

0001 MICHAEL J. SANDEL: We turn to Aristotle after examining theories,
0002 modern theories of justice, that try to detach considerations of justice
0003 and rights from questions of moral desert and virtue.
0004 Aristotle disagrees with Kant and Rawls.
0005 Aristotle argues that justice is a matter of giving
0006 people what they deserve.
0007 And the central idea of Aristotle's theory of justice is that, in
0008 reasoning about justice and rights we have, unavoidably, to reason about the
0009 purpose, or the end, or the telos of social practices and institutions.
0010 Yes, justice requires giving equal things to equal persons, but the
0011 question immediately arises in any debate about justice:
0012 equal in what respect?
0013 And Aristotle says, we need to fill in the answer to that question by looking
0014 to the characteristic end, or the essential nature, or the purpose of
0015 the thing we're distributing.
0016 And so we discussed Aristotle's example of flutes.
0017 Who should get the best flutes?
0018 And Aristotle's answer was the best flute players.
0019 The best flute player should get the best flute, because that's a way of
0020 honoring the excellence of flute playing.
0021 It's a way of rewarding the virtue of the great flute player.
0022 What's interesting, though, and this is what we're going to explore today,
0023 is that it's not quite so easy to dispense with teleological reasoning
0024 when we're thinking about social institutions and political practices.
0025 In general, it's hard to do without teleology when we're thinking about
0026 ethics, justice, and moral argument.
0027 At least that's Aristotle's claim.
0028 And I would like to bring out the force in Aristotle's claim by
0029 considering two examples.
0030 One is an example that Aristotle spends quite a bit of time discussing,
0031 the case of politics.
0032 How should political offices and honors, how should political rule be
0033 distributed?
0034 The second example is a contemporary debate about golf, and whether the
0035 Professional Golfers Association should be required to allow Casey

0036 Martin, a golfer with a disability, to ride in a golf cart?

0037 Both cases bring out a further feature of Aristotle's teleological way of
0038 thinking about justice.

0039 And that is, that when we attend to the telos, or the purpose, sometimes
0040 we disagree and argue about what the purpose of a social practice really
0041 consists in.

0042 And when we have those disagreements, part of what's at stake in those
0043 disagreements is not just who will get what, not just a distributive
0044 question, but also an honorific question.

0045 What qualities, what excellences of persons will be honored?

0046 Debates about purpose and telos are often simultaneously
0047 debates about honor.

0048 Now let's see how that works in the case of
0049 Aristotle's account of politics.

0050 When we discuss distributive justice these days we're mainly concerned with
0051 the distribution of income, and wealth, and opportunity.

0052 Aristotle took distributive justice to be mainly not about income and wealth,
0053 but about offices and honors.

0054 Who should have the right to rule?

0055 Who should be a citizen?

0056 How should political authority be distributed?

0057 Those were his questions.

0058 How did he go about answering those questions?

0059 Well in line with his teleological account of justice, Aristotle argues
0060 that to know how political authority should be distributed we have, first,
0061 to inquire into the purpose, the point, the telos of politics.

0062 So what is politics about?

0063 And how does this help us decide who should rule?

0064 Well for Aristotle, the answer to that question is, politics is about forming
0065 character, forming good character.

0066 It's about cultivating the virtue of citizens.

0067 It's about the good life.

0068 The end of the state, the end of the political community he tells us in
0069 Book 3 of the Politics.

0070 It's not mere life.

0071 It's not economic exchange only.

0072 It's not security only.

0073 It's realizing the good life.

0074 That's what politics is for, according to Aristotle.

0075 Now you might worry about this.

0076 You might say, well maybe this shows us why those modern theorists of
0077 justice and of politics are right.

0078 Because remember, for Kant and for Rawls, the point of politics is not
0079 to shape the moral character of citizens.

0080 It's not to make us good.

0081 It's to respect our freedom to choose our goods, our values, our ends,
0082 consistent with a similar liberty for others.

0083 Aristotle disagrees.

0084 "Any polis which is truly so called, it is not merely one in name, must
0085 devote itself to the end of encouraging goodness.

0086 Otherwise, political association sinks into a mere alliance.

0087 Law becomes a mere covenant, a guarantor of man's rights against one
0088 another, instead of being-- as it should be-- a way of life such as will
0089 make the members of a polis good and just."

0090 That's Aristotle's view.

0091 "A polis is not an association for residents on a common site, or for the
0092 sake of preventing mutual injustice and easing
0093 exchange," Aristotle writes.

0094 "The end and purpose of a polis is the good life, and the institutions of
0095 social life are means to that end."

0096 Now if that's the purpose of politics, the polis, then, Aristotle says, we
0097 can derive from that the principles of distributive justice.

0098 The principles that tell us who should have the greatest say, who should have
0099 the greatest measure of political authority.

0100 And what's his answer to that question?

0101 Well those who contribute the most to an association of this character--
0102 namely an association that aims at the good--
0103 should have a greater share in political rule and in the
0104 honors of the polis.

0105 And the reason is, they are in a position to contribute most to what
0106 political community is essentially about.

0107 Well so you can see the link that he draws between the principle of
0108 distribution for citizenship and political authority, and the purpose
0109 of politics.

0110 But why, you'll quickly ask, why does he claim that political life,
0111 participation in politics, is somehow essential to living a good life?
0112 Why isn't it possible for people to live perfectly good lives, decent
0113 lives, moral lives without participating in politics?
0114 Well, he gives two answers to that question.
0115 He gives a partial answer, a preliminary answer, in Book 1 of the
0116 Politics, where he tells us that only by living in a polis and participating
0117 in politics do we fully realize our nature as human beings.
0118 Human beings are, by nature, meant to live in a polis.
0119 Why?
0120 It's only in political life that we can actually exercise our distinctly
0121 human capacity for language, which Aristotle understands has this
0122 capacity to deliberate about right and wrong, the just and the unjust.
0123 And so Aristotle writes, in Book 1 of the Politics, that the polis, the
0124 political community, exists by nature and is prior to the individual.
0125 Not prior in time, but prior in its purpose.
0126 Human beings are not self-sufficient living by themselves outside a
0127 political community.
0128 "A man who is isolated, who is unable to share in the benefits of political
0129 association, or who has no need to share, because he's already
0130 self-sufficient, such a person must be either a beast or a god." So we only
0131 fully realize our nature, we only fully unfold our human capacities,
0132 when we exercise our faculty of language.
0133 Which means when we deliberate with our fellow citizens about good and
0134 evil, right and wrong, just and the unjust.
0135 "But why can we only exercise our capacity for language in political
0136 community?" you might ask.
0137 Aristotle gives a second part, a fuller part of his answer in The
0138 Nicomachean Ethics.
0139 An excerpt of which we have among the readings.
0140 And there he explains that political deliberation, living the life of a
0141 citizen, ruling and being ruled in turn, sharing in rule, all of this is
0142 necessary to virtue.
0143 Aristotle defines happiness not as maximizing the balance of pleasure
0144 over pain, but as an activity.
0145 An activity of the soul in accordance with virtue.
0146 And he says that every student of politics must study the soul, because

0147 shaping the soul is one of the objects of legislation in a good city.

0148 But why is it necessary to living a good city in order to

0149 live a virtuous life?

0150 Why can't we just learn good moral principles at home, or in a philosophy

0151 class, or from a book?

0152 Live according to those principles, those rules, those precepts and leave

0153 it at that.

0154 Aristotle says, virtue isn't acquired that way.

0155 Virtue is only something we can acquire by practicing, by exercising

0156 the virtues.

0157 It's the kind of thing we can only learn by doing.

0158 It doesn't come from book learning.

0159 In this respect, it's like flute playing.

0160 You couldn't learn how to play a musical instrument well just by

0161 reading a book about it.

0162 You have to practice, and you have to listen to other

0163 accomplished flute players.

0164 There are other practices and skills of this type.

0165 Cooking--

0166 there are cookbooks, but no great chef ever learns how to cook by reading a

0167 cookbook only.

0168 It's the kind of thing you only learn by doing.

0169 Joke telling is probably another example of this kind.

0170 No great comedian learns to be a comedian just by reading a book on the

0171 principles of comedy.

0172 It wouldn't work.

0173 Now why not?

0174 What do joke telling, and cooking, and playing a musical instrument have in

0175 common such that we can't learn them just by grasping a precept or a rule

0176 that we might learn from a book or a lecture?

0177 What they have in common is that they are all concerned with getting the

0178 hang of it, but also what is it we get the hang of when we learn how to cook,

0179 or play a musical instrument, or tell jokes well?

0180 Discerning particulars, particular features of a situation.

0181 And no rule, no precept could tell the comedian, or the cook, or the great

0182 musician how to get in the habit of, the practice of discerning the

0183 particular features of a situation.

0184 Aristotle says virtue is that way, too.

0185 Now how does this connect to politics?

0186 The only way we can acquire the virtues that constitute the good life,
0187 is to exercise the virtues to have certain habits inculcated in us.

0188 And then, to engage in the practice of deliberating with citizens about the
0189 nature of the good.

0190 That's what politics is ultimately about.

0191 The acquisition of civic virtue of this capacity to
0192 deliberate among equals.

0193 That's something we couldn't get living a life
0194 alone, outside of politics.

0195 And so that's why, in order to realize our nature, we have
0196 to engage in politics.

0197 And that's why those who are greatest in civic virtue, like Pericles, are
0198 the ones who properly have the greatest measure
0199 of offices and honors.

0200 So the argument about the distribution of offices and honors has this
0201 teleological character, but also an honorific dimension.

0202 Because part of the point of politics is to honor people like Pericles.

0203 It isn't just that Pericles should have the dominant say because he has
0204 the best judgment, and that will lead to the best outcomes, to the best
0205 consequences for the citizens.

0206 That's true.

0207 And that's important.

0208 But a further reason people like Pericles should have the greatest
0209 measure of offices, and honors, and political authority, and sway in the
0210 polis, is that part of the point of politics is to single out and honor
0211 those who possess the relevant virtue-- in this case civic virtue,
0212 civic excellence, practical wisdom--
0213 to the fullest extent.

0214 That's the honorific dimension bound up with
0215 Aristotle's account of politics.

0216 Here's an example that shows the link in a contemporary controversy, the
0217 link to which Aristotle draws our attention, between arguments about
0218 justice and rights, on the one hand, and figuring out the telos, or the
0219 purpose of a social practice on the other.

0220 Not only that, the case of Casey Martin and his golf cart also brings

0221 out the link between debates about what the purpose of a social practice,
0222 or a game, is, on the one hand, and the question of what qualities should
0223 be honored, on the other.

0224 The link between teleology and honor-based principles of
0225 distributive justice.

0226 Who was Casey Martin?

0227 Well Casey Martin is a very good golfer.
0228 Able to compete at the highest levels of golf but for one thing.
0229 He has a rare circulatory problem in his leg that makes it very difficult
0230 for him to walk.
0231 Not only difficult, but dangerous.

0232 And so he asked the PGA, which governs the pro tour in golf, to be able to
0233 use a golf cart when he competed in professional tournaments.
0234 The PGA said no.
0235 And he sued under the American for Disabilities Act.
0236 He sued in a case that went all the way to the United
0237 States Supreme Court.

0238 The question the Supreme Court had to answer was, does Casey Martin have a
0239 right that the PGA provide him, allow him, to use a golf cart on
0240 the tour, or not?

0241 How many here think that, from a moral point of view, Casey Martin should
0242 have a right to use a golf cart?

0243 And how many think that he should not have a right to a golf cart in the
0244 tournaments?

0245 So the majority are sympathetic to Casey Martin's right, though a
0246 substantial minority disagree.

0247 Let's first hear from those of you who would rule against Casey Martin.
0248 Why would you not say that the PGA must give him a golf cart?
0249 Yes.

0250 TOMMY: Since the inception of golf, because it's been part of the sport,
0251 it's now intrinsically part of golf, walking the course.
0252 And thus because it's intrinsic to golf, I'd argued that not being able
0253 to walk the course is just not being able to perform an aspect of the sport
0254 which is necessary to performing at a professional level.

0255 MICHAEL J. SANDEL: Good.
0256 Stay there for a minute.
0257 What's your name?

0258 TOMMY: Tommy.

0259 MICHAEL J. SANDEL: Are you a golfer by the way, Tom?

0260 TOMMY: Not so much.

0261 But yeah, a little bit.

0262 MICHAEL J. SANDEL: Are there any golfers here?

0263 I mean real golfers?

0264 TOMMY: Thank you, MICHAEL J. SANDEL, that was nice.

0265 MICHAEL J. SANDEL: No, no.

0266 I'm just taking your word for it.

0267 Is there's someone here on the golf team?

0268 Yes?

0269 Tell us your name and tell us what you think.

0270 MICHAEL: My name is Michael.

0271 And I usually take a cart.

0272 So I'm probably the wrong--

0273 [LAUGHTER]

0274 MICHAEL: --probably the wrong person to ask.

0275 MICHAEL J. SANDEL: Is that why your hand went up slowly when I asked?

0276 MICHAEL: Yes.

0277 MICHAEL J. SANDEL: All right.

0278 But Tom said a minute ago, that at least at the professional level,

0279 walking the course is essential to the game.

0280 Do you agree?

0281 MICHAEL: I would, yes.

0282 MICHAEL J. SANDEL: You do?

0283 Then why do you take a cart?

0284 And you call yourself a golfer?

0285 No.

0286 No, no, no.

0287 I'm kidding.

0288 I'm kidding.

0289 What do you say to that?

0290 MICHAEL: When I have walked a course, is it does add,

0291 tremendously, to the game.

0292 It makes it a lot harder.

0293 It really does.

0294 MICHAEL J. SANDEL: Yeah?

0295 Let's hear--

0296 Michael and Tom, stay there--

0297 let's hear from people who say that he should have a right to a golf cart.

0298 Why?

0299 Who's prepared to defend that position?

0300 Yes.

0301 REVA: Well I think the PGA should definitely be required to

0302 give him a golf cart.

0303 Because they argue in the decision that it's not just a matter of--

0304 he's not experiencing fatigue, for him, he's still talking about a mile,

0305 the cart can't go everywhere with him.

0306 And in that mile, he's still experiencing more fatigue and pain

0307 than a healthy player would.

0308 So it's not as if you're removing the disadvantage.

0309 MICHAEL J. SANDEL: And what's your name?

0310 REVA: Reva.

0311 MICHAEL J. SANDEL: Reva, what do you say to Tom's point that walking the

0312 course is essential to the game?

0313 It would be as if a disabled player could play in the NBA but not have to

0314 run up and down the court?

0315 REVA: Well I think there are two responses to that.

0316 First, I don't think it's essential to the game, because most golfers who

0317 play, particularly recreationally, don't play with a cart.

0318 MICHAEL J. SANDEL: Like Michael.

0319 Like Michael.

0320 REVA: I know it.

0321 And on several of the tours you can play with a cart.

0322 On the Senior PGA tour, on the Nike tour, and a lot of the college events.

0323 And those events are just as competitive, and just as high level as

0324 the PGA tour.

0325 So really it's just a matter of selective reasoning, if you argue that

0326 it's an important part of the sport.

0327 But even if it is, he still does have to walk.

0328 He still plays golf standing up.

0329 It's not as if he's playing golf from a wheelchair.

0330 MICHAEL J. SANDEL: All right.

0331 Who else?

0332 Go ahead.

0333 DAVID: I think the whole point of a competition is that it calls out the
0334 best from the second best, or from the third best.

0335 And we're talking about the national level.

0336 We're talking about the highest of the highest.

0337 And I think what they're arguing about here is the purpose of competition.

0338 And I think in the sake of competition, you
0339 can't change the rules.

0340 MICHAEL J. SANDEL: So the purpose of the competition includes walking.

0341 That's an essential, you agree with Tom.

0342 And what's your name?

0343 DAVID: David.

0344 MICHAEL J. SANDEL: The Supreme Court ruled that the PGA did have to
0345 accommodate Casey Martin.

0346 And they did it on grounds that Reva mentioned.

0347 That walking isn't really an essential part of the game.

0348 They cited testimony saying that walking the court consumes no more
0349 calories than you get eating a Big Mac.

0350 That's what walking is in golf, according to the majority.

0351 Scalia was in descent.

0352 Justice Scalia agreed with David.

0353 He said there is no purpose, and it's certainly not for courts to try to
0354 figure out the essential purpose of golf.

0355 Golf, like any game, is strictly for amusement.

0356 And if there's a group that wants to have one version of the game.

0357 They can have that version of the game.

0358 And the market can decide whether people are amused, and like, and show
0359 up for that, and watch the television broadcasts.

0360 Scalia's descent was an anti Aristotelian descent.

0361 Because notice two things about the argument.

0362 First, we're thrust into a discussion about what the essential nature, or
0363 purpose, or telos of golf really is.

0364 Does it include walking?

0365 And, here's something I think is rumbling beneath the surface of this
0366 debate, whether walking partly determines whether golf is really an
0367 athletic competition, after all the ball sits still.

0368 You have to put it in a hole.

0369 Is it more like basketball, baseball, and football, golf an athletic
0370 competition?
0371 Or is it more like billiards?
0372 The ball sit still there, too.
0373 You can be out of shape and succeed.
0374 It involves skill, but not athletic skill.
0375 Could it be that those professional golfers who excel at golf have a stake
0376 in golf being honored and recognized as an athletic event, not just a game
0377 of skill like billiards?
0378 And if that's what's at stake, then we have a debate about the purpose, the
0379 teleological dimension, and also a debate about honor.
0380 What virtues, really, does the game of golf honor and recognize?
0381 Two questions to which Aristotle directs our attention.
0382 We'll continue in this case next time.
