of production and

exchange, with free foreigners – metics, visitors to the *polis*, or men he met when he travelled outside the *polis*. As a member of an economic class, his interests were identified with those of one part of the citizen body and likely to be in conflict with another. He might further identify his interests with other groups within the citizenship, e.g. the well-born or the highly skilled and this identity could potentially lead to conflict. Finally, he was a *polites* tout court, and in this role he must identify his interests fully with those of his fellow *politai* and with the *polis*. But the *polis'* interest in autarky meant that even when acting in the public sphere he could not ignore the existence of noncitizens, nor did he shed his sociological identity.

As he moved from the public sphere to the private, the citizen's role and behavior must necessarily change: most obviously he was a master within his *oikos* and a deliberating equal among his fellow-citizens.[28] He played yet other roles when his *polis* was at war, when he engaged in economic relations with fellow-citizens and foreigners, and when he dealt with members of different sociological subgroups as (e.g., in the case of an Athenian) *phrater*, demesman, and Initiate.[29] If the citizens were unable to move with facility from sphere to sphere, unable in practice to differentiate between the behavior appropriate to each role and to mix spheres where appropriate, the *polis* would not survive: it would fail to reproduce itself culturally, would lose its autarky, or would degenerate into civil war.

In sum, Aristotle's *polis* is a pluralistic, differentiated society as well as a state.[30] It is a *plethos* (or *plethe*) of persons sudivided into diverse groups (*mere, moria*). These groups inhabit a common territory (1260b40-1261a1) but their interests are not identical, nor are their desires standardized. Their interests cannot be homogenized because perfect communalization and perfect material equality are unattainable. A safe and stable *polis* cannot be achieved by equalizing the distribution of goods, or by eliminating sources of conflict through ideological means.[31] Aristotle's problem at this point (which I take to be the central problem of the *Politics* and of the historical Greek *polis*) was how to "preserve" (*sozein*) the *polis* in the face of the competing interests of society's composite parts.

For Aristotle, predicating a natural hierarchy on naturalized slavery and naturally subordinate women (which linked the interests of slaves and women with the interests of the citizens through a utilitarian calculus), solved one part of the puzzle of how to preserve the *polis*. Yet the *polis* was founded on *politeia*: to change the *politeia* was to change the *polis* (1276b10). Because *politeia* was identified with *politeuma*, stability – sav-

ing the *polis* – meant avoiding any change in the criteria for becoming a *polites*. It also meant functionally integrating, through a just distribution of social goods, the identities and practices of various naturalized social groups – the residents of the geo-*polis* clustered into parts. The system which determined who was a *polites* and how social goods were distributed was the *politeia*. Thus the *polis* was preserved through the integrative and distributive powers of the *politeia*.

I have suggested above that Aristotle's discussion of *polis*, *politeia*, and *politeuma* leads to a definition of *politeia* as including the "ideological" system of norms, beliefs, and practices on the basis of which social goods were distributed. My argument that *politeia* must include ideology is strengthened by Aristotle's claim that the *polis* is not to be preserved through equalization of material goods but rather through just and consensual inequality, i.e. through the willing agreement to continue the current form of *politeia* by the various "parts" of the *polis*: "If a *politeia* is going to be preserved, all the parts of the *polis* must wish it to exist and to continue on the same basis" (1270b21-22).[32]

Although conceivably disaffection of any part of the *polis* could endanger the *politeia*, Aristotle is primarily concerned about the threat from the military and "militarizable" classes: disgruntled groups of free males.[33] He did not regard either justly treated (1330a32) "natural" slaves or women as serious threats.[34] This makes sense in light of his theory of *polis* formation: women and slaves were integrated into the *koinonia* of the *oikos* through a purely natural (nonvolitional) process (1252a26-34). The next two steps (village and *polis* building) required (free male) heads of *oikoi* and then the "kingly" heads of *komai* to leave behind the realm of absolute mastery (1252b15-22, 27-30; cf. 1285b31-33) and enter into a political life that entailed "being ruled" as well as ruling. Compromising pristine authority was in a sense natural in that it allowed the *polis* to achieve its *telos* of autarky and the *politai* to "live well." But it was a volutary compact (an exchange of sovereign authority for happiness), and so (unlike the fully natural *oikos*) liable to breakdown under the pressure of circumstances. Breakdown meant civil war and the destruction of the *polis*. Aristotle's concern with preserving the *polis* through management of existing relations between free males points to the residual quasi-contractarian element in his natural scheme.[35]

Aristotle's focus on disgruntled free males as a potentially dangerous category explains why the "uncorrupted" regime that he rather confusingly calls "polity" (*politeia*) was concerned to keep those sharing in the *politeia* more numerous than those not sharing (1297b4-6). It may also

help explain why he regarded democracy as the best of the debased regimes (e.g. 1289b4-8): in a democracy, other than metics, there was no militarizable body of free men stranded outside the citizen body, and within that body the numerically superior ordinary citizens were the dominant element (*politeuma*; cf. 1302a8-13, 1302b25-27). Yet majority rule could not ensure stability (1294b34-41); in a democracy, as in other regimes, the dominant element was responsible for enunciating a *politeia* that would win the willing consent of all other parts. Individual members of the *koinonia* must believe that their interests as subgroup members were likely to be protected by the continuation of the current regime.

The *politeia* thus had to do a lot of work in the *koinonia* that was the *polis*. It was the ideology which maintained the authoritative status of the current *politeuma*. It was the cultural means by which the *politai* created and reproduced over generations their distinctive identity within the whole society and the legal means whereby they formulated rules for ordering the *koinonia* as a whole. The *politeia* must define the extent and legitimate occupants of the public sphere and coordinate the various private spheres. It must provide the individual with norms for conducting his private relations with members of other *oikoi* and other subsocieties, and for moving from the private sphere to the public. It must ensure that his behavior (when multiplied by similar actions of many individuals) did not destabilize the authority of the exisiting *politeuma*. It must distribute social goods equitably and protect the interests of all parts of the *polis*. Only if it did all these things could the *politeia* preserve its own integrity and that of the society.

In sum: the *politeia* by which the society was organized, while devised (in large part) by a part of the citizenry, must win and retain the voluntary consent of all citizens and (at least indirectly) those noncitizens connected to them. And this means it must generally be regarded by the members of society as a just system. A just *politeia* provided for stability through principles governing the distribution of material goods, political rights, and status privileges, such that each of the parts regarded it as worthwhile to support the current socio-political order. Thus, if the *polis* is a society, the *politeia* represents the terms of the social contract.[36] It is, indeed, also the basis of procedural law. But the politico-*polis* (community of citizens) is a subset of the *polis*-as-society and neither *polis* nor *politeia* will be preserved intact if the *politeia* qua social contract is regarded as substantively unjust by any social group capable of bringing destabilizing force to bear. State institutions provided an important part

of the social context, but any analytic hierarchy in which prescriptive state laws (how a law-making authority at a given time thought an institution was supposed to work) are elevated above actual social practice (how it was in fact used at a given time) can result in a serious misunderstanding of the *polis*. Aristotle makes this exact point when he states that a a *polis* may be oligarchic or democratic according to its *nomoi*, but in disposition and actual practice it may be the opposite (1292b11-21). Returning to Aristotle's zoological analogy: viewing the *polis* as a society provides the substantive tissue and sinew without which the *polis*-as-state would be no more than a heap of unarticulated procedural bones.[37]

John Rawls

The understanding of the *polis* as a society developed above is indebted not only to Aristotle's *Politics*, but also to the moral philosophy of John Rawls. In *A Theory of Justice*, Rawls defines "a society" as

a more or less self-sufficient association of persons who in their relations to one another recognize certain rules of conduct as binding and who for the most part act in accordance with them... these rules specify a system of cooperation designed to advance the good of those taking part in it... [However] a society... is typically marked by a conflict as well as by an identity of interests... There is a conflict of interests since persons are not indifferent as to how the greater benefits produced by their collaboration are distributed... A set of principles is required for choosing among the various social arrangements which determine this division of advantages and for underwriting an agreement on the proper distributive shares. These principles are the principles of social justice: they provide a way of assigning rights and duties in the basic institutions of society and they define the appropriate distribution of the benefits and burdens of social cooperation.[38]

Rawls goes on to suggest (4-5) that a (utopian) "well-ordered society" is regulated by a public and universally-shared conception of justice, and that this conception of justice in turn limits the pursuit of other ends (i.e. regulates desire) and so constitutes the society's "fundamental charter." Like Aristotle, Rawls sees political equality as intrinsically desirable, but rejects complete equalization of access to most social goods (things that any rational person would want more rather than less of) as neither feasible nor desirable.[39] Rawls substitutes for equalization the "difference principle" by which inequality is to be allowed, but regulated by selecting social institutions on the basis of their maximization of payoffs to the

"least advantaged" member(s) of society. Thus, Rawls' well-ordered so-
ciety would permit distinctions in wealth and income, but its institutions
would ensure that as the rich got richer, so did the poor.[40]

Rawls attempts to generate the fundamental, substantive principles of
social justice appropriate to a well-ordered society by a complex thought
experiment: He employs a conception of "justice as fairness" – a version
of social contract theory (derived primarily from Locke and Kant) – to
mediate what he sees as fatal flaws in utilitarian and intuitionist tradi-
tions of moral philosophy. Briefly, Rawls posits a group of rationally self-
interested persons in an "original position" of equality. They must unani-
mously agree on the fundamental social rules under which they (and
their descendants) will govern themselves forever. The catch is that they
must debate possible rules under a "veil of ignorance" – that is to say,
while each player has a basic understanding of economics, psychology,
and politics, he does not know who he is: he is ignorant of his economic
and social status, his powers and abilities, even his desires (other than his
desire for justice). Finally, Rawls assumes that under the conditions of
uncertainty that he has established, the players will employ the rather
conservative "maximin" principle of decision-making – that is, each
player will attempt to reduce his risk of falling below a minimum stan-
dard (he will seek to maximize his minimum) rather than choosing to
gamble by risking his minimum in hope of a potentially higher payoff.[41]

The final results of this thought experiment (the hypothetical agree-
ment that arises from the negotiations within the original position) are
two "principles of justice":

I. Each person is to have an equal right to the most extensive total system of equal basic
liberties compatible with a similar system of liberty for all.

II. Social and economic inequalities are to be arranged so they are both (a) to the greatest
benefit of the least advantaged... (b) attached to offices and positions open to all under
conditions of fair equality of opportunity.[42] (302).

The working of these two principles is further defined by two "priority
rules" which state, in essence, that liberty is prior to all other goods (ergo
I cannot be compromised to increase any other good) and that the princi-
ple of justice enunciated in I is prior to (and so cannot be compromised in
favor of) efficiency of production or the overall welfare of the society.
Thus, Rawls' well-ordered society is characterized by equal liberties
(right to vote and hold office; freedom of speech, assembly, conscience,
and thought; freedom of the person and to hold property; freedom from

arbitrary arrest and seizure: 61) and unequal, but fair, distributions of material goods and other powers.

Can Rawls' theory of the just society really help us to understand the *polis* as a society? *A Theory of Justice*, while very influential, has been attacked as a universal, objective description of social justice on a variety of grounds including the following: (a) the veil of ignorance robs the players in the original position of the resources with which to make humanly meaningful decisions; (b) the maximin rule is an excessively conservative decision-making principle; (c) the liberality of the two principles of justice are the result of liberal assumptions Rawls has built into the original position rather than a logical outcome of negotiations within it.[43] Moreover, we must keep in mind that Rawls did not concern himself with classical antiquity or the *polis*. Finally, his moral philosophy is far from identical to that of Aristotle. Most centrally, at least for our purposes, Rawls' theory avoids teleological naturalism in favor of a genuine and individual-centered social contract. Rawls' lexically ordered principles forbid fixed hierarchies based on naturalized categories of persons. The first priority rule thus disallows the institution of slavery, regardless of any advantages accruing to slaves and masters (cf. 62-63). But the two philosophers' goals are not antithetical: both are interested in substantive rather than merely procedural justice, in ends rather than simply means, in a society that is the best possible not simply in one that is functionally workable. Rawls' conception of justice is much more extensive than Aristotle's "common interest" (*to koinei sumpheron*: 1282b16-18), but both men tend to see justice as congruent with goodness. Both imagine the well-ordered society as a balance of political equalities and social inequalities; both are interested in stable (ideally permanent) regimes. In sum, I believe that there is sufficient common ground between Aristotle and Rawls on the subject of the just society to make measuring an actual society against the gap between their positions into a useful exercise.[44]

Athens

Athens in the fourth century B.C. was a society characterized by (a) fundamental differences between citizens and noncitizens, and inequalities between sociologically-defined groups within the citizenry; (b) both conflict and identity of interests between and within the diverse groups; (c) a set of rules, norms, and practices – enunciated by the *demos* (mass of ordinary citizens qua dominant political element) and perpetu-

ated by popular ideology – which required the consent of potentially disruptive subgroups (notably the Athenian elites). Since Athens was a relatively stable society in the fourth century, we may ask (following Aristotle and Rawls) whether the various parts of the Athenian *polis* consented to the *politeia* enunciated by the *demos* because they recognized it as substantively just, or whether their consent was coerced or based on deception.[45]

The rest of this paper focuses on a few of the ways the *polis* of Athens resolved or avoided destabilizing problems that have beset other societies (especially conflicts between households and between rich and poor citizens). It concludes by asking whether Athens' social stability was secured justly.[46] This exercise seems to me worthwhile in that it allows us to explore the "fit" between two important theories of society and a concrete historical example. It helps to define the extent to which Aristotle took Athens as a model and suggests responses to some of Rawls' critics.[47] Measuring classical Athens against carefully articulated conceptions of the well-ordered society should also make it easier to compare Athens to other human societies: In what ways was Athens historically distinctive? Can Athens be assimilated to the model of either "Mediterranean society" or Western society generally? Was the Athenian *politeia* more or less just than other known societies?

If, like Aristotle, we begin with the *oikos*, we may ask how the Athenian *politieia* affected the private realm and mediated between civil society and the state.[48] What rules governed an Athenian's behavior as he moved from *oikos* to *ekklesia* or *dikasterion*, from the role of *despotes* within his *oikos* to deliberating *polites*? Were these roles integrated or differentiated? Did the Athenian citizen enter the public realm as a representative of his *oikos*, or as an individual? Did he carry forward the interests of the noncitizens with whom he was associated? The first question confronting us is whether in practice a distinctly private sphere can be distinguished from the Athenian public sphere.[49] Although scholarly opinion has ranged between the poles of complete integration of the private within the public realm and more or less full distinction, recent work on the Athenian family (and its constituent members) seems to point towards a middle ground: The *polites* did not forget his role as *oikos*-member when he entered the public realm; certain accepted techniques of self-representation within public institutions allowed, encouraged, or even required him to make that membership explicit.[50] Yet the *demos* did try to keep public and private spheres sufficiently distinct as to prevent private interests from unduly influencing public decision making. The differentiation

of the citizen's public and private roles was an important factor in the overall structure of Athenian society. On the other hand, the limited and conditional nature of that differentiation ensured that public decision-making performed a significant role in the functional integration of the constituent sub-societies of the Athenian *polis*.[51]

The Athenian approach to the education of future citizens illustrates the interplay of public and private realms.[52] The amount and kind of "formal" education that a given child received was left to the discretion of his *oikos*; there were no public schools, no standard curriculum. The state showed no interest in ensuring that Athens was a literate society or even that citizens could read public announcements.[53] Nor, until the reform of the *ephebeia* in the mid-330s, did the Athenian state involve itself in formally educating future citizens in social values.[54] The contrast with Aristotle's best possible *polis* seems stark: The incomplete book VIII of the *Politics* is a detailed discussion of the educational system which would ensure that children developed the *arete* which would reproduce, over generations, the *polis* and its *politeia*. Yet the Athenians were actually no less interested than Aristotle in socio-cultural and political reproduction. They tended to believe, however, that the experience of life in the democratic *polis*, including participating in informal public discussion of the decisions made in Assembly and lawcourts, would in itself provide a normative education (*koine paideia*: Aeschines 1.187) in social values. Rather than entering into the complexities of arranging by democratic means to create and maintain a necessarily coercive public institution, the Athenians supposed that the democratic *politeia* would imbue future citizens with its values through exemplary decisions by its deliberative and judicial institutions and thereby gain their voluntary assent to its central principles.[55] Meanwhile, the system of choosing public officials by lot simply took for granted that those Athenians who chose to enter the lottery would be well enough educated to fulfill the duties of office. There was no "civil service examination"; access to whatever advantages office-holding might have offered remained open to all.[56]

How permeable was the boundary between the world of the citizen and of the *oikos*, when it came to public deliberation?[57] Noncitizens lacked *isegoria*, and thus had no formal right to participate in public debate. Yet Aristotle could have found in Athens the empirical proof of his conviction that women possessed deliberative ability (*to bouleutikon*). Most Athenian women did not live truly secluded lives. Anecdotal evidence shows that some women went regularly to the agora and that the Athenian citizen discussed public matters with female (as well as juvenile male) members

of his *oikos*.[58] Although normal Assembly procedure assumed that citizen speakers would be addressing citizen audiences, noncitizens (e.g. ambassadors) could address the Assembly if invited to do so by an appropriate decree (Aesch. 2.58). Spectatorship was not unknown in the Assembly and common in the *dikasteria*.[59] Women gave legally binding depositions under oath before arbitrators in public places; the practice of employing public state-appointed arbitrators (beginning in ca. 400 B.C.) for private disputes is itself evidence for the overlapping of public and private spheres.[60] By the latter part of the fourth century, metics and even slaves were participating (as principals and uncoerced witnesses) in certain trials before the People's courts.[61] Finally, complex networks of gossip and rumor played a major role in public decision-making and flowed easily across social borders. Gossip permeated Athenian society, linking the private life of its target with his public performance, and (at least potentially) allowed all residents of the geo-*polis* to participate in the enforcement of social norms. Because Athenian norms tended to equate a politician's private behavior with his public value, gossip and rumor had profound effects on political practice.[62]

On the other hand, differentiation of public and private roles had significant effects on Athenian social behavior and distinguishes Athens from other Mediterranean societies. As Paul Millett has recently argued, when compared to the society of ancient Rome, Athens is remarkable for its lack of emphasis on patron-client relationships. Although it is certainly possible to find evidence for specific instances of "patronistic" behavior, Athens does not manifest the characteristics of a society fundamentally defined by clientage. Lesser *oikoi* were not formally tied to "great houses" and relations of power were not institutionalized into a public/private power pyramid.[63] While there were indeed a few very wealthy families in Athens, these families were unable to control Athenian society through the matrix of reciprocal and inter-familial, but unequal and cross-generational, obligations that typifies the society based on patronage.[64] This conclusion has profound consequences for our understanding of Athenian society. While the lower-class Athenian (and his family) might work for and/or be in debt to members of the upper classes, the Athenian citizen did not enter the public sphere as his employer/creditor's client. His vote was not owned or directly controlled by another and thus Athenian decision-making was dominated by interests, desires, and perceptions of the many rather than of the few. The democratic political system was implicated in, and in turn strengthened, a set of social norms which discouraged clientage in private life.[65]

The differentiation of public and private roles meant that the common (at least in Mediterranean societies) and socially volatile notion of esteem as inviolability (i.e. "that object of pride which must be defended at all costs") seems to have found its primary locus in the individual citizen rather than in the *oikos*. Whereas in other Mediterranean societies the "flashpoint" of potentially catastrophic dishonor tended to be the household (and especially female relatives qua sexual beings or objects),[66] in Athens it was, imprimis, the citizen's body and his standing. The prime target of the hubristic man was held to be the bodily integrity or rights of other citizens; arrogantly disrespectful behavior of this sort (*hubris*) called for public action.[67] This suggests, in turn, that the ordinary Athenian often represented himself in public as individual citizen and member of the citizen group. His irreducible need for esteem may more accurately be described as a cooperative desire to ensure the maintenance of the personal dignity properly accorded to each citizen, than as a competitive desire to augment his family's honor. Consequently, he was likely to demand from of those in his society equal recognition rather than (or at any rate, before) special distinction. And thus the Athenian *politeia* was fundamentally democratic (based on equal dignity), rather than hierarchical (based on differential honors).[68] This certainly did not preclude Athenians from lusting after honors; *philotimia* was a psychological state as well known to Athenian public speakers (and their audiences) as to philosophers. But in democratic Athens desire for outstanding honor remained a psychological condition (albeit a common one within elite status groups) rather than a generalized, definitive social value.[69] The Athenian was an *eleutheros* (free from the threat of being subjected to unanswerable indignities) before he was a *philotimos* – the democratic insistence on the public recognition of individual dignity is one reason that *eleutheria* was regarded as the definitive value of a democracy (e.g. 1294a9-11). Public honor and distinction had (in most cases) to be earned, rather than demanded on the basis of membership in a particular *oikos*.[70] And this meant that the Athenian *demos*, as the ultimate source of major public honors, could employ *philotimia* and its satisfaction as a form of social control over the elite. Likewise, *atimia* (and its verb forms) in Athens meant, imprimis, disenfranchisement (rather than personal or familial dishonor): it represented a withdrawal by the citizen group of its guarantee to safeguard someone's claim to equal dignity.

The issue of wealth inequality and the tension between economic classes will serve as a final illustration of public-private interchange. If the heads of wealthy and impoverished *oikoi* met as equal individuals in

the public realm, did the Athenian *politeia* promote anything resembling Rawls' difference principle? Arguably it did: As I (among others) have argued elsewhere, the system of public liturgies, along with certain legal procedures (notably *antidosis*) and the operation of the social norm of *charis* within the People's courts, served a redistributive function within the *polis*. The richest Athenians were required and encouraged to materially subsidize (in direct and indirect ways) their poorest fellow-citizens.[71] Moreover, the democratic procedures of the Assembly and courtroom prevented the private-realm wealth-power of the rich man (and of the rich as a class) from being generalized into an unassailable position of socio-political superiority. As Demosthenes emphasized time and again in *Against Meidias*, the collective legal power of the people could and should be used to humble any hubristic rich man who threatened the individual and collective dignity of the citizens. Indictments of wealthy litigants signalled to the wealth elite as a class that their control of material resources did not place them outside the norms of society or render them invulnerable to the wrath of the many.[72] He who violated the dignity of his fellow citizen would be punished by the collectivity. And thus the practice of Athenian law served social ends.[73] The principle of hierarchy was undermined in favor of democratic equality at the level of material distribution and everyday social behavior. As a result, power was discontinuous, rather than becoming a naturalized, seamless web. If we are to believe the complaints of various critics of Athenian democracy, this discontinuity may even have affected the treatment and behavior of noncitizens.[74]

If we follow Aristotle in focusing on the *koinonia* of citizens, fourth-century Athens provides quite a close fit to Rawls' well-ordered society. First, the fundamental principles of the *politeia*, reenacted in the democratic restoration of 403 (which one might almost think of as the Athenian "original position"), remained stable for some 80 years (cf. *Ath. Pol.* 41.1). The details of how the rules worked remained revisable through the enactment of *nomoi* and *psephismata*; but, as Aristotle (1289a13-15) recommended, (procedural) laws were enacted with a view to the (substantive) *politeia*, rather than vice versa. In accord with both Aristotle and Rawls, the Athenian *politeia* was founded on a balance between acknowledged social distinctions and political equalities. The Athenian emphasis on liberty as individual and collective dignity and on equal access to deliberative assemblies and public office (and its associated rewards) is a practical example of Rawls' first principle of justice and first priority rule; it also confirms Aristotle's (e.g. 1291b4-35, 1317a40-b17)

comments about the priority of freedom and political equality in the democratic *politeia*. Moreover, the Athenian tolerance for economic inequality, counterbalanced by legal redistributive mechanisms which kept in check inequalities of power and (to some extent) of resources, seem to be reasonable approximations of Rawls' second principle of justice. In this respect, Athens also conforms to Aristotle's requirement for dissimilarity within the *polis*.

Thus, if we stay within the citizenship, the Athenian social contract at least roughly recapitulates the principles developed within Rawls' thought experiment. Moreover, in emphasizing dignity before honor, the Athenians do seem to have employed what could be described as a maximin principle of limiting risk under conditions of uncertainty. The conditions of Athenian citizen society are, of course, far from an empirical proof of the universality of Rawls' principles or the assumptions that underlie them. The Athenian preference for a maximin approach to decision-making may, for example, find its roots in the realities of peasant culture and subsistence agriculture rather than in human nature.[75] But in light of criticisms that have been leveled at Rawls' theory (and Rawls' own retreat from claims of universality), it is notable that the Athenian citizenry does seem to have come up with something like Rawlsian social justice without the problematic veil of ignorance and without a knowledge of liberal democratic principles, practices, or institutions.

When we move to the broader *koinonia* of those resident within the geo*polis*, the Athenian social order no longer conforms closely to Rawls' model of justice. Although Athenian society was stable and more or less autarkic in the fourth century,[76] the legally mandated and socially accepted positions of slaves, women, and metics violate Rawls' first principle. Yet, without attempting an *apologia*, it may be worthwhile noting a few points in Athens' favor. Most obviously, no other known *polis*, and no other known complex ancient society, even approximates the Rawlsian ideal of social justice, either at the level of whole society or of citizen society. Next, certain social practices and fourth-century changes in legal procedure might be read as a (tentative and conditional) extension of certain basic liberties to certain noncitizens.[77] The emphasis on citizen dignity over family honor, the lack of formal clientage, and discontinuities within the manifestation of power may have ameliorated (again in tentative and conditional ways) the oppression of noncitizens. Finally, (unlike Aristotle) the Athenians never succeeded in representing unjust social relations to themselves as completely natural. No doubt most Athenians mangaged, most of the time, to ignore the contingent, prob-

lematic, and exploitative nature of their own social system. But the con-tradition of a just society of citizens embedded in an unjust society at large created unease and ambivalence for which critics of the Athenian regime (e.g. Plato in the *Republic*, Aristotle in *Politics* VII and VIII) attempted to find theoretical solutions. Yet those theoretical solutions seem, on the whole, rather *less* just than Athenian practice when viewed from a Rawlsian perspective. Moreover, that unease found a public forum in Athens: by sponsoring tragedy and comedy in the Theater of Dionysos, the Athenian state not only sanctioned, but institutionalized the exploration of problems of social justice.[78] Nothing in Aristotle's surviving text suggests that his best possible state would have encour-aged this sort of introspection. Thus, if Rawlsian and Aristotelian visions of the just society can be regarded as distinct trajectories intersecting a common ground, the trajectory of fourth-century Athenian society inter-sects that same ground and at a point somewhere between the two.

In conclusion, the Athenian state is not fully coextensive with Athe-nian society at large. It is misleading to claim complete homology or total isomorphism between the behavior of individual citizen, government in-stitutions, the citizenry, and the society as a whole. Yet both Aristotelian and Athenian *politeiai* were deeply interested in the production and dis-tribution of social goods; "state" (as defined above) does not exhaust the meanings of *polis* in the *Politics* or in Athens. If the politico-*polis* was not fully homologous to the *polis* as a society, nor was it separable from it. The citizenry remained an internally diverse subset of a larger society; the practices of the political sphere affected the larger society, and vice versa. The state remained socially embedded; social norms were created, maintained, and revised by the operations of state institutions. The *polis* was a *koinonia* defined by tensions generated by the play of difference between and within the society of citizens, civil society, and society at large. Attempts to deal with these tensions provided the substance of Aristotle's *Politics* and Athenian politics.

A final word of caution: Describing the *polis* in the functionalist and contractarian terms I have employed in this essay cannot offer a fully satisfactory explanation of the phenomenon of the *polis*. The approach I have adopted here takes society as self-sufficient and so ignores the conse-quences of international relations.[79] Moreover, it defers the important issue of the *polis* as a system for creating meaning; it leaves aside the positive content of citizenship as self-identification and empowerment.[80] In Aristotle's terms it skirts the *telos* (living well) and focuses on some-what pedestrian antecedent conditions. The picture of the *polis* presented

here is thus only a sketch of certain features; it lacks the color and detail that make for real social existence. But I think that attempting to define the terms of the social contract underpinning the *polis* is worthwhile. For most modern readers, any assessment of the spiritual meanings the *politai* devised for themselves is likely to be based on a prior moral judgment of the *polis* as a society. After weighing Athenian society in the scales of social justice we may still wish to celebrate the ideals of democratic, participatory citizenry; but we will have reminded ourselves of the deep and enduring injustices which characterized even the best of *poleis*.

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Notes

1   The society/state distinction became prominent in western political thought in the late eighteenth and early nineteenth century, especially in Hegel's *Philosophy of Right* (1821). For a review of the issue as it applies to the *polis* see Murray 1990a with bibliography. *Polis* as neither state nor society, but a political sphere which renders the former irrelevant and the latter marginal: Meier 1984, 7-44. *Polis* as state only: Hansen 1989b, 16-21, 1991, 55-64, taking his definition of "state" from the fields of international law and jurisprudence. What I mean by useful and meaningful is explained in Ober 1989b. I would like to thank the other participants at the Copenhagen Greek *Polis* colloquium for many useful comments. Special thanks are due to Barry Strauss for his thoughtful commentary and to Mogens Hansen. My difference with the latter over Aristotle's definition of *polis* is in part attributable to my "unitarian" conviction that books 1 and 2 of the *Politics* should be read in conjunction with books 3 and 4.

2   My definitions leave much in abeyance (notably issues of how meanings and identities, collective and individual, are constructed – see conclusions, below). They should be regarded only as starting points for distinguishing an understanding of "*polis* = both state and

society" from "*polis* = state only." In other work I employ a more extensive definition of the term "state." On civil society see Bobbio 1989, 23: the "complex of relations not regulated by the state and so the residue once the realm in which state power is exercised has been well defined."

3   The plural *archai* is here better translated as "powers," or "authorities" (*LSJ* s.v. II.1) than the more usual "magistracies" or "government offices" (*LSJ* s.v. II.4) because *demos* is used here as a sociological or a political term ("the mass" or "the whole of the citizenry" compared with *oligoi*), rather than as an institutional term ("the Assembly"). Cf. 1289a15-18: *politeia* is a *taxis...peri tas archas*, in what manner they are distributed (*nenementai*), what element is *kurion* in respect to the *politeia*, and what what is the *telos* of each *koinonia*. Translations of *The Politics* are adapted from C. Lord in *Aristotle* 1984.

4   Cf. Hansen 1989, 41 n. 126: "The *polis* was a legitimate political power which – apart from a few survivals of legitimate self help – monopolized the use of force."

5   Problem with sovereignty concept: Ober 1989c. For the ideological nature of *politeia*, cf. 1294a19-20: it is *eleutheria, ploutos, arete* that "contend for equality" within the *politeia*.

6   Fish 1980; Austin 1975. For a fuller definition of what I mean by "ideology" see Ober 1989a, 38-43. Cf. 1286a2-3 where Aristotle makes a sharp distinction between the study of *nomoi* and the study of *politeia*; 1289a13-15: *nomoi* are and should be enacted *pros tas politeia*s and not vice versa; 1289a18-20: distinctly different nomoi are among the things (ergo not the sum of distinguishing characteristics) by which a *politeia* is distinguished (*ton delounton*), according to which *archontes* rule.

7   Compare 1292a32-34: ideally *nomos* should rule overall (*archein panton*), yet in specific cases *archai* and *taute politeia* should judge (*krinein*). In practice, the reality of power (ergo who *kratousi*) is sometimes quite different from the existing *nomos*: 1292b11-21.

8   Compare 1289b27-90a8, 1290b38-91a10.

9   On the embeddedness of politics in society see Finley 1983 and the references gathered in Ober 1991a, 113 n.2.

10   Cf. Hansen 1989b, 19: "the *polis* did not comprise all who lived within its borders, but only the *politai*, i.e. the citizens."

11   Since Aristotle (1276a13-16) then attempts to refute the distinction by pointing out that certain democracies exist through domination, it is clear that the "some" in question were supporters of democracy against oligarchy or tyranny. *Politeiai* which look to the common advantage are in accord with unqualified justice; *despotikai politeiai* look to the advantage of *archontes* alone (1279a17-21).

12   Aristotle cannot be using *oikountai* as a synonym for *politai* in light of the discussion in book I, esp. 1252a20-21: we must investigate "what the *polis* is composed of (*ex hon sugkeitai*)," followed by a discussion of the relationship between free men, women, and slaves. See also 1277a7-10: the *polis* is made up of (*sunesteken*), inter alia, husband and wife, master and slave. Cf. below, n. 25.

13   *pros to tes poleos holes sumpheron kai pros to koinon to ton politon* (1283b40-42), taking the *kai* as conjunctive rather than explanatory: "and the common advantage" rather than "that is to say, the common advantage."

14   Lord and Jowett translate "partnership"; Sinclair, "association"; *LSJ* s.v. includes "society" among various possibilities, including "communion" and "fellowhip."

15   Definition of *autarkeia*: 1252b27-53a1. Aristotle's ideal of autarky does not imply a degree of self-sufficiency that would obviate all interest in trade (e.g. 1321b14-18: trade is

the readiest way to achieve *autarkeia*), but rather an absence of dependence upon any foreign power; cf. Nixon and Price 1990.

16 See 1277b2-3: "[it is] not [the case that] all those are to be regarded as citizens without whom there would not be a *polis*" (with specific reference to children and *banausoi*); 1252a26-34: the *polis* is built up of union between "those who cannot live without one another": men and women, masters and (natural) slaves. I do not mean by this that the *polis* is necessarily "based on" slavery; but it is (materially) "based on" the labor of noncitizens – including women, children, and metics. For discussion see Wood 1988; with Ober 1991b.

17 At 1280b33-35, the building blocks of the *polis* that will live well and autarkically are *oikiai* and *gene*, which I take to be the equivalent of *oikoi* and *komai*.

18 Cf. 1280a32-34: *proairesis* is a precondition for the existence of the *polis*.

19 1252a34-1253a1; I identify the long-term necessity as avoidance of injustice on the basis of 1280a25-1281a1, where avoidance of injustice is linked with material prosperity as concerns of living, and contrasted to the *telos* of living well.

20 What I am calling Aristotle's social contractarianism differs substantially from modern versions (e.g. Hobbes, Locke, Rousseau). First, since the process of *polis* formation is natural, the parties are impelled to join together. Next, Aristotle puts little emphasis on individuals. After the first step (forming the natural partnerships of man-woman, and slave-master), the parties to the contract are heads of *oikoi* (along with *komai* and *gene*). Moreover, while living together ensures justice and material security, these are not the ultimate purpose of the *koinonia*; nor sufficient conditions for the existence of the *polis* (1280b23 – 1281a1: a passage taken by J. Barnes in Miller 1991, 21, as an explicit rejection of "the view that the state's authority rests on any 'social contract'"). Yet these are necessary conditions (1280b30-31). Finally, while *eudaimonia* is the highest good of the *politai* and of the *polis* as a *koinonia politike*, living under a regime of justice and enjoying material security is (at least by implication) the highest good accessible to women, slaves, and other noncitizens.

21 1253a29-31. See also 1285b6-9 where the process of being brought together (*to sunagagein*) is one of the benefits that members of a *plethos* willingly (*hekonton*) received from heroic monarchs of the past. Thus the process was voluntary, rather than imposed. Cf. 1286b34-40: the coercive power of constitutional monarchs should be inferior to that of *to plethos*; once again underscoring the consensual nature of the political order.

22 Cf. 1278b15-30. While modern contract doctrine postulates the social contract as a way of escaping the state of nature, Aristotle assumes it as a precondition of attaining a natural state. The modern contractarian begins and ends with the contract; Aristotle imports an implied contract to get his developmental scheme off the ground (to transform a scattering of *oikoi* into a *polis*) and retains it as a means to achieving the stability that is a precondition to the end of living well. The contract, for Aristotle, thus conjoins two natural conditions (*oikos* and autarkic, eudaimonic *polis*). These important distinctions must not obscure the common element: the necessity of human agency and consent in the formation of a complex society. Harris (forthcoming) points out the links between Hobbesian contract theory and classical theory's natural teleology.

23 The slave was assumed to be capable of rational understanding (1259b28, 1260b5-7) and (unlike the *banausos*) was part of *koinonia* of the *oikos* (*koinonos zen*: 1260a39-40).

24 For Aristotle on women and their role in the *polis*, see Saxenhouse 1991.

25 Gently coercive nature of education: 1259b10-11; education *pros tas politeias* is the

greatest of those things which preserve the *polis*, although the most overlooked: 1310a12-14. Cf. the legal decision in Board of Education v. Pico (457 U.S. 853 [1984]) which endorsed the right of the state to "inculcate" in its citizens "the democratic ideology that infuses its institutions" (with comments of Harris [forthcoming]). On education as cultural reproduction and the problem of coercion, see Gutmann 1987, 3-48.

26   Cf. 1280b30-35: "the *polis* is ... a *koinonia* in living well of both *oikiai* and *gene* for the sake of a complete and autarkic life"; 1280b40-81a2: "the *polis* is a *koinonia* of *gene* and *komai* for the sake of a complete and autarkic life."

27   On the necessity of inequality to the *polis* see 1280a7- 25; 1282b14-83a23. Economic class, status, and order, and their place in Aristotle's understanding of the *polis*: Ober 1991a.

28   Of course in Athens a man of twenty was a citizen, yet he might not yet be the master of an *oikos*. The complexities introduced by this disjunction between public and private standing are explored in Strauss (forthcoming).

29   If we look ahead to Athenian practice, there is in each case a significant grey area between public and private spheres: The soldier might be unable to serve the state as a hoplite without aid from a neighbor (Lysias 16.14, 31.15, 19); if captured by the enemy he might depend on private beneficence to bring him home (Lysias 19.59; Dem. 8.70-71). The trader in grain was legally required to ship his cargo to Athens (*Ath. Pol.* 51.4; Dem. 34.37, 35.50-51; Lycurgus 1.27). Membership in a phratry (an association with links to cult, neighborhood, and perhaps kinship) could be brought forward to prove citizenship in the state (Dem. 57.54; cf. Hedrick 1991, who emphasizes the political as opposed to the tribal origins of the phratry). The mix of public and private interaction in the demes is too complex to sketch here, but see Whitehead 1986, esp. 223-252; Osborne 1985. The Initiate might sit on a jury of fellow Initiates empanelled by the state to try sacrilege (Andocides 1).

30   On the concept of differentiation see Luhmann 1982; with discussion in Ober 1991a, 117, 132-133. On the issue of differentiation my understanding of the *polis* is closer to that of M. Weber than to that of E. Durkheim; for the distinction see Murray 1990a.

31   Cf. 1297a7-13, where Aristotle explicitly rejects deception of the *demos* (one is tempted to say that he rejects false consciousness) as a route to good order. On conflict in Aristotle's *polis* see Yack 1985.

32   Compare 1281b21-30, 1294b34-41, 1296b14-17, 1309b16-18, 1267a39-40: a part of the *polis* that "shares in nothing" (*oudenos metechon*) will be hostile (*allotrion*) to the *politeia*; 1274a17- 18: Solon made the Athenian *demos kurios* regarding elections and audits, lest it become *doulos* and thereby *polemios*. This last is an example of the hostility and instability that results from the enslavement of those who are not "natural" slaves (see 1255b14- 15). Ideological stability is prior to preserving a specific set of institutional relationships between governmental entities, which is why *Ath. Pol.* can see the *demokratia* of 462 to that of his time (with interruptions of 411 and 404) as essentially continuous.

33   Potential destabilization of *politeia* from disaffected *politai* and other free males: 1277b33-78b5, esp. 1278a37-40: the free male who does not share in the prerogatives (*timai*) of citizenship is equivalent to (*hosper*) a metic, and in some *poleis* this is concealed for the sake of deceiving the (excluded) inhabitants.

34   Nevertheless, women could be described as a *plethos*, comparable to the *plethos* of males (1269b15-17). Since women possessed the power of deliberation (1260a12-13), this *plethos* could presumably organize itself for common action. These sorts of considerations provoked much unease in other literary genres, notably Aristophanic comedy and Euripidean tragedy; see below.

35   A voluntary compromise of personal sovereignty is also entailed in the "best *politeia*," whose citizen will be *dunamenos kai proairoumenos* of ruling and being ruled by turns: 1284a1-3; cf. 1277a12-25. The nondeterministic role of nature in social relations is further underlined by the assumption that all deviant regimes (which are the commonest forms of *politeia*) are to be regarded as unnatural (*para phusin*: 1287b39-41). *Demokratia* is one of these, yet, it is "not easy" for any regime other than democracy to arise now that *poleis* are large: 1286b20-22.

36   Cf. 1276b29: *koinonia d'estin he politeia*.

37   For the tendency of Athenian law to focus on procedural, rather than substantive matters, see for example Todd and Millett 1990. The flesh and bones metaphor was previously employed, in reference to the relative importance of political factions and the "Constitution," by Connor 1971, 4-5. Connor's approach is attacked by Hansen 1989a. My own concern is more with substantive social practices than with political factions, but I believe that Connor's strictures on the limits of narrowly constitutional history (i.e. the evolution of procedural rules) remain valid.

38   Rawls 1971, 4, referring specifically to the "macro-society" rather than to various subgroups within society: cf. Rawls 1971, 8, 61; Wolff 1977, 68, 77-80, 196, 202-203. Parenthetical numbers in the text of this section refer to the page number of Rawls 1971.

39   Rawls 1971, 61, states his general conception of justice as follows: "all social values... are to be distributed equally unless an unequal distribution ... is to everyone's advantage." Primary social goods are rights and liberties, opportunities and powers, income and wealth: Rawls 1971, 62, 92. Cf. Wolff 1977, 75.

40   Difference principle: Rawls 1971, 75-83; Wolff 1977, 63-65.

41   Rawls' sources of inspiration: Rawls 1971, vii-viii, 11, 15, 22-45; Wolf 1977, 11-15. The original position: Rawls 1971, 17-22; the veil of ignorance: Rawls 1971, 12, 136-142. Maximin: Rawls 1971, 152-157; Wolff 1977, 50-51, 82-83.

42   Rawls 1971, 302-303; cf. 60-90.

43   See, for example, discussion in Wolff 1977; Barber 1988, 54-90; Pogge 1989. Rawls has defended and refined his theory in a series of articles, e.g. Rawls 1987.

44   Rawls on substantive vs formal or procedural justice: 1971, 54-60. Problem of inequality: 7, 96. Stable, permanent regime: 6, 12-13. His theory in accord with the "traditional" theory of justice which is based on Aristotle: 10-11, cf. 424- 433. See also Wolff 1977, 208-209; Nussbaum 1990; Wallach (1992), with bibliography. Contrast MacIntyre 1981, who would subordinate the moral rules typified in Rawlsian liberal tradition to the larger context of moral virtue which he finds in Aristotle.

45   Stability of Athens in the fourth century (and the necessity of explaining it): Ober 1989a, esp. 17-20.

46   Here I deliberately avoid the question of whether, in an ideological society, voluntary consent is possible. I deal with this issue in detail in several forthcoming studies devoted to criticism (by Thucydides et al.) of Athenian democracy.

47   For another approach to "historicist" political theory see Wallach (1992). The sort of analysis I am proposing is inevitably based on limited evidence, but would have been much more difficult two decades ago, before the flowering of studies of democratic Athens as a state (for which see the bibliography in Hansen 1991) and as a society, for which see the studies cited below.

48   Cf. Hansen 1989b, 19: "Family life ... belonged in the private and not in the public sphere...the *polis* did not regulate all matters but only a limited range of social activities, mostly those connected with the state."

49   Cf. Hansen 1989b, 18: "in many aspects of life the Athenians practiced a separation between a public and a private sphere ... the dichotomy of the public and the private is apparent in all aspects of life."

50   E.g. *dokimasia* (and especially the *dokimasia rhetoron*: Aeschines 1); oaths taken in the *dikasteria* which entail death and destruction for one's *oikos* in the case of foreswearing (Aeschines 2.87); the display of family members as character witness at trials (Humphreys 1985c); legal actions concerning rights to citizenship (Dem. 57); attacks on one's opponents' family members in political trials and defense based of family members' liturgical service (Ober 1989a, 226-233).

51   The bibliography on the relationship between *oikos* and *polis* is large and growing rapidly, see, recently, Humphreys 1983b; Foxhall 1989; Jameson 1990; Winkler 1990, 45-70; Halperin 1990, 88-112; Cohen 1992; Strauss forthcoming.

52   Cf. Hansen 1989b, 19-20: "education [et al.] were not political issues but mostly left to private enterprise ... not much discussed in the *ekklesia* and citizens were allowed to do as they pleased."

53   See e.g. Harris 1989, 65-115; Thomas 1989.

54   In the mid 330s B.C. the *ephebeia*, formerly a system of military training, added a component of moral education: Ober 1985, 90-95; Humphreys 1985b with literature cited.

55   Complexities of democratic control of education, and of designing an education in democratic values: Gutmann 1987. Athenian belief in the normative value of public political practice: Ober 1989a, 159-163.

56   On the question of whether or not magistrates received regular state pay in the fourth century and the nature of their other perquisites, see Hansen 1979; Hansen 1980; Gabrielsen 1981. There is no way of determining the extent of voluntary abstention by the illiterate and no evidence to suggest that questioning at *dokimasiai* focused on basic competence.

57   Cf. Hansen 1989, 20: "The Greek *polis* was a community of citizens to the exclusion of foreigners and slaves...the Athenian citizens isolated themselves from metics and slaves to debate political issues in the assembly, in the council and in the popular courts."

58   Women in the *agora*: Dem. 57.33-34; cf. *Pol.* 1300a6-7, 1323a5-6. Husbands discuss court cases and Assembly business with their wives, daughters, sons, and mothers: Dem. 59.110-111; Lycurgus 1.141; Aeschines 1.186-87; cf. Aristophanes, *Ekkl.* 551ff (a scene which assumes for its comic force that such conversations were normal). Activities of women outside the home at Athens: Cohen 1989, with catalog of passages.

59   Spectators: Aristophanes, *Ekkl.* 241-244: Praxagora learned rhetoric by overhearing Assembly debates when her family was billeted in the city during the Peloponnesian War; spectatorship may have been more difficult after the construction of Pnyx II in the late fifth/early fourth century. References in the orators and archaeological remains make it clear that at least some Athenian courtrooms also allowed spectatorship; Aeschines 1.117 goes so far as to claim that the spectators judged the *dikastai*; cf. Thompson and Wycherley 1972, 59 and n. 170 with references cited.

60   Date: MacDowell 1971 (although cf. Humphreys 1983a, 240-242). Previously dispute arbitration had been an entirely private phenomenon, and hence the line between a private realm of arbitration and a public realm of lawcourts may have been clearer; cf. Humphreys 1983a, 6. Women's depositions under oath: Dem. 29.26, 33, 56, 39.3-4, 40.11, 59.45-48. Arbitration in temples: Dem. 33.18, 36.15-16, 40.11, Isaeus 2.31; cf. Gernet 1954, 210 n. 2. In the Heliaia: Dem. 47.12. In the *Stoa Poikile*: Dem. 45.17. Public arbitration in general: Gernet 1939; Harrell 1936.

61   Metics: Cohen 1973; metics and slaves: Cohen 1991.

62 Gossip: Ober 1989a, 148-151; Hunter 1990 (with catalog of references); Humphreys 1989.

63 Millett 1989. This is one reason that prosopographical approaches to Athenian political history are generally unsatisfactory: they are implicitly predicated on a misleading parallel with the social structure of republican Rome (derived primarily from R. Syme) and, at a second remove, upon the elitist model of political behavior which Syme explicitly adopted. See Syme 1939, vii: "the composition of the oligarchy of government... emerges as the dominant theme of political history"; 7: "in all ages, whatever the form and name of government, be it monarchy, republic, or democracy, an oligarchy lurks behind the facade..."; cf. Linderski 1990. Syme's latter comment is a virtual paraphrase of Robert Michel's "Iron Law of Oligarchy" – first published in 1911 (German edition) and 1915 (English and Italian); see Michels 1962. Ober 1989a was intended in part as a challenge to elitist political theory in general and Michels' Iron Law in particular.

64 Patronage as reciprocal but unequal obligations that can endure between family groups over generations: Saller 1982; Wallace-Hadrill 1989.

65 I am not making an argument for priority (i.e. claiming that open social relations came first and thus democracy flourished, or vice versa). Rather I suppose that a non-clientistic social culture and a democratic political culture were mutually empowering and so grew up together.

66 Male honor and the family in Mediterranean society: Cohen 1992, with literature cited. For other societies: Mandelbaum 1988; Small 1991.

67 Definition of *hubris* as willfully and gratuitously inflicting shame (*aischune*) upon another: Arist. *Rhet.* 1378b23- 26. *Hubris* as an assault on the individual in Athens: Murray 1990b; Fisher 1990. The alternative argument, that adultery and *hubris* fit Mediterranean norms of honor and shame associated with family and sexuality: Cohen 1990. Aristotle (*Rhet.* 1391a 14-19) links *hubris* and adultery as misdeeds typical of the newly wealthy.

68 For the two models of honor, distinction, hierarchy vs dignity, recognition, democracy, see Taylor 1989. On Athenian conceptions of the individual self, honor, and dignity, see also Gouldner 1969, 87-110. I explore the issue of honor and dignity in more detail in Ober (forthcoming).

69 *Philotimia*: Whitehead 1983; Ober 1989a, 332-333. Cf. Goode 1978. In decentering the concept of honor as aggressive masculinity I am going against the grain of some recent anthropologically oriented work on Athenian society, e.g. Halperin 1990; Cohen 1992. I tend to think that the aristocratic value of honor has been overgeneralized to a universal Athenian (or Greek) value. What makes Athens distinct from other societies is not its hierarchical tendencies, but rather its egalitarian tendencies. Thus, even those who follow Foucault 1980 in assuming a high degree of isomorphism of political and the private should be looking for tendencies to equality and distributive justice at the private level, since these ideals dominate the Athenian public realm.

70 The exception that proves the rule is honors done the descendants of the tyrant-slayers, Harmodius and Aristogeiton: Taylor 1991, 1-5. Athenian litigants did indeed mention great deeds of their ancestors in court, but tended to do so as part of an argument that they themselves are likely to act in the same way, rather than as part of demand for distinction on basis of membership *ipso facto*; cf. Ober 1989a, 226-230.

71 Redistributive function of liturgies, taxes, and fines: Ober 1989a, 199-202; Osborne 1991.

72 Cf. discussion in Ober 1989a, 209-211

73   See, for example, discussion by Humphreys 1983a, 1985a, 1985c; the essays collected in Cartledge, Millett, Todd 1990; Todd 1990; Cohen 1991, 1992.

74   Complaints that democracy blurs distinctions between slaves, metics, women, and citizens, and renders discipline impossible: Aristotle, *Pol.* 1313b32-38, 1319b27-30; Ps-Xenophon, *Ath. Pal.* 1.10-12; Plato, *Rep.* 562b-563c; cf. Dem. 9.3, 21.47, 49. Varying views on Athenian treatment of slaves: Gouldner 1969, 33-34, 88-90; Garlan 1988, 145-153; Patterson 1991, 64-180.

75   Athenian citizens as peasants: Wood 1988; Todd 1990. The conservative risk-management strategies typical of peasant societes: Gallant, 1991; cf. Sallares 1990.

76   This does not, of course, mean that Athens did not require imports (although the necessity has often been overrated: Garnsey 1988, 89-164), but rather that Athens was able to produce and defend goods adequate to secure the material needs of the population.

77   See, for example, Foxhall 1989; Hunter 1989a; Hunter 1989b; Ober 1991c.

78   Drama, and especially comedy, as (*inter alia*) political and social commentary: see the essays by S. Goldhill, J. Ober and B. Strauss, J. Henderson, J. Redfield in Winkler and Zeitlin 1990; Rothwell 1990; Konstan 1990. Others have seen drama rather as a form of social control: e.g. Olson 1990. See Podlecki 1990 for a review of the vexed question of whether women attended the theater.

79   On which, see Raaflaub 1985, 1991; Ober 1991d.

80   For thoughtful discussions, see Manville 1990; Meier 1984; Euben 1990.