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Justice Speaks: Nemesis, Nature, and Common Law in Aristotle's *Rhetoric*

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Abstract: This essay explores Aristotle's treatment of the passion of nemesis or "righteous indignation" in his *Rhetoric* and its relevance to contemporary displays of passion in democratic political orders. It does so by considering Aristotle's perplexing definition of nemesis in relation to two other passions, pity and envy, as well as its significance to his discussion of common law (a transpolitical standard of justice according to nature), which he presents through allusions to Sophocles's *Antigone*. Aristotle's discussion sheds light on the way in which nemesis, which is aroused in relation to the concern for justice, necessarily takes into consideration questions of moral worth that liberal democratic regimes attempt to relegate to the private sphere.

Introduction: Democratic Nemesis

The passion for equality and the longing to overcome the perceived injustice of inequality animates contemporary political discourse no less than it does our leading journals of political science.[1] Yet, less often probed than the *fact* of inequality and the *means* of making matters more equal for all is the passionate sense of justice—"nemesis," as the Greeks called it—that lies behind these endeavors. What indeed are the *origins* of the ardent concern to eradicate all perceived inequality, especially in matters that do not immediately affect ourselves or those close to us? The answers to this query are certainly varied and complex, but one authority we might turn to for guidance is

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[1]For examples, see Jeff Jackson, "What Is Democratic in an Unequal Society?," review of *Democracy against Domination*, by K. Sabeel Rahman and *Why Democracy Is Oppositional*, by John Medearis, *Political Theory* 45, no. 6 (2017): 853–62; Phil Parvin, "Democracy, Capital, and the Rise of the New Inequality," review of *Republic of Equals: Predistribution and Property-Owning Democracy*, by Alan Thomas and *Free Market Fairness*, by John Tomasi, *Political Theory* 45, no. 6 (2017): 863–76.

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Aristotle, whose premodern account of politics has been the subject of much recent scholarly attention.[2]

Aristotle's writings not only stand as a source of many Western ideas and but also remain outside the purview of our contemporary liberal framework in a way that is illuminating in their approach to the answers to many questions (concerning, for example, the equality of human beings, the goodness of individual freedom, the nature of human rights) that we easily take for granted. Indeed, all too often it is the concern for merit or desert central to Aristotle's political writings that contemporary democratic nemesis in its concern for equality overlooks.

While Aristotle's *Politics* and *Ethics* have much to say on the subject of justice and equality, it is his *Rhetoric* that arguably provides us with the most direct avenue of assessing the origins of nemesis in general as well as in our particular moment in history.[3] In providing Aristotle's most comprehensive and politically oriented account of the passions, the *Rhetoric* affords us a preliberal account of the nature of the passions and the way in which not only politics but also poetry might mold and direct them in a civilized manner.[4] While equality plays a role in his account of the passions, Aristotle's primary emphasis is on the question of what citizens and statesmen deserve—even whether justice demands inequality from time to time.

While the *Rhetoric* has been the object of study in a variety of fields, only recently, with a few worthy exceptions, has the text drawn the attention of political theorists.[5] Those who have turned to the work largely focus on the

[2]For an account of the contemporary civic-minded revival of Aristotle see Susan Collins, "Moral Virtue and the Limits of Political Community in Aristotle's *Nicomachean Ethics*," *American Journal of Political Science* 48, no. 1 (2004): 47–61, esp. 47 and 47n1.

[3]Translations of Aristotle's *Rhetoric* are my own. I have consulted Joseph Sachs's translation, in *Gorgias and Rhetoric* (Newburyport, MA: Focus, 2009); Robert Bartlett's translation, *Aristotle's "Art of Rhetoric"* (Chicago: University of Chicago Press, 2019); and George Kennedy's translation, *On Rhetoric: A Theory of Civil Discourse* (New York: Oxford University Press, 1991). Translations of the *Politics* are from *The Politics*, trans. Carnes Lord, 2nd ed. (Chicago: University of Chicago Press, 2013), with changes. Translations of the *Ethics* are from *Nicomachean Ethics*, trans. Robert C. Bartlett and Susan D. Collins (Chicago: University of Chicago Press, 2011), with changes.

[4]For accounts of the place of the passions in Aristotle's treatment of rhetoric see William W. Fortenbaugh, "On the Emotions," *Archiv für Geschichte der Philosophie* 52, no. 1 (1970): 40–70; and William M. A. Grimaldi, "A Note on the Pisteis in Aristotle's *Rhetoric* 1354–1356," *American Journal of Philology* 78, no. 2 (1957): 88–192.

[5]Noteworthy examples include Mary P. Nichols, "Aristotle's Defense of Rhetoric," *Journal of Politics* 49, no. 3 (1987): 657–77; Carnes Lord, "The Intention of Aristotle's *Rhetoric*," *Hermes* 109, no. 3 (1981): 326–39; Larry Arnhart, *Aristotle on Political Reasoning: A Commentary on the "Rhetoric"* (DeKalb: Northern Illinois University Press, 1981); Edward W. Clayton, "The Audience of Aristotle's *Rhetoric*," *Rhetorica*

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civic and philosophic purposes of speech in the *Rhetoric*. Few political theorists have carefully probed Aristotle's account of the passions and fewer still have attempted to determine what light Aristotle's allusions to poetry shed on his understanding of the nature and scope of the passions and rhetoric in political life.[6] My own contention is that careful investigation of Aristotle's poetic allusions sheds light on one of the central dilemmas of the *Rhetoric*. Indeed, almost all who have worked on the *Rhetoric* have observed that there is an apparent inconsistency in Aristotle's treatment of the passions.[7] While he initially criticizes teachers of rhetoric who aim only to stir and manipulate the passions of judges, particularly in the case of forensic rhetoric, Aristotle gradually reintegrates the passions into their central role in rhetoric. Though some scholars argue that Aristotle's account of rhetoric aims at subordinating rhetoric to political science and educating the noble, rather than the philosophic, souls of the audience, my argument is that Aristotle's account of the passions speaks about and to the human soul as such.[8]

This article is based on the notion that Aristotle's *Rhetoric* is more than an elaboration of the amoral technicalities of the art of rhetoric, and is also a profound and compelling account of the psychology of the complex interplay of

22, no. 2 (2004): 183–203; and Bryan-Paul Frost, "Preliminary Reflections on the Rhetoric of Aristotle's *Rhetoric*," *Expositions* 2, no. 2 (2008): 163–88.

[6]While the examples of scholars who have recognized the importance of rhetoric in understanding Aristotle's political teachings are numerous and insightful, their references to the *Rhetoric* itself are surprisingly limited. See Thomas L. Pangle, *Aristotle's Teaching in the "Politics"* (Chicago: University of Chicago Press, 2013) and "The Rhetorical Strategy Governing Aristotle's Teaching," *Journal of Politics* 73, no.1 (2011): 84–96; Aristide Tessitore, *Reading Aristotle's "Ethics": Virtue, Rhetoric, and Political Philosophy* (Albany: State University of New York Press, 1996); Dustin Sebell, "The Problem of Political Science: Political Relevance and Scientific Rigor in Aristotle's 'Philosophy of Human Affairs,'" *American Journal of Political Science* 60, no. 1 (2016): 85–96.

[7]For examples of various accounts of how to reconcile the moral and technical aspects of rhetoric in Aristotle see William M. A. Grimaldi, "Rhetoric and the Philosophy of Aristotle," *Classical Journal* 53, no. 8 (1958): 371–75 and *Studies in the Philosophy of Aristotle's "Rhetoric"* (Wiesbaden: Steiner, 1972), 15–17; Eugene Garver, "Deception in Aristotle's *Rhetoric*: How to Tell the Rhetorician from the Sophist and Which One to Bet On," *Rhetoric Society Quarterly* 24, nos. 1–2 (1994): 75–94; Arnhart, *Political Reasoning*, 13–43; Bryan Garsten, *Saving Persuasion: A Defense of Rhetoric and Judgment* (Cambridge, MA: Harvard University Press, 2006), 115–41; Paul Nieuwenburg, "Learning to Deliberate: Aristotle on Truthfulness and Public Deliberation," *Political Theory* 32, no. 4 (2004): 449–67.

[8]See Steven Salkever, "Teaching the Questions: Aristotle's Philosophical Pedagogy in the *Nicomachean Ethics* and the *Politics*," *Review of Politics* 69, no. 2 (2007): 192–214; Thomas W. Smith, *Revaluing Ethics: Aristotle's Dialectical Pedagogy* (Albany: State University of New York Press, 2001).

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reason and passion in the human soul that cannot be understood apart from Aristotle's poetic allusions. Aristotle's account of the passions and of nemesis in particular points to the *Rhetoric*'s significance for his corpus as a whole and also the origins of nemesis as such. Indeed, Aristotle's political science is perhaps even incomplete without the *Rhetoric*, which elaborates his parallel claims in the *Politics* and the *Poetics* that man is distinguished from beasts in his possession of reasoned speech (*logos*) and that, by virtue of this faculty, he is the most imitative (*mimētikos*) of all animals (*Pol*. 1253a1–15 and *Poetics* 1448b3–7).[9] His is an inquiry that has much to teach the inhabitants of modern regimes who might not be able to acquire the critical distance from their own presuppositions about justice without ancient intervention. An investigation of his depiction of nemesis in its relationship to political speech bears this out.

To this end I first examine Aristotle's peculiar definition of nemesis in relation to its emotional counterparts, pity and envy. Next, I treat Aristotle's account of forensic rhetoric and common law, which, I argue, anticipates his discussion of nemesis in book 2, chapter 9. Forensic rhetoric is largely practiced in courts of law and aims at justice and for this reason revolves around what Aristotle eventually calls the common (*koinon*) law, a standard of justice that transcends the particular laws and conventions of a regime (see *Rh.* 1368b7–10). This becomes all the more evident in his consistent references to Sophocles's *Antigone*. Antigone appeals to a notion of justice that serves as a measure by which to judge the laws of any particular regime, the "common law," which, as Aristotle speaks of it, is a law of justice common to all regimes, even if instituted differently by each. He describes common law as the unwritten laws that "seem to be agreed to by everyone" (*homologeisthai dokei*) and that, even though human beings do not communicate or agree about the particulars, "all divine" (*manteuontai*) with respect to the existence of justice and injustice (*Rh.* 1368b7–9; 1373b8). The search for the object of nemesis—complete justice—is marked by a desire to discover a transpolitical standard by which we might judge our own laws and institutions. It is the passion of nemesis that incites this search.[10] Finally, I consider the way political life and institutions such as law courts and the forensic

[9]For an account of the political significance of Aristotle's *Poetics* see Daniel DiLeo, "Tragedy against Tyranny," *Journal of Politics* 75, no. 1 (2013): 254–265, who holds that the *Poetics* is "best read as a part of Aristotle's political science" (255). See also Elliot Bartky, "Plato and the Politics of Aristotle's *Poetics*," *Review of Politics* 54, no. 4 (1992): 589–619.

[10]For an elaboration of Aristotle's treatment of nemesis in the *Ethics* see Ronna Burger, "Ethical Reflection and Righteous Indignation: Nemesis in the *Nicomachean Ethics*," in *Essays in Ancient Greek Philosophy*, vol. 4, ed. John P. Anton and Anthony Preus (Albany: State University of New York Press, 1991), 127–39. For further reflection on the relationship between hope, which is present particularly in nemesis, and the divine see Robert Bartlett's interpretive essay in *Aristotle's "Art of Rhetoric,"* esp. 259–63.

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rhetoric (speeches of accusation and defense) practiced therein both shape and are influenced by the passion of nemesis.[11] Aristotle, I argue, recommends that nemesis be cultivated yet trained in a manner that ultimately supports the common good of political life.

Nemesis, as Aristotle presents it, drives human beings to question—perhaps even doubt—divine justice and, at the same time, to work to achieve the justice that they themselves can accomplish by means of the rule of law and in the courts, where actions are exonerated, forgiven, or punished. It is the only passion aside from confidence (*tharsos*) that he explicitly ties to the divine and above all to hope of divine reward (see *Rh.* 1386b15–16, 33–34).[12] The noble souls prone to experience nemesis cannot help but hope the gods will reward a just way of life. Aristotle's investigation of justice through forensic rhetoric, however, begins with a profound concern for injustice in the cosmos, the existence of which is a scandalous obstacle to any simple hope of justice on earth and an unavoidable political dilemma.[13] Significantly in Aristotle's account of forensic rhetoric, nature, rather than the gods to whom we attribute nemesis, provides a transpolitical standard of justice that is aimed at both by institutions of equity within a community and also by appeals to justice that transcends the community's laws. It is this sense of natural justice that Aristotle explores in his references to *Antigone* and his consideration of the underlying passion it evokes: nemesis. In order to grasp the way nemesis lies behind our political institutions and longing for universal justice we will first turn to Aristotle's account of nemesis and then to his earlier treatment of the common law and forensic rhetoric involving poetry.

Likeness and Worth: Nemesis's Relation to Pity and Envy

Nemesis is marked by the hopeful expectation that the good will be rewarded and the bad punished, each according to his respective worth. An ennobling

[11]So great is the appeal of using speech ignobly as a means of manipulating our basest passions for the sake of victory that Aristotle's *Rhetoric* begins with a critique of the excessive focus on forensic rhetoric, the basest passions, and victory. This initial dismissal of forensic rhetoric as base or ignoble cannot be construed as Aristotle's final word on the subject. See Nichols, "Aristotle's Defense," 671–76, and Frost, "Preliminary Reflections," 181n9.

[12]In his interpretive essay Bartlett helpfully observes that "Nemesis *is* a goddess (Hesiod, *Theogony* 223)—but it cannot be said (and Aristotle does not say) that the immortal gods take pity on us: the immortals may well bring down a mortal who thinks himself something special, but they in their superiority to us cannot be moved to pity us, let alone envy us" (*Aristotle's "Art of Rhetoric,"* 257).

[13]Aristotle's discussion of the justice that forensic rhetoric ought to pursue begins with a treatment of injustice and its causes (see *Rh.* 1368b6–26). This suggests that the quest for justice itself originates in the encounter with injustice or wrongdoing.

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hope in cosmic justice accompanies the pain-filled judgment of nemesis that an unjust person is prospering contrary to what he deserves. Aristotle praises that passion as a sign of good character (*ēthous chrēstou*) and goes so far as to claim that "one ought" to feel it, and, moreover, that not to experience nemesis is itself a sign of base, even slavish character (see *Rh.* 1387a1–3). Aristotle also suggests that one ought to delight in the faring well of deserving persons, for "it is necessary for the decent person to hope that what happens for someone like him will happen to him as well" (*Rh.* 1386b33–34).[14] It is on account of the question of worth, the primordial sense that our dignity is something divinely bestowed and hence must be divinely recognized, that Aristotle claims nemesis is the only passion we attribute to the gods who recognize our merit (*Rh.* 1386b15).[15] Nemesis leads us to hope (*elpizein*) that the divine will act as much on earth as in heaven and, should our expectations about what divine justice entails be thwarted, leads to troubling questions not only about divine but also political justice (see *Rh.* 1386b34). As we shall see, Aristotle raises the question of nemesis's relationship to divine justice only to gently drop any explicit consideration of that question and direct our focus instead towards matters of justice in human affairs. Nonetheless, an awareness of the way longing for divine justice affects political life suffuses his account of nemesis, which culminates in his veiled allusions to Achilles's nemesis and in suggestions as to how one who shares Achilles's sense of worth and love of justice might be tamed by rhetoric.

In introducing nemesis, Aristotle departs from his usual method in the *Rhetoric* of introducing each passion with a broad definition and instead begins by comparing the passion to its emotional counterparts: pity and envy.[16] For this reason I treat, first, nemesis's longing for justice in relation to pity and, second, the personal disinterestedness that it shares with envy.

Pity is the passion that most corresponds to nemesis, yet is simultaneously opposed to (*antikeimenon*) nemesis. The likeness and difference between the two passions are equally important in understanding nemesis's relationship

[14]While emulation (*zēlos*) is also one of the passions of the decent, I have not explored it here as Aristotle does not explicitly define nemesis in relation to it as he does with pity and envy.

[15]The word Aristotle uses and that is here translated "worth" (*axios*) might also be translated "desert," "deserving," or even "merit." I use these English words in this section to attempt to capture what is embedded in the Greek meaning of the word.

[16]This might appear unremarkable but for the fact that nemesis, the thirteenth of the sixteen passions Aristotle highlights in the *Rhetoric*, marks a departure from his heretofore consistent method of treating the passions, one he outlines in his introduction to book 2 (*Rh.* 1378a23–27). See Bartlett, *Aristotle's "Art of Rhetoric,"* 256. Aristotle abandons his habit of defining passions by means of the imperative *estō*. Instead, nemesis's formal definition (and also that of envy) follows directly from the *estō* used to define pity at *Rh.* 1385b14. Aristotle does not use *estō* in describing either nemesis or envy. See William M. A. Grimaldi, *Aristotle "Rhetoric" II: A Commentary* (New York: Fordham University Press, 1988), 151.

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to justice and equality. While pity (*eleos*) consists in being pained at another's undeserved adversity, nemesis consists in "being pained at undeserved prosperity" and is in this sense pity's opposite (*Rh.* 1386b8–10). The word Aristotle uses to describe the relation between nemesis and pity is derived from the verb *antikeimai*, which can be translated either "to be set over against, to lie opposite" or "to correspond with."[17] Nemesis is opposed to pity inasmuch as believing that someone deserves pain or punishment would squelch a judge's feeling of pity. Yet in another way nemesis corresponds with pity, for both are essentially marked by concern for justice.

Aristotle explains the convergence of pity and nemesis when he states that one who experiences pity is likely to experience nemesis, for nemesis "stems from the same state of character" (*Rh.* 1386b11). Both passions share the underlying presupposition that "it is unjust [*adikon*] for something to happen contrary to what is deserved [*para tēn axian*]" (*Rh.* 1386b14). Moreover, Aristotle observes that in order to experience pity, someone must suppose that there is such a thing as an equitable person. That is, in order to feel pity we must assume another person is decent or equitable and hence does not deserve the suffering he undergoes (*Rh.* 1385b34). Likewise one must suppose that bad people deserving of punishment also exist in the case of nemesis, when one is indignant at a bad person's prospering. The excellent character that unites the experiences of pity and nemesis, as is fitting, is one that hopes in the possibility of justice (see *Rh.* 1386b32).

It is in comparing pity and nemesis that Aristotle makes the remarkable observation that owing to this belief that injustice is what happens contrary to desert, "we attribute nemesis even to the gods" (*Rh.* 1386b15). In expecting divine rewards and punishments for good and bad deeds, we implicitly assume that the divine thinks and feels as we do when the unjust prosper and the just suffer; surely, we presume, the divine *must* intervene in situations where unjust men prosper, for that is exactly what I would do if I, as an all-powerful celestial being, saw a mere mortal transgress justice. Nemesis, like pity, is an implicit protest against the apparent undeserved-ness or injustice of the lot that befalls a wicked person. When we see the unjust prosper contrary to their worth it seems to call into question the very foundations of these supernatural orders; for surely, we assume, the divine is capable of enforcing (and hence must enforce) its edicts.[18]

[17]*LSJ*, s.v. While Bartlett, Sachs, Freese, and George Kennedy interpret this word as having a sense of opposition to nemesis ("antithesis," "opposite," "opposed"), Aristotle's treatment of nemesis seems to have something of both in mind as it unfolds. As Grimaldi notes "there is a kinship between pity and indignation in which one emotion is complementary to the other in a person" (*Aristotle "Rhetoric" II*, 152).

[18]This desire and hope in divine justice is one that Burger claims is the hidden catalyst of the exploration of virtue in the *Nicomachean Ethics*. See "Ethical Reflection and Righteous Indignation," 133–34. In this vein, Bartlett's comments on nemesis

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This assumption, Aristotle indicates, is as noble as it is problematic, for very little experience is required to see that our expectations about justice and its deserts are often unmet. While Aristotle does not explicitly raise the subject of the divine's relation to nemesis again, his account wrestles with the political and moral implications of unfulfilled expectations. In treating nemesis, Aristotle aims to cultivate and to speak directly to a certain kind of noble soul whose sense of worth could lead either to greatness of soul or to great destruction.[19] Perhaps for this reason, he begins by emphasizing that pity too corresponds to the same sense of justice that drives a noble soul to become agitated at injustice.

While nemesis corresponds with pity in its assumption about deserts, it is simultaneously opposed to pity as an emotional experience. Feeling nemesis can stifle pity precisely because one who is persuaded that punishment is deserved will not feel pity for someone who suffers just punishment, and vice versa (see *Rh.* 1387a4-5, b19–22). In fact, seeing the unjust suffer ought to make the equitable person "rejoice" (*chairein*) or at least not feel the piteous pain evoked when bad people suffer punishment (*Rh.* 1386b27–32). When Aristotle initially treats pity in 2.8, he defines it as "a certain pain at apparent evil of a destructive or painful sort, when it strikes someone who does not deserve it" (*Rh.* 1385b13–16). As pity depends on our sense of justice it can be stifled by feeling another's punishment is in fact just.

There is, however, one important way pity and nemesis differ: that is, with respect to how each passion concerns oneself and one's own. Pity is never far from fearful expectation that the apparent and undeserved evil that befalls another could also affect ourselves or someone for whom we care (*Rh.* 1385b14–16). Thus, even while it stems from the same character, nemesis departs from pity because it has nothing to do with *immediate* self-interest or harm. In fact, with respect to the question of self-interest and justice, nemesis is closer to envy, which, while it stems from a base rather than a noble character, takes no interest in immediate personal gain. Like nemesis, envy is felt primarily when one who is considered an equal prospers unequally.

Hence, the noble passions of pity and nemesis that Aristotle praises share a base counterpart: envy (*phthonos*) (see *Rh.* 1387a23–88a30; see also

draw our attention to Hegel's observation on the close relationship between nemesis and the expectation of divine justice. G. W. F. Hegel, *Encyclopedia of the Philosophical Sciences*, §564; Bartlett, *Aristotle's "Art of Rhetoric,"* 257n26.

[19]With respect to Aristotle's concern for his noble audience see Frost, "Preliminary Reflections," esp. 167–71; Lord, "Intention," 338–39; Thomas K. Lindsay, "Aristotle's Appraisal of Manly Spirit: Political and Philosophic Considerations," *American Journal of Political Science* 44 no. 3 (2000): 433–48; Jacob Howland, "Aristotle's Great-Souled Man," *Review of Politics* 64, no. 1 (2002): 27–56; Karl Löwith, "Can There Be a Christian Gentleman?," *Theology Today* 5, no. 1 (1948): 58–67.

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Rh. 1386b11–12). Those of noble character experience pleasure and pain at the sufferings of another according to his desert or merit, for matters that happen in accord with what is just "make an equitable [*epieikēs*] person rejoice" (*Rh.* 1386b33). In contrast, base characters fail to distinguish merit. Aristotle argues that the same person will be both envious and malicious because "someone who is pained when something happens or is present," as in the case of envy, "must necessarily be happy when the same thing is lost or destroyed," as in the case of malice (*Rh.* 1387a1–3). The person of base character will instead be pained at the prosperity of anyone, without distinction (envy), and pleased at the suffering of anyone, without distinction (malice).[20] Envy and malice, unlike pity and nemesis, are characterized by a failure to consider justice in judging the fittingness of external goods and honors appropriated to others.

In what way, then, is envy comparable to nemesis? Like nemesis, envy is pain or agitation directed at another's prospering. Yet unlike the pain that accompanies nemesis, which stems from a desire for justice, envy arises simply because another is one's equal (*isos*) or like one's self (*homoios*) and not because his prospering has any immediate effect on oneself or one's own (*Rh.* 1386b20). Unlike anger, which is aroused in relation to the unjust belittling of oneself or of one's own, envy and nemesis are not limited to occasions that immediately affect oneself (see *Rh.* 1378a30–33). One would feel angry if someone were to steal his inheritance, yet one would be feeling nemesis if he experienced pain at hearing that someone got away with a similar action in a faraway state, country, or continent (or even in a novel or play, for that matter).

To make the similarity between nemesis and envy clearer, Aristotle emphasizes the disinterestedness in one's own immediate good that marks both passions. Aristotle defines envy as "a certain pain at the prosperity of those like oneself" with respect to certain good things—for example, family, age, character traits, reputation, or possessions—"not in order to get anything for oneself but just because they have it" (*Rh.* 1387b23–29). Neither nemesis nor envy arise from an immediate need (as with fear or anger), or the "closeness" of suffering (as in the case of pity), but rather on the basis of likeness and similarity. Indeed, should the pain and agitation arising from supposing that another's prosperity entails harm for oneself, the passion experienced would cease to be nemesis or envy and would instead be fear (*Rh.* 1386b21–27).[21] Envy assumes that all honors and goods awarded to others like oneself necessarily detract from one's own honor and goodness.

[20]As Burger observes, "Pity and righteous indignation share the presupposition that nature itself should be governed by an order in accordance with the standards of human justice, and it is this that separates them from envy and [malice]" ("Ethical Reflection and Righteous Indignation," 129).

[21]Fear (*phobos*) is one of the passions treated in the *Rhetoric*. Like anger it is related primarily to the good of one's self or one's own. See *Rh.* 1382a20–83b11.

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Envy fails to judge whether another's receiving honors or possessing external goods is just and fitting; it fails to discriminate on the basis of anything other than equality.

While Aristotle's comparison of nemesis to pity accentuates nemesis's concern for justice, his juxtaposition of nemesis and envy highlights its distance from any immediate threat to oneself or one's own. Indeed, the pain that accompanies nemesis stems not from fear for oneself, but from hoping for justice, a hope that corresponds to and perhaps informs the thirst for justice that human beings experience. Deserved rewards and punishments, on the other hand, make an equitable person rejoice precisely because he "cannot help hoping [*elpizein*] that what happens to someone like him will happen to him as well" (*Rh.* 1386b34–35). Someone pained at the sight of those who suffer undeservedly will rejoice or at least not experience pain at the sight of someone who deservingly suffers adversity or punishment (*Rh.* 1386a27–32).

Nemesis, then, is characterized by a longing that stems not from fear of destruction but hope of reward; and given the limited nature of even the highest political honors, can we help but hope for celestial reward? The experience of disappointed expectations that overshadows Aristotle's account of nemesis necessarily qualifies the hope on which nemesis rests, for justice rarely conforms to the delicate contours of human wish. This in turn raises a number of questions, including whether such a hope of reward is justified, and whether what is actually hoped for is not simply justice in a particular situation, but rather the fulfillment of justice in each and every situation (*Rh.* 1386b34). All of this requires that we observe anew the relationship between the desire for justice and the hope of reward that could be fulfilled only by an all-powerful and just divinity concerned with human affairs. It is this perplexity that Aristotle addresses subtly in his treatment of forensic rhetoric and common law through addressing the problem of justice raised in Sophocles' *Antigone*.

Justice Completed: Nature, Poetry, and Antigone

Beneath the manifold trappings of the laws and political institutions of any community lies a question about the nature of justice: whether justice is strictly the construct of convention or, instead, principles of justice exist in spite of and even when contradicted by particular laws (see *NE* 1094b15–19). Does the longing for justice that accompanies nemesis have any basis in nature, or must we resign ourselves to understanding nemesis as the unwarranted expression of frustrated hope in divine justice? The potential tension between common law's implicit appeal to law by nature, on one hand, and the demands of written laws instituted by particular regimes, on the other, is best illustrated in the play *Antigone*, which Aristotle uses both to explain and to probe our sense of natural justice. His account of the common law as

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well as that of equity are in fact couched between two references to the play, all of which occurs within his overall treatment of forensic rhetoric.

Aristotle's treatment of common law in the *Rhetoric* is complemented by his discussion of equity. Nature, while it admits of a certain amount of variation and uncertainty, nonetheless provides a standard by which common law—principles of justice that transcend the particular conventions of individual regimes—might be grasped (see *Metaphysics* 1027a20–21).[22] At the same time, nature serves as a measure of equity (see *Rh.* 1375a30–33). By equity Aristotle means the corrective useful to the law, insofar as law, like the rhetorical syllogism—the enthymeme—that he describes at the outset of the work, holds only for the most part (see *Rh.* 1357a1–8). Equity is incorporated into the rule of law by institutions such as the law courts that require arbitrators and judgment, for "the equitable thing seems to be just, and an equitable thing is something just that goes beyond the written law" (*Rh.* 1374a26–27; see *NE* 1137a33–38a2). What "goes beyond the written law" can be achieved only if equity is promoted alongside rule of law. Hence nature provides both a standard for the institutionalizing of a notion of justice through particular law and also the measure of forgiveness—equity—that ought to accompany its enforcement.

The explanation Aristotle provides for the existence of common law is that human beings always divine a notion of what is naturally just and unjust. To illustrate what he means by the verb "divine" (*manteuontai*), Aristotle at first mentions the principles of natural justice highlighted in the works of three authors, a poet, a philosopher, and a rhetorician, each of which explains a different facet of principles that might be derived from common law (*Rh.* 1373b1–74b23). It is this common notion of what is by nature just and unjust—shared by all people and requiring neither community nor agreement to exist—that is expressed in Sophocles's *Antigone*, in the verses of Empedocles's *Purification*, and in Alcidamas's speech, the *Messeniacus*.[23] As the other texts Aristotle references as sources of the principles of common law are not extant, I focus on his treatment of *Antigone*.[24]

[22]As Grimaldi reminds us in his commentary on signs and likelihoods, Aristotle argues in his *Metaphysics* that all scientific knowledge (*epistēmē*) is either "of that which is always [*tou aei*]" or "of that which is for the most part [*tou hōs epi to polu*]" (*Met.* 1027a 20–21). William M. A. Grimaldi, *Aristotle "Rhetoric" I: A Commentary* (New York: Fordham University Press, 1980), 62.

[23]See Sachs, *Gorgias and Rhetoric*, 179n87. Aristotle describes two other principles of common law that he finds in other writings, one concerning the inherent goodness of life, the other concerning freedom (see *Rh.* 1373b9–18). The meaning of Aristotle's references to the other texts is less than certain as their sources are lost though each reference might be taken to highlight a different aspect of the common law: the wrong of taking innocent life and the principle that slavery is contrary to nature and freedom in accord with it. See Bartlett, *Aristotle's "Art of Rhetoric,"* 242–49.

[24]All references to Sophocles's *Antigone* are to *The Theban Plays: Oedipus the Tyrant, Oedipus at Colonus, Antigone*, trans. Peter J. Ahrensdorf and Thomas L. Pangle (London: Cornell University Press, 2014), with changes.

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In the first of his two references to *Antigone*, Aristotle presents the dramatic dialogue between Antigone and the king, Creon. The tragedy's central conflict revolves around Creon's edict prohibiting the burying of Antigone's rebellious brother, Polyneices, who Creon asserts attempted to overthrow the king's rule by waging war with his brother, Eteocles. Creon's command is on some level an attempt to reassert the justice and divinely approved nature of his reign, demonstrating that the spirits of evildoers like Polyneices will not be allowed to rest but will be doomed to roam the earth, as is the fate of those who remain unburied. Antigone, when we meet her in Aristotle's *Rhetoric*, has openly defied Creon's orders, buried her brother, and now faces the wrath of the king.

Antigone is obviously speaking of something like common law, Aristotle paraphrases, in saying that "it is a just thing, though forbidden [by Cleon], to bury Polyneices, since that is just by nature [*phusei*]" (*Rh.* 1373b9–11). Aristotle then provides Antigone's exact answer to Creon's demand that she explain her action of burying her brother: "'For not as something of today or yesterday, but as everlasting / Does this live, and no one knows from whence it appeared'" (*Rh.* 1373b12–13; see *Antigone* 2.2.456–57). Creon's edict is, Antigone argues, contrary to what is commanded by a law that transcends the fleeting commands of particular laws. In Sophocles's account, Antigone divines the existence of an eternal law that leads her to defy her king's temporal command. Her words highlight both the timelessness and the unknown origins of the commonly apprehended principles of justice.

Aristotle's retelling of Antigone's dispute with Creon brings with it a telling addition: nature. It is Aristotle rather than Sophocles's Antigone who asserts that nature provides the standard by which to judge Creon's law.[25] This addition forms the basis of his entire account of the common law and equity, both of which take their bearings not from written law but from nature. Only in Aristotle's account does nature become the fully articulated basis of a transpolitical standard of what is just.[26] And unlike the Homeric gods, nature does not undergo the passion of nemesis.

[25]Various feminist readings of the play have revolved around the question of the relation between nature and convention. Those who emphasize the permanent bearing sexual difference has on political life include Jean Bethke Elshtain, "Antigone's Daughters," *Democracy* 2 (1982): 46–59; Mary G. Dietz, "Citizenship with a Feminist Face: The Problem with Maternal Thinking," *Political Theory* 13, no. 1 (1985): 19–37; Arlene Saxonhouse, "From Tragedy to Hierarchy and Back Again: Women in Greek Political Thought," *American Political Science Review* 80, no. 2 (1986): 403–18. In contrast, Catherine A. Holland, "After *Antigone*: Women, the Past, and the Future of Feminist Political Thought," *American Journal of Political Science* 42, no. 4 (1998): 1108–32, suggests that Antigone's actions are wholly determined by convention.

[26]Paul DeHart's reading of *Antigone*, which draws on Aristotle's references to that text in the *Rhetoric*, might be understood as evidence of just how successful

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Aristotle's addition of the idea of nature is all the more telling when he returns a second time to Antigone's dialogue with Creon in order to examine the topic of equity instituted through actual law courts (see *Rh.* 1374b21–1375b3). A forensic speaker, Aristotle argues, must understand and effectively appeal to laws when speaking about the justice or injustice of a particular case. In a law court, a speaker must have recourse to the law's underlying principles when pleading on behalf of a defendant whose prescribed punishment is not warranted by his particular offense.[27] Aristotle observes that "if the written law is opposed to the fact," one ought to make use of "the common law and of what is more equitable and more just" (*Rh.* 1375a28–29). To illustrate the implications of this statement, Aristotle refers to the oath taken by all Athenian jurors to make a decision "in one's best judgment" (*Rh.* 1375a30). The juror's oath requires that he "not use the written law exclusively," for "the equitable always remains and never changes any more than the common law does since it comes from nature, while the written laws change frequently" (*Rh.* 1375a30–33). While Aristotle does not conflate equity and the common law, he indicates that both take their standard from nature. Hence, neither equity nor the common law changes for both are according to nature rather than defined by fleeting standards of positive law, ever changing according to circumstances. For this reason, it is a juror's duty to abide not simply by the letter of the law in pursuing just judgments.

Aristotle's retelling of Antigone's story according to nature has been. "Humans have an obligation to justice over and above their obligation to human laws. In fact, Aristotle even suggests that written laws that contradict the unwritten law are not laws at all" (DeHart, "The Dangerous Life: Natural Justice and the Rightful Subversion of the State," *Polity* 38, no. 3 [2006]: 376–77). For an alternative reading of *Antigone*, see Bonnie Honig, "Antigone's Laments, Creon's Grief: Mourning, Membership, and the Politics of Exception," *Political Theory* 37, no. 1 (2009): 5–43, who suggests that the "true political stakes" of the play are obscured by reading the play in terms of a conflict between nature and convention. She contends the play ought to be understood as a conflict between aristocratic (Antigone's) and democratic (Creon's) burial customs (7–8).

[27]As an example Aristotle suggests the case of Athenian laws banning iron weapons used to inflict bodily harm. To show how this general law might fail to account for the exigencies of particular circumstance, Aristotle presents the case of someone who is punished for raising his hand against or hitting someone while wearing an iron ring (*Rh.* 1374a37–38). According to Athenian law to raise an iron object against another is to be guilty of assault with a deadly weapon. "By the written law he is subject to punishment and commits an injustice, but according to the truth [*kata to alēthes*] he does not commit an injustice." To make this distinction is "the equitable thing [*to epieikes*]" (*Rh.* 1374b1–2). For an overview of the meaning of natural justice elsewhere in Aristotle's corpus see Peter Simpson, "Aristotle on Natural Justice," *Studia Gilsoniana*, no. 3 (2014): 367–76.

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Here Aristotle again has recourse to *Antigone* to supply a basis for the Athenian law commanding that jurors vow to decide a case according to their "best judgment." The Athenian jurors' vow requires not simply that they use the written law, but that they also judge according to underlying principles of justice that might escape the exact contours of written law.[28] To explain this, Aristotle reintroduces *Antigone* and argues that Antigone's actions in the tragedy stem from a primordial understanding of the common law that is known naturally. Antigone "defends herself on the grounds that she carried out the burial contrary to Creon's law but not contrary to the unwritten law [*agraphon nomon*]" (*Rh.* 1375a33–35). Aristotle finds in Antigone's lines a distinction between written, temporal laws and unwritten, eternal laws rooted in nature. Antigone's willingness to disobey Creon is the result of her reliance on intuited principles of common law and her sense that positive law alone does not define justice.

Aristotle again cites part of Antigone's appeal to unwritten law in her reply to Creon: "'For [this is] not as something of today or yesterday, but as everlasting . . . / And I am not willing [to pay the penalty] for these things on account of any man'" (*Rh.* 1375a33–b2). Both Aristotle's omissions and additions to Antigone's account of her own defiance are significant. In the context of Sophocles's play, Antigone is replying to Creon's inquiry following her confession of having buried her brother: "And you dared to overstep these laws?" (2.2.448). Creon here questions the basis of Antigone's bold defiance of the edict of a divinely ordained king. In citing this, Aristotle repeats one line mentioned when introducing his explicit treatment of common law ("[this is] not as something of today or yesterday, but as everlasting") and exchanges Antigone's statements that this lives, "and no one knows from whence it appeared," for her claim that she would be loath to follow the prescriptions of a mere man contrary to true justice.

Whereas Aristotle's initial reference to the play concerns nature as a standard of our understanding of common law, his second reference highlights the way nature informs equity by guiding and correcting our interpretation of written law in actual law courts. Through it he directs us to investigate the basis of human laws that govern our way of life. The implicit question Aristotle raises is what an appropriate response is to the conflict between what is just by nature and what political justice requires. Whether such conflict lends itself to reform, rebellion (as many of Sophocles's modern interpreters claim), or a resigned acceptance of the necessary deficiencies of political justice is initially ambiguous.

[28]Jennet Kirkpatrick's account suggests that Antigone's sister Ismene shows a middle way between Creon's strict claims of the justice of law and convention and Antigone's unwavering devotion to what is just by nature (Kirkpatrick, "The Prudent Dissident: Unheroic Resistance in Sophocles's *Antigone*," *Review of Politics* 73, no. 3 [2011]: 406). See also Bonnie Honig, "Ismene's Forced Choice: Sacrifice and Sorority in Sophocles' *Antigone*," *Arethusa* 44, no. 1 (2011): 29–68.

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In this second reference to the play, Aristotle sheds light on these possibilities by focusing on Antigone's claims about the limits to the penalties that can be inflicted by human law. The parts of Antigone's reply to Creon that Aristotle omits from his own discussion of common law and equity are most illuminating. Unlike Antigone, Aristotle does not refer to what he is calling the common law as having any relationship to the Homeric gods. In Sophocles's play Antigone's full reply to Creon is as follows:

> Yes, for it was not Zeus Who proclaimed these things to me,
> Nor was it She, Justice, Who dwells with the gods below,
> Who defined these laws *[hōrisen nomous]* for human beings; Nor did I think that such strength was in your
> Proclamations to overrun the unwritten [*agrapta*] and steadfast laws of the gods!
> For not as something of today or yesterday, but as everlasting
> Do these live, and no one knows from where they appeared.
> And I am not willing to pay the penalty before the gods
> For these things, out of fear of the thought of any man! (2.2.450–59)

The difference between these accounts of Antigone is that Sophocles's Antigone argues she is unwilling to "pay the penalty" to the gods in order to please any man. The "unwritten and steadfast laws of the gods" Antigone mentions in Sophocles's account are reinterpreted in Aristotle's rendering as the unwritten and steadfast laws of nature. Aristotle omits her direct reference to the gods and fear of penalty altogether. In contrast to her concern with divine punishment, Aristotle's Antigone is concerned not so much with what is owed to the gods as with what is just by nature—she would rather die than commit an act contrary to the common law. Her deed is traceable not so much to fear of the wrath of Homeric gods as it is to the love of justice, in Aristotle's account, and hope of a distant but true justice.

In light of Antigone's example, Aristotle makes a pronouncement on the role of the judge that follows from the understanding of the deficiencies of written law. The task of the judge, "like an assayer of silver," is to "distinguish between counterfeit and true justice" (*Rh.* 1375b6). This requires that one not adhere to the letter of the law at all times, but to its spirit, for it is "the mark of a better man to use and stand by the unwritten laws rather than the written ones" (*Rh.* 1375b7–8). Aristotle lists a series of situations in which deciding contrary to the written law will be necessary, including cases in which written law is "opposed to a well-regarded law," in which it is opposed to itself, and in which the law is ambiguous. In these instances "one may turn [the law] and see which way of taking it fits what is just or advantageous and then use that" (*Rh.* 1375b9–13). In cases where the written law is contrary to justice, "it may be argued that what is just is true and advantageous, but what seems just is not, so that what is written is not law, since it does not do the job of law" (*Rh.* 1375b4–5). Aristotle is not advocating the sophistical

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manipulation of law, but rather preserving the possibility that positive law might be judged according to truth, and that this must be contested by an appeal to one's natural sense of what is right. Nature, like law, holds either always or only "for the most part" (see *Rh.* 1369b1–2). Equity thus serves to bring the necessary deficiencies of law in accord with nature.

Even while Aristotle with the aid of *Antigone* teaches us how to interpret our innate sense of and desire for justice, he probes us to wonder what we find compelling about his appeals to natural justice as a standard for both common law and equity. Nemesis, the passion that corresponds to our thirst for cosmic justice, is a significant movement of soul that drives us to investigate the meaning of justice both political and natural. For this reason, Aristotle's treatment of forensic rhetoric would be incomplete without his investigation of that passion and with it the risks and possibilities it poses for political life.

Taming Achilles: The Education of Nemesis

The conundrum that underlies Aristotle's entire account of nemesis and permeates his treatment of forensic rhetoric is the problem of worth in political life. Aristotle compels us to consider the possibility that some might be more worthy of prospering in certain ways than others. In the *Rhetoric*, we might call this the problem of Achilles: those who do not deserve to prosper often do; those who deserve to prosper often do not, or at least not in a way we might hope for. The resulting dilemma for politics is that lack of reward for virtue might be interpreted as calling into question the very possibility of divine justice for one whose hope, like that of Achilles, demands manifest reward; the wider political consequences could include a loss of motivation to pursue virtue.[29]

The problem of worth and reward, Aristotle suggests, is the hidden root of the wrath of Achilles, whose words and deeds form the veiled source of Aristotle's treatment of nemesis.[30] In contrast to modern democratic politics, marked by the assumption of fundamental equality, the perennial problem of political life manifest in the experience of nemesis is the problem of irremovable inequalities. When it comes to the virtue of courage and strength in battle, Achilles is no man's equal and deserves as much political honor as anyone might hope to obtain. If Achilles, the greatest of the Achaians, is not rewarded for his virtue, what hope is left for the rest of us?

That Achilles's words and deeds in the *Iliad* form the backdrop of Aristotle's account of nemesis is evident in Aristotle's description of the kind of person

[29]One need reflect no further than Thucydides's account of the various Athenian responses to the plague at the outbreak of the Peloponnesian War to see the relevance of hope of divine reward to political life.

[30]This is also evident in Aristotle's earlier account of anger, which refers to the *Iliad* no fewer than five times (see *Rh.* 1378a–1379a9).

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prone to experience nemesis, in his final reference to another significant character from Homer's epic, Hector, and in the careful distinction he makes between nature and convention when considering the problem of merit and political reward.[31] That Aristotle's intention is to educate an Achilles is evident once we examine the characteristics of soul that he highlights.

The kind of human being likely to experience nemesis is one who is inclined to pursue greatness and a lover of justice. First, those who are prone to nemesis include those who "happen to deserve or possess the greatest goods." Should such a person fail to possess these things or a dissimilar person be deemed worthy of the same goods, he would feel the injustice (*Rh.* 1387b5–7). An example of this could very well be Achilles's wrath arising from his encounter with the manifestly unworthy Agamemnon, who, in spite of his lack of virtue, possesses rule of an army, the honor of his troops, and the gall to shame the best of men.[32] Equal honor awarded to each would be unjust. The second kind of persons prone to indignation are those who are "good and of serious excellence, because that means they judge things well and hate injustices" (*Rh.* 1387b8–9). Again, this would also arise in the relationship between Achilles and Agamemnon in the *Iliad*, for the best of the Achaians would experience anger not only because he himself has been done an injustice, but also because he hates injustice. Third, Aristotle notes that nemesis is also likely to arise in ambitious people who crave certain positions, "especially when they are ambitious for those positions that others have attained without deserving them" (*Rh.* 1378b10–12). Finally, in general, those who suppose themselves worthy of the same good things of which they consider others unworthy are also prone to feel nemesis, and this too applies to Achilles (*Rh.* 1378b13–14). All of these characters prone to nemesis are united in the belief in their own excellence and worth, a belief that necessarily corresponds to a sense of justice and the hope that they might receive a just reward.[33]

Even while nemesis's inegalitarian sensibilities might pose certain problems for the city, Aristotle does not advocate any attempt to rid human beings of their desire for justice or its corresponding nemesis. Indeed, a lack of nemesis, he argues, is the mark of a slavish, worthless, and unambitious person (*Rh.* 1387b15). Failing to make just distinctions is blameworthy, even

[31]As Peter Ahrensdorf observes, "it was Homer who provided the Greeks with a common moral understanding by providing them with vivid and compelling models of human excellence," and a certain understanding of these "compelling models" is taken for granted in the writings of Aristotle. Peter J. Ahrensdorf, *Homer on the Gods and Human Virtue: Creating the Foundations of Classical Civilization* (New York: Cambridge University Press, 2014), 3, 23.

[32]See *Iliad* 16.50–73.

[33]Aristotle's five references to the *Iliad* in his account of anger each dwell upon some facet of the wrath of Achilles or of Agamemnon's divinely bestowed rule. See *Rh.* 1378b6–79a6.

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"slavish," not only because it is a failure to exercise reason, the distinguishing human capacity, but also because it is marked by a willingness to accept wrongdoing rather than oppose it or defend oneself. Apathy and indifference towards matters of justice are the mark of those who have surrendered their hope of justice and the belief that one is unworthy of honor or any good thing. From this apathy follows a failure to act to attain anything good, for one who assumes he deserves nothing acts for nothing. Should it surrender its hope, nemesis might become apathetic despair.

The way Aristotle desires to guide the kind of character prone to nemesis becomes evident when he describes the occasions that arouse nemesis, a description that refers us once again to the *Iliad*. As in his treatment of *Antigone*, Aristotle's emphasis on nature is crucial. First, he observes that our desire for justice corresponds to our longing for what is proportional (*analogia*) and fitting (*to harmotton*) to be manifest. It would be unfitting, for example, if a beautiful weapon were given to a just person rather than a courageous one. Should one who is good fail to attain what is fitting, this would also be a cause of nemesis, and is likely the sentiment of the *Iliad*'s audience contemplating Achilles's plight (*Rh.* 1387a27–30).

Yet there is an even more telling occasion that gives rise to indignation, namely, when a lesser person challenges one who is greater, all the more so if they are engaged in the same pursuit (*Rh.* 1387a31–33). Aristotle refers to the occasion in *Iliad* Book 11 when Hector deliberately avoids facing a superior warrior, Ajax, in battle (*Rh.* 1387a5–6). "He steered clear of battle with Telamonian Ajax, / For Zeus would have been indignant with him if he fought with a better man" (*Rh.* 1387a34–35). While the second line concerning Zeus's nemesis that Aristotle cites is absent from any extant Homeric manuscript, some suggest it might belong to the ancient oral tradition.[34] It is also possible that Aristotle attributes to Homer something that he wanted to emphasize: the disproportionality and thus the hubris of a lesser man challenging a greater man in battle is enough to pain one who perceives and judges rightly the difference between the two. This example is all the more amazing because Hector eventually does fight a man he supposes is Achilles; and, after considerable resistance, Achilles himself.

Here we come to the root of Achilles's wrath and the problem that a sense of worth, one that Aristotle does not deny corresponds to truth, poses in political life: the best has no equal and no one can contend with him. As the best warrior, Achilles may possess virtue, or at least the capacity for virtue, but virtue is not happiness unless it is put to work (*NE* 1098a7–17). Achilles cannot put his virtue to work unless he has an equal with whom to contend; he decisively beats Hector and with him all of Troy. In this case, it follows that the best man cannot be happy, and that Achilles's withdrawal from action stems in part from his experience of nemesis and the sense that

[34]See Sachs, *Gorgias and Rhetoric*, 211n126. Bartlett notes that the passage appears in Plutarch's *How to Study Poetry* 36a (*Aristotle's "Art of Rhetoric,"* 104n72).

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the pursuit of excellence ends, unfittingly, in tragedy. Even the honor that Achilles ought to receive from political activity could not be reciprocal and thus could satisfy his desire neither for justice nor to be active in accord with complete virtue. Achilles's wrath is then not simply anger (connected to his own plight) but is also tied to nemesis and is a protest against the world's inability to satisfy his thirst for justice and the honor that he assumes ought to belong to him.

Yet this outline for tragedy only holds if virtue is understood as physical might and courage in battle. Even while Aristotle recognizes this dilemma, he offers a fuller understanding of human excellence than we find in Achilles's physical might and courage in battle prior to book 9 of the *Iliad*.[35] After all, happiness, as he defines it in the *Ethics*, is an activity of soul in accord with virtue, and if there are several virtues, in accord with the most complete (*NE* 1098a15–17). The *Ethics* illustrates more than one virtue, some more complete than others, and the *Rhetoric* expands the scope of virtue's activity, for example, by gentling nemesis. Yet given that Aristotle's own account of complete virtue begins with moral courage in the *Ethics*, the importance of fostering moral courage cannot be overstated in the development of philosophic inquiry and spurring the quest for more complete virtue, one that cannot be divorced from the intellectual virtues.[36] Aristotle powerfully alerts us to the wonder of political life even while drawing our attention to its limited ability to satisfy our deepest longings. This is as sobering as it is hopeful, for Aristotle's observations modify both our expectations of and demands for political justice even while spurring us to search for more complete virtue.

Aristotle's account of nemesis also educates those prone to experience that passion by drawing attention once more to the distinction between what is just or deserved by convention and what is so by nature. If nemesis consists in being pained at the sight of one who prospers undeservedly, then, Aristotle observes, it is not possible to feel nemesis in relation to the fitting distribution of good things (*Rh.* 1387a8–10). This is because nemesis corresponds to our

[35]For a fuller account of the movement of Achilles's concern for justice throughout the *Iliad* and especially in book 9 see Timothy W. Burns, "Friendship and Divine Justice in Homer's *Iliad*," in *Poets, Princes, and Private Citizens: Literary Alternatives to Postmodern Politics*, ed. Joseph M. Knippenberg and Peter Augustine Lawler (Lanham, MD: Rowman & Littlefield, 1996), 289–303. See also Arlene W. Saxonhouse "*Thymos*, Justice, and Moderation of Anger in the Story of Achilles," in *Understanding the Political Spirit: Philosophical Investigations from Socrates to Nietzsche*, ed. Catherine H. Zuckert (New Haven, CT: Yale University Press, 1988).

[36]For accounts of the *Ethics* that emphasize the significance of courage in Aristotle's account of the moral and philosophic life see Lee Ward, "Nobility and Necessity: The Problem of Courage in Aristotle's *Nicomachean Ethics*," *American Political Science Review* 95, no.1 (2001): 71–83; Susan Collins, "Moral Virtue and the Limits of Political Community," esp. 48–51; and Lorraine Pangle, "The Anatomy of Courage in Aristotle's *Nicomachean Ethics*," *Review of Politics* 80, no. 4 (2018): 569–90.

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ideas about justice, and justice assumes that each good thing is not suitable for everyone who happens upon it but rather for those who are worthy of it. This is also true in the case of virtue, since "if someone is just or courageous, or acquires any virtue, no one is going to be indignant at that" (*Rh.* 1387a10–13).

While people may not feel nemesis in relation to what is just and fitting, little political experience is required to observe that the primary objects of nemesis, wealth and ruling office, are not always, and perhaps only in the rarest circumstances, distributed in accord with worth (*Rh.* 1387a14). In ordinary political life the occasions that arouse nemesis are legion. Moreover, Aristotle suggests that citizens are likely to assume equality where there may be none, whether in virtue or worthiness to rule. On the other hand, he indicates that one who is worthy and in some ways unequal, as in the case of Achilles, might not receive a fitting external reward.

This leads Aristotle to observe that among the matters that stir nemesis in a city, newly acquired wealth, honors, and offices hold preeminence. Hence, those who are newly rich "cause more annoyance than those who have been rich a long time," not necessarily because they do not deserve riches, but because the very acquisition of new wealth calls into question the justice of the old order, one that appears to be established by nature. In political life, "what is of long standing has an appearance somewhat close to what is by nature [*phusei*], as between those who possess the same good thing, people necessarily feel more indignation at those who happen to have newly attained it and are prospering on account of it" (*Rh.* 1387a16–23). The source of annoyance felt towards the newly rich is that those who have long been rich seem to possess things that are properly theirs *by nature*, "since something that has always appeared a certain way seems true [*alēthes dokei*]." As a result, those who have become rich or acquired ruling office or honors recently "are thought to have things they are not entitled to" by nature (*Rh.* 1387a24–26). The problem—and with it, a solution—Aristotle highlights is that what we hold to be natural we hold to be just. The acquisition of new wealth, honor, and rule seems unnatural because it is contrary to what is like nature, what is old and of long standing.

Here, Aristotle returns to the question of nature's relationship to justice that he pointed to in his discussion of the common law. Even convention and conventional passions, it seems, are governed by their proximity to what is understood to be "by nature." Since nature is a standard of justice that does not suffer from moral indignation, as do the Homeric gods, it serves as a more stable and hence politically promising model by which human beings might govern their own affairs. Aristotle's poetic substitute of nature for the gods provides citizens and their legislators with a more reliable standard of justice to imitate. And, when it comes to political life, the question of the just by nature is inseparable from judgments about moral desert.

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Conclusion

All of this establishes the groundwork for the question of what the inhabitants and legislators of modern liberal democracy might learn from Aristotle's account of nemesis and the political speech that it animates. First, Aristotle's attention to those with noble dispositions throughout his treatment of nemesis is striking. The kind of noble soul that is marked by a hope of reward for goodness is as admirable as it is in need of education, for separated from attention to the limits of particular justice in politics it will likely lead to destruction when thwarted. Moreover, those who are skilled speakers are likely to suppose themselves able to escape notice in the committing of injustices because their speech will be able to veil their deeds and inexperienced, noble youths will lack the equipment to defend themselves against injustice and untruth (see *Rh.* 1372a1–14). As Aristotle mentions, those likely to suffer injustice are those who lack skill in speech, for they are left without means of self-defense in the face of unjust and ignoble speeches (*Rh.* 1355b1–3). The way in which the youths' sense of justice ought to be both encouraged and also subdued by poetry and teachers of the young is of perennial importance in political life. Aristotle's account of *Antigone* serves as a model of this form of poetic education.

Still further, we might learn from the way in which Aristotle's account of nemesis speaks to the passionate desire for equality in contemporary political life. The assumption that animates democratic politics is the foundational idea articulated in the Declaration of Independence: "all men are created equal." Vast inequality exists to the detriment of democratic flourishing, as Aristotle's comments on the democratic practice of ostracism in the *Politics* remind us (*Pol.* 1284b4–25). Yet, observing the unfolding trajectory of equality in the mid-1800s, Tocqueville famously warned his readers of the "tyranny of the majority" and the tendency of citizens of liberal democracy to prefer equality to freedom—even if equality means accepting despotism.[37]

It is here that Aristotle might come to our aid in contemplating contemporary liberal debates. Nemesis—even when displayed as outrage at perceived inequality—tacitly reveals the judgment that we do not think all people are equal when it comes to the question of moral desert. Unworthy people do not *deserve* to prosper. Yet sometimes they do. Aristotle's treatment of nemesis is a timely reminder to citizens of liberal democracies of the question of worth and moral judgment that necessarily accompany that passion. However much the founders of liberal democracy attempted to relegate judgments about transpolitical questions to the private realm, contemporary displays of nemesis in political tumult and debate call into question the feasibility of their attempt to circumscribe this seemingly intransigent

[37]See Alexis de Tocqueville, *Democracy in America*, ed. and trans. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000), 235–41, 479–81.

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element of human nature.[38] Perhaps it is in pointing to the inegalitarian aspect of our passions that Aristotle provides his contemporary readers with the most fruitful source of reflection on their own regimes, and his emphasis on nature as a stable model by which to order our politics might be a fertile beginning for these reflections.

Aristotle helps us to see the limits of any striving for complete justice in the political realm in which injustice sometimes flourishes and where defeats, deserved or not, must be accepted from time to time. On the other hand, Aristotle's account of nemesis serves as a timely reminder that nemesis's nobility and the goodness of striving for justice to which it might lead depend on its being tied to a consideration of the merits of individuals who claim to be equal. Aristotle reminds us that nemesis can easily be corrupted and transformed into envy when divorced from an acknowledgment of merit. In this way he places us on guard against our baser passions—even when they masquerade as virtue.

Learning to see through this subterfuge in the life of the city and of one's own soul is inseparable from attaining the freedom of intellect and will that stems from the integration of reason and the passions to which Aristotle's *Rhetoric* directs us. Insofar as the soul is shaped by poetry, the poetry that noble youths encounter will shape their understanding of justice. Aristotle himself models a rhetorical way of educating these souls by retelling the story of *Antigone* in a manner that serves to limit the hope that demands complete justice and channels nemesis to either robust civic engagement or a search for a more complete understanding of transpolitical justice that he points to in his treatment of the common law. This method of education is the most distinctly human in that it addresses man in his wholeness as a rational, political, imitative animal, and therefore is a crowning component of Aristotle's philosophy of human affairs.

[38]See Thomas Hobbes's attempt to limit the scope of public deliberation about moral questions in *Leviathan* (esp. chap. 37). See also Garsten, *Saving Persuasion*, 25–54.

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