

0001 PROFESSOR: When we ended last time we were talking about whether Casey
0002 Martin has a right to ride in a golf cart in the PGA tournament.
0003 And it's worth remembering how we got into this debate, and what's at stake
0004 for an understanding of political philosophy.
0005 Remember, we were looking at Aristotle's theory of justice.
0006 And one way of describing his approach to justice, we've call it
0007 teleological.
0008 Teleological because he says, to allocate rights we first have to
0009 figure out the purpose or the end of the social practice in question.
0010 Another way of describing Aristotle's account of justice is that justice is,
0011 for him, a matter of fit.
0012 It's a matter of fitting persons with their virtues and excellences to the
0013 appropriate roles.
0014 Now I want to finish our discussion about Casey Martin and his claim for a
0015 golf cart, and then go back to one more consequential application in
0016 Aristotle, namely the question of slavery.
0017 What do you think about Casey Martin's request?
0018 Should there be an accommodation or not, given the nature of the game, and
0019 of the tournament, and its purposes?
0020 "Isn't it discrimination if he's not provided the golf cart, as an
0021 accommodation?" say some.
0022 Others reply, no if he got a cart it would be unfair to the other golfers,
0023 because they exert themselves, become winded, fatigued, walking the course.
0024 That's where we left it.
0025 What about the fairness argument?
0026 OK.
0027 Jenny.
0028 JENNY: My question was, why doesn't the PGA just make the option of a cart
0029 available to all golfers?
0030 From our readings I learned that there are many golf tournaments, other than
0031 the PGA, where using of carts is not prohibited.
0032 And for something like the seniors tournament, it's even allowed and
0033 encouraged.
0034 So why doesn't the PGA just do that?
0035 PROFESSOR: Let everybody use a cart?

0036 JENNY: Or to give everyone the option of using a cart, and let them pick.
0037 So the traditionalists can say, well I still choose to walk the course, but I
0038 do that knowing that I will be more tired at the end than the people who
0039 took the cart.
0040 PROFESSOR: Good.
0041 All right, so what about Jenny's solution?
0042 For the sake of fairness, don't give Casey Martin an advantage, if indeed
0043 there is an advantage to riding in a cart.
0044 Let everyone who wants to use a cart.
0045 Is everyone happy with that solution?
0046 Does it put to rest this whole dilemma?
0047 Who has an answer for Jenny?
0048 Yes.
0049 Da: As was brought up last time, if you do that you kind of ruin
0050 some of the spirit of golf, as a lot of people like to see it, if you let
0051 everybody take your cart.
0052 Even though it gives everybody the same playing field now, it sort of
0053 makes golf less of an athletic game, like you pointed out last class.
0054 It's just like, if someone decides to go into another sport and they want an
0055 advantage, like if you have swimming.
0056 And then you say, OK, he wants flippers, so why don't we just allow
0057 everyone to have to flippers during swimming?
0058 PROFESSOR: And what would that do to the Olympic swimming competition, if
0059 people were free to use, Jenny-- and here we better let
0060 Jenny reply to this.
0061 Da says, it would sort of spoil the spirit of the athletic
0062 competition, as if in Olympic swimming you let anyone who wanted
0063 to swim with flippers.
0064 All right, Jenny, what do you say to Dah?
0065 It would spoil the spirit of it.
0066 JENNY: You are also ruining the spirit of golf by not letting people who are
0067 really passionate about the game, and very good at it, compete simply
0068 because of an aspect of golf which is not--
0069 the main point of golf is you use this club to make strokes, and
0070 hit it into a hole.
0071 I'm sorry, I'm not a golfer.
0072 But that's basically the gist of the game, from what I see it.

0073 And I was reading the PGA verses Casey Martin decision.

0074 That was one of the sentences that they said is, because walking the

0075 course is not an inherent part of golf.

0076 Only swinging the club is.

0077 PROFESSOR: Good.

0078 So Jenny replies to Da,

0079 well, it isn't really essential anyhow to walk the course.

0080 So we're back to the purpose.

0081 JENNY: I mean, I'm sure there are, like wheelchair basketball, there are

0082 different competitions that can be used for people who may only be able

0083 to use their arms.

0084 PROFESSOR: Right.

0085 Yes.

0086 Michael, what do you think?

0087 MICHAEL: Then you just said that there's stuff like wheelchair

0088 basketball, where if you can't play basketball there's another option.

0089 I think there's other options in the PGA tour.

0090 But the PGA tour is like, it's the best, it's the pinnacle.

0091 And you have to have certain requirements fulfilled to perform.

0092 PROFESSOR: All right, Michael, you want to say to Casey Martin, you go--

0093 there is such a thing as the Special Olympics for those who are disabled.

0094 Go play in the golfing version of the Special Olympics.

0095 That's what you would say, Michael.

0096 MICHAEL: Yeah.

0097 I think that walking is part of this sport of golf.

0098 And Casey Martin, if you can't walk the course then I don't think you

0099 should be able to play on the PGA.

0100 PROFESSOR: All right, good.

0101 Thank you, very much, for that exchange.

0102 What comes out of this exchange that goes back to

0103 Aristotle's theory of justice?

0104 STUDENT: Is walking part of golf?

0105 PROFESSOR: Well one thing is the question, is walking an

0106 essential part of golf?

0107 And the very fact that deciding whether there is a right for Casey

0108 Martin that the PGA must respect, seems to depend, as Aristotle suggests

0109 it must, on debating and resolving the question, is walking essential to the

0110 game of golf?

0111 That's one moral of the story.

0112 But there's a second moral to the story, from an

0113 Aristotelian point of view.

0114 What's at stake here, this is the second Aristotelian stake in this

0115 debate, is honor.

0116 Casey Martin wants the accommodation so that he can compete for the honor

0117 of winning the best tournaments.

0118 Now why is it that the professional golfers, the great golfers testified

0119 in this case--

0120 Jack Nicklaus, Tom Kite--

0121 in the readings, against letting him use a cart?

0122 And they, I suspect, would be equally vehement, Jenny, in opposing your

0123 suggestion of letting everyone ride a cart.

0124 And this goes back, in a way, to Da's

0125 point.

0126 How to put this gently.

0127 Professional golfers are sensitive about whether their

0128 sport is really a sport.

0129 Because if everyone rode around in a cart, or could, then it

0130 would become clear--

0131 or clearer, depending on your point of view--

0132 that golf is not really athletic competition, but rather a game.

0133 A game of skill, but not a sport.

0134 And so not only the question of debating the purpose, the teleological

0135 feature, but also from a standpoint of viewing debates about the purpose of

0136 golf what's essential to golf.

0137 Those debates Aristotle suggests, inevitably, are also debates about the

0138 allocation of honor.

0139 Because part of the purpose of golf is not just to amuse spectators.

0140 Scalia is wrong about that, from Aristotle's point of view.

0141 It's not just to provide entertainment.

0142 It's not just to make people happy.

0143 It's not a mere amusement.

0144 It's honoring, it's rewarding, it's recognizing a certain kind of athletic

0145 excellence, at least those who achieved the highest honors have a

0146 powerful stake in maintaining that view.

0147 Now some of you took the position, the Scalia position.

0148 This is an incredibly difficult and silly question, Scalia said.

0149 What is the essential nature of golf?

0150 It's not the kind of thing that the United States Supreme Court is

0151 equipped to decide, or should decide--

0152 that's Scalia.

0153 But he only says that because he takes a very strong--

0154 and as it happens--

0155 anti-Aristotelian appealing in position on what a game is.

0156 "It is the very nature of the game to have no object," no point, "except

0157 amusement," says Scalia, "that is what distinguishes games," he says, "from

0158 productive activity." You can just imagine what kind of sports

0159 fan Scalia must be.

0160 And so he says it's impossible to say that any of the game's arbitrary rules

0161 is essential.

0162 And then he quotes Mark Twain's disparaging remark about golf.

0163 He says, "Many consider walking to be the central feature of golf.

0164 Hence, Mark Twain's classic criticism of the sport, 'a good walk spoiled.'"

0165 But Scalia misses an important feature of games, and the arguments about

0166 rights and fairness that arises from games, when he casts games--

0167 sports, athletic competitions-- as solely for the sake of amusement.

0168 It's solely a utilitarian activity.

0169 But an Aristotelian view of sports says, no it's

0170 not just about amusement.

0171 Real sports, real athletic events are also about

0172 appreciation, not just amusement.

0173 And people who follow sports, and care about sports, and

0174 play sports know this.

0175 Which is another way of saying, there's a difference between a sport

0176 and a mere spectacle.

0177 And the difference is that a sport is a practice that calls forth, and

0178 honors, and prizes certain excellences, certain virtues.

0179 And the people who appreciate those virtues are the true fans, the

0180 informed fans.

0181 And for them watching this board is not mere amusement.

0182 But that means that it's always possible to make sense of a debate

0183 about what feature of the sport is essential to it.

0184 We can make sense of the arguments.

0185 Never mind the question whether the court should decide.

0186 The PGA, in its own internal deliberations can make sense of that

0187 debate, which is why they cared very much about their view, insisting on

0188 their view, that walking, and exertion, and fatigue are essential,

0189 not peripheral parts of sport.

0190 Well this is to illustrate the teleological and the honorific feature

0191 of debates about rights, which Aristotle says, we need to take

0192 account of in thinking about justice.

0193 Now I want to begin for us to consider whether Aristotle's theory of justice

0194 is right or wrong.

0195 Whether it's persuasive or unpersuasive.

0196 And I want to get your thoughts about that.

0197 But I want to anticipate one obvious and important objection.

0198 If justice is about fit, fitting persons to roles, matching virtues to

0199 the appropriate honors and recognition.

0200 If that's what justice is, does it leave room for freedom?

0201 And this is one of the main objections to Aristotle's

0202 teleological account of justice.

0203 If certain roles, social roles, are fitting or appropriate to me, where

0204 does that leave my right to choose my social roles, my life

0205 purposes, for myself?

0206 What room does teleology leave for freedom?

0207 And in fact, you may remember, Rawls rejects teleological accounts of

0208 justice, because he says that teleological theories of justice

0209 threaten the equal, basic rights of citizens.

0210 So let's begin to examine whether Aristotle is right, and in particular,

0211 whether his teleological way of thinking about justice is

0212 at odds with freedom.

0213 Now one obvious reason to worry is Aristotle's defense of slavery.

0214 He defends slavery, which existed as an institution in the

0215 Athens of his day.

0216 Well what is his defense of slavery?

0217 Two things, two conditions have to be met for slavery to be just.

0218 First, it has to be necessary.

0219 And Aristotle says, at least in our society, slavery is necessary.

0220 Why is it necessary?

0221 If there are to be citizens who are freed from manual, and menial, and
0222 household chores to go to the assembly, to deliberate about
0223 politics, there have to be some who look after those menial tasks.
0224 The mere necessities of life.

0225 He says, unless you could invent, in some science fiction, a technological
0226 fix, then there are going to be those who have to do the hard, and
0227 difficult, and menial labor, if there are to be citizens deliberating about
0228 the good, and realizing their nature.

0229 So slavery is necessary for the life of the polis, for there to be open to
0230 citizens the life of deliberation, of argument, of practical wisdom.

0231 But there's a further condition that has to be met.

0232 Slavery has not only to be necessary for the community, as a whole, to
0233 function, but it also has to be the case--
0234 remember the criterion of fit--
0235 it also has to be the case that there are some people for whom being a slave
0236 is the just, or the fitting, or the appropriate condition.

0237 Now Aristotle agrees that by his own standards, both of those conditions
0238 must be met, must be true, if slavery is to be just.

0239 And then, in a deplorable passage, he says, well it is true that there are
0240 some people who are set by nature, who are cut out to be slaves.

0241 These are people who differ from ordinary people in the same way that
0242 the body differs from the soul.

0243 These are people who are meant to be ruled.

0244 And for them, their nature is best realized if they're slaves.

0245 They can recognize reason in others.

0246 But they can't partake of it, they can't exercise it.

0247 And somehow we can know this.

0248 Now Aristotle must have known that there was something dodgy, something
0249 strained about this claim, because he quickly acknowledges that those who
0250 disagree may have a point.

0251 And what those who disagree point out is, that there are a lot of people in
0252 Athens who are slaves, not because they were born to be slaves, or fit to
0253 be slaves, but because they were captured, they were losers in a war.

0254 And so what Aristotle admits that, as practiced in ancient Athens, slavery
0255 didn't necessarily line up with who actually is fit or born to be a slave,
0256 because some actual slaves just were slaves by bad luck, by being
0257 captured in a war.

0258 And on Aristotle's own account, even if it's necessary to have slavery for
0259 the sake of citizenship, it's unjust if people who aren't properly slaves
0260 are cast in that role.

0261 There is a misfit.

0262 Aristotle recognizes that slavery, for those who aren't fit for the task, is
0263 a kind of coercion.

0264 The reason slavery is wrong is not because it's coerced.

0265 Coercion is an indicator that it's wrong, because it's not natural.

0266 If you have to coerce someone into a role, that's a pretty good indication
0267 that they don't belong there.

0268 That that role isn't fitting for them.

0269 And Aristotle recognized this.

0270 So all of this is to say, the example of slavery, Aristotle's defense of it,
0271 doesn't show that there's anything wrong, in principle, with teleological
0272 argument, or with the idea of justice as fit, between persons and roles,
0273 because it's perfectly possible within Aristotle's own terms to explain
0274 what's wrong with this application, this practical application that he
0275 made of his theory.

0276 I want to turn to the larger challenge to Aristotle, in the name of freedom.

0277 But before I do that, I want to see what people think of Aristotle's
0278 account of justice as fit.

0279 His teleological way of reasoning about justice.

0280 And the honorific dimension of right and of distributive justice that
0281 emerged in our discussion of flutes, and politics, and golf.

0282 Questions of clarification about Aristotle, or objections to his
0283 overall account?

0284 Yes.

0285 STUDENT: My objection to Aristotle is that he wants to match
0286 a person to a role.

0287 And if you look like a pirate, and you talk like a pirate,
0288 you should be a pirate.

0289 And that is what is right.

0290 And so, what's strange, and seemed paradoxical to me, about Aristotle's
0291 viewpoint is that, if you walk like a pirate, and you talk like a pirate,
0292 you shouldn't be an investment banker.

0293 Because that's not what you're inherently supposed to do.

0294 If you have a peg leg, and an eye patched, and a disgruntled

0295 disposition, you should be on a pirate ship on the high seas.

0296 So he doesn't--

0297 PROFESSOR: Some would say that the distinction between the two vocations

0298 is not as clear as you suggest.

0299 [LAUGHTER]

0300 PROFESSOR: All right.

0301 But that's good.

0302 I take the point.

0303 Yes.

0304 Go ahead.

0305 MARY KATE: It just seems to ignore individual rights.

0306 So I might be the perfect janitor in the whole world, and I can do that job

0307 the most efficiently out of anybody that exists right now.

0308 But I might not want to do that.

0309 I might want to do any other number of pursuits, and it seems to say that

0310 isn't really a good option for me.

0311 PROFESSOR: All right.

0312 And what's your name?

0313 MARY KATE: Mary Kate.

0314 PROFESSOR: Good.

0315 Let's take a couple more.

0316 Yes.

0317 PATRICK: I think that golf cart exchange sort of brought up what I see

0318 as my main objection to this teleological mode of reasoning.

0319 I mean, Michael--

0320 I think that was your name, right?

0321 MICHAEL: Yeah.

0322 PATRICK: --believes that walking is an inherent part of golf.

0323 Myself, I believe that walking is not an inherent part of golf.

0324 And I feel that no matter how long we debate this particular point of

0325 contention, we're never going to reach an accord.

0326 The teleological framework of reasoning, I believe, doesn't really

0327 allow us to come to any sort of agreement.

0328 PROFESSOR: All right.

0329 And what's your name?

0330 PATRICK: Patrick.

0331 PROFESSOR: Patrick.

0332 All right.

0333 Let me try to address this set of objections to Aristotle.

0334 Let me start with Patrick's.

0335 It's an important objection.

0336 We had a debate about what other walking is essential to golf.

0337 And even in so seemingly trivial, or at least contained the cases that we

0338 couldn't agree.

0339 How can we possibly hope to agree when the stakes are higher, and when we're

0340 debating the fundamental purposes or ends of political community?

0341 And so if we can't agree on what the ends, or the goods of our shared

0342 public life consistent in, how can we base justice and rights on some notion

0343 of what the end, or the purpose, or the good consists in?

0344 That's an important objection.

0345 So much so that much modern political theory takes that worry about

0346 disagreement over the good as its starting point.

0347 And concludes that justice, and rights, and constitutions should not

0348 be based on any particular conception of the good or the purposes of

0349 political life.

0350 But should instead, provide a framework of rights that leaves people

0351 free to choose their conceptions of the good, their own conceptions of the

0352 purposes of life.

0353 Now Mary Kate said, what if a person is very well suited to having a

0354 certain role, like the role of being a janitor, but wants something else.

0355 Wants to reach higher, wants to choose another way of life.

0356 So that goes back to this question about freedom.

0357 If we take our bearing as persons from roles that are said to fit our nature,

0358 shouldn't it at least be up to us to decide what those roles are?

0359 In fact, shouldn't it be up to us to define what roles are suitable to us?

0360 And that's going to take us back to the confrontation between Aristotle on

0361 the one hand, and Kant and Rawls on the other.

0362 Kant and Rawls think Patrick has a point.

0363 They say precisely because people disagree in pluralist societies about

0364 the nature of the good life, we shouldn't try to base justice on any

0365 particular answer to that question.

0366 So they reject teleology.

0367 They reject the idea of tying justice to some conception of the good.

0368 What's at stake in the debate about teleology, say Rawlsian and Kantian

0369 liberals, is this.

0370 If you tie justice to a particular conception of the good, if you see

0371 justice is a matter of fit between a person and his or her roles, you don't

0372 leave room for freedom.

0373 And to be free is to be independent of any particular roles, or traditions,

0374 or conventions that may be handed down by my parents, or my society.

0375 So in order to decide as between these two broad traditions, whether

0376 Aristotle is right, or whether Kant and Rawls are right, we need to

0377 investigate whether the right is prior to the good, question one.

0378 And we need to investigate what it means to be a free person, a free

0379 morally agent.

0380 Does freedom require that I stand toward my roles, my ends, and my

0381 purposes as an agent of choice?

0382 Or as someone trying to discover what my nature really is?

0383 Two big questions.

0384 And we'll take them up next time.
